

Annual Report

OF THE

ATTORNEY GENERAL

TO THE

GOVERNOR OF THE STATE OF OHIO

FOR THE

Fiscal Year Ending Nov. 15, 1903.



SPRINGFIELD, OHIO:
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1904.

OFFICERS.

J. M. SHEETS.....Attorney General.
GEORGE H. JONES.....Assistant Attorney General.
SMITH W. BENNETT.....Special Counsel.

ATTORNEYS GENERAL OF OHIO.

| | |
|----------------------------|------------|
| HENRY STANBERRY..... | 1846-1851 |
| JOSEPH MCCORMICK..... | 1851-1852. |
| GEORGE E. PUGH..... | 1852-1854 |
| GEORGE W. MCCOOK..... | 1854-1856 |
| FRANCIS D. KIMBALL..... | 1856-1857 |
| C. P. WOLCOTT..... | 1857-1861 |
| JAMES MURRAY..... | 1861-1863 |
| LYMAN R. CRITCHFIELD..... | 1863-1865 |
| WILLIAM P. RICHARDSON..... | 1865- |
| CHAUNCEY N. OLDS..... | 1865-1866 |
| WILLIAM H. WEST..... | 1866-1870 |
| FRANCIS B. POND..... | 1870-1874 |
| JOHN LITTLE..... | 1874-1878 |
| ISAIAH PILLARS..... | 1878-1880 |
| GEORGE K. NASH..... | 1880-1883 |
| D. A. HOLLINGSWORTH..... | 1883-1884 |
| JAMES LAWRENCE..... | 1884-1886 |
| JACOB KOHLER..... | 1886-1888 |
| DAVID K. WATSON..... | 1888-1892 |
| JOHN K. RICHARDS..... | 1892-1896 |
| F. S. MONNETT..... | 1896-1900 |
| J. M. SHEETS..... | 1900-1904 |
| WADE H. ELLIS..... | 1904- |

COLUMBUS, OHIO, November 15th, 1903.

HON. GEORGE K. NASH, *Governor of Ohio*:

SIR:—Pursuant to the provisions of Article III, Section 20 of the Constitution of Ohio, I have the honor to submit herewith the Annual Report of the Attorney General, for the fiscal year ending November 15th, 1903.

This report includes:

First: A detailed statement of the moneys collected and paid into the State Treasury, amounting to \$142,056.82.

Second: A statement in detail of the cases in the Supreme Court of the United States, Circuit Courts of the United States, Supreme Court of Ohio, Circuit and Common Pleas Courts of various Circuits and Districts within the State, disposed of and pending, with the questions decided or involved.

As this will be my last report I deem it proper to refer briefly to the important questions involved in certain litigated cases which have been in my charge during my two terms. In this connection it will be sufficient to refer only to the two cases of *The Streets Western Stable Car Line Co. v. Guilbert*, 64 O. S. 614, and the case of *The Southern Gum Co. v. Laylin*, 66 O. S. 578.

The first of these cases I found pending in the Court of Common Pleas of Franklin County upon my advent to office. It involved the right of the State to levy an excise tax on the corporate stock of foreign equipment companies doing business in the State of Ohio. This case was decided in favor of the State, June 18, 1901.

The other case (*Southern Gum Co., v. Laylin*) was decided June 24th, 1902, and involved the right of the State of Ohio to levy and collect an annual excise tax of one-tenth of one per cent. upon the capital stock of corporations for profit, both foreign and domestic, doing business within the State.

In the case of *Bank v. Hines*, 3 O. S. 1, Bartley J., misconstruing Article XII, Section 2, of the Constitution as a grant of legislative power, instead of a limitation upon the legislative power, held in effect that franchise or excise taxes could not be constitutionally levied within the State of Ohio. Accepting this holding as the law, no effort was made for many years to levy and collect franchise or excise taxes. The financial needs of the State, however, finally became so pressing that in 1891 a constitutional amendment was proposed, amending Article XII, Section 2 of the Constitution so as to read as follows:

"SECTION 2. Laws may be passed which shall tax by uniform rule all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and all real and personal property according to the true value thereof in money. In addition thereto, laws may be passed taxing rights, privileges, franchises, and such other subject matters as the legislature may direct; but burying-grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and other property, may, by general laws, be exempted from taxation; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law."

It having been assumed all along that the power to levy excise and franchise taxes did not exist, it was thought necessary to adopt this amendment in order to authorize the legislature to levy excise and franchise taxes. This amendment having failed of adoption a Tax Commission was thereupon appointed to hunt up and report to the next Legislature new subjects of taxation. The report of this Commission was in favor of legislative power to impose excise and franchise taxes without an amendment to the constitution. Following this report, laws were enacted from time to time imposing additional taxes, including property tax, excise and franchise taxes. The right to impose excise and franchise taxes, however, was vigorously contested in the courts. These contests resulted in the two decisions above referred to. The principles announced in these decisions established beyond controversy the power of the legislature to levy excise and franchise taxes under the present constitution. Indeed the decision in the case of *Streets Western Stable Car Line Co. v. Guilbert*, practically put an end to this mooted question, and in commenting upon the effect of this decision in my report for the year 1901 I had occasion to say:

"The power of the legislature to levy excise taxes has been further entrenched by the decision of the Supreme Court in the case of *Streets Western Stable Car Line Company against W. D. Guilbert, Auditor*. This case I found pending in the court of common pleas of Franklin County on my advent to office. It has been successfully defended without assistance in the common pleas, circuit and supreme courts, and the principle involved establishes the right to levy an excise tax on the corporate stock of companies doing business in Ohio. This I regard as an important step in clearing the way for the much desired end of obtaining all the necessary revenues for the State by means other than by levy on real and personal property of the State."

This statement was vindicated by the decision of the Supreme Court in the case of the Southern Gum Co. v. Laylin above referred to.

As a result of these decisions, the State is now raising its general revenue by means of excise and franchise taxes, and from sources other than levy upon real and personal property. Indeed the sources to which we may look for this class of revenue are by no means exhausted, and the State can feel reasonably sure that it need never go back to the old method of levying taxes for general revenue purposes upon real and personal property of the State. This I look upon as a long step in advance, and, in my judgment, will assist very largely in solving the perplexing problem of taxation.

