

# ARKANSAS REPORTS

Vol. 71

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CASES DETERMINED

IN THE

## SUPREME COURT OF ARKANSAS

FROM

OCTOBER, 1902, TO NOVEMBER, 1903

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T. D. CRAWFORD  
REPORTER

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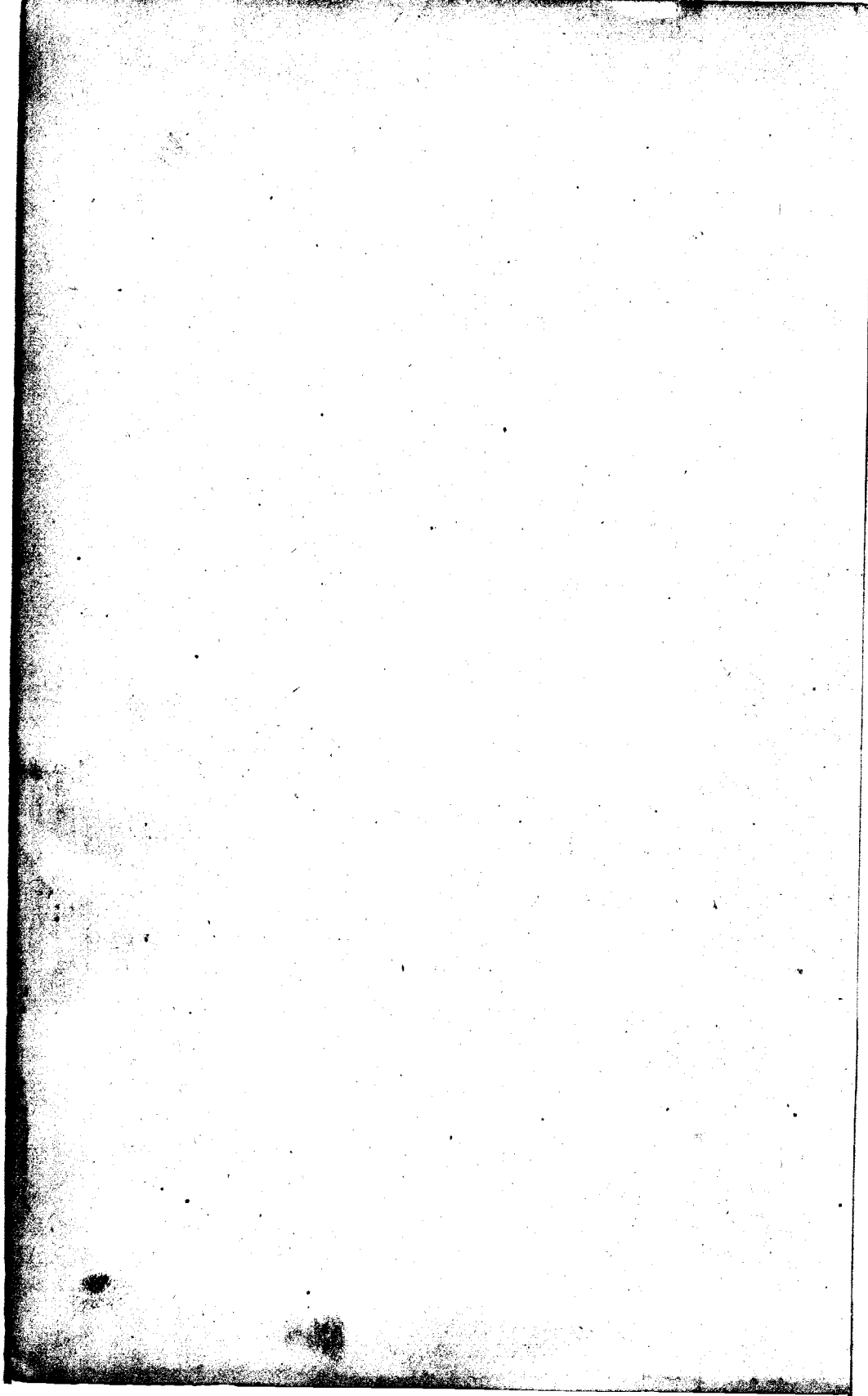
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JUDGES  
OF THE  
SUPREME COURT

