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FEDERAL PRACTICE- DECLARATORY JUDGMENTS

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FEDERAL PRACTICE — DECLARATORY JUDGMENTS — Alabama, for the purpose of invoking original jurisdiction, applied to the Supreme Court of the United States for leave to file a complaint in equity against nineteen States to have statutes regulating and prohibiting the sale of goods manufactured by convict labor declared void because in violation of the commerce clause of the federal Constitution. Later, Alabama was allowed to submit an amendment eliminating fourteen States. *Held*, leave to file bill as amended denied. *State of Alabama v. State of Arizona, et al.*, (U. S. 1934) 1 U. S. LAW WEEK (Feb. 6, 1934), index p. 468.

The Court based its decision on three grounds: first, the bill was multifarious; second, the Court could not be called on to give advisory opinions or to pronounce declaratory judgments; third, there was no showing of a direct issue between the parties, and the bill, if filed, would have to be dismissed for want of equity. It is an established rule that where there is no controversy between adverse parties the federal courts have no jurisdiction.¹ And in the past, in cases which lacked such necessary element of controversy,² the Supreme Court has voiced dicta to the effect that it did not have power to give declaratory judgments. However, in *Nashville, Chattanooga, & St. Louis Ry. v. Wallace*³ the Supreme Court decided that it had power to review a judgment of a state court given under a declaratory judgment act. But in that case there was the necessary element of controversy. We submit that the correct conclusion is that the Supreme Court has the power to give a declaratory judgment when a controversy and other ordinary essentials of jurisdiction exist. In fact, on the same day the

¹ *Muskrat v. United States*, 219 U. S. 346, 31 Sup. Ct. 250 (1911).

² *Liberty Warehouse Co. v. Grannis*, 273 U. S. 70, 47 Sup. Ct. 282 (1927). See also a comment in 31 MICH. L. REV. 707 (1933) for a full discussion of "controversy" in this type of case as passed on by the Supreme Court of the United States.

³ 288 U. S. 249, 53 Sup. Ct. 345 (1933).

decision in the principal case was rendered the Supreme Court gave one type of declaratory judgment⁴—a judgment settling a boundary dispute between two States.⁵ It is unfortunate that the Court in the principal case made such a sweeping denial of any power to give declaratory judgments. In view of the fact that there was no controversy present, such denial should be classified with other dicta on the subject.

T. A. P.

⁴ See 31 MICH. L. REV. 707 at 713 (1933).

⁵ *State of New Jersey v. State of Delaware*, (U. S. 1934) 1 U. S. LAW WEEK (Feb. 6, 1934), index p. 470.