With these new laws, however, have come new duties and new responsibilities to the Attorney General's office. Also in recent years at each session of the legislature, new duties have been imposed upon the Attorney General, so that now, besides being required to perform the duties incident to his office, he is required to act as a member of the following boards:

First: The Board of Appraisers and Assessors to appraise express, telegraph and telephone companies for property taxes. ✓

Second: The Board of Appraisers and Assessors to appraise freight line and equipment companies for excise taxes. ✓

Third: Board of Appraisers and Assessors to appraise sleeping car, parlor, palace car and dining car companies for excise taxes. ✓

Fourth: Board of Appraisers and Assessors for appraising all public service corporations for excise taxes. ✓

Fifth: Board of Equalization for railroads. ✓

Sixth: Board of Equalization for incorporated banks. ✓

Seventh: Board of Tax Remission.

Eighth: Board of Appeals under Section 148c of the Revised Statutes of Ohio. ✓

Ninth: Board of Appeals under the provisions of the Willis law of Ohio. ✓

Tenth: Member of Fee Commission which is required to make a report to each legislature.

Eleventh: Member of commission for examining voting machines to determine whether they comply with the laws of Ohio.

The performance of his duties as a member of the above named boards takes much of his time, especially during the months of July, August and September.

The enactment of these new excise laws has also increased largely the duties of the Attorney General. Many questions have arisen requiring his opinion; and a large amount of delinquent taxes due under the provisions of these acts are required to be collected by him annually—amounting indeed, to many thousands of dollars. Suits are frequently required to be brought in order to collect these claims. The growth of

the State in wealth and population, as a matter of course, has added its share to the increased duties of the Attorney General.

While the duties of the office have been growing apace, yet the legislature has not provided facilities and help to correspond with the increased burdens imposed. And as I am about to retire from the office, I may be permitted to suggest, without being charged with selfishness, that the Attorney General should not only have more salary than he now receives, but should be allowed means whereby he may procure additional help. As his salary is now paid, it appears more like an effort on the part of the law-making power to deceive the public as to the amount which he really receives. He receives \$1,500 a year as salary, \$1,500 as fees on collections, and \$1,500 as member of the Board of Appraisers and Assessors. He ought to receive a straight salary, pure and simple, and of at least \$6,000 per annum.

The Attorney General is one of the executive officers of the State, and is by law and the constitution, the legal adviser of the state officers, and the boards of trustees of the different institutions of the State. He has charge of one of the co-ordinate executive departments of the State, and according to my view should have charge of this department in its entirety. It appears to me like a vote of lack of confidence for the legislature of the State to take from one of the departments of the State some of the duties which belong to that department and assign them to another.

The legal affairs of the State should be under the control of one responsible head for the sake of uniformity of policy if nothing else. For where the duties of one department are divided among several separate and independent heads there is always more or less danger of a conflict in the policy to be pursued.

Owing, however, to the large amount of legal services required in the Dairy and Food Department and also in the Excise Department of the Secretary of State, I am of the opinion that a solicitor should be appointed for each of these departments to give his whole time thereto—the appointees, however, not to be independent of the Attorney General's department. While the law does not require it, yet the present Dairy and Food Commissioner has pursued this policy since his advent to that office, and it has worked very satisfactorily indeed. No important steps have been taken by him without first consulting the Attorney General and receiving his sanction and approval. I am fully satisfied that if a solicitor were appointed for the Excise Department of the Secretary of State, as herein suggested, it would work equally satisfactory.

Respectfully submitted,

J. M. SHEETS,

Attorney General.

MONEY COLLECTED AND DRAFTED INTO THE STATE TREASURY BY
THE ATTORNEY GENERAL FROM JANUARY 1, 1903 TO NOVEMBER 15, 1903.

| Date. | From whom received. | Amount collected | Amount drafted into Treasury. |
|-------|---|------------------|-------------------------------|
| 1903. | | | |
| Jan. | 1. The P. Hayden Saddlery Hardware Co..... | \$ 2,105.05 | \$ 2,105.05 |
| | 5. J. E. Lowes | 3,600.00 | 3,600.00 |
| | 5. The Pioneer Stove Co..... | 1,031.10 | 1,031.10 |
| | 14. Brown, Hinman & Huntington Co. | 2,507.60 | 2,507.60 |
| | 15. E. B. Lanman Co. | 765.90 | 765.90 |
| | 15. Columbus Bolt Works | 3,921.20 | 3,921.20 |
| | 15. The Columbus Chair Co. | 1,235.40 | 1,235.40 |
| | 31. P. Hayden Saddlery Hardware Co. | 1,881.30 | 1,881.30 |
| Feb. | 3. The Pioneer Stove Co. | 1,103.75 | 1,103.75 |
| | 3. George B. Sprague Cigar Co..... | 1,132.50 | 1,132.50 |
| | 14. Brown, Hinman & Huntington Co. | 2,244.85 | 2,244.85 |
| | 14. The E. B. Lanman Co. | 677.80 | 677.80 |
| | 18. The Columbus Bolt Works | 3,507.79 | 3,507.79 |
| | 24. The National Broom Co. | 2,332.36 | 2,332.36 |
| Mch. | 2. P. Hayden Saddlery Hardware Co..... | 2,111.00 | 2,111.00 |
| | 3. The George Sprague Cigar Co. | 1,283.70 | 1,283.70 |
| | 4. The Pioneer Stove Co. | 984.30 | 984.30 |
| | 14. The Brown, Hinman & Huntington Co.... | 2,436.20 | 2,436.20 |
| | 16. The E. B. Lanman Co..... | 698.70 | 698.70 |
| | 19. The Columbus Chair Co. | 1,159.20 | 1,159.20 |
| | 19. The Columbus Chair Co., interest on above | 5.80 | 5.80 |
| | 31. The P. Hayden Saddlery Hardware Co..... | 2,209.80 | 2,209.80 |
| Apr. | 2. Columbus Bolt Works | 3,813.52 | 3,813.52 |
| | 4. Pioneer Stove Co. | 1,121.30 | 1,121.30 |
| | 4. Pioneer Stove Co., interest on above..... | 3.50 | 3.50 |
| | 8. George B. Sprague Cigar Co..... | 2,575.05 | 2,575.05 |
| | 9. Brown, Hinman & Huntington Co. | 2,580.80 | 2,580.80 |
| | 15. E. B. Lanman Co. | 798.70 | 798.70 |
| | 16. Columbus Bolt Works | 4,100.70 | 4,100.70 |
| | 16. The National Broom Co. (on account.).... | 750.00 | 750.00 |
| | 20. Columbus Chair Co. | 1,332.60 | 1,332.60 |
| | 20. Columbus Chair Co., interest on above.... | 6.66 | 6.66 |
| | 30. P. Hayden Saddlery Hardware Co..... | 2,041.50 | 2,041.50 |
| May | 9. The Pioneer Stove Co. | 1,178.40 | 1,178.40 |
| | 9. The Pioneer Stove Co., interest on above.. | 4.70 | 4.70 |
| | 12. George B. Sprague..... | 1,476.30 | 1,476.30 |
| | 14. The Brown, Hinman & Huntington Co. | 2,315.70 | 2,315.70 |
| | 16. E. B. Lanman Co. | 714.70 | 714.70 |
| | 18. The Columbus Bolt Works..... | 3,655.51 | 3,655.51 |
| | 21. The Columbus Chair Co. | 1,331.95 | 1,331.95 |
| | 21. The Columbus Chair Co., interest on above.. | 7.54 | 7.54 |
| | 28. The P. Hayden Saddlery Hardware Co..... | 2,216.10 | 2,216.10 |
| June | 16. The Brown, Hinman & Huntington Co. | 2,527.88 | 2,527.88 |
| | 16. The E. B. Lanman Co. | 1,023.35 | 1,023.35 |