DURING THE PERIOD OF THIS VOLUME

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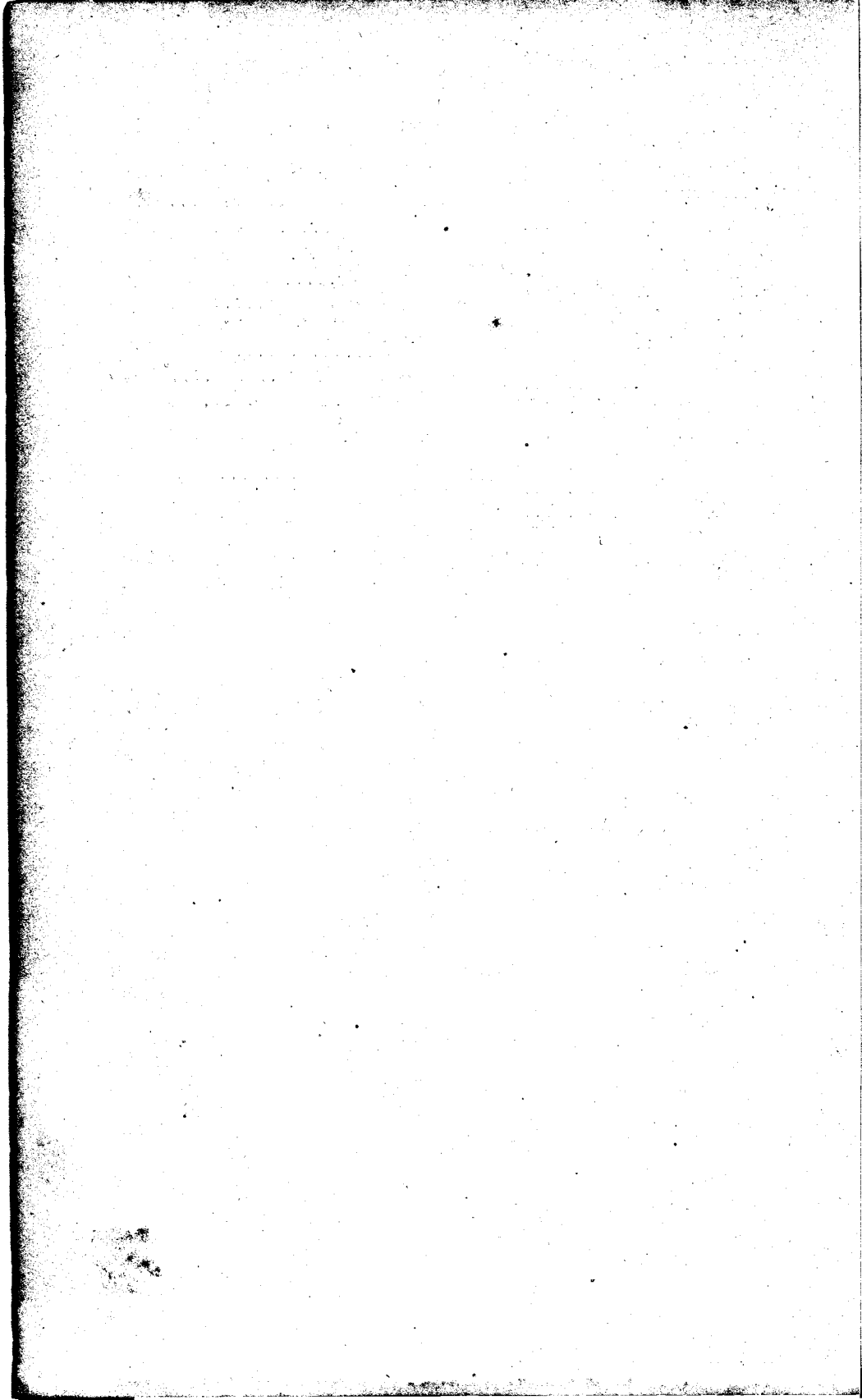
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# APPENDIX.

