

**ARKANSAS REPORTS**

**VOL. 89**

---

**CASES DETERMINED**

**IN THE**

**Supreme Court of Arkansas**

**FROM**

**JANUARY, 1909 to MARCH, 1909**

---

**T. D. CRAWFORD**  
**REPORTER**

---

**PUBLISHED**  
**BY THE**  
**STATE OF ARKANSAS**  
**1909**

Reprint 1956  
Authority Act No. 429 of 1955  
C. G. HALL  
Secretary of State

COPYRIGHT 1909  
BY O. C. LUDWIG  
SECRETARY OF STATE OF ARKANSAS

LITTLE ROCK  
DEMOCRAT PRINTING & LITHOGRAPHING COMPANY  
1909

**JUDGES**  
 OF THE  
**SUPREME COURT**  
 DURING THE PERIOD OF THIS VOLUME

---

JOSEPH M. MILL, <sup>1</sup> - - - -		CHIEF JUSTICE.
EDGAR A. McCULLOCH, <sup>2</sup> - - -		CHIEF JUSTICE.
BURRILL B. BATTLE, - - -	}	ASSOCIATE JUSTICES
CARROLL D. WOOD, - - -		
EDGAR A. McCULLOCH, <sup>3</sup> - - -		
JESSE C. HART, - - -		
SAMUEL FRAUENTHAL, <sup>4</sup> - - -		
HAL L. NORWOOD, - - -		ATTORNEY GENERAL.
PEYTON D. ENGLISH, - - -		CLERK.

<sup>1</sup>Resigned February 1, 1909.

<sup>2</sup>Appointed to succeed Chief Justice Hill February 1, 1909.

<sup>3</sup>Resigned February 1, 1909.

<sup>4</sup>Appointed February 1, 1909, to succeed Associate Justice McCulloch.



# TABLE

## OF CASES REPORTED

<b>A</b>			
Aetna Indemnity Co. <i>v.</i> Little Rock .....	95	Bowman (State <i>v.</i> ).....	428
Alphin <i>v.</i> Wade.....	354	Breedlove (Morris <i>v.</i> ).....	296
Aluminum Co. of N. A. <i>v.</i> Ramsey .....	522	Brizzolara (Cherry <i>v.</i> ).....	309
American Ins. Co. <i>v.</i> Danne- hower .....	111	Bruce (Southwestern Tel. & Tel. Co. <i>v.</i> ).....	581
— <i>v.</i> Dillahunty.....	416	Buckner (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	58
Anderson-Tully Co. (Ayres <i>v.</i> )	160	Burel <i>v.</i> Baker.....	168
Arkansas Cotton Oil Co. <i>v.</i> Carr .....	50	Burrow (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	178
Ayers <i>v.</i> Anderson-Tully Co...	160		
		<b>C</b>	
		Cable (Jonesboro, L. C. & E. Rd. Co. <i>v.</i> ).....	518
<b>B</b>		Cain <i>v.</i> Woodruff County....	456
Bailey (J. I. Case Threshing Machine Co. <i>v.</i> ).....	108	Caldwell (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	218
Baker (Burel <i>v.</i> ).....	168	Campbell (Douglass <i>v.</i> ).....	254
Bank of Blytheville (Winer <i>v.</i> ) .....	435	— (King <i>v.</i> ).....	450
Bank of Fulton (Title Guar- anty & Surety Co. <i>v.</i> ).....	471	Cannon <i>v.</i> Lunsford.....	64
Banks (Martin <i>v.</i> ).....	77	Capital Fire Ins. Co. <i>v.</i> King..	346
Barnhill (McGuire <i>v.</i> ).....	209	Carr (Arkansas Cotton Oil Co. <i>v.</i> ) .....	50
Barnhill <i>v.</i> Polk.....	117	Cherry <i>v.</i> Brizzolara.....	309
Batesville Grocery Co. (Ingle <i>v.</i> ) .....	378	Chicago, R. I. & P. Ry. Co. <i>v.</i> Moss .....	187
Berger (McDaniel <i>v.</i> ).....	139	— (Oliver <i>v.</i> ).....	466
Bertig <i>v.</i> Higgins.....	70	Choctaw, O. & G. Rd. Co. <i>v.</i> Coker .....	270
Birch (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	424	Clardy <i>v.</i> Hudspeth.....	189
Board of Directors of St. Fran- cis Levee Dist. <i>v.</i> Powell....	570	Clark (Masters <i>v.</i> ).....	191
		Clay (Des Moines Life Ins. Co. <i>v.</i> ) .....	230

Clay (Jackson <i>v.</i> ).....	501	Flowers <i>v.</i> United States Fid. & Guar. Co.....	506
Coates (National Surety Co. <i>v.</i> ) .....	542	Ft. Smith Light & Traction Co. (Oliver <i>v.</i> ).....	222
Cobb (St. Louis S. W. Ry. Co. <i>v.</i> ) .....	82	Freeman (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	326
Cohn <i>v.</i> Jeffries.....	144	Furlow (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	404
Coker (Choctaw, O. & G. Rd. Co. <i>v.</i> ).....	270		
Colegrove <i>v.</i> Colegrove.....	182	<b>G</b>	
Cowling (Nelson <i>v.</i> ).....	334	Gamble <i>v.</i> Harvey-Greenhaw Mercantile Co.....	37
Craig <i>v.</i> Pendleton.....	259	Gillis (Western Union Tel. Co. <i>v.</i> ) .....	483
Crittenden (Jett <i>v.</i> ).....	349	Glover (Road Imp. Dist. No. 1 <i>v.</i> ) .....	513
Curtis <i>v.</i> State.....	394	Grayson (St. Louis S. W. Ry. Co. <i>v.</i> ).....	154
<b>D</b>		Greer <i>v.</i> Newbill.....	509
Dannehower (American Ins. Co. <i>v.</i> ).....	111	Greer (Price <i>v.</i> ).....	300
Dearing (Henderson <i>v.</i> ).....	598	Gross <i>v.</i> State.....	482
DeLong (State <i>v.</i> ).....	391		
Des Moines Life Ins. Co. <i>v.</i> Clay .....	230	<b>H</b>	
Dillahunty (American Ins. Co. <i>v.</i> ) .....	416	Hall <i>v.</i> Rutherford.....	553
Douglass <i>v.</i> Campbell.....	254	Hall <i>v.</i> State.....	569
Drumm Commission Co. <i>v.</i> Simms .....	165	Handford <i>v.</i> Evans.....	151
Dudley E. Jones Co. (Seldon <i>v.</i> ) .....	234	Harper (Plum Bayou Levee Dist <i>v.</i> ).....	173
Dysart (St. Louis, I. M. & S. Ry. Co. <i>v.</i> ).....	261	Harper <i>v.</i> Smith.....	284
<b>E</b>		Harvey-Greenhaw Mercantile Co. (Gamble <i>v.</i> ).....	37
Eldridge (Indiana & Ark. Lbr. & Mfg. Co. <i>v.</i> ).....	361	Hayley-Beine & Co. (Peoples <i>v.</i> ) .....	252
Evans (Handford <i>v.</i> ).....	151	Henderson <i>v.</i> Dearing.....	598
<b>F</b>		Higgins (Bertig <i>v.</i> ).....	70
Farmer <i>v.</i> First National Bank of Malvern.....	132	Hill-Ingham Lbr. Co. <i>v.</i> Neal.	385
First National Bank of Mal- vern (Farmer <i>v.</i> ).....	132	Hobart-Lee Tie Co. <i>v.</i> Keck..	122
		Howard County (Nashville Lumber Co. <i>v.</i> ).....	53