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|-------|-----|--|---------------|---------------|
| | 18. | Columbus Bolt Works | 4,084.40 | 4,084.40 |
| | 23. | Pioneer Stove Co. | 1,020.20 | 1,020.20 |
| | 23. | Pioneer Stove Co., interest on above..... | 6.12 | 6.12 |
| | 30. | The P. Hayden Saddlery Hardware Co..... | 2,302.88 | 2,302.88 |
| | 30. | The Pioneer Stove Co. | 1,078.50 | 1,078.50 |
| | 30. | The Pioneer Stove Co., interest on above... | 2.65 | 2.65 |
| | 30. | George B. Sprague Cigar Co..... | 1,585.65 | 1,585.65 |
| July | 14. | The Brown, Hinman & Huntington Co. | 2,536.60 | 2,536.60 |
| | 15. | The National Broom Co. | 169.11 | 169.11 |
| | 15. | The E. B. Lanman Co. | 1,155.05 | 1,155.05 |
| | 16. | The Columbus Bolt Works | 4,412.22 | 4,412.22 |
| | 27. | The Columbus Chair Co. | 1,095.30 | 1,095.30 |
| | 27. | George B. Sprague Cigar Co..... | 1,593.45 | 1,593.45 |
| | 31. | The P. Hayden Saddlery Hardware Co.... | 2,264.55 | 2,264.55 |
| Aug. | 6. | The Pioneer Stove Co. | 1,119.40 | 1,119.40 |
| | 6. | The Pioneer Stove Co., interest on above.. | 3.90 | 3.90 |
| | 11. | The Columbus Chair Co. | 713.48 | 713.48 |
| | 15. | The E. B. Lanman Co. | 1,219.48 | 1,219.48 |
| | 15. | The National Broom Co. | 979.44 | 979.44 |
| | 17. | The Brown, Hinman & Huntington Co..... | 2,445.15 | 2,445.15 |
| | 19. | The Columbus Bolt Works..... | 4,333.29 | 4,333.29 |
| | 21. | The Pioneer Stove Co..... | 1,128.20 | 1,128.20 |
| | 21. | The Pioneer stove Co., interest on above.. | 1.08 | 1.08 |
| | 25. | George B. Sprague Cigar Co..... | 1,531.65 | 1,531.65 |
| Sept. | 1. | The P. Hayden Saddlery Hardware Co..... | 2,288.40 | 2,288.40 |
| | 15. | The Brown, Hinman & Huntington Co..... | 2,422.30 | 2,422.30 |
| | 16. | The National Broom Co. | 1,022.52 | 1,022.52 |
| | 16. | The Columbus Bolt Works | 4,304.10 | 4,304.10 |
| | 18. | The E. B. Lanman Co. | 1,186.23 | 1,186.23 |
| | 21. | The Pioneer Stove Co. | 1,139.40 | 1,139.40 |
| | 30. | The P. Hayden Saddlery Hardware Co.... | 2,258.25 | 2,258.25 |
| Oct. | 2. | George B. Sprague Cigar Co..... | 1,525.65 | 1,625.65 |
| | 17. | The Ohio Glove Co. | 200.00 | 200.00 |
| | 15. | The Columbus Bolt Works | 3,954.62 | 3,954.62 |
| | 19. | The E. B. Lanman Co. | 1,172.97 | 1,172.97 |
| | 20. | The Brown, Hinman & Huntington Co. | 2,327.95 | 2,327.95 |
| | 20. | The Brown, Hinman & Huntington Co., interest on above | 1.92 | 1.92 |
| | 29. | The Pioneer Stove Co. | 1,151.00 | 1,151.00 |
| | 29. | The Pioneer Stove Co., interest on above.. | 2.30 | 2.30 |
| Nov. | 1. | The P. Hayden Saddlery Hardware Co..... | 2,209.50 | 2,209.50 |
| | 5. | The George B. Sprague Cigar Co..... | 1,487.25 | 1,487.25 |
| | 14. | The Brown, Hinman & Huntington Co..... | 2,168.35 | 2,168.35 |
| | | Total | \$ 142,056.82 | \$ 142,056.82 |

SUMMARY.

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|-------------------------------------|---------------------|
| Brown, Hinman & Huntington Co..... | \$ 26,515.30 |
| Columbus Bolt Works | 40,087.35 |
| Columbus Chair Co. | 6,887.93 |
| P. Hayden Saddlery Hardware Co..... | 23,888.33 |
| E. B. Lanman Co. | 9,412.88 |
| The National Broom Co. | 5,253.43 |
| The Pioneer Stove Co. | 12,079.80 |
| George B. Sprague Cigar Co. | 14,131.80 |
| J. E. Lowes | 3,600.00 |
| The Ohio Glove Co. | 200.00 |
| Total | \$142,056.82 |

DISPOSED OF LITIGATION.

