

OCTOBER TERM, 1938

STATISTICS

	Original	Appellate	Total
Number of cases on docket.....	13	1, 007	1, 020
Cases disposed of.....	1	922	923
Remaining on docket.....	12	85	97

Cases disposed of—

By written opinions.....	174
By per curiam opinions.....	65
By denial or dismissal of petitions for certiorari.....	676
By motion to dismiss or per stipulation.....	8

Number of written opinions.....	139
Number of admissions to bar.....	1, 075

REFERENCE INDEX

	Page
Cardozo, J., death of, announced.....	1
Cardozo, J., resolutions of the Bar presented by Attorney General Cummings.....	91
Brandeis, J., correspondence upon retirement.....	166
Frankfurter, J., commission read and oath taken (January 30, 1939).....	131
Douglas, J., commission read and oath taken (April 17, 1939).....	194
Frank Murphy, Attorney General, presented.....	115
Allotment of Justices.....	106, 145, 209
Disbarment, in the matter of—	
W. A. Denson.....	6, 85, 103, 129
J. William Tomlinson.....	7
Walter C. Balderston.....	159
William H. Griffin.....	182, 225
Pierce Lonergan.....	210, 247
Rules of Supreme Court, general revision announced.....	155
Bankruptcy, revision of the General Orders and Forms.....	138
Admiralty Rules revised.....	233
Copyright Rule 1 amended.....	247
Counsel appointed to argue (No. 359 and Ex Parte Holchak).....	36, 69
Judgment amended (Nos. 3, 294, 528).....	84, 182, 191
Opinion amended (Nos. 3, 127, 312, 441, 498, 449, 441).....	84,
	169, 175, 233, 248

	Page
Judgment affirmed by equally divided Court (Nos. 10, 104) ..	35, 119
Judgment in case on direct appeal from U. S. District Court affirmed, on consideration of jurisdictional statements, on ground that questions were so unsubstantial as not to need further argument, citing Rule 7, par. 4. (No. 643) .....	159
Notice to Attorney General under Act of August 24, 1937 (No. 277) .....	10, 39, 44
Habeas corpus—rule to show cause issued ( <i>Ex Parte Holchak</i> ) .....	7, 69, 139, 145
Habeas corpus—motion for award of writ of, denied .....	78, 83
Moot case—motion of appellant to reverse on that ground granted (No. 567) .....	170, 181
Appeal dismissed as to certain appellants on their own motion (No. 27) .....	2, 30, 64
Appeal dismissed on motion of appellants, later reinstated on motion (Nos. 146, 151) .....	3, 51, 60
Appeal dismissed as to one of two appellants (No. 368) .....	35
Appeal dismissed as to certain appellees (No. 329) .....	52
Appeal dismissed on ground appellants had no standing to raise validity of State statute under commerce clause (No. 112) .....	4
Appeal dismissed and certiorari granted (No. 158) .....	10
Appeal docketed and dismissed (Nos. 624, 728) .....	139, 170
Certiorari denied for failure to file within time provided by Criminal Appeals Rule XI (Nos. 301, 324, 636) .....	8, 153
(In No. 636 counsel by rehearing questioned Court's authority to limit time for filing to thirty days.)	
Certiorari denied for failure to file within time (No. 162) .....	16
Certiorari—motion for rule to show cause why certiorari should not issue denied without prejudice to the filing of a petition for certiorari in accordance with the rules of this Court ( <i>C. I. O. v. Hague</i> ). [Petitioner sought certiorari before judgment in the <i>C. C. A.</i> but, because the record had not yet been made up for the purpose of appeal to that court, compliance with Rule 38 was impossible.] .....	71, 72
Certiorari denied with two Justices dissenting (No. 6) .....	15, 62
Suggestion of diminution of record (No. 21) .....	2, 8
Motion as to printing record (No. 188) .....	15, 52
Motion to enlarge record (Nos. 310, 311) .....	56, 61
Motion to file supplemental record (No. 418) .....	130, 135
Motion to retax costs denied (No. 594 O. T. 1937) .....	2, 8
Motion to tax costs denied without prejudice (No. 314) .....	168
Motion as to costs denied (No. 582) .....	242, 248

	Page
Motion for injunction denied ( <i>Arrow Distilleries v. Alexander</i> ) .....	104
Motion for injunction granted (No. 528).....	105
Motion for stay and supersedeas granted (No. 221).....	10
Stay granted (No. 651).....	146
Motion for bail presented to the entire court and denied ( <i>Nardone v. U. S.</i> ).....	236
Motion for bond denied (No. 367).....	121, 128
Motion to substitute and to make a new party denied (No. 22).....	52
Motion to withdraw appearance (No. 277).....	129
Motion to set aside judgment of this court on ground of disqualification of a Justice denied (No. 391).....	182
Motion for recall and clarification of mandate denied (No. 16). [A further effort to obtain the relief sought was made by mandamus, motion for leave to file being denied.].....	186, 191, 212, 219
Rehearing granted (No. 10, 372 O. T. 1937, 166, 76)....	55, 62, 70, 145
Rehearing—motion for leave to file where petition for certiorari was denied at prior term, denied (No. 848 O. T. 1937)....	106
Rehearing—motion for leave to file and application for stay of judgment in District Court, following denial of certiorari, granted (No. 65).....	126, 128
Motion to extend time for filing rehearing to next term of Court denied (Nos. 614, 899). See also No. 52 (p. 251) where application to file rehearing or in alternative to postpone action to next term was denied.....	236, 240, 248
Order suspending call of docket.....	212
Order fixing tentative adjournment date.....	222
Adjournment order .....	242
Final order.....	252



## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Ellison A. Neel, of Kansas City, Mo.; Dean D. Sturgis, of Uniontown, Pa.; William Brown Higbee, of Uniontown, Pa.; Donald Mestrezat Higbee, of Connellsville, Pa.; Henry Silverman, of New York City; Walter M. Andrew, of New York City; Clifford A. Taney, Jr., of Minneapolis, Minn.; J. Lloyd Schaffer, of Baltimore, Md.; Robert W. Lewis, of Worcester, Mass.; John B. Baratta, of Atlantic City, N. J.; J. J. Speight, of Dothan, Ala.; Andrew B. Crummy, of Newark, N. J.; John A. Matthews, of Newark, N. J.; French B. Loveland, of Ocean City, N. J.; John T. Houser, of Long Beach, Calif.; Atwood C. Wolf, of Jersey City, N. J.; Henry Jacobsen, Jr., of San Francisco, Calif.; Robert S. Keebler, of Memphis, Tenn.; John Palermo, of Cleveland, Ohio; Charles L. Anderson, of Logansport, Ind.; J. Arthur Moran, of Delavan, Wis.; H. Donald Kistler, of Washington, D. C.; Claire Woodworth Hardy, of Chicago, Ill.; Walter T. Fahy, of Philadelphia, Pa.; William B. Layton, of Portland, Oreg.; Horace B. Sessions, of Ballinger, Tex.; Ellis L. Quiett, Jr., of Tulsa, Okla.; Jerome Goldman, of Cincinnati, Ohio; Carl E. Ring, of New York City; Chas. C. Goldman, of Cleveland, Ohio; and Irving F. Goodfriend, of New York City, were admitted to practice.

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The Chief Justice said:

“Since our last session, we have suffered an irreparable loss in the death of our brother, Justice Cardozo. At a time when he should have enjoyed the full exercise of his remarkable powers he was fatally stricken and we are inexpressibly saddened by this tragic termination of his judicial service and the breaking of our cherished ties of personal association. Admitted to the Bar of New York at the age of twenty-one, Benjamin Nathan Cardozo rapidly won the esteem of lawyers and judges and his special qualifications for judicial work were early recognized. He was elected a Justice of the Supreme Court of New York in 1913 and was almost at once designated for service on the Court of Appeals of that State. This was followed in a few years by his election as Associate Judge of that Court and

in 1926 he was made Chief Judge. On the retirement of Mr. Justice Holmes, and in response to a widespread appreciation of the fitness of the succession, Judge Cardozo was appointed Associate Justice of this Court in February, 1932. His service on the Bench thus spanned nearly twenty-five years, and his contributions to the development of our jurisprudence made his judicial career one of the most illustrious in American annals. His erudition, acumen, and technical skill, combined with a philosophic outlook and a passion for justice, made him an ideal Judge, and the wide range of his cultural interests, his modesty and personal charm, made fellowship with him a most precious privilege. With deep sorrow at our loss, we turn to our work with a fresh inspiration as we contemplate his devotion to the highest standards of the Bench. At an appropriate time, the Court will receive the resolutions of the Bar in tribute to his memory."

No. 1, original. October Term, 1937. State of Georgia, complainant, *v. Tennessee Copper Company et al.* Supplemental return to the rule to show cause presented.

No. 2, original. State of Wisconsin et al., complainants, *v. State of Illinois et al.*;

No. 3, original. State of Michigan et al., complainants, *v. State of Illinois et al.*; and

No. 4, original. State of New York et al., complainants, *v. State of Illinois et al.* Report of defendant, Sanitary District of Chicago, dated July 1, 1938, presented.

No. 8, original. State of Nebraska, complainant, *v. State of Wyoming et al.* Petition of intervention of the United States and answers of the several States presented.

No. 13, original. State of California, complainant, *v. Murray W. Latimer et al.* Motion to dismiss and answer of the defendants presented.

No. 594, October Term, 1937. Calmar Steamship Corporation, petitioner, *v. Charles W. Taylor.* Motion to retax costs submitted by Mr. Howard M. Long and Mr. Abraham E. Freedman for the respondent in support of the motion and by Mr. Frank A. Bull for the petitioner in opposition thereto.

No. 21. Wm. H. Neblett et al., petitioners, *v. Samuel L. Carpenter, Jr., Insurance Commissioner of the State of California, et al.* Suggestion of a diminution of the record and motion for a writ of certiorari submitted by Mr. T. B. Cosgrove and Mr. John N. Cramer for the respondents, Carroll C. Day et al.

No. 27. The Tennessee Electric Power Company et al., appellants, *v. Tennessee Valley Authority et al.* Appeal dismissed as to appellants, Tennessee Public Service Company and Holston River Elec-

tric Company, on motion and stipulation signed by counsel for all appellants and the Government.

No. 85. Heywood-Wakefield Company, petitioner, *v.* Edward F. Small and Coach & Car Equipment Corporation. On petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit. Dismissed on motion of counsel for the petitioner.

No. 146. Carl Perry, appellant, *v.* The State of Kansas; and

No. 151. Sam J. Boller, appellant, *v.* The State of Kansas. Appeals from the Supreme Court of the State of Kansas. Dismissed on motion of counsel for the appellants.

No. 271. Wallace Ranch Water Company, appellant, *v.* Foothill Ditch Company. Appeal from the District Court of Appeal, 4th Appellate District, State of California. Dismissed on motion of counsel for the appellant.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, October 10, will be as follows: Nos. 2 (and 56), 7, 14, 8, 9, 10, 11, 12, 13, and 15 (and 17).

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Elder W. Marshall, of Pittsburgh, Pa.; George H. Coppers, of New York City; Roy E. Tomlinson, of New York City; J. Irvin McCourt, of Baltimore, Md.; Laurence Sovik, of Syracuse, N. Y.; George R. Fearon, of Syracuse, N. Y.; Leo E. Vaudreuil, of Kenosha, Wis.; Harold H. Persons, of Madison, Wis.; William Edgar Byrd, of Baltimore, Md.; Donald M. Waesche, of Jersey City, N. J.; Merle H. Miller, of Indianapolis, Ind.; C. Ray Robinson, of Merced, Calif.; William L. Clift, of Helena, Mont.; Hugh R. Adair, of Helena, Mont.; A. S. Glikbarg, of San Francisco, Calif.; E. D. Turner, Jr., of San Francisco, Calif.; Harry G. Erbs, of St. Louis, Mo.; Roscoe Hollingsworth, of Lebanon, Ind.; Al W. Johannes, South Bend, Ind.; Ralph R. Reed, of Washington, D. C.; Benjamin H. Saunders, of Washington, D. C.; John B. Nordgren, of Everett, Mass.; Samuel R. Blaine, of Newark, N. J.; William E. Williams, of Cleveland, Ohio; John Davenport Abney, of Hillsboro, Texas; Rolla W. Coleman, of Olathe, Kans.; Arthur N. Adams, of Kansas City, Mo.; Eaton Adams, of Kansas City, Mo.; Arthur N. Adams, Jr., of Kansas City, Mo.; and Richard H. Demuth, of New York City, were admitted to practice.

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The Chief Justice announced the following orders of the Court:

No. 112. M. D. Carter, appellant, *v.* The State of Texas. Appeal from the Court of Criminal Appeals, State of Texas. *Per curiam*: The appeal herein is dismissed (1) for the want of a substantial federal question, *Whitney v. California*, 274 U. S. 357, 368; (2) for the reason that the appellant has no standing to raise the question as to the validity of the statute under the commerce clause, *United States v. Kapp*, 302 U. S. 214, 217-218; *Kay v. United States*, 303 U. S. 1, 6-7.

No. 150. Anna Marie Hahn, appellant, *v.* The State of Ohio. Appeal from the Supreme Court of the State of Ohio. *Per curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed for the want of a substantial federal question. *Moore v. United States*, 150 U. S. 57; *Williamson v. United States*, 207 U. S. 425, 450, 451; *Heike v. United States*, 227 U. S. 131, 145; *Adams v. New York*, 192 U. S. 585, 599.



No. 179. Ziona Hope Dillard, appellant, *v.* Pioneer Title Insurance and Trust Company, Napoleon Oscar Dillard and Lizzie Dillard. Appeal from the District Court of the United States for the Southern District of California. *Per curiam*: The motion of the appellees to dismiss the appeal herein is granted, and the appeal is dismissed for the want of jurisdiction. Section 238, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); section 266, Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938); *Stratton v. St. Louis S. W. Ry.*, 282 U. S. 10, 15-16; *U. S. Naturopathic Assn. v. Chiropractic League*, 296 U. S. 539, 540.

No. 181. Sovereign Camp of the Woodmen of the World, appellant, *v.* Don R. Casados, Robert Valdez et al. Appeal from the District Court of the United States for the District of New Mexico. *Per curiam*: The decree is affirmed. *Brown-Forman Co. v. Kentucky*, 217 U. S. 563, 572, 573; *Northwestern Life Ins. Co. v. Wisconsin*, 247 U. S. 132, 140-141; *Tax Commissioners v. Jackson*, 283 U. S. 527, 537; *Lawrence v. State Tax Commission*, 286 U. S. 276, 284-285.

No. 214. Public Service Company of Indiana and Union Trust Company of Indianapolis, Trustee, appellants, *v.* City of Lebanon, Indiana. Appeal from the Supreme Court of the State of Indiana. *Per curiam*: The appeal herein is dismissed for the want of a final judgment. *Grays Harbor Co. v. Coats-Fordney Co.*, 243 U. S. 251, 255, 257; *Washington ex rel. McPherson Bros. Co. v. Superior Court*, 274 U. S. 726; *Ornstein v. Chesapeake & Ohio Ry. Co.*, 284 U. S. 572.

No. 238. Crescent Creamery, Inc., and Associated Dairies Company, Inc., appellants, *v.* Milk Control Board of the State of Indiana et al. Appeal from the Supreme Court of the State of Indiana. *Per curiam*: The appeal herein is dismissed as it does not appear from the record that there is a final judgment. *J. Bacon & Sons v. Martin, Commissioner of Revenue*, 302 U. S. 642.

No. 243. A. A. Campbell, C. M. Kiggins, et al., appellants, *v.* C. W. Aldrich, Mrs. F. W. Blum, et al. Appeal from the Supreme Court of the State of Oregon. *Per curiam*: The motion of the appellees to dismiss the appeal herein is granted, and the appeal is dismissed for the want of a substantial federal question. *Phelps v. Board of Education*, 300 U. S. 319; *Dodge v. Board of Education*, 302 U. S. 74; *Groves v. Board of Education*, 303 U. S. 622.

No. 264. Carolyn T. Gardner, appellant, *v.* Commonwealth of Massachusetts;

No. 265. Lucile Lord-Heinstein, appellant, *v.* Commonwealth of Massachusetts;

No. 266. Flora Rand, appellant, *v.* Commonwealth of Massachusetts; and

No. 267. Pamela Ferris, appellant, *v.* Commonwealth of Massachusetts. Appeals from the Superior Court, County of Essex, Commonwealth of Massachusetts. *Per curiam*: The appeals herein are dismissed for the want of a substantial federal question. *Powell v. Pennsylvania*, 127 U. S. 678, 685; *Jacobson v. Massachusetts*, 197 U. S. 11, 26-27; *Graves v. Minnesota*, 272 U. S. 425, 428; *Lambert v. Yellowley*, 272 U. S. 581, 596.

No. 291. The Walding, Kinnan and Marvin Company, appellant, *v.* The Department of Liquor Control of the State of Ohio, J. W. Miller, et al. Appeal from the District Court of the United States for the Southern District of Ohio. *Per curiam*: The decree is affirmed. *Mugler v. Kansas*, 123 U. S. 623; *Crowley v. Christensen*, 137 U. S. 86, 91; *Vance v. W. A. Vandercook Co.*, 170 U. S. 438, 444; *Crane v. Campbell*, 245 U. S. 304, 307; *Mahoney v. Joseph Triner Corporation*, 304 U. S. 401, 404.

No. 316. George E. Waesche, Trustee, appellant, *v.* The Thurmont Bank, Thurmont, Maryland. Appeal from the Circuit Court of Frederick County, State of Maryland. *Per curiam*: The motion of the appellee to dismiss the appeal herein is granted, and the appeal is dismissed for the reason that the judgment sought to be reviewed is based upon a nonfederal ground adequate to support it. *Eustis v. Bolles*, 150 U. S. 361, 368-370; *Hale v. Lewis*, 181 U. S. 473, 479-480; *Gauss v. Detroit Trust Co.*, 297 U. S. 695.

No. 338. Richfield Oil Corporation, appellant, *v.* The People of the State of California. Appeal from the Supreme Court of the State of California. *Per curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Packer Corporation v. Utah*, 285 U. S. 105; *State Board v. Young's Market Co.*, 299 U. S. 59, 64; *Schuykill Trust Co. v. Pennsylvania*, 302 U. S. 506, 514.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the clerk and will not be announced orally."

No. —. In the matter of the disbarment of W. A. Denson. It appearing from the record in *W. A. Denson, petitioner, v. Board of Commissioners of the State Bar of Alabama*, No. 129, October Term, 1938, that W. A. Denson, of Birmingham, Alabama, a member of the Bar of this Court, has been disbarred from the practice of the law in the Supreme Court of the State of Alabama;

It is ordered that the said W. A. Denson be, and he is hereby, suspended from the practice of the law in this Court, and that a rule

issue returnable within forty (40) days requiring the said W. A. Denson to show cause why he should not be disbarred from the practice of the law in this Court.

No. —. In the matter of the disbarment of J. William Tomlinson. It having been reported to the Court that J. William Tomlinson, of Washington, D. C., a member of the Bar of this Court, has been disbarred from the practice of the law in the District Court of the United States for the District of Columbia;

And it appearing that by order of February 7, 1938, this Court suspended the said J. William Tomlinson from the practice of the law in this Court and directed that a rule issue requiring him to show cause, under Rule 2, why he should not be disbarred from the practice of the law in this Court;

And it appearing that said rule was duly issued and served upon said J. William Tomlinson; and the return day of said rule having passed and no return or answer to said rule having been filed by or in behalf of said respondent;

It is now here ordered that the said J. William Tomlinson be, and he is hereby, disbarred, and that his name be stricken from the roll of attorneys admitted to practice in this Court.

No. —. R. L. Scott, plaintiff, *v.* Glenn O'Bannon et al.; and

No. —. John R. Vann, Receiver, etc., appellant, *v.* Almour's Securities, Inc., et al. Applications denied.

No. —, original. *Ex parte* Lloyd Rubin, petitioner; and

No. —, original. *Ex parte* Francis Scalese, petitioner. The motions for leave to file petitions for writs of mandamus are denied.

No. —, original. *Ex parte* Howard Lee, petitioner. The motion for leave to file a petition for writ of habeas corpus is denied without prejudice to application to the appropriate court at the appropriate time.

No. —, original. *Ex parte* Mike Holchack, petitioner. A rule is ordered to issue, returnable within thirty days from this date, requiring the respondent to show cause why leave to file the petition for a writ of habeas corpus should not be granted.

No. —, original. *Ex parte* Charlie Johnson, petitioner. The motion for leave to file a petition for writ of habeas corpus is denied.

No. 2, original. The State of Wisconsin et al., complainants, *v.* The State of Illinois et al.;

No. 3, original. The State of Michigan et al., complainants, *v.* The State of Illinois et al.; and

No. 4, original. The State of New York et al., complainants, *v.* The State of Illinois et al. The report of the defendant, Sanitary District of Chicago, dated July 1, 1938, is received and ordered filed.

No. 8, original. The State of Nebraska, complainant, *v.* The State of Wyoming et al. The petition of intervention of the United States and the answers of the several States are received and ordered filed.

No. 13, original. The State of California, complainant, *v.* Murray W. Latimer et al. The motion to dismiss and answer of the defendants is received and ordered filed and the case is assigned for argument on the bill of complaint and motion to dismiss on Monday, November 7, next.

No. 594, October Term 1937. Calmar Steamship Corporation, petitioner, *v.* Charles W. Taylor. The motion of the respondent to retax costs is denied.

No. 21. Wm. H. Neblett, Vernon Bettin, et al., 'petitioners, *v.* Samuel L. Carpenter, Jr., Insurance Commissioner, etc., et al. On consideration of the suggestion of a diminution of the record and motion for a writ of certiorari in that relation, the motion for a writ of certiorari is denied.

No. 53. Roy G. Harris and Benjamin F. J. Odell, petitioners, *v.* Avery Brundage Company et al. The motion of the respondent to dismiss is denied.

No. 359. Hugh Allen Bowen, petitioner, *v.* James A. Johnston, Warden, United States Penitentiary, Alcatraz, California. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. The motion for leave to proceed *in forma pauperis* is granted and the petition for writ of certiorari is granted, limited to the question of the jurisdiction of the District Court on habeas corpus.

No. 129. W. A. Denson, petitioner, *v.* Board of Commissioners of the State Bar of Alabama. On petition for writ of certiorari to the Supreme Court of the State of Alabama. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied. Mr. Justice Black took no part in the consideration and decision of this application.

No. 301. Joseph Edward O'Brien, petitioner, *v.* The United States of America; and

No. 324. Willie Brown, petitioner, *v.* The United States of America. On petitions for writs of certiorari to the United States Court of Appeals for the District of Columbia. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds

that the applications for writs of certiorari were not made within the time provided by law, Rule XI, Rules of Practice and Procedure in Criminal Cases (292 U. S. 665).

No. 109. Edmond C. Fletcher, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 117. William S. Story, petitioner, *v.* Thomas M. Rives. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 170. Mrs. Odell Elliott Pfaff, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit;

No. 171. Mervin S. Taylor, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 172. J. Earle Freeman, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 184. In the matter of Minnie Reese Richardson Wragg, petitioner. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 192. Leander H. Caswell, petitioner, *v.* Henry Morgenthau, Jr., as Secretary of the Treasury of the United States, et al. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 225. Brunetta Futrell, Administratrix, etc., petitioner, *v.* The City of Newport News, Virginia, and Lillian Furbush. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit;

No. 263. Dora Robertson et al., petitioners, *v.* W. J. Chronister et al. On petition for writ of certiorari to the Supreme Court of the State of Arkansas;

No. 281. Mary J. Hellmuth, petitioner, *v.* Frank Hellmuth. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 317. Walter Kelly, petitioner, *v.* James A. Johnston, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit;

No. 326. John Irvin, petitioner, *v.* Fred G. Zerbst, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 327. William Reed, petitioner, *v.* John B. Colpoys. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia; and

No. 353. John J. Aurynger, petitioner, *v.* Radio Corporation of America. On petition for writ of certiorari to the United States Court of Appeals for the Second Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 277. Orland S. Loomis, Individually, etc., et al., petitioners, *v.* First Federal Savings and Loan Association. In view of the Act of August 24, 1937 (50 Stat. 751), the Court hereby certifies to the Attorney General of the United States that the constitutionality of Section 5 of The Home Owners' Loan Act of 1933 (48 Stat. 132), as amended by the Act of April 27, 1934 (48 Stat. 645), and by the Act of May 28, 1935 (49 Stat. 297), is drawn in question in this cause.

No. 221. The United States of America et al., appellants, *v.* F. O. Morgan, doing business as F. O. Morgan Sheep Commission Company, et al. Probable jurisdiction is noted in this case and consideration of the motion to dismiss or affirm is postponed to the merits. The application of the appellants for a stay and supersedeas is granted and it is ordered that the enforcement, operation, and execution of the order of June 18, 1938, appealed from, be, and the same is hereby, stayed and superseded pending determination of the cause by this Court. The case is assigned for argument on Thursday, October 20, next.

No. 158. Pacific Employers Insurance Company, appellant, *v.* Industrial Accident Commission of the State of California and Kenneth Tator. Appeal from the Supreme Court of the State of California. The appeal herein is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by section 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is granted.

No. 75. Gwin, White & Prince, Inc., appellant, *v.* Harold H. Henneford, Thomas S. Hedges, et al.;

No. 113. Russell B. Patterson, appellant, *v.* Stanolind Oil and Gas Company et al.;

No. 120. Rose Bucsi, appellant, *v.* Longworth Building & Loan Association et al.;

No. 133. The Baltimore and Ohio Railroad Company et al., appellants, *v.* The United States of America et al.;

No. 177. J. S. Kohn, M. S. Kohn, et al., appellants, *v.* Central Distributing Co., Inc., et al.;

No. 212. Southern Pacific Company, appellant, *v.* John C. Corbett et al., etc.;

No. 213. The Pacific Telephone and Telegraph Company, appellant, *v.* John C. Corbett et al., etc.;

No. 227. Inland Steel Company, appellant, *v.* The United States of America et al.;

No. 228. Chicago By-Product Coke Company, appellant, *v.* The United States of America et al.;

No. 260. Dixie Ohio Express Company, appellant, *v.* State Revenue Commission of Georgia et al.;

No. 269. Interstate Circuit, Inc., et al., appellants, *v.* The United States of America;

No. 270. Paramount Pictures Distributing Company, Inc., et al., appellants, *v.* The United States of America;

No. 308. Ignatius Lanzetta et al., appellants, *v.* The State of New Jersey;

No. 309. The United States of America, appellant, *v.* Durkee Famous Foods, Inc.;

No. 310. The United States of America, appellant, *v.* Manhattan Lighterage Corporation; and

No. 311. The United States of America, appellant, *v.* Colgate-Palmolive-Peet Company. In these cases probable jurisdiction is noted.

No. 130. Indianapolis Brewing Company, Inc., appellant, *v.* The Liquor Control Commission of the State of Michigan et al.; and

No. 161. Ernest K. James, Individually, etc., appellant, *v.* United Artists Corporation. In these cases probable jurisdiction is noted. Further consideration of the motions to affirm is postponed to the hearing of the cases on the merits.

No. 286. The United States of America, appellant, *v.* Midstate Horticultural Company, Inc., et al.;

No. 287. The United States of America, appellant, *v.* The Pennsylvania Railroad Company;

No. 295. H. P. Welch Company, appellant, *v.* The State of New Hampshire. In these cases probable jurisdiction is noted. Further consideration of the motions to dismiss or affirm is postponed to the hearing of the cases on the merits.

No. 244. Chippewa Indians of Minnesota, appellant, *v.* The United States. The motion for leave to file the statement as to jurisdiction is granted and probable jurisdiction is noted.

No. 252. Joseph S. Finch & Company et al., appellants, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 253. Ben Burk, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 254. Joseph E. Seagram & Sons, Incorporated, et al., appellants, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 255. Hinrichs Distilled Products, appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.; and

No. 256. Arrow Distilleries, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al. In these cases probable jurisdiction is noted and the cases are assigned for argument immediately following No. 130.

No. 276. Cary D. Landis, Individually and as Attorney General of the State of Florida, et al., appellants, *v.* Gene Buck, Individually, etc., et al. In this case probable jurisdiction is noted. The motion of the appellant State's Attorneys to vacate the decree and direct dismissal of the bill of complaint is denied. The motion of the appellees to substitute is granted and George Couper Gibbs, individually and as Attorney General of the State of Florida, is substituted as a party appellant in the place and stead of Cary D. Landis, deceased.

No. 329. Gene Buck, Individually, etc., et al., appellants, *v.* Phil H. Gallagher, Individually and as State Treasurer of the State of Washington, et al. In this case probable jurisdiction is noted and the case is assigned for argument immediately following No. 276.

No. 302. Felt and Tarrant Manufacturing Co., appellant, *v.* John C. Corbett et al., etc. In this case probable jurisdiction is noted and the case is assigned for argument immediately following Nos. 212 and 213.

No. 203. J. Bacon & Sons, appellant, *v.* James W. Martin, Individually and as Commissioner of Revenue of the Commonwealth of Kentucky. Further consideration of the question of the jurisdiction of this Court in this case is postponed to the hearing of the case on the merits.

No. 231. The Alton Railroad Company, appellant, *v.* Illinois Commerce Commission et al. Further consideration of the question of the jurisdiction of this Court and of the motion to dismiss or affirm in this case is postponed to the hearing of the case on the merits.

No. 51. Armstrong Paint and Varnish Works, petitioner, *v.* Nu-Enamel Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted.

No. 55. A. E. McDonald, petitioner, *v.* Ernest O. Thompson et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.



No. 57. State of Missouri, at the relation of Lloyd Gaines, petitioner, *v. S. W. Canada, Registrar of the University of Missouri, et al.* Petition for writ of certiorari to the Supreme Court of the State of Missouri granted.

No. 73. State of Minnesota, by its Attorney General, petitioner, *v. The United States of America.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted.

No. 94. Inter-Island Steam Navigation Company, Limited, petitioner, *v. Territory of Hawaii by Public Utility Commission of the Territory of Hawaii.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 96. Harold T. White, Alexander M. White, Jr., et al., petitioners, *v. The United States; and*

No. 97. Harold T. White, Sole Surviving Executor, etc., petitioner, *v. The United States.* Petition for writs of certiorari to the Court of Claims granted.

No. 98. M. E. Blatt Company, petitioner, *v. The United States.* Petition for writ of certiorari to the Court of Claims granted.

No. 102. The United States of America, petitioner, *v. Thomas R. Powers et al.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 104. The State of Montana, on the relation of the Board of County Commissioners of Valley County, Montana, petitioner, *v. Archie G. Bruce, County Assessor, etc., et al.* Petition for writ of certiorari to the Supreme Court of the State of Montana granted.

No. 118. Princess Lida of Thurn and Taxis et al., petitioners, *v. Gerald Purcell Fitzgerald, Individually, etc., et al.* Petition for writ of certiorari to the Supreme Court of the Commonwealth of Pennsylvania granted.

No. 127. Mackay Radio and Telegraph Company, Inc., petitioner, *v. Radio Corporation of America.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 154. The United States of America, petitioner, *v. Kathleen McClure, as Administratrix, etc.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 169. The United States, petitioner, *v. Frederick Pleasants.* Petition for writ of certiorari to the Court of Claims granted.

No. 180. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v. Donald H. Owens and Marion Haviland Owens.* Peti-

tion for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 189. Mrs. Zillah Lyon, petitioner, *v.* Mutual Benefit Health and Accident Association. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted.

No. 210. The Pullman Company, H. J. Hatch, et al., petitioners, *v.* Mrs. Garnett V. Jenkins et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 222. The Washingtonian Publishing Company, Inc., petitioner, *v.* Drew Pearson, Robert S. Allen, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia granted.

No. 229. National Labor Relations Board, petitioner, *v.* Columbian Enameling and Stamping Company, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted.

No. 245. The United States, petitioner, *v.* The Algoma Lumber Company;

No. 246. The United States, petitioner, *v.* Forest Lumber Company;

No. 247. The United States, petitioner, *v.* Lamm Lumber Company. Petition for writs of certiorari to the Court of Claims granted.

No. 275. D. T. Currin, S. M. Cutts, et al., petitioners, *v.* Henry A. Wallace, Secretary of Agriculture, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted.

No. 294. City of Texarkana, Texas, petitioner, *v.* Arkansas Louisiana Gas Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 312. John M. Taylor et al., as the independent committee, etc., petitioners, *v.* Standard Gas and Electric Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit granted.

No. 63. Connecticut Railway and Lighting Company, petitioner, *v.* Howard S. Palmer, James Lee Loomis, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted. Mr. Justice Brandeis took no part in the consideration and decision of this application.

No. 304. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Chester N. Weaver Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the

Ninth Circuit granted and the case assigned for argument immediately following Nos. 96 and 97.

No. 318. Amedeo Obici and Mrs. Amedeo Obici, petitioners, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted and the case assigned for argument immediately following No. 180.

No. 182. Ford Motor Company, petitioner, *v.* National Labor Relations Board; and

No. 183. Ford Motor Company, petitioner, *v.* National Labor Relations Board. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit granted and the cases assigned for argument on Monday, November 7, next.

No. 188. Edward H. Titus, petitioner, *v.* Lou C. Wallick. Petition for writ of certiorari to the Supreme Court of the State of Ohio granted. The motion to print an abbreviated record, consisting of the parts of the record filed in this cause which are designated in the motion, is granted, with leave to the respondent to submit to the Court a motion designating any additional portions of the record which he desires to have printed and the Court will take this motion under advisement.

No. 195. Socony-Vacuum Oil Company, Inc., petitioner, *v.* Herbert A. Smith, Jr. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted. Mr. Justice Stone and Mr. Justice Roberts took no part in the consideration and decision of this application.

No. 274. National Labor Relations Board, petitioner, *v.* The Sands Manufacturing Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit granted and the case assigned for argument immediately following No. 229.

No. 277. Orland S. Loomis, Individually, etc., et al., petitioners, *v.* First Federal Savings and Loan Association. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. On consideration of the stipulation of the parties Frank H. Bixby, a member of the Banking Commission of the State of Wisconsin, is substituted as a party petitioner in the place and stead of S. N. Schafer, resigned. The petition for writ of certiorari is granted.

No. 6. Thomas J. Mooney, petitioner, *v.* Court Smith, Warden of San Quentin Penitentiary, State of California. Petition for writ of certiorari to the Supreme Court of the State of California denied. Dissenting: Mr. Justice Black and Mr. Justice Reed.

No. 43. William B. Milliken, Margaret M. Milliken, et al., petitioners, *v.* Violet L. Meyer, Both Individually and as Administratrix, etc. Petition for writ of certiorari to the Supreme Court of the State of Colorado denied, as it does not appear from the record that there is a final judgment.

No. 105. Howard S. Palmer, James Lee Loomis, et al., petitioners, *v.* Connecticut Railway and Lighting Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied. Mr. Justice Brandeis took no part in the consideration and decision of this application.

No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company and Electric Household Utilities Corporation; and

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation. On petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit; and

No. 352. The Maytag Company, petitioner, *v.* General Electric Supply Corporation. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. The motion to defer consideration of the applications for writs of certiorari in these cases is denied. The petitions for writs of certiorari are denied.

No. 143. J. D. Howth, petitioner, *v.* T. J. Farrar et al. The motion of the Fall Corporation for leave to file a brief as amicus curiae is denied. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit is denied.

No. 162. Hattie L. Mosher, petitioner, *v.* E. Power Conway. Petition for writ of certiorari to the Supreme Court of the State of Arizona is denied for the reason that application therefor was not made within the time provided by law. Section 8 (a), Act of February 13, 1925 (43 Stat. 936, 940).

No. 166. The Toledo Pressed Steel Company, petitioner, *v.* Standard Parts, Inc.; and

No. 167. The Toledo Pressed Steel Company, petitioner, *v.* Huebner Supply Company. The motion to defer consideration of the application for writs of certiorari in these cases is denied. The petition for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit is denied.

No. 168. City of Indianapolis et al., petitioners, *v.* The Chase National Bank of the City of New York, Trustee, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is denied. Mr. Justice Butler took no part in the consideration and decision of this application.

No. 32. George E. Warren Corporation, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 33. *The United States v. Coleman F. Driver.* Petition for writ of certiorari to the Court of Claims denied.

No. 34. *Penick & Ford, Ltd., Incorporated, petitioner, v. International Patents Development Company et al.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 35. *Emelia Brooks, Administratrix, etc., petitioner, v. The City of Seattle.* Petition for writ of certiorari to the Supreme Court of the State of Washington denied.

No. 36. *Julia C. Collins, by Coit I. Hughes, her guardian ad litem, petitioner, v. C. Claude Dye, Individually, etc.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 37. *Russell and Tucker (Formerly a Partnership composed of Lee L. Russell and Sam C. Tucker) et al., petitioners, v. The United States of America;*

No. 38. *Porter Brothers & Biffle et al., petitioners, v. The United States of America;*

No. 39. *Henry Price et al., petitioners, v. The United States of America;*

No. 206. *The United States of America, petitioner, v. Russell and Tucker et al.;*

No. 207. *The United States of America, petitioner, v. Porter Brothers and Biffle et al.; and*

No. 208. *The United States of America, petitioner, v. Henry Price et al.* Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 40. *Wabash Railway Company, petitioner, v. John E. Bridal.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 41. *Krupp Nirosa Co., Inc., et al., petitioners, v. Conway P. Coe, Commissioner of Patents.* Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 42. *The American Tobacco Company, petitioner, v. Frank C. Bowers, as Executor, etc.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 44. *Paramino Lumber Company and Union Insurance Society of Canton, Ltd., petitioners, v. Wm. A. Marshall, Deputy Commissioner, etc.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 45. *State of Kansas on the relation of Clarence V. Beck, Attorney General, et al., petitioners, v. Occidental Life Insurance Company et al.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 46. William B. Scaife & Sons Company, petitioner, *v.* William Driscoll, Collector, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 47. Martha A. Guettel et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 50. Joseph V. Voorhees, petitioner, *v.* Ira W. Syck as Sheriff of Mower County, Minnesota. Petition for writ of certiorari to the Supreme Court of the State of Minnesota denied.

No. 52. Josiah K. Lilly, Jr., petitioner, *v.* Will H. Smith, Collector, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 54. Becker Steel Company of America, petitioner, *v.* Homer S. Cummings, Attorney General of the United States, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 58. The Procter & Gamble Company, petitioner, *v.* Conway P. Coe, Commissioner of Patents. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 59. Jessie E. Shubrick et al., petitioners, *v.* Van Camp Products Company et al.; and

No. 60. Jessie E. Shubrick et al., petitioners, *v.* Van Camp Products Company et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 61. F. M. Berry, Trustee of John B. Willoughby and Mary M. Willoughby, Bankrupts, petitioner, *v.* C. B. Austin, Executor, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 62. The Cleveland-Cliffs Iron Company, petitioner, *v.* George Martini, Administrator, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 64. Elkhorn Coal Company, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 65. Douglas Fairbanks, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 67. Murray Greiman, Trustee, etc., petitioner, *v.* Metropolitan Life Insurance Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 72. Arkansas Louisiana Gas Company, petitioner, *v.* City of Texarkana, Arkansas, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 78. Joseph W. Cox, George W. White, et al., petitioners, *v.* Joseph W. Thompson et al.; and

No. 204. Joseph W. Thompson et al., petitioners, *v.* Park Savings Bank et al. Petitions for writs of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 79. Indian Territory Oil and Gas Company, petitioner, *v.* Indian Territory Illuminating Oil Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 80. Department of Water and Power of the City of Los Angeles, petitioner, *v.* James C. Anderson. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 81. Robert W. Higgins, Jr., et al., petitioners, *v.* City of Oklahoma City. Petition for writ of certiorari to the Supreme Court of the State of Oklahoma denied.

No. 82. Mattie McMullin, Executrix, etc., petitioner, *v.* Thomas J. Sheehan, Collector of Internal Revenue, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 83. Thomas N. Dysart, Trustee, etc., petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 84. John J. Morris, Jr., Trustee, etc., petitioner, *v.* Marshall E. Sampsell, J. F. O'Connell, et al. Petition for writ of certiorari to the Supreme Court of the State of Wisconsin denied.

No. 86. Julia C. Collins, by Coit I. Hughes, her guardian ad litem, petitioner, *v.* Helene Streit. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 87. Frank F. Nesbit and American Security and Trust Company, Executors, etc., petitioners, *v.* Frederick Snare Corporation. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 88. Benjamin A. Bogy, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 89. Harrison H. Boyce, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 90. Willie Crockett Wright, Administratrix, etc., petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 91. James Chiara and Joseph Chiara, petitioners, *v.* Delaware, Lackawanna & Western Railroad Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 92. Lem Motlow, petitioner, *v.* Southern Holding & Securities Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 93. The Home Indemnity Company, petitioner, *v.* National Motorship Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 95. Vitagraph, Inc., RKO Distributing Corporation, et al., petitioners, *v.* Harry Perelman and Louis Perelman, Individually, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 99. W. D. Hurlbut and Ahlberg Bearing Company, petitioners, *v.* George Meyerson. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 100. William R. Clements, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 101. Jessie M. Means, Executrix, etc., petitioner, *v.* M. J. Faletti, Trustee, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 103. John Lawrence Mercer, petitioner, *v.* M. F. Lence, District Director, Immigration and Naturalization Service, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 106. Simon D. Eveloff, Charles Taxin, et al., petitioners, *v.* Joseph K. Willing, Receiver, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 107. Massachusetts Protective Association, Incorporated, petitioner, *v.* Elvira Swasey. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 108. Batangas Transportation Company, petitioner, *v.* Manila Railroad Company et al. Petition for writ of certiorari to the Supreme Court of the Commonwealth of the Philippines denied.

No. 110. Loose-Wiles Biscuit Company, petitioner, *v.* Almon G. Rasquin, Individually, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.



No. 111. Waterman William Porter, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 114. United States Fidelity and Guaranty Company, petitioner, *v.* Mercantile Home Bank & Trust Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 115. Mutual Benefit Health and Accident Association, petitioner, *v.* Ralley A. Warrell. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 116. June Reed and George Hammond, petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 119. Herman H. Canter and Fay Canter, petitioners, *v.* George Ramsey, E. Carlton Granberry, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 121. Corral, Wodiska Y Ca., petitioner, *v.* Anderson, Thorson & Co. et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 122. Augustus Steinthal, petitioner, *v.* Arlington Sample Book Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 123. Harold F. Gross and Edmund C. Shields, petitioners, *v.* Saginaw Broadcasting Company. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 124. Rogers Oil & Gas Company, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue; and

No. 125. Grison Oil Corporation, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 126. The Prudential Insurance Company of America, petitioner, *v.* Laura H. Herold. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 131. City National Bank and I. H. Nakdimen, petitioners, *v.* Henry C. Sternberg. Petition for writ of certiorari to the Supreme Court of the State of Arkansas denied.

No. 132. Ernest R. Woolley, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 134. Justin L. Mitchell, petitioner, *v.* The People of the State of Illinois. Petition for writ of certiorari to the Supreme Court of the State of Illinois denied.

No. 135. John Gruenwald, Peter Duerr, et al., petitioners, *v.* Moir Hotel Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 136. The Brush-Moore Newspapers, Inc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 137. Florance H. Foley, Executor, et al., petitioners, *v.* Commissioner of Internal Revenue; and

No. 138. Florance H. Foley, Executor, et al., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 139. Mike Erceg, Guardian, etc., petitioner, *v.* Fairbanks Exploration Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 140. Pearl A. Long, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 141. Grace Thornhill Chesser et al., petitioners, *v.* United Production Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 144. Public Mutual Benefit Foundation, petitioner, *v.* Owen B. Hunt, Insurance Commissioner of the Commonwealth of Pennsylvania. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 145. John M. McGrath and William T. Cowin, as Trustees, etc., petitioners, *v.* Alfred T. Davison. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 148. Virgil C. Brink and George M. Thompson, Trustees, etc., petitioners, *v.* Commissioner of Corporations and Taxation. Petition for writ of certiorari to the Supreme Judicial Court of the Commonwealth of Massachusetts, County of Suffolk, denied.

No. 149. John T. Murphy, petitioner, *v.* Kenton County Bar Association on relation of Mary E. Finnegan et al. Petition for writ of certiorari to the Court of Appeals of the Commonwealth of Kentucky denied.

No. 152. Securities Allied Corporation, petitioner, *v.* Commissioner of Internal Revenue; and

No. 153. Securities Allied Corporation, petitioner, *v.* Commissioner of Internal Revenue. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 155. Louis Edelstein, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 156. The Missouri Pacific Railroad Company, petitioner, *v.* Via Graves. Petition for writ of certiorari to the Supreme Court of the State of Missouri denied.

No. 157. Julia C. Collins, by Coit I. Hughes, her guardian ad litem, petitioner, *v.* S. L. Finley. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 159. D. E. Harris, petitioner, *v.* Missouri Pacific Railroad Company. Petition for writ of certiorari to the Supreme Court of the State of Missouri denied.

No. 160. Robert V. Morse, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 173. The Pennroad Corporation, petitioner, *v.* Albert H. Ladner, Jr., Former Collector, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 174. The United States of America ex rel. Nathan Fink, petitioner, *v.* Rudolph Reimer, Commissioner of Immigration, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 175. Southern Railway Company, petitioner, *v.* Mrs. Olivia Cox Lunsford, Administratrix, etc. Petition for writ of certiorari to the Court of Appeals of the State of Georgia denied.

No. 176. Southern Railway Company, petitioner, *v.* W. A. Goree. Petition for writ of certiorari to the Court of Appeals of the State of Georgia denied.

No. 178. The United States of America, petitioner, *v.* Legh R. Powell, Jr., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 185. United States ex rel. United States Borax Company, petitioner, *v.* Harold L. Ickes, Secretary of the Interior. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 186. The United States of America, petitioner, *v.* G. Watson French et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 187. Jerihem Seeman, Indicted as Jack Seeman, alias J. Courtney, etc., petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 190. Leo Ginsburg, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 193. Charles Luciano, petitioner, *v.* The People of the State of New York; and

No. 194. David Betillo et al., petitioners, *v.* The People of the State of New York. Petitions for writs of certiorari to the Supreme Court of the State of New York denied.

No. 196. Martin Witte, petitioner, *v.* Haven Parker. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit denied.

No. 197. Edward F. Mayer, a Taxpayer of the City of Cincinnati, Ohio, etc., petitioner, *v.* John H. Ames, Director of the Department of Safety of Cincinnati, Ohio, et al. Petition for writ of certiorari to the Supreme Court of the State of Ohio denied.

No. 198. The Kansas City Southern Railway Company, petitioner, *v.* E. J. Larsen. Petition for writ of certiorari to the Supreme Court of the State of Arkansas denied.

No. 199. Minneapolis, St. Paul & Sault Ste. Marie Railway Company, petitioner, *v.* Industrial Commission of Wisconsin and Peter Pucci. Petition for writ of certiorari to the Supreme Court of the State of Wisconsin denied.

No. 201. Louis Dern and Ada Dern, petitioners, *v.* Charles B. Tanner et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 202. Singer Sewing Machine Company, petitioner, *v.* American Safety Table Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 205. J. S. Bache et al., petitioners, *v.* Louisiana Oil Refining Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 209. James J. Kilgallon, Will C. Moody, et al., etc., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 211. William W. Evans, Albert Catalane, et al., petitioners, *v.* Textile Dyeing & Printing Company of America, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 215. Drainage District No. 1 of Richardson County, Nebraska, et al., petitioners, *v.* James P. Mooney, and for all others similarly situated. Petition for writ of certiorari to the Supreme Court of the State of Nebraska denied.

No. 216. County of Santa Barbara, Harold S. Chase, et al., petitioners, *v.* Thomas B. Bishop Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 217. Geo. F. Dugger, Trustee, etc., petitioner, *v.* Alfred Jenkins et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 218. Maria Del Pilar Jordan De Urries Y Magalhaes, Countess of Santa Cruz de Los Manueles, petitioner, *v.* Luis Regino Rojas, also known as Luis Regino De Amo, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 219. State of Mississippi *ex rel.* Rufus Lee Roy, petitioner, *v.* Ephriam R. McLean, Sometimes known as E. R. McLean. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 220. Mariano Cu Unjieng, petitioner, *v.* The People of the Philippine Islands et al. Petition for writ of certiorari to the Supreme Court of the Commonwealth of the Philippines denied.

No. 223. National Conference on Legalizing Lotteries, Inc., petitioner, *v.* James A. Farley, Postmaster General of the United States. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 224. Pennsylvania Public Utility Commission, petitioner, *v.* Union Traction Company of Philadelphia et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 226. John M. Perry, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 230. The Equitable Life Assurance Society of the United States et al., petitioners, *v.* Norman R. MacDonald. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 232. The Kansas City Southern Railway Company, petitioner, *v.* Interstate Commerce Commission et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 233. Red River Broadcasting Company, Inc., petitioner, *v.* Federal Communications Commission and Fred A. Baxter. Pe-

tion for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. **234.** Margaret Culbertson Scripps et al., Executors, etc., petitioners, *v.* Commissioner of Internal Revenue;

No. **235.** Roy W. Howard et al., Successor Trustees, etc., petitioners, *v.* Commissioner of Internal Revenue;

No. **236.** Margaret Culbertson Scripps et al., Executors, etc., petitioners, *v.* Commissioner of Internal Revenue; and

No. **237.** Roy W. Howard et al., Successor Trustees, etc., petitioners, *v.* Commissioner of Internal Revenue. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. **239.** West Tennessee Power & Light Company, petitioner, *v.* The City of Jackson et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. **248.** Moses Scheuer and Nathan Scheuer, Surviving partners, etc., petitioners, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. **250.** Moses L. Purvin and Henry W. Ustin, Executors, etc., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. **251.** The Spokane Silver and Lead Company, petitioner, *v.* Harry S. Price et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. **257.** Nicholas Floratos, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. **259.** Henry C. Steneck and George W. Steneck, petitioners, *v.* State of New Jersey. Petition for writ of certiorari to the Hudson County Court of Quarter Sessions, State of New Jersey, denied.

No. **261.** Ford Motor Company, petitioner, *v.* Dyke Cullum. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. **262.** Hartford Accident & Indemnity Company, petitioner, *v.* Edward R. Collins. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. **268.** Hiram Walker & Sons, Inc., petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Customs and Patent Appeals denied.

No. **272.** Memphis Furniture Manufacturing Company, petitioner, *v.* National Labor Relations Board. Petition for writ of certiorari

to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 273. Federal Reserve Bank of Philadelphia, petitioner, *v.* Leon Levy. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 278. Utah Power & Light Company, petitioner, *v.* Provo City, a municipal corporation of the State of Utah, et al. Petition for writ of certiorari to the Supreme Court of the State of Utah denied.

No. 279. Curtis Bay Towing Company, petitioner, *v.* Charles W. Dean. Petition for writ of certiorari to the Court of Appeals of the State of Maryland denied.

No. 280. Chicago Telephone Supply Company, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 282. Cleveland Clinic Foundation and Malcolm L. McBride, Administrator, etc., petitioners, *v.* Ethel Tod Humphrys and Central National Bank of Cleveland, Trustee. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 283. Hubert F. Laugharn, as Trustee, etc., petitioner. *v.* Sam Bernstein and Larry Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 284. Easthom-Melvin Company, a corporation, et al., petitioners, *v.* John M. Hoffman, Trading as Hoffman Electric Company, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 285. Blue Valley Creamery Company, petitioner, *v.* Consolidated Products Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 288. George G. Wislar, petitioner, *v.* The United States. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 289. Harvey S. Adams, as Receiver, etc., et al., petitioners, *v.* Thomas C. Eastman et al. Petition for writ of certiorari to the Supreme Court of the State of New York denied.

No. 290. Humboldt Lovelock Irrigation, Light & Power Company, petitioner, *v.* The United States of America et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 292. Jacob Ruppert, a corporation, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 293. George L. Shelton et al., petitioners, *v.* Marion H. Allen, Individually, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 296. In the matter of Morris Pierce Paley, petitioner. Petition for writ of certiorari to the Supreme Court of the State of New York denied.

No. 297. The United States of America, petitioner, *v.* Utah-Idaho Sugar Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 298. Kate Moores Graffis et al., petitioners, *v.* Honorable Charles E. Woodward, United States District Judge, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 299. American Surety Company of New York, petitioner, *v.* Oren S. Hack, as Receiver, etc.; and

No. 300. Oren S. Hack, as Receiver, etc., petitioner, *v.* American Surety Company of New York. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 305. The Kroger Grocery Company et al., petitioners, *v.* James W. Martin and Ben Marshall, Individually, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 319. Henry B. DuPont, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. —, original, October Term, 1937. *Ex parte* Florence F. Greaves Stone, petitioner. The motion for reconsideration of the motion for leave to file petition for writ of mandamus is denied.

