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Record No. 5516

PETITION FOR WRIT OF MANDAMUS

In the
Supreme Court of Appeals of Virginia
at Richmond

ROBERT Y. BUTTON,
ATTORNEY GENERAL OF VIRGINIA

v.

SIDNEY C. DAY, JR.,
COMPTROLLER OF VIRGINIA,
ET AL.

RULE 5:12—BRIEFS

§5. NUMBER OF COPIES. Twenty-five copies of each brief shall be filed with the clerk of this Court and three copies shall be mailed or delivered by counsel to each other counsel as defined in Rule 1:13 on or before the day on which the brief is filed.

§6. SIZE AND TYPE. Briefs shall be nine inches in length and six inches in width, so as to conform in dimensions to the printed record, and shall be printed in type not less in size, as to height and width, than the type in which the record is printed. The record number of the case and the names and addresses of counsel submitting the brief shall be printed on the front cover.

HOWARD G. TURNER, Clerk.

Court opens at 9:30 a. m.; Adjourns at 1:00 p. m.

IN THE

Supreme Court of Appeals of Virginia

AT RICHMOND

Record No. 5516

VIRGINIA:

In the Supreme Court of Appeals held at the Supreme Court of Appeals Building in the City of Richmond on Wednesday the 25th day of April, 1962.

ROBERT Y. BUTTON, ATTORNEY GENERAL OF
VIRGINIA, Petitioner,

against

SIDNEY C. DAY, JR., COMPTROLLER OF VIRGINIA,
AND LEWIS H. VADEN, TREASURER OF VIR-
GINIA, Respondents.

Upon a Petition for a Writ of Mandamus

On the first day of the session came Robert Y. Button, Attorney General of Virginia, and presented to the court a petition praying that a writ of mandamus do forthwith issue, to be directed to Sidney C. Day, Jr., Comptroller of Virginia, and Lewis H. Vaden, Treasurer of Virginia, requiring and compelling each of them to transfer the assets constituting the principal of the Literary Fund in excess of (a) ten million dollars and (b) any other moneys theretofore set aside from the Literary Fund by the General Assembly to the Virginia Public School Authority, to honor and pay any and all vouchers covering expenses of the said Authority out of the appropriations made by the General Assembly for such pur-

pose, to honor and pay any other vouchers issued by the said Authority out of any moneys received by it and in the custody of the State Treasurer, and for other relief. And the petitioner prays that Sidney C. Day, Jr., Comptroller of Virginia, and Lewis H. Vaden, Treasurer of Virginia, be made parties respondent to the said petition and be required to answer the same.

And it appearing to the court that a copy of the notice of this application and of said petition have been duly served on the respondents, it is ordered that the cause be docketed, that the record be printed, and that Edward A. Marks, Jr., Esquire, be, and he is hereby, appointed to represent the said respondents in this proceeding.

And on motion of the parties agreed, it is further ordered that the respondents file with the clerk their answer to the petition for a writ of mandamus on or before May 1, 1962; that 25 printed copies of the petitioner's brief be filed with the clerk on or before May 15, 1962; that 25 printed copies of the respondents' brief be filed with the clerk on or before June 7, 1962; that 25 printed copies of the petitioner's reply brief, if any, be filed with the clerk on or before June 11, 1962; and the cause is hereby placed on the docket of the June, 1962, session of this court.

RECORD

* * * * *

In the Supreme Court of Appeals of Virginia at Richmond.

NOTICE OF APPLICATION FOR WRIT OF MANDAMUS.

To: Sidney C. Day, Jr., State Comptroller, Lewis H. Vaden,
State Treasurer:

Please take notice that on the 16th day of April, 1962; at 9:30 A. M., the undersigned will make application to the Supreme Court of Appeals of Virginia at the court room thereof, in the city of Richmond, Virginia, for a writ of mandamus, a copy of the petition for said writ being hereto attached.

ROBERT Y. BUTTON
Attorney General of Virginia.

Service of the foregoing notice of application for a writ of mandamus with attached copy of the petition for said writ is accepted on this the 6th day of April, 1962.

SIDNEY C. DAY, JR.
State Comptroller.