## II.

### OPINIONS NOT REPORTED.

American Building, Loan & Tontine Association *v.* McClellan; appeal from Pulaski chancery court; Thomas B. Martin, chancellor; reversed November 8, 1902; *per* Battle, J.

Ruffin *v.* State; appeal from Lincoln circuit court, Star City district; Antonio B. Grace, judge; affirmed November 29, 1902; *per* Bunn, C. J.

Green *v.* State; appeal from Lincoln circuit court, Star City district; Antonio B. Grace, judge; affirmed November 29, 1902; *per* Bunn, C. J.

State *v.* Yankee; appeal from Ouachita circuit court; Charles W. Smith, judge; reversed December 6, 1902; *per* Battle, J.

Blair *v.* State; appeal from Lincoln circuit court; Antonio B. Grace, judge; reversed January 3, 1903; *per* Hughes, J.

Westmoreland *v.* McClendon; appeal from Garland chancery court; Leland Leatherman, chancellor; affirmed January 3, 1903; *per* Hughes, J.

Kansas City, Ft. Scott & Memphis Ry. Co. *v.* Walker; appeal from Sharp circuit court; Frederick D. Fulkerson, judge; affirmed January 10, 1903; *per* Bunn, C. J.

Lacotts *v.* Dunn; appeal from Arkansas chancery court; John M. Elliott, chancellor; affirmed February 14, 1903; *per* Hughes, J.

St. Louis, I. M. & S. Ry. Co. *v.* Vaughan; appeal from Independence circuit court; Frederick D. Fulkerson, judge; reversed February 31, 1903; *per* Hughes, J.

Chicago Cottage Organ Co. *v.* Stone; appeal from Washington circuit court; James A. Rice, special judge; reversed March 21, 1903; *per* Bunn, C. J.

Kempson *v.* Goss; appeal from White circuit court; Hance N. Hutson, judge; affirmed March 21, 1903; *per* Wood, J.

Edge *v.* Emerson; appeal from Columbia circuit court; Charles W. Smith, judge; reversed April 4, 1903; *per* Hughes, J.

*Bank of Newport v. Watson*; appeal from Jackson circuit court in chancery; Richard H. Powell, judge; affirmed April 11, 1903; *per Battle, J.*

*Hughey v. Walker*; appeal from Bradley circuit court; Zachariah T. Wood, judge; reversed April 18, 1903; *per Hughes, J.*

*Pond-Decker Lumber Co. v. Wilson*; appeal from Mississippi chancery court; Edward D. Robertson, judge; affirmed May 2, 1903; *per Bunn, C. J.*

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### III.

#### CASES DISPOSED OF ORALLY.

*C., O. & G. R. R. Co. v. Dickson*; appeal from St. Francis circuit court; George M. Chapline, judge; affirmed October 25, 1903; *per Bunn, C. J.*

*Watkins v. Branscumb*; appeal from Stone chancery court; J. W. Phillips, special judge; dismissed for non-compliance with rule nine, October 25, 1902; *per curiam.*

*Thompson v. Randle & Sachs*; appeal from Craighead circuit court; Felix G. Taylor, judge; dismissed for non-compliance with rule nine, November 3, 1902; *per curiam.*

*Mosaic Templars of America v. Ryan*; appeal from Clark circuit court; Joel D. Conway, judge; dismissed for non-compliance with rule nine, November 3, 1902; *per curiam.*

*Smith v. Fencing District No. 3 of Independence county*; appeal from Independence circuit court; F. M. Hanly, special judge; dismissed for non-compliance with rule nine, November 30, 1903; *per curiam.*

*Myer v. Cook*; appeal from Chicot circuit court; Zachariah T. Wood, judge; dismissed for non-compliance with rule nine, November 2, 1902; *per curiam.*

*Smith v. State*; appeal from Garland circuit court; Alexander M. Duffie, judge; appeal abated on account of death of appellant, November 24, 1902; *per curiam.*

*K. C., F. S. & M. Ry. Co. v. Anderson*; appeal from Lawrence circuit court; John B. McCaleb, judge; affirmed December 13, 1902; *per Bunn, C. J.*

*Mente & Co. v. Townsend*; appeal from Pulaski chancery court; Thomas B. Martin, judge; affirmed December 13, 1902; *per Bunn, C. J.*

*Wells v. Parker*; appeal from Pulaski circuit court; Joseph W. Martin, judge; affirmed under rule seven, December 13, 1902; *per curiam.*

*C., O. & G. R. R. Co. v. Harpole*; appeal from Perry circuit court; R. J. Lea, judge; compromised and dismissed December 15, 1902; *per curiam.*

## ERRATA.

On page 82, first headnote, second line, for "indictment" read *instrument*.

