

ANNUAL REPORT

OF THE

ATTORNEY GENERAL

OF THE

STATE OF VIRGINIA

FOR THE

YEAR ENDING NOVEMBER 1, 1883.

RICHMOND:

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1883.

COMMONWEALTH OF VIRGINIA,
ATTORNEY GENERAL'S OFFICE,
RICHMOND, VA., *November 1, 1883.*

To his Excellency WILLIAM E. CAMERON,*
Governor of Virginia.

SIR:

I respectfully submit the following report, as required by law.

F. S. BLAIR,
Attorney General.

REPORT.

LIST OF CAUSES IN THE VARIOUS COURTS,

In which the Commonwealth is a party or interested, during the present year, in which the Attorney General was Counsel for the State.

UNITED STATES SUPREME COURT.

S. S. Carter *v.* S. C. Greenhow, Treasurer. Pending coupon case.

A. Austin Smith *v.* same.

“ “ “

William L. White *v.* same.

“ “ “

John C. Tinsley *v.* Commonwealth.

This was a writ of error from the Court of Appeals of Virginia to the Supreme Court of the United States, and drew in question the right of a negro man to marry a white woman. The Supreme Court of the United States affirmed the judgment of the Court of Appeals of Virginia.

Andrew Antoni *v.* S. C. Greenhow, Treasurer.

This case tested the constitutionality of the Riddleberger act, by an appeal on Antoni's part from the Court of Appeals of Virginia to the Supreme Court of the United States. The latter tribunal decided in favor of the act, holding it valid and constitutional.

UNITED STATES CIRCUIT COURT.

RICHMOND.

Thomas Branch *v.* William M. Magruder, Tr. In equity.

John Stewart *v.* same.

“

Daniel K. Stewart *v.* same.

“

Joseph Bryan *v.* same.

“

NORFOLK.

United States *v.* Board of Public Works of Virginia.

This was a chancery cause by the United States Government against Virginia, to recover 2,720 shares of stock owned by Virginia in the Alexandria Canal Company. The case was argued by the United States District Attorney for the United States and by me for Virginia, and is now in Judge Hughes's hands for opinion.

SUPREME COURT OF APPEALS OF VIRGINIA.

AT RICHMOND.

Loving and als *v.* Auditor of Public Accounts.
 Granger *v.* Commonwealth. Pending.
 Blanton, Com'r, *v.* Southern Fertilizing Company.
 Taliaferro *v.* The Commonwealth.
 Price *v.* The Commonwealth.
 Commonwealth *v.* Sheekels.
 Scott *v.* The Commonwealth.
 Poindexter *v.* Greenhow, Treasurer. Pending.
 Commonwealth *v.* Moore. Oyster case. Pending.
 " *v.* Powell, &c. " "
 " *v.* Mister and als. " "
 " *v.* Chandler. " "
 " *v.* Hopkins, &c. " "
 " *v.* Johnson. " "
 Bayley *v.* The Commonwealth. Pending.
 Edwards *v.* Commonwealth. "
 Anderson *v.* Commonwealth. "
 Russell *v.* Commonwealth. "
 Joyce *v.* Commonwealth. "
 Commonwealth *v.* Karn & Hickson. Pending.
 " *v.* Guggenheimer. "
 " *v.* Loyd, Phelps & Co. "
 " *v.* Winfree & Loyd. "
 " *v.* Hancock & Moorman. Pending.
 " *v.* Jones. "
 " *v.* Davis. "
 " *v.* Christian. "
 " *v.* Boyd. "
 " *v.* Spence. "
 " *v.* Watts & Co. "
 " *v.* Smith. "
 " *v.* Winfree. "
 " *v.* Watts, (J. W.) "
 " *v.* Hurt & Son. "
 " *v.* Lawson. "
 " *v.* Watts, (R. T.) "
 " *v.* Dillard. "
 " *v.* Steptoe. "
 " *v.* Jones, Watts & Co. "
 " *v.* Wall. "
 " *v.* Boyd's Ex'or. "
 Taylor, Acting Treasurer, *v.* Williams. "

The following cases have been disposed of within the same period :

Boyd *v.* The Commonwealth.
 Arlington T. Co. *v.* The Commonwealth.