No. 183, October Term, 1936. William S. Hicks, petitioner, *v.* The Mutual Life Insurance Company of New York. The motion for leave to file petition for rehearing is denied.

No. 18, original, October Term, 1937. *Ex parte* Paysoff Tinkoff, petitioner. The motion for leave to amend the record is denied. The petition for rehearing is denied.

No. 22, original, October Term, 1937. *Ex parte* Harry M. Blair et al., petitioners;

No. 1021, October Term, 1937. Harry M. Blair et al., petitioners, *v.* George W. McClintic, Judge of the District Court of the United States, etc.;

No. 215, October Term, 1937. The Tax Commission of Ohio, petitioner, *v.* Rollin A. Wilbur et al.;



No. 300, October Term, 1937. The St. Louis, Brownsville & Mexico Railway Company et al., petitioners, *v.* Brownsville Navigation District of Cameron County, Texas, et al.;

No. 437. October Term 1937. M. C. Hinderlider, as State Engineer of the State of Colorado, et al., appellants, *v.* The La Plata River and Cherry Creek Ditch Company;

No. 715. October Term 1937. James M. Wright, petitioner, *v.* Union Central Life Insurance Company;

No. 716. October Term 1937. James M. Wright, petitioner, *v.* Union Central Life Insurance Company;

No. 723. October Term 1937. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* National Grocery Company;

No. 779. October Term 1937. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Philip L. Gerhardt;

No. 780. October Term 1937. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Billings Wilson;

No. 781. October Term 1937. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* John J. Mulcahy;

No. 948. October Term 1937. Frank Ned, alleged incompetent, etc., et al., appellants, *v.* S. P. Robinson;

No. 971. October Term 1937. James L. McDonald, petitioner, *v.* The United States of America;

No. 996. October Term 1937. John M. Hughes, appellants, *v.* Wisconsin Tax Commission et al.;

No. 997. October Term 1937. John P. Dromey, Administrator, etc., appellant, *v.* Wisconsin Tax Commission et al.;

No. 1007. October Term 1937. United States ex rel. Iver Schmidt et al., petitioners, *v.* Charles W. Miles, United States Marshal;

No. 1015. October Term 1937. D. V. Johnson, doing business, etc., petitioner, *v.* Ingleheart Brothers, Inc.;

No. 1022. October Term 1937. Charlotte Morehead et al., petitioners, *v.* The Central Trust Company of Cincinnati, as Executors, etc.;

No. 1024. October Term 1937. Morris Meyers, petitioner, *v.* The United States of America;

No. 1049. October Term 1937. A. K. Fowler, Administrator, etc., et al., petitioners, *v.* Russell B. Seymour, Trustee, etc.; and

No. 1064, October Term, 1937. Pierce Lonergan, petitioner, *v.* The United States of America. Petitions for rehearing denied.

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No. 22. The United States of America, petitioner, *v.* Continental National Bank and Trust Company, Trustee, etc., et al. Motion for substitution submitted by Mr. Solicitor General Jackson for the petitioner.

No. 22. The United States of America, petitioner, *v.* Continental National Bank and Trust Company, etc., et al. Motion to dismiss writ of certiorari as to Continental National Bank and Trust Company submitted by Mr. Preston B. Kavanagh in behalf of counsel for the Continental National Bank and Trust Company.

No. —, original. *Ex parte* Thomas J. Mooney, petitioner. Motion for leave to file petition for writ of habeas corpus submitted by Mr. John F. Finerty for the petitioner with leave to file a brief in support thereof within twenty days.

No. —, original. *Ex parte*: Andrew G. Turcke, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. Albert H. Fry for the petitioner.

No. 27. The Tennessee Electric Power Company et al., appellants, *v.* Tennessee Valley Authority et al. Appeal dismissed as to appellant, Kentucky-Tennessee Light and Power Company, on motion and stipulation signed by counsel for all appellants and the Government.

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No. 2. Kellogg Company, petitioner, *v.* National Biscuit Company; and

No. 56. Kellogg Company, petitioner, *v.* National Biscuit Company. Argued by Mr. Thomas D. Thacher for the petitioner and by Mr. David A. Reed for the respondent.

No. 7. Rolla W. Coleman et al., petitioners, *v.* Clarence W. Miller, as Secretary of the Senate of the State of Kansas, et al. Argument commenced by Mr. Robert Stone for the petitioners; continued by Mr. Clarence V. Beck and Mr. E. R. Sloan for the respondents; by Mr. Rolla W. Coleman for the petitioners; and concluded by Mr. Robert Stone for the petitioners.

No. 14. Albert Benjamin Chandler, Individually, etc., et al., petitioners, *v.* James W. Wise et al. Argument commenced by Mr. J W Jones for the petitioners and continued by Mr. Solicitor General Jackson for the United States as *amicus curiae*, by special leave of Court.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, October 11, will be as follows: Nos. 14, 8, 9, 10, 11, 12, 13, 15 (and 17), 16, and 18.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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W. I. Gilbert, Jr., of Los Angeles, Calif.; Don Marlin, of Los Angeles, Calif.; John Ernest Roe, of Madison, Wis.; Wilder Goodwin, of New York City; Arthur Lufkin Mundo, of San Diego, Calif.; George O. Knutson, of Cocoa, Fla.; Raymond G. Brown, of Columbus, Ohio; Frank L. Hays, of Denver, Colo.; and Lowell L. Martin, of Lafayette, Ind., were admitted to practice.

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No. 7. Rolla W. Coleman, W. A. Barron, et al., petitioners, *v.* Clarence W. Miller, as Secretary of the Senate of the State of Kansas, et al. Leave granted petitioners to file reply brief by Friday next on motion of Mr. Robert Stone for the petitioners.

No. 14. Albert Benjamin Chandler, Individually, etc., et al., petitioners, *v.* James W. Wise and Ray B. Moss. Argument continued by Mr. Solicitor General Jackson for the United States as *amicus curiae*, by special leave of Court; by Mr. Lafon Allen for the respondents; and concluded by Mr. J. W. Jones for the petitioners.

No. 8. Great Northern Railway Company and George Pappas, petitioners, *v.* George Leonidas. Argued by Mr. William L. Clift for the petitioners and by Mr. Hugh R. Adair for the respondent.

No. 9. Guaranty Trust Company of New York, Executor, etc., petitioner, *v.* Commonwealth of Virginia. Argument commenced by Mr. James R. Caskie for the petitioner and continued by Mr. Abram P. Staples for the respondent and by Mr. James R. Caskie for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, October 12, will be as follows: Nos. 9, 10, 11, 12, 13, 15 (and 17), 16, 18, 19 (and 25), and 20.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Frank L. Martin, Jr., of Los Angeles, Calif.; Robert J. Fluskey, of New York City; and Olen Henderson, of Knoxville, Tenn., were admitted to practice.

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No. —, original. *Ex parte* The Century Indemnity Company, a corporation, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. Charles W. Arth in behalf of counsel for the petitioner.

No. 9. Guaranty Trust Company of New York, Executor, etc., petitioner, *v.* Commonwealth of Virginia. Argument concluded by Mr. James R. Caskie for the petitioner.

No. 10. The United States of America, petitioner, *v.* One 1936 Model Ford V-8 De Luxe Coach, etc. Argued by Mr. Gordon Dean for the petitioner and by Mr. Eugene E. Heaton and Mr. Duane R. Dills for the respondent.

No. 11. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Robert C. Winnill. Argued by Mr. Arnold Raum for the petitioner and by Mr. Thomas M. Wilkins for the respondent.

No. 12. D. F. Stahmann, Anna M. Stahmann, et al., etc., petitioners, *v.* S. P. Vidal, Collector of Internal Revenue, etc. Argument commenced by Mr. Thornton Hardie for the petitioners and continued by Mr. Assistant Solicitor General Bell for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, October 13, will be as follows: Nos. 12, 13, 15 (and 17), 16, 18, 19 (and 25), 20, 21, 22, and 24.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Carl S. McCarthy, of Washington, D. C.; Millsaps Fitzhugh, of Memphis, Tenn.; Edward J. Svoboda, of Omaha, Nebr.; Julius J. Wuerthner, of Great Falls, Mont.; Charles B. Ellard, of Dallas, Texas; and Frederic R. Kennedy, of New York City, were admitted to practice.

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No. 12. D. F. Stahmann, Anna M. Stahmann, et al., etc., petitioners, *v.* S. P. Vidal, Collector of Internal Revenue, etc. Argument continued by Mr. Assistant Solicitor General Bell for the respondent and concluded by Mr. Thornton Hardie for the petitioners.

No. 13. Earle S. Welch, appellant, *v.* Robert K. Henry and Solomon Levitan, State Treasurer of the State of Wisconsin. Argued by Mr. John M. Campbell for the appellant and by Mr. Leo E. Vaudreuil and Mr. Harold H. Persons for the appellees.

No. 15. Waialua Agricultural Company, Limited, petitioner, *v.* Eliza R. P. Christian, an incompetent person, etc., et al.; and

No. 17. Eliza H. P. Christian, an incompetent person, etc., petitioner, *v.* Waialua Agricultural Company, Limited. Argument commenced by Mr. M. C. Sloss for Christian et al. and continued by Mr. Herman Phleger for the Waialua Agricultural Company, Limited.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, October 14, will be as follows: Nos. 15 (and 17), 16, 18, 20, 19 (and 25), 21, 22, 24, 26, and 28.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Thos. C. Hoyle, Jr., of Greensboro, N. C., and Herman Clymer Wilson, of Greensboro, N. C., were admitted to practice.

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No. 15. Waialua Agricultural Company, Limited, petitioner, *v.* Eliza R. P. Christian, and incompetent person etc., et al.; and

No. 17. Eliza H. P. Christian, and incompetent person, etc., petitioner, *v.* Waialua Agricultural Company, Limited. Argument concluded by Mr. M. C. Sloss for Christian et al.

No. 16. Mark O. Davis, petitioner, *v.* Maude E. Davis. Argued by Mr. Joseph T. Sherier for the petitioner and by Mr. Crandal Mackey for the respondent.

No. 18. James E. Davidson, petitioner, *v.* Commissioner of Internal Revenue. Argued by Mr. Edward J. Svoboda for the petitioner and by Mr. Edward J. Ennis for the respondent.

No. 20. J. O. Stoll, petitioner, *v.* William Gottlieb. Argued by Mr. Albert W. Froehde for the petitioner and case submitted by Mr. David J. Shipman for the respondent.

No. 19. Consolidated Edison Company of New York, Inc., etc., et al., petitioners, *v.* National Labor Relations Board et al.; and

No. 25. International Brotherhood of Electrical Workers et al., petitioners, *v.* National Labor Relations Board et al. Five hours allowed for oral argument. Argument commenced by Mr. William L. Ransom for the petitioners in No. 19.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, October 17, will be as follows: Nos. 19 (and 25), 21, 3 (4 and 5), 22, 24, 26, 28, 1, 29, and 30.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Louis Mead Treadwell, of New York City; E. Glenn Grimes, of Bradenton, Fla.; Joseph Weintraub, of Miami, Fla.; Ralph E. Carhart, of Marion, Ohio; Alvin A. Kurtz, of Salem, Oreg.; Henry Graff, of Bradford, Pa.; Peery Price, of Los Angeles, Calif.; Vernon A. Bettin, of Los Angeles, Calif.; Nell Denson McQuillan, of Birmingham, Ala.; Sidney S. Hoehl, of Miami, Fla.; John William Watson, Jr., of Miami, Fla.; James M. Lee, of Tallahassee, Fla.; Wilson E. Griffiths, of Pittsburgh, Pa.; Herbert H. Hawkins, of Pittsburgh, Pa.; Rogelio Fernandez-Garzot, of Naguabo, P. R.; W. O. Reed, of Dallas, Tex.; and George C. Dyer, of St. Louis, Mo., were admitted to practice.

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The Chief Justice said:

"The orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. 10. The United States of America, petitioner, *v.* One 1936 Model Ford V-8 De Luxe Coach, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. *Per curiam*: The judgment is affirmed by an equally divided Court. Mr. Justice Butler and Mr. Justice Stone took no part in the consideration or decision of this case.

No. 368. The City of Los Angeles and Ray L. Chesebro, appellants, *v.* Los Angeles County Flood Control District et al. Appeal from the Supreme Court of the State of California. The motion to dismiss the appeal is granted as to the City of Los Angeles, and as to it the appeal is dismissed for the want of a substantial Federal question. *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182; *Williams v. Mayor*, 289 U. S. 36, 40; *South Bend v. DeHaven*, 302 U. S. 644. As to the remaining appellant, further consideration of the question of the jurisdiction of this Court and of the motion to dismiss or affirm is postponed to the merits.

No. —, original. *Ex parte* Andrew G. Turcke, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. —, original. Ex parte Century Indemnity Company, petitioner. A rule is ordered to issue, returnable within 30 days, requiring the respondents to show cause why leave to file the petition for writ of mandamus should not be granted.

No. —, original. Ex parte Daisy C. Tegtmeyer, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. 1, original, October Term 1937. The State of Georgia, complainant, v. The Tennessee Copper Company. The rule to show cause issued against the Ducktown Chemical & Iron Company is discharged. It is ordered that costs in this cause since April 3, 1916, be taxed against the defendant, Tennessee Copper Company.

No. 359. Hugh Allen Bowen, petitioner, v. James A. Johnston, Warden, etc. It is ordered that Seth W. Richardson, Esq., of Washington, D. C., a member of the bar of this Court, be appointed to serve as counsel for the petitioner in this case.

No. 393. Ellen Wall and Ellen Wall, as Administratrix, etc., petitioner, v. The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit;

No. 66. Minnie Gertrude Freeman Ferris Rhodes, petitioner, v. Paul G. Rhodes. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 128. Rhuel James Dalhover, petitioner, v. The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit; and

No. 147. Wilfred Jones, petitioner, v. The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 142. Hugh Pierre, petitioner, v. State of Louisiana. On petition for writ of certiorari to the Supreme Court of the State of Louisiana; and

No. 249. Benjamin F. Goodman, petitioner, v. The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. The motions for leave to proceed *in forma pauperis* are granted. The petitions for writs of certiorari are also granted.

No. 367. Frank Eichholz, appellant, v. Public Service Commission of the State of Missouri et al. Further consideration of the question of the jurisdiction of this Court and of the motion to dismiss in this case is postponed to the hearing of the case on the merits.



No. 314. Wichita Royalty Company et al., petitioners, *v.* City National Bank of Wichita Falls et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 330. Eugene Kessler, District Director of Immigration and Naturalization, petitioner, *v.* Joseph George Strecker. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 342. Frank O. Lowden et al., Trustees, etc., petitioners, *v.* Simonds-Shields-Lonsdale Grain Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted.

No. 328. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* R. J. Reynolds Tobacco Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted. Mr. Justice Stone took no part in the consideration and decision of this application.

No. 306. Consolidated Automatic Merchandising Corporation et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 307. The Automatic Toy Corporation, petitioner, *v.* Buddy "L" Mfg. Co., Inc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 313. William S. Hart and Mary Hart, co-partners, etc., petitioners, *v.* United Artists Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 315. Victor House, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 322. Celite Corporation, petitioner, *v.* The Decalite Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 323. Biddle Purchasing Company et al., petitioners, *v.* Federal Trade Commission. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 331. Hartford Fire Insurance Company, petitioner, *v.* Palace Cafe, Incorporated;

No. 332. National Security Fire Insurance Company, petitioner, *v.* Palace Cafe, Incorporated. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 333. Raymond Schmitt, Administrator, etc., petitioner, *v.* Edward G. Platt. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 334. Percival D. Lowell et al., petitioners, *v.* A. G. Triplett et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 335. Raffold Process Corporation, petitioner, *v.* Castanea Paper Company, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 336. William Hale Thompson, petitioner, *v.* Otto Kerner, as Attorney General of the State of Illinois. Petition for writ of certiorari to the Appellate Court, 1st District, State of Illinois, denied.

No. 337. Lancashire Shipping Company, Ltd., petitioner, *v.* Harry M. Durning, Collector of Customs, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 341. Masonite Corporation, petitioner, *v.* Securities and Exchange Commission. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 345. State Line & Sullivan Railroad Company, petitioner, *v.* David W. Phillips, Collector of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 346. William P. Deppe, petitioner, *v.* United States Board of Tax Appeals et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 351. State of Mississippi, for the use of Millard Smith, a minor, et al., petitioners, *v.* J. W. Brabham, Sheriff, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 354. The New York, Chicago and St. Louis Railroad Company, petitioner, *v.* Jennie May Haynes, Widow, etc. Petition for writ of certiorari to the Circuit Court of Madison County, State of Illinois, denied.

No. 356. Edward F. O'Brien, petitioner, *v.* The First National Bank of Chicago, as Trustee, etc. Petition for writ of certiorari to the Appellate Court, 1st District, State of Illinois, denied.

No. 68. Date R. Alexander, petitioner, *v.* The United States;

No. 69. Ali Y. Debeh, petitioner, *v.* The United States of America;

No. 70. George M. Lindsay, petitioner, *v.* The United States of America; and

No. 71. George M. Lindsay, Jr., petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 671, October Term 1937. Catherine Schultz, petitioner, *v.* Live Stock National Bank of Chicago, Administrator, etc. Motion for leave to file a third petition for rehearing denied.

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ORDER

The Court will take a recess from Monday, October 24, to Monday, November 7, next.

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No. 277. Orland S. Loomis, Individually, etc., et al., petitioners, *v.* First Federal Savings and Loan Association. Petition to intervene submitted by Mr. Solicitor General Jackson for the United States.

No. 28. Dan B. Shields, individually, etc., et al., petitioners, *v.* The Utah Idaho Central Railroad Company. Motion of the American Transit Association for leave to appear and present oral argument, as *amicus curiae* submitted by Mr. Robert E. Quirk in that behalf and the motion denied.

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No. 19. Consolidated Edison Company of New York, Inc., et al., petitioners, *v.* National Labor Relations Board et al.; and

No. 25. International Brotherhood of Electrical Workers et al., petitioners, *v.* National Labor Relations Board et al. Argument continued by Mr. Charles Fahy for the respondent, National Labor Relations Board in No. 19; by Mr. Isaac Lobe Straus and Mr. Joseph A. Padway for the petitioners in No. 25; by Mr. Louis B. Boudin for the respondent (intervenor), United Electrical and Radio Workers of America; by Mr. Charles Fahy for the respondent, National Labor Relations Board in No. 25; by Mr. Isaac Lobe Straus for the petitioners in No. 25; and concluded by Mr. William L. Ransom for the petitioners in No. 19.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, October 18, will be as follows: Nos. 21, 3 (4 and 5), 24, 26, 28, 1, 29, 30, 31, and 48.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Isadore Roman, of Baltimore, Md.; Sigmud Levin, of Baltimore, Md.; George E. Arthur, of Chicago, Ill.; J. Edwin Coates, of Washington, D. C.; Milford A. Juten, of Washington, D. C.; Homer Jack Fisher, of Dallas, Tex.; W. B. Handley, of Dallas, Tex.; John L. Graham, of Tallahassee, Fla.; Francis K. Young, of Detroit, Mich.; Fred A. Ontjes, of Mason City, Iowa; Lee R. Schermerhorn, of Washington, D. C.; and Horace Monroe Baxter, of Boston, Mass., were admitted to practice.

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No. 21. Wm. H. Neblett, Vernon Bettin, et al., petitioners, *v.* Samuel L. Carpenter, Jr., Insurance Commissioner of the State of California, et al. Argued by Mr. William H. Neblett for the petitioners and by Mr. William Marshall Bullitt and Miss Hester W. Webb for the respondents.

No. 3. The Schriber-Schroth Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation;

No. 4. The Aberdeen Motor Supply Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation; and

No. 5. The F. E. Rowe Sales Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation. Argument commenced by Mr. Thomas G. Haight for the petitioners and continued by Mr. Arthur C. Denison for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, October 19, will be as follows: Nos. 3 (4 and 5), 24, 26, 28, 1, 29, 30, 31, 48, and 49.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Harry E. Smoyer, of Cleveland, Ohio; Louis D. Fletcher, of Scarsdale, N. Y.; Neil R. Olmstead, of Ogden, Utah; Donald J. Overocker, of Thornwood, N. Y.; Floyd H. Crews, of New York City; and John W. Melville, of Cincinnati, Ohio, were admitted to practice.

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No. 3. The Schriber-Schroth Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation;

No. 4. The Aberdeen Motor Supply Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation; and

No. 5. The F. E. Rowe Sales Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation. Argument continued by Mr. F. O. Richey for the respondents and concluded by Mr. John H. Bruninga for the petitioners.

No. 24. Frank T. Hines, Administrator of Veterans' Affairs, etc., petitioner, *v.* James J. Lowrey, Committee, etc. Argued by Mr. Edward E. Odom for the petitioner and by Mr. William Dike Reed for the respondent.

No. 26. Texas Consolidated Theatres, Inc., petitioner, *v.* S. H. Pittman. Submitted on the statement filed by Mr. W. B. Handley for the petitioner. No appearance for the respondent.

No. 28. Dan B. Shields, Individually and as United States Attorney for the District of Utah, et al., petitioners, *v.* The Utah Idaho Central Railroad Company. Argument commenced by Mr. Solicitor General Jackson for the petitioners; continued by Mr. J. A. Howell and Mr. Robert E. Quirk for the respondent; and concluded by Mr. Solicitor General Jackson for the petitioners.

No. 1. General Talking Pictures Corporation, petitioner, *v.* Western Electric Company, Inc., et al. Reargument commenced by Mr. Samuel E. Darby, Jr., for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, October 20, will be as follows: Nos. 1, 29, 221, 30, 31, and 48.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Edmund C. Rogers, of St. Louis, Mo.; Raymond V. Haun, of Los Angeles, Calif.; Jerome R. Epstein, of Elizabeth, N. J.; Wm. A. Leonard, of Columbus, Ga.; and Guillermo Silva Silva, of San Juan, P. R., were admitted to practice.

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No. 1. General Talking Pictures Corporation, petitioner, *v.* Western Electric Company, Inc., et al. Reargument continued by Mr. Samuel E. Darby, Jr., for the petitioner; by Mr. Merrell E. Clark for the respondents; and concluded by Mr. Ephraim Berliner for the petitioner.

No. 29. The Polk Company, Bruce's Juices, Inc., et al., appellants, *v.* Manuel M. Glover, as County Solicitor of Polk County, Florida. Argument commenced by Mr. H. Thomas Austern for the appellants; continued by Mr. John B. Sutton for the appellants; by Mr. William C. Pierce and Mr. John L. Graham for the appellees; and concluded by Mr. H. Thomas Austern for the appellants.

No. 221. The United States of America et al., appellants, *v.* F. O. Morgan, Doing business as F. O. Morgan Sheep Commission Company, et al. Argument commenced by Mr. Solicitor General Jackson for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, October 21, will be as follows: Nos. 221, 30, and 31.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Louise B. Hart, of Columbus, Ga.; George C. Klauder, of Philadelphia, Pa.; Samuel Kagle, of Philadelphia, Pa.; George Greene, of Boston, Mass.; Louis Razin, of Boston, Mass.; and Jack A. Schley, of Dallas, Tex., were admitted to practice.

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No. 221. The United States of America and The Secretary of Agriculture, appellants, *v.* F. O. Morgan, doing business as F. O. Morgan Sheep Commission Company, et al. Argument continued by Mr. Solicitor General Jackson for the appellants and concluded by Mr. Frederick H. Wood for the appellees.

No. 30. The Colorado National Bank of Denver et al., petitioners, *v.* Commissioner of Internal Revenue. Argued by Mr. Morrison Shafroth for the petitioners and by Mr. Carlton Fox for the respondent.

No. 31. The Sovereign Camp of the Woodmen of the World, petitioner, *v.* William F. Bolin, Edward E. Bolin, et al. Argued by Mr. John T. Harding for the petitioner and by Mr. Miles Elliott for the respondents.

Adjourned until Monday, October 24 next, at 12 o'clock.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Benjamin George Wilkinson, Jr., of Washington, D. C.; William P. Evans, of Indianapolis, Ind.; M. Ben Brooks, of Kaufman, Tex.; Joshua S. Koenigsberg, of New York City; Curtis T. Youngblood, of Ashdown, Ark.; Frederick E. Bauer, of Washington, D. C.; Alfred Kamin, of Chicago, Ill.; John W. Hoffman, Jr., of Kansas City, Mo.; George W. Irving, of Cleveland, Ohio; M. C. Martin, of Austin, Tex.; Maurice G. Alexander, of Birmingham, Ala.; Joe Sharp, of Austin, Tex.; and O. A. Cargill, Jr., of Oklahoma City, Okla., were admitted to practice.

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The Chief Justice said:

"The orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally.

No. 374. Ernest Newton Kalb, appellant, *v.* Roscoe R. Luce et al.; and

No. 375. Ernest Newton Kalb et al., appellants, *v.* Henry Feuerstein et al. Appeals from the Supreme Court of the State of Wisconsin. *Per curiam*: The appeals herein are dismissed for the want of final judgments. *Missouri Ry. Co. v. Olathe*, 222 U. S. 185; *O'Mara v. Crampton*, 267 U. S. 575; *Manassas Park, Inc., v. Robertson*, 274 U. S. 716; *American Bakeries Co. v. Huntsville*, 299 U. S. 514.

No. —, original. *Ex parte* Louise Dean Moyer, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. —, original. *Ex parte* Taylor Seals, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. 277. Orland S. Loomis, Individually, etc., et al., petitioners, *v.* First Federal Savings and Loan Association. The motion of the United States for leave to intervene is granted.

No. 411. Elbert B. Lindsey and E. R. Lindsey, petitioners, *v.* State of Washington. On petition for writ of certiorari to the Supreme Court of the State of Washington;



No. 379. Mrs. Joyce Mae Scarborough et al., petitioners, *v.* C. R. Long and Joseph Freitag. On petition for writ of certiorari to the Supreme Court of the State of Georgia; and

No. 402. Harry J. Tompkins, petitioner, *v.* Erie Railroad Company. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 360. The United States of America, petitioner, *v.* Charles F. Towery, in his own right, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted.

No. 364. Keifer and Keifer, a co-partnership, etc., petitioner, *v.* Reconstruction Finance Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted, limited to the first question presented in the petition.

No. 380. The Great Atlantic & Pacific Tea Company, petitioner, *v.* State of Louisiana. Petition for writ of certiorari to the Supreme Court of the State of Louisiana denied for the reason that the judgment sought herein to be reviewed is based upon a non-federal ground adequate to support it.

No. 321. Ingram Day Lumber Company, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 343. Samuel Pancoe, petitioner, *v.* J. H. Southman, Permanent Trustee, etc., et al.; and

No. 344. Samuel Pancoe, petitioner, *v.* J. H. Southman, Permanent Trustee, etc., et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 347. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Eugene W. Waterbury;

No. 348. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Donald N. Waterbury;

No. 349. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Charlotte M. Waterbury; and

No. 350. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Whitford N. Waterbury. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 355. N. L. Lawrence, petitioner, *v.* State of North Carolina. Petition for writ of certiorari to the Supreme Court of the State of North Carolina denied.

No. 357. Guy A. Thompson, Trustee, etc., petitioner, *v.* Linnie R. Stott, Administratrix, etc. Petition for writ of certiorari to the Appellate Court, 4th District, State of Illinois denied.

No. 358. Annette Strauss, as Special Administratrix, etc., et al., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 361. Mrs. Jennie E. Tate, petitioner, *v.* Commissioner of Internal Revenue; and

No. 362. Jennie E. Tate, Executrix, etc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 363. International Company of St. Louis, petitioner, *v.* Occidental Life Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 366. Mac Caldwell, by next friend, Mrs. Bessie Caldwell, petitioner, *v.* Standard Accident Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 369. Mortgage Guarantee Company, petitioner, *v.* Herbert V. Apartments Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 372. Staley Elevator Co., Inc., et al., petitioners, *v.* Otis Elevator Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 378. American Glycerin Company, petitioner, *v.* Eason Oil Company, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 397. New York Life Insurance Company, petitioner, *v.* Clarence G. Jackson et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

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No. —, original. Commonwealth of Massachusetts, complainant, *v.* State of Missouri. Motion for leave to file bill of complaint submitted by Mr. Paul A. Dever and Mr. Edward O. Proctor for the complainant.

No. 151. Sam J. Boller, appellant, *v.* The State of Kansas. Motion to reinstate appeal submitted by counsel for the appellant.

No. 188. Edward H. Titus, petitioner, *v.* Lou C. Wallick. Motion designating additional portions of the record to be printed submitted by Mr. Rolland M. Edmonds for the respondent.

Adjourned until Monday, November 7, next, at 12 o'clock.

The day call for Monday, November 7, will be as follows: Nos. 13 original, 49, 54, 53, 55, 57, 73, 75, 102, and 63.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Lloyd E. Price, of Fort Worth, Tex.; Allan Shivers, of Port Arthur, Tex.; Ordner T. Bundlie, of Saint Paul, Minn.; Bert McMullen, of Minneapolis, Minn.; Park Street, of San Antonio, Tex.; Albert Green Walker, of Vernon, Tex.; Moses Levitan, of Chicago, Ill.; William T. Woodson, of Chicago, Ill.; Edward V. Dunklee, of Denver, Colo.; Gerhard R. Gerhard, of New York City; Thomas F. D. Haines, of New York City; Frank S. Bayley, of Seattle, Wash.; Geo. H. Rawlins, of Phoenix, Ariz.; Kenart M. Rahn, of Chicago, Ill.; Thomas D. Caldwell, of Harrisburg, Pa.; Fred H. Elliott, of Chicago, Ill.; Gerald A. Doyle, of Cleveland, Ohio; Howell Leuck, of Cleveland, Ohio; M. Hudson Rathburn, of Chicago, Ill.; Robert Leyburne Patterson, of Trenton, N. J.; George F. Mehling, of Detroit, Mich.; and Lucas E. Kilkenny, of San Francisco, Calif., were admitted to practice.

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No. 15. Waialua Agricultural Company, Limited, petitioner, *v.* Eliza R. P. Christian, an incompetent person, etc., et al.; and

No. 17. Eliza R. P. Christian, an incompetent person, etc., petitioner, *v.* Waialua Agricultural Company, Limited. On writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Decree of the United States Circuit Court of Appeals reversed and decree of the Supreme Court of Hawaii affirmed. Opinion by Mr. Justice Reed.

No. 11. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Robert C. Winmill. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment reversed and cause remanded to the United States Circuit Court of Appeals for the Second Circuit for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Black.

No. 24. Frank T. Hines, Administrator of Veterans' Affairs, United States Veterans' Administration, petitioner, *v.* James J. Lowrey, Committee, etc. On writ of certiorari to the Supreme Court of the State of New York. Judgment reversed and cause remanded to the

said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Black.

No. 12. D. F. Stahmann, Anna M. Stahmann, et al., petitioners, *v.* S. P. Vidal, Collector of Internal Revenue for the District of New Mexico. On writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the District of New Mexico for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts. Mr. Justice Reed took no part in the consideration or decision of this case.

No. 31. The Sovereign Camp of the Woodmen of the World, petitioner, *v.* William F. Bolin, Edward E. Bolin, et al. On writ of certiorari to the Kansas City Court of Appeals of the State of Missouri. Judgment reversed with costs and cause remanded to the said Court of Appeals for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Roberts.

No. 3. The Schriber-Schroth Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation;

No. 4. The Aberdeen Motor Supply Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation; and

No. 5. The F. E. Rowe Sales Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation. On writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. Decrees reversed with costs and cases remanded to the said Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Stone. Mr. Justice Roberts took no part in the consideration or decision of these cases.

No. 16. Mark O. Davis, petitioner, *v.* Maude E. Davis. On writ of certiorari to the United States Court of Appeals for the District of Columbia. Decree reversed with costs and cause remanded to the District Court of the United States for the District of Columbia for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Butler.

No. 18. James E. Davidson, petitioner, *v.* Commissioner of Internal Revenue. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgment affirmed and cause remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Butler.

No. 9. Guaranty Trust Company of New York, Executor, etc., petitioner, *v.* Commonwealth of Virginia. On writ of certiorari to the Supreme Court of Appeals of the Commonwealth of Virginia. Judgment affirmed with costs. Opinion by Mr. Justice McReynolds.

No. 30. The Colorado National Bank of Denver and Gertrude Hendrie Grant, Executors, etc., petitioners, *v.* Commissioner of Internal Revenue. On writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Judgment of the Circuit Court of Appeals reversed and the judgment of the Board of Tax Appeals affirmed and cause remanded to the United States Circuit Court of Appeals for the Tenth Circuit for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Reynolds. Mr. Justice Reed concurs on the ground that the conclusion of the Board that the transfer was not made in contemplation of death was justified. There was substantial evidence of a life motive and the Board did not find an effective motive in contemplation of death. Dissenting opinion by Mr. Justice Black.

No. 8. Great Northern Railway Company and George Pappas, petitioners, *v.* George Leonidas. On writ of certiorari to the Supreme Court of the State of Montana. Judgment as to petitioner Great Northern Railway Company affirmed with costs. As to petitioner George Pappas the writ of certiorari is dismissed. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes. Mr. Justice Black is of the opinion that the writ of certiorari should be dismissed as to both petitioners.

No. 26. Texas Consolidated Theatres, Inc., petitioner, *v.* S. H. Pittman. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Writ of certiorari dismissed with costs against petitioner. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

No. 29. The Polk Company, Bruce's Juices, Inc., et al., appellants, *v.* Manuel M. Glover, as County Solicitor of Polk County, Florida. Appeal from the District Court of the United States for the Southern District of Florida. Decree reversed with costs and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes. Dissenting opinion by Mr. Justice Black.

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The Chief Justice announced the following orders of the Court:

No. 240. Ben Anderson et al., appellants, *v.* Northern States Contracting Company et al.;

No. 241. Green Brown et al., appellants, *v.* Swords-McDougal Company et al.; and

No. 242. Will Knox et al., appellants, *v.* Massachusetts Bonding and Insurance Company. Appeals from the Court of Appeals of the Commonwealth of Kentucky. *Per curiam*: The appeals herein are dis-

missed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeals were allowed as petitions for writs of certiorari as required by section 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. Mr. Justice Butler took no part in the consideration or decision of these cases.

No. 405. Lester A. Crancer and George B. Fleischmann, Co-partners, etc., et al., appellants, *v.* The United States of America et al. Appeal from the District Court of the United States for the Eastern District of Missouri. *Per curiam*: The decree is affirmed. *Hooker v. Knapp*, 225 U. S. 302; *Standard Oil Co. v. United States*, 283 U. S. 235, 238; *I. C. C. v. United States ex rel. Campbell*, 289 U. S. 385, 388; *United States v. Griffin*, 303 U. S. 226, 233, 234.

No. 410. Diamond Tank Transport, Inc., et al., appellants, *v.* The United States of America et al. Appeal from the District Court of the United States for the Western District of Washington. *Per curiam*: The decree is affirmed. *Hooker v. Knapp*, 225 U. S. 302; *Standard Oil Co. v. United States*, 283 U. S. 235, 238; *I. C. C. v. United States ex rel. Campbell*, 289 U. S. 385, 388; *United States v. Griffin*, 303 U. S. 226, 233, 234.

No. 423. Dr. H. R. Parker, appellant, *v.* City of Greensboro, North Carolina. Appeal from the Supreme Court of the State of North Carolina. *Per curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Welch v. Swasey*, 214 U. S. 91, 105-106; *Cusack v. City of Chicago*, 242 U. S. 526, 530-531; *Euclid v. Ambler Co.*, 272 U. S. 365, 388-389; *Gorieb v. Fox*, 274 U. S. 603, 608; *West Brothers Brick Co. v. Alexandria*, 302 U. S. 658.

No. 151. Sam J. Boller, appellant, *v.* The State of Kansas. Appeal from the Supreme Court of the State of Kansas. *Per curiam*: The motion to reinstate the appeal is granted and the appeal is dismissed for want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for writ of certiorari as required by section 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied.

No. 409. Twin Falls County, State of Idaho, appellant, *v.* Marie Henderson. Appeal from the Supreme Court of the State of Idaho. *Per curiam*: The appeal herein is dismissed (1) for the want of a substantial federal question, *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182; *Williams v. Mayor*, 289 U. S. 36, 40; *City of Los Angeles v. Los Angeles County Flood Control District*, 305 U. S. — (decided October 17, 1938); (2) for the reason that the judgment sought herein to be reviewed is based

upon a non-federal ground adequate to support it, *Eustis v. Bolles*, 150 U. S. 361, 366; *Hale v. Lewis*, 181 U. S. 473, 479; *Gauss v. Detroit Trust Co.*, 297 U. S. 695.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original. *Ex parte Romao Lukiancguk*, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. *State of Massachusetts, complainant, v. State of Missouri et al.* A rule is ordered to issue, returnable December 12, next, requiring the defendants to show cause why leave to file the bill of complaint herein should not be granted.

No. 329. *Gene Buck, Individually and as President of the American Society of Composers, Authors, and Publishers, et al., appellants, v. Phil H. Gallagher, Individually, etc., et al.* The motion to dismiss the appeal is granted as to Ernest N. Hutchinson, John D. Evans, and Sam M. Driver, and the appeal is dismissed as to those three appellees. In all other respects the motion is denied.

No. 188. *Edward H. Titus, petitioner, v. Lou C. Wallick.* The motion of the respondent for an order requiring designated portions of the record to be printed is granted, and it is ordered that those portions of the record specified in respondent's motion which are not included in the petitioner's designation heretofore filed be printed, without prejudice to the authority of the Court to make such order as to costs as it may deem proper, if it appears that the respondent has caused unnecessary parts of the record to be printed.

No. 22. *The United States of America, petitioner, v. Continental National Bank and Trust Company, Trustee, etc., et al.* The motion to substitute and the motion to make a new party are denied. Further consideration of the motion to dismiss is postponed to the hearing of the case on the merits.

No. 420. *Samuel Miller, petitioner, v. Lykes Brothers-Ripley Steamship Company, Inc.* On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 422. *C. L. Hammond, petitioner, v. Clyde I. Plummer, Warden, etc.* On petition for writ of certiorari to the Supreme Court of the State of California; and

No. 429. *Milton Prebyl, petitioner, v. Prudential Insurance Company of America.* On petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein sub-



mitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 400. Elisabeth C. Herndon, petitioner, *v.* Pulaski County. On petition for writ of certiorari to the Supreme Court of the State of Arkansas. The motion for leave to proceed herein on the typewritten record is denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied.

No. 432. The United States of America et al., appellants, *v.* Dan E. Maher, doing business as Interstate Busses. In this case probable jurisdiction is noted.

No. 418. A. B. Hale, as Chairman, et al., etc., appellants, *v.* Bimco Trading, Inc., et al. In this case probable jurisdiction is noted. Further consideration of the motion to dismiss or affirm is postponed to the hearing of the case on the merits.

No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted.

No. 391. The United States of America, petitioner, *v.* Elizabeth C. Jacobs, Executrix, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted.

No. 385. First Chrold Corporation, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted and the case assigned for argument immediately following No. 328.

No. 303. Arthur C. Harvey Company, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 365. Standard Education Society et al., petitioners, *v.* Federal Trade Commission. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 370. Sigurd A. Emerson, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 376. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor, F. G. Awalt, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 377. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor, Robert C. Baldwin, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 381. Aero Neck Band & Collar Co., Inc., et al., petitioners, *v.* Beaver Manufacturing Co., Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 382. Chicago Pneumatic Tool Company, petitioner, *v.* Hughes Tool Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 383. John Morrell & Co., petitioner, *v.* Boyd W. Doyle et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 386. Florida Power & Light Company, petitioner, *v.* City of Miami, a Municipal Corporation, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 387. Caroline C. Spalding, petitioner, *v.* The United States of America; and

No. 388. Silsby M. Spalding, petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 389. Millie Belle Brown, Executrix, etc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 390. Laura Miller Boyer, Administratrix, etc., petitioner, *v.* Standish Backus et al. Petition for writ of certiorari to the Supreme Court of the State of Michigan denied.

No. 396. Morris M. Halsted, petitioner, *v.* State Highway Commissioner, etc. Petition for writ of certiorari to the Supreme Court of the State of Michigan denied.

No. 406. The Engineering and Research Corporation et al., petitioners, *v.* Horni Signal Manufacturing Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 424. Ellen Johnson, as Administratrix, etc., petitioner, *v.* Stromberg Carlson Telephone Mfg. Co. Petition for writ of certiorari to the Court of Appeals of the State of New York denied.

No. 371. George W. Helme Company, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 394. Agnes Gliwa, in behalf of herself and all other parties similarly situated and affected, etc., petitioner, *v.* United States Steel Corporation et al. Petition for writ of certiorari to the Supreme Court of the State of Pennsylvania denied.

No. 395. Marie C. Carusi and Joseph J. Moebs, petitioners, *v.* Alma Schulmerick. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 398. William L. Adams, Howard Buffett, et al., etc., petitioners, *v.* Great Lakes Utilities Corporation et al., etc.; and

No. 399. William L. Adams, Howard Buffett, et al., etc., petitioners, *v.* Great Lakes Utilities Corporation et al., etc. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 401. C. I. T. Corporation, petitioner, *v.* Leslie R. Himes, Trustee, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 404. Saint Paul Mercury Indemnity Company, petitioner, *v.* Red Cab Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 414. Harris Hammond, petitioner, *v.* Irving Trust Company, as Trustee, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 10. The United States of America, petitioner, *v.* One 1936 Model Ford V-8 De Luxe Coach, etc. The petition for rehearing is granted. The judgment of affirmance entered October 17, 1938, is vacated and the case is restored to the docket for reargument.

No. 134. Justin L. Mitchell, petitioner, *v.* The People of the State of Illinois. The application for a stay and the motion for an extension of time within which to file a brief in support of the petition for rehearing are denied. The petition for rehearing is denied.

No. —, original. *Ex parte* Francis Scalese, petitioner;

No. 64. Elkhorn Coal Company, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue;

No. 83. Thomas N. Dysart, Trustee, etc., petitioner, *v.* The United States of America;

No. 115. Mutual Benefit Health and Accident Association, petitioner, *v.* Ralley A. Warrell;

No. 131. City National Bank and I. H. Nakdimen, petitioners, *v.* Henry C. Sternberg;

No. 149. John T. Murphy, petitioner, *v.* Kenton County Bar Association, etc., et al.;

No. 181. Sovereign Camp of the Woodmen of the World, appellant, *v.* Don R. Casados et al.;

No. 214. Public Service Company of Indiana et al., appellants, *v.* City of Lebanon, Indiana;

No. 238. Crescent Creamery, Inc., et al., appellants, *v.* Milk Control Board of the State of Indiana, et al.;

No. 289. Harvey S. Adams, as Receiver, etc., et al., petitioners, *v.* Thomas C. Eastman et al.;

No. 299. American Surety Company of New York, petitioner, *v.* Oren S. Hack, as Receiver, etc.;

No. 300. Oren S. Hack, as Receiver, etc., petitioner, *v.* American Surety Company of New York; and

No. 356. Edward F. O'Brien, petitioner, *v.* The First National Bank of Chicago, as Trustee, etc. Petitions for rehearing denied.

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No. 11, original. The State of Texas, complainant, *v.* The State of Florida et al. Report of the Special Master submitted by Mr. John S. Flannery, Special Master.

No. 309. The United States of America, appellant, *v.* Durkee Famous Foods, Inc.; and

No. 310. The United States of America, appellant, *v.* Manhattan Lighterage Corporation. Motions to enlarge the records submitted by Mr. Roger Hinds for the appellees.

No. 311. The United States of America, appellant, *v.* Colgate-Palmolive-Peet Company. Motion to enlarge the record submitted by Mr. John A. Hartpence for the appellee.

No. 146. Carl Perry, appellant, *v.* The State of Kansas. Motion to reinstate the appeal submitted by counsel for appellant.

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No. 13, original. State of California, complainant, *v.* Murray W. Latimer, et al. M. R. Reed, individually and as a member of the Railroad Retirement Board substituted as a party defendant in the place and stead of James A. Dailey, resigned, on motion of Mr. H. H. Linney in that behalf. Argument on the bill of complaint and motion to dismiss commenced by Mr. Warner W. Gardner for the defendants; continued by Mr. Lucas E. Kilkenny for the complainant; and concluded by Mr. Warner W. Gardner for the defendants.

No. 49. Hyman Scher, alias William Scher, petitioner, *v.* The United States of America. Argued by Mr. Gerald A. Doyle for the petitioner and by Mr. Alexander Holtzoff for the respondent.

No. 51. Armstrong Paint and Varnish Works, petitioner, *v.* Nu-Enamel Corporation, an Illinois Corporation, et al. Argument commenced by Mr. Moses Levitan for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, November 8, will be as follows: Nos. 51, 53, 55, 57, 73, 75, 63, 98, 118, and (96 and 97).

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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George J. Engelman, of New York City; Russell L. Wolden, of San Francisco, Calif.; George B. Furman, of Washington, D. C.; George Sipkin, of Washington, D. C.; S. R. Redmond, of St. Louis, Mo.; Ralph R. Young, of Washington, D. C.; Arthur W. Crocker, of Silver Spring, Md.; Cyril W. Dawson, of Washington, D. C.; Justin N. Reinhardt, of New York City; Jehiel G. Shipman, of Newark, N. J.; George L. Walker, of Kansas City, Mo.; Samuel M. Weinstein, of Roanoke, Va.; E. James Sax, of Boston, Mass.; and William J. Conlyn, of Washington, D. C., were admitted to practice.

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No. 57. State of Missouri, at the relation of Lloyd Gaines, petitioner, *v.* S. W. Canada, Registrar of the University of Missouri, et al. Motion for leave to file brief of American Civil Liberties Union, Inc., as *amicus curiae*, submitted by Mr. Sol M. Alpher in that behalf and the motion denied.

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No. 51. Armstrong Paint and Varnish Works, petitioner, *v.* Nu-Enamel Corporation, an Illinois Corporation, et al. Argument continued by Mr. Moses Levitan for the petitioner, by Mr. Edward S. Rogers for the respondents, and concluded by Mr. George I. Haight for the petitioner.

No. 53. Roy G. Harris and Benjamin F. J. Odell, petitioners, *v.* Avery Brundage Company et al. Argued by Mr. Benjamin F. J. Odell and Mr. Kenart M. Rahn for the petitioners and by Mr. Sig-mund W. David for the respondents.

No. 55. A. E. McDonald, petitioner, *v.* Ernest O. Thompson et al. Argument commenced by Mr. Lloyd E. Price for the petitioner and continued by Mr. William McCraw for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, November 9, will be as follows: Nos. 55, 57, 73, 75, 63, 98, 118, 96 (and 97), 304, and 48.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Clayton L. Orn, of Fort Worth, Tex.; Irving S. Nathan, of Atlanta, Ga.; Fred A. Donham, of Little Rock, Ark.; Henry E. Spitzburg, of Little Rock, Ark.; and Simon Lasica, of Arlington, Va., were admitted to practice.

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No. 55. A. E. McDonald, petitioner, *v.* Ernest O. Thompson et al. Argument continued by Mr. Albert G. Walker for the respondents and concluded by Mr. T. S. Christopher for the petitioner.

No. 57. State of Missouri at the relation of Lloyd Gaines, petitioner, *v.* S. W. Canada, Registrar of the University of Missouri, et al. Argument commenced by Mr. Charles H. Houston for the petitioner; continued by Mr. Sidney R. Redmond for the petitioner; by Mr. William S. Hogsett and Mr. Fred L. Williams for the respondent; and concluded by Mr. Charles H. Houston for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, November 10, will be as follows: Nos. 73, 75, 63, 98, 118, 96 (and 97), 304, 48, 94, and 102.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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J. Donald Rawlings, of New York City; Charles W. Leaphart, of Missoula, Mont.; Charles A. Horsky, of New York City; Frank T. Lloyd, of Merchantville, N. J.; S. Lewis Davis, of Collingswood, N. J.; Robert E. Erwin, of Philadelphia, Pa.; and Edward N. Mooneyham, of Lebanon, Tenn., were admitted to practice.

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No. 73. State of Minnesota, by its Attorney General, petitioner, *v.* The United States of America. Argued by Mr. Ordner T. Bundlie for the petitioner and by Mr. Mac Asbill for the respondent. Leave granted the parties to file supplemental briefs within five days.

No. 75. Gwin, White & Prince, Inc., appellant, *v.* Harold H. Henneford, Thomas S. Hedges, et al. Argued by Mr. Frank S. Bayley for the appellant and by Mr. R. G. Sharpe for the appellees.

No. 63. Connecticut Railway and Lighting Company, petitioner, *v.* Howard S. Palmer, James Lee Loomis, et al. Argument commenced by Mr. George W. Martin for the petitioner.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, November 14, will be as follows: Nos. 63, 27, 98, 48, 96 (and 97), 304, 118, 94, 102, and 120.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Morris Brandon, Jr., of Atlanta, Ga.; William R. Bustard, of Cleveland, Ohio; Carl A. Mintz, of Cleveland, Ohio; Carl M. Anderson, of New York City; Charles D. Snapp, of Knoxville, Tenn.; Thomas A. Pedersen, of Chattanooga, Tenn.; James F. Oates, Jr., of Chicago, Ill.; John Y. Pashgian, of Pasadena, Calif.; J. Albert Hultquist, of New York City; Paul Sprague Davis, of Chicago, Ill.; Herbert A. Alpert, of Fort Collins, Colo.; Walter Raleigh Robertson, of Washington, D. C.; Benj. Tillman Huiet, of Atlanta, Ga.; and Marion Williamson, of Atlanta, Ga., were admitted to practice.

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No. 2. Kellogg Company, petitioner, *v.* National Biscuit Company; and

No. 56. Kellogg Company, petitioner, *v.* National Biscuit Company. On writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Decrees reversed with costs and cases remanded to the District Court of the United States for the District of Delaware with direction to dismiss the bill. Opinion by Mr. Justice Brandeis. Mr. Justice McReynolds and Mr. Justice Butler are of opinion that the decree of the Circuit Court of Appeals is correct and should be affirmed.

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The Chief Justice announced the following orders of the Court:

No. 146. Carl Perry, appellant, *v.* The State of Kansas. Appeal from the Supreme Court of the State of Kansas. *Per curiam*: The motion to reinstate the appeal is granted and the appeal is dismissed for the want of a substantial federal question. *Baldwin v. Kansas*, 129 U. S. 52, 57; *Castillo v. McConnico*, 168 U. S. 674, 683; *Old Colony Trust Co. v. Omaha*, 230 U. S. 100, 116; *Hebert v. Louisiana*, 272 U. S. 316, 317.

No. 447. Charles H. Kryder, appellant, *v.* The State of Indiana. Appeal from the Supreme Court of the State of Indiana. *Per*



*curiam*: The appeal herein is dismissed for the want of a substantial federal question. *Sugarman v. United States*, 249 U. S. 182, 184; *Zucht v. King*, 260 U. S. 174, 176; *Red "C" Oil Co. v. North Carolina*, 222 U. S. 380, 390; *Mutual Film Corporation v. Ohio Industrial Commission*, 236 U. S. 230, 245; *Pacific States Co. v. White*, 296 U. S. 176, 182.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original. *Ex parte* Clarence M. Brummett, petitioner;

No. —, original. *Ex parte* Clint Smith, petitioner; and

No. —, original. *Ex parte* Ralph Mark, petitioner. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 11, original. *State of Texas, complainant, v. State of Florida et al.* The report of the Special Master herein is received and ordered to be filed. It is ordered that exceptions to the said report, if any, be filed on or before December 12, next; that briefs upon such exceptions be filed on or before January 16; and that reply briefs, if any, be filed on or before January 31. The cause is assigned for hearing on Monday, February 6, next, at the head of the call for that day.

No. 309. *The United States of America, appellant, v. Durkee Famous Foods, Inc.*;

No. 310. *The United States of America, appellant, v. Manhattan Lighterage Corporation*; and

No. 311. *The United States of America, appellant, v. Colgate-Palmolive-Peet Company.* The motions to enlarge the records are granted.

No. 339. *Henry S. Long, Chairman, and John P. Kohn, Sr., et al., appellants, v. Walter Stokes, Jr., as Commissioner of Finance and Taxation of the State of Tennessee.* The motion for leave to file the statement as to jurisdiction is granted and probable jurisdiction is noted.