No. 41,199.

James Kennedy v. E. G. Coffin, et al.

Petition filed in the Common Pleas Court of Franklin County, March 24, 1900. Action against E. G. Coffin, Warden of the Penitentiary for \$10,000 damages for false imprisonment. Answer general denial. Dismissed at cost of plaintiff.

John Shell v. Westbrook Still,

Complaint filed before E. M. Braddock, J. P., Pike township, Perry county, Ohio, July 27, 1900; action in forcible entry and detainer, defendant claiming certain lands by virtue of a lease from the State of Ohio, said lands being highlands situated in Licking Reservoir. The case was tried before E. M. Braddock, Justice of the Peace; judgment in favor of plaintiff. Petition in error filed in Common Pleas Court of Perry county, August 13, 1900.

January 27, 1902, judgment of Circuit Court for defendant. Petition in error filed in Supreme Court. Judgment in Supreme Court for plaintiff.

No. 8093.

Merchants' & Manufacturers' National Bank v. The Board of Trustees of Ohio State University.

Petition filed in the Common Pleas Court of Franklin county, August, 1898. Action for the conversion of certain building material claimed by the plaintiff, by virtue of a chattel mortgage executed by the Columbus Construction Company seeking to hold the defendants for converting such material to their own use in buildings constructed as part of the Ohio State University. January term, 1901, trial; March 30, 1901, finding for the plaintiff for the amount claimed; motion for new trial overruled; exceptions by defendant; bill of exceptions taken; petition in error filed in Circuit Court of Franklin county, being cause No. 1893; September term, 1901, heard and argued in the Circuit Court.

June 4, 1902, judgment of Court of Common Pleas affirmed by the Circuit Court; July 23, 1902, petition in error filed in the Supreme

Court. Pending on motion of defendant in error to dismiss action for want of jurisdiction.

Dismissed for want of jurisdiction, it being one of the cases involved in the consideration of the Royer Law.

No. 3745.

State of Ohio v. John Shell.

This action was originally commenced in the Court of Common Pleas of Perry county, October 21, 1899, to recover certain canal lands alleged to be in the possession of the defendant. Answer filed November 16, 1899. May term, 1900, trial had, which resulted in a verdict in favor of the defendant; motion for new trial filed and overruled; taken on error to the Circuit Court of Perry County.

October 31, 1901, judgment of Circuit Court affirming Court of Common Pleas. Exceptions. January, 1902, petition in error filed in the Supreme Court; February 26, 1902, printed record filed; also brief of plaintiff in error and brief of defendant in error.

January 11, 1902, petition in error filed in Supreme Court. October 13, 1903, judgment of Circuit Court affirmed. October 21, 1903, mandate sent Court of Common Pleas.

The State ex rel. Attorney General v. Mutual Home & Savings Company of South Charleston, Ohio.

Petition in quo warranto filed in Circuit Court of Franklin county December 15, 1902, seeking to oust the defendant, appoint trustees and wind up its affairs. December 16th, answer of Association filed. December 17, 1902, decree entered by consent appointing Stacy B. Rankin and John S. Brown, trustees, bonds \$20,000 each. January 5, 1903, John S. Brown refused to qualify as trustee and Alonzo F. Taft of South Charleston was appointed in his place. October 20, 1903, report of trustees filed. Application to pay dividend of 60 per cent. to stockholders. Allowance to A. F. Taft, as trustee, of \$500.00, and \$300.00 to Judge Heiserman as attorney for trustees. S. B. Rankin served without compensation. Order of distribution.

A. I. Vorys, Superintendent of Insurance v. Ohio Life Insurance Co.

Petition filed in Common Pleas Court of Franklin county, August 2, 1902. Action to marshal liens upon funds deposited with Superintendent of Insurance. March 14, 1903, Charles Kinney appointed Master Commissioner. Report of Master filed. Report confirmed and distribution ordered.

No. 1785.**State of Ohio ex rel. Attorney General v. Pittsburg, Cincinnati, Chicago & St. Louis Railway Company.**

Petition in quo warranto filed in the Circuit Court of Franklin county January 29, 1901. The defendant is conducting, in connection with its business of a railroad corporation, what is known as a "voluntary relief department." The petition in quo warranto claims that the business of this Department is essentially insurance and that the defendant railroad corporation has no authority to engage in such business. Defendant, by answer, admits that it is conducting such Department, but denies that it is exceeding the rights and franchises granted to it as a corporation.

Judgment for defendant in Circuit Court of Franklin county; petition in error filed in the Supreme Court.

Judgment of Circuit Court affirmed March 3, 1903.

State of Ohio ex rel. Attorney General v. Mansfield Club et al.

Petition in quo warranto filed in the Circuit Court of Franklin county, November 19, 1902. Action to oust the defendant from being a corporation, it being charged with conducting prize fights. Settled and dismissed.

No. 7851.**State of Ohio ex rel. Guilbert, Auditor, et al. v. John H. McPherson, Auditor of Greene County.**

Action to compel county auditor to place upon tax duplicate Bell Telephone instruments as per appraisal by Board of Appraisers and Assessors. Dismissed without prejudice and without record.

State of Ohio ex rel. Attorney General v. J. D. McLain et al.

Petition in quo warranto filed in the Circuit Court of Cuyahoga county July, 1902, against the Council of the City of Cleveland to test the constitutionality of the Cleveland charter. Settled and dismissed.

No. 44,437.**In the Matter of the Application of Charles F. Kline for a Writ of Habeas Corpus.**

Application for a writ of habeas corpus filed in the Court of Common Pleas of Franklin county, May 27, 1902. Proceeding to test the legality of a judgment rendered against petitioner as an "Habitual Criminal," the "Habitual Criminal Act" having been repealed May 6, 1902. Writ refused. Petition dismissed.

The State of Ohio v. Ohio Glove Co.

Petition filed in the Court of Common Pleas of Franklin county, July 1, 1902, to collect \$ from the defendant due on prison contract. Settled and costs paid October 17, 1903.

State of Ohio ex rel. Attorney General v. Cincinnati & Eastern Electric Railway Co.

Petition filed in Supreme Court July 25, 1902. Action to oust the defendant from the exercise of certain franchises. September 29th, petition dismissed on the ground that quo warranto was not the proper remedy.