Hoyt (Western Union Tel. Co. v.) .....	118	Lally (Stiewel v.) .....	195
Hudspeth (Clardy v.) .....	189	Lewis (Jones v.) .....	368
<b>I</b>			
Indiana & Ark. Lbr. & Mfg. Co. v. Eldridge .....	361	—— (Mayfield Woolen Mills v.) .....	488
Ingle v. Batesville Grocery Co. ....	378	—— (Western Union Tel. Co. v.) .....	375
Ingraham v. Sutherland .....	596	Little Rock (Aetna Indemnity Co. v.) .....	95
Irwin (Moore v.) .....	289	Little Rock Ry. & El. Co. (Sloan v.) .....	574
<b>J</b>			
Jackson v. Clay .....	501	London (Lacy v.) .....	250
J. A. Fay & Egan Co. (Midland Valley Rd. Co. v.) .....	342	Louisiana & Ark. Ry. Co. v. State .....	136
Jefferson v. State .....	129	Lunsford (Cannon v.) .....	64
Jeffries (Cohn v.) .....	144	Lynch (Nunn v.) .....	41
Jett v. Crittenden .....	349	<b>M</b>	
J. I. Case Threshing Machine Co. v. Bailey .....	108	Mabry v. Kettering .....	551
Johnson (Short v.) .....	279	McDaniel v. Berger .....	139
—— v. State .....	46	—— (Vaughan v.) .....	462
—— v. West .....	604	McGuire v. Barnhill .....	209
Jones v. Lewis .....	368	McKenzie v. Newton .....	564
—— v. State .....	213	Mann v. Urquhart .....	239
Jonesboro, L. C. & E. Rd. Co. v. Cable .....	518	Marianna (Smith v.) .....	48
<b>K</b>			
Kaufman v. Marshall .....	1	Marshall (Kaufman v.) .....	1
Keck (Hobart-Lee Tie Co. v.) .....	122	Martin v. Banks .....	77
Kettering (Mabry v.) .....	551	Masters v. Clark .....	191
King v. Campbell .....	450	Mayfield Woolen Mills v. Lewis .....	488
—— (Capital Fire Ins. Co. v.) .....	346	Merchants' Grocery Co. v. Ladoga Canning Co. ....	591
—— v. Western Union Tel. Co. ....	402	Meyer v. Snell .....	298
<b>L</b>			
Lacy v. London .....	250	Midland Valley Rd. Co. v. J. A. Fay & Egan Co. ....	342
Ladoga Canning Co. (Merchants' Grocery Co. v.) .....	591	Moody v. St. Louis, I. M. & S. Ry. Co. ....	103
		Moore v. Irwin .....	289
		—— (Scott v.) .....	321
		—— (Waits v.) .....	19
		Morris v. Breedlove .....	296

Moss (Chicago, R. I. & P. Ry. Co. v.).....	187		
<b>N</b>			
Nashville Lumber Co. v. Howard County.....	53		
National Surety Co. v. Coates.....	542		
Neal (Hill-Ingham Lbr. Co. v.) .....	385		
Nelson v. Cowling.....	334		
Newbill (Greer v.).....	509		
Newton (McKenzie v.).....	564		
Novakovich v. Union Trust Co.....	412		
Nunn v. Lynch.....	41		
<b>O</b>			
O'Hare (St. Louis S. W. Ry. Co. v.).....	120		
Oliver v. Chicago, R. I. & P. Ry. Co.....	466		
—— v. Ft. Smith Light & Traction Co.....	222		
—— (Poole v.).....	85		
—— (Poole v.).....	578		
<b>P</b>			
Peoples v. Hayley-Beine & Co..	252		
Pell (St. Louis, I. M. & S. Ry. Co. v.).....	87		
Pendleton (Craig v.).....	259		
Plant (Westmortland v.).....	147		
Plum Bayou Levee Dist. v. Harper .....	173		
Polk (Barnhill v.).....	117		
Poole v. Oliver.....	85		
—— v. Oliver.....	578		
Powell (Board of Directors of St. Francis Levee Dist. v.).....	570		
Price v. Greer.....	300		
		<b>R</b>	
		Ramsey (Aluminum Co. of N. A. v.).....	522
		Rankin (Rock Island Plow Co. v.) .....	24
		Rice v. Simmons.....	359
		Road Imp. Dist. No. 1 v. Glover .....	513
		Rock Island Plow Co. v. Rankin .....	24
		Rutherford (Hall v.).....	553
		<b>S</b>	
		St. Louis & S. F. Rd. Co. v. Shore .....	418
		St. Louis, I. M. & S. Ry. Co. v. Birch.....	424
		—— v. Buckner.....	58
		—— v. Burrow.....	178
		—— v. Caldwell.....	218
		—— v. Dysart.....	261
		—— v. Freeman.....	326
		—— v. Furlow.....	404
		—— (Moody v.).....	103
		—— v. Pell.....	87
		—— v. Walker.....	556
		—— v. Woodruff.....	9
		St. Louis S. W. Ry. Co. v. Cobb .....	82
		—— v. Grayson.....	154
		—— v. O'Hare.....	120
		—— v. Thompson.....	496
		—— v. Trotter.....	273
		Scott v. Moore.....	321
		Seldon v. Dudley E. Jones Co..	234
		Sharp (Stoutemeyer v.).....	175
		Short (St. Louis & S. F. Rd. Co. v.).....	418
		—— v. Johnson.....	279
		Simmons (Rice v.).....	359



Simms (Drumm Commission Co. v.).....	165	Title Guaranty & Surety Co. v. Bank of Fulton.....	471
Sloan v. Little Rock Ry. & El. Co. ....	574	Trotter (St. Louis S. W. Ry. Co. v.).....	273
Smith (Harper v.).....	284	<b>U</b>	
—— v. Marianna.....	48	Union Trust Co. (Novakovich v.) .....	412
—— v. Stack.....	143	United States Fid. & Guar. Co. (Flowers v.).....	506
Snell (Meyer v.).....	298	Urquhart (Mann v.).....	239
Southwestern Tel & Tel. Co. v. Bruce.....	581	<b>V</b>	
Stack (Smith v.).....	143	Vaughan v. McDaniel.....	462
State v. Bowman.....	428	<b>W</b>	
—— (Curtis v.).....	394	Wade (Alphin v.).....	354
—— v. DeLong.....	391	Waits v. Moore.....	19
—— (Gross v.).....	482	Walker (St. Louis, I. M. & S. Ry. Co. v.).....	556
—— (Hall v.).....	569	West (Johnson v.).....	604
—— (Jefferson v.).....	129	Western Union Tel. Co. v. Gillis .....	483
—— (Johnson v.).....	46	—— v. Hoyt.....	118
—— (Jones v.).....	213	—— (King v.).....	402
—— (Louisiana & Ark. Ry. Co. v.).....	136	—— v. Lewis.....	375
—— (York v.).....	72	Westmoreland v. Plant.....	147
—— <i>ex rel.</i> Attorney General v. Stevenson.....	31	Winer v. Bank of Blytheville.	435
Stevenson (State <i>ex rel.</i> Attorney General v.).....	31	Woodruff (St. Louis, I. M. & S. Ry. Co. v.).....	9
Stiewel v. Lally.....	195	Woodruff County (Cain v.)..	456
Stoutemeyer v. Sharp.....	175	<b>Y</b>	
Sutherland (Ingraham v.)....	596	York v. State.....	72
<b>T</b>			
Thompson (St. Louis S. W. Ry. Co. v.).....	496		