No. 417. *John G. Saxe, petitioner, v. John S. Shea, as Administrator, etc.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 403. *Lawrence H. Ferrabee, petitioner, v. The United States of America et al.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 408. *John M. Harvey and Lena F. Harvey, petitioners, v. The Federal Land Bank of Springfield, Massachusetts, et al.* Petition

for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 412. Martha James Burnett, petitioner, *v.* The Amalgamated Phosphate Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 413. State Farm Mutual Auto Insurance Company of Bloomington, Illinois, petitioner, *v.* Edna Hindel, Administratrix, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 415. Board of Directors of St. Francis Levee District, petitioner, *v.* J. M. Kurn and John G. Lonsdale, Trustees, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 419. Harry Latz and Harry Latz Service, Inc., petitioners, *v.* Reliance Graphic Corporation, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 372, October Term 1937. Mark Graves, John J. Merrill, et al., petitioners, *v.* Marion Brown Elliott, Horace F. Phelps, et al. On petition for writ of certiorari to the Surrogates' Court of the County of New York, State of New York. The petition for rehearing is granted. The order denying certiorari is vacated and the petition for writ of certiorari is granted and the case is assigned for argument immediately following No. 339.

No. 6. Thomas J. Mooney, petitioner, *v.* Court Smith, Warden of San Quentin Penitentiary, State of California. The petition for rehearing is denied. Under Rule 33 Mr. Justice Black and Mr. Justice Reed took no part in the consideration and decision of this application.

No. —, original. *Ex parte* Andrew G. Turcke, petitioner;

No. 307. The Automatic Toy Corporation, petitioner, *v.* Buddy "L" Mfg. Co., Inc., et al.;

No. 335. Raffold Process Corporation, petitioner, *v.* Castanea Paper Company, Inc.;

No. 346. William P. Deppe, petitioner, *v.* United States Board of Tax Appeals et al.; and

No. 378. American Glycerin Company, petitioner, *v.* Eason Oil Company et al. Petitions for rehearing denied.

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ORDER

The Court will take a recess from Monday, November 21, until Monday, December 5, next.

No. —, original. *Ex parte* W. A. Denson, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. W. A. Denson *pro se*.

No. 387. Caroline C. Spalding, petitioner, *v.* The United States of America; and

No. 388. Silsby M. Spalding, petitioner, *v.* The United States of America. Motions to recall orders denying petition for writs of certiorari submitted by Mr. Homer Hendricks for the petitioners.

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No. 63. Connecticut Railway and Lighting Company, petitioner, *v.* Howard S. Palmer, James Lee Loomis, et al. Argument continued by Mr. George W. Martin and by Mr. Talcott M. Banks, Jr., for the petitioner; by Mr. Harmon J. Wells and by Mr. James Garfield for the respondents; and concluded by Mr. George W. Martin for the petitioner.

No. 27. The Tennessee Electric Power Company et al., appellants, *v.* Tennessee Valley Authority et al. Six hours allowed for oral argument. Argument commenced by Mr. Raymond T. Jackson for the appellants and continued by Mr. John C. Weadock for the appellants; and by Mr. James Lawrence Fly for the appellees.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, November 15, will be as follows: Nos. 27, 98, 48, 96 (and 97), 304, 118, 94, 102, 120, and 169.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Edward J. Bushell, of Malden, Mass.; and Robert Holland Eckhoff, of San Francisco, Calif., were admitted to practice.

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No. 27. The Tennessee Electric Power Company et al., appellants, *v.* Tennessee Valley Authority et al. Appeal dismissed as to appellant, West Tennessee Power & Light Company, on motion and stipulation signed by counsel for all appellants and the Government.

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No. 27. The Tennessee Electric Power Company et al., appellants, *v.* Tennessee Valley Authority et al. Argument continued by Mr. James Lawrence Fly and Mr. John Lord O'Brien for the appellees and concluded by Mr. Raymond T. Jackson for the appellants.

No. 98. M. E. Blatt Company, petitioner, *v.* The United States. Argument commenced by Mr. Lawrence Cake for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, November 16, will be as follows: Nos. 98, 48, 96 (and 97), 304, 118, 94, 102, 120, 169, and 180.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Carroll Philip Hickman, of Westhaven, Md.; H. Albert Hyett, of Atlantic City, N. J.; Walter H. Murphy, of Lynn, Mass.; Stanley E. Beattie, of Detroit, Mich.; Matthew D. Mackie, of Scranton, Pa.; John W. Murphy, of Scranton, Pa.; Raymond T. Law, of Scranton, Pa.; George T. Barker, of New York City; and Henry H. Shepard, of New York City, were admitted to practice.

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No. 98. M. E. Blatt Company, petitioner, *v.* The United States. Argument continued by Mr. Lawrence Cake for the petitioner and concluded by Mr. J. Louis Monarch for the respondent.

No. 48. Munro L. Lyeth, petitioner, *v.* James J. Hoey, Collector of Internal Revenue, etc. Argued by Mr. J. M. Richardson Lyeth for the petitioner and by Mr. Assistant Attorney General Morris for the respondent.

No. 96. Harold T. White, Alexander M. White, Jr., et al., petitioners, *v.* The United States; and

No. 97. Harold T. White, Sole Surviving Executor, etc., petitioner, *v.* The United States. Argument commenced by Mr. John P. Ohl for the petitioners.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, November 17, will be as follows: Nos. 96 (and 97), 304, 118, 94, 102, 120, 169, and 222.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Robert E. L. Cook, of Chattanooga, Tenn.; Henry G. Walter, Jr., of New York City; W. LeRoy McKinley, of Philadelphia, Pa.; William J. Sebald, of Baltimore, Md.; William O. Coe, of Oklahoma City, Okla.; Murray F. Gibbons, of Oklahoma City, Okla.; John E. Falkenberg, of Medford, Okla.; Aubrey M. Kerr, of Ada, Okla.; Norton L. Goldsmith, of Louisville, Ky.; Kenneth R. L. Simmons, of Billings, Mont.; Ralph H. Swingle, of Pittsburgh, Pa.; and Samuel L. Rothbard, of Newark, N. J., were admitted to practice.

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No. 128. Rhuel James Dalhover, petitioner, *v.* The United States of America. The motion for leave to file a petition for rehearing is granted. The petitions for rehearing and for a stay are denied.

No. 120. Rose Bucsi, appellant, *v.* Longworth Building & Loan Association and Niagara Building & Loan Association. Appeal from the Court of Errors and Appeals of the State of New Jersey. Appeal dismissed on motion of counsel for the appellant.

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No. 96. Harold T. White, Alexander M. White, Jr., et al., petitioners, *v.* The United States; and

No. 97. Harold T. White, Sole Surviving Executor, etc., petitioner, *v.* The United States. Argument continued by Mr. John P. Ohl for the petitioners; by Mr. Edward J. Ennis for the respondent; and concluded by Mr. John P. Ohl for the petitioners.

No. 304. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Chester N. Weaver Company. Argued by Mr. Edward J. Ennis for the petitioner and by Mr. Adolphus E. Graupner for the respondent.

No. 118. Princess Lida of Thurn and Taxis et al., petitioners, *v.* Gerald Purcell Fitzgerald, Individually, etc., et al. Argument commenced by Mr. Charles H. Tuttle for the petitioners, and continued by Mr. Dean D. Sturgis for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, November 18, will be as follows: Nos. 118, 94, 102, and 222.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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William M. Summer, of Columbus, Ohio; Helen W. Munsert, of Chicago, Ill.; J. Hardy Neel, of Dallas, Tex.; Kenneth W. Munsert, of Chicago, Ill.; Miles Spence Bray, of Washington, D. C.; Frederick J. Whelan, of Greenwich, Conn.; Clarence H. Ross, of Chicago, Ill.; A. Z. F. Wood, of Washington, D. C.; and Daniel A. Caputi, of New York City, were admitted to practice.

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No. 118. Princess Lida of Thurn and Taxis et al., petitioners, *v.* Gerald Purcell Fitzgerald, Individually, etc., et al. Argument continued by Mr. Dean D. Sturgis and by Mr. W. Brown Higbee for the respondents and concluded by Mr. Charles H. Tuttle for the petitioners. Leave granted petitioners to file an additional brief by Monday next.

No. 94. Inter-Island Steam Navigation Company, Limited, petitioner, *v.* Territory of Hawaii by Public Utility Commission of the Territory of Hawaii. Argued by Mr. J. Garner Anthony for the petitioner and by Mr. Julius Russell Cades for the respondent.

No. 102. The United States of America, petitioner, *v.* Thomas R. Powers et al. Argued by Mr. Charles W. Leaphart for the petitioner and by Mr. T. H. Burke for the respondents.

Adjourned until Monday, November 21, next, at 12 o'clock.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Edward L. Updike, of Washington, D. C.; Dorsey Dewey Smith, of Albemarle, N. C.; William Herdman Schwatka, of Baltimore, Md.; Chas. D. Turner, of Dallas, Tex.; C. E. Caspari, Jr., of St. Louis, Mo.; Justin J. Doyle, of Rochester, N. Y.; Abe Richman, of Los Angeles, Calif.; Yelverton Cowherd, of Birmingham, Ala.; Joseph J. Zeiger, of New York City; Harold Alden Jewett, of Washington, D. C.; Marguerite Rawalt, of Washington, D. C.; and C. E. Bryson, of Houston, Tex., were admitted to practice.

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No. 20. J. O. Stoll, petitioner, *v.* William Gottlieb. On writ of certiorari to the Supreme Court of the State of Illinois. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Reed. Mr. Justice McReynolds concurs in the result.

No. 53. Roy G. Harris and Benjamin F. J. Odell, petitioners, *v.* Avery Brundage Company et al. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Judgment affirmed with costs and cause remanded to the District Court of the United States for the Northern District of Illinois. Opinion by Mr. Justice Black.

No. 13. Earle S. Welch, appellant, *v.* Robert K. Henry and Solomon Levitan, State Treasurer of the State of Wisconsin. Appeal from the Supreme Court of the State of Wisconsin. Judgment affirmed with costs. Opinion by Mr. Justice Stone. Dissenting opinion by Mr. Justice Roberts, in which Mr. Justice McReynolds and Mr. Justice Butler join.

No. 1. General Talking Pictures Corporation, petitioner, *v.* Western Electric Company, Inc., et al. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. (On rehearing). Decree affirmed with costs and cause remanded to the District Court of the United States for the Southern District of New York. Opinion by Mr. Justice Brandeis. Mr. Justice Roberts took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Black, in which Mr. Justice Reed joins.



The Chief Justice announced the following order of the Court:

No. 442. William J. Mackesy, William B. Mahan, et al., appellants, *v.* State of Maine. Appeal from the Superior Court of the State of Maine. *Per curiam*: The appeal herein is dismissed for the want of a properly presented substantial federal question. (1) *Harding v. Illinois*, 196 U. S. 78, 86, 87; *Capital City Dairy Co. v. Ohio*, 183 U. S. 238, 248; (2) *Nash v. United States*, 229 U. S. 373, 377; *Whitney v. California*, 274 U. S. 357, 368, 369; *Carter v. Texas*, 305 U. S. — (decided October 10, 1938).

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original. *Ex parte* W. A. Denson, petitioner. The motion for leave to file petition for writ of mandamus is denied. Mr. Justice Black took no part in the consideration and decision of this application.

No. —, original. *Ex parte* Mike Holchak, petitioner. This case is set for argument on the rule to show cause why leave to file the petition for writ of habeas corpus should not be granted and the return thereto and assigned for Tuesday, January 3, 1939.

No. —, original. *Ex parte* Mike Holchak, petitioner. It is ordered that Frank J. Wideman, Esquire, of Washington, D. C., a member of the Bar of this Court, be appointed to serve as counsel for the petitioner in this case.

No. 387. Caroline C. Spalding, petitioner, *v.* The United States of America; and

No. 388. Silsby M. Spalding, petitioner, *v.* The United States of America. The motions to recall orders denying petitions for writs of certiorari are denied.

No. 448. David T. Wilentz, J. H. Thayer-Martin, et al., appellants, *v.* Sovereign Camp, Woodmen of the World. In this case probable jurisdiction is noted.

No. 449. Newark Fire Insurance Company, appellant, *v.* State Board of Tax Appeals et al.; and

No. 456. Universal Insurance Company et al., appellants, *v.* State Board of Tax Appeals of the State of New Jersey et al. Further consideration of the question of the jurisdiction of this Court in these cases is postponed to the hearing of the cases on the merits.

No. 426. Milk Control Board of the Commonwealth of Pennsylvania, petitioner, *v.* Eisenberg Farm Products. Petition for writ of

certiorari to the Supreme Court of the Commonwealth of Pennsylvania granted.

No. 416. The United States of America, petitioner, *v.* Bartelsen & Petersen Engineering Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit granted. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 436. National Labor Relations Board, petitioner, *v.* Fansteel Metallurgical Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted and the case assigned for argument immediately following No. 274.

No. 437. The United States of America, petitioner, *v.* C. T. Jaffray et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted and the case assigned for argument immediately following No. 416. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 407. Samuel Ross Morgan et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 421. The National Builders Bank of Chicago, petitioner, *v.* Samuel T. Brown et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 425. Salvadore Guarneri, petitioner, *v.* Eugene Kessler, District Director of Immigration et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 434. Julius Kayser & Company et al., petitioners, *v.* Rosedale Knitting Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 166. The Toledo Pressed Steel Company, petitioner, *v.* Standard Parts, Inc.; and

No. 167. The Toledo Pressed Steel Company, petitioner, *v.* Huebner Supply Company. The petition for rehearing is granted. The orders denying certiorari are vacated and the petition for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit is granted.

No. 990. October Term, 1937, E. I. DuPont de Nemours & Company, Incorporated, petitioner, *v.* Waxed Products Co., Inc.;

No. 129. W. A. Denson, petitioner, *v.* Board of Commissioners of the State Bar of Alabama;

No. 281. Mary J. Hellmuth, petitioner, *v.* Frank Hellmuth;

No. 358. Annette Strauss, as Special Administratrix, etc., petitioner, *v.* Commissioner of Internal Revenue;

No. 372. Staley Elevator Co., Inc., et al., petitioners, *v.* Otis Elevator Company;

No. 402. Harry J. Tompkins, petitioner, *v.* Erie Railroad Company; and

No. 429. Milton Prebyl, petitioner, *v.* Prudential Insurance Company of America. Petitions for rehearing denied.

No. 104. The State of Montana on the relation of the Board of County Commissioners of Valley County, Montana, petitioner, *v.* Archie G. Bruce, County Assessor of Valley County, Montana, et al. Leave granted the United States to appear and present oral argument as amicus curiae on motion of Mr. Solicitor General Jackson in that behalf.

No. —, original. In the matter of the petition of Committee for Industrial Organization, American Civil Liberties Union, et al., for a writ of mandamus and/or prohibition, *v.* Hon. J. Warren Davis, Hon. Joseph Buffington, Hon. J. Whitaker Thompson, Hon. Albert Branson Maris, and Hon. John Biggs, Jr., United States Circuit Judges of the Third Judicial Circuit; and

No. —. Committee for Industrial Organization, American Civil Liberties Union, et al., petitioners, *v.* Frank Hague, individually and as Mayor of Jersey City, Daniel J. Casey, individually and as Director of Public Safety of Jersey City, et al. Motion for leave to file petition for a writ of mandamus and/or prohibition, for a rule to show cause why a writ of certiorari should not issue, and for interim stay submitted by Mr. Morris L. Ernst for the petitioners.

No. —, original. *Ex parte* Century Indemnity Company, petitioner. Returns of Honorable Curtis D. Wilbur and Honorable William Denman to the rule to show cause presented.

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#### ORDER

No. —, original. In the matter of the petition of Committee for Industrial Organization, American Civil Liberties Union, et al., for a writ of mandamus and/or prohibition, *v.* Hon. J. Warren Davis, Hon. Joseph Buffington, Hon. J. Whitaker Thompson, Hon. Albert Branson Maris, and Hon. John Biggs, Jr., United States Circuit Judges of the Third Judicial Circuit; and

No. —. Committee for Industrial Organization, American Civil Liberties Union, et al., petitioners, *v.* Frank Hague, individually and as Mayor of Jersey City, Daniel J. Casey, individually and as Direc-

tor of Public Safety of Jersey City, et al. Motion for leave to file petition for a writ of mandamus and/or prohibition, for a rule to show cause why a writ of certiorari should not issue, and for interim stay.

The motion is denied without prejudice to a petition for writ of certiorari in accordance with the Rules of this Court.

Adjourned until Monday, December 5, next at 12 o'clock.

The day call for Monday, December 5, will be as follows: Nos. **22, 169, 222, 104, 113, 130, 252 (253, 254, 255, and 256), 133, 142, and 154.**

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Charles G. Jaquette, of Washington, D. C.; John Alden Gage, of Washington, D. C.; A. S. Norvell, of Wewoka, Okla.; Francis N. Marshall, of San Francisco, Calif.; Robert James Clendenin, of Monmouth, Ill.; Edwin S. Booth, Jr., of Glasgow, Mont.; Frank J. Creede, of San Francisco, Calif.; Kern Crandall, of Portland, Oreg.; Alexander G. Brown, of Portland, Oreg.; Mortimer R. Irion, of Dallas, Tex.; Peggy Halloran, of Los Angeles, Calif.; Cecil Morgan, of Shreveport, La.; John M. Kline, of Glasgow, Mont.; Charles Chester Guy, of Washington, D. C.; George H. Heideman, of Detroit, Mich.; Edward H. Miller, of St. Louis, Mo.; Thomas Kiernan, of New York City, and Allen V. Junkin, of St. Paul, Minn., were admitted to practice.

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No. 51. Armstrong Paint and Varnish Works, petitioner, *v.* Nu-Enamel Corporation, an Illinois Corporation, et al. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Decree affirmed with costs and cause remanded to the District Court of the United States for the Northern District of Illinois with directions to proceed in conformity with the opinion of this Court. Opinion by Mr. Justice Reed.

No. 94. Inter-Island Steam Navigation Company, Limited, petitioner, *v.* Territory of Hawaii by Public Utility Commission of the Territory of Hawaii. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment affirmed with costs and cause remanded to the Supreme Court of the Territory of Hawaii. Opinion by Mr. Justice Black.

No. 21. Wm. H. Neblett, Vernon Bettin, et al., petitioners, *v.* Samuel L. Carpenter, Jr., Insurance Commissioner of the State of California, et al. On writ of certiorari to the Supreme Court of the State of California. Judgment affirmed with costs. Opinion by Mr. Justice Roberts. Mr. Justice Reed took no part in the consideration or decision of this case.

No. 96. Harold T. White, Alexander M. White, Jr., et al., petitioners, *v.* The United States; and

No. 97. Harold T. White, Sole Surviving Executor, etc., petitioner, *v.* The United States. On writs of certiorari to the Court of Claims. Judgments affirmed. Opinion by Mr. Justice Stone. Dissenting: Mr. Justice McReynolds, Mr. Justice Butler, and Mr. Justice Roberts.

No. 304. Guy T. Helvering, Commissioner of Internal Revenue, petitioner *v.* Chester N. Weaver Company. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment reversed and cause remanded to the said United States Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Stone. Dissenting: Mr. Justice McReynolds, Mr. Justice Butler, and Mr. Justice Roberts.

No. 55. A. E. McDonald, petitioner, *v.* Ernest O. Thompson et al. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Decree affirmed with costs and cause remanded to the District Court of the United States for the Northern District of Texas. Opinion by Mr. Justice Butler.

No. 98. M. E. Blatt Company, petitioner, *v.* The United States. On writ of certiorari to the Court of Claims. Judgment reversed and cause remanded to the Court of Claims for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Butler. Separate opinion by Mr. Justice Stone.

No. 13, original. The State of California, complainant, *v.* Murray W. Latimer et al. Bill of complaint dismissed. Opinion by Mr. Justice Brandeis.

No. 49. Hyman Scher, alias William Scher, petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. Judgment affirmed and cause remanded to the District Court of the United States for the Northern District of Ohio. Opinion by Mr. Justice McReynolds.

No. 28. Dan B. Shields, Individually and as United States Attorney for the District of Utah, et al., petitioners, *v.* The Utah Idaho Central Railroad Company. On writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Decree reversed and cause remanded to the District Court of the United States for the District of Utah with direction to dismiss the bill of complaint. Opinion by Mr. Chief Justice Hughes. Mr. Justice Black concurs in the result.

No. 48. Munro L. Lyeth, petitioner, *v.* James J. Hoey, Collector of Internal Revenue for the United States for the Second District of the State of New York. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment of the

Circuit Court of Appeals reversed with costs and judgment of the District Court affirmed, and cause remanded to the District Court of the United States for the Southern District of New York. Opinion by Mr. Chief Justice Hughes.

No. 19. Consolidated Edison Company of New York, Inc., and its affiliated companies, et al., petitioners, *v.* National Labor Relations Board et al.; and

No. 25. International Brotherhood of Electrical Workers et al., petitioners, *v.* National Labor Relations Board et al. On writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Decree of the Circuit Court of Appeals modified as indicated in the opinion of this Court and as so modified, affirmed, and cause remanded to the United States Circuit Court of Appeals for the Second Circuit. Opinion by Mr. Chief Justice Hughes. Separate opinion by Mr. Justice Butler in which Mr. Justice McReynolds joins. Opinion by Mr. Justice Reed concurring in part and dissenting in part in which Mr. Justice Black joins.

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The Chief Justice announced the following orders of the Court:

No. 463. Sam Berkowitz, appellant, *v.* People of the State of Illinois. Appeal from the Supreme Court of the State of Illinois. *Per curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed for the want of a properly presented federal question. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). *Farney v. Towle*, 1 Black 350; *Capital City Dairy Co. v. Ohio*, 183 U. S. 238, 248; *Harding v. Illinois*, 196 U. S. 78, 86, 88; *Mackesy v. Maine*, 305 U. S. — (decided November 21, 1938).

No. 475. Watch Tower Bible and Tract Society et al., appellants, *v.* City of Bristol, Joseph W. Harding, Mayor of the City of Bristol, et al. Appeal from the District Court of the United States for the District of Connecticut. *Per curiam*: The decree is affirmed. In *Re Sawyer*, 124 U. S. 200, 210, 211; *Fenner v. Boykin*, 271 U. S. 240.

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The Chief Justice said:

“The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally.”

No. —, original. Ex parte Taylor Seals, petitioner;

No. —, original. Ex parte T. J. Audette, petitioner;

No. —, original. Ex parte John Konik, petitioner;

No. —, original. Ex parte Jules A. Newman, petitioner; and

No. —, original. *Ex parte* Thomas J. Mooney, petitioner. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —, original. *Ex parte* Wm. P. Deppe, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. 465. Robert B. Honeyman, appellant, *v.* David B. Jacobs and Mary V. Jacobs. In this case probable jurisdiction is noted.

No. 462. Powers Higginbotham, appellant, *v.* City of Baton Rouge, Louisiana. Further consideration of the question of the jurisdiction of this Court in this case is postponed to the hearing of the case on the merits.

No. 454. Frances Perkins, Secretary of Labor, et al., petitioners, *v.* Marie Elizabeth Elg; and

No. 455. Marie Elizabeth Elg, petitioner, *v.* Frances Perkins, Secretary of Labor, et al. Petitions for writs of certiorari to the United States Court of Appeals for the District of Columbia granted.

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu and Northeastern Engineering Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted.

No. 453. United States Trust Company of New York, as Executor, etc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 320. Guillermo A. Cu Unjieng, and Mariana Cu Unjieng, petitioners, *v.* The National City Bank of New York et al. The motion to consider this application on an abbreviated record is granted. Petition for writ of certiorari to the Supreme Court of the Commonwealth of the Philippines denied.

No. 427. George K. Garrett Company, Inc., petitioner, *v.* The National Lock Washer Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 428. Arkansas Natural Gas Corporation, petitioner, *v.* James M. Sartor et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 431. The United States of America, on the relation of Aristides Garos, petitioner, *v.* Rudolph Reimer, Commissioner of Immigration. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 435. Andre J. Tobani, Johanna Tobani, et al., petitioners, *v.* Carl Fischer, Inc. Petitioner for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.



No. 438. Phoenix Finance Corporation, petitioner, *v.* Iowa-Wisconsin Bridge Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 439. Edgar Stanton and Joseph C. Belden, Executors, etc., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 440. James Cannon, Junior, petitioner, *v.* George H. Tinkham. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 450. Homer Jones, Doing business under the assumed name of Farmers & Merchants Warehouse Company, petitioner, *v.* St. Paul Fire & Marine Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 433. Sarah Anne Newcomb, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 443. Maryland Casualty Company, petitioner, *v.* The United States of America, for the use and benefit of Earl L. Harrington, as Administrator, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 444. Paul J. Simmons, Trading as Paris Import Company, et al., petitioners, *v.* James A. Farley, Postmaster General of the United States. Petition for writ of certiorari to the United States Circuit Court of Appeals for the District of Columbia denied.

No. 445. George O. Castell, Ancillary Executor, etc., petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 451. Harry W. Dubiske, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 452. The Ohio Casualty Insurance Company, petitioner, *v.* Anna M. Marr, Shelby W. Marr, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 457. Eric H. Marks, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 464. Anchor Stove & Range Company, petitioner, *v.* S. B. Rymer, C. D. Rymer, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 15. Waialua Agricultural Company, Limited, petitioner, *v.* Eliza R. P. Christian et al.;

No. 17. Eliza R. P. Christian, an Incompetent person, etc., petitioner, *v.* Waialua Agricultural Company, Limited;

No. 31. The Sovereign Camp of the Woodmen of the World, petitioner, *v.* William F. Bolin et al.;

No. 303. Arthur C. Harvey Company, petitioner, *v.* The United States;

No. 376. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor et al.;

No. 377. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor et al.;

No. 382. Chicago Pneumatic Tool Company, petitioner, *v.* Hughes Tool Company;

No. 387. Caroline C. Spalding, petitioner, *v.* The United States of America;

No. 388. Silsby M. Spalding, petitioner, *v.* The United States of America;

No. 389. Millie Belle Brown, Executrix, etc., petitioner, *v.* Commissioner of Internal Revenue; and

No. 410. Diamond Tank Transport, Inc., et al., appellants, *v.* The United States of America et al. Petitions for rehearing denied.

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No. —, original. Ex parte Thomas J. Mooney, petitioner. Motion for award of writ of habeas corpus submitted by Mr. John F. Finerty for the petitioner.

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No. 22. The United States of America, petitioner, *v.* Continental National Bank and Trust Company, Trustee, etc., et al. Argued by Mr. J. Louis Monarch for the petitioner and by Mr. Herbert Pope for the respondents.

No. 169. The United States, petitioner, *v.* Frederick Pleasants. Argued by Mr. Paul A. Freund for the petitioner and by Mr. Frederick Schwertner for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, December 6, will be as follows: Nos. 222, 104, 113, 130, 252 (253, 254, 255, and 256), 133, 154, 161, 180, and 318.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Herbert B. Cohen, of York, Pa.; Samuel Graff Miller, of Harrisburg, Pa.; Benjamin R. Coppolo, of Saint Marys, Pa.; Joseph H. Batt, of Washington, D. C.; John W. Wood, of Washington, D. C.; Edward Knuff, of Johnstown, Pa.; Donald E. Lane, of Washington, D. C.; A. Harry Weisman, of Brooklyn, N. Y.; Leonard Way, of Boise, Idaho; Francis G. Boswell, of Alexandria, Va.; Henry E. Foley, of Boston, Mass.; Joe Landon Evins, of Smithville, Tenn.; and John D. Shea, of Detroit, Mich., were admitted to practice.

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No. 222. The Washingtonian Publishing Company, Inc., petitioner, *v.* Drew Pearson, Robert S. Allen, et al. Argued by Mr. Horace S. Whitman for the petitioner and by Mr. Eliot C. Lovett for the respondents.

No. 104. The State of Montana on the relation of the Board of County Commissioners of Valley County, Montana, petitioner, *v.* Archie G. Bruce, County Assessor of Valley County, Montana, et al. Argument commenced by Mr. Edwin S. Booth, Jr., for the petitioner; continued by Mr. John M. Kline and Mr. Enor K. Matson for the respondents; by Mr. Warner W. Gardner for the United States as *amicus curiae*, by special leave of Court; and concluded by Mr. Edwin S. Booth for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, December 7, will be as follows: Nos. 113, 130, 252 (253, 254, 255, and 256), 133, 154, 161, 180, 318, 244, and 158.

## SUPREME COURT OF THE UNITED STATES

Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

Dezara E. LaBelle, of Minneapolis, Minn.; Geoffrey Creyke, Jr., of Washington, D. C.; Carleton W. Meyer, of New York City; and Henry Parkman, Jr., of Boston, Mass., were admitted to practice.

No. 104. The State of Montana on the relation of the Board of County Commissioners of Valley County, Montana, petitioner, *v.* Archie G. Bruce, County Assessor of Valley County, Montana, et al. Argument concluded by Mr. Edwin S. Booth, Sr., for the petitioner.

No. 113. Russell B. Patterson, appellant, *v.* Stanolind Oil and Gas Company et al. Argument commenced by Mr. R. J. Roberts for the appellant. The Court declined to hear further argument.

No. 130. Indianapolis Brewing Company, Inc., appellant, *v.* The Liquor Control Commission of the State of Michigan et al. Argument commenced by Mr. Thomas F. O'Mara for the appellant; continued by Mr. Raymond W. Starr for the appellees; and concluded by Mr. Herbert J. Patrick for the appellant. Leave granted appellees to file a supplemental brief within five days.

No. 252. Joseph S. Finch & Company et al., appellants, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 253. Ben Burk, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 254. Joseph E. Seagram & Sons, Incorporated, et al., appellants, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 255. Hinrichs Distilled Products, appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 256. Arrow Distilleries, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al. Argued by Mr. Thomas Kiernan for the appellants and by Mr. Edward H. Miller for the appellees.

No. 133. The Baltimore and Ohio Railroad Company et al., appellants, *v.* The United States of America et al. Three hours allowed for oral argument. Argument commenced by Mr. Edwin H. Burgess for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, December 8th, will be as follows: Nos. 133, 154, 161, 180, 318, 244, 182 (and 183), 158, 212, and 213.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Roberts, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Lee D. Seelig, of Kansas City, Mo.; Louis Shneider, of Des Moines, Iowa; William N. Mullen, of San Francisco, Calif.; Thomas Quentin Cannon, of Salt Lake City, Utah; and William Roberts, of New York City, were admitted to practice.

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No. 133. The Baltimore and Ohio Railroad Company et al., appellants, *v.* The United States of America, Interstate Commerce Commission et al. Argument continued by Mr. Edwin H. Burgess for the appellants; by Mr. J. Stanley Payne for the appellees, The United States and Interstate Commerce Commission; by Mr. John J. Hickey for the appellee, The Warehousemen's Protective Committee; by Mr. A. Lane Cricher for the appellee American Warehousemen's Association, Merchandise Division; by Mr. Henry E. Foley for the appellee, Boston Port Authority; and concluded by Mr. Edwin H. Burgess for the appellants.

No. 154. The United States of America, petitioner, *v.* Kathleen McClure, as Administratrix, etc. Argued by Mr. Julius C. Martin for the petitioner and by Mr. Graham K. Betts for the respondent.

No. 161. Ernest K. James individually and in his official capacity as Acting Tax Commissioner for the State of West Virginia, appellant, *v.* United Artists Corporation. Ernest K. James, individually, and in his official capacity as Tax Commissioner for the State of West Virginia substituted in the place and stead of Ernest K. James, individually and in his official capacity as Acting Tax Commissioner for the State of West Virginia on motion of Mr. Clarence W. Meadows in that behalf.

No. 161. Ernest K. James, individually and in his official capacity as Tax Commissioner for the State of West Virginia, appellant, *v.* United Artists Corporation. Argument commenced by Mr. Clarence W. Meadows for the appellant.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, December 9th, will be as follows: Nos. 161, 180 (and 318), 244, 158, 212, 213, 302, 182 (and 183), 210, and 127.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Louis H. Phillips, of Los Angeles, Calif.; Juan R. Quijano, of Washington, D. C.; Eugenio M. Fonbuena, of Washington, D. C.; Frank Reiss, of New York City; and Charles W. Proctor, of Washington, D. C., were admitted to practice.

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No. 161. Ernest K. James, Individually and in his official capacity as Tax Commissioner for the State of West Virginia, appellant, *v.* United Artists Corporation. Argument continued by Mr. Clarence W. Meadows for the appellant, by Mr. Robert G. Kelly for the appellee, and concluded by Mr. Clarence W. Meadows for the appellant.

No. 180. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Donald H. Owens et al.; and

No. 318. Amedeo Obici et al., petitioners, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Argued by Mr. Norman D. Keller for Helvering, Commissioner of Internal Revenue, and by Mr. Ewing Everett for the respondents in No. 180 and the petitioners in No. 318.

No. 244. Chippewa Indians of Minnesota, appellant, *v.* The United States. Argument commenced by Mr. Webster Ballinger for the appellant and continued by Mr. Raymond T. Nagle for the appellee.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, December 12, will be as follows: Nos. 244, 158, 212, 213, 302, 210, 182 (and 183), 127, 189, and 195.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Travis Williams, of Russellville, Ala.; Orland S. Loomis, of Madison, Wis.; Thomas F. Callahan, of Washington, D. C.; Charles P. Reilly, of Washington, D. C.; Estes Kefauver, of Chattanooga, Tenn.; Mark Webster Reed, of Los Angeles, Calif.; Robert G. Harris, of Detroit, Mich.; John H. Wahl, of Orlando, Fla.; Thos. B. Pryor, Jr., of Fort Smith, Ark.; Allen M. Burdett, of Washington, D. C.; John A. Dundas, of Los Angeles, Calif.; James R. McDougall, of Phoenix, Ariz.; Bolling R. Powell, Jr., of Birmingham, Ala.; Francis H. Hare, of Birmingham, Ala.; William J. MacInnis, of Gloucester, Mass.; Jack H. Linscott, of Washington, D. C.; Robert E. Stromberg, of Washington, D. C.; and James J. Arditto, of San Francisco, Calif., were admitted to practice.

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No. 57. State of Missouri, at the relation of Lloyd Gaines, petitioner, *v.* S. W. Canada, Registrar of the University of Missouri and the Curators of the University of Missouri. On writ of certiorari to the Supreme Court of the State of Missouri. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Chief Justice Hughes. Separate opinion by Mr. Justice McReynolds in which Mr. Justice Butler concurs.

No. —, original. *Ex parte* Century Indemnity Company, petitioner. On motion for leave to file petition for writ of mandamus. The rule to show cause herein is discharged and the motion for leave to file petition for writ of mandamus is denied. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

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The Chief Justice said:

“The other orders of the Court appear upon the list certified by the Chief Justice and filed with the clerk and will not be announced orally.”

No. —, original. *Ex parte* Thomas J. Mooney, petitioner. The motion for award of writ of habeas corpus is denied.

No. 3. The Schriber-Schroth Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation;

No. 4. The Aberdeen Motor Supply Company, petitioner *v.* The Cleveland Trust Company, Chrysler Corporation; and

No. 5. The F. E. Rowe Sales Company, petitioner, *v.* The Cleveland Trust Company, Chrysler Corporation. Ordered that in each of these cases the following direction be added to the judgment:

"On the remand the Court of Appeals will be free to consider whether the amendments to the Gulick application rendered void the patent issued upon it, and to consider all questions affecting the validity and infringement of the claims in suit of the Gulick and Maynard patents, but without including web flexibility or laterally flexible webs as an element in the combinations patented by them."

Ordered that the second sentence on page 1 of the opinion of this Court in this cause be amended to read:

"Respondent, the Cleveland Trust Company, is the assignee in trust of some eighty patents relating to pistons of the type employed in internal combustion engines for automobiles, under a pooling agreement to which an automobile manufacturer and a number of manufacturers of pistons are parties."

And that the last sentence in the first full paragraph of page 4 of the opinion be amended to read:

"Reference to a combination including, with other elements, web connections, 'whereby said piston skirt is rendered yieldable during operation in response to cylinder wall pressure,' appears in Claim 18."

It is further ordered that respondent's motion to modify the judgments and the opinion be in all other respects denied, and that the petition for rehearing be denied.

No. 460. I. W. Lane, petitioner, *v.* Jess Wilson, John Moss, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit granted.

No. 430. Martin E. Geibel and Charles R. Morfoot, petitioner, *v.* State Bar of California. Petition for writ of certiorari to the Supreme Court of the State of California denied.

No. 446. National Labor Relations Board, petitioner, *v.* Peninsular & Occidental Steamship Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 458. Theodore Krumm, petitioner, *v.* Oscar Birkhofer, Laura Birkhofer, et al. Petition for writ of certiorari to the District Court of Appeal, 4th Appellate District, State of California, denied.



No. 459. Henry E. Gumbel, petitioner, *v.* New Orleans Terminal Company. Petition for writ of certiorari to the Supreme Court of the State of Louisiana denied.

No. 461. The Chemical Foundation, Incorporated, petitioner, *v.* General Aniline Works, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 468. Elmer E. Siegel, petitioner, *v.* Missouri-Kansas-Texas Railroad Company. Petition for writ of certiorari to the Supreme Court of the State of Missouri denied.

No. 2. Kellogg Company, petitioner, *v.* National Biscuit Company;

No. 56. Kellogg Company, petitioner, *v.* National Biscuit Company;

No. 53. Roy G. Harris and Benjamin F. J. Odell, petitioners, *v.* Avery Brundage Company et al.;

No. 371. George W. Helme Company, petitioner, *v.* The United States;

No. 390. Laura Miller Boyer, Administratrix, etc., petitioner, *v.* Standish Backus, Henry E. Candler, et al.;

No. 407. Samuel Ross Morgan and Monroe B. Morgan, petitioners, *v.* The United States of America; and

No. 408. John M. Harvey and Lena F. Harvey, petitioners, *v.* The Federal Land Bank of Springfield, Massachusetts, et al. Petitions for rehearing denied.

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ORDER

The Court will take a recess from Monday, December 19th, until Tuesday, January 3rd, 1939.

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No. 11, original, October Term, 1934. State of New Jersey, complainant, *v.* State of Delaware. Motion for leave to file a second petition for rehearing submitted by Mr. Duane E. Minard for the complainant.

No. —. In the matter of the disbarment of W. A. Denson. Return to rule to show cause presented.

No. 23. Hiram Steelman, Trustee in Bankruptcy of William Fox, Bankrupt, petitioner, *v.* All Continent Corporation and Eva Fox. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Writ of certiorari dismissed with costs on motion of counsel for the petitioner.

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No. 189. Mrs. Zillah Lyon, petitioner, *v.* Mutual Benefit Health and Accident Association. Submitted by Mr. John W. Nance for the petitioner and by Mr. Thomas B. Pryor and Mr. Thomas B. Pryor, Jr., for the respondent.

No. 244. Chippewa Indians of Minnesota, appellant, *v.* The United States. Argument concluded by Mr. Raymond T. Nagle for the appellee.

No. 158. Pacific Employers Insurance Company, petitioner, *v.* Industrial Accident Commission of the State of California et al. Argued by Mr. W. N. Mullen for the petitioner; by Mr. F. J. Creede for the respondent, Kenneth Tator and by Mr. Everett A. Corten for the respondent, Industrial Accident Commission of the State of California.

No. 212. Southern Pacific Company, appellant, *v.* John C. Corbett et al., as members of the State Board of Equalization of the State of California et al. Andrew J. Gallagher, a member of the State Board of Equalization of the State of California substituted as a party appellee in the place and stead of John C. Corbett, deceased, on motion of Mr. Harry H. McElroy in that behalf.

No. 212. Southern Pacific Company, appellant, *v.* Andrew J. Gallagher et al., as members of the State Board of Equalization of the State of California et al. Argued by Mr. Harry H. McElroy for the appellant and by Mr. H. H. Linney for the appellees.

No. 213. The Pacific Telephone and Telegraph Company, appellant, *v.* John C. Corbett, et al., as members of the State Board of Equalization of the State of California. Andrew J. Gallagher, a member of the State Board of Equalization of the State of California, substituted as a party appellee in the place and stead of John C. Corbett, deceased, on motion of Mr. Francis N. Marshall in that behalf.

No. 213. The Pacific Telephone and Telegraph Company, appellant, *v.* Andrew J. Gallagher et al., as members of the State Board of Equalization of the State of California et al. Argument commenced by Mr. Francis N. Marshall for the appellant.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, December 13, will be as follows: Nos. 213, 302, 210, 182 (and 183), 127, 195, 203, 231, 245 (246 and 247), and 260.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Leonard C. Fons, of Milwaukee, Wis.; and Marshall P. Madison, of San Francisco, Calif., were admitted to practice.

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No. 1. General Talking Pictures Corporation, petitioner, *v.* Western Electric Company, Inc., et al. Time within which to file petition for rehearing extended to December 30th, 1938, and mandate stayed on motion of Mr. Samuel E. Darby, Jr., for the petitioner.

No. 213. The Pacific Telephone and Telegraph Company, appellant, *v.* Andrew J. Gallagher et al., as Members of the State Board of Equalization of the State of California. Argument continued by Mr. Francis N. Marshall for the appellant and concluded by Mr. H. H. Linney for the appellees.

No. 302. Felt and Tarrant Manufacturing Co., appellant, *v.* John C. Corbett, Fred E. Stewart, et al., etc. Andrew J. Gallagher, a member of the State Board of Equalization of the State of California, substituted as a party appellee in the place and stead of John C. Corbett, deceased, on motion of Mr. A. Calder Mackay in that behalf.

No. 302. Felt and Tarrant Manufacturing Co., appellant, *v.* Andrew J. Gallagher, Fred E. Stewart, et al., etc. Argued by Mr. A. Calder Mackay for the appellant and by Mr. James J. Arditto for the appellees.

No. 210. The Pullman Company, H. J. Hatch, et al., petitioners, *v.* Mrs. Garnett V. Jenkins et al. Argument commenced by Mr. Robert Brennan for the petitioners; continued by Mr. M. W. Reed for the petitioners; and by Mr. L. H. Phillips for the respondents.

Adojurned until tomorrow at 12 o'clock.

The day call for Wednesday, December 14th, will be as follows: Nos. 210, 182 (and 183), 127, 195, 203, 231, 245 (246 and 247), 260, 295, and 328.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Phil L. Rodier, of New York City; Harry G. Grover, of New York City; Angelo Joseph Zerbarini, of New York City; Frank J. Stich, of New Orleans, La.; Joseph E. Dickinson, of Pittsburgh, Pa.; Edward Ferris McKay, of Oklahoma City, Okla.; Robert G. Reed, of Chicago, Ill.; Joseph M. Nugent, of New York City; Carl Marx, of Chicago, Ill.; Edward J. Michel, of Washington, D. C.; and Homer D. Dines, of Chicago, Ill., were admitted to practice.

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No. 210. The Pullman Company, H. J. Hatch, et al., petitioners, *v.* Mrs. Garnett V. Jenkins et al. Argument concluded by Mr. L. H. Phillips for the respondents.

No. 182. Ford Motor Company, petitioner, *v.* National Labor Relations Board; and

No. 183. Ford Motor Company, petitioner, *v.* National Labor Relations Board. Argued by Mr. Alfred McCormack for the petitioner and by Mr. Charles Fahy for the respondent.

No. 127. Mackay Radio and Telegraph Company, Inc., petitioner, *v.* Radio Corporation of America. Argument commenced by Mr. Samuel D. Darby for the petitioner and continued by Mr. Jo. Baily Brown for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, December 15, will be as follows: Nos. 127, 195, 203, 231, 245 (246 and 247), 260, 295, 328, and 385.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Guy B. Hazelgrove, of Richmond, Va.; Frank T. Powers, of Lewiston, Me.; Ralph T. Catterall, of Richmond, Va.; Edwina V. A. Avery, of Washington, D. C.; Ira Howell Ellis, of Indianapolis, Ind.; Milo R. Kniffen, of Cobleskill, N. Y.; Herbert E. Rosenberg, of New York City; Sidney Wm. Wattenberg, of New York City; Pedro M. Porrata, of Ponce, P. R.; Irwin E. Friedman, of Bridgeport, Conn.; and W. Frank Gladney, of Baton Rouge, La., were admitted to practice.

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No. 127. Mackay Radio and Telegraph Company, Inc., petitioner, *v.* Radio Corporation of America. Argument continued by Mr. Jo. Baily Brown for the respondent and concluded by Mr. Samuel E. Darby, Jr., for the petitioner.

No. 195. Socony-Vacuum Oil Company, Inc., petitioner, *v.* Herbert A. Smith, Jr. Argued by Mr. Louis Mead Treadwell for the petitioner and by Mr. George J. Engelman for the respondent. Leave granted to petitioner to file additional brief by Tuesday next and to respondent to reply thereto within two days thereafter.

No. 203. J. Bacon & Sons, appellant, *v.* James W. Martin, Individually, etc. Argument commenced by Mr. Charles I. Dawson for the appellant. The Court declined to hear further argument.

No. 231. The Alton Railroad Company, appellant, *v.* Illinois Commerce Commission et al. Argument commenced by Mr. Frank H. Towner for the appellant.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, December 16, will be as follows: Nos. 231, 245 (246 and 247), 260, and 295.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Reed.

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Walter Burrell Gleason, of Portland, Oreg.; T. Grady Head, of Atlanta, Ga.; Broadus Brown Zellars, of Hartwell, Ga.; Willis H. Taylor, Jr., of New York City; Noble Edward Bowlby, of Atlanta, Ga.; William Poole, of Wilmington, Del.; Lelia Boyce, of Allegan, Mich.; John F. Maney, of Alexandria, Va.; Joseph A. F. Freda, of Newark, N. J.; Samuel B. Smith, of White Plains, N. Y.; Frank S. Misterly, of Darien, Conn.; and Edward M. Flaherty, of New Castle, Pa., were admitted to practice.

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No. 231. The Alton Railroad Company, appellant, *v.* Illinois Commerce Commission et al. Argument continued by Mr. Frank H. Towner for the appellant and concluded by Mr. Harry R. Booth for the appellees.

No. 245. The United States, petitioner, *v.* The Algoma Lumber Company;

No. 246. The United States, petitioner, *v.* Forest Lumber Company; and

No. 247. The United States, petitioner, *v.* Lamm Lumber Company. Argument commenced by Mr. Paul A. Sweeney for the petitioner; continued by Mr. Carl D. Matz for the respondents in Nos. 245 and 246; by Mr. Ralph H. Case for the respondent in No. 247; by Mr. William S. Bennet for the respondents in Nos. 245 and 246; and concluded by Mr. Paul A. Sweeney for the petitioner.

No. 260. Dixie Ohio Express Company, appellant, *v.* State Revenue Commission of Georgia et al. Argument commenced by Mr. Allan Watkins for the appellant, continued by Mr. O. H. Dukes for the appellees, and concluded by Mr. Edgar Watkins for the appellant.

Adjourned until Monday, December 19th, at 12 o'clock.

SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Key Pittman, of Tonopah, Nev.; Terrell Marshall, of Little Rock, Ark.; Leon Gerofsky, of Somerville, N. J.; and Jack K. McFall, of Chevy Chase, Md., were admitted to practice.

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Mr. Attorney General Cummings addressed the Court as follows:

*May it please the Court:*

The members of the Bar of this Court on November 26, 1938, met in this room to express their sorrow at the death of Mr. Justice Cardozo. At that meeting moving tributes were paid to his memory; and the following resolutions were adopted:

The members of the Bar assembled in the Supreme Court House on Saturday, the 26th day of November, 1938, speak for the legal profession of the country in expressing their sorrow at the untimely death of Mr. Justice Cardozo, and resolve to keep in vivid memory the preeminent judicial labors of the Justice as well as the rare qualities of mind and character of which his achievements were the fruit. A formal memorial cannot convey the depth and elevation of his mind, nor catch adequate glimpses of his spiritual qualities. Only the barest outline of his career and of its significance can be attempted.

Benjamin Nathan Cardozo was born in New York City on May 24, 1870, and died at the house of his intimate friend, Judge Irving Lehman, in Port Chester, New York, on July 9, 1938. He was the younger son of Albert and Rebecca Nathan Cardozo, both of whom were descended from Sephardic Jews who had been connected with the Spanish and Portuguese Synagogue in New York from before the Revolution. His precocity was revealed early, but his was the precocity of accelerated maturity. He graduated from Columbia College at the age of nineteen, taking his master's degree at the same college in the following year. He then attended the Law School of Columbia University for two years, and was admitted to the New York Bar in 1891. For twenty-two years he pursued what was essentially the calling

of a barrister, unknown to the general public but quickly attaining the universal esteem of the Bar and Bench of New York. He paid the debt which every lawyer owes to his profession, not merely by proving in daily practice that law is a learned profession but also by his illuminating book, "The Jurisdiction of the New York Court of Appeals."

His election, in 1913, to the Supreme Court of New York was a striking manifestation of the democratic process. He was not destined to enjoy experience at *nisi prius* for which he was eager. Just as he was a lawyers' lawyer, so at once he became a judges' judge.

At the request of the Court of Appeals Governor Glynn promptly designated him to serve as a temporary member of that Court, and in 1917, Governor Whitman appointed Judge Cardozo to a vacancy in one of the permanent places on the Court. In the autumn of that year he was selected by both parties for the full term of fourteen years, and in the autumn of 1927 became, with universal acclaim, the Chief Judge of that great Court. For eighteen years his learning, conveyed with great felicity, gave unusual distinction to the New York Reports, and exerted a dominant influence in making his court the second most distinguished tribunal in the land. In addition his philosophic temper expressed itself, more systematically than legal opinions permit, in four volumes, slender in size but full of imaginative insight, upon the relations of law to life. These are: The Nature of the Judicial Process, The Growth of the Law, The Paradoxes of Legal Science, and Law and Literature.

The New York Court of Appeals, with its wide range of predominantly common law litigation, was most congenial for Judge Cardozo. No judge in our time was more deeply versed in the history of the common law, nor more resourceful in applying the living principles by which it has unfolded. His mastery of the common law was matched by his love for it. It was, therefore, a severe wrench for him to be taken from Albany to Washington. Probably no man ever ascended the Supreme Bench so reluctantly. But, when Mr. Justice Holmes resigned in 1932, President Hoover's nomination of Chief Judge Cardozo was in the nature of a national call. In selecting him, President Hoover reflected the informed sentiment of the country that, of all judges and lawyers, Chief Judge Cardozo was most worthy to succeed Mr. Justice Holmes.

It was a grievous loss to the Court and the nation that fate should have granted him less than six full terms on the Supreme



Bench. That in so short a time he was able to leave so enduring an impress on the constitutional history of the United States is a measure of his greatness. To say that Mr. Justice Cardozo has joined the Court's roll of great men is to anticipate the assured verdict of history. His juridical immortality is not due to the great causes that came before the Court during his membership; it is attributable to his own genius. With astonishing rapidity he made the adjustment from preoccupation with the restricted, however novel, problems of private litigation to the most exacting demands of judicial statesmanship. Massive learning, wide culture, critical detachment, intellectual courage, and exquisite disinterestedness combined to reinforce native humility and imagination, and gave him in rare measure, those qualities which are the special requisites for the work of the Court in whose keeping lies the destiny of a great nation.

It is accordingly resolved that we express our profound sorrow at the untimely passing of Mr. Justice Cardozo, and our gratitude for the contributions of his life and labors, the significance of which will endure so long as the record of a consecrated spirit has power to move the lives of men, and Law will continue to be the ruling authority of our nation.

It is further resolved that the Attorney General be asked to present these resolutions to the Court, and to request that they be inscribed upon its permanent records.

It is my privilege to present these resolutions and to ask that they be entered in the permanent records of this Court.

In discussing the judicial work of Mr. Justice Cardozo, I speak, however haltingly, for the bar of the nation; I feel that in a measure I speak also for the nation itself. A great judge leaves his mark not only on the law which he serves but also on the life of the people. Not until future generations of scholars have traced the course of the law in its constant search for justice will the full scope of his great service be revealed. But we can today with all certainty say that he opened ways along which a free people may confidently tread.

For eighteen years Judge Cardozo sat on the Court of Appeals of New York State. It was an eminent court when he came to it; when he left it was the greatest common law court in the land. Throughout this long period, as its members have been quick to say, the court drew heavily upon the inexhaustible learning, the clarity of analysis, and the boldness of thought of their gentle brother. The peculiar influence of Cardozo, however, spread far beyond the conference room. To lawyers and to courts his opinions were more than a record of the judgment. They spoke with the majestic authority

of an analysis which reached to the bed rock of the learning of the past and yet was attuned to the needs of the living. And always the opinions spoke in tones of rare beauty. They might deal with things prosaic, but the language, lambent and rich, was that of a poet.

Opinions in the New York court are assigned by rotation, yet during the years of his service there an exceptionally large number of its great opinions were those of Judge Cardozo. There were few branches of the law that were not quickened by his touch. Significantly, his most notable contributions to the common law are found in fields which had long before settled into fixed forms. No other judge of his time was so deft in weaving the precedents of centuries into a new shape to govern a new society. This is the heart of the common law process, but only a master can fashion a new rule and yet preserve the essential truth of the older decisions.