On page 117, first line, for "Willis" read *Wills*.

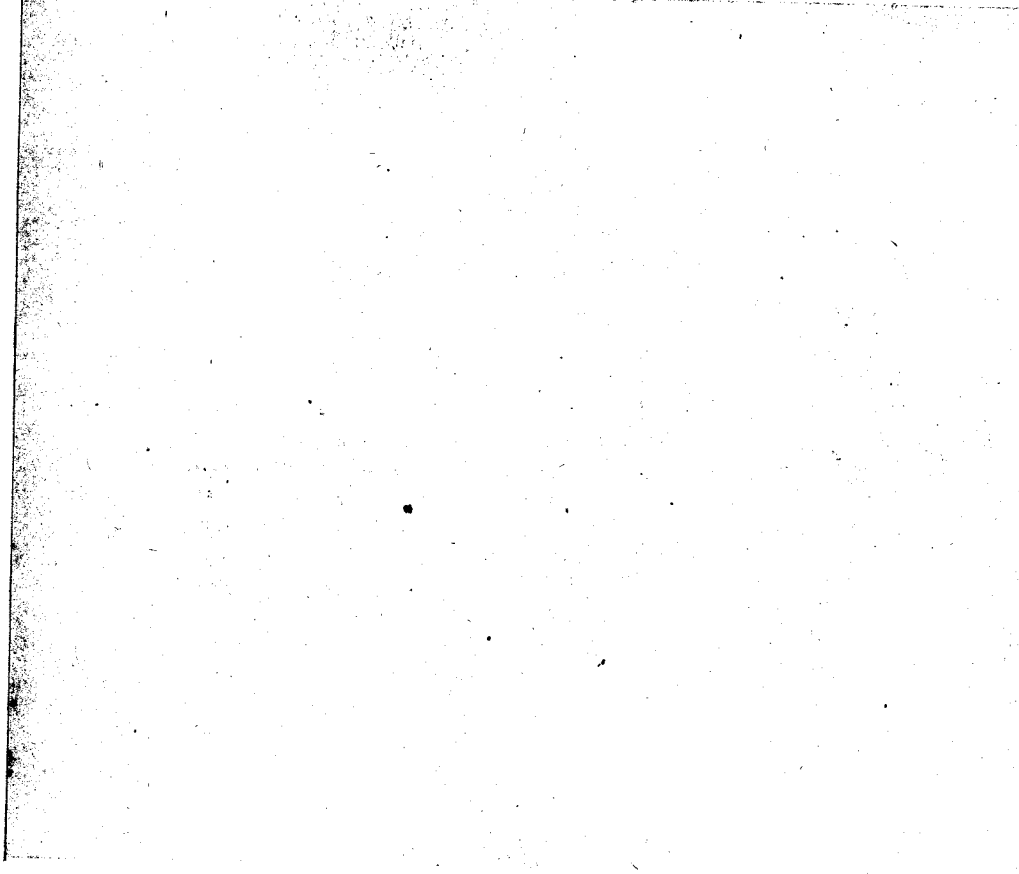
On page 251, for Hays, as appellant, read *Hayes*.

On page 294, last line should read: "Judgment reversed, and cause remanded for new trial."

On page 351, fifth headnote, for "crimnal" read *criminal*.

On page 441, eighth line from top, for "Gans" read *Gauss*.

On page 561, fifteenth line from bottom, for "5324" read *5336*.