# TABLE OF CASES CITED BY THE COURT

A			
<p>Abbott v. Jackson, 43 Ark. 212..... 358</p> <p>Adams v. Decker, 34 Ill. App. 17... 208</p> <p>    v. St. Louis, I. M. &amp; S. Ry.     Co., 83 Ark. 300..... 107</p> <p>Alexander v. Bauer, 94 Minn. 174.. 365</p> <p>Allen v. Ozark Land Co., 55 Ark. 549 ..... 143</p> <p>Alt v. Doshier, 102 N. Y. App. Div. 344 ..... 295</p> <p>Amato v. Dreyfus, 34 S. W. 450.... 209</p> <p>American Bonding Co. v. Morrow, 80 Ark. 49..... 479</p> <p>American Fire Ins. Co. v. Danne- hoyer, 89 Ark. 111..... 30</p> <p>American Popular Life Ins. Co. v. Day, 23 Am. Rep. 198..... 480</p> <p>American Soda Fountain Co. v. Bat- tle, 85 Ark. 213..... 441</p> <p>American Surety Co. v. Pauly, 170 U. S. 133..... 479</p> <p>Anderson v. Chicago, St. P., M. &amp; O. R. Co., 23 L. R. A. 203..... 107</p> <p>    v. State, 77 Ark. 37.... 217, 465</p> <p>Andrews v. Tucker, 127 Ala. 602.... 204</p> <p>Arkadelphia Lumber Co. v. Asman, 72 Ark. 320..... 86</p> <p>    v. Asman, 79 Ark. 284.... 86</p> <p>Arkansas &amp; La. Ry. Co. v. Stroude, 77 Ark. 109..... 268, 378, 404</p> <p>Arkansas Fire Ins. Co. v. Witham, 82 Ark. 226..... 313</p> <p>Arkansas So. Ry. Co. v. German Nat. Bank, 77 Ark. 482..... 345</p> <p>Arkansas Stables v. Samstag, 78 Ark. 520 ..... 358</p> <p>Arkansas Telephone Co. v. Ratter- ree, 57 Ark. 429..... 588</p>	<p>Arnett v. McCain, 47 Ark. 411..... 555</p> <p>Arnold v. Rock River Valley Union R. Co., 5 Duer, 207..... 135</p> <p>Atkinson v. Burt, 65 Ark. 316..... 353</p> <p>    v. Doherty, 121 Mich. 372.. 552</p>		
B			
	<p>Bank of Commerce v. Wright, 63 Ark. 604..... 135</p> <p>Bank of United States v. Dandridge, 12 Wheat. 64..... 446</p> <p>Barry-Wehmiller Machine Co. v. Thompson, 83 Ark. 283..... 374</p> <p>Bartlett v. Morris, 9 Port. 266..... 518</p> <p>Beasley v. Equitable Securities Co., 72 Ark. 600..... 43</p> <p>Beauchaine v. McKimmon, 55 Minn. 320 ..... 385</p> <p>Beavers v. Security Mutual Ins. Co., 76 Ark. 138..... 227</p> <p>Bedel v. Loomis, 11 N. H. 9..... 433</p> <p>Beebe v. Newark, 24 N. J. L. 47... 45</p> <p>Beene v. State, 22 Ark. 151..... 76</p> <p>Beidler v. Friedell, 44 Ark. 411.... 289</p> <p>Benton v. Willis, 76 Ark. 443..... 567</p> <p>Biffle v. Jackson, 71 Ark. 226..... 86</p> <p>Black v. Brinkley, 54 Ark. 375..... 609</p> <p>Blankenship v. State, 55 Ark. 244... 538</p> <p>Block v. Valley Mutual Assoc., 52 Ark. 201..... 382</p> <p>Bloom v. Strauss, 70 Ark. 483.... 43, 44</p> <p>Bloxam v. Elsee, 6 B. &amp; C. 169..... 518</p> <p>Board of Education v. Purse, 101 Ga. 422 ..... 259</p> <p>Bodcaw Lumber Co. v. Ford, 82 Ark. 555 ..... 562, 563</p> <p>Boland v. Stanley, 88 Ark. 102.... 162</p> <p>Bostwick v. Van Voorhis, 91 N. Y. 353 ..... 477</p>		

Boyd v. Blaisdell, 15 Ind. 73.....	258	Chatfield v. Iowa & Ark. Land Co., 88 Ark. 395.....	23
Boynton v. Van Etten, 62 Ark. 63.	372	Cheney v. Libby, 134 U. S. 68.....	448
Boynton v. Ashabranner, 75 Ark. 415 .....	86	Chicago City Ry. Co. v. Anderson, 80 Ill. App. 71.....	63
Boysen v. Frink, 80 Ark. 254.....	295	Choctaw, O. & G. Rd. Co. v. Coker, 77 Ark. 174.....	271
Braden v. Hoffman, 22 N. E. 930...	163	— v. Jones, 77 Ark. 367....	428
Bramble v. Kingsbury, 39 Ark. 131.	23	— v. State, 75 Ark. 369....	138
Branch v. Moore, 84 Ark. 462.....	203	— v. Thompson, 82 Ark. 11..	53
Bridgman v. Keokuk, 72 Ia. 42....	357	City Bank of New Haven v. Per- kins, 29 N. Y. 554.....	444
Bridgeport Ins. Co. v. Wilson, 34 N. Y. 275.....	385	City Electric St. Ry. Co. v. Con- ery, 61 Ark. 381.....	588, 590
Brock v. Smith, 14 Ark. 432....	367, 368	— v. First Nat. Exch. Bk., 62 Ark. 33 .....	175
Brooks v. Hornberger, 78 Ark. 595..	441	City Waterworks v. White, 61 Tex. 536 .....	443
Brown v. Donnell, 49 Me. 421... 444, 446	446	Clavendon v. Walker, 72 Ark. 8....	567
— v. Spilman, 155 U. S. 670..	248	Clark v. Dalziel, 84 Pac. 429.....	416
— v. Wyandotte & S. E. Ry. Co., 68 Ark. 134.....	136	Clay v. Bilby, 72 Ark. 101.....	69
Bunch v. Elizabeth City Lbr. Co., 134 N. C. 116.....	367	Cliquot's Champagne, 3 Wall. 14...	596
Bundy v. Ridenour, 63 Ind. 406....	238	Coats v. Hill, 41 Ark. 149.....	238
Burlington Ins. Co. v. Lowery, 61 Ark. 108.....	29, 115	Cobb v. Hammock, 82 Ark. 584... 33,	35
Burgett v. Apperson, 52 Ark. 221...	610	Coffman v. St. Francis Drainage Dist., 83 Ark. 54.....	603
Burnett v. State, 80 Ark. 225.....	537	Cohn v. Hoffman, 50 Ark. 108.....	153
Burns v. Gallagher, 62 Md. 462....	317	Coleman v. Meade, 13 Bush 358....	295
Burrow v. Hot Springs, 85 Ark. 396 .....	538	Collins v. Gauche, 23 Ark. 646.....	360
Busch v. Hart, 62 Ark. 330.....	410	Commonwealth v. White, 109 S. W. 324 .....	393
Byington v. Sherman, 64 Ark. 189..	6, 7	Conger v. Cotton, 37 Ark. 286.....	324
<b>C</b>			
Cairo & F. Rd. Co. v. Parks, 32 Ark. 131.....	471	Connell v. Chesapeake & O. Ry. Co., 19 A. & E. R. Cas. (N. S.) 236..	107
Caldwell v. State, 73 Ark. 139.....	400	Conolly v. Crescent City R. Co., 3 L. R. A. 133.....	16
Camden v. Bennett, 64 Ark. 115....	186	Conway, <i>Ex parte</i> , 4 Ark. 302.....	248
Capital Fire Ins. Co. v. King, 82 Ark. 400.....	116	Coulter v. Sypert, 78 Ark. 193.....	503
Carson v. St. Francis Levee Dist., 59 Ark. 513.....	459	County of Pulaski v. Irvin, 4 Ark. 475 .....	460
Cassady v. Clarke, 7 Ark. 123.....	203	Cowley v. Spradlin, 77 Ark. 190....	172
Central of Ga. Ry. Co. v. Murphey, 196 U. S. 194.....	468	Crane v. Siloam Springs, 67 Ark. 30.	516
Chaffee's Appeal, 56 Mich. 244.....	517	Crawford v. Spooner, 6 Moore P. C. 1 .....	517
Chambers v. Michael, 71 Ark. 373..	580	Crenshaw v. Collier, 70 Ark. 5....	358
Chambliss v. Reppy, 54 Ark. 539....	509	Crittenden v. Woodruff, 11 Ark. 82.	186
Chapline v. Atkinson, 45 Ark. 76...	324	Crosland v. Rogers, 32 S. C. 130....	317
Chapman & Dewey Land Co. v. Bigelow, 77 Ark. 338.....	299		