LEWIS D. VADEN
State Treasurer.

Rec'd. 4/16/62.

H. G. T.

* * * * *

PETITION FOR WRIT OF MANDAMUS.

Your petitioner, Robert Y. Button, Attorney General of Virginia, by this petition for a writ of mandamus, respectfully represents unto this Court the following:

I.

The Virginia Public School Authority (hereinafter designated as Authority) is a public body corporate, a political subdivision and an agency and instrumentality of the Commonwealth of Virginia created by Chapter 194 of the Acts of the General Assembly of 1962, approved March 7, 1962.

The general purposes of the Authority are set out in Section 2 of said Act as follows:

§2. It is hereby found, determined and declared that the providing of public schools by many counties, cities and towns of the State is hindered, impeded and delayed by the high financing costs resulting from the sale of the bonds of such counties, cities and towns in the open market, and it is desirable that a State agency be created as hereinafter provided, authorized to purchase such bonds in order to serve public school purposes by financing the construction of public schools at less cost, thereby facilitating such construction.

II.

The powers and duties of the Authority are set out in Sections 5, 6, 7, 8, 9, 10 and 11 of said Act and include—but are not limited to—(a) the management and administration of all moneys or obligations that may be set aside and transferred to it from the principal of the Literary Fund; (b) the purchase of bonds or other obligations issued by counties, cities and towns under the provisions of Chapter 640 of the Acts of the General Assembly of 1958, known and cited as “Public Finance Act of 1958” and codified as Chapter 19.1 of Title 15 of the Code of Virginia; (c) the pledge of such bonds so purchased, including payments of principal and interest thereon, to the payment of the interest and principal of any bonds issued by the Authority pursuant to said Act; (d) the issuance of bonds of the Authority which shall be payable solely from funds of the Authority including, but without limitation, (i) payments of principal of and interest on local school bonds purchased by the Authority, (ii) the proceeds of the sale of any such local school bonds, (iii) payments of principal of and interest on obligations transferred to the Authority from the Literary Fund, (iv) the proceeds of the sale of any such obligations, and (v) any moneys transferred to the Authority from the Literary Fund, as shall be provided by the resolution of the Board authorizing any such bonds. Bonds issued by the Authority shall not be deemed to constitute a debt of the Commonwealth of Virginia or a pledge of the faith or credit of the Commonwealth. In the discretion of the Board of Commissioners of the Authority, appointed by the Governor pursuant to Section 4 of said Act, any bonds issued under the provisions of the Act may be secured by a trust indenture by and between the Authority and a corporate trustee in the manner and subject to the conditions set forth in Section 8 of said Act.

III.

Under the provisions of Chapter 195 of the Acts of the General Assembly of 1962, on July 1, 1962 and on January 1 and July 1 in each year thereafter there shall be set aside and transferred to the Virginia Public School Authority for public school purposes so much of the principal of the Literary Fund established under Section 134 of the Constitution as is in excess of the total of (a) ten million dollars and (b) any other moneys theretofore set aside by the General Assembly under Section 134 of the Constitution and under the provisions of Chapter 195 the State Board of Education and the State Treasurer and the State Comptroller are authorized and directed to take all necessary steps to accomplish such transfer.

IV.

Under the provisions of Section 10 of Chapter 194 of the Acts of Assembly of 1962, on or before the tenth day of January in each year the Authority is required to set aside and pay into the Literary Fund an amount equal to the excess of the principal and interest collected by the Authority in the preceding year on account of the obligations transferred to the Authority from the Literary Fund over such portion of such principal and interest as shall have been pledged by any trust indenture or resolution authorizing bonds of the Authority.

V.

Under the provisions of Section 23.1 of Chapter 640 of the Acts of the General Assembly of 1962 (being the Appropriation Act for the biennium commencing July 1, 1962 and ending June 30, 1964) the moneys transferred by the Authority to the Literary Fund under the provisions of said Section 10 of Chapter 194 are appropriated to and made a part of the Literary Fund.

VI.

By Chapter 498 of the Acts of the General Assembly of 1962 there was appropriated from the general fund of the State Treasurer the sum of One Thousand Dollars to cover miscellaneous expenses incurred by the Virginia Public School Authority.

