

Supplemental Information on Issues, “The Importance of Importance in Certiorari,”

Issue Codes, Areas, and Categories. Codes are numbered below. Areas are in bold caps. Categories are defined at end of document.

Note (on Criminal Law): we use a combination of Songer and Spaeth to identify “type of crime” which should always be coded. We also code at least one procedural or constitutional issue.

CRIMINAL LAW

type of crime

- 150 abortion and contraception
- 151 alcohol
- 152 arson
- 153 assault
- 154 bank robbery
- 155 business regulations by government, criminal violations
- 156 conspiracy (cf. 112)
- 157 escape from custody
- 158 false statements (cf. 171)
- 159 financial (incl. securities, embezzlement; cf. 155, 161, 164)
- 160 firearms
- 161 fraud (incl. mail fraud)
- 162 gambling
- 163 immigration (cf. 370)
- 164 internal revenue (cf. 960, 970, 975, 979)
- 165 Mann Act, White Slave Act
- 166 morals charges (other than gambling or obscenity)
- 167 murder
- 168 narcotics
- 169 obstruction of justice
- 170 obscenity or pornography
- 171 perjury (cf. 158)
- 172 rape
- 174 theft (cf. 175)
- 175 theft, auto
- 176 war crimes
- 177 civil rights, violations of or conspiracy to, ala US v.
Cruikshank, not necessarily racial
- 178 customs
- 179 miscellaneous
- 181 bribery or misuse of funds in relation to government (cf. 444)

procedural or constitutional issue

- 010 involuntary confession
- 013 habeas corpus (cf. 704)
- 016 search and seizure
- 020 contempt of court
- 021 self-incrimination (other than as pertains to 023)
- 023 self-incrimination, immunity from prosecution
- 030 right to counsel (cf. 381-382)
- 040 cruel and unusual punishment, death penalty (cf. 106)
- 041 cruel and unusual punishment, non-death penalty
- 050 line-up
- 060 discovery of evidence and inspection
- 070 double jeopardy
- **extra-legal** jury influences: no question
 - regarding the right to a jury trial or to a speedy trial (these belong in 190 and 191, respectively); the focus, rather, is on the fairness to the accused when jurors are exposed to the influences specified
 - 101 prejudicial statements or evidence
 - 102 contact with jurors outside courtroom
 - 103 jury instructions
 - 104 voir dire
 - 107 pretrial publicity
 - 109 miscellaneous
- 110 confrontation (right to confront accuser, call and cross-examine witnesses)
- **subconstitutional** fair procedure (criminal cases) (cf. 381-388).
 - 111 confession of error
 - 113 entrapment
 - 114 exhaustion of remedies
 - 115 admissibility of evidence
 - 116 sufficiency of evidence
 - 118 statutes of limitation
 - 119 miscellaneous
- 120 Federal Rules of Criminal Procedure, including application of the Federal Rules of Evidence in criminal proceedings.
- 130 statutory construction of criminal laws: these codes, by definition, exclude the constitutionality of these laws (including claims of failure to charge an offense, etc)
- 190 jury trial (right to, as distinct from 101-109)
- 191 speedy trial
- 197 due Process claim in criminal case
- 198 due Process claim brought for conviction upon perjured testimony
- 199 miscellaneous criminal procedure (cf. 504, 702)

CIVIL RIGHTS

- 210 voting (cf. 250, 341.)
- 212 ballot access (of candidates and political parties)
- 220 racial discrimination (other than as pertains to 221-222)
- 221 desegregation, schools
- 222 employment discrimination, except alienage (272), gender (284)
- 230 sit-in demonstrations (against race discrimination; cf. 451)
- 250 reapportionment
- 261 debtors' rights: e.g., garnishment (cf. 381-388)
- 272 employability of aliens (cf. 371-376)
- 283 sex discrimination
- 321 illegitimates, rights of: typically inheritance and survivor's benefits, and paternity suits
- 341 residency requirements: durational, plus discrimination against nonresidents
- military (cf. 441, 705)
 - 360 conscientious objector
 - 361 draftee, or person subject to induction (not 360)
 - 362 active duty (not 360)
 - 363 veteran.

370 immigration and naturalization, civil (incl. deportation)

- Indigents (cf. 311-312): procedural protections for indigents because of their indigency. Typically in matters pertaining to criminal justice.
 - 381 appointment of counsel (cf. 030)
 - 382 inadequate representation by counsel (cf. 030)
 - 383 payment of fine
 - 384 costs or filing fees
 - 385 U.S. Supreme Court docketing fee
 - 386 transcript
 - 387 assistance of psychiatrist
 - 388 miscellaneous
- 391 Civil rights acts, liability under (cf. 617, 1619): tort actions involving liability that are based on a civil rights act, e.g. Sec 1983.
- 392 miscellaneous civil rights (cf. 701, 393-397)

INDIANS

- 393 Indians, miscellaneous (other than 394-397)
- 394 Indians, state jurisdiction over
- 395 Indians, individual rights
- 396 Indians, sovereignty
- 397 Indians, federal regulation of

FIRST AMENDMENT

401 First Amendment, miscellaneous/residual (cf. 703)
411 commercial speech, excluding attorneys which is 544
415 libel, defamation: defamation of public officials and public and
private persons
416 libel, privacy: true and false light invasions of privacy
421 legislative investigations: concerning "internal security" only
422 federal internal security legislation: Smith, Internal Security,
and related federal statutes, regulations, and orders
430 loyalty oath or non-Communist affidavit
435 security risks: denial of benefits or dismissal of employees for
reasons other than failure to meet loyalty oath requirements
444 campaign spending (cf. 650): financing electoral costs other than
as regulated by the Taft-Hartley Act.
451 protest demonstrations
455 free exercise of religion
461 establishment of religion
471 obscenity, state (cf. 706): constitutional claim only
472 obscenity, federal-constitutional claim only

DUE PROCESS

501 due process, miscellaneous (cf. 431-434, 618): the residual
code for cases that do not in locate in 502-508
502 due process, hearing or notice (other than as pertains to
503 or 504); hearing may be statutorily based.
503 due process, hearing, government employees
504 due process, prisoners' rights
505 due process, impartial decision maker
506 due process, jurisdiction (long-arm jurisdiction; jurisdiction
over non-resident litigants) (cf. 741, 742, 851, 940).
507 due process, takings clause, or other non-constitutional
governmental taking of property.
508 Trading with Enemies Act

PRIVACY

531 privacy (cf. 150, 416, 700).