To Judge Cardozo the law was meant to serve and not to rule the institutions which it sheltered. No one saw more clearly than he that the imperfect rules of today may stir equities that become the law of tomorrow. In the law of torts, one need only mention on the one side *MacPherson v. The Buick Company*,<sup>1</sup> where the law as to negligent manufacture was at last brought abreast of modern methods of distribution, and, on the other side, the *Palsgraf* case,<sup>2</sup> where the notion of "negligence in the air" received its classic castigation. The impact of Judge Cardozo on contract law is typified by the *Duff-Gordon* case,<sup>3</sup> where a contract was enforced because the obligations although not express were fairly to be implied. "The law," he said, "has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal." Minor and unintentional defaults in a complicated construction contract, Judge Cardozo held in another case,<sup>4</sup> are not to be subjected to a syllogistic rule whose premises are found in the far simpler contracts of another age. There must be no sacrifice of justice, the opinion reads, whatever may be the doubts of "those who think more of symmetry and logic in the development of legal rules than of practical adaptation to the attainment of a just result \* \* \*."

Throughout these opinions one traces their animating current, the one passion of this gentle and retiring man, that the courts should never fail to use the law to promote justice. While few judges have been so ready to adapt the law to the changing organization of the business world, he steadfastly refused to sanction any relaxation in the morals of the market place. It is likely that most real estate

<sup>1</sup> *MacPherson v. The Buick Motor Co.*, 217 N. Y. 382.

<sup>2</sup> *Palsgraf v. Long Island Railroad Co.*, 248 N. Y. 339.

<sup>3</sup> *Wood v. Duff-Gordon*, 222 N. Y. 88, 91.

<sup>4</sup> *Jacob & Youngs v. Kent*, 230 N. Y. 239, 242.

operators would not consider that their duty to their joint venturers extended so far as to share the opportunity to start anew at the conclusion of the venture. But, in the case of *Meinhard*,<sup>5</sup> Chief Judge Cardozo refused to sanction even so slight a deviation from "an honor the most sensitive." As he writes, the ease of the philosopher changes into the inner fire of the prophet. "Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the 'disintegrating erosion' of particular exceptions \* \* \*. Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd. It will not consciously be lowered by any judgment of this court."

In 1932 Chief Judge Cardozo was at the head of the foremost common law court of the land. His court was but rarely forced to plunge into the elusive statesmanship of constitutional law; it was a court of legal craftsmen. He was warmed by the deep friendship of his colleagues. Neither he nor any student of the common law could have wanted more than that he fill out his days in such a fruitful serenity.

But in that year Justice Holmes resigned. For thirty years, he had enriched the work of this great Court and, by the same token, the legal thought of the Nation. To succeed Justice Holmes there could be but one man. President Hoover spoke for the whole people when he offered the nomination to Chief Judge Cardozo. With reluctance, and through a selfless obedience to the higher duty, Judge Cardozo accepted the call and took his seat on this Court on March 14, 1932.

His first opinion for the Court appears in the 286th volume and his last opinion in the 302nd volume of the reports.<sup>6</sup> The span is tragically short. But in these brief years Justice Cardozo has notably enriched the history of jurisprudence. To this Court he brought his deep learning in the law and to the solution of its vexing problems he lent a tolerance and a generous understanding which have rarely been equalled.

He made the transition from New York to this Court with an ease which seemed effortless. The large questions of constitutional law, the unexplored vistas of administrative law, and the complexities of federal taxation, were each beyond the ordinary range of litigation in the Court of Appeals. Yet, from the very beginning, his touch was as sure and his vision as far-ranging as it had been in the familiar rooms at Albany.

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<sup>5</sup> *Meinhard v. Salmon*, 249 N. Y. 458, 464.

<sup>6</sup> In these six years, Mr. Justice Cardozo wrote 128 majority opinions, 2 concurring opinions and 24 dissenting opinions; in addition, he collaborated in 7 concurring and 10 dissenting opinions.

To the specialized fields which provide much of the work of this Court, Mr. Justice Cardozo brought rare skill with the technical tools of the lawyer and an insistent belief that the law failed when it offered reward to chicanery or greed. A complicated question of tax limitation<sup>7</sup> was solved by "the principle that no one shall be permitted to found any claim upon his own inequity or take advantage of his own wrong." He differed with the majority of this Court in the *Securities and Exchange Commission* case,<sup>8</sup> perhaps less because of his analysis of the statute than for fear that it would "become the sport of clever knaves." If the registration procedure is not to "invite the cunning and unscrupulous to gamble with detection," he continued, "when wrongs such as these have been committed or attempted, they must be dragged to light and pilloried."

But it is in the larger reaches of public law that the broad vision of Mr. Justice Cardozo found full scope. The commentators may dispute as to whether the judge who decides these questions must be more the statesman or the lawyer. But none has doubted that Mr. Justice Cardozo was rarely gifted with both qualities.

The novel problems presented by administrative law received from him a sympathetic and discerning treatment. He never forgot that administrative agencies were born of a need for developing a technique which differed from judicial litigation. He has written, for the Court, that "the structure of a rate schedule calls in peculiar measure for the use of that enlightened judgment which the Commission by training and experience is qualified to form. \* \* \* It is not the province of a court to absorb this function to itself."<sup>9</sup> He saw, too, that these agencies act in a field where substantial accuracy is immeasurably preferable to the complete frustration which would result were an absolute precision sought. The Interstate Commerce Commission, faced with the task of valuing railroads, he said, may recognize that "in any work so vast and intricate, what is to be looked for is not absolute accuracy, but an accuracy that will mark an advance upon previous uncertainty."<sup>10</sup> For him the respect to be paid the findings of the administrative tribunal was an imperative rule of decision, not to be satisfied by a verbal recognition. He has placed a decision of the Court on the ground that the lower court, "though professing adherence to this mandate, honored it, we think, with lip service only."<sup>11</sup>

The same quality appears when he considers the validity of state legislation. There could be no tolerance for state regulation which,

<sup>7</sup> *Stearns Co. v. United States*, 291 U. S. 54, 61-62.

<sup>8</sup> *Jones v. Securities and Exchange Commission*, 298 U. S. 1, 32.

<sup>9</sup> *Miss. Valley Barge Co. v. United States*, 292 U. S. 282, 286.

<sup>10</sup> *I. C. v. New York, N. H. & H. R. Co.*, 287 U. S. 178, 205.

<sup>11</sup> *Fed. Trade Com'n v. Algoma Co.*, 291 U. S. 67, 73.

as he said in the *Seelig* case,<sup>12</sup> by setting "a barrier to traffic between one state and another," "would neutralize the economic consequences of free trade among the states." But, so long as the state action contained no threat to national solidarity, it could not properly, Mr. Justice Cardozo felt, be nullified by this Court unless the Constitution spoke to the contrary with unmistakable clarity. When this Court held invalid a state sales tax, graduated according to volume, in the *Stewart Dry Goods* case,<sup>13</sup> Mr. Justice Cardozo entered eloquent protest. The legislation, he said, was "a pursuit of legitimate ends by methods honestly conceived and rationally chosen. More will not be asked by those who have learned from experience and history that government is at best a makeshift, that the attainment of one good may involve the sacrifice of others, and that compromise will be inevitable until the coming of Utopia."

Few men have, with such whole-hearted humility, practiced that tolerance for human experimentation which many feel must be the hall-mark of a great constitutional jurist. But none knew better than Mr. Justice Cardozo that, when the question was one of personal liberty rather than the economic judgment of the legislature, vigilance rather than obeisance must be the order of decision. Of freedom of thought and speech, he wrote in one of his last opinions for the Court,<sup>14</sup> "one may say that it is the matrix, the indispensable condition, of nearly every other form of freedom." He has elsewhere said:<sup>15</sup> "Only in one field is compromise to be excluded, or kept within the narrowest limits. There shall be no compromise of the freedom to think one's thoughts and speak them, except at those extreme borders where thought merges into action." And then follow these majestic words: "We may not squander the thought that will be the inheritance of the ages."

Perhaps the most nearly ultimate field upon which a Justice of this Court must venture is that of measuring the Acts of the Congress against the requirements of the Constitution. Mr. Justice Cardozo sat during six of the most momentous years in the history of this Court. Throughout these years the familiar rules which forbid the Court from passing judgment on the wisdom of the Congress were to him not aphorisms but burning truths. He found, in his own words,<sup>16</sup> a "salutary rule of caution" in that "wise and ancient doctrine that a court will not adjudge the invalidity of a statute except for manifest necessity. Every reasonable doubt must have been explored and extinguished before moving to that grave conclusion."

<sup>12</sup> *Baldwin v. G. A. F. Seelig*, 294 U. S. 511, 521, 526.

<sup>13</sup> *Stewart Dry Goods Co. v. Lewis*, 294 U. S. 550, 577.

<sup>14</sup> *Palko v. Connecticut*, 302 U. S. 319, 327.

<sup>15</sup> Mr. Justice Holmes, 44 *Harv. Law Rev.* 682, 688.

<sup>16</sup> Dissenting in *United States v. Constantine*, 296 U. S. 287, 299.

Mr. Justice Cardozo viewed the Constitution as directed to the great end of preserving a democratic government for a free people. This high purpose is defeated if the courts view the Constitution as dictating choice, as he has stated it, in "a situation where thoughtful and honest men might see their duty differently."<sup>17</sup> His consistent deference to the judgment of the legislature came not merely from the humility of his nature. It arose also from his profound conviction that, as he put it,<sup>18</sup> "one kind of liberty may cancel and destroy another," and that "many an appeal to freedom is the masquerade of privilege or inequality seeking to entrench itself behind the catchword of a principle." Thus, where an industry was so glutted by ruthless overproduction that its survival was threatened, Mr. Justice Cardozo saw nothing in the Constitution which forbade the Congress to act, for, as he said in the *Carter* case,<sup>19</sup> "The liberty protected by the Fifth Amendment does not include the right to persist in \* \* \* anarchic riot."

Mr. Justice Cardozo found no constitutional barrier to prevent the enactment of legislation which was compelled by the urgent needs of an ever changing society. "The Constitution of the United States," he wrote in his dissent in the *Panama Refining* case,<sup>20</sup> "is not a code of civil practice." The commerce power, he has said, "is as broad as the need that evokes it."<sup>21</sup> The basic constitutional doctrine of separation of powers was for him not "a doctrinaire concept to be made use of with pedantic rigor. There must be sensible approximation, there must be elasticity of adjustment, in response to the practical necessities of government, which cannot foresee today the developments of tomorrow in their nearly infinite variety."<sup>22</sup>

Thus far I have spoken of our friend as a lawyer and a judge. This imperfect tribute leaves untouched the far reaches of his mind and character. I have not trusted myself to speak of these things. They are so intimate and so beautiful that they quite transcend the limits of our common speech. It is better, I think, to rest upon the words of Justice Holmes who, in tenderness and affection, said that Judge Cardozo was "a great and beautiful spirit."<sup>23</sup>

It was eminently fitting that Mr. Justice Cardozo should have been chosen to deliver the opinion of the Court in the Social Security cases. The governmental process must have seemed noblest to him when it was directed to the relief of the aged, the infirm, and the

<sup>17</sup> *Mayflower Farms, Inc., v. Ten Eyck*, 297 U. S. 266, 276.

<sup>18</sup> Mr. Justice Holmes, 44 Harv. Law Rev. 682, 687-688.

<sup>19</sup> Dissenting in *Carter v. Carter Coal Co.*, 298 U. S. 238, 331.

<sup>20</sup> *Panama Refining Co. v. Ryan*, 293 U. S. 388, 447.

<sup>21</sup> Dissenting in *Carter v. Carter Coal Co.*, 298 U. S. 238, 328.

<sup>22</sup> *Panama Refining Co. v. Ryan*, 293 U. S. 388, 440.

<sup>23</sup> Letter to Dr. John C. H. Wu, printed in Holmes, *Book Notices, Uncollected Papers, Letters* (Shriver), p. 202.

destitute. His words seem to have sprung from the heart of one who felt with intensity that government succeeds only as it serves the needs of its people: "Nor is the concept of the general welfare static. Needs that were narrow or parochial a century ago may be interwoven in our day with the well-being of the Nation. What is critical or urgent changes with the times. \* \* \* The hope behind this statute is to save men and women from the rigors of the poor house as well as from the haunting fear that such a lot awaits them when journey's end is near."<sup>24</sup>

Mr. Justice Cardozo has reached the end of his journey. It has been a journey of loving service to the law and to those who live under the law. I venture to predict that, so long as our common law and our Constitution persist, men will pay tribute to the memory of this shy and gentle scholar, whose heart was so pure and whose mind was so bold.

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The Chief Justice said:

Mr. Attorney General:—The tribute in the resolutions you present comes most fittingly from the members of the Bar who find the ideals of their profession realized in a career of extraordinary worth. It is of special significance at this time that these sentiments of lawyers will find a warm response in the hearts of millions of our fellow countrymen who, without learning in the law, have a keen sense of the public benefit that has come from the quiet, unselfish and humane labors of a great jurist working in the public interest with a consuming zeal. We, his brethren of the Court,—still awestruck by the fate which brought his career to such an untimely and tragic end—receive this tribute with hearts burdened by the sense of loss of that personal association which was to us a priceless privilege.

Benjamin Nathan Cardozo was city-born and bred. He was reared not in the wide open spaces but within the narrow confines of the great metropolis. But his horizon knew no urban bounds and his vision took in all the circumstances and needs of our country with complete understanding. His urban training made him familiar with some of the most serious problems of our democracy and gave him special alertness to detect every sort of wrong, however cunningly disguised by conventional or tolerated forms. The passion for justice which characterized his work had its roots in what he early perceived in his metropolitan environment and never forgot.

It would be difficult to find a life so completely and uninterruptedly devoted to pursuits congenial to talent. While enjoying the resources and interests of a cultivated taste, it was to the study

<sup>24</sup> *Helvering v. Davis*, 301 U. S. 619, 641.

of law—its learning, its processes, and its adjustments—that he bent his energies and he reaped the hard-won rewards of the most distinguished scholarship. He was singularly immune from either the enticements or the demands of activities foreign to strictly professional labors. He did not seek public office. He stood aloof from politics. He did not engage in public controversies or aspire to leadership in organized social efforts. He did not crusade for social reforms. His zeal for human betterment took a direction better suited to his temperament and intellectual interests. He shrank from promiscuous contacts, finding a safe refuge in his books.

Even at the bar, he was spared the stormy conflicts of jury trials and the contests which evoked passion and animosities. Early distinguished for his ability in analysis and his force and felicity of expression, his professional opportunities lay in briefs and arguments in cases in equity and in appellate courts,—in cases requiring particular skill in the illumination and solution of legal problems, where advocacy needed the resources of the industrious scholar. During his twenty or more years at the bar he neither sought nor had public acclaim. But he deeply impressed his brethren of the profession and on that solid reputation his future was built.

It was evident to all who knew him that he would be an ideal judge and in truth it was his friends of the bar who procured his nomination and made sure his election as a judge of the Supreme Court of New York, the highest court of original jurisdiction in that State. It was equally plain that his best service would be in an appellate court, and almost immediately he was designated to serve in the highest court of the State and there by subsequent choice of the electorate as Associate Judge and Chief Judge he remained for about eighteen years. His work in the Court of Appeals of New York made him renowned throughout the country. It was service of the highest judicial quality in learning, in skill in exposition, in outstanding contributions to the development of the law. In the field of the common law, his learning gave him the freedom which comes with mastery, as he utilized its processes to secure its intelligent adaptation to the needs of his time. Modest, sensitive and retiring, he was still a mighty warrior for his convictions and in his expert hands the pen became a sword wielded with devastating power.

When Mr. Justice Holmes retired in 1932, the country, led by the bar, with one voice urged his appointment to this Court. And here he sat for over five eventful years. In the proceedings which led to the adoption of the resolutions you have presented, Mr. Attorney General, the opinions of Mr. Justice Cardozo—those which he wrote and those in which he concurred—have largely been considered. This is not a fitting occasion for a critique. It is sufficient to say



that no judge ever came to this Court more fully equipped by learning, acumen, dialectical skill, and disinterested purpose. He came to us in the full maturity of his extraordinary intellectual power, and no one on this bench has ever served with more untiring industry or more enlightened outlook. The memory of that service and its brilliant achievements will ever be one of the most prized traditions of this tribunal. Mr. Justice Cardozo in one of his penetrating discussions observed: "If I consult my own experience, and ask what judges do in building law from day to day, I find that for the average run of cases what our predecessors have *said* is a generative force quite as much as what they have done." He meant what had been said, not by the way of mere *dictum*, but what had been said "as the professed and declared principle dictating the conclusion". With the same thought he emphasized the "exceptional cases" when "the creative function is at its highest". And I have no doubt it is not so much the specific rulings in the opinions of Mr. Justice Cardozo but what he said in arriving at the rulings that will be found to be a constantly active generative force in working out the decisions of the future. He has left a great arsenal of forensic weapons.

Mr. Justice Cardozo was devoted to our form of government and to him our constitutional guarantees of essential liberties constituted a heritage to be defended at all costs. With rare insight into our social problems and with vivid imagination, what he thought and sought to enforce was built upon the foundation of profound study. The idea that "sentiment or benevolence or some vague notion of social welfare becomes the only equipment needed" was an illusion. "Nothing", he said, "can take the place of rigorous and accurate and profound study of the law as already developed by the wisdom of the past". "This", he added, "is the raw material which we are to mould".

That process of "moulding" he not only brilliantly illustrated in his judicial opinions, but he subjected it to the most rigorous analysis. The function of the judge in the shaping of the law was for him a subject of perennial fascination, to which he ever returned with a clarity and comprehensiveness of exposition which placed him in the front rank of writers on the philosophy of law,—its nature and its growth. In his view the competing demands of stability and progress pointed to an essential compromise,—“a compromise between paradoxes, between certainty and uncertainty, between the literalism that is the exaltation of the written word and the nihilism that is destructive of regularity and order”. “The victory”, he said, “is not for the partisans of an inflexible logic, nor yet for the levelers of all rule and all precedent, but the victory is for those who shall know

how to fuse these two tendencies together in adaptation to an end as yet imperfectly discerned". For Justice Cardozo, the distrust of a concept was the beginning of wisdom and he was constantly on guard against the "tyranny of labels". With characteristic detachment, he was aware of the snares of "universals", as well in his study of the "theory of juristic method" as in other matters. "The snares that are thus set may catch the heedless feet of thinkers who have been loud even as they stumbled in cries of danger unto others". And thus he recognized that "Generalizations about the ways in which the judicial process works are quite as likely to be incomplete, and to stand in need of supplement or revision, as the generalizations yielded by the process when in action, the output of its workings".

On the one hand, Justice Cardozo dissented from the "depreciation of order and certainty and rational coherence" as merely negligible goods, and, on the other, he was "wholly one" with the insistence "that the virtues of symmetry and coherence" can be purchased at too high a price and that law is "a means to an end and not an end in itself". He summed up his teaching and his practice in his heed to the warning that principles and rules and concepts are in many instances but "glimpses of reality" and that there is the need, as he put it, of "reformulating them or at times abandoning them altogether when they stand condemned as mischievous in the social consciousness of the hour".

Success in such an effort at interpretation of the social consciousness manifestly would demand a rare equipment of learning, experience and wisdom,—a balance of judgment which imperfect knowledge or narrowness of understanding would at once upset. That necessary equipment Mr. Justice Cardozo possessed in a remarkable degree and with his keen awareness he was able to escape the pitfalls into which a lesser mind might easily have stumbled. Justice Cardozo fully recognized the disagreements among those who had studied the juristic method, whether they prosecuted their studies as detached philosophers or with the aid of experience in the exercise of the judicial function, and in summarizing the conflicting contentions he disclosed his own attitude in these words: "I do not know how it will all end. I know that it has been an interesting time to live in, an interesting time in which to do my little share in translating into law the social and economic forces that throb and clamor for expression. Like any other era of unrest, it has had its pangs of uncertainty, its doubts and hesitation". And referring to a saying of Bacon, he concluded: "The 'wayes' we have to travel nowadays are not flat and plane, if indeed they ever were. They are uphill and downhill with many a signpost that is false and many another that has fallen. . . . If I have not lost the road altogether, if my

feet have not sunk in a quagmire of uncoordinated precedents, I owe it not a little to the signposts and the warnings, the barriers and the bridges, which my study of the judicial process has built along the way".<sup>1</sup> It was under the sway of the convictions produced by that special study that he wrought out the judicial opinions which constitute his monument.

Judge Irving Lehman, of the Court of Appeals of New York, has spoken out of his intimate knowledge of the strong influence exerted by Cardozo as Chief Judge of that court. Judge Lehman referred to his vast store of learning, his unflagging industry and his command of the gentle art of persuasion, but far above those he placed the "integrity of his mind", "his complete absorption in his work, his selflessness, his independence restrained by his respect for the opinion of others". These qualities were also outstanding in his work in this Court. In conference, while generally reserved and reticent until it was his duty to speak, he then responded with an unsurpassed clearness and precision in statement. His gentleness and self-restraint, his ineffable charm, combined with his alertness and mental strength, made him a unique personality. With us who had the privilege of daily association there will ever abide the precious memory not only of the work of a great jurist but of companionship with a beautiful spirit, an extraordinary combination of grace and power.

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The Chief Justice said: "The orders of the Court appear upon the list certified by the Chief Justice and filed with the clerk and will not be announced orally."

No. 490. Henry Gross and Theresa Gross, appellants, *v.* Title Insurance and Trust Company et al. Appeal from the District Court of the United States for the Southern District of California. *Per curiam*: The appeal herein is dismissed for the want of jurisdiction. Section 238, Judicial Code as amended by the Act of February 13, 1925 (43 Stat. 936, 938); section 266, Judicial Code as amended by the Act of February 13, 1925 (43 Stat. 936, 938); *Stratton v. St. Louis S. W. Ry.*, 282 U. S. 10, 15-16; *U. S. Naturopathic Assn. v. Chiropractic League*, 296 U. S. 539.

No. —. In the matter of the disbarment of W. A. Denson. It having appeared to the Court from the record in *W. A. Denson*, petitioner, *v.* Board of Commissioners of the State Bar of Alabama, No. 129, October Term, 1938, that W. A. Denson, of Birmingham, Alabama, a member of the Bar of this Court, has been disbarred from the practice of the law in the Supreme Court of the State of Alabama; and this Court, by order of October 10, 1938, having suspended the said W. A.

<sup>1</sup>Address before New York State Bar Association, 1932. Association Report, Vol. 55.

Denson from the practice of the law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred from the practice of the law in this Court;

And it appearing that the said rule was duly issued and served upon the respondent, who has filed a return thereto; now, upon consideration of the rule to show cause and the return aforesaid,

It is ordered that said W. A. Denson be, and he is hereby, disbarred, and that his name be stricken from the roll of attorneys admitted to practice in this Court.

Mr. Justice Black did not participate in the consideration or decision of this matter.

No. —. Arrow Distilleries, Inc., appellant, *v.* Wilford S. Alexander, Administrator of the Federal Alcohol Administration. The petition for injunction is denied.

No. 506. John H. Gentle, as Administrator of the estate of Albert Evans, deceased, petitioner, *v.* Western & Atlantic Railroad. On petition for writ of certiorari to the Court of Appeals of the State of Georgia. The petition for writ of certiorari herein is denied for the want of a final judgment. The motion for leave to proceed further herein *in forma pauperis* is also denied.

No. 511. William B. Doak, petitioner, *v.* Federal Land Bank of Baltimore. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied.

No. 481. Rochester Telephone Corporation, appellant, *v.* The United States of America et al. In this case probable jurisdiction is noted.

No. 509. Denis J. Driscoll et al., appellant, *v.* Edison Light and Power Company. In this case probable jurisdiction is noted. The motion to advance is granted and the case is assigned for argument on Monday, February 6, 1939, immediately following the case heretofore assigned for that day. Mr. Justice Black is of the opinion that the motion to advance should be granted as requested.

No. 466. Honolulu Oil Corporation, Ltd., et al., petitioners, *v.* Erle P. Halliburton et al.; and

No. 479. Erle P. Halliburton et al., petitioners, *v.* Honolulu Oil Corporation, Ltd., et al. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 478. Mark Graves, John J. Merrill, et al., etc., petitioners *v.* The People of the State of New York, upon the relation of James B. O'Keefe. Petition for writ of certiorari to the Supreme Court of the State of New York granted.

No. 528. Utah Fuel Company, Independent Coal and Coke Company, et al., petitioners, *v.* National Bituminous Coal Commission et al. The petition for writ of certiorari to the United States Court of Appeals for the District of Columbia is granted and the case is assigned for argument on Tuesday, January 3, 1939, after the case heretofore assigned for that day. The motion for an injunction is granted, and it is ordered that the respondents be, and they are hereby, enjoined from carrying out the provisions of the order of August 31, 1938, of the National Bituminous Coal Commission, described more fully in the petition for writ of certiorari, and from introducing in any hearing before said Commission and from making available for inspection to interested parties, or others, the individual verified cost and price realization reports of petitioners, pending final disposition of the cause by the Court.

No. 476. Bryant McQuillen and Samuel Gottlieb, petitioners, *v.* Clarence Dillon, as President of Dillon, Read & Co., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied. The Chief Justice took no part in the consideration and decision of this application.

No. 469. Agnes Gliwa, etc., petitioner, *v.* United States Steel Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 471. The Rio Vista Hotel & Improvement Co., petitioner, *v.* The Belle Mead Development Corporation. Petition for writ of certiorari to the Supreme Court of the State of Florida denied.

No. 472. Terminal Railroad Association of St. Louis, petitioner, *v.* Ernest W. Aly. Petition for writ of certiorari to the Supreme Court of the State of Missouri denied.

No. 473. Wilma A. Humphrey, Janet Humphrey, by her guardian, etc., et al., petitioners, *v.* Southern Pacific Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 474. Belen Oquendo, petitioner, *v.* Federal Reserve Bank of New York et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 477. Martin Wohl and Harry Wohl, petitioners, *v.* Realty Associates Securities Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 11, Original, October Term, 1934. State of New Jersey, complainant, *v.* State of Delaware. The motion for leave to file a second petition for rehearing is denied.

No. 848, October Term, 1937. Franz Gorny, Bernhard Gorny, et al., petitioners, *v.* The Trustees of the Milwaukee County Orphans Board. The motion for leave to file petition for rehearing is denied.

No. 1018, October Term, 1937. Ex parte Paysoff Tinkoff, petitioner;

No. 13. Earle S. Welch, appellant, *v.* Robert K. Henry et al.;

No. 20. J. O. Stoll, petitioner, *v.* William Gottlieb;

No. 428. Arkansas Natural Gas Corporation, petitioner, *v.* James M. Sartor et al.;

No. 442. William J. Mackesy et al., appellants, *v.* State of Maine; and

No. 452. The Ohio Casualty Insurance Company, petitioner, *v.* Anna M. Marr, Shelby W. Marr, et al. Petitions for rehearing denied.

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ORDER OF ALLOTMENT OF JUSTICES

*It is ordered*, That the present allotment of the Chief Justice and Associate Justices of this Court among the circuits, be amended by making the following allotment, which shall be entered of record, viz:

For the District of Columbia, Charles Evans Hughes, Chief Justice.

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Adjourned until Tuesday, January 3, 1939, at 12 o'clock.

The day call for Tuesday, January 3, 1939, will be as follows: Nos. 528, 295, 227 (and 228), 269 (and 270), 275, 277, 294, 312, 308, and 328.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Guy Rogers, of Wichita Falls, Tex.; Ray P. Bland, of Wichita Falls, Tex.; Walter E. Holmes, of Arlington, Va.; William Riland Beall, of Washington, D. C.; Herbert Stedman French, of Tulsa, Okla.; Grover Middlebrooks, of Atlanta, Ga.; John F. Greaney, of Washington, D. C.; William C. Fitzhugh, of Shreveport, La.; Wm. L. Covington, of Falls Church, Va.; George J. Laikin, of Milwaukee, Wis.; Ed. B. Levee, Jr., of Texarkana, Tex.; Albert Spievack, of Cincinnati, Ohio; Frank B. Belcher, of Los Angeles, Calif.; James C. Lanier, of Greenville, N. C.; Beverly S. Royster, Jr., of Oxford, N. C.; Justus Reiniger Moll, of Springfield, Mo.; and Samuel Cober Braucher, of Somerset, Pa., were admitted to practice.

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No. 63. Connecticut Railway and Lighting Company, petitioner, *v.* Howard S. Palmer, James Lee Loomis, et al. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Order of the Circuit Court of Appeals as it affects the measure of the lessor's damage for rejection of the lease in question reversed only in that particular and case remanded to the District Court of the United States for the District of Connecticut for further proceedings in accordance with the order and opinion of the Circuit Court of Appeals as herein modified and of this Court. Opinion by Mr. Justice Reed. Mr. Justice McReynolds is of opinion that the judgment of the court below should be affirmed. Mr. Justice Brandeis took no part in the consideration or decision of this case.

No. 133. The Baltimore & Ohio Railroad Company et al., appellants, *v.* The United States of America et al. Appeal from the District Court of the United States for the Southern District of New York. Decree affirmed. Opinion by Mr. Justice Reed.

No. 154. The United States of America, petitioner, *v.* Kathleen McClure, as Administratrix of the estate of John F. McClure. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment affirmed and cause remanded to the District Court of the United States for the Eastern District of Washington. Opinion by Mr. Justice Black.

No. 244. Chippewa Indians of Minnesota, appellant, *v.* The United States. Appeal from the Court of Claims. Judgment affirmed. Opinion by Mr. Justice Black.

No. 189. Mrs. Zillah Lyon, petitioner, *v.* Mutual Benefit Health and Accident Association. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgment of the Circuit Court of Appeals reversed with costs and judgment of the District Court affirmed and cause remanded to the District Court of the United States for the Western District of Arkansas. Opinion by Mr. Justice Black. Mr. Justice Roberts did not participate in the consideration or decision of this case. Separate opinion by Mr. Justice Butler in which Mr. Justice McReynolds joins.

No. 118. Princess Lida of Thurn and Taxis, Formerly Lida Eleanor Purcell Fitzgerald, et al., petitioners, *v.* Gerald Purcell Fitzgerald, Individually, etc., et al. On writ of certiorari to the Supreme Court of the State of Pennsylvania. Judgment affirmed with costs. Opinion by Mr. Justice Roberts.

No. 180. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Donald H. Owens and Marion Haviland Owens. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit; and

No. 318. Amedeo Obici and Mrs. Amedeo Obici, petitioners, *v.* Guy T. Helvering, Commissioner of Internal Revenue. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. Judgment in No. 180 reversed and cause remanded to the Circuit Court of Appeals for the Second Circuit for further proceedings in conformity with the opinion of this Court; judgment in No. 318 affirmed and cause remanded to the Circuit Court of Appeals for the Fourth Circuit. Opinion by Mr. Justice Roberts.

No. 161. Ernest K. James, Individually and in his official capacity as Tax Commissioner for the State of West Virginia, appellant, *v.* United Artists Corporation. Appeal from the District Court of the United States for the Southern District of West Virginia. Decree affirmed with costs. Opinion by Mr. Justice Stone.

No. 245. The United States, petitioner, *v.* The Algoma Lumber Company;

No. 246. The United States, petitioner, *v.* Forest Lumber Company; and

No. 247. The United States, petitioner, *v.* Lamm Lumber Company. On writs of certiorari to the Court of Claims. Judgments reversed and causes remanded to Court of Claims for further proceedings in conformity with the opinion of this Court. Opinion by



Mr. Justice Stone. Mr. Justice McReynolds and Mr. Justice Roberts took no part in the consideration or decision of these cases.

No. 195. Socony-Vacuum Oil Company, Inc., petitioner, *v.* Herbert A. Smith, Jr. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment affirmed with costs and cause remanded to the District Court of the United States for the Southern District of New York. Opinion by Mr. Justice Stone. Mr. Justice Roberts took no part in the consideration or decision of this case. Dissenting: Mr. Justice McReynolds.

No. 75. Gwin, White & Prince, Inc., appellant, *v.* Harold H. Henneford, Thomas S. Hedges, et al., etc. Appeal from the Supreme Court of the State of Washington. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Stone. Opinion by Mr. Justice Butler concurring in the result, in which Mr. Justice McReynolds joins. Dissenting opinion by Mr. Justice Black.

No. 22. The United States of America, petitioner, *v.* Continental National Bank and Trust Company, Trustee, etc., et al. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Judgment affirmed and cause remanded to the District Court of the United States for the Northern District of Illinois. Opinion by Mr. Justice Butler. Dissenting opinion by Mr. Justice Stone in which Mr. Justice Black concurs.

No. 73. State of Minnesota, by its Attorney General, petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgment affirmed and cause remanded to the District Court of the United States for the District of Minnesota. Opinion by Mr. Justice Brandeis.

No. 130. Indianapolis Brewing Company, Inc., appellant, *v.* The Liquor Control Commission of the State of Michigan et al. Appeal from the District Court of the United States for the Eastern District of Michigan. Decree affirmed with costs. Opinion by Mr. Justice Brandeis.

No. 252. Joseph S. Finch & Company, The Old Quaker Company, et al., appellants *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 253. Ben Burk, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 254. Joseph E. Seagram & Sons, Incorporated, and Seagram Distillers Corporation, appellants, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.;

No. 255. Hinrichs Distilled Products, appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al.; and

No. 256. Arrow Distilleries, Inc., appellant, *v.* Roy McKittrick, Attorney General of the State of Missouri, et al. Appeals from the District Court of the United States for the Western District of Missouri. Decrees affirmed with costs. Opinion by Mr. Justice Brandeis.

No. 169. The United States, petitioner, *v.* Frederick Pleasants. On writ of certiorari to the Court of Claims. Judgment affirmed. Opinion by Mr. Chief Justice Hughes.

No. 182. Ford Motor Company, petitioner, *v.* National Labor Relations Board; and

No. 183. Ford Motor Company, petitioner, *v.* National Labor Relations Board. On writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. In No. 182 the writ of certiorari is dismissed. In No. 183 the order of the Circuit Court of Appeals dated June 10, 1938, is affirmed and the cause is remanded to the said Circuit Court of Appeals. Opinion by Mr. Chief Justice Hughes. Mr. Justice Roberts did not hear the argument and took no part in the consideration and decision of these cases.

No. 113. Russell B. Patterson, appellant, *v.* Stanolind Oil and Gas Company et al. Appeal from the Supreme Court of the State of Oklahoma. Dismissed for want of jurisdiction. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

No. 203. J. Bacon & Sons, appellant, *v.* James W. Martin, Individually, etc. Appeal from the Court of Appeals of the Commonwealth of Kentucky. Appeal dismissed for the want of a substantial federal question. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

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The Chief Justice announced the following orders of the Court:

No. 507. K. L. Connor, appellant, *v.* E. D. Rivers, Governor of the State of Georgia. Appeal from the District Court of the United States for the Northern District of Georgia. *Per curiam*: The motion of the appellees to affirm is granted and the decree is affirmed. *Healy v. Ratta*, 292 U. S. 263, *McNutt v. General Motors Acceptance Corporation*, 298 U. S. 178.

No. 522. Arthur L. Whitmer, appellant, *v.* The People of the State of Illinois. Appeal from the Supreme Court of the State of Illinois. *Per curiam*: The motion of the appellee to dismiss the appeal is granted and the appeal is dismissed (1) for the want of jurisdiction, Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937); and (2) for want of a properly presented

federal question. *Godchaux Co. v. Estopinal*, 251 U. S. 179; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Herndon v. Georgia*, 295 U. S. 441, 443.

The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, Original. *Ex parte Harmon M. Waley*, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. —, Original. *Ex parte Harry Allen*, petitioner. Motion for leave to file petition for writ of habeas corpus is denied

No. —. *Ex parte Sophy Callahan*, petitioner;

No. —. *Ex parte Robert Goldstein*, petitioner. Applications denied.

No. —. *Lester Washburn*, appellant, *v. The People of the State of Michigan*. Petition for appeal, referred by the Chief Justice to the Court, is denied.

No. 429. *Milton Prebyl*, petitioner, *v. Prudential Insurance Company of America*. The motion for written opinion is denied.

No. 552. *Arrow Distilleries, Inc.*, appellant, *v. Wilford S. Alexander*, Administrator of the Federal Alcohol Administration. The application for rehearing of the petition for injunction is denied.

No. 529. *Payne Hurt*, petitioner, *v. Fred G. Zerbst*, Warden, U. S. Penitentiary, Atlanta, Georgia. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 533. *Alfred De Marios*, petitioner, *v. R. H. Hudspeth*, Warden, U. S. Penitentiary, Leavenworth, Kansas. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit; and

No. 540. *Joseph Ross*, petitioner, *v. Joseph H. Wilson*, as Warden, etc. On petition for writ of certiorari to the Supreme Court of the State of New York. The motions for leave to proceed further herein in forma pauperis are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 505. *James H. Mulford et al.*, appellants, *v. Nat Smith et al.*; and

No. 517. *Gerrit W. Clason*, appellant, *v. The State of Indiana*. In these cases probable jurisdiction is noted.

No. 486. *Guy T. Helvering*, Commissioner of Internal Revenue, petitioner, *v. Metropolitan Edison Company*; and

No. 487. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Pennsylvania Water & Power Company. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted.

No. 491. The State Tax Commission of Utah et al., petitioners, *v.* W. Z. Van Cott. Petition for writ of certiorari to the Supreme Court of the State of Utah granted.

No. 482. Edward Jordan Dimock, as Substituted Executor of the Last Will and Testament of Henry C. Folger, deceased, etc., petitioner, *v.* Walter C. Corwin, Late Collector of Internal Revenue, First District of New York. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted and the case assigned for argument immediately following the hearing of No. 391. Mr. Justice Stone took no part in the consideration and decision of this application.

No. 492. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue; and

No. 493. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted and cases assigned for argument immediately following the hearing of Nos. 486 and 487.

No. 467. Market Street Railway Company, petitioner, *v.* City and County of San Francisco et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 470. Fred P. Glick and Pauline S. Glick, petitioners, *v.* Bank of America National Trust and Savings Association. Petition for writ of certiorari to the Superior Court of the State of California, Appellate Department, denied.

No. 480. W. E. Hedger Transportation Corporation, petitioner, *v.* James Richardson & Sons, Ltd. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 483. Marshall Keig, as Trustee in Bankruptcy of Prima Company, Debtor, et al., petitioners, *v.* The Harris Trust and Savings Bank et al.;

No. 484. Marshall Keig, as Trustee in Bankruptcy of Prima Company, Debtor, et al., petitioners, *v.* Harris Trust and Savings Bank; and

No. 485. Marshall Keig, as Trustee in Bankruptcy of Prima Company, Debtor, et al., petitioners, *v.* The First National Bank of Chicago. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 494. Mills Development Corporation et al., petitioners, *v.* Shipp & Head, Inc. Petition for writ of certiorari to the Supreme Court of the State of Florida denied.

No. 488. Scott County, Tennessee, and Roscoe Byrd, Trustee, etc., petitioner, *v.* Paul J. Kent, Receiver of Chattanooga National Bank. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 496. Clayton Lofland, petitioner, *v.* Clarence H. Fox, Receiver, etc.; and

No. 497. Clayton Lofland, petitioner, *v.* Clarence H. Fox, Receiver, etc. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 500. United States Trust Co. et al., Executors, etc., petitioners, *v.* Commissioner of Corporations and Taxation;

No. 501. Charlotte H. Brett, petitioner, *v.* Commissioner of Corporations and Taxation; and

No. 502. John A. High, petitioner, *v.* Commissioner of Corporations and Taxation. Petition for writs of certiorari to the Supreme Judicial Court of the Commonwealth of Massachusetts denied.

No. 427. George K. Garrett Company, Inc., petitioner, *v.* The National Lock Washer Company. The motion of General Motors Corporation for leave to file a brief as amicus curiae is denied. The petition for rehearing is denied.

No. 1. General Talking Pictures Corporation, petitioner, *v.* Western Electric Company, Inc., et al.;

No. 21. Wm. H. Neblett, Vernon Bettin, et al., petitioners, *v.* Samuel L. Carpenter, Jr., Insurance Commissioner of the State of California, et al.;

No. 51. Armstrong Paint and Varnish Works, petitioner, *v.* Nu-Enamel Corporation, an Illinois Corporation, et al.;

No. 55. A. E. McDonald, petitioner, *v.* Ernest O. Thompson et al.;

No. 57. State of Missouri, at the relation of Lloyd Gaines, petitioner, *v.* S. W. Canada, Registrar of the University of Missouri et al.;

No. 438. Phoenix Finance Corporation, petitioner, *v.* Iowa-Wisconsin Bridge Company et al.;

No. 444. Paul J. Simmons, Trading as Paris Import Company et al.;

No. 463. Sam Berkowitz, appellant, *v.* People of the State of Illinois; and

No. 464. Anchor Stove & Range Company, petitioner, *v.* S. B. Rymer, C. D. Rymer, et al. Petitions for rehearing denied.

No. 2, original. The State of Wisconsin et al., complainants, *v.* The State of Illinois et al.;

No. 3, original. The State of Michigan et al., complainants, *v.* The State of Illinois et al.; and

No. 4, original. The State of New York et al., complainants, *v.* The State of Illinois et al. Final semiannual report of the defendant, Sanitary District of Chicago dated January 1, 1939, presented.

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No. 528. Utah Fuel Company et al., petitioners, *v.* National Bituminous Coal Commission et al. Argued by Mr. J. V. Norman for the petitioner and by Mr. Solicitor General Jackson for the respondent.

No. 295. H. P. Welch Company, appellant, *v.* The State of New Hampshire. Argued by Mr. Richard F. Upton for the appellant and by Mr. Dudley W. Orr and Mr. John E. Benton for the appellee.

No. 227. Inland Steel Company, appellant, *v.* The United States of America et al.; and

No. 228. Chicago By-Product Coke Company, appellant, *v.* The United States of America et al. Argument commenced by Mr. John S. Burchmore for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, January 4, will be as follows: Nos. 227 (and 228), 269 (and 270), 275, 294, 312, 314, 308, 328, 385, and 339.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Mr. Solicitor General Jackson presented the Honorable Frank Murphy, of Michigan, Attorney General of the United States, and moved his admission to the Bar.

The Chief Justice said:

"Mr. Attorney General, we welcome you to participation in the increasingly important task of promoting the sound and efficient administration of justice. Your commission will be recorded."

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Frank Murphy, of Detroit, Mich.; Gordon Wade Rule, of Washington, D. C.; Howard A. Hartman, of Milwaukee, Wis.; Marion P. Wormhoudt, of Washington, D. C.; David A. Fox, of Milwaukee, Wis.; Alvin J. Rockwell, of Washington, D. C.; William J. Holliman, of Washington, D. C.; and William P. Blake, Jr., of Washington, D. C., were admitted to practice.

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No. 227. Inland Steel Company, appellant, *v.* The United States of America et al.; and

No. 228. Chicago By-Product Coke Company, appellant, *v.* The United States of America et al. Argument continued by Mr. John S. Burchmore for the appellants; by Mr. Edward M. Reidy for appellees, the United States and Interstate Commerce Commission, and concluded by Mr. John S. Burchmore for the appellants.

No. 275. D. T. Currin, S. M. Cutts, et al., etc., petitioners, *v.* Henry A. Wallace, Secretary of Agriculture for the United States, et al. Three hours allowed for oral argument. Argument commenced by Mr. J. C. Lanier for petitioners continued by Mr. Robert K. McConaughy and Mr. Solicitor General Jackson for the respondents and concluded by Mr. B. S. Royster, Jr., for the petitioners.

No. 294. City of Texarkana, Texas, petitioner, *v.* Arkansas Louisiana Gas Company. Argument commenced by Mr. Benjamin E.

Carter for the petitioner and continued by Mr. William C. Fitzhugh for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, January 5, will be as follows: Nos. 294, 269 (and 270), 312, 314, 308, 328, 385, 339, 372 October Term 1937, and 276.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Alexander G. Barry, of Portland, Oreg.; Robert R. Reynolds, of Asheville, N. C.; Leonard McHugh, of Duluth, Minn.; and Pelham L. Felder, of Orangeburg, S. C., were admitted to practice.

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No. 294. City of Texarkana, Texas, petitioner, *v.* Arkansas Louisiana Gas Company. Argument continued by Mr. William C. Fitzhugh and Mr. Henry C. Walker, Jr., for the respondent; and concluded by Mr. Benjamin E. Carter for the petitioner.

No. 312. John M. Taylor et al., etc., petitioners, *v.* Standard Gas and Electric Company, et al. Three hours allowed for oral argument. Argument commenced by Mr. Jason L. Honigman for the petitioners; continued by Mr. Nathan A. Gibson for the respondent, Standard Gas and Electric Company; by Mr. James F. Oates, Jr., for the respondent Reorganization Committee of Deep Rock Oil Corporation; by Mr. George S. Ramsey for the respondent, H. N. Greis, Trustee; and concluded by Mr. Jason L. Honigman for the petitioners; and case submitted by Mr. W. F. Semple for the respondent, Debtor Corporation.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, January 6, will be as follows: Nos. 314, 328, 385, 308, 339, 372 October Term 1937, 276, 329, 359, and 269 (and 270).

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Geo. McGill, of Wichita, Kans.; Othniel Hitch, of Indianapolis, Ind.; Leslie A. Cleary, of Modesto, Calif.; Marion Rushton, of Montgomery, Ala.; Tyrus A. Norwood, of Tallahassee, Fla.; Chas. C. Trabue, Jr., of Nashville, Tenn.; Walter J. Knabe, of Montgomery, Ala.; Beekman Aitken, of New York City; Frederick C. Bangs, of New York City; and Harry T. O'Brien, Jr., of Troy, N. Y., were admitted to practice.

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No. 314. Wichita Royalty Company et al., petitioners, *v.* City National Bank of Wichita Falls, et al. Argument commenced by Mr. Ray Bland for the petitioners; continued by Mr. Leslie Humphrey for the respondents; by Mr. T. R. Boone for the respondents; and concluded by Mr. Guy Rogers for the petitioners.

No. 328. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* R. J. Reynolds Tobacco Company. Argued by Mr. Paul A. Freund for the petitioner and by Mr. J. G. Korner, Jr., for the respondent.

No. 385. First Chrold Corporation, petitioner, *v.* Commissioner of Internal Revenue. Argument commenced by Mr. John E. McClure for the petitioner.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, January 9, will be as follows: Nos. 385, 308, 339, 372 October Term 1937, 276, 329, 359, 269 (and 270), 229, and 274.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Sidney J. Seligman, of Indianapolis, Ind.; M. Rudolph Preuss, of New York City; Laurence W. Lougee, of New York City; Samuel S. Baranow, of New York City; Maurice Nias, of Brooklyn, N. Y.; Jesse C. Parks, Jr., of Chattanooga, Tenn.; Edward B. Beale, of Washington, D. C.; Abraham Kraditor, of New York City; and Harry D. Parker, of Los Angeles, Calif., were admitted to practice.

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No. 102. The United States of America, petitioner, *v.* Thomas R. Powers et al. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Decree affirmed and cause remanded to the District Court of the United States for the District of Montana. Opinion by Mr. Justice McReynolds. Mr. Justice Reed took no part in the consideration or decision of this case.

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The Chief Justice announced the following orders of the Court:

No. 104. The State of Montana on the relation of the Board of County Commissioners of Valley County, Montana, petitioner, *v.* Archie G. Bruce, County Assessor of Valley County, Montana, et al. On writ of certiorari to the Supreme Court of the State of Montana. *Per curiam*: The judgment of the Supreme Court of the State of Montana is affirmed by an equally divided Court.

No. 325. Howard S. Palmer et al., Trustees of the estate of The Old Colony Railroad Company, petitioners, *v.* Howard S. Palmer et al., Trustees of the Estate of the New York, New Haven and Hartford Railroad Company. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. *Per curiam*: The petition for writ of certiorari in this case is granted, limited to the first question presented by the petition. The decree of the Circuit Court of Appeals is reversed in that particular and the cause is remanded to the District Court for further proceedings in conformity with the opinion of this Court in case No. 63, Connecticut

Railway and Lighting Company *v.* Palmer, decided January 3, 1939. Mr. Justice Brandeis took no part in the consideration and decision of this case.

The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

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No. —. Richard Bundy, petitioner, *v.* The United States. Application denied.

No. 2, original. State of Wisconsin et al., complainants, *v.* State of Illinois et al.;

No. 3, original. State of Michigan et al., complainants, *v.* State of Illinois et al.; and

No. 4, original. State of New York et al., complainants, *v.* State of Illinois et al. The semiannual report of defendant, Sanitary District of Chicago, dated January 1, 1939, is received and ordered to be filed.

No. 546. Shirley Jean Clements, by Floyd Henderson, on her behalf, petitioner, *v.* Leo Arlie Clements et al. On petition for writ of certiorari to the Court of Appeals, 1st Appellate District, State of Ohio. The motion for leave to proceed further herein in forma pauperis is denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied.

No. 534. Ray Ingels, as Director of the Department of Motor Vehicles of the State of California, et al., appellants, *v.* Paul Gray, Inc., et al. In this case probable jurisdiction is noted.

No. 508. Federal Power Commission, petitioner, *v.* Pacific Power & Light Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 514. National Labor Relations Board, petitioner, *v.* Benjamin Fainblatt et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted.

No. 503. Long Beach Dock and Terminal Company, petitioner, *v.* The Pacific Dock and Terminal Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 510. Jenkins Petroleum Process Company, petitioner, *v.* Sinclair Refining Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit denied.

No. 512. McAdoo & Neblett et al., petitioners, *v.* F. P. Newport Corporation, Limited, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 519. Minneapolis, St. Paul & Sault Ste. Marie Railway Company, petitioner, *v.* The Pike Rapids Power Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 373. Howard S. Palmer et al., Trustees of the Estate of the New York, New Haven and Hartford Railroad Company, petitioners, *v.* Howard S. Palmer et al., Trustees of the Estate of the Old Colony Railroad Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied. Mr. Justice Brandeis took no part in the consideration and decision of this application.

No. 340. North Whittier Heights Citrus Association, petitioner, *v.* National Labor Relations Board. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. —, original. Ex parte Century Indemnity Company, petitioner; and

No. 430. Martin E. Geibel and Charles R. Morfoot, petitioners, *v.* State Bar of California. Petitions for rehearing denied.

#### ORDER

The Court will take a recess from Monday, January 16, until Monday, January 30 next.

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No. 277. Orland S. Loomis, Individually, etc., et al., petitioners, *v.* First Federal Savings and Loan Association. Motion to substitute John E. Martin, present Attorney General of the State of Wisconsin, in the place and stead of Orland S. Loomis, former Attorney General of the State of Wisconsin, submitted by Mr. Warner W. Gardner in that behalf.

No. 182. Ford Motor Company, petitioner, *v.* National Labor Relations Board; and

No. 183. Ford Motor Company, petitioner, *v.* National Labor Relations Board. Mandates ordered to issue forthwith on motion of Mr. Charles A. Horsky for the respondent.

No. 367. Frank Eichholz, appellant, *v.* Public Service Commission of the State of Missouri, et al. Motion for bond submitted by Mr. James H. Linton and Mr. Daniel C. Rogers for the appellees, in sup-

port of the motion, and by Mr. Frank E. Atwood and Mr. Smith B. Atwood for the appellant, in opposition thereto.

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No. 308. Ignatius Lanzetta et al., appellants, *v.* The State of New Jersey. Argued by Mr. Samuel Kagle for the appellants and by Mr. Robert Peacock and Mr. French B. Loveland for the appellee.

No. 339. Henry S. Long, Chairman and John P. Kohn, Sr., et al., appellants, *v.* Walter Stokes, Jr., as Commissioner of Finance and Taxation of the State of Tennessee. Argument commenced by Mr. Ray Rushton for the appellants; continued by Mr. Edwin F. Hunt for the appellee; and concluded by Mr. Chas. C. Trabue, Jr., for the appellants.

No. 372, October Term 1937. Mark Graves, John J. Merrill, et al., petitioners, *v.* Marion Brown Elliott, Horace F. Phelps, et al. Argued by Mr. Mortimer M. Kassell for the petitioners and by Mr. Frederick C. Bangs for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, January 10, will be as follows: Nos. 276, 329, 309 (310 and 311), 359, 269 (and 270), 229, 274, 436, 249, and 286.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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William S. Walker, of Harrison, Ark.; Fred A. Little, of Des Moines, Iowa; Frank C. Mebane, Jr., of New York City; Alfred F. Conway, of Jersey City, N. J.; and Charles P. Bauer, of New York City, were admitted to practice.

