

THE CASE IS ARGUED.

Commissioner of Valuation Law in the Supreme Court.

BOTH SIDES ABLY PRESENTED.

Daniel and Smith One Side; Montague and Carter the Other.

A DECISION EXPECTED SOON.

Probable That the Court Will Render an Opinion Without Delay—Immense Crowd in Court and Great Interest Manifested.

The case of ex-parte W. P. Lambert, which is to test the constitutionality of the act creating the office of commissioners of valuation is now with the five judges of the Supreme Court of Appeals of Virginia.

The Supreme Court room was crowded with spectators—a most unusual sight in the hall of this tribunal, where dry legal argument seldom attracts a large audience.

At the bar were several of the best-known lawyers in Virginia. Over to the left the judges—all five of whom were sitting—were Attorney-General Montague and Mr. Hill Carter, the well-known lawyer of this city, who defended the constitutionality of the act.

Next to Mr. Carter sat Mr. Randolph Hicks, of Norfolk, counsel for Colonel Sale, the Commissioner for that city; next came Mr. A. W. Armstrong, of Alexandria, and Colonel Francis L. Smith, of that city, the two gentlemen who were original counsel for W. P. Lambert, the assistant cashier of the Citizens' National Bank of Alexandria, who was arrested for refusing to answer questions as propounded by Colonel L. C. Bailey, Commissioner of Valuations of Alexandria.

Then came Judge Horsley, of Lynchburg; then Senator Daniel; Mr. Maryus Jones, of Hampton; then Mr. E. F. Causey, of Hampton; Major Charles S. Stringfellow, of Richmond; Hon. Beverly B. Mumford, of Richmond; Hon. Frank W. Christian, of Richmond, and Mr. A. P. Thom, of Norfolk.

All except Mr. Montague and Mr. Carter were of counsel for those attacking the law in other cases now pending. It is not often that an array of other counsel has been seen in a Virginia court. Mr. Robert V. Murray, who has been appointed Commissioner of Valuation for Richmond, and Colonel W. W. Sale, the Commissioner for Norfolk, were absent.

The argument lasted from 10 until 2 o'clock. At the first-named hour Colonel Francis L. Smith, of Alexandria, began a half-hour speech, attacking the bill. The chiefy confined himself to outlining the grounds of his objection to the law, who was arrested because of his refusal to answer questions as to the account of a certain depositor in the Citizens' Bank.

In conclusion, Colonel Smith attacked the law upon the ground that it was unconstitutional, and that it was odiously injurious in character.

MR. MONTAGUE'S ARGUMENT.

Attorney-General Montague replied to Colonel Smith's brilliant argument. He contended that a recorded majority vote was not necessary to the passage of the act, as it did not make an appropriation. "It fixes the compensation of the officials," said Mr. Montague, "but that is a matter which is not within the province of the act. Continuing, he cited a California case, which involved the question of the constitutionality of a law allowing a bounty of \$5 for every coyote killed.

"An appropriation is not to be an appropriation," he said, "unless it is specific, both as to amount and as to time," said Mr. Montague, and continuing, argued that the bill in question was not an appropriation, but a law which provided for the payment of the commissioners of the revenue. When the bill was passed there was no appropriation of a single penny which was to be paid by the general appropriation bill.

Continuing, Mr. Montague said: "We have not in evidence the enrolled bill, duly signed by the president of the House and Senate, and approved by the Governor, and submitted to the court without further comment or argument of the question whether the presumption as to the act having been properly passed, which arises from what we have shown is not conclusive. The journals of the House and Senate are silent as to the number of members of the respective bodies who voted for or against its passage, are silent as to whether the yeas or noes were called, and it would, we submit, be going very far to hold that the burden was on the person claiming the law to be valid to show affirmatively that it was properly passed, after it had received the sanction and approval of both houses of the Legislature and of the Governor. The statement in the resolution passed by the Senate on the Monday following the passage is excepted to, and is, we submit, not evidence of any fact therein stated.

IT WAS STILL BORN.