VII.

Although the State Treasurer and the State Comptroller are directed by the General Assembly under the provisions of said Chapter 195 to transfer to the Authority so much of the principal of the Literary Fund as is in excess of (a) Ten Million Dollars and (b) any other moneys theretofore set aside from the Literary Fund by the General Assembly, your petitioner has been notified in writing by Sidney C. Day, Jr., State Comptroller, and Lewis H. Vaden, State Treasurer, that they will refuse to make such transfer of the assets constituting the principal of the Literary Fund and will refuse to honor any vouchers covering expenses of the Authority to be paid out of the One Thousand Dollar appropriation made by Chapter 498 of the Acts of Assembly of 1962 and will refuse to honor and pay any vouchers issued by the Authority from any other moneys received by the Authority and have stated that they entertain doubt respecting the constitutionality of said Chapters 194 and 195 of the Acts of Assembly of Virginia of 1962.

More specifically, they have presented the following questions:

1. Does the transfer to the Authority of moneys and obligations constituting part of the Literary Fund as provided by Chapters 194 and 195 of the Acts of Assembly of 1962 constitute a proper and valid setting aside of "all or any part of moneys thereafter received into the principal of said fund for public school purposes including teachers retirement funds to be held and administered in such manner as may be provided by general law" pursuant to Section 134 of the Constitution of Virginia?

2. Is Chapter 195 of the Acts of the General Assembly of Virginia of 1962 effective beyond the biennium and until repealed or amended by a subsequent session of the General Assembly?

3. Will the transfer to the Authority of moneys and obligations held in the Literary Fund as provided by Chapters 194 and 195 of the Acts of the General Assembly of 1962 result in a violation of Section 135 of the Constitution of Virginia, which provides that the General Assembly shall apply the annual interest on the Literary Fund, with certain other moneys, to be apportioned among the school districts?

4. Is the issuance of bonds of the Authority for the purpose of investing in bonds of political subdivisions of the State a proper public purpose of the State?

5. Do the provisions of Chapter 194 of the Acts of the General Assembly of 1962 in authorizing the issuance of bonds of the Authority and the use of the proceeds thereof in purchasing school bonds of counties, cities and towns result in a lending of the credit of the State in violation of Section 185 of the Constitution of Virginia providing that the State shall not "assume any indebtedness of any county, city or town, nor lend its credit to the same?"

A copy of the letter from the Comptroller and the State Treasurer, designated as Exhibit "A," is hereto attached and made a part hereof.

VIII.

The letter from the State Comptroller and the State Treasurer to your petitioner constitutes sufficient ground for this Court to exercise jurisdiction in this case, and to consider and determine all questions raised in said letter or in this petition, or in the respondent's answer, such jurisdiction being expressly conferred in Section 8-714 of the Code of Virginia.

IX.

Your petitioner believes, and so avers, that Chapters 194 and 195 of the Acts of the General Assembly of Virginia of 1962, are valid enactments by the General Assembly and are not in violation of any of the provisions of the Constitution of Virginia, and that all the powers and duties delegated to the Virginia Public School Authority, the State Comptroller, the State Treasurer and the Department of Education are in all respects valid and constitutional enactments of the General Assembly of Virginia, and that questions 1, 2 and 4 of the State Comptroller and State Treasurer should be answered in the affirmative and questions 3 and 5 should be answered in the negative.

Wherefore, your petitioner files this petition and prays that this Honorable Court will consider and determine all questions raised herein and will adjudge that Chapters 194 and 195 of the Acts of the General Assembly of Virginia of 1962 are not in violation of any provisions of the Constitution of Virginia, and that the proposed financing through the sale and issuance of bonds of the Authority, the purchase by the Authority of bonds issued under the "Public Finance Act of 1958," and the periodical payments into the Literary Fund