Charles C. Clayton v. Wm. N. Darby, Warden Ohio Penitentiary.

Petition filed in the Court of Common Pleas of Franklin county, Ohio, October 28, 1902. Proceeding in habeas corpus to test the constitutionality of the act transferring prisoners from Reformatory to the Ohio Penitentiary. January 21, 1903, writ refused. Prisoner remanded.

State of Ohio ex rel. Board of Education of Dennison, Ohio, v. Conrad C. Fernsell, Auditor.

Petition filed in the Court of Common Pleas of Tuscarawas county, November 27, 1901.

Action involving amount of State common school fund due boards of education of Dennison School District. Settled and dismissed.

State of Ohio ex rel. Attorney General v. Samuel M. Jones et al.

Petition in quo warranto filed in the Supreme Court May 9, 1902. Suit to test the constitutionality of act of April 17, 1902, under which the Toledo Board of Police Commissioners were appointed. Demurrer sustained. Petition dismissed.

State of Ohio ex rel. Attorney General v. Amazon Insurance Co.

Petition in quo warranto filed in Circuit Court of Franklin county May 16, 1902. Action to oust defendant from engaging in business of fire insurance in the State of Ohio. James Hatfield appointed Master Commissioner. Report of Master filed and confirmed. Judgment of ouster rendered against defendant.

No. 8069.

State of Ohio ex rel. Attorney General v. Cincinnati, Georgetown & Portsmouth R. R. Co.

Petition in quo warranto filed in the Supreme Court July 1, 1902.

Action to oust defendant from the exercise of certain franchises. Petition dismissed.

No. 8211.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The Middle States Coal Co.

January 14, 1903, petition in quo warranto filed. April 22, 1903, case settled and dismissed at the cost of the defendant.

No. 8214.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The Congo Coal and Mining Company.

January 14, 1903, petition in quo warranto filed. April 22, 1903, case dismissed and settled at cost of defendant.

No. 8213.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The General Hocking Fuel Company.

January 14, 1903, petition in quo warranto filed. April 22, 1903, case settled and dismissed at cost of defendant.

No. 8215.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The Sunday Creek Coal Company.

January 14, 1903, petition in quo warranto filed. April 22, 1903, case settled and dismissed at cost of defendant.

No. 8210.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The New Pittsburgh Coal Company.

January 14, 1903, petition in quo warranto filed. April 22, 1903, case settled and dismissed at cost of defendant.

No. 8212.

The State of Ohio ex rel. J. M. Sheets, Attorney General v. The Columbus Hocking Coal and Iron Company.

January 14th, petition in quo warranto filed. April 22, 1903, case settled and dismissed at cost of defendant.

The State of Ohio v. Alma Portland Cement Co.

March 17, 1903, petition in Common Pleas Court of Franklin county filed. Action for money. April 20, 1903, case dismissed and costs paid.

No. 8252.

Ohio ex rel. The Great Camp Knights of the Modern Maccabees v. A. I. Vorys, Superintendent of Insurance.

February 9, 1903, petition in mandamus filed in the Supreme Court of Ohio. October 13th, writ of mandamus awarded.

The State of Ohio v. The L. Martin Company.

March 18, 1903, petition filed in the Common Pleas Court of Franklin county. Action for money. Case settled and dismissed.

Samuel Borger v. The State of Ohio.

Affidavit filed in Police Court. Defendant convicted and fined. Petition in error filed in the Common Pleas Court. Judgment of Police Court affirmed. Petition in error filed in Circuit Court. Judgment of Common Pleas Court reversed and defendant discharged in Circuit Court.

No. 8315.

Isaac B. Cameron, Treasurer of State v. Louis Kuebler, Treasurer of Richland County.

March 6, 1903, petition filed in Supreme Court in mandamus. April 22, 1903, case dismissed at cost of defendant.

No. 8093.

Board of Trustees of Ohio State University v. The Merchants' and Manufacturers' National Bank.

Case dismissed for want of jurisdiction.

The State of Ohio on the Relation of the Evening News Publishing Company v. Mark Slater, Supervisor of Public Printing.

April 24, 1903, petition filed in mandamus. May 5, 1903, case dismissed and settled at cost of defendant.

No. 8430.

The State of Ohio ex rel. W. D. Guilbert, Auditor of State v. Thomas J. Kaufman, Auditor of Montgomery County, Ohio.

May 6, 1903, petition in mandamus filed. June 25, 1903, peremptory writ of mandamus awarded.

The State of Ohio ex rel. Samuel E. Kemp v. Edwin T. Clark, et al.

May 13, 1903, petition filed in mandamus. May 22, 1903, judgment in favor of plaintiff holding Longworth Law to be constitutional.

In the Matter of the Application of Elmer Smith for a Writ of Habeas Corpus.

June 16, 1903, petition filed in Common Pleas Court. June 30, 1903, judgment dismissing application and remanding applicant to the custody of Dr. Doran, Superintendent.

The State of Ohio ex rel. Attorney General v. The National Glass Co.

August 5, 1903, petition in quo warranto filed. Case settled and dismissed.

The State of Ohio ex rel. Attorney General v. Lewis C. Laylin, Secretary of State.

September 16, 1903, petition in quo warranto filed. October 6, 1903, demurrer sustained; petition dismissed. Act passed May 21, 1902 (95 O. L. 352) constitutional.

The State of Ohio ex rel. Attorney General v. S. S. Drake, et al.

January 19, 1903, petition filed in Circuit Court of Union county. February 5, 1903, judgment of ouster by Circuit Court. May 1, 1903, petition in error filed in Supreme Court. November 24, 1903, judgment of ouster of Circuit Court affirmed.

The State of Ohio ex rel. Attorney General v. J. Harvey Craig.

August 11, 1903, petition in quo warranto filed in Supreme Court. November 17, 1903, judgment of ouster and order of induction.

PENDING LITIGATION.