"This act, or bill, was still-born," said Senator Daniel. "It never had life in any of its parts. The day after it was passed two-thirds of the Senate declared it had not passed. Not a single case quoted by the other side hints or alludes at the brushing away of the constitutional formality."

"Furthermore," continued Senator Daniel, "the act tears down the old law and makes the new government at the State capital instead of the creature of the people's choice. It puts upon the Commissioner of the Revenue, it foists upon the people an official not of their own choosing. It takes from him the term of office, and extends the duration—longer than that of the assessor whom they elect."

Continuing, Senator Daniel said that the bill was unconstitutional in that it seeks to make an appropriation without compliance with the formalities required by the Constitution, but that does not affect the validity of the law in so far as it relates to the creation of the office of commissioner of valuation.

Would the court say the law was unconstitutional after applying the tests?

Would the Legislature have passed the law had the reference to the cost of printing and advertising been left out? Would the Legislature have passed the law had the reference to the cost of printing and advertising been omitted? He declared that these clauses could be eliminated and that the law would still be left essentially intact.

REVENUE COMMISSIONERS.

Regarding the charge that the law was unconstitutional, he said that it created an office subtractive of the duties of the Commissioner of the Revenue. Mr. Montague said there could be as many commissioners of the revenue in the counties as the General Assembly carried an appropriation, and the Commissioner of the Revenue could appoint as many assistants as he chose. The every act of the Commissioner of Valuation was of direct assistance to the Commissioner of Revenue. How could the court say there was any substantial subtraction from the duties of the Commissioner of Revenue, when the Commissioner of Valuation was authorized to assess the value of property—stocks, notes, bonds, and all other classes of property to be assessed by the commissioners of the revenue? If the bill in what it creates say it is, if it has two objects, the operative feature is not stated in the title. Let the court strike this feature out and leave the other.

Mr. Montague's argument was characterized by clear, simple, close logic, and attractive delivery. In the case very fully, and when Mr. Carter, his associate in the case, rose to follow him, all must have realized the truth of the statement that the ground had been so completely covered it was difficult for him to say anything.

MR. CARTER'S SPEECH.

However, Mr. Carter's argument was well worthy of the reputation he has attained as one of the ablest of Virginia lawyers. He spoke of Colonel Smith's allusion to the evil effects of the law. "The law can hurt no one," he declared, "who is willing to bear his fair share of the public burdens. Regarding the argument that the law is unconstitutional, Mr. Carter was most emphatic in his denial. His definition of an appropriation seemed to the lay mind very clear and exact, not to say convincing. "An appropriation," he said, "is the designation of some particular sum to the payment of some particular object."

Mr. Carter read from the last general appropriation bill to show how clear and distinct was its language as compared with the language of the bill in question. "Public Printing, \$25,000." From which the cost of printing books and papers required to be furnished commissioners of the revenue was taken.

"Those who oppose this act," said Mr. Carter, "argue that it is unconstitutional because it carries an appropriation, and did not receive a recorded majority vote in the Legislature. They say that its fourteen provisions are unconstitutional. I say that this charge is not sustained. The appropriation bills passed by the last Legislature provide for the payment of printing and general office expenses. Appropriation does not mean fixing the amount that should be received, but in the actual disposition of funds. Every one knows the difference between fixing the sum that a person should get and his getting it. The appropriation act in question appropriates money out of the public treasury. The ninth section merely ascertains at what rate (the exact amount even is not fixed) the commissioner is to be paid, and when it is paid in the same manner as compensation is now made to the Commissioner of the Revenue. As the Commissioner of the Revenue was paid from year to year, and as the only way in which he could be paid was under the provisions of this bill, then pending and about to pass, this language amounts to no more than saying that the Commissioner of the Revenue should be paid as provided for in the general appropriation bill."

"But whether this view be sound or not, the ninth section clearly does not appropriate any money, but merely provides for the payment of this commission. Nor does the eighth section do so either. All they do is to declare that these expenses are a proper charge on the State, and that they may be paid out of the State Treasury. No fund was appropriated, or even designated for the payment. That was left for the future act of the Legislature, and was to be provided for by the general appropriation bill, which is the law which the auditor would have no authority to pay out any money under either of these sections."