ATTORNEYS

542 attorneys' fees
544 commercial speech, attorneys (cf. 411)
546 admission to a state or federal bar, disbarment, and attorney
discipline (cf. 430)
548 admission to, or disbarment from, Bar of the U.S. Supreme Court
549 attorneys, miscellaneous

LABOR/UNIONS

- 553 arbitration (in the context of labor-management or employer-employee relations) (cf. 653)
- 555 union antitrust: legality of anticompetitive union activity
- 557 union or closed shop: includes agency shop litigation
- 559 Fair Labor Standards Act
- 561 Occupational Safety and Health Act
- 563 union-union member dispute (except as pertains to 557)
- labor-management disputes
 - 575 bargaining
 - 576 employee discharge (not necessarily union)
 - 577 distribution of union literature
 - 578 representative election
 - 579 antistrike injunction
 - 580 labor-management dispute: strikes
 - 581 jurisdictional dispute
 - 582 right to organize (incl. employer-dominated unions)
 - 583 picketing
 - 584 secondary activity
 - 585 no-strike clause
 - 586 union representatives
 - 587 union trust funds (cf. 621)
 - 588 working conditions
 - 589 miscellaneous dispute
- 599 miscellaneous union

ECONOMIC ACTIVITY

- 601 antitrust, US government
- 602 antitrust, private
- 603 antitrust, state government (except in the context of 605 and 555)
- 605 mergers
- 608 bankruptcy, municipal (except in the context of 975)
- 609 bankruptcy, corporate
- 610 bankruptcy, farm
- 611 bankruptcy, personal
- 612 state workers' compensation laws
- 613 employer liability for worker injuries, under state law (common or statutory)
- 617 liability, nongovernmental
- 1614 torts or claims against government corporations
- 1615 torts or claims by government corporations
- 1616 claims against government: suits arising from a contractual relationship (loosely construed) between party and government; (cf. 507, 623, 639, 1614, 1619).
- 1617 claims by government; (cf. 507, 623, 639, 1615).
- 1618 government benefits, miscellaneous. (Rule: pro-gov't is C.)
- 1619 tort actions against government or governmental officials, misc.
By definition torts exclude suits arising from a contractual relationship (see 1616). Includes suits not authorized by statute; (cf. 391, 623, 1614).
- 621 Qui Tam actions on behalf of government.
- 622 Jones Act; Federal Longshoremen's and Harbor Workers, etc.
- 623 FELA.
- 624 War Risk Insurance.
- 625 labor standards in federal contracting, including prevailing wage
- 631 state regulation of business (cf. 910, 911)
- 635 national banking regulations
- 636 securities, federal regulation of.
- 638 natural resources - environmental protection (cf. 933, 934)
- 639 federal public lands (regs., quiet title, etc; cf. 507, 638).
- 652 zoning: constitutionality of such ordinances, or restrictions on owners' or lessors' use of real property
- 653 arbitration (other than as pertains to labor-management or employer-employee relations (cf. 553)
- 656 federal consumer protection: e.g., under the Food, Drug and Cosmetic Act

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- patents and copyrights
 - 660 patent, US
 - 661 patent, private action
 - 662 copyright
 - 663 trademark
 - 664 patentability of computer processes
 - 665 trade secrets
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- federal transportation regulation

671 railroad
672 water transportation (goods or people)
673 truck, or motor carrier
674 pipeline (cf. 685)
675 airline

 federal utilities regulation(cf. 935)
681 electric power
682 nuclear power
683 oil producer
684 gas producer
685 gas pipeline (cf. 674)
686 radio and television (cf. 687)
687 cable television (cf. 686)
688 telephone company

691 federal alcohol regulation
699 miscellaneous economic regulation (cf. 1001-1010)

ECONOMIC ACTIVITY, "LEGACY CODES"

1001 real property
1002 personal property
1003 contracts
1007 wills and estates
1008 commercial transactions
1009 mining claims and rights
1010 securities, private litigation
1011 marriage and property disputes
1012 tenant land-lord
1013 insurance claims
1014 oil or gas leases

ADMIRALTY AND MARITIME

1030 admiralty, personal injury; not including torts/claims against US
1031 admiralty, seamen's wages
1032 admiralty, damages from collisions
1033 admiralty, contracts, charter contracts
1034 maritime, insurance
1035 maritime liens
1038 admiralty, miscellaneous
1039 maritime law, miscellaneous
1040 admiralty, (injury because of) unseaworthiness
1041 admiralty, (injury due to lack of) maintenance and cure
1042 admiralty, other seamen's injury
1043 admiralty, limitation of liability

JUDICIAL POWER

700 comity, criminal
712 comity, civil
715 assessment of costs or damages: as part of a court order
717 Federal Rules of Civil Procedure, including application of the
Federal Rules of Evidence, the Federal Rules of Appellate
Procedure in civil litigation, and Circuit Court Rules
721 judicial review of administrative agency's or administrative
official's actions and procedures
731 mootness (cf. 806)
741 venue (i.e., which of several possible courts is appropriate for
the case; excludes controversies over diversity) (cf. 742, 857)
742 diversity: whether there is diversity jurisdiction
800 standing to sue

— judicial administration (jurisdiction of the federal courts or of
the Supreme Court) (cf. 753)
851 jurisdiction or authority of federal district courts (i.e.,
whether any DC has jurisdiction; excludes cases about
w/er there is diversity jurisdiction) (cf. 741, 742).
852 jurisdiction or authority of federal courts of appeals
853 Supreme Court jurisdiction or authority on appeal from
federal district courts or courts of appeals (cf. 753)
854 Supreme Court jurisdiction or authority on appeal from
highest state court
855 jurisdiction or authority of the Court of Claims
856 Supreme Court's original jurisdiction
857 review of non-final order; i.e., allegation that the
decision below is not a final judgment or decree, or
that it is an interlocutory judgment (cf. 753)
858 change in state law (cf. 755)
859 federal question (cf. 752)
860 ancillary or pendent jurisdiction
861 extraordinary relief
862 certification (cf. 864)
865 collateral estoppel or res judicata
866 interpleader
867 untimely filing
868 Act of State doctrine
869 miscellaneous
899 miscellaneous judicial power

FEDERALISM

- 900 federal-state ownership dispute
- 901 federal-state land dispute
- 910 federal pre-emption of state court jurisdiction
- 911 federal pre-emption of state legislation or regulation (cf. 631)

- national supremacy: in the context of federal-state constitutional conflicts involving the general welfare, supremacy, or interstate commerce clauses, or the 21st Amendment. Distinguishable from 910 and 911 because of a constitutional basis for decision.
 - 930 commodities.
 - 931 intergovernmental tax immunity
 - 932 marital and family relationships and property, including obligation of child support
 - 933 natural resources (cf. 638)
 - 934 pollution, air or water (cf. 638)
 - 935 public utilities (cf. 681-688)
 - 936 state tax (cf. 976)
 - 939 miscellaneous
- 940 full faith and credit
- 941 *Erie v Tompkins*: federal court interpretation of state law where state court has spoken
- 949 miscellaneous federalism (cf. 294, 701-708, 712, 754-755, 854, 858, 860)

INTERSTATE RELATIONS

- 950 boundary dispute between states
- 951 non-real property dispute between states
- 959 miscellaneous interstate relations conflict

TAXATION

- 960 federal income taxation (except as pertains to 970 and 975): typically under provisions of the Internal Revenue Code
- 970 federal taxation of gifts, personal, and professional expenses
- 971 federal estate tax
- 972 federal excise tax
- 975 priority of federal fiscal claims: over those of the states or private entities
- 976 state tax (cf. 931, 936)
- 979 miscellaneous federal taxation (cf. 931)

MISCELLANEOUS

- 980 legislative veto
- 989 miscellaneous

Issue Categories.

1030-1043: Admiralty
608-611: Bankruptcy
617, 1001-1014: Common Law
150-181: Criminal
501-508: Due Process
625, 635, 636, 638, 656, 671-699: Federal Business Regulation
960-975, 979: Federal Tax
1614-1617, 1619: Government Claims
622, 623: Jones Act/FELA
553-590: Labor
660-665: Patents Copyrights and Trademarks
700-899: Procedure
631: State Business Regulation
612, 613: State Labor
976: State Tax
All others: Residual

39-265 FCC v Pottsville Broadcasting (0/0) *(ic: 686)
39-316 Fly (McNich et al) v Heitmeyer (1/0) *(ic: 686)
39-499 FCC v Sanders Bros (0/1) *(ic: 686)

Pottsville: At issue here is the power of CADC to order the FCC to evaluate resp’s application to operate a radio station without considering the comparative merits of two other (competitors’) applications, which is what the FCC wants to do. The FCC originally rejected resp’s application on a ground that CADC reversed.