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No. 276. George Couper Gibbs, Individully and as Attorney General of the State of Florida, et al., appellants, *v.* Gene Buck, Individually, etc., et al. Argument commenced by Mr. Tyrus A. Norwood for the appellants; continued by Mr. Lucien H. Boggs for the appellants; by Mr. Thomas G. Haight for the appellees; and concluded by Mr. Lucien H. Boggs for the appellants.

No. 329. Gene Buck, Individually, etc., et al., appellants, *v.* Phil H. Gallagher, Individually and as State Treasurer of the State of Washington, et al. Argued by Mr. Thomas G. Haight for the appellants and by Mr. Alfred J. Schweppe for the appellees.

No. 309. The United States of America, appellant, *v.* Durkee Famous Foods, Inc.;

No. 310. The United States of America, appellant, *v.* Manhattan Lighterage Corporation; and

No. 311. The United States of America, appellant, *v.* Colgate-Palmolive-Peet Company. Argument commenced by Mr. Elmer B. Collins for the appellant.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, January 11, will be as follows: Nos. 309 (310 and 311), 359, 269 (and 270), 229, 274, 436, 249, 286, 287, and 188.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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John P. Akolt, of Denver, Colo.; Michael D. Konomos, of Kansas City, Mo.; Lionel A. Mincer, of Chicago, Ill.; Welles K. Stanley, of Cleveland, Ohio; and Charles Monroe Thorp, Jr., of Pittsburgh, Pa., were admitted to practice.

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No. 309. The United States of America, appellant, *v.* Durkee Famous Foods, Inc.;

No. 310. The United States of America, appellant, *v.* Manhattan Lighterage Corporation; and

No. 311. The United States of America, appellant, *v.* Colgate-Palmolive-Peet Company. Argument continued by Mr. Elmer B. Collins for the appellant; by Frank M. Swacker and Mr. Roger Hinds for the appellees; and concluded by Mr. Elmer B. Collins for the appellant.

No. 359. Hugh Allen Bowen, petitioner, *v.* James A. Johnston, Warden, United States Penitentiary, Alcatraz, California. Argued by Mr. Seth W. Richardson for the petitioner and by Mr. Bates Booth for the respondent.

No. 269. Interstate Circuit, Inc., Texas Consolidated Theatres, Inc., et al., appellants, *v.* The United States of America; and

No. 270. Paramount Pictures Distributing Company, Inc., et al., appellants, *v.* The United States of America. Argument commenced by Mr. George S. Wright for the appellants; continued by Mr. Solicitor General Jackson for the appellee; and concluded by Mr. Thomas D. Thacher for the appellants.

No. 229. National Labor Relations Board, petitioner, *v.* Columbian Enameling and Stamping Company, Inc. Argument commenced by Mr. Robert B. Watts for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, January 12, will be as follows: Nos. 229, 274, 436, 249, 286, 287, 188, and 360.



SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Lloyd Paul Stryker, of New York City; Frank J. Parker, of Brooklyn, N. Y.; Frank Greenberg, of Chicago, Ill.; George Alvin Corbin, of Washington, D. C.; John M. Leach, of Washington, D. C.; Max D. Farmer, of Buffalo, N. Y.; Philip T. Sybert, of Elkridge, Md.; Russell J. Burns, of Washington, D. C.; and George Philip Grove, of Arlington, Va., were admitted to practice.

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No. 417. John G. Saxe, petitioner, *v.* John S. Shea, as Administrator, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Dismissed and mandate ordered to issue forthwith on motion of counsel for the petitioner.

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No. 229. National Labor Relations Board, petitioner, *v.* Columbian Enameling and Stamping Company, Inc., et al. Argument continued by Mr. Robert B. Watts for the petitioner; by Mr. Earl F. Reed for the respondent, Columbian Enameling and Stamping Company, Inc.; by Mr. Paul R. Shafer for the respondents, Harry Hiatt, et al.; and concluded by Mr. Robert B. Watts for the petitioner.

No. 274. National Labor Relations Board, petitioner, *v.* The Sands Manufacturing Company. Argued by Mr. Charles A. Horsky for the petitioner and by Mr. Harry E. Smoyer for the respondent.

No. 436. National Labor Relations Board, petitioner, *v.* Fansteel Metallurgical Corporation. Argument commenced by Mr. Charles Fahy for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, January 13, will be as follows: Nos. 436, 249, 286 (and 287), and 188.

SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Lewis F. Glaser, of New York City; Charles Hill Johns, of Oklahoma City, Okla.; Nathan R. Berke, of Detroit, Mich.; Francis J. Sypher, of New York City; Samuel Lawrence Brennglass, of New York City; Thomas J. Straub, of Los Altos, Calif.; and Guyte P. McCord, of Tallahassee, Fla., were admitted to practice.

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No. 65. Douglas Fairbanks, petitioner, *v.* The United States of America. Motion for leave to file petition for rehearing and for stay of entry of judgment by the District Court submitted by Mr. Arthur F. Driscoll for the petitioner.

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No. 436. National Labor Relations Board, petitioner, *v.* Fansteel Metallurgical Corporation. Argument continued by Mr. Charles Fahy for the petitioner; by Mr. Max Swiren for the respondent; and concluded by Mr. Charles Fahy for the petitioner.

No. 249. Benjamin F. Goodman, petitioner, *v.* The United States of America. Argued by Mr. Patrick J. Friel for the petitioner and by Mr. Welly K. Hopkins for the respondent.

No. 286. The United States of America, appellant, *v.* Midstate Horticultural Company, Inc., et al.; and

No. 287. The United States of America, appellant, *v.* The Pennsylvania Railroad Company. Argued by Mr. Wendell Berge for the appellant and by Mr. Francis Biddle for the appellee in No. 287; and submitted by Mr. Henry Silverman and Mr. Samuel L. Einhorn for the appellees in No. 286.

Adjourned until Monday, January 16, next, at 12 o'clock.

SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Reed.

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Frank Mahan, of Fairfax, Okla.; Clarence R. Trotter, of Knoxville, Tenn.; Frank J. Claydon, of Mount Vernon, N. Y.; George W. Jaques, of New York City; William D. Donnelly, of Minneapolis, Minn.; Frederick C. Feichter, Jr., of Philadelphia, Pa.; Thomas J. O'Brien, of Omaha, Nebr.; Phillip Barnett, of San Francisco, Calif.; Gerald J. McMahon, of New York City; and Wadsworth Cresse, Jr., of New York City, were admitted to practice.

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No. 231. The Alton Railroad Company, appellant, *v.* Illinois Commerce Commission, Moudling-Brownell Corporation, et al. Appeal from the Supreme Court of the State of Illinois. Motion to dismiss denied and order affirmed with costs. Opinion by Mr. Justice Butler. Mr. Justice Black is of opinion that the motion to dismiss should be granted. Mr. Justice Roberts took no part in the consideration or decision of this case.

No. 210. The Pullman Company, H. J. Hatch, Edward E. Meyers, and A. J. Kash, petitioners, *v.* Mrs. Garnett V. Jenkins and Robert W. Jenkins, by Mrs. Garnett V. Jenkins, his guardian ad litem. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment affirmed with costs and cause remanded to the District Court of the United States for the Southern District of California. Opinion by Mr. Chief Justice Hughes. Mr. Justice Roberts took no part in the consideration and decision of this case. Concurring opinion by Mr. Justice Black.

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The Chief Justice said:

"The orders of the Court appear upon the list certified by the Chief Justice and filed with the clerk and will not be announced orally."

No. 249. Benjamin F. Goodman, petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. *Per curiam*: As it appears after hearing argument and upon examination of the record that the en-

tire evidence is not contained in the bill of exceptions, the writ of certiorari is dismissed.

No. —, original. *Ex parte* Albert Bleecker, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. *Ex parte* Albert Leighton, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. 562. Ernest B. Williams, petitioner, *v.* The Pennsylvania Railroad Company. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 565. Mary Bimbo, petitioner, *v.* The People of the State of Illinois. On petition for writ of certiorari to the Supreme Court of the State of Illinois;

No. 573. John H. Brown, petitioner, *v.* Fred G. Zerst, Warden. On petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit; and

No. 547. The State of Ohio, *ex rel.* Carl Green, petitioner, *v.* Charles E. King, Clerk of the Court of Common Pleas, Franklin County, Ohio, *et al.* On petition for writ of certiorari to the Supreme Court of the State of Ohio. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 65. Douglas Fairbanks, petitioner, *v.* The United States of America. The motion for leave to file a petition for rehearing is granted, and the petition for rehearing is also granted. The order denying certiorari is vacated, and the petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is granted. It is ordered that the entry of judgment herein by the United States District Court for the Southern District of California, Central Division be, and it hereby is, stayed until further order of the Court.

No. 367. Frank Eichholz, appellant, *v.* Public Service Commission of the State of Missouri, *et al.* The motion for bond is denied.

No. 277. Orland S. Loomis, Individually and as Attorney General of the State of Wisconsin, *et al.*, petitioners, *v.* First Federal Savings and Loan Association. The motion to substitute is granted and John E. Martin, present Attorney General of the State of Wisconsin, is substituted as a party petitioner in the place and stead of Orland S. Loomis, former Attorney General of the State of Wisconsin.

No. 495. Chemical Bank & Trust Company, as Trustee, *etc.*, petitioner, *v.* Berryman Henwood, Trustee, *etc.*, *et al.* Petition for writ

of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted and case assigned for argument immediately following No. 384.

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Ltd. Petition for writ of certiorari to the Supreme Court of the State of New York granted and case assigned for argument immediately following No. 495. Mr. Justice Black took no part in the consideration and decision of this application.

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al. Petition for writ of certiorari to the Supreme Court of the State of New York granted and case assigned for argument immediately following No. 590.

No. 499. Curtis F. Bryan, Chas. R. Bostick, et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 513. James Sheppard Potts, petitioner, *v.* Norman L. Flippen, Administrator, et al. Petition for writ of certiorari to the Supreme Court of Appeals of the State of Virginia denied.

No. 515. Carl K. Lifson, Administrator, etc., et al., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 526. International Ladies' Garment Workers' Union, etc., et al., petitioners, *v.* Donnelly Garment Company, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 527. Schwartz Sales Company, petitioner, *v.* Steiner Sales Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. —. In re Disbarment of W. A. Denson. The petition for rehearing is denied. Mr. Justice Black took no part in the consideration and decision of this application.

No. 471. The Rio Vista Hotel & Improvement Co., petitioner, *v.* The Belle Mead Development Corporation. The petition for rehearing or written opinion is denied.

No. —, original. Ex parte Solomon G. Salomon, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. Solomon G. Salomon, *pro se.*

No. 277. John E. Martin, Individually and as Attorney General of the State of Wisconsin, et al., petitioners, *v.* First Federal Savings

and Loan Association. Motion for the withdrawal of appearance of Benjamin Poss as counsel for petitioners granted.

No. 277. John E. Martin, Individually and as Attorney General of the State of Wisconsin, et al., petitioners, *v.* First Federal Savings and Loan Association. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Dismissed on motion of counsel for the petitioners.

No. 418. A. B. Hale, as Chairman, and E. A. McColskey et al., etc., appellants, *v.* Bimco Trading, Inc., et al. Motion for leave to file supplemental record submitted by Mr. M. H. Long for the appellees.

No. 520. James L. Minnis et al., petitioners, *v.* Southern Pacific Company, et al. Motion for a writ of certiorari to correct a diminution of the record submitted by Mr. James L. Minnis for the petitioners.

Adjourned until Monday, January 30 next at 12 o'clock.

The day call for Monday, January 30, will be as follows: Nos. 188, 342, 360, 364, 367, 368, 391, 482, 416, and 437.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Norman MacDonald, of New York City; Joseph E. Brill, of New York City; Marvin Wallach, of Highland Park, Ill.; Frank Milton Gleason, of Rossville, Ga.; Chas. W. Bell, of Houston, Tex.; Morris D. Forkosch, of New York City; Douglas D. McDonald, of Jefferson City, Mo.; David C. Moore, of Wilmington, Del.; Edward W. Hamilton, of Buffalo, N. Y.; Benjamin Goodman, Jr., of Memphis, Tenn.; Bourke Jones, of Los Angeles, Calif.; Melville W. Borders, of Kansas City, Mo.; Kenneth Teasdale, of St. Louis, Mo.; Hale Houts, of Kansas City, Mo.; Dean Wood, of Kansas City, Mo.; Jack Crenshaw, of Montgomery, Ala.; and Clarence F. McGovern, of Jersey City, N. J., were admitted to practice.

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The Chief Justice said:

“The President, with the advice and consent of the Senate, has appointed Felix Frankfurter, of Massachusetts, to be Associate Justice of this Court. Mr. Frankfurter is present. The Clerk will read his commission. Mr. Frankfurter will then take the oath and the Marshal will escort him to his seat upon the bench.”

The Clerk then read the commission as follows:

“FRANKLIN D. ROOSEVELT

“PRESIDENT OF THE UNITED STATES OF AMERICA

*“To all who shall see these Presents, Greeting:*

“KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of Felix Frankfurter, of Massachusetts, I have nominated, and, by and with the advice and consent of the Senate, do appoint him an Associate Justice of the Supreme Court of the United States, and do authorize and empower him to execute and fulfil the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges, and emoluments to the same of right appertaining, unto Him, the said Felix Frankfurter, during his good behavior.

"In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

"Done at the City of Washington this twentieth day of January, in the year of our Lord one thousand nine hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-third.

"FRANKLIN D. ROOSEVELT.

"By the President :

"FRANK MURPHY,  
"Attorney General."

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The oath of office was then administered by the Clerk, and Mr. Justice Frankfurter was escorted by the Marshal to his seat upon the bench.

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No. 212. Southern Pacific Company, appellant, *v.* Andrew J. Gallagher, Fred E. Stewart, Richard E. Collins, et al. Appeal from the District Court of the United States for the Northern District of California. Decree affirmed with costs. Opinion by Mr. Justice Reed. Mr. Justice Black concurs in the result. Mr. Justice Roberts took no part in the consideration or decision of this case. Dissenting: Mr. Justice McReynolds and Mr. Justice Butler.

No. 213. The Pacific Telephone and Telegraph Company, appellant, *v.* Andrew J. Gallagher, Fred E. Stewart, Richard E. Collins, et al. Appeal from the District Court of the United States for the Northern District of California. Decree affirmed with costs. Opinion by Mr. Justice Reed. Mr. Justice Roberts took no part in the consideration or decision of this case. Dissenting: Mr. Justice McReynolds and Mr. Justice Butler.

No. 227. Inland Steel Company, appellant, *v.* The United States of America et al.; and

No. 228. Chicago By-Product Coke Company, appellant, *v.* The United States of America et al. Appeals from the District Court of the United States for the Northern District of Illinois. Decrees affirmed. Opinion by Mr. Justice Black.

No. 286. The United States of America, appellant, *v.* Midstate Horticultural Company, Inc., and Arpaxat Setrakian; and

No. 287. The United States of America, appellant, *v.* The Pennsylvania Railroad Company. Appeals from the District Court of the United States for the Eastern District of Pennsylvania. Judgments affirmed. Opinion by Mr. Justice Black.



No. 328. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* R. J. Reynolds Tobacco Company. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. Judgment affirmed and cause remanded to the said United States Circuit Court of Appeals. Opinion by Mr. Justice Roberts.

No. 385. First Chrold Corporation, petitioner, *v.* Commissioner of Internal Revenue. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Judgment reversed and cause remanded to the said United States Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts.

No. 27. The Tennessee Electric Power Company et al., appellants, *v.* Tennessee Valley Authority et al. Appeal from the District Court of the United States for the Eastern District of Tennessee. Decree affirmed. Opinion by Mr. Justice Roberts. Mr. Justice Reed took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds joins.

No. 127. Mackay Radio and Telegraph Company, Inc., petitioner, *v.* Radio Corporation of America. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Eastern District of New York for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Stone. Mr. Justice Roberts took no part in the consideration or decision of this case.

No. 314. Wichita Royalty Company et al., petitioners, *v.* City National Bank of Wichita Falls et al. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Decree affirmed with costs and cause remanded to the District Court of the United States for the Northern District of Texas. Opinion by Mr. Justice Stone.

No. 260. Dixie Ohio Express Company, appellant, *v.* State Revenue Commission of Georgia et al. Appeal from the Supreme Court of the State of Georgia. Judgment affirmed with costs. Opinion by Mr. Justice Butler. Mr. Justice Black concurs in the result. Mr. Justice Roberts took no part in the consideration or decision of this case.

No. 295. H. P. Welch Company, appellant, *v.* The State of New Hampshire. Appeal from the Supreme Court of the State of New Hampshire. Judgment affirmed with costs. Opinion by Mr. Justice Butler.

No. 222. The Washingtonian Publishing Company, Inc., petitioner, *v.* Drew Pearson, Robert S. Allen, et al. On writ of certiorari to

the United States Court of Appeals for the District of Columbia. Judgment reversed with costs and cause remanded to the District Court of the United States for the District of Columbia for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice McReynolds. Dissenting opinion by Mr. Justice Black in which Mr. Justice Roberts and Mr. Justice Reed concur.

No. 528. Utah Fuel Company, Independent Coal and Coke Company, et al., petitioners, *v.* National Bituminous Coal Commission et al. On writ of certiorari to the United States Court of Appeals for the District of Columbia. Decree of the District Court of the United States for the District of Columbia affirmed and cause remanded to said District Court. Opinion by Mr. Justice McReynolds. Concurring opinion by Mr. Justice Black.

No. 302. Felt and Tarrant Manufacturing Co., appellant, *v.* Andrew J. Gallagher, Fred E. Stewart, et al., etc. Appeal from the District Court of the United States for the Southern District of California. Decree affirmed with costs. Opinion by Mr. Justice McReynolds. Mr. Justice Roberts took no part in the consideration and decision of this case.

No. 309. The United States of America, appellant, *v.* Durkee Famous Foods, Inc.;

No. 310. The United States of America, appellant, *v.* Manhattan Lighterage Corporation; and

No. 311. The United States of America, appellant, *v.* Colgate-Palmolive-Peet Company. Appeals from the District Court of the United States for the District of New Jersey. Judgments affirmed. Opinion by Mr. Justice McReynolds.

No. 275. D. T. Currin, S. M. Cutts, and H. A. Averett, doing business as Fleming Warehouse, Oxford, North Carolina, et al., petitioners, *v.* Henry A. Wallace, Secretary of Agriculture for the United States, et al. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. Decree affirmed and cause remanded to the District Court of the United States for the Eastern District of North Carolina. Opinion by Mr. Chief Justice Hughes. Mr. Justice McReynolds and Mr. Justice Butler dissent.

No. 359. Hugh Allen Bowen, petitioner, *v.* James A. Johnston, Warden, United States Penitentiary, Alcatraz, California. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment of the Circuit Court of Appeals, affirming the order of the District Court denying the petition for habeas corpus, affirmed, and cause remanded to the District Court of the United States for the Northern District of California. Opinion by Mr. Chief Justice Hughes.

The Chief Justice announced the following order of the Court:

No. 552. Arrow Distilleries, Inc., appellant, *v.* Wilford S. Alexander, Administrator of the Federal Alcohol Administration. Appeal from the District Court of the United States for the District of Columbia. *Per curiam*: The motion of the appellee to affirm is granted and the order denying an interlocutory injunction is affirmed. Alabama *v.* United States, 279 U. S. 229, 231; United Gas Co. *v.* Public Service Commission, 278 U. S. 322, 326; National Fire Insurance Company *v.* Thompson, 281 U. S. 331, 338; Eureka Productions, Inc., *v.* Lehman, 302 U. S. 634.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the clerk and will not be announced orally."

No. —, original. *Ex parte* Clarence M. Brummett, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. *Ex parte* Solomon G. Salomon. The motion for leave to file petition for writ of mandamus is denied. The Chief Justice took no part in the consideration and decision of this application.

No. —, original. *Ex parte* Forrest Holiday, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. —. *Ex parte* Joseph Poresky, petitioner. The motion for interlocutory decree and amendment is denied.

No. 7. Rolla W. Coleman, W. A. Barron, et al., petitioners, *v.* Clarence W. Miller, as Secretary of the Senate of the State of Kansas, et al.;

No. 14. Albert Benjamin Chandler, Individually, etc., et al., petitioners, *v.* James W. Wise and Ray B. Moss; and

No. 221. The United States of America et al., appellants, *v.* F. O. Morgan, Doing business as F. O. Morgan Sheep Commission Company, et al. These cases are ordered restored to the docket and assigned for reargument on Monday, February 27, next.

No. 418. A. B. Hale, as Chairman, et al., etc., appellants, *v.* Bimco Trading, Inc., et al. The motion of the appellees for leave to supplement the record is granted, without prejudice to the authority of the Court to make such order as to costs as it may deem proper, if it appears that the appellees have caused unnecessary parts of the record to be printed.

No. 192. Leander H. Caswell, petitioner, *v.* Henry Morgenthau, Jr., as Secretary of the Treasury of the United States, et al. The motion for leave to file a petition for rehearing is denied.

No. 581. Trina K. Jackson, Administratrix, etc., petitioner, *v.* The Capital Transit Company. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia;

No. 584. The People of the State of New York, ex rel. Joseph Ross, petitioner, *v.* Joseph H. Wilson, as Warden of Great Meadows Prison. On petition for writ of certiorari to the Court of Appeals of the State of New York;

No. 587. Julian K. Saylor, petitioner, *v.* Joseph W. Sanford, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 521. Samuel White, petitioner, *v.* James A. Johnston, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit; and

No. 595. Justus B. Linderholm, petitioner, *v.* The State of Kansas. On petition for writ of certiorari to the Supreme Court of the State of Kansas. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 567. Paramount Pictures, Inc., et al., appellants, *v.* William A. Langer, Individually, etc., et al.;

No. 568. Paramount Pictures, Inc., et al., appellants, *v.* Alvin C. Strutz, Individually, etc., et al.; and

No. 554. H. C. Rorick, Joseph R. Grundy, et al., appellants, *v.* Board of Commissioners of Everglades Drainage District, etc., et al. In these cases probable jurisdiction is noted.

No. 498. Rafael Sancho Bonet, Treasurer of Puerto Rico, petitioner, *v.* Yabucoa Sugar Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit granted.

No. 541. John Carrier and J. Harvey Carpenter, Guardian, etc., petitioners, *v.* Curley Bryant. Petition for writ of certiorari to the Supreme Court of the State of North Carolina granted.

No. 543. Lottie F. Sprague, petitioner, *v.* Ticonic National Bank et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit granted.

No. 516. John Goins, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted, limited to the question

whether the Circuit Court of Appeals should have reversed the judgment of conviction because of the refusal of the trial court to grant Instruction B requested by the defendant.

No. 561. The United States of America, ex rel. Michele De Vita, petitioner, *v.* Byron H. Uhl, District Director of Immigration, Port of New York. The motion to proceed on typewritten papers is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is denied.

No. 520. James L. Minnis et al., petitioners, *v.* Southern Pacific Company et al. The motion for a writ of certiorari to correct a diminution of the record is denied. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is denied.

No. 549. Clarence J. Morley, petitioner, *v.* The United States of America. The motion to proceed on the typewritten record is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is denied.

No. 539. Societe Suisse Pour Valeurs de Metaux, petitioner, *v.* Homer S. Cummings, Attorney General of the United States, et al. The motion to substitute is granted and Frank Murphy, present Attorney General of the United States is substituted as a party respondent in the place and stead of Homer S. Cummings, resigned. Mr. Justice Stone took no part in the consideration and decision of this motion.

No. 539. Societe Suisse Pour Valeurs de Metaux, petitioner, *v.* Frank Murphy, Attorney General of the United States, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied. Mr. Justice Stone took no part in the consideration and decision of this application.

No. 518. Southern California Freight Lines, Ltd., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 523. A. R. Eppenauer et al., petitioners, *v.* The Ohio Oil Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 524. H. W. Compton et al., petitioners, *v.* The Ohio Oil Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 525. Mrs. Mamie H. Thomason et al., petitioners, *v.* United Gas Public Service Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 530. Eleanore Kolipinski Smith et al., petitioners, *v.* Ella M. Ockerhausen et al.; and

No. 531. Eleanore Kolipinski Smith et al., petitioners, *v.* Ella M. Ockerhausen et al. Petition for writs of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 535. Tennessee Wesleyan College, petitioner, *v.* Charles S. Coffey, Receiver, etc., et al.; and

No. 536. Tennessee Wesleyan College, petitioner, *v.* Paul J. Kent, Receiver of Chattanooga National Bank. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 538. Maryland Casualty Company, petitioner, *v.* Jack L. Sammons and John R. Crandall. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 532. W. P. Deppe, petitioner, *v.* General Motors Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 537. Pacific Health Corporation, Inc., petitioner, *v.* People of the State of California, ex rel. State Board of Medical Examiners. Petition for writ of certiorari to the Supreme Court of the State of California denied.

No. 558. Swindell Brothers, Inc., et al., petitioners, *v.* Hartford-Empire Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 189. Mrs. Zillah Lyon, petitioner, *v.* Mutual Benefit Health and Accident Association;

No. 467. Market Street Railway Company, petitioner, *v.* City and County of San Francisco et al.;

No. 522. Arthur L. Whitmer, appellant, *v.* The People of the State of Illinois; and

No. 511. William B. Doak, petitioner, *v.* Federal Land Bank of Baltimore. Petitions for rehearing denied.

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The following order was entered January 16, 1939:

ORDER

It is ordered, on this 16th day of January 1939, that General Orders XIII, XXVII, and XLVI of the General Orders in Bankruptcy, and Forms Nos. 4, 7, 8, 19, 29, 32, 36, 39, 41, 44, 45, 46, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 62, 63, 64, 66, 70, 72, and 73 of the Forms in Bankruptcy, be, and they hereby are, abrogated.

It is further ordered that the General Orders and Forms in Bankruptcy be, and they hereby are, amended and established to read as hereinafter set forth.

It is further ordered that this order shall take effect on Monday, February 13, 1939, and shall govern all proceedings then pending to which its provisions are applicable, except to the extent that in the opinion of the court its application to such proceedings would not be practicable or would work injustice, in which event the General Orders and Forms in Bankruptcy heretofore established shall apply: *Provided*, That the General Orders and Forms in Bankruptcy heretofore established shall apply to proceedings pending under sections 12, 73, and 74, as amended, of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898.

No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company et al.; and

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation. Motion for leave to file petition for rehearing submitted by Mr. Wallace R. Lane for the petitioner.

No. 624. Docia B. Davies, appellant, *v.* Metropolitan Life Insurance Company et al. Appeal from the Supreme Court of the State of Washington. Docketed and dismissed on motion of counsel for the appellee.

No. 191. The Goodyear Tire & Rubber Company, petitioner, *v.* Overman Cushion Tire Company; and

No. 200. Overman Cushion Tire Company, Inc., petitioner, *v.* The Goodyear Tire and Rubber Company. On petitions for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. Dismissed on motion of counsel for the petitioners.

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No. —, original. *Ex parte* Mike Holchak, petitioner. Argued on the rule to show cause and the return thereto by Mr. Frank J. Wideman for the petitioner and submitted by Mr. Earl Warren for the respondent, Court Smith, Warden of the California State Prison at San Quentin.

No. 188. Edward H. Titus, petitioner, *v.* Lou C. Wallick. Argued by Mr. Thomas I. Sheridan for the petitioner and by Mr. William M. Summer for the respondent.

No. 342. Frank O. Lowden, et al., Trustees, etc., petitioners, *v.* Simonds-Shields-Lonsdale Grain Company. Argument commenced by Mr. Hale Houts for the petitioners.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, January 31, will be as follows: Nos. 342, 360, 364, 367, 368, 391, 482, 437, 416, and 454 (and 455).

TUESDAY, JANUARY 31, 1939

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Jno. E. Fleury, of Gretna, La.; Ernest M. Conzelmann, of Gretna, La.; Lewis C. Murtaugh, of Chicago, Ill.; Ned P. Veatch, of Chicago, Ill.; Albert J. Feigan, of Chicago, Ill.; Claude A. LeRoy, of Washington, D. C.; Wallace Sheehan, of San Francisco, Calif.; George Wright Kydd, of Washington, D. C.; Edward Cowley Radue, of Washington, D. C.; and T. B. Hudson, of Bartlesville, Okla., were admitted to practice.

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No. 342. Frank O. Lowden et al., Trustees, etc., petitioners, *v.* Simonds-Shields-Lonsdale Grain Company. Argument continued by Mr. Hale Houts for the petitioners; by Mr. Melville W. Borders for the respondent; and concluded by Mr. Dean Wood for the petitioners.

No. 360. The United States of America, petitioner, *v.* Charles F. Towery, in his own right, etc. Argued by Mr. Wilbur C. Pickett for the petitioner and by Mr. Edward H. S. Martin for the respondent.

No. 364. Keifer and Keifer, a co-partnership, etc., petitioner, *v.* Reconstruction Finance Corporation and Regional Agricultural Credit Corporation of Sioux City, Iowa. Argument commenced by Mr. Ernest B. Perry for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, February 1, will be as follows: Nos. 364, 367, 368, 391, 482, 437, 416, 454 (and 455), 142, and 432.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Beatrice Dailey Offutt, of Washington, D. C.; Jose M. Aruego, of Manila, P. I.; Robert S. MacFarlane, of Seattle, Wash.; Elias Lieberman, of New York City; Virgil J. Livingstone, of Washington, D. C.; and William L. Harrison, of Portland, Oreg., were admitted to practice.

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No. 364. Keifer and Keifer, a co-partnership, etc., petitioner, *v.* Reconstruction Finance Corporation and Regional Agricultural Credit Corporation of Sioux City, Iowa. Argument continued by Mr. Peyton R. Evans for the respondent, Agricultural Credit Corporation, and concluded by Mr. Ernest B. Perry for the petitioner.

No. 367. Frank Eichholz, appellant, *v.* Public Service Commission of the State of Missouri et al. Argument commenced by Mr. Smith B. Atwood for the appellant; continued by Mr. Daniel C. Rogers and Mr. James H. Linton for the appellees; and concluded by Mr. D. D. McDonald for the appellant.

No. 368. Ray L. Chesebro, appellant, *v.* Los Angeles County Flood Control District et al. Argument commenced by Mr. Bourke Jones for the appellant and continued by Mr. W. B. McKesson for the appellees.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, February 2, will be as follows: Nos. 368, 391, 482, 437, 416, 454 (and 455), 142, 432, 418, and 426.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Paul B. Barringer, Jr., of New York City; and Milton E. Carter, of Kansas City, Mo., were admitted to practice.

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No. 368. Ray L. Chesebro, appellant, *v.* Los Angeles County Flood Control District et al. Argument continued by Mr. W. B. McKesson for the appellees; and concluded by Mr. Bourke Jones for the appellant.

No. 391. The United States of America, petitioner, *v.* Elizabeth C. Jacobs, Executrix, etc. Argued by Mr. Norman D. Keller for the petitioner and by Mr. Hugh W. McCulloch for the respondent.

No. 482. Edward Jordan Dimock, as substituted Executor, etc., petitioner, *v.* Walter C. Corwin, Late Collector of Internal Revenue, First District of New York. Argued by Mr. E. J. Dimock for the petitioner and by Mr. Norman D. Keller for the respondent.

No. 437. The United States of America, petitioner, *v.* C. T. Jaffray, R. H. M. Robinson et al., etc. Argument commenced by Mr. Charles A. Horsky for the petitioner and continued by Mr. Hayner N. Larson for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, February 3, will be as follows: Nos. 437, 416, 454 (and 455), 142, 432, 418, 426, 441, 177, and 384.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Martin Dies, of Orange, Tex.; Gibson A. Condie, of Hailey, Idaho; Melvin M. Hawley, of Chicago, Ill.; Thomas Pleasant Whitaker, of Tampa, Fla.; Patrick Crisp Whitaker, of Tampa, Fla.; Charles F. Blake, of Tampa, Fla.; Julian S. Wolfe, of Orangeburg, S. C.; Robinson R. Saunders, of Fort Lauderdale, Fla.; and Otto Haakenstad, of Fargo, N. D., were admitted to practice.

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No. 437. The United States of America, petitioner, *v.* C. T. Jaffray, R. H. M. Robinson, et al., etc. Argument continued by Mr. Hayner N. Larson for the respondents and concluded by Mr. Charles A. Horsky for the petitioner.

No. 416. The United States of America, petitioner, *v.* Bartelsen & Petersen Engineering Company. Argued by Mr. Charles A. Horsky for the petitioner and by Mr. O. Walker Taylor for the respondent.

No. 454. Frances Perkins, Secretary of Labor, et al., petitioners, *v.* Marie Elizabeth Elg; and

No. 455. Marie Elizabeth Elg, petitioner, *v.* Frances Perkins, Secretary of Labor, et al. Argued by Mr. Henry F. Butler for Elg and by Mr. Solicitor General Jackson for Perkins, Secretary of Labor, et al.

No. 142. Hugh Pierre, petitioner, *v.* State of Louisiana. Argument commenced by Mr. Maurice H. Woulfe for the petitioner.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, February 6, will be as follows: Nos. 142, 432, 418, 11, Original, 509, 426, 384, 495, 590 (and 591), 330.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Thomas Witter Chrystie, of New York City; Leroy K. Donaldson, of New Castle, Pa.; Meyer R. Rubin, of Detroit, Mich.; Spaulding Frazer, of Newark, N. J.; Joseph R. Schulz, of Chicago, Ill.; William M. O'Reilly, of Albany, N. Y.; Edward J. Prest, of New York City; Merton Baird Tice, of Mitchell, S. D.; Thomas Browning Heffelfinger, of Washington, D. C.; Ross Alfred Heffelfinger, Jr., of Washington, D. C.; John C. Ridley, of Houston, Tex.; Joseph P. Loeb, of Los Angeles, Calif.; and Carl F. Allebaugh, of Steubenville, Ohio, were admitted to practice.

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No. 294. City of Texarkana, Texas, petitioner, *v.* Arkansas Louisiana Gas Company. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Eastern District of Texas for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Reed. Mr. Justice McReynolds and Mr. Justice Butler are of opinion that the decision of the Circuit Court of Appeals is right and that its judgment should be affirmed. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

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The Chief Justice announced the following order of the Court:

No. 489. Eastern Shore Public Service Company et al., appellants, *v.* The Town of Seaford. Appeal from the Supreme Court of the State of Delaware. *Per curiam:* The appeal is dismissed for the want of a properly presented substantial federal question. *New Orleans Waterworks Co. v. Louisiana*, 185 U. S. 336, 344, 345; *New Orleans Waterworks Co. v. Louisiana Sugar Refining Co.*, 125 U. S. 18, 30; *Seattle & Renton Ry. Co. v. Linhoff*, 231 U. S. 568, 570; *Long Sault Development Co. v. Call*, 242 U. S. 272, 277. The petition for writ of certiorari is denied.

The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

## ORDER

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this Court among the Circuits, agreeably to the Acts of Congress in such cases made and provided, and that such allotment be entered of record, viz:

For the First Circuit, Louis D. Brandeis, Associate Justice.

For the Second Circuit, Harlan F. Stone, Associate Justice.

For the Third Circuit, Owen J. Roberts, Associate Justice.

For the Fourth Circuit, Charles Evans Hughes, Chief Justice.

For the Fifth Circuit, Hugo L. Black, Associate Justice.

For the Sixth Circuit, James C. McReynolds, Associate Justice.

For the Seventh Circuit, Felix Frankfurter, Associate Justice.

For the Eighth Circuit, Pierce Butler, Associate Justice.

For the Ninth Circuit, Stanley Reed, Associate Justice.

For the Tenth Circuit, Pierce Butler, Associate Justice.

For the District of Columbia, Charles Evans Hughes, Chief Justice.

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No. —, original. Ex parte Mike Holchak, petitioner. The motion for leave to file petition for writ of habeas corpus is denied and the rule to show cause is discharged.

No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company, et al., and

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation. The motion for leave to file petition for rehearing is granted, and the petition for rehearing is also granted. The orders denying certiorari are vacated, and the petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted.

No. 608. John H. Wilson, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit; and

No. 612. George Melendez, petitioner, *v.* The State of California et al. On petition for writ of certiorari to the Supreme Court of the State of California. The motions for leave to proceed further herein in forma pauperis are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 603. Montgomery Ward & Company, Inc., petitioner, *v.* The Toledo Pressed Steel Company. Petition for writ of certiorari to the

United States Circuit Court of Appeals for the Second Circuit granted and the case assigned for argument immediately following Nos. 166 and 167.

No. 651. Frank Hague, Individually and as Mayor of Jersey City, et al., petitioners, *v.* Committee for Industrial Organization et al. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit is granted. Proceedings for execution and enforcement of the decree of injunction entered herein are stayed pending the hearing and determination of the cause. The cause is assigned for argument on Monday, February 27, 1939, after the cases heretofore specially set for that day.

No. 545. Oliver L. Winkle, petitioner, *v.* Oreon E. Scott. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 550. Max N. Koven, petitioner, *v.* The United States of America;

No. 551. Edmund J. Donegan, petitioner, *v.* The United States of America; and

No. 553. John A. Dilliard, petitioner, *v.* The United States of America. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 555. R. A. Shillinglaw, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 556. Frances S. Ryan, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 563. Robert T. Ervin, Jr., as Temporary Receiver, etc., petitioner, *v.* Luis Quintanilla, chargé d'affaires ad interim of the Republic of Mexico, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 566. Louis Feldman, petitioner, *v.* The Pacific Mutual Life Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 571. Thomas W. Cook, petitioner, *v.* Jennie G. Lewis, C. C. Lewis, et al. Petition for writ of certiorari to the Circuit Court, Kanawha County, Commonwealth of Virginia, denied.

No. 572. Jacqueline Beland et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 575. Bertha Stein, petitioner, *v.* John M. McGrath et al., etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 576. Samuel J. Tishman, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 580. Mutual Benefit Health and Accident Association, petitioner, *v.* Lena Bowman. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 392. H. H. Henneford, T. S. Hedges, et al., etc., petitioners, *v.* The Pacific Telephone and Telegraph Company. Petition for writ of certiorari to the Supreme Court of the State of Washington denied.

No. 510. Jenkins Petroleum Process Company, petitioner, *v.* Sinclair Refining Company. Petition for rehearing denied.

ORDER

The Court will take a recess from Monday, February 13, until Monday, February 27, next.

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No. —, original, Commonwealth of Massachusetts, complainant, *v.* State of Missouri et al. Returns to rule to show cause presented.

No. 631. A. E. Lichtenstein, S. J. Heiman, and Warren Cash, petitioners, *v.* Florida Dry Cleaning and Laundry Board, etc. On petition for writ of certiorari to the Supreme Court of the State of Florida. Dismissed on motion of counsel for petitioners.

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No. 142. Hugh Pierre, petitioner, *v.* State of Louisiana. Argument continued by Mr. John E. Fleury for the respondent and concluded by Mr. Maurice R. Woulfe for the petitioner.

No. 432. The United States of America and Interstate Commerce Commission, appellants, *v.* Dan E. Maher, doing business as Interstate Busses. Argued by Mr. Hugh B. Cox for the appellants and by Mr. William L. Harrison for the appellee.

No. 418. A. B. Hale, as Chairman, and E. A. McColskey et al., etc., appellants, *v.* Bimco Trading, Inc., et al. Argument commenced by Mr. H. E. Carter for the appellants and continued by Mr. Patrick C. Whitaker for the appellants. The Court declined to hear further argument.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, February 7, will be as follows: Nos. 11, original, 509, 426, 384, 495, 590 (and 591), 330, 441, 448, and 449 (and 456).

## SUPREME COURT OF THE UNITED STATES

Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

John D. Rice, of Salt Lake City, Utah; Stoddard M. Stevens, Jr., of New York City; David R. Pokross, of Boston, Mass.; Max Wall, of Washington, D. C.; Lewis M. Dabney, Jr., of Dallas, Tex.; Bradford S. Magill, of New York City; Philip Dorfman, of Philadelphia, Pa.; Elick E. Norris, of Washington, D. C.; Otto B. Roepke, of Washington, D. C.; Samuel Bernstein, of Washington, D. C.; Walter N. Palmquist, of Washington, D. C.; Harold B. Whitmore, of Washington, D. C.; Harry H. Frank, of New Castle, Pa.; Herbert S. Levy, of Lancaster, Pa.; and Thomas M. Kerrigan, of Frackville, Pa., were admitted to practice.

No. 10, original. The State of Texas, complainant, *v.* The State of New Mexico et al. Motion as to costs submitted by Mr. H. Grady Chandler for the complainant.

No. 11, original. The State of Texas, complainant, *v.* The State of Florida et al. Argument on the exceptions to the report of the Special Master commenced by Mr. William McCraw for the State of Texas; continued by Mr. Seth T. Cole for the State of New York; by Mr. George Couper Gibbs for the State of Florida; by Mr. Edward O. Proctor for the Commonwealth of Massachusetts; by Mr. Llewellyn B. Duke for the State of Texas; by Mr. Seth T. Cole for the State of New York; and concluded by Mr. Edgar G. Hamilton for the State of Florida; and submitted by Mr. Harrison Tweed, Mr. Timothy N. Pfeiffer, Mr. Walter E. Hope, and Mr. George W. Jaques for Wilks.

No. 509. Denis J. Driscoll, Thomas C. Buchanan, et al., appellants, *v.* Edison Light and Power Company. Argument commenced by Mr. Guy K. Bard for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, February 8, will be as follows: Nos. 509, 426, 384, 495, 590 (and 591), 330, 441, 448, 449 (and 456), and 453.



## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Southall R. Pfund, of Fairbanks, Alaska; C. Alpheus Stanfield, of Hot Springs, Ark.; Owen G. Reichman, of Salt Lake City, Utah; John Paschall Davis, of New York City; John B. Coleman, Jr., of New York City; Harry Polikoff, of Philadelphia, Pa.; James H. Hickey, of New York City; Ralph S. Rice, of Sioux Falls, S. Dak.; Redmond F. Kernan, Jr., of New York City; Clifford R. Schuman, of New York City; and Marie Louise Suter, of Washington, D. C., were admitted to practice.

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No. 509. Denis J. Driscoll, Thomas C. Buchanan, et al., appellants, *v.* Edison Light and Power Company. Argument continued by Mr. Guy K. Bard and Mr. Edward Knuff for the appellants, and concluded by Mr. Clarence W. Miles for the appellee.

No. 426. Milk Control Board of the Commonwealth of Pennsylvania, petitioner, *v.* Eisenberg Farm Products. Argued by Mr. Harry Polikoff for the petitioner and by Mr. Thomas D. Caldwell for the respondent.

No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, et al. Three hours allowed for oral argument. Argument commenced by Mr. John W. Davis for the petitioner and continued by Mr. A. H. Kiskaddon for respondent, Henwood, Trustee.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, February 9, will be as follows: Nos. 384, 495, 590 (and 591), 330, 441, 448, and 465.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Naneita Antilotti, of Atlanta, Ga.; William Joseph Devine, of Englewood, N. J.; William J. Duiker, of Chicago, Ill.; A. Louis Flynn, of Chicago, Ill.; Gov Hutchinson, of Jacksonville, Fla.; and Walter S. Smith, of Birmingham, Ala., were admitted to practice.

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No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, et al. Argument continued by Mr. A. H. Kiskaddon for the respondent, Henwood, Trustee; by Mr. George L. Buland for the respondent, Southern Pacific Company; by Mr. Carleton S. Hadley for the respondent, Henwood, Trustee; and concluded by Mr. Ralph M. Carson for the petitioner.

No. 495. Chemical Bank & Trust Company, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, Debtor, et al. Argued by Mr. Alfred H. Phillips for the petitioner and by Mr. Carleton S. Hadley for the respondents.

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Limited; and

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al. Argument commenced by Mr. Frederick H. Wood for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, February 10, will be as follows: Nos. 590 (and 591), 330, 441, and 465.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Louis E. McArthur, of Washington, D. C.; S. P. Wilson, of Deer Lodge, Mont.; Paul H. Brinson, of St. Petersburg, Fla.; S. Samuel Arsht, of Wilmington, Del.; and John J. Bennett, Jr., of Brooklyn, N. Y., were admitted to practice.

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No. 465. Robert B. Honeyman, appellant, *v.* David B. Jacobs and Mary V. Jacobs. Submitted by Mr. Robert B. Honeyman for the appellant and by Mr. John John Bennett, Jr., Mr. Henry Epstein, Mr. John F. X. McGohey, and Mr. Benjamin Heffner for the appellees.

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Limited; and

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al. Argument continued by Mr. Frederick H. Wood for the petitioner; by Mr. Nathan L. Miller for the respondent in No. 590; and concluded by Mr. Harry Hoffman for the respondent in No. 591.

No. 330. Eugene Kessler, District Director of Immigration and Naturalization, petitioner, *v.* Joseph George Strecker. Argument commenced by Mr. Solicitor General Jackson for the petitioner and continued by Mr. Whitney North Seymour for the respondent.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, February 13, will be as follows: No. 330.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice Brandeis, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Dwight H. Brown, of Jefferson City, Mo.; Robert C. C. Heaney, of Grand Rapids, Mich.; John W. Arcari, of Westbury, N. Y.; Edward A. Sullivan, of New York City; David Di Pirro, of New York City; Edmund J. Roberts, of New York City; Joseph A. Mauro, of Brooklyn, N. Y.; William J. Magee, of Brooklyn, N. Y.; Robert B. Caldwell, of Kansas City, Mo.; Fred G. Mancuso, of Kansas City, Mo.; Harold J. McLaughlin, of New York City; Oscar A. Thompson, of New York City; James C. Getzen, Jr., of Bushnell, Fla.; George A. Garvey, of New York City; Raymond J. Scully, of New York City; John O. Driscoll, of Brooklyn, N. Y.; Philip F. Di Costanzo, of Brooklyn, N. Y.; Vincent Paul O'Brien, of New York City; Arthur A. Wilson, Jr., of Rutherford, N. J.; Anthony T. Antinozzi, of Rye, N. Y.; Henry A. Fiscella, of Brooklyn, N. Y.; and James E. Turner, of Brooklyn, N. Y., were admitted to practice.

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No. 269. Interstate Circuit, Inc., Texas Consolidated Theatres, Inc., et al., appellants, *v.* The United States of America; and

No. 270. Paramount Pictures Distributing Company, Inc., Vitagraph, Inc., et al., appellants, *v.* The United States of America. Appeals from the District Court of the United States for the Northern District of Texas. Decree affirmed. Opinion by Mr. Justice Stone. Mr. Justice Frankfurter took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Roberts in which Mr. Justice McReynolds and Mr. Justice Butler join.

No. 605. Public Service Commission of the State of Missouri, et al., appellants, *v.* Brashear Freight Lines, Inc., et al. Appeal from the District Court of the United States for the Western District of Missouri. Dismissed for the want of jurisdiction. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

The Chief Justice said:

"The orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original, *Ex parte J. L. Stewart*, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. 10, original. The State of Texas, complainant, *v. The State of New Mexico et al.* The Clerk of this Court is authorized to accept from complainant, a warrant drawn by the State of Texas, the amount of said warrant when collected to be applied to costs which may be taxed against the complainant.

No. 626. Evelyn Treinies, petitioner, *v. Sunshine Mining Company et al.* The motion for leave to proceed *in forma pauperis* is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is also granted.

No. 609. Ernest Verheul, petitioner, *v. James A. Johnston*, Warden, U. S. Penitentiary, Alcatraz, California. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit; and

No. 633. Horace L. Lohnes, Administrator, *c. t. a.*, petitioner, *v. William H. Webb*, Administrator. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 636. Manning Strewl, John Joseph Oley, et al., petitioners, *v. The United States of America.* On petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon examination of the papers herein submitted, finds that the application for writ of certiorari was not made within the time provided by law, Rule XI, Rules of Practice and Procedure in Criminal Cases (292 U. S. 665). The petition for writ of certiorari is therefore also denied.

No. 582. Electrical Fittings Corporation et al., petitioners, *v. The Thomas & Betts Co. et al.* Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 557. William V. Hartman, petitioner, *v. John E. Sloan*, United States Marshal, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 578. O. H. Carlisle, petitioner, *v.* M. Frank Hammond, United States Marshal, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 559. Mrs. Sallie Brown, in her own right and as administratrix, etc., petitioner, *v.* New York Life Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 560. Forest Glen Creamery Company, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 569. International-Great Northern Railroad Company et al., petitioners, *v.* R. M. Hawthorne. Petition for writ of certiorari to the Supreme Court of the State of Texas denied.

No. 570. Verser-Clay Company, Mid-Continent Crude Oil Purchasing Company et al., petitioners, *v.* United States Securities and Exchange Commission. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 574. Zero Church, petitioner, *v.* J. B. Britton, R. B. Tyler & Company et al. Petition for writ of certiorari to the Supreme Court of the State of South Carolina denied.

No. 577. Ezra Friend, George J. Cullinen, et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 579. The Pike Rapids Power Company, petitioner, *v.* Minneapolis, St. Paul & Sault Ste. Marie Railway Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 583. The Pennsylvania Railroad Company, petitioner, *v.* Annie L. Tobin. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 588. The United States of America, on the relation of John W. Cromwell, petitioner, *v.* Marion Wade Doyle, President, Board of Education, District of Columbia, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 513. James Sheppard Potts, petitioner, *v.* Norman L. Flippen, Administrator, et al.; and

No. 519. Minneapolis, St. Paul & Sault Ste. Marie Railway Company, petitioner, *v.* The Pike Rapids Power Company. Petitions for rehearing denied.

## ORDER

The revision of the Rules of this Court has been this day lodged with the Clerk, and It is ordered that the said Rules shall become effective February 27, 1939, and be printed as an appendix to Volume 306 of the United States Reports.

It is further ordered that the Rules promulgated June 5, 1928, appearing in Volume 275, United States Reports, appendix, and all amendments thereof are rescinded, but this shall not affect any proper action taken under them before the Rules hereby adopted become effective.

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No. 330. Eugene Kessler, District Director of Immigration and Naturalization, petitioner, *v.* Joseph George Strecker. Argument continued by Mr. Whitney North Seymour and by Mr. C. A. Stanfield for the respondent, and concluded by Mr. Solicitor General Jackson for the petitioner.

Adjourned until Monday, February 27, next, at 12 o'clock.

The day call for Monday, February 27, will be as follows: Nos. 651, 441, 65, 166 (and 167), 603, 177, 448, 453, 460, and 462.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Woodson Morris Miles, of Union City, Tenn.; Thomas Newman Lawler, of New York City; Paul Edward Waring, of Washington, D. C.; William G. Cullen, of Washington, D. C.; Salvador Araneta, of Manila, P. I.; Aaron Finger, of Wilmington, Del.; Henry N. Paul, Jr., of Philadelphia, Pa.; George L. Sisson, of Fall River, Mass.; Weightstill Woods, of Chicago, Ill.; Hunter J. von Leer, of Terre Haute, Ind.; Jacob Levine, of New York City; Carl V. Wisner, Jr., of Chicago, Ill.; Anthony William Deller, of New York City; Abner E. Lipscomb, of Waco, Tex.; Walter A. Herley, of Coatesville, Pa.; Henry M. Sackett, Jr., of Lynchburg, Va.; Paul H. Coleman, of Lynchburg, Va.; Paul Whitehead, of Lynchburg, Va.; Edward W. Erfurt, Jr., of Columbus, Ohio; Charles M. Lyman, of New Haven, Conn.; Francis Hoague, of Concord, Mass.; Samuel M. Rosenstein, of Frankfort, Ky.; Joseph J. Leary, of Frankfort, Ky.; Charles Gordon Watts, of Wagoner, Okla.; Clayton A. Avriett, of Jasper, Fla.; and Benjamin Kaplan, of New York City, were admitted to practice.

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No. 418. A. B. Hale, as Chairman, and E. A. McColskey, et al., etc., appellants, *v.* Bimco Trading, Inc., and Broward County Port Authority. Appeal from the District Court of the United States for the Northern District of Florida. Decree affirmed with costs. Opinion by Mr. Justice Frankfurter.

No. 364. Keifer and Keifer, a co-partnership, composed of J. Warren Keifer, Jr., and Oswin Keifer, petitioner, *v.* Reconstruction Finance Corporation and Regional Agricultural Credit Corporation of Sioux City, Iowa. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgment reversed and cause remanded to the District Court of the United States for the District of Nebraska for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Frankfurter.

No. 142. Hugh Pierre, petitioner, *v.* State of Louisiana. On writ of certiorari to the Supreme Court of the State of Louisiana. Judg-



ment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Black.