AS TO FORM OF APPROPRIATION.

Alluding to a case reported in 17th Indiana, cited by Colonel Smith, in which the court held that an appropriation must be in a specific form, Mr. Carter said that in that case the Court was not trying to overthrow a law but to uphold one. In the present case it was sought to have the decision followed in order to set aside the law. He called the attention of the Court to his decision in the "land-grabbers" case, holding that the law was not to be declared unconstitutional because it provides for the payment of incidental expenses. He said that the Commissioner of the Revenue of his speech to argue that even if the Court did decide that two of the sections were in violation of the Constitution, it could hold the other twelve valid, and that the Commissioner of the Revenue of the Revenue, and declared that where it was thus silent the duty of such official could be changed.

ARGUMENT OF SENATOR DANIEL.

Senator Daniel followed Mr. Carter. The other speakers had stood behind the table when addressing the court. Senator Daniel went around the end of his table, and came close to the bench. He never looked better, physically, and lawyers, who have heard him frequently, say he never made a stronger argument. After a brief allusion to the operative and unconstitutional liberty, Senator Daniel went on to say that the Constitution of Virginia had prescribed certain formalities to be observed in the passage of a law imposing a burden upon the State Treasury. These were not complied with when the act in question was passed. "That failure makes it not worth the paper upon which it is written," he declared. "An eye and may vote, and a majority of the votes in each house were not given to give it the force of law. It received neither. According to Cooley, it must appear on the face of the journal that such an act was passed by a constitutional vote."

HEARING BEFORE HOUSE COMMITTEE ON FOREIGN AFFAIRS.

Private Business Demanded Ex-Consul's Presence at Home.

WHY LEAVE WAS ASKED.

BRITISH HAD OUR CABLE CIPHER.

He Was Not Certain of This, But Has Since Been Convinced That His Suspicions Were Correct—His Mail Was Opened.

WASHINGTON, March 28.—Charles E. Macrum, of East Liverpool, O., the American ex-Consul at Pretoria, appeared before the House Foreign Affairs Committee to-day, and told of the alleged indignities he sustained at the hands of the British during his incumbency. When he gave out his statement here some weeks ago, declaring that his official mail had been opened by British officials, Representative Wheeler, of Kentucky, introduced a resolution providing for an investigation. It was subsequently arranged that the Foreign Affairs Committee should take the matter up, of its own motion, without any direction from the House, and Mr. Macrum was summoned to Washington to testify.

Mr. Macrum is a slight man, about 30 years old. He was asked by Chairman Hill to make such a statement as he saw fit regarding the opening of his mail by the British censor. He explained that when he asked for a leave of absence he desired to come home for private business reasons, and also because he desired to place before the United States Government certain facts which he deemed it essential should be known here. He understood, he said, that the British had possession of our cable cipher. He was not certain of this, but he had since had information which convinced him that his suspicions were correct.

He also desired information as to his course when the settlement should come at the end of the war. Further, he had a petition from some American residents in the Transvaal, asking that the United States maintain absolute neutrality, which he wanted to present to the State Department. This petition he read to the committee. It was signed by Gordon, the consular agent at Johannesburg.

OPENING OF HIS MAIL.

Asked as to when he was first satisfied that his mail was being tampered with, he said that war was declared October 12th. He did not receive any mail between that date and the second week in November. Ordinarily, he had a box of mail every week.

"Did other people receive mail during that period?" asked Mr. Williams, of Mississippi. "Not that I know of," replied Mr. Macrum.

Pressed for specific information as to how he got the information that the British were opening and delaying his mail, he replied that when his mail did not arrive he telegraphed our Consul at Lourenço Marques, requesting him to inquire of Cape Town why it was being delayed. The Consul at Lourenço Marques replied that he also had had no mail.