Hatchett *v.* The Commonwealth.
 Commonwealth *v.* Smith.
 Boggs, &c., *v.* Commonwealth.
 Hopkins, &c., *v.* Commonwealth.
 Powell, &c., *v.* Commonwealth.
 Maltby, &c., *v.* Commonwealth.
 Mister *v.* Commonwealth.
 Chandler *v.* Commonwealth.
 Johnson *v.* Commonwealth.
 McCandlish *v.* Commonwealth.
 Board of Public Works *v.* Gantt.
 McDaniel *v.* Commonwealth.
 Commonwealth *v.* Taylor.
 Greenhow, Treasurer, *v.* Cringan, Watkins & Co.
 Commonwealth *v.* Harrison.
 Loving *v.* Auditor of Public Accounts.
 Scott *v.* Commonwealth.
 Blanton, Com'r, *v.* Southern Fertilizing Company.
 Price *v.* Commonwealth.
 Taliaferro *v.* Commonwealth.

AT STAUNTON.

Kirby *v.* Commonwealth. Felony. Ended.
Ex parte Lester. Revenue case. “
Ex parte Stone. “ “
Ex parte Wilson. “ “
 Taylor *v.* Commonwealth. Felony. “

AT WYTHEVILLE.

Oliver *v.* Commonwealth. Felony. Ended.

The “oyster cases” referred to among the cases in the Court of Appeals, at Richmond, grew out of an expedition fitted out by the Governor to prevent and stop depredations, by dredge-boats, on the oyster interests of the waters of the Commonwealth opposite Mathews county. The vessels and oyster pirates were captured by the Governor, their vessels forfeited to the Commonwealth, and the captains and crews were convicted of felony and sentenced to the penitentiary.

The captains, crews, and owners and lienors of the boats appealed, and judgments of forfeiture and conviction were reversed, remanded to court below, and all the cases are now again before the Court of Appeals upon other questions, and will be decided at present term.

[NOTE.—Since above was written the said cases have been affirmed upon appeals by Commonwealth.]

CIRCUIT COURT OF THE CITY OF RICHMOND.

October Term, 1883.

CHANCERY CASES PENDING.

Commonwealth *v.* Huffman and als.
 “ *v.* Samuel M. Page.

Commonwealth *v.* Grantham.

" *v.* Millan and als.

" *v.* Hilton's Adm'r.

" *v.* S. Brown Allen and als.

COMMON LAW CASES PENDING.

Commonwealth *v.* Richmond Banking and Insurance Company.

" *v.* " " " "

" *v.* John A. Belvin's Ex'or.

" *v.* " " "

" *v.* John B. Davis and als.

Seliger & Newman *v.* S. C. Greenhow, Treasurer.

A. Goldsmith *v.* " "

J. Kraus & Co. *v.* " "

Edward Jenkins & Sons *v.* " "

E. Fleischer *v.* " "

Fink Bros. & Co. *v.* " "

Hutler Bros. *v.* " "

Geo. A. Clarke & Bro. *v.* " "

H. Cone & Sons *v.* " "

George A. Lathrop *v.* " "

John Enders *v.* " "

Gerhard Ross *v.* " "

W. M. Parrish *v.* " "

Andrew Halke *v.* " "

A. L. Straus *v.* " "

Brown, Davis & Co. *v.* " "

Chamberlayne & Leigh *v.* " "

H. L. Staples & Co. *v.* " "

Lancaster & Luck *v.* " "

Campbell & Schoolcraft *v.* " "

Charles F. Taylor & Co. *v.* " "

W. D. Blair & Co. *v.* " "

Wm. C. Seddon & Co. *v.* " "

Warren & Quarles *v.* " "

G. E. Delarue *v.* " "

Christian & White *v.* " "

E. A. Saunders & Son *v.* " "

Muse, Watkins & Tracy *v.* " "

Corbin Warwick & Co. *v.* " "

Frank D. Hill & Co. *v.* " "

R. B. Chaffin & Co. *v.* " "

COMMON LAW CASES DECIDED.

Commonwealth *v.* Edward T. Walker, Treasurer of Bedford County. Judgment for Commonwealth.

Same *v.* same. Judgment for Commonwealth.

Same *v.* L. L. Deakins, Treasurer of Greenville County, and Sureties. Judgment for Commonwealth.

Same *v.* same. Judgment for Commonwealth.