No. 391. The United States of America, petitioner, *v.* Elizabeth C. Jacobs, Executrix, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit; and

No. 482. Edward Jordan Dimock, as Substituted Executor of the last will and testament of Henry C. Folger, deceased, etc., petitioner *v.* Walter C. Corwin, Late Collector of Internal Revenue, First District of New York. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. In No. 391 judgment reversed and cause remanded to the District Court of the United States for the Northern District of Illinois for further proceedings in conformity with the opinion of this Court; in No. 482 judgment affirmed with costs and cause remanded to the District Court of the United States for the Eastern District of New York. Opinion by Mr. Justice Black. Mr. Justice Stone took no part in the consideration or decision of these cases. Dissenting: Mr. Justice McReynolds, Mr. Justice Butler, and Mr. Justice Roberts.

No. 312. John M. Taylor, Oscar A. Kennedy, and H. Russell Hastings, as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, petitioners, *v.* Standard Gas and Electric Company et al. On writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Northern District of Oklahoma for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

No. 360. The United States of America, petitioner, *v.* Charles F. Towery, in his own right, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Judgment reversed and cause remanded to the District Court of the United States for the Northern District of Illinois for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts.

No. 274. National Labor Relations Board, petitioner, *v.* The Sands Manufacturing Company. On writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. Judgment affirmed and cause remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Roberts. Dissenting: Mr. Justice Black and Mr. Justice Reed. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

No. 426. Milk Control Board of the Commonwealth of Pennsylvania, petitioner *v.* Eisenberg Farm Products. On writ of certiorari to the Supreme Court of the Commonwealth of Pennsylvania. Decree reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Roberts. Dissenting: Mr. Justice McReynolds and Mr. Justice Butler.

No. 188. Edward H. Titus, petitioner, *v.* Lou C. Wallick. On writ of certiorari to the Supreme Court of the State of Ohio. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Stone.

No. 229. National Labor Relations Board, petitioner, *v.* Columbian Enameling and Stamping Company, Inc. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Judgment affirmed, and cause remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Stone. Mr. Justice Frankfurter took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Black in which Mr. Justice Reed joins.

No. 416. The United States of America, petitioner, *v.* Bertelsen & Petersen Engineering Company. On writ of certiorari to the United States Circuit Court of Appeals for the First Circuit; and

No. 437. The United States of America, petitioner, *v.* C. T. Jaffray, R. H. M. Robinson et al., etc. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. In No. 416, judgment affirmed and cause remanded to the District Court of the United States for the District of Massachusetts. In No. 437, judgment affirmed and cause remanded to the District Court of the United States for the District of Minnesota. Opinion by Mr. Justice McReynolds. Mr. Justice Reed took no part in the consideration or decision of these cases.

No. 436. National Labor Relations Board, petitioner, *v.* Fansteel Metallurgical Corporation. On writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Judgment modified and as so modified affirmed, and cause remanded to the said Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Chief Justice Hughes. Mr. Justice Frankfurter took no part in the consideration and decision of this case. Opinion by Mr. Justice Stone concurring in part. Opinion by Mr. Justice Reed dissenting in part in which Mr. Justice Black concurs.

No. 367. Frank Eichholz, appellant, *v.* Public Service Commission of the State of Missouri et al. Appeal from the District Court of

the United States for the Western District of Missouri. Decree affirmed with costs. Opinion by Mr. Chief Justice Hughes.

The Chief Justice announced the following order of the Court:

No. 643. Willie Eva Simmons, appellant, *v.* The Board of Education of the City of Muskogee of the State of Oklahoma et al. Appeal from the District Court of the United States for the Eastern District of Oklahoma. *Per curiam:* The motion to dismiss on the ground that the cause has become moot is denied. The motion to affirm is granted upon the ground that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument. Rule 7, par. 4. The judgment is affirmed.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —. In the matter of the disbarment of Walter C. Balderston.

It having been reported to the Court that the District Court of the United States for the District of Columbia has entered an order accepting the resignation of Walter C. Balderston as a member of the Bar of said Court, directing that his name be stricken from its roll of attorneys and prohibiting said Walter C. Balderston from practicing law and holding himself out to be an attorney at law in the District of Columbia, it is ordered that the said Walter C. Balderston be, and he is hereby, suspended from the practice of law in this Court, and that a rule issue, returnable within forty (40) days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. —, original. *Ex parte* Albert Leighton, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. —, original. *Ex parte* Joseph J. O'Brien, petitioner. The motions for leave to file petitions for writs of habeas corpus and mandamus are denied.

No. 652. Ira Ellis Veal, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit; and

No. 690. Charles Eddy, petitioner, *v.* William Hunt, as Warden of Attica State Prison, Attica, New York. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon

examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 606. Santa Monica Mountain Park Company, Ltd., petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 585. S. S. Kresge Company, petitioner, *v.* Kitty Amsler, Vernon House-Wright, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied. Mr. Justice Stone and Mr. Justice Roberts took no part in the consideration and decision of this application.

No. 592. Manhattan Railway Company et al., etc., petitioners, *v.* Van S. Merle-Smith, et al.; and

No. 593. Manhattan Railway Company et al., etc., petitioners, *v.* Van S. Merle-Smith, et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied. The Chief Justice took no part in the consideration and decision of this application.

No. 597. Patrick D. Fahey, as Receiver, et al., petitioners, *v.* William C. Cook, James S. McClellan, et al. On consideration of the suggestion of a diminution of the record and motion for a writ of certiorari in that relation, the motion for a writ of certiorari is denied. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is denied.

No. 564. The Sioux Tribe of Indians, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 589. Steve Ark et al., petitioners, *v.* Fansteel Metallurgical Corporation. Petition for writ of certiorari to the Supreme Court of the State of Illinois denied.

No. 596. Westchester County, petitioner, *v.* The Sound Marine and Machine Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 600. In the matter of Clayton C. Gilliland, petitioner. Petition for writ of certiorari to the Supreme Court of the State of Michigan denied.

No. 602. Northern Trust Company of Chicago, Executor, et al., petitioners, *v.* Sarah Drain Edenborn. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 542. Oscar Lee, Warden of the Wisconsin State Prison, Waupun, Wisconsin, petitioner, *v.* Jerry Pero and Paul Moore. Peti-

tion for writ of certiorari to the United States Circuit Court of Appeals for the Seventh denied.

No. 594. American Potash and Chemical Corporation, petitioner, *v.* National Labor Relations Board. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 599. Edgar Cowherd, petitioner, *v.* Phoenix Joint Stock Land Bank of Kansas City et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 601. Joseph Divack, petitioner, *v.* Charles Goldberg, Trustee in Bankruptcy. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 604. State Farm Mutual Automobile Insurance Company of Bloomington, Illinois, petitioner, *v.* J. Vern Dewalt. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 607. Mrs. Robert H. Herring, petitioner, *v.* Alabama Great Southern Railroad Company. Petition for writ of certiorari to the Supreme Court of the State of Alabama denied.

No. 610. Kate Hudson, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 611. Herzberg's Inc., petitioner, *v.* Ocean Accident & Guarantee Corp., Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 618. Josephine Jump, nee Strikeaxe, et al., petitioners, *v.* C. L. Ellis, Superintendent of the Osage Indian Agency. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 620. Edward P. Harris, as President of the Calcocraft, petitioner *v.* National Labor Relations Board. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 621. The Atlantic Coast Line Company, petitioner, *v.* The United States of America;

No. 622. The Atlantic Coast Line Company, petitioner, *v.* The United States of America; and

No. 623. The Atlantic Coast Line Company, petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 523. A. R. Eppenauer et al., petitioners, *v.* The Ohio Oil Company (Marathon Oil Company, Original plaintiff);

No. 532. W. P. Deppe, petitioner, *v.* General Motors Corporation; and

No. 547. The State of Ohio, *ex rel.* Carl Green, petitioner, *v.* Charles E. King, Clerk, etc., et al. Petitions for rehearing denied.

No. —, original. *Ex parte* Patriotic Society of Unemployed People of the United States, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. H. Eugene Gardner for the petitioner.

No. 651. Frank Hague, Individually and as Mayor of Jersey City, et al., etc., petitioners *v.* Committee for Industrial Organization et al. Three hours allowed for oral argument. Argument commenced by Mr. Charles Hershenstein for the petitioners; and continued by Mr. Edward J. O'Mara for the petitioners and by Mr. Morris L. Ernst for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, February 28, will be as follows: Nos. 651, 441, 65, 166 (167 and 603), 177, 548, 448, 453, 460, and 462.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Gladys M. Everett, of Portland, Oreg.; James C. Havron, of Nashville, Tenn.; James M. Nabrit, Jr., of Houston, Tex.; Harley Langdale, of Valdosta, Ga.; Arthur L. Brogden, of Jacksonville, Fla.; Travis H. Edwards, of Washington, D. C.; John Stuart Hunt, of Washington, D. C.; Charles William Carhart, of Washington, D. C.; Clair V. Johnson, of Larchmont, N. Y.; Gene M. Harris, of Santa Barbara, Calif.; Ellis Klein, of Washington, D. C.; Paul G. Borron, of Baton Rouge, La.; Nelle W. Lewis, of Oklahoma City, Okla.; and William C. Lewis, Jr., of Oklahoma City, Okla., were admitted to practice.

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No. 651. Frank Hague, Individually and as Mayor of Jersey City, et al., etc., petitioners, *v.* Committee For Industrial Organization et al. Argument continued by Mr. Spaulding Frazer for the respondents and concluded by Mr. Charles Hershenstein for the petitioners.

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu, and Northeastern Engineering Corporation. Argued by Mr. Hugh M. Morris for the petitioner and by Mr. Edmund B. Whitcomb and Mr. George Whitefield Betts, Jr., for the respondents.

No. 65. Douglas Fairbanks, petitioner, *v.* The United States of America. Argued by Mr. William Stanley for the petitioner and by Mr. Andrew D. Sharpe for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, March 1, will be as follows: Nos. 166 (167 and 603), 177, 548, 448, 453, 460, 462, 466 (and 479), 478, and 491.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Waldemar Q. Van Cott, of Salt Lake City, Utah; Ben Frank Saye, of Duncan, Okla.; Benjamin G. Wilson, of Jasper, Ala.; Cornelius O. Donahue, of New York City; Fred G. Benton, of Baton Rouge, La.; and Herbert V. Mueller, of New York City, were admitted to practice.

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No. 166. The Toledo Pressed Steel Company, petitioner, *v.* Standard Parts, Inc.;

No. 167. The Toledo Pressed Steel Company, petitioner, *v.* Huebner Supply Company; and

No. 603. Montgomery Ward & Company, Inc., petitioner, *v.* The Toledo Pressed Steel Company. Argument commenced by Mr. Samuel E. Darby, Jr., for the petitioner in Nos. 166 and 167 and respondent in No. 603; continued by Mr. W. P. Bair for the respondents in Nos. 166 and 167; by Mr. Carl V. Wisner, Jr., for the petitioner in No. 603; and concluded by Mr. Wilbur Owen for the petitioner in Nos. 166 and 167 and respondent in No. 603.

No. 177. J. S. Kohn, M. S. Kohn, et al., appellants, *v.* Central Distributing Co., Inc., et al. Argument commenced by Mr. Harvey H. Smith for the appellant.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, March 2, will be as follows: Nos. 177, 548, 448, 453, 460, 462, 466 (and 479), 478, 491, and 498.

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SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Ernest Buehler, of Chicago, Ill.; C. C. Peters, Jr., of Fort Worth, Tex.; James A. Finch, of Cape Girardeau, Mo.; Lucius Arhold Frye, of New York City; and Thomas H. Wick, of Dayton, Ohio, were admitted to practice.

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No. 177. J. S. Kohn, M. S. Kohn, et al., appellants, *v.* Central Distributing Co., Inc., et al. Argument continued by Mr. Harvey H. Smith for the appellants; by Mr. J. J. Leary for the appellees; and concluded by Mr. Harvey H. Smith for the appellants.

No. 548. H. V. B. Smith et al. *v.* Motorship "Ferncliff" et al. Argued by Mr. Charles R. Hickox for Smith et al., and by Mr. George Whitfield Betts, Jr., and Mr. George Forbes for the Motorship "Ferncliff" et al.

No. 448. David T. Wilentz, J. H. Thayer-Martin, et al., appellants, *v.* Sovereign Camp, Woodmen of the World. Argued by Mr. E. J. Dimock for the appellants and by Mr. David M. Wood and Mr. Arthur T. Vanderbilt for the appellee.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, March 3, will be as follows: Nos. 453, 460, 462, 466 (and 479), 478, 491, 498, 481, 486 (and 487), and 492 (and 493).

SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Max G. Baron, of St. Louis, Mo.; Brendan F. Brown, of Omaha, Nebr.; Sidney J. Kaplan, of New York City; Mary J. McGlone, of Boston, Mass.; Francis J. Stoegerer, of Washington, D. C.; and T. Carl Nixon, of Rochester, N. Y., were admitted to practice.

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## ORDER

It is ordered by the Court that the accompanying correspondence between members of the Court and Mr. Justice Brandeis be this day spread upon the minutes and that it also be printed in the reports of the Court.

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SUPREME COURT OF THE UNITED STATES

WASHINGTON, D. C.

FEBRUARY 17, 1939.

Dear Justice BRANDEIS: We deeply regret that you have found it advisable to retire from your regular active service as Associate Justice, a service which you have rendered for over twenty-two years with a vigor and devotion which have never been surpassed. Your long practical experience and intimate knowledge of affairs, the wide range of your researches and your grasp of the most difficult problems, together with your power of analysis and your thoroughness in exposition, have made your judicial career one of extraordinary distinction and far-reaching influence. It has always been gratifying to observe that the intensity of your labors has never been permitted to disturb your serenity of spirit and we shall have an abiding memory of your never-failing friendliness. We trust that, relieved of the pressing burden of regular court work, you may be able to conserve the strength which has been so lavishly used in the public service, and that you may enjoy many years of continued vigor. We

extend to you our best wishes and the assurance of our affection and profound esteem.

Faithfully yours,

CHARLES E. HUGHES,  
PIERCE BUTLER,  
HARLAN F. STONE,  
OWEN J. ROBERTS,  
HUGO L. BLACK,  
STANLEY REED,  
FELIX FRANKFURTER.

Mr. Justice BRANDEIS.

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2205 CALIFORNIA STREET

WASHINGTON, D. C.

FEBRUARY 18, 1939.

My dear CHIEF JUSTICE: You and the Associate Justices are very generous. Our friendship gives assurance that throughout the years to come we shall remain companions.

Cordially,

LOUIS D. BRANDEIS.

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No. 453. United States Trust Company of New York, as Executor, etc., petitioner, *v.* Commissioner of Internal Revenue. Argued by Mr. Wilder Goodwin for the petitioner and by Mr. J. Louis Monarch for the respondent.

No. 460. I. W. Lane, petitioner, *v.* Jess Wilson, John Moss, and Marion Parks. Argument commenced by Mr. Charles A. Chandler for the petitioner; continued by Mr. James M. Nabrit, Jr., for the petitioner; by Mr. Charles G. Watts and Mr. Joseph C. Stone for the respondents; and concluded by Mr. James M. Nabrit, Jr., for the petitioner.

No. 462. Powers Higginbotham, appellant, *v.* City of Baton Rouge, Louisiana. Argument commenced by Mr. Paul G. Borron for the appellant. The Court declined to hear further argument.

No. 466. Honolulu Oil Corporation, Ltd., et al., petitioners, *v.* Erle P. Halliburton et al.; and

No. 479. Erle P. Halliburton et al., petitioners, *v.* Honolulu Oil Corporation, Ltd., et al. Argument commenced by Mr. A. W. Boyken for the Honolulu Oil Corporation, Ltd., et al.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, March 6, will be as follows: Nos. 466 (and 479), 478, 491, 498, 481, 505, 514, 508, 486 (and 487), and 492 (and 493).

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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William J. Connor, of Washington, D. C.; H. D. Emery, of Bartlesville, Okla.; John A. McIntire, of Springfield, Ohio; Ralph E. Mizelle, of New York City; O. John Rogge, of Chicago, Ill.; Morris Weingarten, of Washington, D. C.; Charles Allan Hart, Jr., of Portland, Oreg.; William Concannon Walsh, of Cumberland, Md.; William H. Parsons, of Washington, D. C.; and James Lyman Hetland, of Minneapolis, Minn., were admitted to practice.

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Mr. Justice McReynolds said:

"The orders of the Court properly certified, appear upon the list filed with the Clerk and will not be announced orally."

No. —, original. *Ex parte* Patriotic Society of Unemployed Persons of the United States, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. 314. *Wichita Royalty Company et al., petitioners, v. City National Bank of Wichita Falls, et al.* The motion of petitioners to tax costs is denied without prejudice to an application to the proper court at the proper time.

No. 666. *Chippewa Indians of Minnesota, appellant, v. The United States.* In this case probable jurisdiction is noted.

No. 613. *Southern Pacific Company, petitioner, v. The United States.* Petition for writ of certiorari to the Court of Claims granted.

No. 504. *Carlisle Lumber Company, petitioner, v. National Labor Relations Board.* The motion to consider the petition on the typewritten record is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit is denied.

No. 616. *Victor W. Nelson, petitioner, v. Lon J. Darley, Alabama Public Utilities Company, et al.* Petition for writ of certiorari to the Supreme Court of the State of Alabama denied.

No. 617. *Pennsylvania Salt Manufacturing Company, petitioner, v. The United States.* Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 619. Kennesaw Mountain Battlefield Association et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 625. Trustees of Lumber Investment Association, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 637. Russell S. Simmons et al., petitioners, *v.* Anastasia M. Toohy; and

No. 638. Bertha H. Smith, petitioner, *v.* Leroy E. Schwier. Petition for writs of certiorari to the Supreme Court of the State of Ohio denied.

No. 639. Joseph C. Bajoras, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 642. James F. Pickett, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 656. City of Ocean City, New Jersey, petitioner, *v.* Federal Reserve Bank of Philadelphia. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 127. Mackay Radio and Telegraph Company, Inc., petitioner, *v.* Radio Corporation of America. Ordered that the opinion in this case be modified by substituting for the last five lines of the third paragraph on page 8, the following: "to wire lengths not multiples of half wave lengths, must fail, because such structures are not within the invention described in the application."

And by striking from the third line on page 11 of the opinion the words "the angle of."

And by striking from the opinion the full sentence beginning in the fourth line on page 11.

The petition for rehearing is denied.

No. 515. Carl K. Lifson, Administrator of the Estate of Benjamin Lifson, deceased, et al., petitioners, *v.* Commissioner of Internal Revenue. The motion for leave to file the petition for rehearing is denied.

No. 556. Frances S. Ryan, petitioner, *v.* The United States of America; and

No. 571. Thomas W. Cook, petitioner, *v.* Jennie G. Lewis et al. Petitions for rehearing denied.

## ORDER

The Court will take a recess from Monday, March 13, until Monday, March 27, next.

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No. 728. Clifford Chambers, appellant, *v.* The State of North Dakota. Appeal from the Supreme Court of the State of North Dakota. Docketed and dismissed on motion of counsel for the appellee.

No. 567. Paramount Pictures, Inc., et al., appellants, *v.* William A. Langer, Individually etc., et al.; and

No. 568. Paramount Pictures, Inc., et al, appellants, *v.* Alvin C. Strutz, Individually, etc., et al. Motion of appellants to reverse and remand with directions to dismiss the bills of complaint upon the ground that the cases are moot submitted by Mr. Thomas D. Thacher for the appellants with leave to the appellees to reply within ten days.

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No. 466. Honolulu Oil Corporation, Ltd., et al., petitioners, *v.* Erle P. Halliburton et al.; and

No. 479. Erle P. Halliburton et al., petitioners, *v.* Honolulu Oil Corporation, Ltd., et al. Argument continued by Mr. A. W. Boyken for the Honolulu Oil Corporation, Ltd., et al.; by Mr. Leonard S. Lyon and Mr. William H. Davis for Erle P. Halliburton, et al.; and concluded by Mr. A. W. Boyken for the Honolulu Oil Corporation, Ltd., et al.

No. 478. Mark Graves, John J. Merrill, and John P. Hennessey, as Commissioners Constituting the State Tax Commission of the State of New York, petitioners, *v.* The People of the State of New York, upon the relation of James B. O'Keefe. Argument commenced by Mr. Henry Epstein for the petitioner; continued by Mr. Solicitor General Jackson for the United States, as *amicus curiae*, by special leave of Court; and concluded by Mr. Daniel McNamara, Jr., for the respondent.

No. 491. The State Tax Commission of Utah et al., petitioners, *v.* W. Q. Van Cott. Argument commenced by Mr. Irwin Arnovitz for the petitioners.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, March 7, will be as follows: Nos. 491, 498, 481, 505, 514, 508, 516, 517, 541, and 486 (and 487).

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Bronson Cooper Jacoway, of Little Rock, Ark.; and A. J. Little, of Valdosta, Ga., were admitted to practice.

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No. 491. The State Tax Commission of Utah et al., petitioners, *v.* W. Q. Van Cott. Argument continued by Mr. Irwin Arnovitz for the petitioners and concluded by Mr. W. Q. Van Cott for the respondent.

No. 498. Rafael Sancho Bonet, Treasurer of Puerto Rico, petitioner, *v.* Yabucoa Sugar Company. Argued by Mr. William Catron Rigby for the petitioner and by Mr. Earle T. Fiddler for the respondent. Leave granted respondent to file a reply brief on or before Friday next.

No. 481. Rochester Telephone Corporation, appellant, *v.* The United States of America and Federal Communications Commission. Argued by Mr. T. Carl Nixon for the appellant and by Mr. Hugh B. Cox for the appellees.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, March 8, will be as follows: Nos. 505, 514, 508, 516, 517, 541, 486 (and 487), 492 (and 493), and 544.

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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John A. Laing, of Portland, Oreg.; Rexell A. Boyd, of Greencastle, Ind.; Harry M. Stitle, Jr., of Indianapolis, Ind.; William F. Weber, of Brooklyn, N. Y.; and Richard Heath Wood, of Pittsburgh, Pa., were admitted to practice.

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No. 505. James H. Mulford et al., appellants, *v.* Nat Smith et al. Argument commenced by Mr. A. J. Little for the appellants; continued by Mr. Solicitor General Jackson and by Mr. Robert K. McConnaughey for the appellee, The United States; and concluded by Mr. Omer W. Franklin for the appellees, Smith et al.

No. 514. National Labor Relations Board, petitioner, *v.* Benjamin Fainblatt, et al., etc. Argument commenced by Mr. Charles Fahy for the petitioner, and continued by Mr. Leon Gerofsky for the respondents.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, March 9, will be as follows: Nos. 514, 508, 516, 517, 486 (and 487), 492 (and 493), 541, and 544.

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SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Harold A. Swanson, of Bloomfield, N. J.; Frederick D. Hamrick, Jr., of Rutherfordton, N. C.; and Alfred P. Ramsey, of Baltimore, Md., were admitted to practice.

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No. 514. National Labor Relations Board, petitioner, *v.* Benjamin Fainblatt et al., etc. Argument continued by Mr. T. Girard Wharton for the respondents and concluded by Mr. Charles Fahy for the petitioner.

No. 508. Federal Power Commission, petitioner, *v.* Pacific Power & Light Company et al. Argued by Mr. Assistant Solicitor General Bell for the petitioner and by Mr. A. J. G. Priest and Mr. John A. Laing for the respondents.

No. 516. John Goins, petitioner, *v.* The United States of America. Argument commenced by Mr. S. H. Sutherland for the petitioner and continued by Mr. William W. Barron for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, March 10, will be as follows: Nos. 516, 517, 486 (and 487), 492 (and 493), and 541.

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## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Dorice S. Grace, of Worcester, Mass.; Joseph A. Murphy, of Detroit, Mich.; Daniel G. Shea, of Detroit, Mich.; Ralph D. Pittman, of DeLeon, Tex.; Alan J. Stone, of Detroit, Mich.; Ralph Page Wanlass, of Washington, D. C.; and John Milton Cooper, of North Wilkesboro, N. C., were admitted to practice.

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No. 516. John Goins, of petitioner, *v.* The United States of America. Argument continued by Mr. William W. Barron for the respondent, and concluded by Mr. S. H. Sutherland for the petitioner.

No. 517. Gerrit W. Clason, appellant, *v.* The State of Indiana. Argued by Mr. William H. Thompson for the appellant and by Mr. Edward H. Knight and Mr. Rexell A. Boyd for the appellee.

No. 486. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Metropolitan Edison Company;

No. 487. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Pennsylvania Water & Power Company;

No. 492. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue; and

No. 493. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue. Argued by Miss Helen R. Carlross for the Commissioner of Internal Revenue; by Mr. Maurice Bower Saul for the respondent in No. 486 and the petitioner in No. 492 and 493; and by Mr. Edwin M. Sturtevant for the respondent in No. 487.

Adjourned until Monday, March 13, at 12 o'clock.

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## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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George E. Holt, of Miami, Fla.; Walter E. Gallagher, of Washington, D. C.; Dawson Hall, of Chattanooga, Tenn.; Frank A. Chichetto, of Boston, Mass.; Lester C. Davidson, of Sioux City, Iowa; F. A. Knight, of Long Beach, Calif.; Ruben H. Klainer, of Boston, Mass.; George W. Luedeke, of Cincinnati, Ohio; Fred Nash Oliver, of Washington, D. C.; and Lynne Anderson Warren, of New York City, were admitted to practice.

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No. 11, original. The State of Texas, complainant, *v.* The State of Florida et al. Report of the Special Master confirmed. Opinion by Mr. Justice Stone. Separate opinion by Mr. Justice Frankfurter in which Mr. Justice Black concurs.

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Mr. Justice McReynolds said:

"The orders of the Court properly certified, appear upon the list filed with the Clerk and will not be announced orally."

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No. —. Joseph Poresky, petitioner, *v.* Joseph B. Ely, Governor, et al. Application denied.

No. 312. John M. Taylor et al., as the Independent Committee for the Protection of the Holders of Preferred Stock of Deep Rock Oil Corporation, petitioners, *v.* Standard Gas and Electric Company et al. The opinion of the Court announced February 27, 1939, is amended in the following particulars:

In the next to the last line, and the last line, of the first full paragraph on page 4 the words "to be assumed by the new company and", and the word "debentures" are stricken out and, at the end of the sentence, the words "debtor's notes" are to be inserted so that the sentence will read: "Standard's claim to the extent of \$3,500,000 was to stand on a parity with the debtor's notes."

No. 687. The United States of America, appellant, *v.* Neal Powers and Rene Allred; and

No. 696. The United States of America, appellant, *v.* Jack Miller and Frank Layton. In these cases probable jurisdiction is noted.

No. 704. American Toll Bridge Company, appellant, *v.* Railroad Commission of the State of California et al. In this case probable jurisdiction is noted. The motion to dismiss or affirm is denied.

No. 650. L. W. Baldwin and Guy A. Thompson, as Trustees, etc., petitioners, *v.* Scott County Milling Company. Petition for writ of certiorari to the Supreme Court of the State of Missouri granted.

No. 660. William McCrone, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 627. The United States of America, petitioner, *v.* Automobile Financing, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted and case assigned for argument immediately following No. 10.

No. 628. Harry A. Woodring, Secretary of War, et al., petitioners, *v.* Justus B. Wardell, Receiver, etc. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia granted. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 629. Inland Waterways Corporaton et al., petitioners, *v.* Cary H. Hardee, Receiver, etc. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia granted. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 661. General Electric Supply Corporation, petitioner, *v.* The Maytag Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit granted and case assigned for argument immediately following Nos. 76 and 77.

No. 658. Fidelity & Columbia Trust Company, as Executor, etc., petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 614. The Farmers' Loan and Trust Company, as Trustee, etc., et al., petitioners, *v.* Frank Collis Bowers, as Executor, etc.; and

No. 615. The Farmers' Loan and Trust Company, as Trustee, etc., et al., petitioners, *v.* Frank Collis Bowers, as Executor, etc. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 630. George D. Wick and Walter A. Bonitz, Trustees, etc., petitioners, *v.* State of New Jersey. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 632. Joseph G. Large and G. Elwyn Large, as Executors, etc., petitioners, *v.* Edna R. Shively. Petition for writ of certiorari to the Supreme Court of the State of Washington denied.

No. 635. Duquesne Club, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 640. Percival H. Troutman, petitioner, *v.* The United States of America; and

No. 641. Ralph L. Young, petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 644. Harry W. Martin, petitioner, *v.* The United States of America;

No. 645. Carl Ernest Brown, petitioner, *v.* The United States of America;

No. 646. Jack Herring, petitioner, *v.* The United States of America;

No. 647. Porter Allbee, petitioner, *v.* The United States of America; and

No. 648. Andrew Berns, petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 657. The Pacific Mutual Life Insurance Company of California, petitioner, *v.* Lula Goss, as Administratrix, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 662. City of Springfield et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit denied.

No. 664. George S. Hawke, petitioner, *v.* Serviced Products Corporation et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 665. Texas Cities Gas Company, petitioner, *v.* City of El Paso et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 667. Lehigh Valley Railroad Company of New Jersey et al., petitioners, *v.* J. H. Thayer Martin, State Tax Commissioner of the State of New Jersey, et al.;

No. 668. The Central Railroad Company of New Jersey, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner of the State of New Jersey, et al.;

No. 669. The Central Railroad of New Jersey, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.;

No. 670. Delaware, Lackawanna & Western Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.;

No. 671. New York Central Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.;

No. 672. New Jersey & New York Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.;

No. 673. New York, Susquehanna & Western Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.;

No. 674. Erie Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al.; and

No. 675. Lehigh Valley Railroad Company, petitioner, *v. J. H. Thayer Martin*, State Tax Commissioner of the State of New Jersey, et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 686. Louise M. Green, petitioner, *v. George W. Green*. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 222. The Washingtonian Publishing Company, Inc., petitioner, *v. Drew Pearson*, Robert S. Allen, et al.;

No. 489. Eastern Shore Public Service Company et al., appellants, *v. The Town of Seaford*; and

No. 636. Manning Strewl, John Joseph Oley, et al., petitioners, *v. The United States of America*. Petitions for rehearing denied.

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No. 643. Willie Eva Simmons, appellant, *v. The Board of Education of the City of Muskogee of the State of Oklahoma et al.* Mandate ordered to issue forthwith on motion of Mr. Ezra Brainerd, Jr., for the appellees.

Adjourned until Monday, March 27, next, at 12 o'clock.

The day call for Monday, March 27, will be as follows: Nos. 449 (and 456), 534, 541, 543, 544, 554, 598, 606, 613, and 666.

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Frank W. Beer, of Phoenix, Ariz.; Hugo B. Farmer, of Yuma, Ariz.; Aaron Borris Holman, of New York City; Paul J. Kaveney, of St. Louis, Mo.; Albert L. Vreeland, of East Orange, N. J.; Irving W. Colman, of Northampton, Pa.; Joseph E. Gehringer, of Allentown, Pa.; Elizabeth Strain Decker, of Rogers, Ark.; Suzanne Chalfant Lighton, of Fayetteville, Ark.; John William Coury, of Detroit, Mich.; Francis Michael Dodge, of Detroit, Mich.; Jacob Reck, of Union City, N. J.; Clarence Hansen, of Los Angeles, Calif.; Walter E. Warner, Jr., of Brooklyn, N. Y.; J. Norman Peterson, of Long Prairie, Minn.; J. E. Marks, of Lexington, Ky.; Rayford W. Lemley, of Chicago, Ill.; Ralph T. Holcomb, of New York City; Knox Farrand, of Los Angeles, Calif.; Frank Randolph Karr, of Los Angeles, Calif.; Harlan V. Boyer, of Long Beach, Calif.; Lynn O. Hossom, of Long Beach, Calif.; Clyde M. Leach, of Los Angeles, Calif.; George Gilbert Rhoades, of Washington, D. C.; Eliot Edson Overdorf, of Lake Forest, Ill.; A. F. Moss, of Tulsa, Okla.; I. Robert Broder, of New York City; Stuart T. Saunders, of Washington, D. C.; John A. Naghten, of Chicago, Ill.; Homer C. DeWolfe, of Austin, Tex.; George R. Call, of Sioux City, Iowa; Harold F. Demann, of Dayton, Ohio; and James H. Oakley, of Oakland, Calif., were admitted to practice.

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No. 342. Frank O. Lowden, James E. Gorman, et al., petitioners, *v. Simonds-Shields-Lonsdale Grain Company*. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Western District of Missouri for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Reed.

No. 498. Rafael Sancho Bonet, Treasurer of Puerto Rico, petitioner, *v. Yabucoa Sugar Company*. On writ of certiorari to the United States Circuit Court of Appeals for the First Circuit. Judgment of the Circuit Court of Appeals reversed with costs and the

complaint in the district court of Puerto Rico must stand dismissed as ordered by that court and affirmed by the Supreme Court of Puerto Rico, and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Black.

No. 491. The State Tax Commission of Utah et al., petitioners, *v. W. Q. Van Cott*. On writ of certiorari to the Supreme Court of the State of Utah. Judgment vacated with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Black. The Chief Justice took no part in the consideration or decision of this case.

No. 478. Mark Graves, John J. Merrill, and John P. Hennessy, as Commissioners constituting the State Tax Commission of the State of New York, petitioners, *v. The People of the State of New York*, upon the relation of James B. O'Keefe. On writ of certiorari to the Supreme Court of the State of New York. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Stone. Mr. Chief Justice Hughes concurs in the result. Concurring opinion by Mr. Justice Frankfurter. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds joins.

No. 158. Pacific Employers Insurance Company, petitioner, *v. Industrial Accident Commission of the State of California and Kenneth Tator*. On writ of certiorari to the Supreme Court of the State of California. Judgment affirmed with costs. Opinion by Mr. Justice Stone. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

No. 308. Ignatius Lanzetta Michael Falcone and Louie Del Rossi, appellants, *v. The State of New Jersey*. Appeal from the Court of Errors and Appeals of the State of New Jersey. Judgment reversed with costs and cause remanded to the said Court of Errors and Appeals for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Butler. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

No. 368. Ray L. Chesebro, appellant, *v. Los Angeles County Flood Control District et al.* Appeal from the Supreme Court of the State of California. Judgment affirmed with costs. Opinion by Mr. Justice Butler.

No. 65. Douglas Fairbanks, petitioner, *v. The United States of America*. On writ of certiorari to the United States Circuit Court



of Appeals for the Ninth Circuit. Judgment affirmed, and cause remanded to the District Court of the United States for the Southern District of California. Opinion by Mr. Justice McReynolds.

No. 517. Gerrit W. Clason, appellant, *v.* The State of Indiana. Appeal from the Supreme Court of the State of Indiana. Judgment affirmed with costs. Opinion by Mr. Justice McReynolds.

No. 548. H. V. B. Smith, C. D. Rafferty, and H. S. McCormick, co-partners, etc. *v.* Motorship *Ferncliff*, and Glittre Aktieselskabet and Fearnley & Eger. On certificate from the United States Circuit Court of Appeals for the Fourth Circuit. First question answered "Yes, where there has been no fraud or imposition." Second question answered "Yes." Third question answered "No." Opinion by Mr. Justice McReynolds.

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Mr. Justice McReynolds announced the following orders of the Court:

No. 567. Paramount Pictures, Inc., et al., appellants, *v.* William A. Langer, Individually and as Governor of the State of North Dakota, et al.; and

No. 568. Paramount Pictures, Inc., et al., appellants, *v.* Alvin C. Strutz, Individually and as Attorney General of the State of North Dakota, et al. Appeals from the District Court of the United States for the District of North Dakota. *Per curiam*: The motion to reverse is granted. The judgment of the specially constituted District Court is reversed, without costs to either party in this Court, and the cause is remanded to the specially constituted District Court with directions to dismiss the proceeding on the ground that the cause has become moot, without prejudice to an application by either party to the specially constituted District Court for an award of costs in that court. United States *v.* Hamburg-American Co., 239 U. S. 466, 477-478; Heitmuller *v.* Stokes, 256 U. S. 359, 362-363; Brownlow *v.* Schwartz, 261 U. S. 216, 218.

No. 586. William H. Griffin, Jr., appellant, *v.* The Appellate Division of the Supreme Court of the State of New York, First Judicial Department et al. Appeal from the Supreme Court of the State of New York. *Per curiam*: Since it appears that at the time the appeal was allowed the judgment of the court below was not final, Chicago G. W. R. R. Co. *v.* Basham, 249 U. S. 164, 166-167; Citizens Bank *v.* Opperman, 249 U. S. 448, 450; Ohio Pub. Serv. Co. *v.* Fritz, 274 U. S. 12, 13; the motion to dismiss is granted and the appeal is dismissed for want of jurisdiction.

## ORDER

The Court will take a recess from Monday, April 3, until Monday, April 17 next.

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Mr. Justice McReynolds said:

"The orders of the Court properly certified, appear upon the list filed with the Clerk and will not be announced orally."

No. —. In the matter of the Disbarment of William H. Griffin.

It appearing from the records in William H. Griffin, Jr., appellant, *v. The Appellate Division of the Supreme Court of the State of New York, etc., et al.*, No. 586, October Term, 1938. and in William H. Griffin, Jr., petitioner, *v. The Appellate Division of the Supreme Court of the State of New York, etc., et al.*, No. 698, October Term, 1938, that William H. Griffin, of New York, N. Y., a member of the Bar of this Court, has been disbarred from the practice of law in the courts of New York by order of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department;

It is ordered that the said William H. Griffin be, and he is hereby, suspended from the practice of law in this Court, and that pursuant to Rule 2, par. 5, of the Rules of this Court, a rule issue returnable within forty (40) days requiring the said William H. Griffin to show cause why he should not be disbarred from the practice of law in this Court.

No. —. Wright E. Harris, petitioner, *v. National Mediation Board*. Application denied.

No. 294. City of Texarkana, Texas, petitioner, *v. Arkansas Louisiana Gas Company*. The motion of petitioner, City of Texarkana, Texas, to amend the decree herein of February 6, 1939, is granted.

Said decree is amended by adding at the end thereof the following paragraph, to wit:

"It is further ordered that the decree of the United States District Court for the Eastern District of Texas, filed herein on July 31, 1937, be reversed in so far as it held that Section IX of the franchise was not applicable to the period prior to December 1, 1933."

No. 391. The United States of America, petitioner, *v. Elizabeth C. Jacobs, Executrix, etc.* The motion to set aside the judgment is denied.

No. 654. Oral V. McMenus, petitioner, *v. The United States of America*. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit;

No. 684. Frank T. Kontovich, petitioner, *v. The United States of America*. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit;

No. 711. John L. Armstrong, as Executor, etc., petitioner, *v.* The City of New York. On petition for writ of certiorari to the Supreme Court of the State of New York;

No. 739. Earl S. Cowen, petitioner, *v.* The State of California et al. On petition for writ of certiorari to the Supreme Court of the State of California; and

No. 740. George W. Eason, petitioner, *v.* Joseph W. Sanford, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. The motions for leave to proceed further herein in forma pauperis are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 695. Ziffrin, Incorporated, appellant, *v.* James W. Martin, Commissioner of Revenue of the Commonwealth of Kentucky, et al. In this case probable jurisdiction is noted.

No. 717. William Jameson & Company, Inc., appellant, *v.* Henry Morgenthau, Jr., Secretary of the Treasury of the United States, et al. Further consideration of the question of the jurisdiction of this Court in this case is postponed to the hearing of the case on the merits.

No. 742. State of Mississippi, ex rel. Greek L. Rice, Attorney General, et al., appellants, *v.* The United States of America et al. In this case probable jurisdiction is noted. The motion to advance is granted and the case is assigned for argument on Monday, April 24th next.

No. 771. The United States of America, appellant, *v.* Rock Royal Co-operative, Inc., et al. In this case probable jurisdiction is noted. The case is assigned for argument on Monday, April 24th next, after the case heretofore assigned for that day.

No. 676. Horton C. Rorick, petitioner, *v.* Devon Syndicate, Limited. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit granted.

No. 685. Howard S. Palmer et al., petitioners, *v.* The Commonwealth of Massachusetts. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted.

No. 708. Royal Indemnity Company, petitioner, *v.* Woodbury Granite Company, Inc., et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia granted.

No. 701. Standard Brands, Incorporated, petitioner, *v.* National Grain Yeast Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted, limited to the question of the validity of Hayduck Patents Nos. 1,449,103; 1,449,105; and 1,449,106.

No. 772. H. P. Hood & Sons, Inc., et al., petitioners, *v.* The United States of America; and

No. 809. Whiting Milk Company, petitioner, *v.* The United States of America et al. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the First Circuit granted and the cases assigned for argument immediately following No. 771.

No. 682. Guy A. Thompson, as and only as Trustee of Missouri Pacific Railroad Company, petitioner, *v.* Terminal Shares, Inc., et al.; and

No. 736. George A. Tomlinson et al., petitioners, *v.* Guy A. Thompson, as and only as Trustee of Missouri Pacific Railroad Company. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied. Mr. Justice Reed took no part in the consideration and decision of these applications.

No. 634. Pietro Lucchi, Morris Reiss, et al., petitioners, *v.* The United States of America; and

No. 655. The United States of America, petitioner, *v.* International Fur Workers Union of United States and Canada et al. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 649. Union Joint Stock Land Bank of Detroit, Michigan, petitioner, *v.* Isaac Leslie Byers, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 653. Coos (or Kowes) Bay, Lower Umpqua (Kalawatset), and Sinlaw Indian Tribes, petitioners, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 659. Hamilton National Bank of Chattanooga, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 663. D. G. Jacobs, petitioner, *v.* Merchants Fire Assurance Corporation of New York. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 677. Philip W. Lowry, petitioner, *v.* Harry H. Woodring, Secretary of War. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 681. Thrash Lease Trust, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 683. Paul Kent, Receiver of the Chattanooga National Bank, petitioner, *v.* Cleveland National Bank. Petition for writ of certi-

orari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 688. Sam R. Beard, petitioner, *v.* Joseph W. Sanford, Warden, United States Penitentiary, Atlanta, Georgia. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 691. Julius F. Holmes, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 689. The Texas and Pacific Railway Company et al., petitioners, *v.* Sonken-Galamba Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 697. Nordred Realties, Inc., petitioner, *v.* "John" Langley. Petition for writ of certiorari to the Court of Appeals of the State of New York denied.

No. 698. William H. Griffin, Jr., petitioner, *v.* The Appellate Division of the Supreme Court of the State of New York, etc. Petition for writ of certiorari to the Supreme Court of the State of New York denied.

No. 699. Southern Pacific Company, petitioner, *v.* C. W. Hosman. Petition for writ of certiorari to the District Court of Appeal, First Appellate District, State of California, denied.

No. 703. Claire W. Kite, Administratrix C. T. A. Estate of Harry A. Kite, petitioner, *v.* Adolph M. Fishel. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 727. Zenith Radio Corporation, petitioner, *v.* Hazeltine Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. —, Original. Ex parte Albert Leighton, petitioner;

No. 360. The United States of America, petitioner, *v.* Charles F. Towery, in his own right, etc.;

No. 588. The United States of America, on the relation of John W. Cromwell, petitioner, *v.* Marion Wade Doyle, President, Board of Education, etc., et al.;

No. 600. In the matter of Clayton C. Gilliland, petitioner;

No. 620. Edward P. Harris, as President of the Calco Craft, petitioner, *v.* National Labor Relations Board; and

No. 665. Texas Cities Gas Company, petitioner, *v.* City of El Paso, et al. Petitions for rehearing denied.

No. 16. Mark O. Davis, petitioner, *v.* Maude E. Davis. Motion for recall and clarification of mandate submitted by Mr. Joseph T. Sherier for the petitioner.

No. 449. Newark Fire Insurance Company, appellant, *v.* State Board of Tax Appeals, et al. Motion of Sun Oil Company for leave to file brief as amicus curiae submitted by Mr. George W. C. McCarter in that behalf and the motion denied.

No. 752. Fidelity & Casualty Company of New York, petitioner, *v.* Fred A. Paddleford et al.; and

No. 753. Hartford Accident & Indemnity Company, petitioner, *v.* Fred A. Paddleford et al. Motion for leave to file brief as amicus curiae submitted by Mr. Wm. A. Schnader and the motion denied.

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No. 534. Ray Ingels, as Director of the Department of Motor Vehicles of the State of California, et al., appellants *v.* Paul Gray, Inc., et al. Frank W. Clark, present Director of the Department of Motor Vehicles of the State of California substituted as a party appellant in the place and stead of Ray Ingels, resigned, on motion of Mr. Everett W. Mattoon for the appellees.

No. 534. Frank W. Clark, as Director of the Department of Motor Vehicles of the State of California, et al., appellants, *v.* Paul Gray, Inc., et al. Argued by Mr. Amos M. Mathews for the appellants and by Mr. Everett W. Mattoon for the appellees.

No. 541. John Carrier and J. Harvey Carpenter, Guardian of John Carrier, Incompetent Veteran, petitioners, *v.* Curley Bryant. Argument commenced by Mr. John W. Wood for the petitioners.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, March 28, will be as follows: Nos. 541, 543, 544, 554, 598, 606, 613, 666, 660, and 449 (and 456).

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Archibald A. McKinley, of Chicago, Ill.; George F. Callaghan, of Chicago, Ill.; Edward A. Compton, of Fort Worth, Tex.; Felix Atwood, of Ennis, Tex.; Leland M. Rennolds, of Mexia, Tex.; Ed Gossett, of Wichita Falls, Tex.; Clarence Yanofsky, of Boston, Mass.; H. Fred Martin, Jr., of Dallas, Tex.; Arthur R. Carnduff, of Washington, D. C.; Milton Solomon, of New York City; Clyde M. Hadley, of Seattle, Wash.; and Benj. L. Bird, of Fort Worth, Tex., were admitted to practice.

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No. 510. Jenkins Petroleum Process Company, petitioner, *v.* Sinclair Refining Company. Motion for leave to file a second petition for rehearing submitted by Mr. Paul F. Myers for the petitioner.

No. 688. Sam R. Beard, petitioner, *v.* Joseph W. Sanford, Warden, etc. Order denying petition for certiorari withheld, conditioned on the filing of a petition for rehearing within ten days, on motion of Mr. James F. Laughlin for the petitioner.

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No. 541. John Carrier and J. Harvey Carpenter, Guardian of John Carrier, Incompetent Veteran, petitioners, *v.* Curley Bryant. Argument continued by Mr. John W. Wood for the petitioners; by Mr. Frederick D. Hamrick, Jr., for the respondent; and concluded by Mr. John W. Wood for the petitioners.

No. 543. Lottie F. Sprague, petitioner, *v.* Ticonic National Bank et al. Argued by Mr. Harvey D. Eaton for the petitioner and by Mr. George P. Barse for the respondents.

No. 544. The United States of America *v.* Edward H. Marxen, Trustee, etc. Argued by Mr. Assistant Attorney General Whitaker for the United States and by Mr. Clarence Hansen for Marxen, Trustee, etc.

No. 554. H. C. Rorick, Joseph R. Grundy, et al., appellants, *v.* Board of Commissioners of Everglades Drainage District, etc., et al. Argument commenced by Mr. William Roberts for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, March 29, will be as follows: Nos. 554, 598, 606, 613, 666, 660, and 696.

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Calvert Magruder, of Annapolis, Md.; Fred. H. Kent, of Jacksonville, Fla.; Ralph P. Huff, of Chevy Chase, Md.; Samuel Taylor, of San Francisco, Calif.; Wm. O. Wanzer, of Long Beach, Calif.; Louis Ferrari, of San Francisco, Calif.; George David Schilling, of San Francisco, Calif.; Lawrence Mario Giannini, of San Francisco, Calif.; William E. Elliott, of Washington, D. C.; George J. Eder, of New York City; and B. Magruder Wingfield, of Charlottesville, Va., were admitted to practice.

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No. 308. Ignatius Lanzetta, Michael Falcone, et al., appellants, The State of New Jersey. Mandate granted on motion of Mr. Samuel Kagle for the appellants.

No. 606. Santa Monica Mountain Park Company, Ltd., petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Dismissed per stipulation of counsel.

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No. 554. H. C. Rorick, Joseph R. Grundy, et al., appellants, *v.* Board of Commissioners of Everglades Drainage District, etc., et al. Argument continued by Mr. William Roberts for the appellants; by Mr. Clarence G. Ashby for the appellee, Board of Commissioners; by Mr. Tyrus A. Norwood for the appellees, Trustees of Internal Improvement Fund; and concluded by Mr. Marvin C. McIntosh for the appellees, Trustees of Internal Improvement Fund.

No. 598. Atlas Life Insurance Company *v.* W. I. Southern, Incorporated. Submitted by Mr. Elmer J. Lundy and Mr. Logan Stephenson for Atlas Life Insurance Company, and by Mr. Austin Flint Moss for W. I. Southern, Incorporated.

No. 613. Southern Pacific Company, petitioner, *v.* The United States. Argued by Mr. James R. Bell for the petitioner and by Mr. Assistant Attorney General Whitaker for the respondent.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, March 30, will be as follows: Nos. 666, 660, and 696.



SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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Hal F. Wiggins, of San Francisco, Calif.; Anthony A. Esperti, of Detroit, Mich.; Nathan M. Lubar, of Washington, D. C.; Joseph B. Friedman, of Caldwell, Ohio; John Ridley Shields, of Hyattsville, Md.; Claude H. McFadden, of Los Angeles, Calif.; Maurice W. Fillius, of Washington, D. C.; Paul H. Luten, of Waverly, Tenn.; Martin Samuel Vilas, of Burlington, Vt.; and William R. Sherwood, of New York City, were admitted to practice.

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No. 666. Chippewa Indians of Minnesota, appellant, *v.* The United States. Three hours allowed for oral argument. Argued by Mr. Donald S. Holmes for the appellants and by Mr. Raymond T. Nagle for the appellee.

No. 660. William McCrone, petitioner, *v.* The United States of America. Argued by Mr. H. Lowndes Maury for the petitioner and by Mr. Paul A. Freund for the respondent.

No. 696. The United States of America, appellant, *v.* Jack Miller and Frank Layton. Argued by Mr. Gordon Dean for the appellant. No appearance for the appellees.

Adjourned until Monday, April 3, at 12 o'clock.

## SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, and Mr. Justice Frankfurter.

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John T. Pigott, of San Francisco, Calif.; M. Joseph Matan, of Johnstown, Pa.; James A. Martin, of New York City; Quentin Keith, of Port Arthur, Tex.; Newell K. Ricks, of Twin Falls, Idaho; Mortimer B. Wolf, of Washington, D. C.; Wendell E. Cable, of Alta, Ill.; Laura M. Stanley, of Portland, Me.; Theodore Greve, of Cincinnati, Ohio; Elmer Stewart, of Washington, D. C.; Lloyd Wilbert Wineberg, of Washington, D. C.; F. Fernandez Cuyar, of San Juan, P. R.; Carleton C. Reiser, of Grand Rapids, Ohio; A. Walton Nall, of Atlanta, Ga.; Lewis S. Udelson, of Boston, Mass.; Simon B. Stein, of Boston, Mass.; Kirk E. Boone, of Los Angeles, Calif.; Arthur L. Jerome, of Wilkinsburg, Pa.; Robert L. Gee, of Fairplay, Colo.; Albert E. L. Gardner, of Clayton, Mo.; and John J. Cooney, of Providence, R. I., were admitted to practice.

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No. 486. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Metropolitan Edison Company; and

No. 487. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Pennsylvania Water & Power Company. On writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Judgments affirmed and causes remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Roberts.

No. 492. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue; and

No. 493. General Gas and Electric Corporation, petitioner, *v.* Commissioner of Internal Revenue. On writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgments reversed and causes remanded to the said Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts.

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Mr. Justice McReynolds said:

"The orders of the Court properly certified, appear upon the list filed with the Clerk and will not be announced orally."

No. —, original. Ex parte Peter J. C. Donnelly, petitioner. Application denied.

No. 528. Utah Fuel Company, Independent Coal and Coke Company, et al., petitioners, v. National Bituminous Coal Commission et al. It is ordered that the decree entered in this case on January 30, 1939, be amended by striking out the third paragraph and substituting the following:

“On consideration whereof, It is ordered, adjudged, and decreed by this Court that the decree of the said Court of Appeals affirming the decree of the District Court of the United States for the District of Columbia dismissing the bill be, and the same is hereby, affirmed upon the grounds stated in the opinion of this Court.”

It is further ordered that the mandate in this case be recalled and amended in accordance with this order.

No. 16. Mark O. Davis, petitioner, v. Maude E. Davis. The motion of petitioner to recall the mandate is denied.

No. 715. Kim Young, appellant, v. The People of the State of California. The motion to proceed *in forma pauperis* is granted. The motion to dismiss or affirm is denied. Probable jurisdiction is noted and the case is assigned for argument immediately following No. 707.