Crow v. Reed, 38 Ark. 482..... 338  
 ——— v. Watkins, 48 Ark. 169... 186  
 Curtiss v. Bell, 111 S. W. 131..... 163

**D**

Davies, *Ex parte*, 73 Ark. 358..... 76  
 ——— v. Epstein, 77 Ark. 221.... 177  
 Davis v. Chicago & N. W. Ry. Co.,  
 15 A. & E. R. Cas. 424..... 107  
 ——— v. Trimble, 76 Ark. 115.... 326  
 Decatur v. Hamilton, 89 Ill. App.  
 561 ..... 63  
 De Loney v. State, 88 Ark. 311.... 435  
 Denny v. Barber, 72 Ark. 546..... 313  
 Denver Consolidated Elec. Co. v.  
 Simpson, 31 L. R. A. 566..... 588  
 DeYawpert v. Johnson, 54 Ark. 165.. 495  
 Dillman v. Hoffman, 38 Wis. 559... 318  
 Donahoe v. Richards, 38 Me. 376... 258  
 Draper v. Mackey, 35 Ark. 497..... 177  
 Dunlap v. Toledo, Ann Arbor &  
 Grand Trunk Ry. Co., 46 Mich.  
 190 ..... 610

**E**

Eaton v. Lyman, 30 Wis. 41..... 238  
 Ehrman v. Ins. Co., 35 Ohio St. 324. 445  
 Elliott v. Newport Street Ry., 28  
 Atl. 338 ..... 230  
 Erskine v. Savage, 96 Me. 57..... 365  
 Estes v. German Nat. Bank, 62 Ark.  
 7 ..... 446  
 Eyster v. Parrott, 83 Ill. 517..... 204

**F**

Fairley v. Smith, 87 N. C. 367..... 596  
 Ferguson v. Peden, 33 Ark. 150.... 453  
 Fidelity Mut. Life Ins. Co. v. Beck,  
 84 Ark. 57..... 372  
 Fidelity Mut. Life Ins. Ass. v. Har-  
 ris, 94 Tex. 25..... 477  
 Fields v. Danenhower, 65 Ark. 392.. 153  
 First Nat. Bank v. Fidelity Co., 100  
 Am. St. 765..... 478  
 Fisher v. Essex Bank, 71 Mass. 373. 357  
 Fones Hdw. Co. v. Erb, 54 Ark. 657. 471  
 Forrest City v. Orgill, 87 Ark. 389. 101  
 Fort Smith v. Dodson, 46 Ark. 296.. 567  
 Foster v. Neilson, 2 Peters, 254.... 433

Fox v. Spears, 78 Ark. 71..... 538  
 Franklin Life Ins. Co. v. Galligan,  
 71 Ark. 295..... 232, 234

**G**

Gaines v. Winters, 64 Ark. 609..... 69  
 Gammill v. Johnson, 47 Ark. 335..  
 ..... 315, 325  
 Garner v. St. Louis, I. M. & S. Ry.  
 Co., 79 Ark. 353..... 181  
 Gaty v. Holcomb, 44 Ark. 216..... 110  
 Gebhart v. Merchant, 84 Ark. 359... 308  
 German Ins. Co. v. Gibson, 53 Ark.  
 494 ..... 115  
 German Sav. Inst. v. Machine Co.,  
 70 Fed. 146..... 204  
 Gibbons v. Dillingham, 10 Ark. 9... 160  
 Gilder v. Davis, 137 N. Y. 504..... 208  
 Glentworth v. Luther, 21 Barb. 145. 295  
 Goerke v. Rodgers, 75 Ark. 722..... 313  
 Goodell v. Bluff City Lbr. Co., 57  
 Ark. 203..... 217  
 Graff v. Merchants, etc., Co., 18  
 Md. 371..... 163  
 Graham v. Thompson, 55 Ark. 296.. 353  
 Green v. State, 38 Ark. 498..... 570  
 Grider v. Clopton, 27 Ark. 244..... 315  
 Griffie v. St. Louis, I. M. & S. Ry.  
 Co., 80 Ark. 186..... 500  
 Guinn v. Delaware & A. Tel. Co.,  
 62 Atl. 412..... 587  
 Gulf, C. & S. F. Ry. Co. v. Mat-  
 thews, 66 S. W. 588..... 107  
 Gunnaldson v. Nyhus, 27 Minn. 440.. 209

**H**

Hall, Matter of, 19 Ill. App. 295.... 339  
 Hammond Packing Co. v. State, 81  
 Ark. 519..... 471  
 Hampton v. Physick, 24 Ark. 561.. 71  
 Haney v. Caldwell, 43 Ark. 184.... 538  
 Haney v. Cole, 28 Ark. 299..... 238  
 Hankins v. Layne, 48 Ark. 544.... 338  
 Hare v. Carnall, 39 Ark. 196..... 238  
 Harned v. Mo. Pac. Ry. Co., 51  
 Mo. App. 482..... 158  
 Harrold v. Arrington, 64 Tex. 233. 432