Commonwealth *v.* L. L. Deakins, Treasurer of Greenville County, and Sureties. Judgment for Commonwealth.

Same *v.* same. Judgment for Commonwealth.

"	<i>v.</i>	"	"	"
"	<i>v.</i>	"	"	"
"	<i>v.</i>	"	"	"
"	<i>v.</i>	"	"	"
"	<i>v.</i>	"	"	"

Same *v.* John G. Kasey, Treasurer of Bedford County, and Sureties. Judgment for Commonwealth.

Same *v.* A. G. Cleek, Clerk Circuit Court of Bath County. Judgment for Commonwealth.

Same *v.* same and sureties Dismissed.

"	<i>v.</i>	same.	"
"	<i>v.</i>	"	Judgment for Commonwealth.
"	<i>v.</i>	"	Dismissed.
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"
"	<i>v.</i>	same, Clerk County Court of Bath Co.	Judgment for Commonw'lth.
"	<i>v.</i>	"	Dismissed.
"	<i>v.</i>	"	"
"	<i>v.</i>	"	Judgment for Commonwealth.
"	<i>v.</i>	"	Dismissed.
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"
"	<i>v.</i>	"	"

CIRCUIT COURT OF ALBEMARLE.

Ficklin *v.* Farish, Treasurer.

Eighteen suits against the County Treasurer of Albemarle for damages for refusing to receive coupons. I was sent there by the Governor to defend said suits, and by demurrer I defeated the plaintiff's entire recovery.

In addition to the foregoing cases, I appeared in the following named cases which involved public questions in behalf of the Commonwealth, and deserve further reference:

John F. Lewis and others *v.* Whittle and others.

This was what is known as the Medical College case, involving the power of the Governor to appoint visitors to said College. It was *mandamus*, in Court of Appeals at Richmond, and was gained by respondents, and was conducted by me by direction of the Governor.

Reddy and others *v.* Rady *et al.* Known as Richmond school case.

COURT OF APPEALS, RICHMOND.

Kean and others *v.* Valentine, Sup't, &c.

Pumphry, &c., *v.* Kean and others.

McLeer, &c., *v.* Caldwell, &c.

Hutchings <i>v.</i> Bourne, &c.	Manchester school case.		
Fisher <i>v.</i> Vaughn, &c.	"	"	"
Owens <i>v.</i> O'Brien, &c.	"	"	"
Beattie <i>v.</i> Moore, &c.	"	"	"

These were what are known as the school cases, involving the powers of the State Board of Education and of the Superintendent of Public Instruction to appoint school trustees for cities, towns and counties, and to ascertain and define the powers of the Board of Education and the Superintendent of Public Instruction, in conflicts between city and town councils and the Board, in the appointment and recognition of trustees under the public free school laws of the State. The cases were all *mandamus*, except the Manchester cases, which were by writ of error to Corporation Court of Manchester, and involved public as well as private rights; and I appeared in all of said cases, by written direction of the State Superintendent of Public Instruction and Board of Education, as cases in which the construction of the school laws of the Commonwealth was involved, and therefore in which the Commonwealth was interested.

J. M. Blanton, Com'r, *v.* Southern Fertilizing Company and others.

This was an appeal from the Chancery Court of Richmond city from a decree entered in an injunction cause brought by the Southern Fertilizing Company, A. S. Lee, and Addison & Allison against Dr. J. M. Blanton, Commissioner of Agriculture of the State, restraining him from the imposition of a so-called tax on tags to be appended to fertilizers examined and tested at the office of the Commissioner of Agriculture.

The Court of Appeals, at Richmond, perpetuated the injunction. The case was conducted by me at the direction of Dr. J. M. Blanton, State Commissioner of Agriculture, as a case involving the construction of the powers and duties of the said Commissioner of Agriculture in his department.

The proceedings, by notice, in the Circuit Court of Richmond city, in the name of the Auditor, against county treasurers, clerks, &c., were for defaults by said treasurers, clerks, &c., in the non-payment of revenue, taxes, fines, &c., and were conducted by the direction of Auditor S. Brown Allen, Auditor of Public Accounts.

The case of The Kendall Bank Note Company *v.* The Board of Sinking Fund Commissioner, was a suit of much magnitude, being a suit by said company against the said Board for damages—\$30,000 or more—for refusal on the part of the Board to receipt the bonds, coupons and certificates of said company, engraved by the said company for said Board.