WOD Memo: Does not discuss importance explicitly (recommends grant).

Reed Memo: Notes that the government “show[s] the significance of the decision” by noting that the CADC has similarly intruded on the FCC’s powers in other, subsequent cases. (WOD memo notes this too, but does not tie it to importance per se.) Does not endorse this claim per se, but recommends grant.

Petition: “It is unnecessary to emphasize the gravity of the decision below so far as it bears on the administration of the Communications Act.” Also notes that this decision may impact the work of other administrative agencies, by precluding fair determination (i.e., one in the best interests of the public etc.) in similar factual situations (18).

BiO: Notes “far reaching demoralizing effect” that upholding the Commission may have on “parties who may be subjected to the whims of any administrative agency.” (5) Also concedes that decision below “may be [...] of some gravity” w/r/t administration of Communications Act (29).

Fly: This is a petition subsequent to the Pottsville petition that effectively raises exactly the same question.

WOD Memo: Says “important question of federal law” is “what measure of control the appellate court can exercise over the Commission in reviewing its decisions.” (Notes that this question is “very similar” to Pottsville, already granted, and should be granted with it.)

Reed Memo: Very short memo notes mainly that it is “practically the same question” as Pottsville (recommends same action as Pottsville).

Petition: Refers to Pottsville petition for the reasons in favor of granting writ.

BiO: Argues just that the decision below is correct.

Sanders: This is also an FCC case, slightly different question. Here, CADC holds (1) that the FCA requires the FCC to take into account whether a competitor will be economically injured if some radio station is granted a license and (2) that that gives the competitor the right to intervene before the FCC.

WOD Memo: Agrees with gov’t, saying cert should be granted because CADC misinterpreted the FCA.

Reed Memo: Says that the basic question involved—“(1)” in the summary above—“seems important enough to warrant a grant,” without elaboration.

Petition: “Decision below raises questions of large public importance” (9)—in the broadest sense, whether the CADC or the FCC has the power to interpret the FCA (10), but even, more narrowly, whether economic injury to a competitor is reason to deny a license.

BiO: “Whatever may be its abstract general importance, or importance as applied to other situations, the question as raised by the record in this case is not of sufficient importance or interest to require review by this court. It is not raised, properly, clearly, and in a timely fashion, and the issue is confused by irreconcilable concessions or admissions by the Commission (13).” I.e., a vehicle argument--the specifics are given earlier in the brief.

Conclusion: Hard to discern relevant difference.

39-151 Deputy v Dupont (1/0)
39-675 US v Stewart (0/.)

Dupont: Is conserving one's estate a "business" and therefore are ordinary business expense deductions applicable?

WOD Memo: Notes that the "important" question here is that listed above ("Is conserving..."). "Although I seriously question whether certiorari should be granted in the case of a private petitioner, I believe that certiorari should be granted in this case because it appears to involve a tax question of some importance to the Government."

Reed Memo: "...in spite of the credit that ought to be extended the govt's petition, I cannot see why this question is of such importance as to justify a grant in the absence of square conflict." (Note: "this question" refers to the same as above; also, in a supplemental memo the clerk changes his mind and argues that there was a conflict after all (and so should grant).)

Petition: Refers to some \$650K at stake, and makes an argument that is ambiguously (if not obliquely) about importance, noting that "practically everyone" manages personal investments; thus, the decision below potentially allows all such people to deduct expenses associated w/ managing their personal investments as necessary and ordinary business expenses. Otherwise, does not explicitly (or even implicitly, really) mention importance. Main argument that decision below is in conflict with others.

BiO: Does not refer to importance except some argument that the decisions alleged to be in conflict (and so this case too) are fact-specific.

Stewart: A statute says income from Joint Stock Land Bank bonds is exempt from taxation. This case asks whether income from sale of such bonds is exempt, or only the interest from such bonds.

WOD Memo: No discussion of importance. Argues for Grant b/c of clear conflict, and because the decision below is probably wrong.

Reed Memo: Missing.

Petition: Notes that the statute was amended to remove ambiguity (against gov't) in 1938, but is still of "general importance": refers to many other pending cases involving large amounts of money and statutes with similar languages as that involved in this case (i.e., the unamended version) (4).

BiO: Emphasizes that due to the 1938 amendment, the case is of "diminishing importance."

Conclusion: The clear difference here is that the statute in Stewart has been amended so as to moot the question *going forward*. The question involved in DuPont is still live. Unclear whether *at any one time*, the amounts at stake are different, though if we take govt's petition in DuPont very seriously ("practically everyone"), we could argue that the number of people affected by that case is greater (again: at any one time). Going forward DuPont clearly affects more people.

39-317 Helvering v Johnson (0/0)

39-479 Helvering v Bruun (0/1)

Johnson: The question here is whether the Revenue Laws allow for a capital loss deduction when the sale is to an individual's wholly owned corporation and without any business purpose. See also 49 and 146 (neither classified as important by either clerk).

WOD memo: Does not discuss importance; recommends grant without giving explicit reason (perhaps implicitly because of conflict with 49, which may have already been granted).

Reed memo: Does not discuss importance. Notes case is same as 146 (gov't in a slightly stronger position here) and should be granted if/as 146 is.

Petition: Hinges entirely on conflict with 49 and 146 (and implicitly on the error of the decision below). Importance not discussed. In the 146 petition, the government makes a somewhat feeble argument for importance (referring to principles announced in the lower ct op etc), even though the statute at issue has apparently been modified.

BiO: Refers to the statute having been amended, but does not explicitly claim, therefore, lack of importance.

Bruun: Resp corp leased out certain land, during which point a building on the land was replaced with a more valuable building by the renter. The renter defaulted and now resp has the land and the building. Ptr US seeks to levy income tax on resp corp on the difference in value between the new and old buildings.

WOD Memo: Does not discuss importance. Recommends grant: Notes that the decision below was almost certainly wrong, and there remains an open legal question for the Ct to resolve.

Reed Memo: Agrees with the government's contention that this is an important legal question that (contrary to ct below) has not been resolved by the Court. Does not elaborate much beyond the statement that the question is "surely important."

Petition: Says the question is important because, due to "conflicting and uncertain" court decisions, the government "has been wrestling with" how to tax such transactions "for over twenty years." (5-6). Notes also that the question has "recurred under all the Revenue Acts" and is involved in "several" cases pending in the BTA or lower courts.

BiO: Argues that decision below is correct and decided according to Court's precedent.

Conclusion: The major difference here is that the issue is live in Bruun, whereas in Johnson, the statute has been amended so that the problem will not reoccur in the future. The problem in Bruun also seems to be longer-running. It is, otherwise, not clear that more people (or money) are affected—at any given time—by the question in Bruun than the question in Johnson.

39-332 Waterman v NY Life (0/1)
39-609 Cohen v Globe Indemnity (0/0)
39-910 Prentiss v Mutual Benefit (0/.)
39-932 Pitcher v Met Life (0/0)
39-663 Clum v Guardian Life (./0)

Waterman. The substantive question is when a lapsed policy can be rescinded for fraud under state law. The more general question is jurisdictional: whether the cash surrender or face value of an insurance policy is what counts for the jurisdictional amount. (If the former, no fed jurisdiction, because < \$3K.)

WOD memo: Apparently misses the jurisdictional question altogether (see WOD's handwritten note asking about it). Given that, writes "no cogent reason why the writ should issue."