Hart <i>v.</i> Howard County, 44 Ark. 560 .....	460	Hutton <i>v.</i> Superior Court, 81 Pac. 409 .....	76
Hartgrove <i>v.</i> Southern Cotton Oil Co., 72 Ark. 31.....	217	Hyllis <i>v.</i> State, 45 Ark. 478.....	34
Hawkins <i>v.</i> Taylor, 56 Ark. 45.....	495	<b>I</b>	
Hayes <i>v.</i> Hyde Park, 12 L. R. A. 249 .....	590	Illinois & St. L. Rd. Co. <i>v.</i> McClin- tock, 68 Ill. 296.....	45
Hempstead County <i>v.</i> Harkness, 73 Ark. 600.....	603	Insurance Co. <i>v.</i> Brodie, 52 Ark. 11.	29
Henderson <i>v.</i> Gibson, 19 Md. 234...	163	Irons <i>v.</i> Webb, 32 Am. Rep. 193...	367
Henry <i>v.</i> Sioux City, etc., Ry. Co., 9 Am. St. 457.....	535	<b>J</b>	
Hickey <i>v.</i> Thompson, 52 Ark. 234..	357	Jack <i>v.</i> Reeves, 78 Ark. 426.....	588
Hickman <i>v.</i> Parlin-Orendorff Co., 88 Ark. 519.....	213	James <i>v.</i> Bocage, 45 Ark. 284.....	110
Hicks <i>v.</i> Smith, 77 Wis. 146.....	366	Jellett <i>v.</i> St. Paul, M. & M. Ry. Co., 30 Minn. 265.....	346
Hindman <i>v.</i> O'Connor, 54 Ark. 627.	171	Jenkins <i>v.</i> Shinn, 55 Ark. 347.....	448
Hinkle <i>v.</i> Broadwater, 73 Ark. 489..	319	Johnson <i>v.</i> Campbell, 52 Ark. 316...	163
Hoadley <i>v.</i> Savings Bank, 71 Conn. 590, .....	203, 208	———— <i>v.</i> Hollensworth, 48 Mich. 140 .....	238
Hobbs <i>v.</i> McLean, 117 U. S. 567.....	518	———— <i>v.</i> Jordan, 43 Mass. 234..	318
Hodges <i>v.</i> Buell, 95 N. W. 1078.....	365	———— <i>v.</i> Richardson, 44 Ark. 365 .....	186
Hodgkins <i>v.</i> Price, 141 Mass. 162....	45	———— <i>v.</i> Stewart, 62 Ark. 164..	500
Hoit <i>v.</i> Stratton Mills, 54 N. H. 109.	367	———— <i>v.</i> Williams, 28 Ark. 478..	555
Hollins <i>v.</i> Brierfield Coal & Iron Co., 150 U. S. 371.....	447	———— <i>v.</i> Wynne, 76 Ark. 563....	206
Hot Springs Rd. Co. <i>v.</i> Deloney, 65 Ark. 177.....	63	Jones <i>v.</i> Malvern Lumber Co., 58 Ark. 125.....	540
Hot Springs St. Rd. Co. <i>v.</i> Hil- dreth, 72 Ark. 572.....	540	———— <i>v.</i> Lewis, 89 Ark. 368.....	589
Houston & T. C. Rd. <i>v.</i> Mayes, 201 U. S. 321.....	468, 469	———— <i>v.</i> Smart, 1 T. R. 52....	517, 518
Hoyt <i>v.</i> Western Union Telegraph Co., 85 Ark. 473.....	119	———— <i>v.</i> United States, 137 U. S. 202 .....	433
Hudson <i>v.</i> Jefferson County Court, 28 Ark. 359.....	460	Joyce <i>v.</i> New York, 20 How. Pr. 439 .....	163
———— <i>v.</i> Northern Pac. Ry. Co., 92 Iowa 231.....	158	<b>K</b>	
———— <i>v.</i> Snipes, 40 Ark. 75.....	374	Kansas & A. V. Rd. Co. <i>v.</i> Ayers, 63 Ark. 331.....	410
Humphry <i>v.</i> Sadler, 40 Ark. 100..	461	———— <i>v.</i> Fitzhugh, 61 Ark. 341..	500
———— <i>v.</i> Stillwell, 80 Ark. 575-306, 308		Kansas City, F. S. & M. Ry. Co. <i>v.</i> King, 66 Ark. 439.....	578
Hunt <i>v.</i> Gardner, 74 Ark. 583.....	116	———— <i>v.</i> Sharp, 64 Ark. 115.....	221
———— <i>v.</i> Marshall, 76 Ark. 375..	203	Kansas City S. Ry. Co. <i>v.</i> Boles, 88 Ark. 533.....	423
Huntington <i>v.</i> Finch, 3 O. St. 415..	163	———— <i>v.</i> Henrie, 87 Ark. 443....	265
Hutchinson <i>v.</i> Gorman, 71 Ark. 305 .....	326	———— <i>v.</i> Lewis, 80 Ark. 396.....	578
		Kemble <i>v.</i> Dresser, 1 Met. (Mass.) 271 .....	365
		Kiernan <i>v.</i> Blackwell, 27 Ark. 235..	127

King v. Burrell, 12 A. & E. 460.....	518	Louisiana & T. Lumber Co. v. Brown, 109 S. W. 950.....	538
—— v. Merriman, 38 Minn. 47..	365	Louisiana Molasses Co., Ltd., v. Ft. Smith Wholesale Gro. Co., 73 Ark. 542 .....	295
Kurtz v. Adams, 12 Ark. 174.....	324	Lowell v. Parker, 10 Met. 309.....	384
<b>L</b>			
Lacefield v. State, 34 Ark. 282.....	393	Lunney v. Healey, 44 L. R. A. 593..	293
LaFayette v. Merchants Bank, 73 Ark. 561.....	372, 589	<b>M</b>	
Lambert v. Tucker, 83 Ark. 416....	72	McClintock v. Frohlich, 75 Ark. 111..	326
Lamond v. Eiffe, 3 Q. B. 910.....	518	McDaniel v. Berger, 89 Ark. 139...	299
Lampman v. Milks, 21 N. Y. 507..	317, 318	McDonough v. Williams, 77 Ark. 261 .....	247
Lawrence v. Zimpleman, 37 Ark. 643 .....	299	McFarlane v. Grober, 70 Ark. 371..	23
Laycock v. Parker, 103 Wis. 161....	45	McGehee v. Mathis, 21 Ark. 40.....	471
Leep v. St. Louis, I. M. & S. Ry. Co., 58 Ark. 407.....	423, 417	McGuckin v. Milbank, 152 N. Y. 297 .....	238
Leggett v. Grimmitt, 36 Ark. 496..	572	McGuigan v. Gaines, 71 Ark. 614...	313
Lessee of French v. Spencer, 21 How. 228.....	518	Mammoth Vein Coal Co. v. Bulliss, 83 Ark. 567.....	428
Lesser v. Banks, 46 Ark. 482.....	58	Mannington v. Young, 35 Ark. 287..	441
Letchworth v. Vaughan, 77 Ark. 305 .....	136	Marquette Timber Co. v. Chas. T. Abeles Co., 81 Ark. 421.....	313
Levy v. Coogan, 16 Daly 137.....	208	Marshall v. Simpson, 13 La. Am. 437 .....	493
Lipsey v. Battle, 80 Ark. 287.....	504	Mason v. Gates, 82 Ark. 300.....	298
Little v. Williams, 88 Ark. 37.....	299	—— v. Thornton, 74 Ark. 46....	326
Little Rock & F. S. Ry. Co. v. Baker, 39 Ark. 491.....	373	Massey v. Dixon, 81 Ark. 337.....	374
—— v. Eubanks, 48 Ark. 460...	331	Meisenheimer v. State, 73 Ark. 407..	102
—— v. Henson, 39 Ark. 414...	373	Mengal Box Co. v. Moore, 114 Tenn. 506.....	367
—— v. Payne, 33 Ark. 816..	423, 469	Miller v. Ammon, 145 U. S. 421....	209
—— v. Smith, 66 Ark. 278.....	138	—— v. Fraley, 23 Ark. 735.....	22
—— v. State, 69 Ark. 363.....	138	—— v. Mintun, 73 Ark. 183....	128
—— v. Worthen, 46 Ark. 312...	471	—— v. Nuckolls, 77 Ark. 64...	521
Little Rock Granite Co. v. Shall, 59 Ark. 405.....	204	Milner v. Freeman, 40 Ark. 62....	580
Little Rock Junction Ry. Co. v. Woodruff, 49 Ark. 381.....	424	Milwaukee & St. L. Ry. Co. v. Arms, 91 U. S. 489.....	269
Little Rock, M. R. & T. Ry. Co. v. Glidewell, 39 Ark. 487.....	221	Minnesota F. & M. Mut. Ins. Co. v. Norman, 74 Ark. 190.....	100
—— v. Leverett, 48 Ark. 333...	540	Missouri v. Illinois, 200 U. S. 496..	434
Little Rock Ry. & El. Co. v. Doyle, 79 Ark. 318.....	228	Missouri & N. A. Rd. Co. v. Bratton, 85 Ark. 326.....	107, 500
Little Rock Traction & El. Co. v. Kimbro, 75 Ark. 211.....	227, 228	—— v. Sneed, 85 Ark. 293.....	470
Long v. McDaniel, 76 Ark. 292.....	324	Mitchell v. Young, 80 Ark. 441....	572
Louisiana v. Mississippi, 202 U. S. 1 .....	434	Mitchell Mfg. Co. v. Kempner, 84 Ark. 349.....	110, 313
		Molineux v. Collins, 177 N. Y. 395..	553