pursuant to Section 10 of Chapter 194 are in all respects valid and constitutional, and that each of the questions enumerated in paragraph VII of this petition be answered in the manner herein requested; and your petitioner further prays that Sidney C. Day, Jr., Comptroller of Virginia, and Lewis H. Vaden, Treasurer of Virginia, be made parties defendant to this petition and required to answer the same; and that a writ of mandamus be issued by this Honorable Court directed to the said defendants, Sidney C. Day, Jr., Comptroller of Virginia, and Lewis H. Vaden, Treasurer of Virginia, requiring each of said defendants to transfer the assets constituting the principal of the Literary Fund in excess of (a) Ten Million Dollars and (b) any other moneys theretofore set aside from the Literary Fund by the General Assembly to the Authority, to honor and pay any and all vouchers covering expenses of the Authority out of appropriations made by the General Assembly for such purpose, and to honor and pay any other vouchers issued by the Authority out of any moneys received by the Authority and in the custody of the State Treasurer.

ROBERT Y. BUTTON
Attorney General of Virginia.

State of Virginia,
City of Richmond, to-wit:

This day personally appeared before me, M. L. Waddill, a Notary Public in and for the city aforesaid in the State of Virginia, Robert Y. Button, Attorney General of Virginia, who stated, upon oath, that he is the Attorney General of Virginia, and that the matters and things stated in the foregoing petition for mandamus are true to the best of his knowledge, information and belief.

My commission expires on the 29th day of November, 1964.
Given under my hand this the 5th day of April, 1962.

M. L. WADDILL
Notary Public.

ROBERT Y. BUTTON
Attorney General.

KENNETH C. PATTY
First Assistant Attorney General.

R. D. McIlwaine, III
Assistant Attorney General
Supreme Court Building

Counsel for Petitioner.

This is to certify that on April 6, 1962, I personally served a copy of the foregoing petition for writ of mandamus, with attached exhibit, upon Sidney C. Day, Jr., State Comptroller, and Lewis H. Vaden, State Treasurer, at their respective offices in Richmond, Virginia, together with the notice that the petition would be filed in open court at 9:30 A. M., on April 16, 1962.

KENNETH C. PATTY.

EXHIBIT A.

COMMONWEALTH OF VIRGINIA

Office of the Comptroller
P. O. Box 6-N
Richmond 15, Va.

Sidney C. Day, Jr.
Comptroller
C. P. Miller, Jr.
Asst. Comptroller

April 2, 1962.

Honorable Robert Y. Button
Attorney General of Virginia
Supreme Court-Library Building
Richmond, Virginia

Dear Mr. Button:

On March 7, 1962. Chapters 194 and 195 of the Acts of the General Assembly of Virginia of 1962 were approved by the Governor. Each of these Acts carries an emergency clause. Chapter 195 directs the State Board of Education, the State Treasurer and the State Comptroller to transfer on July 1, 1962—and on January 1 and July 1 in each year thereafter—to the Virginia Public School Authority, established under the provisions of Chapter 194, so much of the principal of the Literary Fund established under Section 134 of the Constitution as is in excess of the total of (a) ten million dollars and (b) any other moneys theretofore set aside by the General Assembly under Section One Hundred and Thirty-four of

the Constitution. Chapter 498 of the Acts of the General Assembly of Virginia of 1962 appropriates One Thousand Dollars from the general fund of the State Treasury to the Virginia Public School Authority for the purpose of paying miscellaneous expenses.

Although the time for making such transfer of Literary Fund assets has not arrived and no demand to make such transfer has been made, nor has any demand for disbursement of money been made, we notify you at this time that we entertain doubt respecting the constitutionality of said Chapters 194 and 195 for the reasons indicated by the following questions, and that we shall refuse to make such transfer of the assets constituting the principal of the Literary Fund, and shall refuse to honor any vouchers covering expenses of the Authority to be paid out of the appropriation of One Thousand Dollars, or out of any other moneys received by the Authority and in the custody of the State Treasurer, until and unless the Supreme Court of Appeals of Virginia shall direct us to make such transfer and honor any such vouchers.

We do not feel that it would be proper or safe for us to make such transfer or expend any of the money so appropriated or otherwise available to the Authority until there has been a final adjudication by the Supreme Court of Appeals of Virginia determining any and all questions raised herein or that may be raised in a petition filed by the Attorney General pertaining thereto.