Reed memo: Clerk writes that the jurisdictional question is "very important" "theoretically" because ("as Holmes lamented (?)") retaining jurisdiction if amount is not met is an invasion of states' reserved rights and it is important "practically" because the problem is "more or less recurring" and overruling the CCA would be more in line with Erie.

Petition: States several times (10-11) that issue is important, but does not really elaborate and appears to refer to the substantive issue, not the jurisdictional one. Nor does it refer to importance when discussing the jurisdictional question later (41-42). In closing it argues that question (implicitly, the substantive question) "is of sufficient importance to millions of policyholders" as to justify a grant.

BiO: Does not mention the jurisdictional point in any way.

Cohen. CCA interpreted an insurance contract (theft of jewelry from store) and ruled that as a matter of law, on the facts here, resp insurance corp did not have to pay out despite the jury verdict for ptr, because ptr did not keep books in the manner prescribed by the contract.

WOD memo: "...only a question of interpreting the individual policy in light of the facts. There is no question important enough to bring this case to the Court."

Reed Memo: Nothing about importance.

Petition: Refers to "important" questions of local and general law (9). Also claims that the decision is important to others in the jewelry business, since the record keeping of ptr is not atypical there, and may also apply to those "engaged in many other lines of business." Finally: "the importance of the principle of estoppel as applied to insurance policies, needs no emphasis" (since many cases in PA and other jurisdictions about it...) (26-27).

BiO: No reference to importance. (But lots of discussion of facts perhaps implying desire to paint the case as fact-specific etc.)

Prentiss. CCA threw out jury verdict requiring resp insurance company to pay out on life insurance policy after ptr's decedent died in an accident, holding that as a matter of a law, decedent falsely denying having syphilis on the application invalidated the policy.

WOD Memo: No reference to importance. States that cases cited as relevant must differ on facts.

Reed Memo: N/a.

Petition: No elaboration at all beyond reference to important local and general law (6)

BiO: Does not refer to importance. Argues essentially that decision below is correct.
(Unrelatedly, suggests that insuring a person with syphilis even for accident insurance is like insuring a house already on fire (6).)

Pitcher. CCA reversed a directed verdict for ptr insured on a disability policy. Though the disability prevented ptr from working as a teacher, he was then elected superintendent (at a higher pay) and resp insurance co pointed to a clause in the policy that denies compensation if insured is able to work (even if at a different job than originally).

WOD Memo: No reference to importance.

Reed Memo: The entirety of the memo is: “A local law case on insurance involving nothing close to a conflict.”

Petition: Claims “is of great importance to the development of insurance law of this country” (6).
No elaboration at all.

BiO: Not in Gale.

Clum. Basically same as Prentiss but heart trouble. The petitioner makes a FF&C argument here also. A NY doctor examined Clum for heart trouble, but Clum lived in PA and that is where the trial was. NY’s “Civil Practice Law” forbids doctors from testifying about their patients, but the testimony was allowed in PA, where the law is different.

WOD Memo: n/a

Reed Memo: No reference to importance at all. Says FF&C does not apply since NY law is no more than a rule of evidence and that CCA decision would be supported even without the doctor’s testimony.

Petition: Refers to the 1 million + patients per year in NY, noting: “It is of tremendous concern to every person in the United States ... that if he comes to NY ... anything observed by the physician ... cannot under any circumstances, become public property anywhere else in the US.” Says the law/rule involved goes beyond a mere rule of evidence and is instead “an important question of public policy” (6-7).

BiO: Does not mention importance; disputes applicability of FF&C.

Conclusion: The clear difference is the question of federal court jurisdiction in Waterman. But it is not necessarily obvious why that makes the case more important, since the question of jurisdiction arises in the context of a *relatively* narrow question (face v surrender value).

39-142 *McVay v Swift* (0/0)
39-280 *Woods v Rains* (0/0)
39-496 *Rios v Baetjer* (0/.)
39-580 *Municipal Council v Hospital de San Juan* (1/.)
39-659 *Florida Blue Ridge v Tenn Electrical* (0/0)
39-896 *McCampbell v Warrich* (0/.)
39-197 *Federal Crude Oil v Yount* (0/0)

McVay. Extremely involved dispute over the sale of 16,000 acres of timberlands. Question is whether ptr had valid judgment against resps.

WOD Memo: No reference to importance—notes petition is “extremely confused.”
Reed Memo: No reference to importance. “Brief is somewhat unintelligible.”
Petition: Reference to important question of local and general law (4). Absolutely no elaboration.
BiO: Not filed.

Woods. Ptr seeks to recover property that was sold by bank to resp after ptr defaulted on home equity loan.

WOD Memo: No reference to importance.
Reed Memo: No reference to importance. “Claims are frivolous.”
Petition: Refers to “important question of local law” (9). No elaboration at all.
BiO: Not in Gale.

Rios. Ptr objects to resp’s use of a right of way on ptr’s land for RR tracks, but DC and CCA holds res adjudicata.

WOD Memo: “no conflict or any important question is presented by the petition.”
Reed Memo: n/a
Petition: No reference to importance in any way.
BiO: “No question of general public interest is involved. The suit is concerned solely with the private rights of individuals and the application of well-established rules of res adjudicata (5).”

Municipal Council. Ptr Philippine cities urge that the title to certain land (worth \$1.5M) held by the Catholic Church is invalid and should go to the municipalities.

WOD Memo: “Petitioner is right in alleging the importance of the case since land involved is worth \$1.5M and [reversal] would probably set precedent for confiscating most of the land of the Catholic Church [in the Philippines].”
Reed Memo: n/a
Petition: Emphasizes size (67K acres) and value of land (2). Argues “questions presented ... are of major importance [for] judicial proceedings in the Philippine Islands”—refers to value of land and impact on cities and “the small farmers of the Philippines,” though without particular elaboration.
BiO: Does not refer to importance.

Florida Blue Ridge. A dispute between two corps about land which resp had obtained by condemnation that ptr argues is now invalid for fairly technical reasons.

WOD Memo: Decision below is “limited to a point of local law as to the effect of easements gained by condemnation.”

Reed Memo: One paragraph memo: conflict with local law is claimed but “petitioner does not come within miles” of showing any.

Petition: Argues that “in many states there are condemnation statutes similar to” the GA law relevant here and thus the decision below “is one of public interest affecting similar questions in other states.” (No elaboration beyond this.) Also seems to argue that it is important because CCA disregarded Erie (10).

BiO: No reference to importance.

McCampbell. Ptr objects to the loss of a property interest in foreclosure proceedings 47 years ago, when he was an infant.

WOD Memo: “There is no important issue of law involved.”

Reed Memo: n/a.

Petition: No reference to importance at all in petition or petition brief (see briefs in opposition folder).

BiO: Observes that petition does not meet any Rule 38 criteria which (it is recited) include conflict and “questions of importance which it is in the public interest to have decided (7-8).

Federal Crude. A long-running dispute between two corps about $\frac{3}{4}$ of an acre of oil-rich land that resp keeps repeatedly winning.

WOD Memo: Emphasizes in first sentence that only $\frac{3}{4}$ of an acre is involved. Also: “no reason whatsoever why the Court should now intervene in a land title suit of this character.”

Reed Memo: Nothing on importance. “Petitioner’s whole argument is silly.”

Petition: alleges “fraud, bribery, and perjury, unprecedented in reported judicial annals” (7). But no claim to importance.

BiO: No reference to importance.