— *v. St. Louis, I. M. & S. Ry. Co.*, 75 Ark. 479..... 15  
*Providence Life Ass. Soc. v. Reutlinger*, 58 Ark. 528..... 234

**R**

*Railway Co. v. Cook*, 57 Ark. 387.. 563  
 — *v. Dodd*, 59 Ark. 317..... 279  
 — *v. Hall*, 53 Ark. 7..... 268  
 — *v. Hopkins*, 54 Ark. 209.... 588  
 — *v. Mitchell*, 57 Ark. 418... 588  
 — *v. Robbins*, 57 Ark. 384.... 334  
 — *v. State*, 55 Ark. 200..... 138  
 — *v. State*, 56 Ark. 166...138, 471  
 — *v. State*, 59 Ark. 165..... 138  
*Rector v. Board of Improvement*, 50 Ark. 116..... 516  
 — *v. Robins*, 74 Ark. 437.... 217  
 — *v. Robbins*, 82 Ark. 424... 538  
*Reed v. State*, 54 Ark. 621..... 538  
*Rhea v. McWilliams*, 73 Ark. 557  
 .....142, 300  
*Rhode Island v. Massachusetts*, 12 Pet. 657..... 434  
*Rice v. Mayo*, 107 Mass. 550..... 293  
*Richardson v. Taylor*, 45 Ark. 472.. 186  
*Richmond Land Co. v. Watson*, 107 S. W. 1045..... 367  
*Riley v. Norman*, 39 Ark. 166..... 340  
*Ringo v. Woodruff*, 43 Ark. 469.... 22  
*Roberson v. Rochester Folding Box Co.*, 171 N. Y. 538..... 552  
*Robinson v. Baskins*, 53 Ark. 333.. 385  
 — *v. Robinson*, 45 Ark. 481  
 .....186, 580  
*Rodgers v. Choctaw, O. & G. Rd. Co.*, 76 Ark. 520..... 372, 589  
*Rodman v. Sanders*, 44 Ark. 504.... 153  
*Rooney v. Sewall & Day Cordage Co.*, 161 Mass. 153..... 53  
*Rowan v. Hall*, 47 S. E. 92..... 416  
*Rowe v. N. Y. & N. J. Tel. Co.*, 9 Am. Neg. Rep. 528..... 588  
*Rowland v. McGuire*, 67 Ark. 320.. 23  
*Ruble v. Helm*, 57 Ark. 304..... 351  
*Russel v. People's Sav. Bank*, 39 Mich. 671..... 358  
*Russell v. State*, 52 Ark. 276..... 393

**S**

*Sadler v. Sadler*, 16 Ark. 628..... 538  
*St. Louis & S. F. Rd. Co. v. Burgin*, 83 Ark. 502..... 221  
 — *v. Hurst*, 67 Ark. 407..410, 411  
 — *v. Mathews*, 165 U. S. 1... 421  
 — *v. Pearce*, 82 Ark. 353....  
 .....410, 411, 412, 596  
 — *v. Townsend*, 69 Ark. 380. 500  
*St. Louis, I. M. & S. Ry. Co. v. Barnett*, 65 Ark. 255..... 577  
 — *v. Biggs*, 50 Ark. 169..... 45  
 — *v. Boback*, 71 Ark. 427.... 94  
 — *v. Bragg*, 69 Ark. 402.... 62  
 — *v. Combs*, 76 Ark. 132  
 .....278, 279  
 — *v. Coolidge*, 73 Ark. 112..  
 .....221, 412, 590  
 — *v. Courtney*, 77 Ark. 431.. 563  
 — *v. Dawson*, 77 Ark. 434... 279  
 — *v. Dooley*, 77 Ark. 561.... 128  
 — *v. Evans*, 74 Ark. 407..500, 501  
 — *v. Godby*, 45 Ark. 485..... 58  
 — *v. Grant*, 75 Ark. 579..... 90  
 — *v. Hampton*, 162 Fed. 693.. 469  
 — *v. Hardie*, 87 Ark. 475..31, 537  
 — *v. Hendricks*, 48 Ark. 177. 91  
 — *v. Hill*, 74 Ark. 478..... 500  
 — *v. Hoshall*, 82 Ark. 391.... 537  
 — *v. London*, 82 Ark. 267.... 107  
 — *v. Mangan*, 86 Ark. 507... 428  
 — *v. Osborn*, 67 Ark. 399..... 326  
 — *v. Petty*, 63 Ark. 94..... 372  
 — *v. Stamps*, 84 Ark. 241.... 268  
 — *v. State*, 68 Ark. 561..... 138  
 — *v. Taylor*, 84 Ark. 42..... 188  
 — *v. Vincent*, 36 Ark. 451... 372  
 — *v. Wilkerson*, 46 Ark. 513. 107  
 — *v. Wynne Hoop & Cooper-*  
*age Co.*, 81 Ark. 373..... 410  
*St. Louis Ref. & W. G. Co. v. Thornton*, 74 Ark. 383.....142, 299  
*St. Louis S. W. Ry. Co. v. Byrne*, 73 Ark. 377..... 326  
 — *v. Grayson*, 89 Ark. 154... 30  
 — *v. Leder*, 87 Ark. 298.....  
 .....31, 181, 182