Our questions are:

1. Does the transfer to the Authority of moneys and obligations constituting part of the Literary Fund as provided by Chapter 195 of the Acts of the General Assembly of Virginia of 1962 constitute a proper and valid setting aside of "all or any part of moneys thereafter received into the principal of said fund for public school purposes including teachers retirement funds to be held and administered in such manner as may be provided by general law" pursuant to Section 134 of the Constitution of Virginia?

2. Is Chapter 195 of the Acts of the General Assembly of Virginia of 1962 effective beyond the biennium and until repealed or amended by a subsequent session of the General Assembly?

3. Will the transfer to the Authority of moneys and obligations held in the Literary Fund as provided by Chapter 195 of the Acts of the General Assembly of Virginia of 1962 result in a violation of Section 135 of the Constitution of Virginia, which provides that the General Assembly shall apply the

annual interest on the Literary Fund, with certain other moneys, to be apportioned among the school districts?

4. Is the issuance of bonds of the Authority for the purpose of investing in bonds of political subdivisions of the State a proper public purpose of the State?

5. Do the provisions of Chapter 194 of the Acts of the General Assembly of Virginia of 1962 in authorizing the issuance of bonds of the Authority and the use of the proceeds thereof in purchasing school bonds of counties, cities and towns result in a lending of the credit of the State in violation of Section 185 of the Constitution of Virginia providing that the State shall not "assume any indebtedness of any county, city or town, nor lend its credit to the same?"

Very truly yours,

SIDNEY C. DAY, JR.
State Comptroller.

LEWIS H. VADEN
State Treasurer.

* * * * *

Rec'd. 4/30/62.

H. G. T.

ANSWER TO PETITION FOR A WRIT OF MANDAMUS.

Respondents, Sidney C. Day, Jr., Comptroller of Virginia, and Lewis H. Vaden, Treasurer of Virginia, for answer to the petition for a writ of mandamus filed herein by Robert Y. Button, Attorney General of Virginia, to require and command respondents to transfer the assets constituting the principal of the Literary Fund of Virginia in excess of (a) Ten Million Dollars and (b) any other moneys theretofore set aside from the Literary Fund by the General Assembly to the Virginia Public School Authority, to honor and pay any and all vouchers issued by the authority covering expenses of the authority out of appropriations made by the General Assembly for such purpose, and to honor and pay any other vouchers issued by the authority out of any moneys received by the authority and in the custody of the State Treasurer, or for answer to so much thereof as respondents are advised it is material for them to answer, answer and say:

1. Respondents admit the factual allegations set forth in the petition insofar as said allegations refer to action taken by the General Assembly of Virginia in its session for 1962 in the enactment of Chapters 194 and 195 of the Acts of 1962, purporting to create and provide for the capitalization of the "Virginia Public School Authority" and to define its powers and duties.

2. Respondents admit that this court has jurisdiction to hear and determine the issues raised by a properly brought and prosecuted petition for mandamus, but say that the State Board of Education of Virginia is a proper and necessary party to this proceeding, and that until such State Board of Education is properly made a party hereto, this court should not take further cognizance of the matters and things herein involved.

3. Respondents admit the allegations of fact contained in paragraph VII of the petition and the exhibit therein mentioned.

4. With respect to the conclusions of law set forth in said petition respondents answer and say:

(a) They neither admit nor deny that the allegations of paragraphs II, III and IV of the petition constitute a proper and fair summary of the legislative enactments mentioned.

(b) They entertain grave doubt as to the correctness of the allegations of paragraph IX of the petition for the reasons set forth in Exhibit A with the petition and for the further reasons hereinafter stated, and do not feel that they should obey the requirements of Chapter 195 of the Acts of 1962 until there is an adjudication of the question herein raised by this Honorable Court.

5. For further answer, respondents answer and say:

(a) Under the terms and provisions of Section 134 of the Constitution of Virginia the legislature of Virginia had no power to set aside any portion of the principal of the Literary Fund of Virginia received prior to the effective date of Chapter 195 of the Acts of the General Assembly of Virginia of 1962, to-wit March 7, 1962.