Mr. Macrum said the delay of his mail created a conviction in his mind that the British authorities were responsible. The first actual evidence he had was the receipt of two opened letters. He produced the envelopes, which, he said, contained those letters. One was from a private citizen, addressed to the United Consul at Pretoria, and the other was to him by name, from Consul Stowe, at Cape Town.

STATE DEPARTMENT'S CYPHER.

Mr. William Alden Smith, of Michigan, interrogated the witness sharply on the reasons for stating his belief that the British authorities had possession of the State Department's cypher. Mr. Macrum said he could not affirm that fact from actual knowledge, but there were certain facts which convinced him that such was the case. He explained that on November 6th he had called the State Department in cypher, asking for a leave of absence. The next day, November 7th, he said, he had been informed that a newspaper at Durban printed the fact that he had asked for leave of absence.

Mr. Smith was proceeding to interrogate Mr. Macrum as to the character of the code used by him in this dispatch, especially as to whether he had used what was known as the Slater Code, a common code, purchasable anywhere. Mr. Hill thought it improper to touch the matter of the codes employed by the government, but it was finally agreed that no harm could come from a direct reply as to whether the Slater code was used.

"The message," said Mr. Macrum, "was sent in the State Department cypher of the Slater code."

"And you claim the substance of that dispatch was made public?" asked Mr. Smith.

"I do not know."

"Was it an accurate publication?"

"I do not know."

"What is necessary in the dispatch's Home Study Circle to Obtain One?"

We have been asked if a person can study any one of the five studies in our Home Study Circle and receive a diploma; also, in what month the examinations will be held. You can stand an examination and get a diploma on any one of the studies. The examination questions will be published immediately after the close of the spring term, June 15th.

The opportunity afforded by the Dispatch's Home Study Circle is a golden one for all who would improve themselves in science, biography, history, and French conversation. You will find a lesson that will be interesting and improving on the editorial page of every issue of the Dispatch, except Saturdays. Devote twenty or thirty minutes daily to this course between now and June 15th, and you will be astonished at the learning you will acquire. For those of our subscribers who have failed to begin with the first lesson, we will, upon application, furnish the back numbers free of charge.

MAGNUM'S TALE TOLD.

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cypher telegrams were allowed to go through.

"Did you report to the State Department that your mail had been opened?" asked Mr. Berry, of Kentucky.

"Did you mention it upon your arrival in Washington?"

"I did not."

"I would prefer not to answer that question." This reply raised a general laugh in the committee-room.

Mr. Adams, of Pennsylvania, then proceeded to cross-question Mr. Macrum rather severely upon the duty of a consul to remain at his post during complications.

APPEAL FROM STEYN TO M'KINLEY.

Mr. Macrum proceeded to describe an alleged meeting between President Steyn, of the Orange Free State, and Consul Stowe of Cape Town, at which he was present, in which he said Steyn was very anxious that Stowe should do something to settle the difficulty which was brewing. He said that President Steyn suggested an appeal to the President of the United States, and that Mr. Stowe had replied that he would be glad if some such thing could be done.

"And I have reason to believe that the question of anything of the sort being of the United States," added Mr. Macrum, "and that he returned an unfavorable reply."

"What makes you say that?" inquired Mr. Hill.

"I was told so by Colonel Stowe."

"Was that statement in writing?"

"It was."

"Have you the letter?"

"No. It is in the files of the Pretoria Consulate."

After further questioning, Mr. Macrum said he might have a copy of the letter; he could not say positively. Subsequently he said he thought he could produce it in a short time.

WHY HE DID NOT REPORT.

Mr. Macrum went over the exchange of telegrams with the State Department relative to his leave, but as these were in the cypher of the department, the committee did not call for them. He stated that he had not made a report to the State Department on the conditions in South Africa was that when he called on Assistant-Secretary Hill he said to Mr. Hill that he understood he was to be appointed Consul at Johannesburg, and that this was true. Under such circumstances, Mr. Macrum said he had no report to make to the department. He endeavored, however, to see the Secretary of State, but was told that Mr. Hay was out in a short time.

PROGRESS OF SOUTH AFRICAN WAR.