_____ v. O'Hare, 89 Ark. 120.....	578	Southern Development Co. v. Silva,	
_____ v. Morris, 76 Ark. 549.....	521	125 U. S. 247.....	110
_____ v. Plumlee, 78 Ark. 147.....	561	Southwestern Tel. & Tel. Co. v.	
_____ v. Russell, 64 Ark. 236.....	160	Beatty, 63 Ark. 65.....	590
_____ v. State, 85 Ark. 311.....	470	Spear v. Cummings, 34 Am. Dec.	
Saline County v. Hughes, 84 Ark.		53 .....	258
347 .....	57	Spillers v. Smith, 85 Ark. 228.....	603
Saltonstall v. Little, 35 Am. Rep.		Sprott v. N. O. Ins. Ass., 53 Ark.	
683 .....	354	215 .....	28
Saltus v. Genin, 3 Bos. (N. Y.)		State v. Blackwell, 10 S. C. 35.....	76
250 .....	248	_____ v. Clausmeier, 154 Ind.	
Schlegal v. Allerton, 65 Conn. 260..	208	599 .....	553
Schulman v. Whitaker, 117 La. 704.	553	_____ v. Colerick, 3 Ohio 487....	385
Schuyler v. Curtis, 147 N. Y. 134...	552	_____ v. Croft, 15 Tex. 575.....	394
Scott v. Patterson, 53 Ark. 49.....	203	_____ v. Deschamp, 53 Ark. 490..	471
_____ v. Penn, 68 Ark. 492.....	555	_____ v. Dunwell, 3 R. I. 127... 433	
_____ v. Pleasants, 21 Ark. 364..	69	_____ v. Henn, 39 Mich. 476.....	394
Seger v. Spurlock, 59 Ark. 147.....	172	_____ v. Henthorn, 26 Pac. 937	
Seifrath v. State, 35 Ark. 412.....	572	.....	76
Selden v. State, 55 Ark. 393.....	217	_____ v. McDiarmid, 27 Ark. 176.	459
Seldon v. Dudley E. Jones Co., 74		_____ v. Marsh, 37 Ark. 356.....	471
Ark. 348.....	235	_____ v. Martin, 60 Ark. 343.....	459
Shaffer v. United States, 24 App.		_____ v. Wagner, 61 Me. 184... 432	
D. C. 417.....	553	State Mut. F. Ins. Co. v. Brinkley	
Sharp v. Fitzhugh, 75 Ark. 562..80,	81	Stave & Heading Co., 61 Ark. 1.	478
Shell v. Young, 78 Ark. 479.....	508	State Nat. Bank of St. Louis v.	
Sherman v. Charlestown, 8 Cush. 161	258	Hyatt, 75 Ark. 170.....	448
Shirey v. Whitlow, 80 Ark. 444.....	306	Stephens v. Oppenheimer, 45 Ark.	
Sibley v. Ratcliffe, 50 Ark. 477....	500	492 .....	538
Sidway v. Nichol, 62 Ark. 146.....	357	_____ v. Shafer, 48 Wis. 54....	384
Siloam Springs v. Broyles, 87 Ark.		Stephenson v. Hall, 14 Barb. 222... 258	
202 .....	351	Stevens v. State, 3 Ark. 71.....	248
Simon v. Calfee, 80 Ark. 65.....	442	Stewart v. Smiley, 46 Ark. 373....	72
Simpson v. Biffle, 63 Ark. 289.....	23	Stiewel v. Webb Press Co., 79 Ark.	
Sisson v. Cleveland & Toledo Rd.		45 .....	446
Co., 14 Mich. 489.....	595	Stinde v. Blesch, 42 Ark. 578.....	208
Skillern v. Baker, 82 Ark. 86.....	232	Storthz v. Arnold, 74 Ark. 68.....	315
Sloat v. McDougal, 9 N. Y. Supp.		Straub v. Gordon, 27 Ark. 625.....	459
631 .....	317	Sumerow v. Johnson, 56 Ark. 86....	609
Smeltzer v. St. Louis & S. F. Rd.		Supreme Council v. Fidelity & Casu-	
Co., 158 Fed. 649.....	159	alty Co., 63 Fed. 48.....	480
Smitz v. Feltz, 42 Ark. 355.....	487	Supreme Council of Royal Arca-	
_____ v. Rines, 2 Sumn. 338.....	518	num v. Brashears, 89 Md. 624... 479	
Sorrells v. Matthews, 13 L. R. A.		Sweaney v. United States, 62 Wis.	
(N. S.) 359.....	258	396 .....	45
Soudan Planting Co. v. Stevenson,			
83 Ark. 163.....	410		

T

Taylor-Brown Timber Co. v. Wolf  
 Creek Coal Co., 107 S. W. 733... 364  
 Teaver v. Allen, 47 Ark. 528... 453  
 Terry v. McNeil, 58 Barb. 241... 596  
 Thweatt v. Howard, 68 Ark. 426... 142  
 Tidwell v. Southern Engine & Boiler  
 Works, 87 Ark. 52... 204  
 Tillar v. Bass, 57 Ark. 179... 508  
 — v. Henry, 70 Ark. 246... 71, 185  
 Tilley v. St. Louis & S. F. Ry. Co.,  
 49 Ark. 535... 279  
 Tobin v. Spann, 85 Ark. 556... 287  
 Topeka City Ry. Co. v. Higgs, 16  
 Pac. 667... 230  
 Towne & Rice, 122 Mass. 67... 135  
 Townsend v. Penrose, 84 Ark. 316. 116  
 Trapnall v. Brown, 19 Ark. 39... 186  
 Travellers' Fire Ins. Co. v. Globe  
 Soap Co., 85 Ark. 169... 478  
 Trieber v. Stover, 30 Ark. 727... 357  
 Turner v. Williamson, 77 Ark. 586. 556

U

Union Guaranty & Tr. Co. v. Rob-  
 inson, 79 Fed. 420... 384, 385  
 United States v. Arredondo, 6 Pet.  
 691... 434  
 — v. Texas, 143 U. S. 621... 434  
 Updegraff v. Marked Tree Lumber  
 Co., 83 Ark. 154... 307

V

Valley Bank v. Crowell, 148 Pa. St.  
 284... 135  
 Varner v. Turner, 83 Ark. 131... 313  
 Velte v. United States, 76 Wis.  
 278... 45

W

Wadly v. Leggitt, 82 Ark. 262... 572  
 Walker v. Helms, 84 Ark. 614... 306  
 Wallace v. Lake Shore & M. S. R.  
 Co., 133 Mich. 633... 158  
 Wallis v. St. Louis, I. M. & S. Ry.  
 Co., 77 Ark. 556... 372

Ward v. Blackwood, 48 Ark. 396... 374  
 — v. Southern Pacific R. Co.,  
 23 L. R. A. 715... 107  
 Ward Furniture Mfg. Co. v. Isbell,  
 81 Ark. 549... 595  
 Warner v. Hess, 66 Ark. 113... 118  
 Weaver v. Rush, 62 Ark. 51... 172  
 Webb v. Nease, 66 Ark. 155... 313  
 Weber v. Tschetter, 46 N. W. 201... 163  
 Wellborn v. Davies, 40 Ark. 83... 177, 178  
 Western Coal & Mining Co. v. Gar-  
 ner, 87 Ark. 190... 590  
 Western Union Tel. Co. v. Ford, 77  
 Ark. 534... 486  
 — v. Love-Banks Co., 73 Ark.  
 205... 486  
 — v. State, 82 Md. 293... 588  
 — v. Taylor, 3 Tex. Civ. App.  
 310... 404  
 Wheeler v. Foote, 80 Ark. 435... 454  
 White v. Clarksville, 75 Ark. 340... 568  
 — v. Reagan, 32 Ark. 381... 374  
 — v. Smith, 63 Ark. 513... 69  
 — v. Stokes, 67 Ark. 184... 43, 453  
 Whitehead v. Henderson, 67 Ark.  
 200... 319  
 Whitsett v. Slater, 23 Ala. 626... 493  
 Whittemore v. Western Union Tel.  
 Co., 71 Fed. 651... 404  
 Willets v. Burgess, 34 Ill. 494... 238  
 Williams v. Dorris, 31 Ark. 466... 508  
 — v. State, 88 Ark. 91... 217, 465  
 Wilmurt v. McGrane, 45 N. Y. Supp.  
 32... 318  
 Wilson v. Briscoe, 11 Ark. 47... 384  
 Wise v. Charlton, 4 Ad. & E. 786... 135  
 Wisner v. Lawler, 189 U. S. 260... 23  
 Wofford v. Clark, 82 Ark. 461... 504  
 Wolf v. Kuhne, 109 Ind. 313... 444  
 Wolff v. Perkins, 51 Ark. 45... 71  
 Womack v. Womack, 73 Ark. 281... 580  
 Wood, *In re*, 45 N. W. 1113... 76  
 — v. Wells, 103 Mich. 320... 208  
 Word v. West, 38 Ark. 243... 71  
 Wright, *Ex parte*, 65 Ind. 504... 76  
 Wyse v. Johnson, 83 Ark. 520... 307