Conclusion: Municipal Council is distinct in two respects. First, the value of land at issue. Second, as the Reed Memo notes, a reversal would have fairly immediate implications of the disposition of even more land, potentially transferring it from Church to state hands. The other cases involve land of much more modest or even trivial value and have no apparent legal implications for other cases. (Note btw that Reed memo in Municipal Council is an interesting example of importance but rec deny since correct below.)

39-754-757 Landay et al v US (0/1*) *Only 755 involves the issue considered important.
39-679 Buckner and Gillespie v. US (0/0)
39-792 Davis v SEC (./0)

Landay. These petitions involve defns convicted of violating the Securities Act by defrauding buyers etc. The issue deemed important by Reed's clerk arises only in 755: it is ptr Lane's argument that his right against self-incrimination was violated when he, as an officer of the company, was questioned about certain books and to produce certain books at trial. All petitions raise various "stock allegations of error in criminal cases" (WOD memo).

WOD memo: Gives some additional attention to the self-incrimination claim, but concludes that it was decided correctly below. Does not state importance. Notes that the other claims raise "no serious issue."

Reed memo: Reads self-incrimination issue a bit differently (and perhaps more carefully) than WOD clerk. Suggests that precedents cited by the government only apply to production of books, and not being questioned about them, and in fact imply support for ptr's position. Thus, "the question seems important enough and doubtful enough to me to warrant a grant."

(Recommends grant only in 755 (Lane) and there limited to self-incrimination question.)

Petition: Alleges that the self-incrimination claim (and two others) involve an important question of federal law (25-31). However, does not elaborate on importance of self-incrimination claim other than to state it (25-26).

BiO: Does not discuss importance of s-i issue, but defends decision below on the merits (5-7).

Generally: "...there is involved no important question of federal law" (18).

Buckner. Criminal conviction for scheme to defraud Philippine RR bondholders. The s-i objection is that a defn was cross-examined at trial about refusing to answer, on constitutional grounds, a question in a hearing before the SEC.

WOD Memo: The self-incrimination issue is "not a substantial question[] warranting review here."

Reed Memo: Notes that after def'n objection to the prosecutor's question, the judge held off on making a ruling and the prosecutor moved on and never returned to the question (though the petition disputes this in my reading). Also notes that the question was probably proper since the def'n chose to take the stand at trial. Nothing explicitly about importance.

Petition: Nothing explicitly about importance w/r/t the self-incrimination point (see p. 46 on a different point).

BiO: Defends self-incrimination decision below on the merits (10-12). Overall: "there is involved no question of general public importance" (14).

Davis. Criminal contempt case for failing to abide by injunction to stop selling certain fraudulent securities. (This is the quasi-religious Plenocracy case.) Ptr was ordered to produce certain books that he argues are personal and not those of the corp.

WOD Memo: n/a.

Reed Memo: Focuses on the “sole point of any merit,” the self-incrimination question. No explicit discussion of importance. (Argues that decision below can be justified as correct with some squinting at least.)

Petition: Says cases involves “principles of greatest importance to members to the members of the public [regarding] interstate commerce [and] use of the mails.” But the reference here is not to the self-incrimination issue (see 35-37). Does not refer to importance when discussing s-i (22-23).

BiO: Defends decision on merits; no reference to importance.

Conclusion: All three s-i issues are very similar. It is hard to see that more will be affected by one rather than the other. Probably it is fair to say that the decision in 755 is most dubious (i.e., far reaching in government power, unsupported by precedent). The petitions do not much differ in the (lack of emphasis) on importance. Thus, perhaps these cases show a connection between novelty and importance, which is consistent with Reed memo’s statement phrasing “the question seems important enough and doubtful enough.”

39-79 Still v Union Circulation (1/0)
39-799 Sibbach v Wilson (0/.)

Still. The substantive question here is whether a driver was a servant (employee) of resp corp when an accident injuring ptrs occurred. The question deemed important is procedural: whether, given *Erie*, the substantive law of NY or IL should apply. (Accident occurred in IL, the court was sitting in NY, but the NY *law of conflicts* in fact stated IL substantive law should apply, yet CCA and DC applied NY substantive law.)

WOD Memo: “This is a rather ‘nice’ question, but with the *Tompkins* case on the books it will necessarily become increasingly important.”

Reed Memo: No reference to importance. (Has a somewhat different understanding of which law should apply than the summary above, which is based on the WOD memo. Does not give that issue particular attention.)

Petition: Calls several legal points important, not including the one WOD memo calls important (7-9). About the case in general: Notes the thousands of people working in magazine sales and related occupations who would be negatively affected if the decision below is not reversed (9-10).

Response: “Petitioners ask for [cert] on the hackneyed grounds that the question is of great public importance” but there is no merit to this and “it is preposterous to urge that any question of great public importance is involved [...] It is merely a question of applying the law to the set of facts here involved.”

Sibbach. Can a DC order a (putatively injured) party to undergo a medical examination given that the Enabling Act (allowing the Ct to set the FRCivP) says procedural court rules will not limit any party’s *substantive* rights? (Ptr refuses and is held in contempt and jailed.)

WOD Memo: Notes that petition alleges that the “general question” of what counts as a substantive right is important, but argues that this case could only decide what counts as a substantive right for the Enabling Act (i.e., not in general).

Reed Memo: n/a

Petition: Argues that validity of rule requiring medical examination is an important question, as is the meaning of the term substantive right under the Enabling Act (4).

BiO: Says that this can’t be an important question of federal law that has not been decided by the Ct, since the Ct approved the Rules when it promulgated them (2-3).

Note: Amusingly, this case is reversed on a point that neither the parties nor the clerk raise: that according to a different rule, ptr cannot be held in contempt for refusing to undergo the exam.

Conclusion: It is at least arguable that more people would be affected by the conflict law question than the medical exam question. These cases may also tend to show that the perceived correctness of the decision below may influence perceived importance, though this is speculation.

39-180, 218-219 Thompson v Murphy (180) Thompson v Terminal Shares (218-9) (1/.)
39-302 Palmer v Palmer (0/0)
39-321 Palmer v Palmer (0/0)
39-502 Cassel v Radio (0/0)

Thompson. Under the Bankruptcy Act (77a, RR reorgs) does the bankruptcy court have jurisdiction over an ancillary and dependent suit if neither the property involved in that suit is in that district nor were the defendants served in that district? DC and CCA say no, despite fairly straightforward plain language to the contrary.

WOD Memo: Opines that the case is wrongly decided, but “the question, regardless of the merits, is sufficiently important to be reviewed here.” (No elaboration.)

Reed Memo: Did not write one because Reed was disqualified.

Petition (180): This issue arises in “every” RR reorganization and an “early authoritative decision” is important to all similarly situated parties pending in “many District Courts.” (4-5). Without a decision, there would result in other litigation “useless efforts, expense and chaotic conflict.” Notes that other pending cases have been stayed pending “adjudication of this jurisdictional question” (5). Refers also to statute being very important (7) and the case being an important question of federal law (11).

Petition (218-9): Unelaborated references to “important” questions of federal law (5). Oddly, does not emphasize importance to degree that 180 does. (Note: different lawyers.)

BiO (219): Note that this is the de facto brief for 218 and 180 also. Makes interesting argument that since at an earlier stage 218 and 219 were already denied cert, the Supreme Court itself has decided that the issue is not important (9). Notes the same point and that “no questions of gravity and general importance have subsequently arisen” (19).

Palmer. Ptrs are lessors RR who leased certain RR property to lessee RRs. The question appears to be whether ptrs can be forced to pay certain rent back to resps during bankruptcy/reorganization proceedings. (This refers to parties in 302. 321 is cross-petition.) The petition in 321 raises a question of priority.