(b) Under the terms and provisions of Section 134 of the Constitution of Virginia the use of the principal of the Literary Fund of Virginia is restricted to public school purposes including teachers retirement fund, the use of the principal of the Literary Fund of Virginia to capitalize the Virginia Public School Authority to pay its operating cost and to serve as collateral security for its obligations violates

the restrictive provisions mentioned, such use not being for public school purposes including teachers retirement fund.

(c) Section 135 of the Constitution of Virginia requires the use of the annual interest on the Literary Fund by appropriation to the schools of primary and elementary grades, and is violated by the provisions of Chapter 194 of the Acts of 1962 permitting the use of such annual interest for other purposes.

(d) Section 186 of the Constitution of Virginia prohibits appropriations out of the state treasury payable more than two years and six months after the end of the session of the General Assembly at which the law is enacted authorizing the same. Insofar as Chapter 195 of the Acts of 1962 provides for payments out of the Treasury of Virginia of principal of the Literary Fund of Virginia after July 1, 1964, same violates said prohibition.

(e) Section 185 of the Constitution of Virginia is violated by the use of State funds to capitalize the Virginia Public School Authority and as Collateral security for obligations to be issued by it.

(f) The issuance of bonds of the Virginia Public School Authority, to be secured by a pledge of its assets, for sale to the general public for the purpose of providing funds with which the authority may in turn purchase bonds of counties, cities, and towns issued solely for the purpose of constructing, extending, repairing and equipping public schools, such bonds bearing less than the rate of interest to be charged thereon on the open market, is not a valid public purpose of the State.

And now having fully answered, Respondents pray to be hence dismissed, etc.

SIDNEY C. DAY, JR.
Comptroller of Virginia.

LEWIS H. VADEN
Treasurer of Virginia
By Counsel.

State of Virginia,
City of Richmond, to-wit:

This day personally appeared before me Hugh C. Priddy, a Notary Public in and for the City aforesaid in the State of Virginia, Sidney C. Day, Jr., and Lewis H. Vaden whose names as Comptroller of Virginia and Treasurer of Virginia are signed to the foregoing pleading and being first duly sworn made oath that the matters and things therein set forth

are true to the best of their knowledge, information and belief.

Given under my hand this 30 day of April 1962.
My commission expires the 15 day of March 1965.

HUGH C. PRIDDY
Notary Public.

EDWARD A. MARKS, JR.
SANDS, ANDERSON, MARKS & CLARKE
315 American Building
Richmond, Virginia.

I certify that on the 30 day of April, 1962, a true copy of the foregoing answer was delivered to Robert Y. Button, Attorney General of Virginia.

EDWARD A. MARKS, JR.

* * * * *

STIPULATION OF FACT.

In addition to the facts stated in the petition and answer and admitted to be correct, petitioner and respondents stipulate and agree that the following facts are true and correct, and are to be considered in evidence:

1. The annexed schedule, identified as "Exhibit B" correctly states the principal account of the Virginia Literary Fund with reference to the matters and things therein set forth on the dates therein stated.

2. The annexed schedule, identified as "Exhibit C" correctly states the assets held in the principal account of the Literary Fund as at the dates stated.

3. The State Board of Education had before it applications for loans from school boards of counties, cities and towns operating as school districts as shown on "Exhibit D" on the dates therein set forth.

KENNETH PATTY
Asst. Attorney General.

EDW A. MARKS, JR
Attorney for Respondents.

EXHIBIT "B."