No. 810. George W. O'Malley, Individually and as Collector of Internal Revenue, appellant, v. Joseph W. Woodrough and Ella B. Woodrough;

No. 826. Holton V. Noyes, as Commissioner of Agriculture and Markets of the State of New York, appellant, v. Rock Royal Co-operative, Inc., et al.;

No. 827. Dairymen's League Cooperative Association, Inc., appellant, v. Rock Royal Co-operative, Inc., et al.; and

No. 828. Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., appellant, v. Rock Royal Co-operative, Inc., et al. In these cases probable jurisdiction is noted.

No. 707. Clara Schneider, petitioner, v. The State (Town of Irvington). Petition for writ of certiorari to the Court of Errors and Appeals of the State of New Jersey granted.

No. 748. Ford Motor Company, petitioner, v. Edward Clark, Secretary of State of the State of Texas et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 163. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, v. Wilshire Oil Company, Inc.;

No. 164. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, v. Bandini Petroleum Company; and

No. 165. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Wilshire Annex Oil Company. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 700. Mississippi Cottonseed Products Company et al., petitioners, *v.* A. H. Stone, Tax Commissioner, et al. Petition for writ of certiorari to the Supreme Court of the State of Mississippi denied.

No. 705. Michael Shapiro, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 706. Marie L. Walker, petitioner, *v.* John W. Walker. Petition for writ of certiorari to the Supreme Court of the State of Illinois denied.

No. 709. Morris Kardon, petitioner, *v.* Joseph K. Willing, Receiver, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 710. The Atchison, Topeka and Santa Fe Railway Company, petitioner, *v.* The Superior Court of the State of California et al. Petition for writ of certiorari to the Supreme Court of the State of California denied.

No. 712. The Kansas City Southern Railway Company, petitioner, *v.* Citizens of Westville. Petition for writ of certiorari to the Supreme Court of the State of Oklahoma denied.

No. 714. North Shore Delivery Company, petitioner, *v.* Universal Indemnity Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 716. P. Myklebust, Martin Tvedt, et al., petitioners, *v.* B. Meidell, Master and Claimant of the M. S. "Estralla," a Motorship. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 723. Mitchell Uwanawich, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 725. The Ocean Accident and Guarantee Corporation, Limited, petitioner, *v.* Southwestern Bell Telephone Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 726. Tennessee Publishing Company, petitioner, *v.* C. O. Carpenter, Receiver etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 730. E. S. Pratt, petitioner, *v.* Shell Petroleum Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. —. Wright E. Harris, petitioner, *v.* National Mediation Board; and

No. 426. Milk Control Board of the Commonwealth of Pennsylvania, petitioner, *v.* Eisenberg Farm Products. Petitions for rehearing denied.

Adjourned until Monday, April 17, at 12 o'clock.

The day call for Monday, April 17, will be as follows: Nos. 449 (and 456), 582, 650, 76 (77 and 661), 687, 704, 717, 676, 628, and 629.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Edward Allen MacDuffie, of New York City; Arnold T. Koch, of New York City; George Francis Kneip, of St. Paul, Minn.; William S. Boyle, of Reno, Nev.; Maurice M. Feuerlicht, Jr., of Indianapolis, Ind.; David Sher, of New York City; Thomas F. Lavender, of Williamsport, Ind.; Samuel J. Melick, of Washington, D. C.; Joseph T. Votava, of Omaha, Nebr.; Ralph B. Lacey, of Detroit, Mich.; Edward M. English, of Cleveland, Ohio; Francis J. Quirico, of Pittsfield, Mass.; Wallace D. Newcomb, of Philadelphia, Pa.; John Hogg Austin, of Philadelphia, Pa.; Wyman S. Gideon, of Austin, Tex.; Arthur L. Obre, of New York City; Raymond J. Walsh, of Hastings-on-the-Hudson, N. Y.; Williams Sterling Youngman, Jr., of Boston, Mass.; John Morgan Davis, of Philadelphia, Pa.; John A. Gilmore, of Iowa City, Iowa; Ralph H. Dwan, of Minneapolis, Minn.; Ralph E. Bailey, of Sikeston, Mo.; Aaron Lasser, of Newark, N. J.; Lester S. Harrison, of Kellogg, Idaho; J. Robert Mengel, of San Francisco, Calif.; George Yamaoka, of New York City; Joseph W. Kehoe, of Seward, Alaska; and Frank B. Gummey II, of Philadelphia, Pa., were admitted to practice.

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The Chief Justice said:

"The President, with the advice and consent of the Senate, has appointed William O. Douglas, of Connecticut, to be Associate Justice of this Court. Mr. Douglas is present. The Clerk will read his commission. Mr. Douglas will then take the oath and the Marshal will escort him to his seat upon the bench."

The Clerk then read the commission as follows:

"FRANKLIN D. ROOSEVELT,

"PRESIDENT OF THE UNITED STATES OF AMERICA,

*"To all who shall see these Presents, Greeting:*

"Know Ye; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of William O. Douglas of Connecticut, I have nominated and, by and with the advice and consent of the Senate, do appoint him an Associate Justice of the Supreme Court of the United States, and do authorize and empower him to

execute and fulfil the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges, and emoluments to the same of right appertaining, unto Him, the said William O. Douglas, during his good behavior.

“In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

“Done at the City of Washington this fifteenth day of April, in the year of our Lord one thousand nine hundred and thirty-nine, and of the Independence of the United States of America the one hundred and sixty-third.

“FRANKLIN D. ROOSEVELT.

“By the President:

“FRANK MURPHY,

*“Attorney General.”*

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The oath of office was then administered by the Clerk, and Mr. Justice Douglas was escorted by the Marshal to his seat upon the bench.

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No. 481. Rochester Telephone Corporation, appellant, *v.* The United States of America and Federal Communications Commission. Appeal from the District Court of the United States for the Western District of New York. Decree affirmed. Opinion by Mr. Justice Frankfurter. Mr. Justice McReynolds concurs in the result. Separate opinion by Mr. Justice Butler in which Mr. Justice McReynolds concurs.

No. 432. The United States of America and Interstate Commerce Commission, appellants, *v.* Dan E. Maher, doing business as Interstate Busses. Appeal from the District Court of the United States for the District of Oregon. Decree reversed and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Frankfurter.

No. 508. Federal Power Commission, petitioner, *v.* Pacific Power & Light Company et al. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment affirmed, and cause remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Frankfurter.

No. 276. George Couper Gibbs, Individually and as Attorney General of the State of Florida, et al., appellants, *v.* Gene Buck, Individually, etc., et al. Appeal from the District Court of the United

States for the Northern District of Florida. Decree affirmed with costs. Opinion by Mr. Justice Reed. Mr. Justice Frankfurter took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Black.

No. 329. Gene Buck, Individually, etc., et al., appellants, *v.* Phil H. Gallagher, Individually and as State Treasurer of the State of Washington, et al. Appeal from the District Court of the United States for the Western District of Washington. Decree reversed with costs and cause remanded to the said District Court with directions to permit the introduction of evidence and for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Reed. Mr. Justice Black dissents. Mr. Justice Frankfurter took no part in the consideration or decision of this case.

No. 509. Denis J. Driscoll, Thomas C. Buchanan, et al., appellants, *v.* Edison Light and Power Company. Appeal from the District Court of the United States for the Eastern District of Pennsylvania. Decree reversed with costs and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Reed. Concurring opinion by Mr. Justice Frankfurter in which Mr. Justice Black joins.

No. 453. United States Trust Company of New York, as Executor U/W of George H. Bunker, deceased, petitioner, *v.* Commissioner of Internal Revenue. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment affirmed and cause remanded to the said Circuit Court of Appeals. Opinion by Mr. Justice Black.

No. 660. William McCrone, petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. Judgment affirmed and cause remanded to the District Court of the United States for the District of Montana. Opinion by Mr. Justice Black.

No. 666. Chippewa Indians of Minnesota, appellants, *v.* The United States. Appeal from the Court of Claims. Judgment affirmed. Opinion by Mr. Justice Roberts.

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu and Northeastern Engineering Corporation. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Decree of the Circuit Court of Appeals reversed with costs and cause remanded to the District Court of the United States for the Eastern District of Pennsylvania with directions to dismiss the bill as to Nos. 1,584,150 and 1,896,020, and to proceed, in the light of the invalidity of those patents, to determine whether 1,584,149 is valid and infringed. Opinion by Mr. Justice Roberts.



No. 330. Eugene Kessler, District Director of Immigration and Naturalization, petitioner, *v.* Joseph George Strecker. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Judgment of the Circuit Court of Appeals modified as indicated in the opinion of this Court and cause remanded to the District Court of the United States for the Eastern District of Louisiana with instructions to proceed in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts. Dissenting opinion by Mr. Justice McReynolds in which Mr. Justice Butler joins.

No. 505. James H. Mulford et al., appellants, *v.* Nat Smith et al. Appeal from the District Court of the United States for the Middle District of Georgia. Decree affirmed with costs. Opinion by Mr. Justice Roberts. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds concurs.

No. 598. Atlas Life Insurance Company *v.* W. I. Southern, Incorporated. On certificate from the United States Circuit Court of appeals for the Tenth Circuit. Certificate dismissed. Opinion by Mr. Justice Stone.

No. 448. David T. Wilentz, J. H. Thayer Martin, et al., appellants, *v.* Sovereign Camp, Woodmen of the World. Appeal from the District Court of the United States for the District of New Jersey. Appeal dismissed with costs to appellants. Opinion by Mr. Justice Stone.

No. 534. Frank W. Clark, as Director of the Department of Motor Vehicles of the State of California, et al., appellants, *v.* Paul Gray, Inc., et al. Appeal from the District Court of the United States for the Southern District of California. Decree reversed with costs and cause remanded with instructions to dismiss the case as to appellee Paul Gray, Inc., on the merits, and to dismiss as to the other appellees for want of jurisdiction. Opinion by Mr. Justice Stone. Mr. Justice Black is of the opinion that the case should be dismissed for want of jurisdiction as to all the appellees.

No. 514. National Labor Relations Board, petitioner, *v.* Benjamin Fainblatt and Marjorie Fainblatt, Individuals, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Judgment reversed and cause remanded to the said Circuit Court of Appeals for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Stone. ~~Mr. Justice Frankfurter took no part in the consideration or decision of this case.~~ Dissenting opinion by Mr. Justice McReynolds in which Mr. Justice Butler joins.

No. 466. Honolulu Oil Corporation, Ltd., and M. O. Johnston Oil Field Service Corporation, petitioners, *v.* Erle P. Halliburton and Halliburton Oil Well Cementing Company; and

No. 479. Erle P. Halliburton and Halliburton Oil Well Cementing Company, petitioners, *v.* Honolulu Oil Corporation, Ltd., and M. O. Johnston Oil Field Service Corporation. On writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit. The part of the decree of the Circuit Court of Appeals brought up by defendants' petition is reversed with costs. The part brought up by plaintiffs' petition is affirmed with costs. The decree of the district court is affirmed and the cause is remanded to the District Court of the United States for the Southern District of California. Opinion by Mr. Justice Butler. The Chief Justice took no part in the consideration or decision of this case.

No. 541. John Carrier and J. Harvey Carpenter, Guardian, etc., petitioners, *v.* Curley Bryant. On writ of certiorari to the Supreme Court of the State of North Carolina. Judgment affirmed with costs. Opinion by Mr. Justice McReynolds.

No. 177. J. S. Kohn, M. S. Kohn, and J. W. Kohn, Administrators, etc., appellants, *v.* Central Distributing Co., Inc., et al. Appeal from the District Court of the United States for the Eastern District of Kentucky. Judgment affirmed with costs. Opinion by Mr. Chief Justice Hughes.

No. 462. Powers Higginbotham, appellant, *v.* City of Baton Rouge, Louisiana. Appeal from the Supreme Court of the State of Louisiana. Judgment affirmed with costs. Opinion by Mr. Chief Justice Hughes.

No. 465. Robert B. Honeyman, appellant, *v.* David B. Jacobs and Mary V. Jacobs. Appeal from the Supreme Court of the State of New York. Judgment affirmed with costs. Opinion by Mr. Chief Justice Hughes.

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The Chief Justice announced the following orders of the Court:

No. 694. Charlotte Gabrielli (a minor) by Joseph J. Gabrielli, her guardian, ad litem, appellant, *v.* Dorothy C. Knickerbocker, as a teacher in the Fremont School, etc., et al. Appeal from the Supreme Court of the State of California. *Per curiam:* The motion of the appellees to dismiss the appeal herein is granted, and the appeal is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for a writ of certiorari, as required by Section 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied.

No. 813. William A. Johnson, Individually, William Johnson, Jr., et al., appellants, *v.* Town of Deerfield, Deerfield School Committee, etc., et al. Appeal from the District Court of the United States for the District of Massachusetts. *Per curiam*: The judgment is affirmed. *Leoles v. Landers*, 302 U. S. 656; *Hering v. State Board of Education*, 303 U. S. 624; *Hamilton v. The Regents*, 293 U. S. 245, 261-262.

No. 516. John Goins, petitioner, *v.* The United States of America. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit. *Per curiam*: As it appears on hearing argument that the District Court's failure to give Instruction B could not have prejudiced the petitioner, the writ of certiorari is dismissed.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. 12, original. The State of Missouri, complainant, *v.* The State of Iowa. The stipulation between the parties dated March 18, 1939, heretofore approved by the Master, is received, approved, and ordered filed.

No. 367. Frank Eichholz, appellant, *v.* Public Service Commission of the State of Missouri et al. The last sentence of the opinion is modified to read as follows:

"The decree of the District Court so far as it denies an injunction is affirmed."

The petition for rehearing is denied.

No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee, etc.;

No. 495. Chemical Bank & Trust Company, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee, etc., et al.;

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Limited;

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al.;

No. 339. Henry S. Long, Chairman, et al., appellants, *v.* Walter Stokes, Jr., as Commissioner, etc.; and

No. 372, October Term, 1937. Mark Graves et al., petitioners, *v.* Marion Brown Elliott et al. These cases are ordered restored to the docket and assigned for reargument on Monday, April 24, next, after the cases heretofore assigned for that day.

No. 814. Catherine Korte, petitioner, *v.* Don R. Mortfort, Trustee, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit;

No. 741. Walter B. Mitchell, petitioner, *v.* Charles W. Greenough et al. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit;

No. 747. Gertrude Kay, alias Gertrude Klein, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit;

No. 755. Mrs. Irene Norman, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit;

No. 843. Fred Hartzell West, petitioner, *v.* State of Washington. On petition for writ of certiorari to the Supreme Court of the State of Washington; and

No. 852. James Reed Swain, petitioner, *v.* State of Indiana. On petition for writ of certiorari to the Supreme Court of the State of Indiana. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petition for writs of certiorari are therefore also denied.

No. 825. Valvoline Oil Company, appellant, *v.* The United States of America et al. In this case probable jurisdiction is noted.

No. 702. H. Luther Pittman, Clerk of the Superior Court of Baltimore City, petitioner, *v.* Home Owners' Loan Corporation of Washington, D. C. Petition for writ of certiorari to the Court of Appeals of the State of Maryland granted.

No. 720. The Board of County Commissioners of the County of Jackson, in the State of Kansas, etc., petitioner, *v.* The United States of America, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit granted.

No. 750. Oklahoma Packing Company, Formerly Wilson & Co., Inc., etc., et al., petitioners, *v.* Oklahoma Gas and Electric Company et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit granted.

No. 749. Harold F. Snyder, petitioner, *v.* City of Milwaukee. Petition for writ of certiorari to the Supreme Court of the State of Wisconsin granted and the case assigned for argument immediately following No. 715.

No. 865. E. Frank Branon, petitioner, *v.* The United States of America et al. Petition for writ of certiorari to the United States

Circuit Court of Appeals for the First Circuit granted and the case consolidated with No. 772 for the purpose of argument.

No. 692. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Ashland Oil & Refining Company;

No. 693. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Ashland Oil & Refining Company;

No. 757. Ashland Oil & Refining Company, petitioner, *v.* Commissioner of Internal Revenue; and

No. 758. Ashland Oil & Refining Company, petitioner, *v.* Commissioner of Internal Revenue. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied. Mr. Justice Reed took no part in the consideration and decision of these applications.

No. 756. The City of New York, Alfred Rheinsein, as Commissioner of Housing and Building of the City of New York et al., petitioners, *v.* Central Savings Bank in the City of New York et al. The petition for a writ of certiorari to the Supreme Court of the State of New York is denied for the reason that the judgment sought to be reviewed rests upon a nonfederal ground adequate to support it. *Lynch v. New York*, 293 U. S. 52; *Honeyman v. Hanan*, 300 U. S. 14, 18-19.

No. 678. Sidney Weinberg, petitioner, *v.* The United States; and

No. 679. Ferdinand A. Straus, et al., petitioners, *v.* The United States. Petition for writs of certiorari to the Court of Claims denied.

No. 680. The United States, petitioner, *v.* H. B. Nelson Construction Company. Petition for writ of certiorari to the Court of Claims denied.

No. 718. Mabel Jones West, petitioner, *v.* City of Birmingham. Petition for writ of certiorari to the Supreme Court of the State of Alabama denied.

No. 719. Boston & Maine Railroad, petitioner, *v.* Mayo Williams and Matilda Padgett, Administratrix, etc.; and

No. 724. Bernardi Greater Shows, Inc., petitioner, *v.* Boston & Maine Railroad. Petitions for writs of certiorari to the Supreme Court of the State of New Hampshire denied.

No. 729. M. Rich & Brothers Company, petitioner, *v.* First National Bank of Atlanta et al., Executors, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 731. Minnesota Mining & Manufacturing Company, petitioner, *v.* Conway P. Coe, Commissioner of Patents. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 734. Siegfried Herman, Executor, etc., petitioner, *v.* Howard E. Henley, Trustee in Bankruptcy for Vernon F. Marsters; and

No. 735. Siegfried Herman, Executor, etc., petitioner, *v.* Howard E. Henley, Trustee in Bankruptcy for Mary E. Marsters. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 737. Erastus W. Rogers and J. E. Hulse, Administrator, etc., petitioners, *v.* Montgomery Ward & Company, Incorporated. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 743. Randolph Lumber Company (formerly Edward Hines Lumber Co.), petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 744. John E. Mathewson, as Administrator, etc., et al., petitioners, *v.* First Trust Company of St. Joseph, Missouri, Individually and as Trustee. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 732. Noble John Moore, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 733. Estate of William C. Orr, The Fifth Avenue Bank of New York, et al., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 752. Fidelity & Casualty Company of New York, petitioner, *v.* Fred A. Paddleford and Joseph F. Lamy, etc.; and

No. 753. Hartford Accident & Indemnity Company, petitioner, *v.* Fred A. Paddleford and Joseph F. Lamy, etc. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 759. Cecil H. Gamble, Executor, etc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 774. Cora S. Evans, petitioner, *v.* Kansas Gas and Electric Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 599. Edgar Cowherd, petitioner, *v.* Phoenix Joint Stock Land Bank of Kansas City et al.;

No. 605. Public Service Commission of the State of Missouri et al., appellants, *v.* Brashear Freight Lines, Inc., et al.;

No. 667. Lehigh Valley Railroad Company of New Jersey et al., petitioners, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 668. The Central Railroad Company of New Jersey, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 669. The Central Railroad of New Jersey, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 670. Delaware, Lackawanna & Western Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 671. New York Central Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 672. New Jersey & New York Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 673. New York, Susquehanna & Western Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.;

No. 674. Erie Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al.; and

No. 675. Lehigh Valley Railroad Company, petitioner, *v.* J. H. Thayer Martin, State Tax Commissioner, et al. Petitions for rehearing denied.

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No. 7. Rolla W. Coleman, W. A. Barron, et al., petitioners, *v.* Clarence W. Miller, as Secretary of the Senate of the State of Kansas, et al. Reargument commenced by Mr. Rolla W. Coleman for the petitioners; and continued by Mr. Robert Stone for the petitioners and by Mr. Clarence V. Beck for the respondents. Leave granted petitioners to file an additional brief within five days.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, April 18, will be as follows: Nos. 7, 14, 449 (and 456), 582, 76 (77 and 661), 221, 650, 687, 704, and 676.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Louis W. Woosley, of Bonham, Tex.; Guy Amsler, of Little Rock, Ark.; Frank Wichhem, of Sioux Falls, S. Dak.; Emil W. Colombo, of Detroit, Mich.; Milton Keen, of Clinton, Okla.; Lenore H. Langford, of Bessemer, Ala.; Henry I. Fillman, of New York City; Irvin Goldstein, of Washington, D. C.; James H. Wheat, of Urbana, Ill.; Geo. H. Wallace, of Chicago, Ill.; Edwin M. Thomas, of Washington, D. C.; Joseph T. McDonald, of Scranton, Pa.; William J. Rowan, Jr., of Washington, D. C.; Eldridge Hood Young, of Baltimore, Md.; and Goldie Bell Sefken, of Washington, D. C., were admitted to practice.

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No. 7. Rolla W. Coleman, W. A. Barron, et al., petitioners, v. Clarence W. Miller, as Secretary of the Senate of the State of Kansas, et al. Reargument concluded by Mr. Solicitor General Jackson for the United States, as *amicus curiae*, by special leave of Court.

No. 14. Albert Benjamin Chandler, Individually, etc., et al., petitioners, v. James W. Wise and Ray B. Moss. Reargued by Mr. J. W. Jones for the petitioners and by Mr. Oldham Clarke and Mr. Lafon Allen for the respondents.

No. 449. Newark Fire Insurance Company, appellant, v. State Board of Tax Appeals and the City of Newark; and

No. 456. Universal Insurance Company et al., appellants, v. State Board of Tax Appeals of the State of New Jersey et al. Argument commenced by Mr. Arthur T. Vanderbilt for the appellant in No. 449 and continued by Mr. John G. Jackson for the appellants in No. 456, and by Mr. Donald R. Richberg for the appellees.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, April 19, will be as follows: Nos. 449 (and 456), 582, 76 (77 and 661), 221, 650, 687, 704, 676, 10, and 627.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Chas. R. Moore, of Maynardville, Tenn.; Charles Bushnell Fullerton, of Chicago, Ill.; Toxey Hall, of Columbia, Miss.; Max Hersh, of New York City; Frank E. Flynn, of Phoenix, Ariz.; George E. Faithfull, of New York City; Louis Burgess, of New York City; Melvin S. Huffaker, of Mesa, Ariz.; Thomas Everton Kennerly, of Houston, Tex.; Lawrence S. Lesser, of New York City; Denison Kitchel, of Phoenix, Ariz.; Charles Wellington Curran, of Washington, D. C.; George L. Brannon, of Washington, D. C.; Charles W. Stewart, of Washington, D. C.; William E. Rabenhorst, of Washington, D. C.; Aaron Friedenberg, of Washington, D. C.; Jacob P. Drukman, of Boston, Mass.; Jesse B. Messitte, of Washington, D. C.; Charlotte Tuttle Westwood, of New York City; and Howard C. Westwood, of Washington, D. C., were admitted to practice.

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No. 499. Newark Fire Insurance Company, appellant, *v.* State Board of Tax Appeals and The City of Newark; and

No. 456. Universal Insurance Company et al., appellants, *v.* State Board of Tax Appeals et al. Argument continued by Mr. Donald R. Richberg for the appellees; by Mr. Arthur T. Vanderbilt for the appellant in No. 449; and concluded by Mr. John G. Jackson for the appellants in No. 456. Leave granted the appellants and appellees to file additional memorandum within three days.

No. 582. Electrical Fittings Corporation et al., petitioners, *v.* The Thomas & Betts Co. et al. Argued by Mr. Samuel E. Darby, Jr., for the petitioners and by Mr. George Whitefield Betts, Jr., for the respondents.

No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company et al.;

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation; and

No. 661. General Electric Supply Corporation, petitioner, *v.* The Maytag Company. Argument commenced by Mr. Wallace R. Lane

for the petitioner in Nos. **76** and **77** and the respondent in No. **661**, and continued by Mr. William H. Davis for the respondents in Nos. **76** and **77** and the petitioner in No. **661**.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, April 20, will be as follows: Nos. **76** (**77** and **661**), **221**, **650**, **687**, **704**, **676**, **10**, **627**, **717**, and **810**.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Edward Schoeneck, of Syracuse, N. Y.; Henry H. Surface, of Washington, D. C.; Willard S. Lines, of Washington, D. C.; John Gee Clark, of Long Beach, Calif.; John T. Koehler, of Baltimore, Md.; Richard B. Swartzbaugh, of Toledo, Ohio; Arthur G. Prangley, of Rye, N. Y.; George R. Effler, of Toledo, Ohio; and Harvey B. Otterman, of Washington, D. C., were admitted to practice.

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No. 498. Rafael Sancho Bonet, Treasurer of Puerto Rico, petitioner, *v.* Yabucoa Sugar Company. Time within which to file petition for rehearing extended to and including May 19 next on motion of counsel for the respondent

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No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company et al.;

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation; and

No. 661. General Electric Supply Corporation, petitioner, *v.* The Maytag Company. Argument continued by Mr. William H. Davis for the respondents in Nos. 76 and 77 and the petitioner in No. 661, and concluded by Mr. Wallace R. Lane for the petitioner in Nos. 76 and 77 and the respondent in No. 661.

No. 221. The United States of America et al., appellants, *v.* F. O. Morgan, doing business as F. O. Morgan Sheep Commission Company, et al. Reargued by Mr. Solicitor General Jackson for the appellants and by Mr. Frederick H. Wood and Mr. John B. Gage for the appellees.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, April 21, will be as follows: Nos. 650, 687, 704, 676, 10, 627, 717, and 810.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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J. Clifford Curry, of Chattanooga, Tenn.; John A. Carroll, of Denver, Colo.; Albert R. Henry, of Buffalo, N. Y.; Jeff A. Robertson, of Kansas City, Kans.; William H. Mathews, Jr., of Washington, D. C.; Robert W. Knox, of Washington, D. C.; and John Saxton Daniel, of Savannah, Ga., were admitted to practice.

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No. 650. L. W. Baldwin and Guy A. Thompson, as Trustees, etc., petitioners, *v.* Scott County Milling Company. Argued by Mr. H. H. Larimore for the petitioners and by Mr. James A. Finch for the respondent.

No. 687. The United States of America, appellant, *v.* Neal Powers and Rene Allred. Argued by Mr. Charles A. Horsky for the appellant and by Mr. John D. Cofer for the appellees.

No. 704. American Toll Bridge Company, appellant, *v.* Railroad Commission of the State of California et al. Argued by Mr. Max Thelen for the appellant and by Mr. Ira H. Rowell for the appellees.

Adjourned until Monday next at 12 o'clock.

The day call for Monday, April 24, will be as follows: Nos. 676, 742, 771 (826, 827, and 828), 772 (865 and 809), 384, 495, 590 (and 591), 810, 339, and 372, October Term, 1937.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Ed. P. Buckenmyer, of Toledo, Ohio; Richard J. Connor, of Norwalk, Conn.; Paul M. Plunkett, of Chicago, Ill.; Paul E. Treusch, of Chicago, Ill.; Urdix B. Ewing, of Tell City, Ind.; T. Roland Berner, of New York City; Albert G. Rutherford, of Honesdale, Pa.; Clarence E. Bodie, of Honesdale, Pa.; Robert V. V. Rice, of Grand Rapids, Mich.; Thomas K. Perry, of Grand Rapids, Mich.; Owen A. Hoban, of Gardner, Mass.; Oscar M. Shaw, of Boston, Mass.; Frederick W. Senn, of Waseca, Minn.; William T. Doyle, of San Francisco, Calif.; E. R. Holmes, Jr., of Jackson, Miss.; Russell Wright, of Jackson, Miss.; Hanum Gardner, of Gulfport, Miss.; Lawrence Foster, of Manchester, Mass.; Augustin H. Parker, Jr., of Boston, Mass.; Geanie P. Houston, of Heber Springs, Ark.; Joseph O. Carson II, of Indianapolis, Ind.; Charles M. Stevenson, of Dayton, Ohio; Willard R. Pratt, of Utica, N. Y.; and Amador Buenaseda, of Manila, P. I., were admitted to practice.

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No. 543. Lottie F. Sprague, petitioner, *v.* Ticonic National Bank et al. On writ of certiorari to the United States Circuit Court of Appeals for the First Circuit. Decree reversed with costs and cause remanded to the District Court of the United States for the District of Maine for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Frankfurter. Mr. Justice McReynolds and Mr. Justice Butler concur in the result. Mr. Justice Douglas took no part in the consideration or decision of this case.

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The Chief Justice said:

“The orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally.”

### ORDER OF ALLOTMENT OF JUSTICES

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this Court among the Circuits,

agreeably to the Acts of Congress in such case made and provided, and that such allotment be entered of record, viz:

For the First Circuit, Felix Frankfurter, Associate Justice.

For the Second Circuit, Harlan F. Stone, Associate Justice.

For the Third Circuit, Owen J. Roberts, Associate Justice.

For the Fourth Circuit, Charles Evans Hughes, Chief Justice.

For the Fifth Circuit, Hugo L. Black, Associate Justice.

For the Sixth Circuit, James C. McReynolds, Associate Justice.

For the Seventh Circuit, William O. Douglas, Associate Justice.

For the Eighth Circuit, Pierce Butler, Associate Justice.

For the Ninth Circuit, Stanley Reed, Associate Justice.

For the Tenth Circuit, Pierce Butler, Associate Justice.

For the District of Columbia, Charles Evans Hughes, Chief Justice.

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No. —. In Re Disbarment of Pierce Lonergan.

It appearing to the Court from the record in Pierce Lonergan, petitioner, *v.* The United States, No. 1064, October Term 1937, that Pierce Lonergan, of the State of Washington, a member of the bar of this Court, has been convicted of a felony in the District Court of the United States for the Western District of Washington; and it further appearing that his resignation as a member of the Washington State Bar Association has been accepted by the Supreme Court of the State of Washington and his name stricken from the roll of attorneys of the State of Washington;

It is ordered that the said Pierce Lonergan be, and he hereby is, suspended from the practice of the law in this Court, and that a rule issue returnable within forty (40) days requiring the said Pierce Lonergan to show cause why he should not be disbarred from the practice of the law in this Court.

No. —, original. *Ex parte* Harmon Metz Waley, petitioner; and

No. —, original. *Ex parte* John F. Struthers, petitioner. The motions for leave to file petitions for writs of habeas corpus are denied.

No. 514. National Labor Relations Board, petitioner, *v.* Benjamin Fainblatt, et al., etc. It is ordered that the entry in this case in the Journal of this Court for April 17, 1939 be amended by striking out the words "Mr. Justice Frankfurter took no part in the consideration or decision of this case."

No. 862. Edmond C. Fletcher, petitioner, *v.* Alfred A. Wheat and Jesse C. Adkins. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia. The motion for leave to proceed further herein *in forma pauperis* is denied for

the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied.

No. 769. State of Florida, ex rel. William W. Vars, appellant, *v.* W. V. Knott, State Treasurer etc.; and

No. 770. State of Florida, ex rel. Hardware Mutual Casualty Company, et al., appellants, *v.* W. V. Knott, State Treasurer etc. Further consideration of the question of the jurisdiction of this Court in these cases is postponed to the hearing of the cases on the merits.

No. 745. L. Boteler, Trustee etc., petitioner, *v.* Ray Ingels, Director of Motor Vehicles of the State of California, et al.; and

No. 746. L. Boteler, Trustee etc., petitioner, *v.* Ray Ingels, Director of Motor Vehicles of the State of California et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 767. National Labor Relations Board, petitioner, *v.* Newport News Shipbuilding & Dry Dock Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted.

No. 867. John Hancock Mutual Life Insurance Company, petitioner, *v.* Benno Bartels. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 722. Emil Olsson, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 751. Martin N. Jensen, et al., petitioners, *v.* The Canadian Indemnity Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 760. John L. Lotsch, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 761. Anna F. Ardenghi, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 762. Sol H. Goldberg, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 763. Black River Valley Broadcasts, Inc., petitioner, *v.* Frank R. McNinch et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 764. Drusilla Carr Land Corporation, Debtor, et al., etc., petitioners, *v.* Gary Land Company; and

No. 765. Drusilla Carr Land Corporation, Debtor, et al., etc., petitioners, *v.* Gary Land Company. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 342. Frank O. Lowden, et al., Trustees, etc., petitioners, *v.* Simond-Shields-Lonsdale Grain Company. Petition for rehearing denied.

ORDER

It is ordered that the call of the docket be suspended for the Term upon the conclusion of the arguments in the cases on call for Friday, April 28, and that the Court will then take a recess until Monday, May 15.

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No. —, original. *Ex parte* Mark O. Davis, petitioner. Motion for leave to file petition for writ of mandamus submitted by Mr. Joseph T. Sherier for the petitioner.

No. 773. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Charles C. Stilwell. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. Dismissed on motion of counsel for the petitioner.

No. 829. Minnesota Tax Commission et al., petitioners, *v.* William B. Geery. On petition for writ of certiorari to the Supreme Court of the State of Minnesota. Dismissed on motion of counsel for the petitioner.

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No. 676. Horton C. Rorick, petitioner, *v.* Devon Syndicate, Limited. Argued by Mr. George R. Effler for the petitioner and by Mr. George D. Welles for the respondent.

No. 742. State of Mississippi, *ex rel.* Greek L. Rice, Attorney General, et al., appellants, *v.* The United States of America, et al. Argument commenced by Mr. Edwin R. Holmes, Jr., and continued by Mr. Russell Wright for the appellants. The Court declined to hear further argument.

No. 771. The United States of America, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 826. Holton V. Noyes, as Commissioner of Agriculture and Markets of the State of New York, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 827. Dairymen's League Cooperative Association, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al.;



No. 828. Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al. Argument commenced by Mr. Solicitor General Jackson for the appellants.

Adjourned until tomorrow at 12 o'clock.

The day call for Tuesday, April 25, will be as follows: Nos. 771 (826, 827, and 828), 772 (865 and 809), 384, 495, 590 (and 591), 810, 339, 372 October Term 1937, 10, and 627.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Ernest L. Reid, of Orange, Tex.; Charles F. Fish, of New York City; Edmund F. Cooke, of Buffalo, N. Y.; Shelby L. Wiggins, of New York City; Ford Q. Elvidge, of Seattle, Wash.; James Martin Heilman, of Lancaster, Pa.; Frank B. Appleman, of Tulsa, Okla.; Robert Wayne Reynolds, of Tulsa, Okla.; Mildred Claire Hope, of Washington, D. C.; Guy C. Heater, of New York City; Charles E. France, of Oklahoma City, Okla.; and Hans A. Klagsbrunn, of Washington, D. C., were admitted to practice.

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No. 771. The United States of America, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 826. Holton V. Noyes, as Commissioner of Agriculture and Markets of the State of New York, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 827. Dairymen's League Cooperative Association, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al.; and

No. 828. Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al. Argument continued by Mr. Solicitor General Jackson for the appellants; by Mr. Leonard Acker for appellee, Central New York Co-operative Association, Inc.; by Mr. Willard R. Pratt for appellees, Rock Royal Co-operative, Inc., et al.; and concluded by Mr. Solicitor General Jackson for the appellants. Leave granted Mr. Willard R. Pratt to file an additional brief by Saturday next.

No. 772. H. P. Hood & Sons, Inc., et al., petitioners, *v.* The United States of America et al.;

No. 865. E. Frank Branon, petitioner, *v.* The United States of America et al.; and

No. 809. Whiting Milk Company, petitioner, *v.* The United States of America et al. Argument commenced by Mr. Charles B. Rugg for the petitioners in Nos. 772 and 865.

Adjourned until tomorrow at 12 o'clock.

The day call for Wednesday, April 26, will be as follows: Nos. 772 (865 and 809), 384, 495, 590 (and 591), 810, 339, 372 October Term 1937, 10, 627, and 717.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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James M. Barnes, of Jacksonville, Ill.; Raymond S. Springer, of Connersville, Ind.; Clyde Y. Morris, of Washington, D. C.; William Gerber, of Memphis, Tenn.; Frederick McMillan Figert, of Washington, D. C.; Charles Maurice McKnight, of Tulsa, Okla.; Berryman Henwood, of St. Louis, Mo.; Bernard M. Chernoff, of Washington, D. C.; and Carroll G. Lord, of Chicago, Ill., were admitted to practice.

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No. 772. H. P. Hood & Sons, Inc., et al., petitioners, *v.* The United States of America et al.;

No. 865. E. Frank Branon, petitioner, *v.* The United States of America et al.; and

No. 809. Whiting Milk Company, petitioner, *v.* The United States of America et al. Argument continued by Mr. Charles B. Rugg for the petitioners in Nos. 772 and 865; by Mr. John M. Raymond for the petitioner in No. 809; and concluded by Mr. Solicitor General Jackson for the respondents.

No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, et al. Reargument commenced by Mr. John W. Davis for the petitioner; continued by Mr. A. H. Kiskaddon for the respondent, Henwood, Trustee; by Mr. George L. Buland, for the respondent, Southern Pacific Co.; by Mr. Carleton S. Hadley for the respondent, Henwood, Trustee; and concluded by Mr. John W. Davis for the petitioner.

Adjourned until tomorrow at 12 o'clock.

The day call for Thursday, April 27, will be as follows: Nos. 495, 590 (and 591), 810, 339, 372 October Term 1937, 10, 627, and 717.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Ellsworth D. Jones, of Washington, D. C.; Robert E. Bigney, of Boston, Mass.; Walter W. Dosh, of Washington, D. C.; Annie Vest Russell, of Washington, D. C.; S. Albert Stern, of Chicago, Ill.; and Ira S. Robbins, of New York City, were admitted to practice.

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No. 495. Chemical Bank & Trust Company, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, Debtor, et al. Reargued by Mr. Alfred H. Phillips for the petitioner and by Mr. Carleton S. Hadley for the respondents.

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Limited; and

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al. Reargued by Mr. Frederick H. Wood for the petitioner; by Mr. Nathan L. Miller for the respondent in No. 590; and by Mr. Harry Hoffman for the respondent in No. 591.

Adjourned until tomorrow at 12 o'clock.

The day call for Friday, April 28, will be as follows: Nos. 810, 339, 372 October Term 1937, 10, 627, and 717.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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David B. Morgan, of Phoenix, Ariz.; J. Francis Moore, of Washington, D. C.; Sebastian Ugarte, of Manila, P. I.; Conrad Hubner, of San Francisco, Calif.; Natalie Marion Weinstein, of Miami Beach, Fla.; M. J. Halpern, of Brooklyn, N. Y.; Leo Fixler, of Brooklyn, N. Y.; Michael A. Schmitt, of St. Paul, Minn.; Vernon W. Marr, of Scituate, Mass.; and George L. DeLacy, of Omaha, Nebr., were admitted to practice.

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No. 810. George W. O'Malley, Individually and as Collector of Internal Revenue, appellant, *v.* Joseph W. Woodrough and Ella B. Woodrough. Argued by Mr. Solicitor General Jackson for the appellant and by Mr. J. A. C. Kennedy and Mr. George L. DeLacy for the appellees.

No. 339. Henry S. Long, Chairman and John P. Kohn, Sr., and W. W. Ramsey, as Members Comprising the State Tax Commission of the State of Alabama, et al., appellants, *v.* Walter Stokes, Jr., as Commissioner of Finance and Taxation of the State of Tennessee. John C. Curry, State Tax Commissioner of the State of Alabama substituted as a party appellant in the place and stead of Henry S. Long, John P. Kohn, Sr., and W. W. Ramsey; and George F. McCanless, present Commissioner of Finance and Taxation of the State of Tennessee, substituted as the party appellee in the place and stead of Walter Stokes, Jr., on motion of Mr. Charles S. Trabue, Jr., for the appellants.

No. 339. John C. Curry, State Tax Commissioner of Alabama, et al., appellants, *v.* George F. McCanless, as Commissioner of Finance and Taxation of the State of Tennessee. Reargued by Mr. Marion Rushton for the appellants and by Mr. Edwin F. Hunt for the appellee.

No. 372, October Term 1937. Mark Graves et al., petitioners, *v.* Marion Brown Elliott et al. Reargued by Mr. Mortimer M. Kassell for the petitioners and by Mr. Frederick C. Banks for the respondents.

Adjourned until Monday, next, at 12 o'clock.

The day call for Monday, May 1, will be as follows: Nos. 10, 627, and 717.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Charles J. Crampton, of Dallas, Tex.; Carlos R. Freitas, of San Rafael, Calif.; Walker Saulsbury, of Temple, Tex.; Raymond F. Matyniak, of Hamtramck, Mich.; Nettie Young Jones, of Washington, D. C.; Arthur J. Rooks, of Hamtramck, Mich.; Harold J. Cohen, of Chicago, Ill.; Isadore H. Halpern, of Washington, D. C.; John Byrne Chamberlin, of Chicago, Ill.; Curt Von Boetticher, Jr., of Port Washington, N. Y.; William J. Wehrli, of Casper, Wyo.; Samuel A. Rinella, of Chicago, Ill.; Myer N. Rosengard, of Chicago, Ill.; and Carlton F. Bryant, of Pittsburgh, Pa., were admitted to practice.

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The Chief Justice announced the following orders of the Court:

No. 856. L. Hines, appellant, *v.* The State of Texas;

No. 857. Walter Ryan, appellant, *v.* The State of Texas;

No. 858. Eddie Brown, appellant, *v.* The State of Texas; and

No. 859. Damon Hunter, appellant, *v.* The State of Texas. Appeals from the Court of Criminal Appeals of the State of Texas. *Per curiam*: The appeals are dismissed for want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeals were allowed as petitions for writs of certiorari, as required by section 237 (c) of the Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. The motions for leave to proceed further herein *in forma pauperis* are denied.

No. 742. State of Mississippi, ex rel. Greek L. Rice, Attorney General, et al., appellants, *v.* The United States of America et al. Appeal from the District Court of the United States for the Southern District of Mississippi. *Per curiam*: The decree is affirmed. Interstate Commerce Commission *v.* Union Pacific Railroad Company, 222 U. S. 541, 547-548; Los Angeles Switching Case, 234 U. S. 294, 311-312; United States *v.* American Tin Plate Company, 301 U. S. 402, 411.

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No. —, original. Ex parte Joseph Poresky, petitioner. Application denied.

No. —, original. *Ex parte* Mark O. Davis, petitioner. The motion for leave to file petition for writ of mandamus is denied.

No. —. J. Rush Stoner, petitioner, *v.* Board of Commissioners of Boulder County. The motion for mandate is denied.

No. 748. Ford Motor Company, petitioner, *v.* Edward Clark, Secretary of State of the State of Texas, et al. The motion to substitute Tom L. Beauchamp, present Secretary of State, and Gerald Mann, present Attorney General, as parties respondent in place of Edward Clark and William McCraw, respectively, is granted.

No. 532. W. P. Deppe, petitioner, *v.* General Motors Corporation, The petition for reopening is denied.

No. 849. Elmira Nichols and Pauline Thompson, appellants, *v.* Commonwealth of Massachusetts. In this case probable jurisdiction is noted and the case is assigned for argument immediately following No. 749.

No. 860. Texas Electric Railway Company, appellant, *v.* Clyde O. Eastus, United States Attorney for the Northern District of Texas, et al.; and

No. 863. City of Atlanta, a municipal corporation of the State of Georgia, appellant, *v.* National Bituminous Coal Commission et al. In these cases probable jurisdiction is noted.

No. 847. Cities Service Oil Company, petitioner, *v.* B. P. Dunlap et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 854. The United States of America, petitioner, *v.* The Glenn L. Martin Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted.

No. 838. F. H. E. Oil Company, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted and the case assigned for argument immediately following Nos. 163, 164, and 165. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 815. Bessie C. Williamson, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied. Mr. Justice Reed took no part in the consideration and decision of this application.

No. 844. William Rash, Administrator of the Estate of Noah Trump, deceased, petitioner, *v.* Norfolk & Western Railway Company. Petition for writ of certiorari to the Supreme Court of Appeals of the State of West Virginia denied for the want of a final judgment.

No. 721. City of Rockford, petitioner, *v.* Henry La Parr and A. B. Culhane, Receiver, etc.; and

No. 811. Henry La Parr and A. B. Culhane, Receiver, etc., petitioners, *v.* City of Rockford. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 738. Edgar Roy Gump, petitioner, *v.* The State of California et al. Petition for writ of certiorari to the Supreme Court of the State of California denied.

No. 754. Twentieth Century Bus Operators, Inc., et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 768. National Life and Accident Insurance Company, petitioner, *v.* Edith Holbrook. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 775. Jess R. Anderson, petitioner, *v.* The United States of America;

No. 776. Anthony Banca, petitioner, *v.* The United States of America;

No. 777. Jess Chandler, petitioner, *v.* The United States of America;

No. 778. Anthony J. Chunes, petitioner, *v.* The United States of America;

No. 779. John Costello, petitioner, *v.* The United States of America;

No. 780. William Crompton, petitioner, *v.* The United States of America;

No. 781. Sam Doah, petitioner, *v.* The United States of America;

No. 782. Earl Evans, petitioner, *v.* The United States of America;

No. 783. John H. Fancher, petitioner, *v.* The United States of America;

No. 784. Anton Victor Gent, petitioner, *v.* The United States of America;

No. 785. Arthur Gramlich, petitioner, *v.* The United States of America;

No. 786. James Harrison, petitioner, *v.* The United States of America;

No. 787. George Heine, petitioner, *v.* The United States of America;

No. 788. Henry Johnson, petitioner, *v.* The United States of America;

No. 789. Joseph LaVerso, petitioner, *v.* The United States of America;



- No. 790. Edward Lee, petitioner, *v.* The United States of America;
- No. 791. Harry Irvin Lowe, petitioner, *v.* The United States of America;
- No. 792. Carl Maddox, petitioner, *v.* The United States of America;
- No. 793. Daniel Mataya, petitioner, *v.* The United States of America;
- No. 794. Daniel J. McGill, petitioner, *v.* The United States of America;
- No. 795. Harry Melton, petitioner, *v.* The United States of America;
- No. 796. Andrew Newman, petitioner, *v.* The United States of America;
- No. 797. Anthony Profeta, petitioner, *v.* The United States of America;
- No. 798. Salvadore Profeta, petitioner, *v.* The United States of America;
- No. 799. Charles Rudolph, petitioner, *v.* The United States of America;
- No. 800. John Schneider, petitioner, *v.* The United States of America;
- No. 801. John Stanley, petitioner, *v.* The United States of America;
- No. 802. John Stewart, petitioner, *v.* The United States of America;
- No. 803. Dominic Tarro, petitioner, *v.* The United States of America;
- No. 804. John Edward Tatman, petitioner, *v.* The United States of America;
- No. 805. John Taylor, petitioner, *v.* The United States of America;
- No. 806. William Henry Thompson, petitioner, *v.* The United States of America;
- No. 807. Raymond Tombazzi, petitioner, *v.* The United States of America; and
- No. 808. Russell Wagner, petitioner, *v.* The United States of America. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.
- No. 819. The Citizens National Bank of Waco, petitioner, *v.* Fidelity & Deposit Company of Maryland. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.
- No. 824. Harry D. McCoy, petitioner, *v.* Southern Pacific Company. Petition for writ of certiorari to the District Court of Appeal, 1st Appellate District, State of California, denied.

No. 831. George W. Green, petitioner, *v.* City of Stuart. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 848. School District of Haverford Township, petitioner, *v.* American Surety Company of New York. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 853. The Dayton Rubber Manufacturing Company et al., petitioners, *v.* Henry Stagnaro, Trading as Cincinnati Belting Company, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 766. Robert L. DeMuth, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 876. Maude W. Sweet et al., petitioners, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit of Appeals for the First Circuit denied.

#### ORDER

The Court will take a recess from today until Monday, May 15; from that day until Monday, May 22, and from that day until Monday, May 29, upon which day it will adjourn for the term unless otherwise ordered.

No motions, except motions for admission to practice, will be received after the session next before the date fixed for adjournment of the term.

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No. 10. The United States of America, petitioner, *v.* One 1936 Model Ford V-8, De Luxe Coach, etc., et al. Reargued by Mr. Gordon Dean for the petitioner and by Mr. Duane R. Dills and Mr. Eugene E. Heaton for the respondent.

No. 627. The United States of America, petitioner, *v.* Automobile Financing, Inc. Argued by Mr. Gordon Dean for the petitioner and by Mr. Duane R. Dills for the respondent.

No. 717. William Jameson & Company, Inc., appellant, *v.* Henry Morgenthau, Jr., Secretary of the Treasury of the United States, et al. Argued by Mr. William D. Mitchell for the appellant and by Mr. Solicitor General Jackson and Mr. Phillip E. Buck for the appellees.

Adjourned until Monday, May 15, next at 12 o'clock.

## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Thomas D. Quinn, of Washington, D. C.; Frank R. Pitt, of New York City; Astor Hogg, of Whitesburg, Ky.; Henry B. Witham, of Knoxville, Tenn.; Patricia H. Collins, of Atlanta, Ga.; Leslie C. Krusen, of Philadelphia, Pa.; Rowland C. Evans, Jr., of Philadelphia, Pa.; John D. Phenev, of Detroit, Mich.; Leo W. Walsh, of Grand Rapids, Mich.; Colonel C. Sawyer, of Indianapolis, Ind.; Fred C. Gartner, of Philadelphia, Pa.; Franklin E. Fogo, of Richland Center, Wis.; J. Gilmore Fletcher, of Pittsburgh, Pa.; Thomas E. Whitten, of Pittsburgh, Pa.; Forrest Andrews, of Knoxville, Tenn.; Joel H. Berry, of Houston, Tex.; Terry C. Dickens, of Marlin, Tex.; Francis X. Dwyer, of Cambridge, Mass.; Alfred Brunson MacChesney III, of Chicago, Ill.; Arlindo Sanders Cate, of Chicago, Ill.; Guy Angle Greenawalt, of Washington, D. C.; Charles R. Fay, of Washington, D. C.; Randolph B. Cousins, of New York City; Frederick A. Warren, of Pierre, S. Dak.; John H. O'Toole, of Washington, D. C.; Sara Talbert Mero, of Washington, D. C.; Richard H. Packard, of Saginaw, Mich.; August H. Moran, of Chevy Chase, Md.; Hanns P. Kneipkamp, of New York City; Harold J. Jones, of New York City; L. Frank Withers, of Louisville, Ky.; J. G. Ragsdale, of El Dorado, Ark.; John J. Yowell, of Chicago, Ill.; Henry E. T. Herman, of Spokane, Wash.; B. Woodruff Weaver, of Washington, D. C.; W. F. Wilson, Jr., of Oklahoma City, Okla.; Clarence Edelson, of Chicago, Ill.; Robert C. Goodale, of Washington, D. C.; George A. Wilson, of New Orleans, La.; Joseph Marchetti, of Los Angeles, Calif.; Gorham F. Freer, of Arlington, Va.; George W. Porter, of Arlington, Va.; Nick Stepanovich, of East Chicago, Ind.; Loyd Justin Cohen, of East Chicago, Ind.; Joseph W. Carroll, of Washington, D. C.; Joseph A. Beck, of Pittsburgh, Pa.; William M. Cushman, of Washington, D. C.; Dodger D. Gessford, of Washington, D. C.; Harry C. Riley, of Washington, D. C.; John W. Malley, of Washington, D. C.; Humbert Cofrances, of New Haven, Conn.; Joseph Kovner, of Washington, D. C.; Theodore L. Chisholm, of New York City; John A. Bouvier, Jr., of Miami, Fla.; Alfred T. Airth, of Live Oak, Fla.; Claude L. Gray, of Orlando, Fla.; and Catherine L. Vaux, of Washington, D. C., were admitted to practice.

No. 687. The United States of America, appellant, *v.* Neal Powers and Rene Allred. Appeal from the District Court of the United States for the Southern District of Texas. Judgment reversed and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Douglas.

No. 554. H. C. Rorick, Joseph R. Grundy, and J. R. Easton, appellants, *v.* Board of Commissioners of Everglades Drainage District, etc., et al. Appeal from the District Court of the United States for the Northern District of Florida. Decree vacated at the cost of appellants and cause remanded to the said District Court for further proceedings to be taken independently of Section 266 of the Judicial Code. Opinion by Mr. Justice Frankfurter. Mr. Justice Douglas took no part in the consideration or decision of this case.

No. 544. The United States of America *v.* Edward H. Marxen, Trustee of Monterey Brewing Company, a Corporation, Bankrupt. On certificate from the United States Circuit Court of Appeals for the Ninth Circuit. Question certified answered in the negative. Opinion by Mr. Justice Reed. The Chief Justice and Mr. Justice Douglas took no part in the consideration or decision of this case.