Y		Z	
Yeates v. Pryor, 11 Ark. 66.....	315	Zimmerman Mfg. Co. v. Daffin, 42	
Young v. Gaut, 69 Ark. 114.....	58	So. 858.....	366
Yturbide's Executor v. United States, 22 How. 290.....	518		

# APPENDIX

---

## I.

### RESIGNATION OF MR. CHIEF JUSTICE HILL.

In retiring from the Bench, Chief Justice Hill made the following announcement:

*Gentlemen of the Bar:*

It is with genuine sadness that I announce my resignation as Chief Justice of this Court. The Governor and Attorney General have selected me as chief counsel for the State in the litigation in the Federal courts wherein the freight and passenger rates fixed by the Railroad Commission and General Assembly, respectively, have been temporarily enjoined, and I have decided to accept. The rights and limitations of the State in the control and regulation of the public transportation corporations, and the vast pecuniary interests of the whole State, produced by the great increase in freight and passenger rates put in force by the railroad companies since the former rates were enjoined, make the issues to be settled in the Federal courts in these cases a matter of paramount importance to Arkansas today.

That the Governor, Attorney General and Railroad Commission unite in requesting me to accept this great responsibility is a signal honor which I gratefully appreciate, and is a call to duty for the State not lightly to be disregarded. It is well known that some years ago my health was for a time shattered. The close confinement and exacting nature of the work here is a constant menace to my restored health. For the past two years my physician has advised me to leave the bench and resume my profession; and I have at different times given consideration to propositions to resume the practice, but, until I received this opportunity to return to the practice in behalf of the State in its greatest lawsuit, I have not found my way clear to resign.

The extraordinary and unexpected expenses to which I have been put in obtaining a restoration to health render a return to more remunerative employment another controlling factor.

Owing to the opposition which at other times has arisen to my resignation when it has been under consideration, I have felt it right to frankly lay bare my reasons for doing so now.

It is a sad hour to me when I break up the pleasant and congenial companionship with my associates on the Bench. Four years and three months ago today it began. The Court was then more than three years in arrearage, but, working shoulder to shoulder, we cleared away this

---

accumulation of years, we have written opinions in every case, and we have for the past two years cleared the docket twice a year. This hard work has knitted us together. I feel as old soldiers did when they parted with comrades, with whom they had touched elbows on many hard and bitter marches. I shall ever cherish with grateful remembrance and affection my association with Justices Battle, Wood, Riddick, McCulloch and Hart. From each of them I have received much kindness, consideration and forbearance.

To you, Gentlemen of the Bar, I am profoundly grateful for your courtesy to me on all occasions, for your consideration for me when ill health required long absences from the Court, and your prompt and loyal support of the Court in every way since I have had the honor to preside over it.

---

## II.

### OPINIONS NOT REPORTED.

*Tyler v. Merchants & Planters Bank*; appeal from Lonoke Chancery Court; John E. Martineau, chancellor; affirmed February 8, 1909; *per* Wood, J.

*Wolfort v. Hochbaum*; appeal from Pulaski Circuit Court; Edward W. Winfield, judge; affirmed March 1, 1909; *per* Wood, J.

*Modern Laundry v. Hochbaum*; appeal from Pulaski Chancery Court; John E. Martineau, Chancellor; affirmed March 1, 1909; *per* Wood, J.

---

## III.

### CASES DISPOSED OF ON MOTION.

*Will Lax v. State of Arkansas*; Sebastian Circuit Court; Daniel Hon, judge; appeal dismissed on attorney general's motion, January 18, 1909; *per curiam*.

*George Adams v. State of Arkansas*; Ashley Circuit Court; E. A. Bolton, special judge; affirmed under rule seven, January 18, 1909; *per curiam*.

*Moline Jewelry Company v. W. F. Shaw*; Independence Circuit Court; Frederick D. Fulkerson, judge; appeal dismissed for non-compliance with rule nine, January 25, 1909; *per curiam*.

*St. Louis, Iron Mountain & Southern Railway Company v. Jeff Morrison et al.*; Franklin Circuit Court; Jephtha H. Evans, judge; affirmed for non-compliance with rule nine, January 25, 1909; *per curiam*.

R. D. Chotard *v.* N. W. Bunker; Chicot Chancery Court; Zackariah T. Wood, chancellor; appeal dismissed for non-compliance with rule nine, January 25, 1909; *per curiam*.

*Ex parte* Lee Combs; certiorari to Union Circuit Court; George W. Hays, judge; action of lower court in denying bail, reversed, and petitioner admitted to bail, February 1, 1909; *per curiam*.

Chicago, Rock Island & Pacific Railway Company *v.* Mary Gibson Yancy, admistratrix; Lonoke Circuit Court; Eugene Lankford, judge; appeal dismissed on appellee's motion, February 1, 1909; *per curiam*.

St. Louis, Iron Mountain & Southern Railway Company *v.* Alfred Langhammer, administrator; Clark Circuit Court; Jacob M. Carter, judge; affirmed under stipulations of counsel, February 1, 1909; *per curiam*.

E. C. Pritchard et al *v.* Bank of Springdale; Washington Circuit Court; J. S. Maples, judge; affirmed for non-compliance with rule nine, February 22, 1909; *per curiam*.

Monroe Shingle Company *v.* J. D. Robertson; Ouachita Circuit Court; George W. Hays, judge; appeal dismissed for non-compliance with rule nine, February 22, 1909; *per curiam*.

Layson Lumber Company *v.* Watkins Lumber Company; Polk Circuit Court; James S. Steel, judge; appeal dismissed for non-compliance with rule nine, February 22, 1909; *per curiam*.

Alice J. Long et al *v.* S. D. Knotts; Randolph Chancery Court; George T. Humphries, chancellor; appeal dismissed for non-compliance with rule nine, March 8, 1909; *per curiam*.

E. Ritter *v.* Edgar Wheeler; Craighead Circuit Court; Frank Smith, judge; appeal dismissed by consent, March 8, 1909; *per curiam*.

St. Louis, Iron Mountain & Southern Railway Company *v.* L. Y. Whittington; Lee Circuit Court; Hance N. Hutton, judge; affirmed by consent of parties, March 15, 1909; *per curiam*.