Washington County v. Ferguson; appeal from Washington circuit court in chancery; H. C. Mechem, special judge; affirmed December 20, 1902; *per Bunn, C. J.*

Sparks v. Farris; appeal from Benton circuit court; James M. Pitman, judge; affirmed December 20, 1903; *per Bunn, C. J.*

Allen v. Stephens; appeal from Clay chancery court; E. D. Robertson, chancellor; dismissed on motion of appellant, January 3, 1903; *per curiam.*

Leidigh & Havens Lumber Co. v. Stanbridge; appeal from Polk circuit court; Will P. Feazel, judge; compromised and dismissed, January 10, 1903; *per curiam.*

Davis v. Flippin; appeal from Mississippi chancery court; Edward D. Robertson, chancellor; affirmed January 17, 1903; *per Battle, J.*

Choctaw & Memphis R. R. Co. v. Arkansas Cotton Oil Co.; appeal from Pulaski circuit court; Joseph W. Martin, judge; settled and dismissed January 19, 1903; *per curiam.*

Arkansas Southern R. R. Co. v. Ragsdale; appeal from Union circuit court; C. W. Smith, judge; dismissed for non-compliance with rule nine, January 19, 1903; *per curiam.*

Meckelberry v. Williams; appeal from St. Francis chancery court; Edward D. Robertson, chancellor; dismissed for non-compliance with rule nine, January 19, 1903; *per curiam.*

St. L. & S. F. R. R. Co. v. Davis; appeal from Benton circuit court; John N. Tillman, judge; affirmed January 24, 1903; *per Battle, J.*

Augst v. Hall; appeal from Prairie chancery court; John M. Elliott, chancellor; affirmed January 24, 1903; *per Hughes, J.*

American Central Ins. Co. v. Allen-West Commission Co.; appeal from Conway circuit court; William L. Moose, judge; affirmed January 24, 1903; *per Hughes, J.*

Ransom v. Gracie; appeal from Jefferson circuit court; W. T. Woolbridge, special judge; affirmed for non-compliance with rule nine, January 26, 1903; *per curiam.*

Fordyce & Wethers, Receivers, v. Lowe; appeal from Benton circuit court; John N. Tillman, judge; dismissed for non-compliance with rule nine, January 26, 1903; *per curiam.*

Williams Cooperage Co. v. Hampton Stave Co.; appeal from Dallas circuit court; Zachariah T. Wood, judge; affirmed January 31, 1903; *per Riddick, J.*

Less v. Arndt; appeal from Lawrence circuit court; F. D. Fulkerson, judge; settled and dismissed January 31, 1903; *per curiam.*

Kennedy & Darr v. Hodges; appeal from Independence circuit court; F. D. Fulkerson, judge; dismissed for non-compliance with rule nine, January 31, 1903; *per curiam.*

K. C., P. & G. R. R. Co. v. Murphy; appeal from Sevier circuit court; Will P. Feazel, judge; dismissed for non-compliance with rule nine, February 2, 1903; *per curiam.*

Butler v. Sims; appeal from Hot Springs chancery court; Leland Leatherman, chancellor; affirmed in part and reversed in part, February 7, 1903; *per Battle, J.*

Drake v. Robertson; appeal from Lee circuit court; H. N. Hutton, judge; dismissed for non-compliance with rule nine, February 9, 1903; *per curiam*.

Lacotts v. Dunn; appeal from Arkansas chancery court; John M. Elliott, chancellor; affirmed February 14, 1903; *per Hughes, J.*

Southern Pine Lumber Co. v. Carwile; appeal from Miller circuit court; Joel D. Conway, judge; affirmed February 21, 1903; *per Wood, J.*

Pryor Lumber Co. v. Roach; appeal from Polk circuit court; Will P. Feazel, judge; dismissed for non-compliance with rule nine, February 23, 1903; *per curiam*.

Christianson v. McGarran; appeal from Benton circuit court in chancery; John N. Tillman, judge; affirmed for non-compliance with rule nine, February 23, 1903; *per curiam*.

Atkinson v. Citizens Bank of Pine Bluff; appeal from Jefferson circuit court; A. B. Grace, judge; affirmed under rule seven, February 23, 1903; *per curiam*.