WOD Memo: Notes that ptr (in 302) “submits” that question is important, but does not take position on that either way (though ultimately recommends grant).

Reed Memo: Notes that the ptr in 321 argues that a certain point on priority is important. But: “It seems to me they [=both parties] are merely asking the court to discuss RR reorganizations” and sees no need to modify L Hand’s op “though mine is hardly an informed judgment.”

Petition: Not found.

BiO: Not found.

Cassel. The question here is about how secured creditors must be treated relative to others in 77B reorganization proceedings.

WOD Memo: No reference to importance.

Reed Memo: Nothing explicitly about importance. Recommends grant due to patent unfairness (in fact seems so unfair to clerk that he thinks he must have overlooked something...).

Petition: Argues question is “of first importance” to financial community and investing public at large. Argues that question is important in part because it has not yet been decided by SCOTUS.

Of “utmost importance” to corps in reorganization, bondholders, and those involved in corporate financing (10-11). “Threatens integrity of mortgage investments” (12).

BiO (1—For Indep Stockholders Comm): Implicitly emphasizes lack of importance by focusing narrowly on case specific aspects. Nothing explicit either way.

BiO (2—For Atlas Corp): The gist of this is similar as that of BiO 1. In the concluding section: “There is nothing novel or important in the decision of the court below, which correctly applies [law] to the facts peculiar to a peculiar case.”

Conclusion: Argument for importance is perhaps a *little* more concrete in Thompson petition compared to Cassell. It is tempting to conclude that Cassell is significantly more fact specific than Thompson, but the WOD memo for Cassell implies that the case could be used to extend the doctrine of Los Angeles Lumber. If that is true, then it’s very hard to say that the Thompson issue would affect more people going forward than the Cassell issue. It does appear that Palmer is more fact specific than Thompson.

39-614 Public Service Comm v Wisconsin Telephone (1/1)
39-681 RR Comm v Rowan & Nichols (0/1)
39-837 City of York, Nebraska v Iowa-Nebraska Lt and Power (0/0)

Public Service Comm. Here the WI SC affirmed a lower state court, ruling that ptr administrative agency's rate set for resp phone corp was unreasonable. The WI SC opinion is unclear about w/er a federal question is involved, i.e., whether the decision was at least partially based on federal dp grounds, or wholly on state law. At another level of generality, the question seems to be how to deal w/ cases where state const'l provision is interpreted by reference to rules SCOTUS has laid out for analogous US Const provisions.

WOD memo*: (*not clear if WOD's clerk—format of memo is different). Notes that the US's amicus brief argues that the problem is important, "with which there can be no disagreement." Also notes opinion's "unintelligibility" etc but ultimately feels case was decided based on state const so must be denied even though decision "deplorable."

Reed Memo: Does not quite explicitly say why important, but implicitly, one reason is because other utilities could be impacted by this and similar rulings in other states.

Petition: Focuses on merits and arguing that WI SC based decision of federal constitution.

Reference to "a federal question of substance (and great importance)..." (not elaborated) (45).

The (98-page) supplemental brief similarly argues the merits.

BiO: Focuses almost solely on the argument that no federal question was involved. Says it could, but won't dispute that the case is important (2).

U.S. Amicus: Focuses on one of the questions on the merits: the calculation of depreciation.

States that the question "is of the first importance and in urgent need of clarification." "The principle of rate depreciation is critical in almost every rate case. The principles which guide its solution are of large concern to many agencies of the U.S." Also emphasizes practical problems with WI SC's preferred method. Also argues that WI SC did base decision of U.S. Constitution. Nat'l Assn of Commissioners Amicus: "We wish to emphasize the large public importance [of a SCOTUS decision on the questions involved]" (6). Elaborates at length on pp. 13-18. Central to the argument is that legal misunderstandings that the Court could clear up are causing state commissions to spend obscene amount of time calculating values and depreciation (having to physically observe plants etc. Notes that in this case Commission's engineers spent 100 years (sic) of man-hours appraising the plants etc.

RR Commission. CCA affirmed DC injunction of an order of the RR commission limiting the amount of oil resp corp was allowed to produce.

WOD Memo: Notes that petition says question is important, but does not explicitly endorse that claim. Says petition should be granted (even if the decision below is correct on the merits, as clerk believes is possible) because "the policy of interfering with a state commission is bad unless the grounds of invalidity are very clear."

Reed Memo: “The necessity of a grant, I take it, is not debatable. This is an important regulation of an important industry.” [Notes the problem is the CCA “upsetting and reexamining” Commission’s findings of fact].

Petition: “Important question seriously affecting the conservation acts not only of Texas but of other oil producing states having similar regulatory statutes” [and the rights of oil producers, including 26K wells in East Texas alone]. “The state of Texas considers it of prime importance” that the case be decided to inform the Commission and oil producers. The CCA decision “would require a drastic change in the whole proration method seriously affecting” almost \$200M in investments in Texas oil that relied on the Commission proration method upset here (14-15). “The question involved is of vital importance” (23).

BiO: Does not explicitly dispute that the question is important but argues that the question has been settled by SCOTUS and that CCA decision is consistent with those decisions.

There is an amicus brief for lawyers of oil producers that focuses on the pros and cons of various formulas etc. Does not discuss importance.

City of York, NE. Ptr city argues that under NE law, resp power company’s franchise has expired, because at the time the perpetual franchise was agreed to, the company was agreed to, the company was organized for only 50 years.

WOD Memo: “this is [...] a question of state law not worthy of review here.” The undesirability of perpetual franchises “does not seem to be a sufficiently important issue to warrant” overruling relevant SCOTUS precedent (which would be required for ptr to win).

Reed Memo: Agrees with petition that the relevant SCOTUS precedent is probably out of line with the times, but (as WOD clerk) notes that this is a state law question. “Of course, petitioner has a sympathetic position...still it seems to me that there is no justification for a grant.”

Petition: Important question of general law. Later, about the question of general law: “Perpetual franchises are obnoxious to present-day civilization and stand in the way of human progress and have proven to be a great burden in communities upon which they have been imposed.” (3) (Otherwise, the petition is a very interesting example of arguing policy, with emphasis on SCOTUS dissents and the bad consequences such franchises have.)

BiO: “This is an ordinary franchise ouster action ... It involves no question of national or sectional importance, nor any federal question, nor any inter-court conflict.” (1-2). There is “no intrinsic importance except to the two litigants.” It emphasizes these points throughout the brief, spending relatively little time on the merits.

Conclusion: The Wisconsin and Texas cases both involve administrative determinations disregarded by courts. Both petitions (incl amici in Wisconsin case) give concrete information about the impact of the cases. This is not so for Nebraska. While it may be that the question of perpetual franchises impacts as many people as the two other cases, it’s harder to tell for justices (and us). Moreover, it seems that a reversal in City of York would have little or no impact outside of Nebraska.

39-57 Rinn v Asbestos (0/0)
39-696 Clarke v Gold Dust (0/1)

Rinn. This is a (small) stockholders' suit against resp corp alleging mismanagement and fraud. (Interestingly, taken off BL by HLB; there is handwritten notation about this on Reed memo but hard to read.)

WOD Memo: Details the facts. Does not discuss importance explicitly; says there may be some merit to ptr's arguments, but "I see no reason we should intervene now" given DC and CCA decisions.

Reed Memo: Also details the facts. "The main disputes concern questions of fact."

Petition: Does not argue for importance in any way, until the very last sentence, which reads: "The decision of this Honorable Court is of great importance."