Roberts Said to Be Preparing for His Advance—Kruger to Take Chief Boer Command—Consul Hay at Kroonstadt.

LOURENÇO MARQUES, March 27.—General Joubert is dead.

MOURNING IN PRETORIA.

PRETORIA, March 28.—General Joubert died last night at 11:30 o'clock. He had been suffering from a stomach complaint. The town is plunged into mourning for the true patriot, gallant general, and upright and honorable gentleman.

DEATH DUE TO PERITONITIS.

LONDON, March 28.—The Pretoria correspondent of the Daily Mail, telegraphing yesterday, says:

"General Joubert died of peritonitis. The funeral will take place to-morrow (Thursday). The government is pleading with the widow to allow a temporary interment here, with a state funeral. Joubert always expressed a desire to be buried in a mausoleum built on his farm."

BOTHA TO SUCCEED.

"His successor in the chief command will probably be General Louis Botha, now commanding in Natal."

BRITISH TRIBUTES.

LONDON, March 28.—The afternoon newspapers to-day publish long biographies of General Joubert. Generally, they are in a kindly tone.

The Pall Mall Gazette says: "Piet Joubert was the one contemporary Transvaal Boer, except ex-Chief-Justice Kotze, whose death could feel forth a sincere tribute of respect from Englishmen of all parties. He was the antipodes in the Transvaal world of Leyds, and personally was honest, straight, and clean-hearted."

GENERAL JOUBERT'S CAREER.

General Pietrus Jacobus Joubert, commandant-general of the Transvaal forces, better known as Piet Joubert, or "Sien Piet" (Slim Peter), was born about sixty-eight years ago. He was descended from an old French Huguenot family, which settled in South Africa many years ago. He was born in Cape Colony, but was taken by his parents, when 7 years old, to the Orange Free State, where he was taught from early childhood to shoot with a rifle, and to hunt the wild boar, straight and hard "the British." He described as having been utterly fearless. Of schooling he had but little, and he never saw a newspaper until his was 19 years old. He was a man of high character, and he succeeded in obtaining a fair knowledge of history and languages.

REQUEST FOR MEDIATION.

In reference to certain allegations as to our consuls in South Africa, having been approached with suggestions of mediation, I have the honor to reply that in a dispatch of the 2d of October, received at this department on the 6th of November, Mr. G. Stowe, Consul-General of the United States at Cape Town, had two letters from this consulate, one to Pretoria and one to Lourenço Marques, were sent by the censor at Durban. Upon notice of the same, the High Commissioner, who wired Durban, and a very satisfactory apology was returned.

"This is all the information possessed by this department in regard to the incident."

HE HAS NOT REPORTED THEM.

The following letter from the Superintendent of the Richmond Traction Company shows that there is no foundation for the report that Mr. Belvin has reported men on that line: Richmond, Va., March 28, 1900. To Whom It May Concern: I have been superintendent of this road since February 1, 1900. I cannot recall any complaint that has come to me during this time from Mr. Preston Belvin against any man in my employment. Truly yours, S. P. COWARDIN, Superintendent Traction Company.

OLD WATCHES MADE NEW.

The Nowlan Company give special attention to repairing and remodeling fine watches, and if your watch is not satisfactory, have them fit one of their High-Grade Movements in your gold case, and you can thus preserve the identity of your watch, and secure an accurate timekeeper for about half the cost of a new watch.

THE WEATHER.

WASHINGTON, March 28.—Forecast for Thursday and Friday: Virginia—Generally fair Thursday and Friday; winds mostly fresh, northerly.

North Carolina—Fair Thursday, and probably Friday; fresh north to east winds.

THE WEATHER IN RICHMOND YESTERDAY was bright and pleasant. The range of the thermometer was as follows:

6 A. M. .... 60

9 A. M. .... 62

12 M. .... 63

3 P. M. .... 62

6 P. M. .... 62

12 night .... 60

Mean temperature .... 61.6

JOUBERT NO MORE.

Brave and Honorable Boer General Passes Away.

PRETORIA IN MOURNING.

British Press Pays Tribute to England's Departed foe.

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