No. 2541.**State ex rel. Attorney General v. Union Mutual Fire Insurance Company of Cincinnati.**

Petition in quo warranto filed in Supreme Court, December 11, 1890, praying for judgment of ouster against the defendant company for exercising franchises not conferred upon it by law. Decree of ouster granted. March 21, 1891, first report filed showing the condition of the company; April 13, 1891, supplemental report filed; June 16, 1891, order to make assessment to pay creditors; March 26, 1896, a second report filed; April 29, 1901, third report filed. Malcolm G. Davies appointed referee; June 11, 1901, referee's report filed, approved and assessment ordered. June 26, 1901, trustee's third partial report referred to Malcolm G. Davies for examination and report. June 16, 1903, report of Referee Malcolm G. Davies filed. Also motion of Attorney General to confirm referee's report, and to confirm third partial report of Trustee James B. Swing, as modified by the referee's finding; also motion for compensation filed by Malcolm G. Davies, as receiver, for services performed under the reference of June 26, 1901; also motion of James B. Swing, trustee, for authority to declare dividend of 12½ per cent.

June term, 1903, each and all of above motions granted. Referee allowed \$2,000.00. Pending.

No. 2573.

The State of Ohio ex rel. Attorney General v. The Buckeye Mutual Fire Insurance Company of Shelby, Ohio.

Petition in quo warranto filed in the Supreme Court on January 2, 1891, praying that the defendant corporation be ousted from being a corporation, and that its charter be revoked, on the grounds that it had misused its franchises and privileges, exercised franchises and privileges not conferred upon it; and committed and omitted acts amounting to a surrender of its corporate rights.

February 4, 1891, judgment of ouster entered and William M. Hahn and Edwin Mansfield were appointed trustees to wind up the affairs of the corporation. Partial report filed May 12, 1891.

April 19, 1901, motion to require the trustees to report by May 4, 1901, was filed. May 4, 1901, final report of trustees was filed.

May 23, 1901, Cummings & McBride filed exceptions to the report. On motion the exceptions were referred to Charles Kinney. Exceptions heard September 3d.

September 24th, supplemental report of trustees filed and referred to Charles Kinney.

February 1, 1902, report of Master filed; exceptions filed to report by creditors of defendant company, and also by trustees; February 24th, supplemental report of Master filed; June 3, 1902, Court overruled all exceptions, confirmed Master's report as modified by the supplemental report and found in the trustees' hands belonging to the trust, \$12,944.56, for which they are ordered to account; further ordered to file list of creditors together with amounts due within thirty days. June 25, 1902, Court ordered the following payments made: To Charles Kinney, Master Commissioner, \$2,000; Floyd Hinkle, expert accountant, \$160; F. H. Wolf, stenographer, \$108.16; Cummings & McBride, a counsel fee of \$500 and \$50 for expense of printing brief, all to be paid out of the trust funds. October 23, 1902, motion of creditors filed to order trustees to pay dividend on fire losses, and certain preferred creditors. Argued and submitted December 4, 1902.

February 17, 1903, motion for distribution allowed and final entry filed. Pending awaiting report of distribution.

No. 7682.

The State of Ohio ex rel. Attorney General v. The Guarantee Savings and Loan Company of Cleveland, Ohio.

September —, 1901, petition in quo warranto filed in the Supreme Court to oust the defendant company from exercising the powers of a building and loan association. October 8, 1901, amended answer filed admitting the allegations of the petition. Frederick L. Taft and J. B. Livingston of Cleveland, appointed trustees.

October, 1901, inventory filed; October 8, 1902, second report filed; December 2, 1902, \$6,000 allowed each trustee as partial compensation. Report confirmed.

November, 1903, third report filed. Pending on motion to confirm same.

No. 7822.

State of Ohio ex rel. Attorney General v. Imperial Savings Company of Toledo.

Petition filed in the Supreme Court January 6, 1902, to wind up corporation and appoint trustees. E. B. Smith, Fremont, Ohio, and

Albert V. Baumann, Toledo, appointed trustees. June 16, 1902, inventory filed by trustees; October 14th, trustees ordered to appraise and sell real and personal property of defendant.

October 14th, order granted. Sale to be either private or public for not less than appraisement, and return of proceedings thereunder within sixty days. January 7, 1903, appraisement made and two sales reported. April 28, 1903, sales confirmed. Pending.

No. 5853.

The State of Ohio ex rel. Attorney General v. The Cincinnati, Hamilton and Dayton Railway Company.

December 31, 1897, petition in quo warranto was filed in the Supreme Court to oust the defendant from occupying and using canal lands and canal basins in Dayton and Hamilton for the purpose of maintaining thereon switches, side-tracks and other improvements. June 29, 1900, George O. Warrington was appointed special master commissioner to take testimony in case and report the same by September 5, 1900. George O. Warrington, special master commissioner, died, and R. R. Nevin appointed special master commissioner in his place. Pending.

The State of Ohio v. W. P. Bowers.

September 13, 1898, petition filed in the Court of Common Pleas of Ross county. Action to recover possession of real estate claimed by the state of Ohio as belonging to the canal system of the State. Pending. *1-186; a8-D-17.

No. 20,224.

The State of Ohio v. Cyrus H. Baldwin.

Petition filed in the Court of Common Pleas of Montgomery county, March 28, 1899. Action to recover possession of real estate claimed by the State of Ohio as belonging to the canal system of the State. Pending. *1-207; a9-D-6.

No. 116,011.

The State of Ohio v. Jacob Mandery.

Petition filed in the Court of Common Pleas, Hamilton county, March 28, 1899. Action in ejectment against the defendant to recover possession of certain canal lands located in Cincinnati, Ohio. Pending. *1-225; a8-C-14.

The State of Ohio v. The Bellevue Brewing Company.

June 30, 1899, petition was filed in the Court of Common Pleas of Hamilton county to recover possession of certain canal lands claimed by the State. Pending. *I-232; a8-D-10.

No. 40,216.

D. H. Everett v. E. G. Coffin.

July 10, 1899, transcript filed in the Court of Common Pleas of Franklin county. October 6, 1899, petition filed. Action against E. G. Coffin as warden of the Ohio Penitentiary, to recover a money judgment claimed by plaintiff. Pending. *I-210; a10-A-2.

No. 1620.

The State of Ohio ex rel. Attorney General v. The Baltimore & Ohio Railroad Company.

Petition in ejectment filed in the Circuit Court of Franklin county, August 8, 1899, averring that the plaintiff is the owner of certain lands located in Licking and Perry counties, being parts of the State lands in the Licking Reservoir of the Ohio Canal, and that the defendant is a corporation and is unlawfully in the possession of said lands, and prays that it be ousted from its said possession and compelled to remove its tracks, switches, etc., from the premises, and for other relief. Pending. *I-211; a8-D-8.