BiO: Exclusively argues merits.

Clarke. Applying NJ law, CCA upholds a merger that ptr, who owned preferred stock in one of the two companies, objects to.

WOD Memo: No conflict or unfairness, and "only NJ law was applied so there is no cause to review the state law here."

Reed Memo: "This is quite an important field in which this Court by winking at Erie and Tompkins might do some pioneering in order to influence state courts. However, I am somewhat dubious of such excursions into state law, especially where a reversal would involve stirring up all sorts of trouble about a deal completed over ten years ago." (The field here has to do with mergers and the rights of dissenting stockholders thereafter, under state law. Hard to understand beyond that.) Recommends denial.

Petition: Just argues merits—that the decision below conflicts w/ NJ decisions.

BiO: Notes that only NJ corporate law and laches are involved; cites Rule 38 (1-2). Otherwise argues merits.

Conclusion: Neither case is particularly important, but Clarke appears to have wider potential application, or at least is less fact-specific. (Asbestos seems entirely fact-specific.) This case also shows that a field may be seen as important, and indeed it may be possible for the Ct to affect that field, even if a case in the narrower sense is not important. (May be worth thinking about relationship between question/issue/field).

39-786 Clawson & Bals v Harrison, Collector (1/1)
39-971 Grain Belt Supply v Commr (0/.)
39-1012 Zinsmaster Baking v Commr (0/0)

Clawson. A certain federal excise tax is to be paid by “manufacturers” of auto parts; ptr contends that since it remanufactures parts it should not be subject to the tax.’

WOD Memo: The memo notes that resp (US) agrees “the question is of great importance to the government in federal taxation,” since many DCs have reached results contrary to the the CCA here. But the clerk and US agree that the petition should be denied since the CCA decided the case correctly and thus that should settle the law.

Reed Memo: Notes that gov’t admits case is important, and that there are many cases pending, but agrees with US about the reason to deny.

Petition: The petition argues the case is important because of the huge numbers of economic transactions involving auto parts nationally. Also argues may have relevance to other industries and perhaps taxpayers generally. Notes also seven cases in DC (which reached conflicting decisions) and have apparently not been appealed by the US. Finally notes inconsistent language in Treasury Regs (19-23).

BiO: Explicitly concedes importance pp. 5-6, but argues the case is correctly decided below and there is no conflict. Inter alia, the BiO admits that the definition of manufacturing etc has been “troublesome” to the Treasury Dept and notes that there are a number of pending cases involving substantial amounts of money. (Interestingly, BiO cites a Candian case in accord with its own position.)

Grain Belt. Ptr pig carcass processor seeks refund of AAA processing taxes, which is denied because it was loaned money to pay the taxes from a buyer, i.e., did not bear the burden of the taxes.

WOD Memo: No explicit reference to importance. “It is lacking in merit” (as are related previous cases similarly denied cert.)

Reed Memo: n/a

Petition: Claims the relevant part of the tax statute “and its application to the facts of this case is of utmost importance” (8). No elaboration at all.

BiO: Refers to BiOs in 39-834 and 39-850, which just urge that there is no conflict and the decision below is correct.

Zinsmaster. This is another processing tax case, but involving a bakery that contends it is due a refund, but all courts/agencies below determine it did not pay the tax as the statute would require.

WOD Memo: No reference to importance. Notes identical to case previously denied.

Reed Memo: Believes the CCA decision to be “extremely dubious”, but because there is no conflict, and at least one plausible argument in favor of the result, recommends denial. No reference to importance.

Petition: “Important question of federal law....of great importance of all vendees who who have paid processing taxes to their vendors for the US under Section 18 of the AAA.” (This is repeated, but no further elaboration.)

BiO: Argues the decision is correct and there is no conflict. Nothing on importance.

Conclusion: Giving concrete numbers in briefs about impact (\$ at stake, people, cases involved etc) may make a difference. (Though of course in *Clawson*, US conceded.) Two other possible lessons: An important case may not be granted if there is no conflict and it is decided “correctly,” even if SCOTUS has not settled it (*Clawson*). A case may potentially impact many people, but if it is seen as trivially straightforward to decide, it may not be classified as an important; i.e., it’s not *purely* a matter of issue.

39-459 Rouw v Crivella (1/0)
39-912/3 Carl v Ferrell/Norris (0/.)

Rouw. Crivella won damages from Rouw Corp in an administrative proceeding under the Perishable Agricultural Commodities Act. The question is whether, given various amendments to the law and related administrative orders, Rouw can appeal to federal ct.

WOD Memo: Calls it “an important question of statutory construction”; the reason given for importance is that the interpretation barring appeal would make the law probably unconstitutional (presumably on DPC grounds).

Reed Memo: Nothing on importance. Recommends grant “because it is a jurisdictional question and because the gov’t asks for cert.”

Petition: Petition asserts that this is an “important question of federal law” that hasn’t been decided by SCOTUS (6). Notes that ruling below would cast grave doubt on all Sec Ag orders in cases such as Crivella’s (under \$500, no oral hearing) (15). Later it notes that 70% of hearings under the Act are like Crivella’s (18)..

BiO: Nothing on importance, but argues (pp. 11-12) that the implicit constitutional question (ie, what the clerk found to be important) is not properly before the Ct in this case (because an alternative construction—though not endorsed by the CCA (see Reed memo)—could render the statute constitutional).

US Amicus: Argues that the constitutionality question (as referenced above, “WOD Memo”) is of considerable importance to the Ag Dept (because alternative administrative actions to get around CCA ruling “would be administratively impracticable.”

Carl. In these cases, Carl, a Sergeant, is served by resps while on duty in DC for a military parade. The underlying civil suit is due to a car accident. Carl claims immunity from service based on common law and a federal statute. (The clerk finds the fed statute not on point, applying only to arrest, not service.)

WOD Memo: The decision below is correct and in any case the “question is not important enough to warrant review.”

Reed Memo: n/a

Petition: important “not only to petitioner, but to the orderly functioning of the Army, Navy, and Gov’t of the US” “...of substance relating [to] 5th and 14th Amendments” “important question of Federal Law” (5). Conclude by requesting grant to clarify law’s application to ptr and “those similarly situated” (13). These are from 912. 913 is basically a carbon copy.

BiO: none in Gale.

Conclusion: In Rouw, a federal law is construed to call its constitutionality into doubt. It seems clear that more people are affected by Rouw than Carl. Moreover, the Rouw petition gives concrete numbers etc about impact; Carl is vague.

39-387 Vidal v Garcia (1/0)

39-640 McGregor v Public Utilities (0/1)

39-839 Trinity Universal v Cunningham (0/0)

39-866 Texas NG v El Campo (0/.)

39-187 Milinkovitch v Insurance (In re National Surety) (0/0)

Vidal. Lower cts refuse to enjoin PR statute regulating contracts between sugar growers and processors, despite ptr processor's objections that violates DP etc.

WOD Memo: "There is no dispute that the industry is important." More to the point: "Although the statute seems reasonable and valid to me ... it does present an important question of price-fixing" [noting that similar to case out of Florida (39-270) that came up on appeal reached the opposite conclusion]

Reed Memo: Nothing on importance.

Petition: "The continued operation of the mill is vitally important to the population of the island" because the mill in question is the only one on there and sugar is only crop farmed (4).

"Important question of federal law" (14). "Vitality affects the paramount industry of PR ... decision below is a sentence of economic death upon an enterprise upon which [everyone on the island depends]"(15).