No. 221. The United States of America and the Secretary of Agriculture, appellants, *v.* F. O. Morgan, doing business as F. O. Morgan Sheep Commission Company, et al. Appeal from the District Court of the United States for the Western District of Missouri. Judgment reversed and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Stone. Mr. Justice Reed took no part in the consideration and decision of this case. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds and Mr. Justice Roberts join.

No. 696. The United States of America, appellant, *v.* Jack Miller and Frank Layton. Appeal from the District Court of the United States for the Western District of Arkansas. Judgment reversed and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice McReynolds. Mr. Justice Douglas took no part in the consideration or decision of this cause.

No. 717. William Jameson & Company, Inc., appellant, *v.* Henry Morgenthau, Jr., Secretary of the Treasury of the United States, et al. Appeal from the District Court of the United States for the District of Columbia. Decree vacated and cause remanded to the said District Court for further proceedings to be taken independently of Sec. 3 of the Act of August 24, 1937. Opinion, *per curiam*, announced by Mr. Chief Justice Hughes.

The Chief Justice announced the following order of the Court:  
 No. 906. Rosehill Cemetery Company, appellant, *v.* William Knox Steele. Appeal from the Supreme Court of the State of Illinois. *Per curiam:* The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for want of a properly presented substantial federal question. (1) Willoughby *v.* Chicago, 235 U. S. 45, 49; Cleveland & Pittsburgh R. R. *v.* Cleveland, 235 U. S. 50, 53; Mellon *v.* O'Neil, 275 U. S. 212, 214-215; (2) Violet Trapping Co. *v.* Grace, 297 U. S. 119, 120; Ingraham *v.* Hanson, 297 U. S. 378, 381; Schenebeck *v.* McCrary, 298 U. S. 36, 37.

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The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original. *Ex parte* John P. Goodman, petitioner; and

No. —, original. *Ex parte* Richard Bundy, petitioner. The motions for leave to file petitions for writs of certiorari are denied.

No. —, original. *Ex parte* Harper Blattenberger. The motion for leave to file petition for writ of habeas corpus is denied.

No. —. *In re* disbarment of William H. Griffin. It appearing to this Court from the records in William H. Griffin, Jr., appellant, *v.* The Appellate Division of the Supreme Court of the State of New York, etc., et al., No. 586, October Term, 1938, and William H. Griffin, Jr., petitioner, *v.* The Appellate Division of the Supreme Court of the State of New York, etc., et al., No. 698, October Term, 1938, that William H. Griffin of New York, a member of the Bar of this Court, has been disbarred from the practice of the law in the courts of New York by order of the Appellate Division of the Supreme Court of the State of New York, First Department; and this Court by order of March 27, 1939, having suspended the said William H. Griffin from the practice of law in this Court and directed that a rule issue requiring him to show cause why he should not be disbarred from the practice of the law in this Court;

And it appearing that the said rule was issued and served upon the said William H. Griffin, who has filed a return thereto;

Now, upon consideration of the rule to show cause and the return thereto, it is ordered that the said William H. Griffin be, and he hereby is, disbarred, and that his name be stricken from the roll of attorneys admitted to practice in this Court.

No. 11, original. The State of Texas, complainant, *v.* The State of Florida, the State of New York, et al. This cause came on to be

heard on the pleadings, evidence, and the exceptions filed by the parties to the Report of the Special Master, and was argued by counsel.

The Court having dismissed Mabel Harlow Green as a party defendant to the suit on January 17, 1938 (302 U. S. 662), pursuant to the stipulation filed by the parties, it is now here ordered, adjudged, and decreed as follows:

1. The Report of the Special Master is confirmed.
2. The domicile of Edward Howland Robinson Green at the time of his death, June 8, 1936, was in fact and in law within the Commonwealth of Massachusetts and not within the State of Texas, the State of Florida, or the State of New York.
3. The cause will be retained upon the docket for such further action as may be necessary and proper, and the parties or any of them may at any time hereafter apply for relief as they may be advised.

And it is further ordered that the costs in this case, including the compensation and expenses of the Special Master shall be paid one-fifth each by the State of Texas, State of Florida, State of New York, Commonwealth of Massachusetts, and Hetty Sylvia Ann Howland Green Wilks.

No. 11, original. The State of Texas, complainant, *v.* The State of Florida et al. An order is entered fixing the compensation and allowing the expenses of the Special Master herein.

No. 918. Bernardino Rodriquez and Lucia Rodriquez, petitioners, *v.* E. A. Ward. On petition for writ of certiorari to the Supreme Court of the State of New Mexico;

No. 919. Fred Kammerer, petitioner, *v.* The State of New York. On petition for writ of certiorari to the Court of Appeals of the State of New York;

No. 874. Edmond C. Fletcher, petitioner, *v.* Fenton W. Booth et al. On petition for writ of certiorari to the Court of Appeals of the District of Columbia; and

No. 884. John Morrow, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 532. W. P. Deppe, petitioner, *v.* General Motors Corporation. The petition filed May 6, 1939, is stricken from the files as scandalous.

No. 845. Mabel Franklin and R. F. Graves, petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit granted.

No. 881. Estate of Charles Henry Sanford, deceased, etc., petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted.

No. 713. William Saenger et al., petitioners, *v.* Estaban Adam. Petition for writ of certiorari to the Court of Civil Appeals Ninth Supreme Judicial District, State of Texas, denied for the want of a final judgment.

No. 861. Joseph Ricebaum and Gould & Company, petitioners, *v.* The United States of America; and

No. 871. Joseph R. Mendelson et al., petitioners, *v.* The United States of America. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied. Mr. Justice Douglas took no part in the consideration and decision of these applications.

No. 821. American Employers' Insurance Company, petitioner, *v.* Henry G. Montgomery;

No. 822. American Employers' Insurance Company, petitioner, *v.* Henry G. Montgomery; and

No. 823. United States Casualty Company, petitioner, *v.* Henry G. Montgomery. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 812. The United States of America ex rel. George Foradis, petitioner, *v.* Rudolph Reimer, Commissioner of Immigration at the Port of New York. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 816. Rosenbaum Grain Corporation et al., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 820. United States, for the use and benefit of F. B. Spears & Sons, petitioner, *v.* Arthur Storm Company and Seaboard Surety Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 830. Virginia Iron, Coal & Coke Company, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 836. Continental Casualty Company, petitioner, *v.* First National Bank of Temple. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 837. W. M. Crook, petitioner, *v.* J. Zorn, Jr., Trustee of Dorfman's, Inc., Bankrupt. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 841. Ronald E. Curtis, petitioner, *v.* Archibald R. Watson. Petition for writ of certiorari to the Supreme Court of the State of New York denied.

No. 842. Federal Reserve Bank of Philadelphia, petitioner, *v.* Reba Cook Algar et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 846. Louise M. Augustus, petitioner, *v.* New Amsterdam Casualty Company of Baltimore. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 850. Falstaff Brewing Corporation, petitioner, *v.* Ray H. Thompson. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 851. Mae Franklin, as Administratrix, etc., petitioner, *v.* Martin Wunderlich et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 855. Kenneth A. Campbell, Administrator, etc., petitioner, *v.* Horace G. Beedle et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 866. Patrick J. Falvey, Individually, etc., petitioner, *v.* Foreman-State National Bank et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 832. Robert H. Montgomery, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 839. W. A. Ward, W. W. Ward, et al., petitioners, *v.* Shell Petroleum Corporation and Texas Public Service Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 868. Glenmore Distilleries Company, petitioner, *v.* National Distillers Products Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 872. T. J. Conway, Trustee, petitioner, *v.* Joe T. Bonner. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 875. Southern Pacific Company, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.



No. 879. L. A. Salomon and Bro., petitioners, *v.* The United States of America. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 852. James Reed Swain, petitioner, *v.* State of Indiana. The motion for leave to file an amended petition for writ of certiorari and the petition for rehearing are denied.

No. 432. The United States of America et al., appellants, *v.* Dan E. Maher, doing business as Interstate Busses;

No. 462. Powers Higginbotham, appellant, *v.* City of Baton Rouge, Louisiana;

No. 509. Denis J. Driscoll et al., appellants, *v.* Edison Light and Power Company;

No. 731. Minnesota Mining & Manufacturing Company, petitioner, *v.* Conway P. Coe, Commissioner of Patents; and

No. 813. William A. Johnson, Individually, et al., appellants, *v.* Town of Deerfield, et al. Petitions for rehearing denied.

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No. 376. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor, F. G. Awalt, et al. Motion for leave to file second petition for rehearing submitted by Mr. Wade H. Cooper for the petitioner.

No. 877. Essley Shirt Co., Inc., petitioner, *v.* Celanese Corporation of America; and

No. 878. Trubenizing Process Corporation, petitioner, *v.* Ferdinand Jacobson et al., etc. On petition for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Dismissed on motion of counsel for the petitioners.

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Adjourned until Monday, May 22, next, at 12 o'clock.

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## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Gladys Towles Root, of Los Angeles, Calif.; Rose Ealine Freidlin, of Jacksonville, Fla.; Margaret Bowles Kelley, of Boston, Mass.; Eleanor L. Daly, of Cambridge, Mass.; Esther S. Critchfield, of Washington, D. C.; J. Leonard Lyons, of Washington, D. C.; James D. Head, Jr., of Texarkana, Ark.; Fletcher Bowron, of Los Angeles, Calif.; J. O. Watson, Jr., of Indianola, Iowa; F. W. A. Eiermann, of Little Rock, Ark.; Charles W. Straub, of Helena, Ark.; Ingemar E. Hoberg, of San Francisco, Calif.; Arthur Stehling, of Fredericksburg, Tex.; James E. Lightle, Jr., of Searcy, Ark.; Arthur Reaney Murphy, of Washington, D. C.; Arthur Gorman Lambert, of Chevy Chase, Md.; Benjamin F. York, of Saint Louis, Mo.; Louis White, of Saint Louis, Mo.; Okey P. Keadle, of Huntington, W. Va.; Ruth F. Wilson, of Washington, D. C.; James E. Smith, of Topeka, Kans.; James Joseph Duncan, of Washington, D. C.; Gerald Spencer, of Chickasha, Okla.; Oliver J. Dompierre, of Washington, D. C.; Charles W. Wilson, of Washington, D. C.; Otto S. Schairer, of New York City; George D. Warr, of Oklahoma City, Okla.; George D. Jagels, of Los Angeles, Calif.; Charles W. Rivise, of Philadelphia, Pa.; Morris Seifer, of Newark, N. J.; Wm. F. Evans, of Raleigh, N. C.; Frank Utley Fletcher, of Raleigh, N. C.; Eugene O. Sykes, of Jackson, Miss.; Christopher Gerard Coleman, of New York City; Russell L. Frink, of Jacksonville, Fla.; James Francis Reilly, of Washington, D. C.; Oscar A. Trippet, of Los Angeles, Calif.; Leo W. Kenny, of Washington, D. C.; Raymond T. Anixter, of San Francisco, Calif.; Joseph Ramsey Clayton, of New York City; Seymour J. Wilner, of New York City; Augustus Arvis Latting, of Memphis, Tenn.; and Christopher M. Jenks, of Piedmont, Calif., were admitted to practice.

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No. 676. Horton C. Rorick, petitioner, *v.* Devon Syndicate, Limited. On writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Northern District of Ohio for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Douglas.

No. 460. I. W. Lane, petitioner, *v.* Jess Wilson, John Moss, and Marion Parks. On writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit. Judgment reversed with costs and cause remanded to the District Court of the United States for the Eastern District of Oklahoma for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Frankfurter. Mr. Justice McReynolds and Mr. Justice Butler think that the court below reached the right conclusion and that its judgment should be affirmed. Mr. Justice Douglas took no part in the consideration or disposition of this case.

No. 810. George W. O'Malley, Individually and as Collector of Internal Revenue, appellant, *v.* Joseph W. Woodrough and Ella B. Woodrough. Appeal from the District Court of the United States for the District of Nebraska. Judgment reversed with costs and cause remanded to the said District Court for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Frankfurter. Mr. Justice McReynolds did not hear the argument in this cause and took no part in its consideration or decision. Dissenting opinion by Mr. Justice Butler.

No. 384. Guaranty Trust Company of New York, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company et al.; and

No. 495. Chemical Bank & Trust Company, as Trustee, etc., petitioner, *v.* Berryman Henwood, Trustee of St. Louis Southwestern Railway Company, Debtor, et al. On writs of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Judgments affirmed with costs and cases remanded to the District Court of the United States for the Eastern District of Missouri. Opinion by Mr. Justice Black. Dissenting opinion by Mr. Justice Stone in which the Chief Justice, Mr. Justice McReynolds, and Mr. Justice Butler concur.

No. 590. Bethlehem Steel Company, petitioner, *v.* Zurich General Accident & Liability Insurance Company, Limited; and

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al. On writs of certiorari to the Supreme Court of the State of New York. Judgments reversed with costs and cases remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Black. Dissenting: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, and Mr. Justice Stone.

No. 582. Electrical Fittings Corporation, Joselson Sales Corporation, et al., petitioners, *v.* The Thomas & Betts Co. and National Electrical Products Corporation. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Judgment

reversed with costs and cause remanded to the said Circuit Court of Appeals with instructions to entertain the appeal and direct the District Court to reform its decree in accordance with the views expressed in the opinion of this Court. Opinion by Mr. Justice Roberts.

No. 76. The Maytag Company, petitioner, *v.* Hurley Machine Company et al.; and

No. 77. The Maytag Company, petitioner, *v.* Easy Washing Machine Corporation. On writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit; and

No. 661. General Electric Supply Corporation, petitioner, *v.* The Maytag Company. On writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit. Decrees in No. 76 and 77 affirmed with costs and cases remanded to the District Court of the United States for the Southern District of New York; decree in No. 661 reversed with costs and cause remanded to the District Court of the United States for the Western District of Missouri for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Roberts.

No. 10. The United States of America, petitioner, *v.* One 1936 Model Ford V-8 De Luxe Coach, etc. On writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit; and

No. 627. The United States of America, petitioner, *v.* Automobile Financing, Inc. On writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit. Decrees affirmed and cases remanded to the District Courts of the United States for the Western District of South Carolina and the Northern District of Georgia respectively. Opinion by Mr. Justice McReynolds. Mr. Justice Butler and Mr. Justice Stone took no part in the consideration and decision of these cases. Dissenting opinion by Mr. Justice Douglas in which Mr. Justice Black and Mr. Justice Frankfurter join.

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The Chief Justice announced the following orders of the Court:

No. 902. Carolene Products Company, appellant, *v.* Henry A. Wallace, Secretary of Agriculture of the United States, et al. Appeal from the District Court of the United States for the District of Columbia. *Per curiam*: The motion of the appellees to affirm is granted and the order denying a temporary injunction is affirmed. *Alabama v. United States*, 279 U. S. 229, 231; *United Gas Co. v. Public Service Commission*, 278 U. S. 322, 326-327; *National Fire Insurance Company v. Thompson*, 281 U. S. 331, 338.

No. 907. Maryland Jockey Club of Baltimore City, appellant, *v.* Jervis Spencer, Jr., George R. Norris, et al. Appeal from the Court

of Appeals of the State of Maryland. *Per curiam*: The motion of the appellees to dismiss is granted and the appeal is dismissed for want of a substantial federal question. (1) Carmichael *v.* Southern Coal Co., 301 U. S. 495, 521-523; Thomas *v.* Gay, 169 U. S. 264, 278-280; Cincinnati Soap Co. *v.* United States, 301 U. S. 308, 313; Rapid Transit Corporation *v.* New York, 303 U. S. 573, 584-587; (2) Fort Smith Light Co. *v.* Paving District, 274 U. S. 387, 391; Missouri Ry. *v.* Mackey, 127 U. S. 205, 209; Rapid Transit Corporation *v.* New York, supra at pp. 578-579.

The Chief Justice said:

"The other orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

#### ORDER

It is ordered that the Rules of Practice for the Courts of the United States in Admiralty and Maritime Jurisdiction be, and they hereby are, revised, effective September 1, 1939, by substituting for present Rules 31 and 32 five new Rules numbered 31, 32, 32A, 32B, and 32C, and by adding two new Rules numbered 46A and 46B.

No. —, original. Ex parte Richard Paul Billings, petitioner; and

No. —, original. Ex parte Howard H. Higley, petitioner. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —. In the matter of Johnnie Caesar. The application for writ of prohibition is denied.

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu et al. The opinion is amended by striking out the word "them" at the end of the first full paragraph on page 11, and substituting "the claims in suit"; and by striking out the words "invalidity of" in the next to the last line of the opinion and substituting therefor the words "dismissal as to." The petitions for rehearing are denied.

No. 498. Rafael Sancho Bonet, Treasurer of Puerto Rico, petitioner, *v.* Yabucoa Sugar Company. The opinion of the Court announced March 27, 1939, is amended in the following particulars:

In the first complete sentence on page 3, the word "refund" is stricken and the word "relief" inserted in lieu thereof, and omission of quoted matter in the third complete sentence is indicated, so that the first three sentences will read: "Such a taxpayer can sue at law under these sections only if he has been denied relief by both the Treasurer and the Board of Review and Equalization of the Island. But these sections nowhere expressly authorize appeal from the

Treasurer to the Board by one who paid taxes without protest. And Section 76 (b), which the Circuit Court of Appeals interpreted as authorizing suit by a taxpayer who paid without protest, expressly prohibits suit in court 'until a claim for refund or credit has been duly filed with \* \* \* the Board of Review and Equalization *on appeal*, according to the provisions of law in that regard, and the regulations established in pursuance thereof.'"

The petition for rehearing is denied.

No. 930. The Union Stock Yard and Transit Company of Chicago, appellant, *v.* The United States of America and Interstate Commerce Commission et al. In this case probable jurisdiction is noted.

No. 817. Thomas K. Case and Adele B. Cowan et al., petitioners, *v.* Los Angeles Lumber Products Company, Ltd.; and

No. 818. Thomas K. Case and Adele B. Cowan et al., petitioners, *v.* Los Angeles Lumber Products Company, Ltd. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit granted.

No. 886. Retail Food Clerks and Managers Union, Local No. 1357, et al., petitioners, *v.* Union Premier Food Stores, Inc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit granted. Mr. Justice Roberts took no part in the consideration and decision of this application.

No. 912. Almon G. Rasquin, Collector of Internal Revenue of the United States for the First District of New York, petitioner, *v.* George Arents Humphreys. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted and the case assigned for argument immediately following No. 881.

No. 833. United States Trust Company of New York, Executor, etc., petitioner, *v.* The United States. The motion to remand is denied. The petition for writ of certiorari to the Court of Claims is denied.

No. 900. Mary Cvelich, Administratrix, etc., petitioner, *v.* Erie Railroad Company. The petition for writ of certiorari to the Court of Errors and Appeals of the State of New Jersey is denied for the want of a final judgment.

No. 834. George F. Seiberling et al., executors, etc., petitioners, *v.* The United States; and

No. 835. Lehigh Valley Trust Co. et al., petitioners, *v.* The United States. Petition for writs of certiorari to the Court of Claims denied.

No. 840. Berry Oil Company, petitioners, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 864. In the matter of Robert R. Sidebotham, petitioner. Petition for writ of certiorari to the Supreme Court of the State of California denied.

No. 869. Winnie Gomillion, petitioner, *v.* Union Bridge & Construction Company of Kansas City, Missouri. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 870. Clarence Wayne, Trustee of Clare & Company, Bankrupt, petitioner, *v.* Cutler-Hammer, Inc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 873. The Chesapeake and Ohio Railway Company, petitioner, *v.* Florence Vigor, Administratrix, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 882. Guy T. Helvering, Commissioner of Internal Revenue, petitioner, *v.* Hawaiian Philippine Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 883. Fred Jackskion, petitioner, *v.* The United States of America. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 885. Provus Brothers, Incorporated, petitioner, *v.* Charles Holman et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 887. Robert S. Eaton, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States States Circuit Court of Appeals for the Second Circuit denied.

No. 889. Missouri-Kansas-Texas Railroad, petitioner, *v.* Mary L. Hamarstrom. Petition for writ of certiorari to the Kansas City Court of Appeals, State of Missouri, denied.

No. 890. Chicago, St. Paul, Minneapolis and Omaha Railway Company, petitioner, *v.* Delmar E. Kulp, as Administrator, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 892. John F. Jenkins and The Union and New Haven Trust Company, Executors, etc., petitioners, *v.* A. Don Bitgood, Formerly Acting Collector of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 893. Samuel W. Rushmore and Sigmund C. Bernstein, petitioners, *v.* Merritt Lane. Petition for writ of certiorari to the Court of Errors and Appeals of the State of New Jersey denied.

No. 896. Cary A. Hardee, Receiver, etc., petitioner, *v.* Frank Murphy, Individually and as Attorney General of the United States, etc. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 898. E. E. Amick, Trustee in Bankruptcy, etc., petitioner, *v.* Wm. J. Hotz, Trustee, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 904. W. E. Rice, as Trustee in Bankruptcy, etc., petitioner, *v.* Smith Engineering Company; and

No. 905. W. E. Rice, as Trustee in Bankruptcy, etc., petitioner, *v.* Smith Engineering Company et al. Petition for writs of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 942. Min-A-Max Co., Inc., petitioner, *v.* Edwin Sundholm. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 376. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor, F. G. Awalt et al. The motion for leave to file a second petition for rehearing is denied.

No. 722. Emil Olsson, petitioner, *v.* The United States. Petition for rehearing denied.

No. —. The United States of America, appellee, *v.* Frank Carmine Nardone et al., defendants-appellants. Motion for bail submitted by Mr. Louis Halle for the defendants-appellants.

No. 303. Arthur C. Harvey, petitioner, *v.* The United States. Motion for leave to file petition for rehearing submitted by Mr. O. Walker Taylor for the petitioner.

No. 377. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor, Robert C. Baldwin, et al. Motion for leave to file a second petition for rehearing submitted by Mr. Wade H. Cooper for the petitioner.

No. 614. The Farmers' Loan and Trust Company, as Trustee, etc., petitioner, *v.* Frank Collis Bowers, as Executor, etc.; and

No. 615. The Farmers' Loan and Trust Company, as Trustee, etc., petitioner, *v.* Frank Collis Bowers, as Executor, etc. Motion for extension of time within which to file petition for rehearing submitted by Mr. John S. Flannery for the petitioner in support of the motion and by Mr. Solicitor General Jackson for the respondent in opposition thereto.

Adjourned until Monday, May 29, at 12 o'clock.



## SUPREME COURT OF THE UNITED STATES

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Present: The Chief Justice, Mr. Justice McReynolds, Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Pat M. Neff, Jr., of Waco, Tex.; W. Mahlon Dickerson, of New York City; Ralph S. Boyd, of Washington, D. C.; Wm. H. Churchwell, of Falls Church, Va.; Charles L. Whyte, Jr., of Waukegan, Ill.; Wylie C. Banks, of Columbus, Miss.; Raymond Rosoff, of Dallas, Tex.; Hubert Fields Rawls, of Nahunta, Ga.; Alexander E. Wylie, of Clare, Mich.; John H. Tolan, of Oakland, Calif.; A. R. Carver, of Lakeland, Fla.; William Wilson Brashear, of Royal Oak, Mich.; Max M. Hayden, of Fresno, Calif.; Joseph B. Cavallaro, of Brooklyn, N. Y.; J. Paul Brennan, of New York City; Louis P. Maniatis, of Louisville, Ky.; Samuel L. Fein, of Springfield, Mass.; Whitfield Reid, of West Springfield, Mass.; Tilford E. Dudley, of Aurora, Ill.; Edwin A. Berkery, of New York City; James A. Condrick, of Washington, D. C.; Joseph H. Praetz, of New York City; George M. Mulligan, of New York City; James P. McGranery, of Philadelphia, Pa.; Regina T. Clark, of Philadelphia, Pa.; Joseph Hart Dasteel, of Los Angeles, Calif.; Martin Richardson Glenn, of Louisville, Ky.; Rudolph F. Lhotak, of Beloit, Wis.; Wilbur Daigh Mills, of Kensett, Ark.; Saul Grossman, of New York City; B. Robert Bodner, of New York City; Alexander P. Waugh, of Verona, N. J.; Jesse W. Nicholson, of Chevy Chase, Md.; Arthur L. Davis, of Knoxville, Tenn.; Mollie Gottesman, of New York City; Mary Cooper, of Long Island City, N. Y.; Ethyl G. Alper, of New York City; Sylvia D. Levy, of New York City; Edward J. S. Farrell, of New York City; Olive Payne Deering, of Cleveland, Ohio; Lawrence A. Deering, of Cleveland, Ohio; Alfred C. Thomas, of Oklahoma City, Okla.; Marion H. Parry, of Oklahoma City, Okla.; Thos. R. Blaine, of Kingfisher, Okla.; Kenneth P. Reed, of Perry, Okla.; Thomas J. Curran, of New York City; Menahem Stim, of New York City; Albert W. Reynolds, Jr., of Princeton, W. Va.; William W. Blanton, of Albany, Tex.; James A. Butler, of Cleveland, Ohio; Rafael Sancho Bonet, of San Juan, P. R.; Andrew Kenny, of Washington, D. C.; Helen Goodner, of Washington, D. C.; J. Paul McQueen, of Cincinnati, Ohio; Augustus G. Goodrich, of San Francisco, Calif.; Francis A. Mahony, of New York City; William Mc-

Kinley Harris, of Oklahoma City, Okla.; William Joseph Bray, of Washington, D. C.; William E. Burby, of Beverly Hills, Calif.; Sidney McClellan, of Grace, Idaho; W. H. Harris, of Fort Valley, Ga.; Albert R. Golrick, of Cleveland, Ohio; Earl Brennan, of East Westmoreland, N. H.; Walter F. Liesegang, of Cleveland, Ohio; Harry Melvin Mendelson, of Baltimore, Md.; Martin Stanton Gordon, of Chicago, Ill.; H. Joel M. Barlow, of Washington, D. C.; Michael J. Ebeling, of St. Louis, Mo.; and Eugene R. Gilmartin, of Providence, R. I., were admitted to practice.

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No. 613. Southern Pacific Company, petitioner, *v.* The United States. On writ of certiorari to the Court of Claims. Judgment affirmed. Opinion by Mr. Justice Reed. Mr. Justice Douglas took no part in the consideration or decision of this case. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds and Mr. Justice Roberts join.

No. 339. John C. Curry, State Tax Commissioner of the State of Alabama, et al., appellants, *v.* George F. McCanless, as Commissioner of Finance and Taxation of the State of Tennessee. Appeal from the Supreme Court of the State of Tennessee. So far as the decree of the Supreme Court of Tennessee denies the power of Alabama to tax the transfer of an interest in intangibles it is reversed with costs and the cause is remanded for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Stone. Mr. Justice Reed concurs in the opinion except as to the statement that "taxation of a corporation by a state where it does business, measured by the value of the intangibles used in its business there, does not preclude the state of incorporation from imposing a tax measured by all its intangibles." Upon this point he reserves his conclusion. Dissenting opinion by Mr. Justice Butler in which Mr. Chief Justice Hughes, Mr. Justice McReynolds, and Mr. Justice Roberts join.

No. 372. October Term, 1937. Mark Graves, John J. Merrill, and John P. Hennessey, as Commissioners constituting the State Tax Commission of the State of New York, petitioners, *v.* Marion Brown Elliott, Horace F. Phelps, et al. On writ of certiorari to the Surrogates' Court of the County of New York, State of New York. Judgment reversed with costs and cause remanded to the said Surrogates' Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Stone. Dissenting opinion by Mr. Chief Justice Hughes, in which Mr. Justice McReynolds, Mr. Justice Butler, and Mr. Justice Roberts concur.

No. 166. The Toledo Pressed Steel Company, petitioner, *v.* Standard Parts, Inc.; and

No. 167. The Toledo Pressed Steel Company, petitioner, *v.* Huebner Supply Company. On writs of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit; and

No. 603. Montgomery Ward & Company, Inc., petitioner, *v.* The Toledo Pressed Steel Company. On writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit. Decrees in No. 166 and 167 affirmed with costs and cases remanded to the District Court of the United States for the Northern District of Ohio; decree in No. 603 reversed with costs and cause remanded to the District Court of the United States for the Eastern District of New York for further proceedings in conformity with the opinion of this Court. Opinion by Mr. Justice Butler. Mr. Justice Douglas took no part in the consideration or decision of these cases.

No. 449. Newark Fire Insurance Company, appellant, *v.* State Board of Tax Appeals and the City of Newark; and

No. 456. Universal Insurance Company and Universal Indemnity Insurance Company, appellants, *v.* State Board of Tax Appeals of the State of New Jersey et al. Appeals from the Court of Errors and Appeals of the State of New Jersey. Judgments affirmed with costs. Dissenting: Mr. Justice McReynolds. Judgments announced by the Chief Justice. Mr. Justice Reed announced an opinion in which the Chief Justice, Mr. Justice Butler, and Mr. Justice Roberts concur. Mr. Justice Frankfurter announced an opinion in which Mr. Justice Stone, Mr. Justice Black, and Mr. Justice Douglas concur.

No. 454. Frances Perkins, Secretary of Labor, et al., petitioners, *v.* Marie Elizabeth Elg; and

No. 455. Marie Elizabeth Elg, petitioner, *v.* Frances Perkins, Secretary of Labor, et al. On writs of certiorari to the United States Court of Appeals for the District of Columbia. Decree modified as indicated in the opinion of this Court and as so modified, affirmed and the cause remanded to the District Court of the United States for the District of Columbia. Opinion by Mr. Chief Justice Hughes. Mr. Justice Douglas took no part in the consideration and decision of these cases.

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The Chief Justice said:

"The orders of the Court appear upon the list certified by the Chief Justice and filed with the Clerk and will not be announced orally."

No. —, original. Ex parte Edd. Potter, petitioner;

No. —, original. Ex parte Ralph Mark, petitioner; and

No. —, original. Ex parte Lloyd Rubin, petitioner. The motions for leave to file petitions for writs of habeas corpus are denied.

No. —, original. *Ex parte* Harmon Metz Waley, petitioner. Application denied.

No. —. The United States of America, appellee, *v.* Frank Carmine Nardone et al., defendants-appellants. The motion for bail is denied.

No. 614. The Farmers' Loan and Trust Company, as Trustee, etc., et al., petitioners, *v.* Frank Collis Bowers, as Executor, etc.; and

No. 615. The Farmers' Loan and Trust Company, as Trustee, etc., et al., petitioners, *v.* Frank Collis Bowers, as Executor, etc. The motion of the petitioners for a further extension of time within which to file petition for rehearing is denied. Mr. Justice Reed took no part in the consideration or decision of this application.

No. 738. Edgar Roy Gump, petitioner, *v.* The State of California et al. The motion to vacate the order of denial and to reconsider the petition for writ of certiorari as amended is denied.

No. 971. Arthur Matthew Becker, petitioner, *v.* Ralph H. Walker, Warden, Connecticut State Prison, Wethersfield, Connecticut. On petition for writ of certiorari to the Superior Court, County of Hartford, State of Connecticut. The motion for leave to proceed further herein *in forma pauperis* is denied for the reason that the Court, upon consideration of the papers herein submitted, finds no ground upon which a writ of certiorari should be issued. The petition for writ of certiorari is therefore also denied.

No. 913. Neirbo Company et al., petitioners, *v.* Bethlehem Shipbuilding Corporation, Ltd. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit granted and case assigned for argument immediately following No. 750.

No. 923. George H. Holley, petitioner, *v.* General American Life Insurance Company et al. The motion to substitute Ray B. Lucas, present Superintendent of the Insurance Department of the State of Missouri as a party respondent in the place and stead of George A. S. Robertson, deceased, is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit is denied.

No. 961. Sears, Roebuck & Co., Inc., petitioner, *v.* Samson-United Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied. Mr. Justice Roberts took no part in the consideration or decision of this application.

No. 895. George C. Chase, petitioner, *v.* Harold T. Avery. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 897. Samuel R. Toucey, petitioner, *v.* New York Life Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 899. Big Lake Oil Company, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 903. George C. Shepard, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 908. Floyd Hudson, petitioner, *v.* Pius Moonier; and

No. 909. Elizabeth Fitch, Executrix, etc., petitioner, *v.* Pius Moonier. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 910. Ditto, Incorporated, petitioner, *v.* Standard Mailing Machines Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit denied.

No. 911. S. Wallace Dempsey, petitioner, *v.* Louis H. Pink, as Superintendent of Insurance of the State of New York. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 916. Chicago Great Western Railroad Company et al., petitioners, *v.* Sam Robinson. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 917. Fred W. Whiteside, Trustee, etc., petitioner, *v.* The Rocky Mountain Fuel Company, a corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit denied.

No. 920. Aron Hirsch, Emil Hirsch, et al., etc., petitioners, *v.* Frank Murphy, Attorney General of the United States, et al. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 924. John Wilson Brown, III, petitioner, *v.* Gesellschaft Fur Drahtlose Telegraphie M. B. H., a corporation. Petition for writ of certiorari to the United States Court of Appeals for the District of Columbia denied.

No. 925. Hudson & Manhattan Railroad Company, a corporation, etc., petitioner, *v.* John T. Cahill, Individually, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 929. First National Bank of Chicago, Administrator, etc., petitioner, *v.* The United States of America. Petition for writ of

certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 931. The Baltimore and Ohio Railroad Company, petitioner, *v.* Charles E. Spotts. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 936. Boris Speck, petitioner, *v.* Lavino Shipping Company, Agent, etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 963. Edna Flicker and Joseph C. Akers, as coadministrators, etc., petitioners, *v.* Hortense Rabinovich. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 510. Jenkins Petroleum Process Company, petitioner, *v.* Sinclair Refining Company. Motion for leave to file a second petition for rehearing denied.

No. 303. Arthur C. Harvey Company, petitioner, *v.* The United States. The motion for leave to file a second petition for rehearing is denied.

No. 377. Wade H. Cooper, petitioner, *v.* J. F. T. O'Connor et al. The motion for leave to file a second petition for rehearing is denied.

No. 625. Trustees of Lumber Investment Association, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for rehearing denied.

#### ORDER

The Court will take a recess from today until next Monday, June 5, upon which day it will adjourn for the term.

No motions, except motions for admission to practice, will be received after today.

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No. 52. Josiah K. Lilly, Jr., petitioner, *v.* Will H. Smith, Collector of Internal Revenue for the District of Indiana. Motion for leave to file petition for rehearing submitted by Mr. George L. Denny for the petitioner.

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu and Northeastern Engineering Corporation. Motion for leave to file a second petition for rehearing submitted by Mr. George W. Betts, Jr., for the respondent.

No. 582. Electrical Fittings Corporation et al., petitioners, *v.* The Thomas & Betts Co. et al. Motion as to costs submitted by Mr. George W. Betts, Jr., for the respondents.

No. 934. Southern Phosphate Corporation, petitioner, *v.* Phosphate Recovery Corporation. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Dismissed, per stipulation, on motion of counsel for the petitioner.

Adjourned until Monday, June 5, next, at 12 o'clock.

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SUPREME COURT OF THE UNITED STATES

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Present: Mr. Justice Butler, Mr. Justice Stone, Mr. Justice Roberts, Mr. Justice Black, Mr. Justice Reed, Mr. Justice Frankfurter, and Mr. Justice Douglas.

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Thomas Ellsworth Martin, of Iowa City, Iowa; Maurice Kelner, of Chicago, Ill.; Edward G. Kemp, of Detroit, Mich.; John A. Reed, of New York City; Roger Edison Perry, of Boston, Mass.; Maxwell M. Rabb, of Brookline, Mass.; Joseph Leo McGroary, of Washington, D. C.; Geo. W. Pratt, of Omaha, Nebr.; F. Trowbridge vom Baur, of New York City, John C. Failing, of Portland, Ore.; Edward C. Hudson, of Seattle, Wash.; Chas. W. Smith, of Halethorpe, Md.; Isabel A. Ocampo, of Manila, P. I.; Wood T. Henry, of Monticello, Ark.; Paul Emmert, of Jacksonville, Fla.; Eugene H. Lorenz, of Washington, D. C.; Donald J. Sherbondy, of Washington, D. C.; I. Louis Wolk, of Washington, D. C.; Joseph F. Elward, of Chicago, Ill.; and Samuel Lebowitz, of Washington, D. C., were admitted to practice.

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No. 771. The United States of America, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 826. Holton V. Noyes, as Commissioner of Agriculture and Markets of the State of New York, appellant, *v.* Rock Royal Co-operative, Inc., et al.;

No. 827. Dairymen's League Cooperative Association, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al.; and

No. 828. Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., appellant, *v.* Rock Royal Co-operative, Inc., et al. Appeals from the District Court of the United States for the Northern District of New York. In Nos. 771, 827, and 828 the order of the District Court is reversed and causes remanded to that Court with instructions to enter an order specifically enforcing up to the time of suspension the provisions of Order No. 27, issued by the Secretary of Agriculture August 15, 1938, regulating the handling of milk in the New York marketing area, as to all the defendants and enjoining defendants, their officers, agents, and servants from further violation of the order. In No. 826 the order is affirmed. Opinion by Mr. Justice Reed. Mr. Justice Black and Mr. Justice Douglas concur in the judgment and opinion of the Court except insofar as the opinion appears to imply that power of Congress to enact the marketing law depends upon the use and nature of milk. Dissenting opinion by Mr. Justice



McReynolds and Mr. Justice Butler announced by Mr. Justice Butler. Dissenting opinion by Mr. Justice Roberts. The Chief Justice joins in this opinion so far as it relates to the invalidity of the order on the ground stated; Mr. Justice McReynolds and Mr. Justice Butler also join in this opinion.

No. 772. H. P. Hood & Sons, Inc., and Noble's Milk Company, petitioners, *v.* The United States of America and Henry A. Wallace, Secretary of Agriculture;

No. 809. Whiting Milk Company, petitioner, *v.* The United States of America et al.; and

No. 865. E. Frank Branon, petitioner, *v.* The United States of America et al. On writs of certiorari to the United States Circuit Court of Appeals for the First Circuit. Decrees of the District Court of the United States for the District of Massachusetts affirmed. Opinion by Mr. Justice Reed. Dissenting opinion by Mr. Justice Roberts in which Mr. Justice McReynolds and Mr. Justice Butler join.

No. 651. Frank Hague, Individually and as Mayor of Jersey City, et al., etc., petitioners, *v.* Committee for Industrial Organization et al. On writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit. Decree modified as indicated in Part Third of the opinion delivered by Mr. Justice Roberts and, as so modified, affirmed with costs and cause remanded to the District Court of the United States for the District of New Jersey. Decree announced by Mr. Justice Butler. Mr. Justice Frankfurter and Mr. Justice Douglas took no part in the consideration or decision of the case. Mr. Justice Roberts delivered an opinion in which Mr. Justice Black concurs. Mr. Justice Stone announced an opinion in which Mr. Justice Reed concurs. Concurring opinion by Mr. Chief Justice Hughes announced by Mr. Justice Butler. Mr. Justice McReynolds and Mr. Justice Butler dissent for reasons stated in opinions by them respectively, announced by Mr. Justice Butler.

No. 650. L. W. Baldwin and Guy A. Thompson, as Trustees, etc., petitioners, *v.* Scott County Milling Company. On writ of certiorari to the Supreme Court of the State of Missouri. Judgment reversed with costs and cause remanded to the said Supreme Court for further proceedings not inconsistent with the opinion of this Court. Opinion by Mr. Justice Butler.

No. 704. American Toll Bridge Company, appellant, *v.* Railroad Commission of the State of California et al. Appeal from the Supreme Court of the State of California. Judgment affirmed with costs. Opinion by Mr. Justice Butler. Mr. Justice Black, Mr. Justice Frankfurter, and Mr. Justice Douglas concur in the result.

No. 7. Rolla W. Coleman, W. A. Barron, et al., petitioners, *v.* Clarence W. Miller, as Secretary of the Senate of the State of Kansas,

et al. On writ of certiorari to the Supreme Court of the State of Kansas. Judgment affirmed with costs. Opinion by Mr. Chief Justice Hughes announced by Mr. Justice Stone. Concurring opinion by Mr. Justice Black, in which Mr. Justice Roberts, Mr. Justice Frankfurter, and Mr. Justice Douglas join. Separate opinion by Mr. Justice Frankfurter in which Mr. Justice Roberts, Mr. Justice Black, and Mr. Justice Douglas join. Dissenting opinion by Mr. Justice Butler in which Mr. Justice McReynolds joins.

No. 14. Albert Benjamin Chandler, Individually and as Governor of the Commonwealth of Kentucky, et al., petitioners, *v.* James W. Wise and Ray B. Moss. On writ of certiorari to the Court of Appeals of the Commonwealth of Kentucky. Writ of certiorari dismissed with costs. Opinion by Mr. Chief Justice Hughes announced by Mr. Justice Stone. Mr. Justice McReynolds and Mr. Justice Butler think that the judgment of the Court of Appeals of Kentucky should be affirmed on the authority of *Dillon v. Glass*, 256 U. S. 368, and for the reasons stated in the dissenting opinion in *Coleman v. Miller*, decided this day. Concurring: Mr. Justice Black and Mr. Justice Douglas.

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Mr. Justice Butler announced the following orders of the Court:

No. 945. City and County of Denver, appellant, *v.* The People of the State of Colorado. Appeal from the Supreme Court of the State of Colorado. *Per curiam*: The appeal is dismissed for want of a substantial federal question. *Pawhuska v. Pawhuska Oil & Gas Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182; *Williams v. Mayor*, 289 U. S. 36, 40.

No. 975. The Kansas Farmers' Union Royalty Company and Flag Oil Company, appellants, *v.* Samuel P. Hushaw. Appeal from the Supreme Court of the State of Kansas. *Per curiam*: The appeal is dismissed for want of a substantial federal question. (1) *Jackson v. Lamphire*, 3 Pet. 280, 289-290; *Vance v. Vance*, 108 U. S. 514, 520; (2) *Davis v. Mills*, 194 U. S. 451, 456-457; *Montoya v. Gonzales*, 232 U. S. 375; (3) *Bell's Gap Railroad Company v. Pennsylvania*, 134 U. S. 232, 237; *Ohio Oil Company v. Conway*, 281 U. S. 146, 159.

No. 982. Edwin C. Nevin, Surviving Executor, etc., et al., appellants, *v.* J. H. Thayer Martin, Tax Commissioner of the State of New Jersey, et al. Appeal from the District Court of the United States for the District of New Jersey. *Per curiam*: The motion to affirm is granted and the judgment is affirmed. *Worcester County Trust Co. v. Riley*, 302 U. S. 292. Mr. Justice Butler dissents. The Chief Justice and Mr. Justice McReynolds took no part in the consideration or decision of this case.

Mr. Justice Butler said:

"The other orders of the Court appear upon the list duly certified and filed with the Clerk and will not be announced orally."

ORDER

Rule 1 of the Copyright Rules heretofore promulgated by this Court (214 U. S., Appendix) is amended, effective September 1, 1939, to read as follows:

"Proceedings in actions brought under section 25 of the Act of March 4, 1909, entitled 'An Act to amend and consolidate the acts respecting copyright', including proceedings relating to the perfecting of appeals, shall be governed by the Rules of Civil Procedure, insofar as they are not inconsistent with these rules."

Mr. Justice Black does not agree with this action of the Court.

No. —. In the matter of the disbarment of Pierce Lonergan. It appearing from the record in *Lonergan v. United States*, No. 1064, October Term 1937, that Pierce Lonergan, of the State of Washington, a member of the bar of this Court, has been convicted of a felony in the District Court of the United States for the Western District of Washington; and it further appearing to the Court that his resignation as a member of the Washington State Bar Association has been accepted by the Supreme Court of the State of Washington and his name stricken from the roll of attorneys of the State of Washington;

And it appearing that this Court by order dated April 24, 1939, suspended the said Pierce Lonergan from the practice of law in this Court and directed that a rule issue requiring him to show cause within forty days from April 24, 1939, why he should not be disbarred; and that although the rule duly issued and has been served upon him, the said Pierce Lonergan has failed to file any return thereto despite the elapse of forty days from April 24, 1939;

Now, upon consideration of the record in *Pierce Lonergan v. United States*, No. 1064, October Term 1937, and upon the rule to show cause and Lonergan's failure to file a return thereto, it is ordered that said Pierce Lonergan be, and he hereby is, disbarred and that his name be stricken from the roll of attorneys admitted to practice in this Court.

No. —. *Ex parte Joseph J. McCarthy*, petitioner. The application for an order allowing appeal is denied.

No. —. *Joseph Poresky, petitioner v. Joseph B. Ely*. Petition for appeal denied.

No. —, original. *Ex parte Fred Hartzell West*, petitioner. The motion for leave to file petition for writ of habeas corpus is denied.

No. —, original. Commonwealth of Massachusetts, complainant, *v.* State of Missouri. This cause is set for hearing on Monday, October 9 next, on the motion for leave to file Bill of Complaint and the returns to the rule to show cause, argument to be limited to the question whether this Court has jurisdiction to entertain the suit.

No. 449. Newark Fire Insurance Company, appellant, *v.* State Board of Tax Appeals and City of Newark; and

No. 456. Universal Insurance Company et al., appellants, *v.* State Board of Tax Appeals of the State of New Jersey and the City of Newark. It is ordered that the opinion of Mr. Justice Reed entered on May 29, 1939, be corrected by striking therefrom the words at the end thereof:

“The judgments in both cases are affirmed.”

No. 441. The Electric Storage Battery Co., petitioner, *v.* Genzo Shimadzu et al. The motion of the respondents for leave to file a second petition for modification of the decision and judgment of this Court and for recall and modification of its mandate is granted. The opinion is amended by striking out of the second full paragraph on page 12, in the first line, the word “that” and the words “is invalid”, and inserting, after the word “decision”, the words “as to”. In other respects the petition is denied.

No. 582. Electrical Fittings Corporation et al., petitioners, *v.* The Thomas & Betts Co. et al. The motion of the respondents as to costs is denied.

No. 899. Big Lake Oil Company, petitioner, *v.* Commissioner of Internal Revenue. The motion of petitioner for an extension of time within which to file petition for rehearing is denied.

No. 959. John D. Ball, petitioner, *v.* The United States of America. The motion for leave to proceed in forma pauperis is granted.

No. 947. Ellis H. Parker and Ellis H. Parker, Jr., petitioners, *v.* The United States of America. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit;

No. 957. Joseph A. Zahn, petitioner, *v.* Robert H. Hudspeth, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Tenth Circuit;

No. 962. Louis Martini, petitioner, *v.* James A. Johnston, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit;

No. 974. John Semar Farnsworth, petitioner, *v.* Joseph W. Sanford, Warden, etc. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit;

No. 980. A. H. Hargis, petitioner, *v.* King Swope, Judge of the Fayette Circuit Court, et al. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit;

No. 984. Jim X. Carruthers and Bubbles Clayton, petitioners, *v.* Al Reed, Keeper of the Arkansas State Penitentiary. On petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit;

No. 989. Richard A. Engler, petitioner, *v.* The United States of America. On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia; and

No. 1004. Walter H. Jurgensen, petitioner, *v.* The State of Nebraska. On petition for writ of certiorari to the Supreme Court of the State of Nebraska. The motions for leave to proceed further herein *in forma pauperis* are denied for the reason that the Court, upon examination of the papers herein submitted, finds no ground upon which writs of certiorari should be issued. The petitions for writs of certiorari are therefore also denied.

No. 940. The United States, petitioner, *v.* John McShain, Inc. Petition for writ of certiorari to the Court of Claims granted.

No. 943. Joseph D. McGoldrick, Comptroller of the City of New York, petitioner, *v.* Compagnie Generale Transatlantique. Petition for writ of certiorari to the Supreme Court of the State of New York granted.

No. 944. Joseph D. McGoldrick, Comptroller of the City of New York petitioner, *v.* Felt & Tarrant Mfg. Co. Petition for writ of certiorari to the Supreme Court of the State of New York granted.

No. 951. The United States of America, petitioner, *v.* Honorable Patrick T. Stone, United States District Judge etc. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit granted.

No. 914. Jean McNeil Pepper, petitioner, *v.* Scott Litton. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit granted.

No. 998. Interstate Natural Gas Company et al., petitioners, *v.* A. H. Stone, Commissioner of Franchise Tax et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit granted.

No. 939. Joseph J. Weiss, Martin Gross, et al., petitioners, *v.* The United States of America. The motion for leave to proceed *in forma pauperis* is granted. The petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted limited to the question whether the trial court properly received in evidence intercepted telephone communications.

No. 993. The United States of America, petitioner, *v.* Mrs. Julia Caroline Sponenbarger et al. Petition for writ of certiorari to the

United States Circuit Court of Appeals for the Eighth Circuit granted and the case is assigned for argument immediately following No. 845.

No. 891. William J. Graham and James C. McKay, petitioners, *v.* The United States of America; and

No. 901. Boies Heed and Allen Comer, petitioners, *v.* The United States of America. Petitions for writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 894. C. B. Loomis, Trustee in Bankruptcy of Miami Trust Company, debtor, petitioner, *v.* County of Gila, State of Arizona, et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 915. The City of Los Angeles, a municipal corporation, petitioner, *v.* Borax Consolidated, Limited, etc., et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Ninth Circuit denied.

No. 921. Marshall County Bank, a corporation of Moundsville, West Virginia, petitioner, *v.* Mary K. Crowther. Petition for writ of certiorari to the Circuit Court of Marshall County, State of West Virginia, denied.

No. 922. Belk Brothers Company of Charlotte, petitioner, *v.* A. J. Maxwell, Commissioner of Revenue of the State of North Carolina. Petition for writ of certiorari to the Supreme Court of the State of North Carolina denied.

No. 926. C. E. Partridge et al., petitioners, *v.* William W. Martin et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Eighth Circuit denied.

No. 927. Agnes Gliwa, Peter C. Faust, et al., petitioners, *v.* United States Steel Corporation et al. Petition for writ of certiorari to the Supreme Court of the State of Pennsylvania denied.

No. 928. Park & Tilford Import Corporation, petitioner, *v.* The United States. Petition for writ of certiorari to the United States Court of Customs and Patent Appeals denied.

No. 933. Bethlehem Shipbuilding Corporation, Ltd., et al., petitioners, *v.* Frank A. Cardillo et al. Petition for writ of certiorari to the United States Circuit Court of Appeals for the First Circuit denied.

No. 935. Court Line, Ltd., Owner, etc., petitioner, *v.* Isthmian Steamship Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit denied.

No. 937. Mohawk Rubber Company, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 938. Thorne Donnelley, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 941. Fruit Industries, Ltd., petitioner, *v.* Bisceglia Brothers Corporation. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Third Circuit denied.

No. 948. E. V. Townshend, Trustee, etc., petitioner, *v.* Union Trust Company of Maryland. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fourth Circuit denied.

No. 956. Truscon Steel Company, Employer, et al., petitioners, *v.* Myrtle Elizabeth Sims. Petition for writ of certiorari to the Supreme Court of the State of Kansas denied.

No. 973. Thomas Schumacher and Sidney M. Ehrman, Trustees, etc., et al., petitioners, *v.* Victor Edward Smith. Petition for writ of certiorari to the District Court of Appeal, 3d Appellate District, State of California, denied.

No. 880. The Chickasaw Nation, petitioner, *v.* The United States. Petition for writ of certiorari to the Court of Claims denied.

No. 960. Trustees of Lumber Investment Association, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 966. Burnette F. Stephenson, petitioner, *v.* Commissioner of Internal Revenue. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Sixth Circuit denied.

No. 964. Kathryn M. Schermann, petitioner, *v.* Yellow Cab Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 946. Lena D. Price-Williams, petitioner, *v.* New York Life Insurance Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Fifth Circuit denied.

No. 986. Benjamin D. Ritholz, Morris I. Ritholz, et al., petitioners, *v.* American Optometric Association. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied.

No. 965. James M. Slattery et al., petitioners, *v.* Illinois Bell Telephone Company. Petition for writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit denied. Mr. Justice Frankfurter took no part in the consideration or decision of this application.

No. 52. Josiah K. Lilly, Jr., petitioner, *v.* Will H. Smith, Collector of Internal Revenue for the District of Indiana. The motion for leave to file petition for rehearing is denied.

No. 591. Bethlehem Steel Company, petitioner, *v.* Anglo-Continentale Treuhand, A. G., et al.;

No. 743. Randolph Lumber Company, petitioner, *v.* Guy T. Helvering, Commissioner of Internal Revenue; and

No. 676. Horton C. Rorick, petitioner, *v.* Devon Syndicate, Limited. Petitions for rehearing denied.

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Mr. Justice Butler announced the following order:

ORDER

All cases submitted and all business before the Court at this term in readiness for disposition having been disposed of,

It is ordered by this Court that all cases on the docket not decided and all other business of the term not disposed of be, and the same hereby are, continued to the next term.

Adjourned to the time and place appointed by law.