No. 38,917.

The Fultonham Brick and Tile Co. v. Columbus Construction Company, Trustees of Ohio State University, et al.

Petition filed in the Franklin County Court of Common Pleas September, 1899. Action to collect amount of \$1,950.89 with interest from March 6, 1898, being the amount claimed for certain brick used by the Trustees of the Ohio State University in the construction of certain buildings; September 3, 1900, heard on motion to the petition; motion overruled; February 2, 1901, demurrer to petition filed by Board of Trustees; September 30, 1901, demurrer overruled; October 25, 1901, answer of the Board of Trustees filed.

November 25, 1901, motion by O. S. U. Trustees to make M. & M. Bank party defendant; motion sustained; December 18, 1901, motion by M. & M. Bank to set aside order making it party defendant; March 24, 1902, above order vacated. Exceptions. Pending. *I-188; a9-C-6.

No. 3746.

State of Ohio v. Jonathan Bope.

October 21, 1899, petition filed in the Court of Common Pleas of Perry county. Action for the recovery of real estate claimed by

the State of Ohio as a part of its canal system. Pending. *I-218; a10-A-12.

The State of Ohio ex rel. Attorney General v. The National Salt Company.

November 10, 1899, petition in quo warranto filed in the Circuit Court of Meigs county to oust the defendant corporation for exercising franchises not conferred by law. Pending. *I-221; a8-C-5.

The State of Ohio v. Christ G. Kellner.

December 5, 1899; petition filed in the Court of Common Pleas of Montgomery county, Ohio. Action to recover possession of real estate claimed by the State of Ohio as belonging to the canal system of the State. Pending. *I-220; a8-D-16.

No. 961.

Maria F. Thomas v. George Folsom, The Ohio State University and the State of Ohio.

Bill of complaint filed in U. S. Circuit Court, Southern District of Ohio, Eastern Division, April 26, 1900. Action to construe will and for partition; lands lying in Pickaway county. Pending.

No. 985.

John Arbuckle, Wm. V. R. Smith, James N. Jarvie and Wm. A. Jamison v. Joseph E. Blackburn, Dairy and Food Commissioner of Ohio.

Bill of complaint filed in Circuit Court of United States, Southern District of Ohio, Eastern Division, February, 1901. Action brought by John Arbuckle et al. to enjoin Joseph E. Blackburn, Dairy and Food Commissioner of the State of Ohio, from prosecuting the vendors of Ariosa coffee. April —, 1901, argued before Hon. A. C. Thompson, Judge of the Circuit Court of the United States, Southern District of Ohio; injunction refused, bill of complaint dismissed; notice of appeal given by the respondents of their intention to appeal to the Circuit Court of Appeals of the United States.

Judgment of the Circuit Court affirmed by the Court of Appeals. Pending on error to the U. S. Supreme Court. *2-23; a9-A-7.

No. 6782.

The State of Ohio ex rel. Attorney General v. The Crescent Building & Loan Association of Toledo, Ohio.

August 16, 1899, petition in quo warranto filed in the Supreme Court to oust the defendant from being a corporation, because un-

lawfully exercising franchises not conferred upon building and loan associations. Heard on demurrer to the petition; demurrer overruled; May 1, 1900, answer of defendant filed. January term, 1901, order made dispensing with printing records and brief; motion of relator for judgment of ouster on the pleadings; February 5, 1901, motion sustained. Judgment of ouster against corporation. Court appointed Lloyd T. Williams and Fred A. Kumler trustees for the creditors of the defendant corporation.

October 29, 1902, trustees filed inventory. Pending. *1-212; a9-B-8; b1-D.

No. 42,606.

The State of Ohio v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co.

Petition filed in the Court of Common Pleas of Franklin county, March 13, 1901. Action for penalty under the Ohio Statute for permitting an employee to act as conductor on a passenger train without having the experience and qualifications prescribed by statute. Judgment in favor of the State for \$500.00 and costs. Petition in error filed in the Circuit Court, August 21, 1901. January 1903, argued in the Circuit Court. Judgment of Common Pleas Court reversed. Demurrer to answer of Railroad Company overruled; and demurrer sustained to petition and petition dismissed. February 26, 1903, petition in error filed in Supreme Court. Pending.

No. 21,953.

The State of Ohio v. The Southern Ohio Traction Company.

Petition filed in the Court of Common Pleas, Montgomery county, April 8, 1901, praying for a money judgment against the defendant for alleged violation of the law requiring safety devices to be placed at grade crossings of one railroad over another. The defendant answered June 12, 1901, and denied that the Act of April 27, 1896, has any application to a street railroad, and denies that the Commissioner of Railroads and Telegraphs has any authority to make an order in regard to the crossing of a steam railroad at grade by a street railroad.

June term, 1901, judgment of the Court of Common Pleas for defendant. Petition in error filed in the Circuit Court of Montgomery county. Pending in Supreme Court. *2-26; a9-C-5.

No. 42,736.

The State of Ohio v. The Columbus Construction Company, John J. Dun, Herbert K. Knopf, John Dun and Rebecca Knopf.

Petition filed in the Court of Common Pleas, Franklin county, April 8, 1901, to recover \$53,648.41 from the bondsmen of the Colum-

bus Construction Company by reason of their default and failure to construct three buildings for the Ohio State University as per contract. Answer of defendants filed November 6, 1901.

November 29, 1901, replies filed to defendants' answer. Pending. *2-26; a9-C-7.

The State of Ohio v. The Brewster Coal Company.

Petition filed in the Court of Common Pleas of Summit county, April 17, 1901, action for possession of real estate belonging to the State of Ohio, and rentals claimed, in the amount of \$5,400. Pending. *2-30; a8-C-3.

The State of Ohio v. F. M. Stoker et al.

Petition filed in the Court of Common Pleas, Auglaize county, April 24, 1901, to quiet title to certain canal lands. Pending. *2-31; a8-C-19.

No. 7708.

State of Ohio ex rel. Attorney General v. The Northern Ohio Building and Loan Company.