K. C., P. & G. R. R. Co. v. Hodge; appeal from Benton circuit court; James M. Pittman, judge; affirmed February 28, 1903; *per Wood, J.*

Comer v. Cooley; appeal from Ashley circuit court; Zachariah T. Wood, judge; dismissed for non-compliance with rule nine, March 2, 1903; *per curiam*.

McQuestion v. Haydon; appeal from Ashley circuit court; Zachariah T. Wood, judge; dismissed for non-compliance with rule nine, March 2, 1903; *per curiam*.

Hickson v. Jones; appeal from Garland circuit court; A. M. Duffie, judge; affirmed for non-compliance with rule nine, March 2, 1903; *per curiam*.

Jordan v. Whittle; appeal from Garland chancery court; Leland Leatherman, chancellor; affirmed March 7, 1903; *per Battle, J.*

Pine Bluff & Western Ry. Co. v. Mills; appeal from Jefferson circuit court; A. B. Grace, judge; compromised and dismissed, March 7, 1903; *per curiam*.

Brookfield v. Badinelli; appeal from Cross chancery court; E. D. Robertson, chancellor; affirmed March 14, 1903; *per Bunn, C. J.*

Robbins & Bros. v. Adler-Goldman Commission Co.; appeal from White circuit court; H. N. Hutton, judge; affirmed March 24, 1903; *per Bunn, C. J.*

Louisiana & Northwestern Ry. Co. v. Holtzman; appeal from Columbia circuit court; C. W. Smith, judge; affirmed March 28, 1903; *per Wood, J.*

Garner v. Northcutt; appeal from Fulton circuit court; F. D. Fulkeron, judge; affirmed April 4, 1903; *per Bunn, C. J.*

Latimore v. State; appeal from Sebastian circuit court; S. T. Rowe, judge; affirmed April 4, 1903; *per Hughes, J.*

Gantt v. Hot Springs Ry. Co.; appeal from Clark circuit court; Joel D. Conway, judge; affirmed April 11, 1903; *per Bunn, C. J.*

Levy v. State; appeal from Clark circuit court; Joel D. Conway, judge; affirmed April 11, 1903; *per Hughes, J.*

Lovett *v.* Lovett; appeal from Boone circuit court in chancery; E. G. Mitchell, judge; affirmed April 11, 1903; *per* Wood, J.

Burton *v.* McKinney; appeal from Polk chancery court; James D. Shaver, chancellor; affirmed April 18, 1903; *per* Wood, J.

Price *v.* State; appeal from Sebasitan circuit court; S. T. Rowe, judge; affirmed April 18, 1903; *per curiam*.

Price *v.* State; appeal from Sebasitan circuit court; S. T. Rowe, judge; affirmed April 18, 1903; *per curiam*.

Durham & Underwood *v.* State; appeal from Johnson circuit court; W. L. Moose, judge; reversed May 2, 1903; *per* Riddick, J.

K. C., P. & G. R. R. Co. *v.* Abercrombie; appeal from Benton circuit court; James M. Pittman, judge; affirmed May 9, 1903; *per* Wood, J.

Richardson *v.* Cantrell; appeal from Boone circuit court in chancery; E. G. Mitchell, judge; affirmed May 16, 1903; *per* Wood, J.

Foster *v.* Beidler; appeal from Miller chancery court; James D. Shaver, chancellor; appeal dismissed May 30, 1903; *per* Battle, J.

Foster *v.* Beidler; appeal from Miller chancery court; James D. Shaver, chancellor; appeal dismissed May 30, 1903; *per* Battle, J.

Hill *v.* State; appeal from Hempstead circuit court; Joel D. Conway, judge; affirmed May 30, 1903; *per* Hughes, J.

Dixie Cotton Oil Co. *v.* Lacey; appeal from Pulaski circuit court; Joseph W. Martin, judge; affirmed June 13, 1903; *per* Hughes, J.

Board of Directors St. Francis Levee District *v.* Strong; appeal from Crittenden circuit court; F. H. Taylor, judge; affirmed June 20, 1903; *per* Battle, J.

Lemon *v.* State; appeal from Pulaski circuit court; R. J. Lea, judge; affirmed June 20, 1903; *per* Hughes, J.