BiO: "No [unresolved] question of general interest is presented" (25). Otherwise, does not address importance directly, but intimates a related point that any negative effect on the island's farmers may be offset by benefits to other farmers (16-18).

McGregor. Ptr water supplier objects that rate it can charge is set is too low and thus confiscatory. The issue seems to be how to measure the value of the plant (which is a factor in the rate allowed).

WOD Memo: Nothing on importance.

Reed Memo: "...There is at least seeming conflict with old cases. For that reason, and because it seems important to loosen up this field" [recs grant].

Petition: Generic references to "federal question of substance" (3-4).

BiO (Board of Water Commrs): Nothing on importance. Detailed discussion of testimony, facts in this case to show support for Board decision.

BiO (Town): Nothing on importance. Possibly even more fact-focused than other BiO.

Reply brief: Continues to argue facts.

Trinity. Roughly, the question here is whether an insurance policy issued by ptr, given the policy terms and relevant state regulations, remained in effect after a the trucking corp's certificate of public convenience was suspended.

WOD Memo: Nothing on importance. CCA followed state law and there is no conflict.

Reed Memo: As relevant, same as WOD's.

Petition: The case's "importance is brought home by the vast and growing number of motor transports seen on every highway of our land." Argues that facts and law are (often) similar nationwide, though does not give specifics (5).

BiO: Only thing alluding to importance is: “In light of the fact that no conflict exists all other reasons [for cert] asserted by petitioner are without merit (23).”

Texas NG. Ptr natural gas corp was denied an injunction against rates set by resp city. In claiming the rates were confiscatory etc it did not follow the required legal appeal procedure, and moreover here appeals from a state intermediate ct decision.

WOD Memo: Nothing on importance. Most of memo is on jurisdiction, concluding that SCOTUS has no jurisdiction.

Reed Memo: n/a

Petition (and supporting brief): Nothing even close to a claim of importance

BiO: Argues only the jurisdictional point.

Milinkovich. Unsecured creditors claim EPC violation because, unlike secured creditors, they were not allowed interest when NY Supt of Insurance liquidated an insurance corp.

WOD Memo: Nothing on importance. Argues federal question raised too late and decision below is correct.

Reed Memo: Nothing on importance. “Seemingly [an] attempt to have the fairness of the plan reexamined here.”

Petition: Notes that \$18M is involved, and some 27K general creditors. Also claims public importance because “the liquidation of insurance, banking, and other monied corporations by [state administrative agencies] has become increasingly frequent [and will continue to be so].” “This is not merely a controversy between private interests, but one between petitioner representing general creditors as a class, and the state authorities” (11-12).

BiO (Nat'l Bondholders Corp): Controversy here “does not even involve a question of law, but [...] judicial discretion.” Says if this is a substantial question of law, then every compromise in every state insolvency proceeding is (9). Notes that only one of the 27K creditors (i.e., the one here) objects to the plan by cert, and “the amount, as far as the petitioner concerned, is nominal. There is no question of general interest or significance involved. Fundamentally, this is a case of the wisdom of the State court’s action” in approving the plan (13).

BiO 2 (Supt of Insurance): Mostly argues fairness of plan. Also “...whatever questions of law were involved were subsidiary to the factual considerations” (14). “No constitutional question was involved” (15). Notes that petitioner has ~\$180 at stake. No “Federal question of general application” The state court merely approved an agreement “under the particular facts of this case” (16).

Conclusion: Vidal is easier to explain, since the impact (though perhaps just on the island of Vieques) is clear and potentially large. McGregor is much harder to understand: Reed’s clerk’s view may be idiosyncratic or we may lack era-specific context to grasp the point. Texas NG is interesting as an example of a petition that does not even attempt to claim importance in any way.

39-402 Haverstick v Drainage District (0/1)
39-1038 Touchton v City of Fort Worth (0/0)
39-89 Getz v Edninburg (0/0)

Haverstick. This involves the reorganization and debt readjustment of resp drainage district under federal statute (1st and 2nd Debt Readjustment Acts). Grossly oversimplifying, ptr (who has a judgment against the district) objects that the plan was not fair and 2/3 of creditors did not approve it. In fact, the resp trustee did hold more than 2/3 of the bonds, under a scheme whereby the RFC loaned money to buy those bonds at reduced rates (26 cents on the dollar), and thus (the trustee) voted to approve the plan whereby the RFC received back its loan plus interest and the holders of outstanding bonds and judgments received the same 26 cents on the dollar other bondholders got.

WOD Memo: Nothing on importance. Argues that decision below was correct on the merits.
Reed Memo: Argues that the decision below (probably) erred on the following point: while—counting the trustee—it is true that 2/3 of judgment creditors voted to approve the plan which in effect cancelled ptr's (and other judgment creditors') priority, under the statute consent of the class cannot serve to cancel (nonconsenting?) members' priority. Specifically cites statute that plan cannot "...discriminate against any creditor or class of creditors." Continues: "I think there is a substantial question whether the Act is not contravened by such patent deprivation of priority."

Petition: States important question of general, federal and constitutional law but does not elaborate (7-8).

BiO: Argues only question involved is debt composition under federal bankruptcy law. (13-15,18). Argues decision below is correct.

Reply brief: Nothing relevant.

Touchton. Ptr, holder of resp bankrupt city's overdue bonds, was enjoined from prosecuting his suit against the city, because city had entered bankruptcy. The legal question here is whether ptr's lien had become "vested" according to state law; if it did, the federal courts, under federal (sic) statute could not enjoin the suit. But lower courts hold lien had not been vested at the time of the injunction.

WOD Memo: "The sole question [...] is whether or not the lien was vested under local law."
Also, the order below was interlocutory, which should not be reviewed on cert "unless there is a fairly important issue in the case." (I.e., implying there is not.)

Reed Memo: Nothing on importance. "It seems to me that the 'vested right' provision is [to] prohibit the bankruptcy courts from stepping over the bounds of the 5th Amendment and clearly this case is not even near the limit."

Petition: Reference to "important questions of federal law" but no elaboration (9,10).

BiO: Defends at length the decision below. But also argues that this is an interlocutory judgment and as such should only be reviewed if it is an "extraordinary" case which it is not (1-2).

Getz. Bondholders of a school district under reorganization object to fairness of the plan.

WOD Memo: “Since there is no conflict with local or federal law and the question does not appear to be important, certiorari should be denied.”

Reed Memo: One aspect of the plan involves settlement of (residents’) taxes due, which the clerk sees as potentially violating the TX constitution. “Thus, while the question here is a complicated one of state law, it seems that the Act requires an examination of that question. Since neither lower court dealt with the question, an examination of it by this court might have a salutary effect on the practice of this new and important Act. On the other hand, the question involves a minor part of this plan, and there is no indication of any substantial tendency on the part of lower courts to disregard local law in this connection. Review would perhaps be better postponed for a more important disregard, for it may be that the question will be nonrecurring.” Recommends deny. Note that WOD’s clerk sees this differently, in that offsetting outstanding bonds against delinquent taxes is not “settling” taxes since it is just cutting the middle step of exchanging cash for bonds and cash for tax out of the equation,

Petition: Argues that there is an “important unsettled question” about the impact of state laws on municipal bankruptcy proceedings (8). There are also references to the amount of debt involved (~\$300K by ptrs, ~\$3M by overall) but it is not tied to any claim of importance (1-2).

BiO: Nothing on importance. Defends CCA decision on the merits.

Conclusion: In most respects, these cases are very similar. The obvious difference in Touchton is that the RFC is involved (and thus the federal govt’s money).