The case was dismissed in the Circuit Court of Richmond city upon my demurrer, but it has been renewed, and is now on the docket of said court.

I defended said suit by direction of the Board of the Sinking Fund Commissioner, as indirectly a suit against the Commonwealth.

The late cases in the Supreme Court of the United States of A. Austin Smith *v.* Greenhow, Treasurer, has been referred to, and involves the soundness of the decision of the Circuit Court of the United States at Richmond (Judge Bond) as to duty of county and city treasurers in the receipt of coupons for taxes.

I regard the doctrine in that case as settled by the said Supreme Court of the United States in Antoni *v.* Greenhow, decided for the appellee in winter 1882, and I relied on the opinion of the court in that case as conclusive of the said Smith case.

This and all other coupon cases were not against the Commonwealth, but

against her city and county treasurers, and I was directed by the Governor and Auditor to appear for the treasurers as in the interest of the Commonwealth, and to contest each case, and, if decided adversely to the treasurer, to appeal in each case. This course was found absolutely necessary to protect the Commonwealth, as no one coupon case could settle the genuineness of other coupons, many of which were forged, and counterfeits, or had been before redeemed by the Commonwealth. The result of my defences and appeals has been admittedly to carry out the purposes and intention of the General Assembly of Virginia, 1882, Acts 1881-'2, page 10, approved January 14, 1882, and page 37, approved January 26, 1882, in preventing frauds upon the Commonwealth and the holders of her securities in the collection and disbursement of revénues, and in providing for the more efficient collection of the revenue to support government, maintain the public schools, &c.

The cases of Commonwealth *v.* Richmond Banking and Insurance Company; Same *v.* same; Same *v.* John A. Belvin, Executor, &c., &c.; Same *v.* John B. Davis, &c., were suits brought by me in the Circuit Court of Richmond to recover the amount of State deposits, about \$350,000, that were in the Richmond Banking and Insurance Company, Richmond, as a State depository, when that bank suspended.

I recovered all of said money, and it was paid over to the State Treasurer Reverley, as per receipts of said Treasurer to said bank—(Whitlock, President.)

The cases of Gantt *v.* Board of Education, &c., and Royall *v.* same, involved \$500,000 of money appropriated by the General Assembly of 1881-'2 for free school purposes. This sum was claimed by public creditors of State, and they went from the Circuit Court of Richmond, through the Court of Appeals of Virginia to the Supreme Court of the United States, and were won by me for the Board of Education, and the money applied as per Act of General Assembly to the colored normal school—\$100,000 at Petersburg, and \$400,000 for general public free school purposes.

These are the principal cases that have been managed and conducted by me in behalf of the Commonwealth and her department officers.

I have given a large number of legal opinions to the various heads of the departments of State, and have generally, and whenever called on, given written and oral advice to the various officers of the different counties and cities. This has imposed great epistolary labor on both me and my clerk.

Of the cases in the Court of Appeals, twenty-two are writs of error to the corporation court of Lynchburg, in coupon cases where *mandamus* was awarded to compel Dunnington, city treasurer, to receive coupons, and really to test Coupon Killer No. 2, passed January 26, 1882.

By direction of the Governor and Auditor, I took appeals in each case, and they are, at this writing, pending in the Court of Appeals, and were fully argued by me, orally and in writing, at present November term 1882, and they are now in the hands of the court for advisement and determination.

The suits are by different coupon-holders, and in pursuance to instructions to me from the Governor and Auditor, I required a separate action and proceeding in each case, according to the spirit and intention of the Acts of 14th January, 1882, and January 26, 1882—Acts 1881-'2.

By direction of the Governor and Auditor, I have visited the several courts of the United States at Norfolk, Harrisonburg, and Washington, D. C., and the Circuit Courts of Albemarle, and protected the Commonwealth and her officers in suits brought against them in those courts.

The amount of business in this office has been not only unusually large, but unprecedentedly great, on account of the recent legislation of 1881-2, touching the public debt and schools.

The criminal docket has been unusually heavy, and embraced every phase of crime. I have invariably appeared for the Commonwealth in these cases at Richmond, Wytheville and Staunton, and made oral defence as well as submitted printed briefs.

All of which is respectfully submitted,

F. S. BLAIR,
Attorney General.