August 29, 1901, petition in quo warranto filed in the Supreme Court to oust the defendant company from its charter, as provided by Section 3868-18 Revised Statutes, August 31, Paul Howland and E. S. Griffis, Cleveland, Ohio, appointed temporary receivers. October 14, final report filed as receivers; and confirmed.

Howland and Griffis, as receivers, allowed \$1,000; same parties appointed trustees; November 25, 1901, trustees filed bonds and inventory; May 8, 1902, hearing on motion for distribution; motion allowed, ordering a distribution of 10 per cent. to the credit stockholders and 30 per cent. to the holders of "quarter" certificates. Compensation allowed trustees for services in connection therewith. Pending. *2-36.

No. 43,359.

The State of Ohio v. Chris McKee.

September 18, 1901, petition filed in the Court of Common Pleas of Franklin county, for penalty under the provisions of the Act of April 16, 1900 (94 O. L., 379). Pending. *62-41.

The State of Ohio ex rel. Attorney General v. The Ohio Merchandise Association.

October 11, 1901, petition in quo warranto filed in the Circuit Court of Lucas county to oust the defendant from doing business in Ohio. Joseph R. W. Cooper appointed receiver. Pending. *2-38; a11-A-5.

The State of Ohio ex rel. Attorney General v. The City Heat and Light Company.

October 21, 1901, petition filed in the Circuit Court of Seneca county. This is an action in which the name of the Attorney General was allowed to be used at the request of certain citizens of Fostoria, Ohio, to test the powers contended for by the defendant company. Pending. *2-39; a10-D-5.

No. 20,835.

The State of Ohio v. The Southern Ohio Traction Company, a corporation.

December 2, 1901, petition filed in the Court of Common Pleas of Butler county. This is an action for \$16,500 penalty for failure to comply with the order of the Commissioner of Railroads and Telegraphs under Sections 247f to h.

Pending result of same entitled cause in the Court of Common Pleas of Montgomery county, Ohio.

State of Ohio ex rel. v. Hanley et al.

Action in quo warranto originally commenced in the Circuit Court of Lucas county against the Board of Education of the City of Toledo, involving the constitutionality of the Act creating said Board in said City. Judgment in Circuit Court for defendants; pending on error in the Supreme Court. *2-51; a4-F.

No. 11,064.

Dora L. Palmer v. W. M. Hiltabiddle et al.

Petition filed in the Court of Common Pleas of Summit county, July 11, 1902. Action for damages. Pending. *2-57; a11-A-15.

State of Ohio v. Frank L. Yerges et al.

Petition filed in the Court of Common Pleas of Sandusky county, October 13, 1902. Action against the bond of Frank L. Yerges to collect \$219.27, amount of property and equipments received as captain of Co. K. 6th Reg't., and not accounted for. Pending. *2-62.

Hamilton v. Walker.

Action in ejectment against Walker, tenant of the State. Pending. *2-50.

No. 45,356.**State of Ohio v. John L. Wilgus.**

Petition filed in the Court of Common Pleas of Franklin county, December 24, 1902. Action for recovery of canal lands in Tuscarawas county. Pending. *2-66; a9-C-8.

No. 45,357.**State of Ohio v. Howard Adamson.**

Petition filed in the Court of Common Pleas of Franklin county, December 24, 1902. Action for recovery of canal lands in Tuscarawas county. Pending. *2-67; a9-C-10.

No. 45,358.**State of Ohio v. S. L. Douglass.**

Petition filed in the Court of Common Pleas of Franklin county, December 24, 1902. Action for recovery of canal lands in Tuscarawas county. Pending. *2-67; a9-C-9.

No. 8194.**State of Ohio ex rel. v. The Aetna Life Insurance Company.**

Petition in quo warranto filed in the Supreme Court December 27, 1902. Action seeking to oust the defendant company from doing Employers' Liability business in Ohio. Summons issued to sheriff of Franklin county. Pending. *2-68; a11-B-6.

State of Ohio ex rel. Attorney General v. Provident Savings Co.

Petition in quo warranto filed in the Circuit Court of Franklin county, February 3, 1902, to oust the defendant, appoint trustees and wind up the affairs of the corporation. February 6th, decree of ouster, and George W. Bright, Foster Copeland and Ralph E. Westfall appointed trustees. Pending. *2-49.

The State of Ohio ex rel. Attorney General v. Andrew Foresythe, et al.

May 4, 1903, petition in quo warranto filed. Pending.

The State of Ohio ex rel. Attorney General v. The Harrison Mutual Burial Association.

September 11, 1903, petition in quo warranto filed in Circuit Court of Franklin county. Pending.

The State of Ohio ex rel. Attorney General v. W. C. Pollner, et al.

September 1, 1903, petition in quo warranto filed. Pending.

John F. Fleming v. Gustavus A. Doran, et al.

September 5, 1903, petition filed. Action for damages. Pending.

Clifton C. Evans, a tax payer, etc., v. Charles Goddard, et al.

April 4, 1903, petition filed in Common Pleas Court of Franklin county. Pending.

State ex rel. Attorney General v. G. W. Smith, et al.

April 16, 1903, petition in quo warranto filed. June 22, 1903, Basil Meek, appointed Master Commissioner. Pending.

The State of Ohio v. The Springfield Underwriters Mutual Fire Insurance Co.

May 2, 1903, petition filed in Common Pleas Court of Franklin county. Action for money. Pending.

The State of Ohio v. M. V. Poling.

February 17, 1903, petition filed in Common Pleas Court of Licking county. Action to recover possession of certain canal lands. Pending.

No. 8293.

The State of Ohio ex rel. Attorney General v. A. C. Petrie, et al.

February 24, 1903, petition filed in Supreme Court in quo warranto. Pending.

H. C. Payson v. The State of Ohio.

March 22, 1903, petition filed in Court of Common Pleas of Erie county. Action for money. Pending.

The State of Ohio ex rel. Attorney General v. M. J. Walsh, et al.

January 20, 1903, petition in quo warranto filed to test validity of organization of Newburgh Hamlet. Pending.

The Sandusky Fish Co. v. The State of Ohio.

January 26, 1903, petition filed in Common Pleas Court of Erie county. Amount claimed \$600.00. Pending.

State of Ohio ex rel. Attorney General v. Business Men's Athletic Club, et al.

May 2, 1903, petition filed in quo warranto. Pending.

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