Brantley *v.* State; appeal from Calhoun circuit court; C. W. Smith, judge; affirmed June 27, 1903; *per* Bunn, C. J.

Nelson *v.* State; appeal from Franklin circuit court; J. H. Evans, judge; affirmed June 27, 1903; *per* Battle, J.

Walker *v.* State; appeal from Conway circuit court; W. L. Moose, judge; affirmed June 27, 1903; *per* Battle, J.

Shaw *v.* State; appeal from Crawford circuit court; J. H. Evans, judge; affirmed July 6, 1903; *per* Battle, J.

Webber *v.* Kinloch; appeal from Marion circuit court; E. G. Mitchell, judge; affirmed under rule seven, July 11, 1903; *per curiam*.

Hampton *v.* State; appeal from Logan circuit court; J. H. Evans, judge; affirmed July 15, 1903; *per* Riddick, J.

Wolf *v.* Timmons; appeal from Conway circuit court; W. L. Moose, judge; affirmed under rule seven, July 15, 1903; *per curiam*.

Wm. Barr Dry Goods Co. *v.* Board Directors St. Francis Levee District; appeal from Poinsett chancery court; E. D. Robertson, judge; compromised and dismissed July 15, 1903; *per curiam*.

Arkansas & Choctaw Ry. Co. *v.* Waddell; appeal from Little River circuit court; W. P. Feazel, judge; compromised and dismissed October 5, 1903; *per curiam*.

Arkansas & Choctaw Ry. Co. *v.* Jester; appeal from Little River circuit court; compromised and dismissed October 5, 1903; *per curiam*.

K. C., F. S. & M. R. R. Co. v. Elder; appeal from Craighead circuit court; F. G. Taylor, judge; affirmed October 10, 1903; *per* Bunn, C. J.

Gorman v. Pettus & Buford; appeal from St. Francis circuit court; H. N. Hutton, judge; affirmed October 10, 1903; *per* Riddick, J.

T. M. Richardson Lumber Co. v. Curtis & Co. Manufacturing Co.; appeal from Sevier circuit court in chancery; Will P. Feazel, judge; affirmed October 17, 1903; *per* Bunn, C. J.

McCrary v. Equitable Life Assurance Society; appeal from Sevier circuit court; Will P. Feazel, judge; affirmed October 17, 1903; *per* Battle, J.

Wilkins & Son v. Murdock; appeal from Phillips circuit court; H. N. Hutton, judge; compromised and dismissed October 17, 1903; *per curiam*.

Muller v. Youngblood; appeal from Pulaski circuit court; R. J. Lea, judge; affirmed October 24, 1903; *per* Hughes.

Myar v. Camden Compress Co.; appeal from Ouachita circuit court; C. W. Smith, judge; affirmed October 24, 1903; *per* Hughes, J.

Allen v. State; appeal from Clark circuit court; Joel D. Conway, judge; reversed on confession of error by attorney general, October 31, 1903; *per curiam*.

St. L., I. M. & S. Ry. Co. v. Mills; appeal from Saline circuit court; A. M. Duffie, judge; affirmed November 7, 1903; *per* Battle, J.

St. L. So. W. Ry. Co. v. Bushong; appeal from Greene circuit court; F. G. Taylor, judge; affirmed November 7, 1903; *per* Hughes, J.

Arkansas Central R. R. Co. v. Buckley; appeal from Sebastian circuit court; S. T. Rowe, judge; affirmed November 7, 1903; *per* Hughes, J.

Lester Coal Mining & Transfer Co. v. Whittington; appeal from Sebastian circuit court; S. T. Rowe, judge; settled and dismissed, November 7, 1903; *per curiam*.

St. L., I. M. & S. Ry. Co. v. Stone; appeal from Pulaski circuit court; Joseph W. Martin, judge; affirmed November 14, 1903; *per* Riddick, J.

Matthews v. Oliver; appeal from Clay chancery court; E. D. Robertson, chancellor; affirmed November 14, 1903; *per* Riddick, J.

Culbreath v. State; appeal from Ouachita circuit court; C. W. Smith, judge; affirmed for non-compliance with rule nine, November 23, 1903; *per curiam*.