Literary Fund Principal Account

	Balance	Fines & Forfeitures	Appropriation	Transfer to Retirement	Profit on Sale of Investments	Balance
July 1, 1941	9,173,052.02	647,353.39				9,820,405.41
July 1, 1942	9,820,405.41	912,117.63				10,732,523.04
July 1, 1943	10,732,523.04	1,048,560.67			3,625.00	11,784,708.71
July 1, 1944	11,784,708.71	961,711.97			79,514.63	12,825,935.31
July 1, 1945	12,825,935.31	930,728.18		275,000—		13,481,663.49
July 1, 1946	13,481,663.49	1,519,219.03		500,000—	5,968.75	14,506,851.27
July 1, 1947	14,506,851.27	1,627,446.80		500,000—	1,750.00	15,636,048.07
July 1, 1948	15,636,048.07	1,691,705.96		500,000—	7,278.29	16,835,032.32
July 1, 1949	16,835,032.32	2,288,114.76	S.F. 250,000—	500,000—	65,131.25	18,938,278.33
					Loss	
July 1, 1950	18,938,278.33	2,662,271.44	S.F. 3,185,000—	500,000—	12,244.30	24,273,305.47
July 1, 1951	24,273,305.47	2,751,230.58	S.F. 3,715,000—	1,365,000—		29,374,536.05
July 1, 1952	29,374,536.05	3,135,515.39	S.F. 2,000,000—	1,365,000—		33,145,051.44
July 1, 1953	33,145,051.44	2,966,292.39	1,850,000—	1,365,000—		36,596,343.83
July 1, 1954	36,596,343.83	2,838,057.71		1,465,000—		37,969,401.54
July 1, 1955	37,969,401.54	3,816,379.20		1,465,000—		40,320,780.74
July 1, 1956	40,320,780.74	4,393,436.64		1,465,000—		43,249,217.38
July 1, 1957	43,249,217.38	3,049,647.01		1,465,000—		44,833,864.39
			Gen Fund			
July 1, 1958	44,833,864.39	3,543,667.97	8,500,000—	1,465,000—		55,412,532.36
July 1, 1959	55,412,532.36	3,377,349.87	1,500,000—			
			S.F. 750,000—	1,465,000—		59,574,882.23
July 1, 1960	59,574,882.23	3,372,502.67	S.F. 150,000—	1,465,000—		61,632,384.90
July 1, 1961	61,632,384.90	1,748,961.50		1,465,000—		61,916,346.40
Dec. 31, 1961	61,916,346.40					
					+	163,267.92
					—	12,244.30
Average yearly Increments		49,282,270.76	21,900,000.00	18,590,000—		151,023.62
		2,376,665.46				

Robert Y. Button v. Sidney C. Day, Jr.

EXHIBIT C.

COMMONWEALTH OF VIRGINIA

Lewis H. Vaden
Treasurer of Virginia

Frank B. Miller, Jr.
Assistant Treasurer

DEPARTMENT OF THE TREASURY

P. O. Box 6-H
Richmond 15

LITERARY FUND

PRINCIPAL ACCOUNT

as at
MAY 1, 1962

Cash in Bank:

Available for loans	\$1,857,452.93	
Reserve for appropriation to Virginia Supplemental Retirement System July 1, 1962 (Item 426 of the Appropriation Act for 1962-64 biennium)	1,465,000.00	
		\$ 3,322,452.93
School Loans Outstanding (As per Schedule Attached)		60,051,921.17
Total		<u>\$63,374,374.10</u>

LITERARY FUND

Schedule of Literary Fund School Loans Outstanding
as at May 1, 1962

County	Amount	County	Amount
Accomack	\$ 528,625.00	Bland	145,200.00
Albemarle	500,000.00	Botetourt	611,265.00
Amherst	552,280.00	Brunswick	903,000.00
Appomattox	522,400.00	Buchanan	803,250.00
Arlington	191,125.00	Buckingham	383,650.00
Bath	5,750.00	Campbell	1,629,350.00
Bedford	524,362.11	Caroline	1,211,560.00

Carroll	955,076.00	Mathews	140,360.00
Charles City	517,650.00	Mecklenburg	893,200.00
Charlotte	187,960.00	Middlesex	110,000.00
Chesterfield	275,500.00	Montgomery	74,900.00
Clarke	576,420.00	Nansemond	636,000.00
Craig	142,500.00	Nelson	652,500.00
Culpeper	501,550.00	Norfolk	1,818,150.00
Cumberland	79,278.33	Northampton	89,000.00
Dickenson	552,700.00	*Nottoway	328,000.00
Dinwiddie	334,576.00	Orange	1,418,750.00
Essex	167,575.00	Patrick	227,850.00
Fairfax	1,352,835.00	Pittsylvania	129,990.00
Fauquier	178,500.00	Powhatan	92,400.00
Floyd	343,700.00	Prince Edward	225,600.00
Fluvanna	192,532.00	Prince George	500,000.00
Franklin	1,231,750.00	Prince William	781,885.00
Frederick	24,000.00	Prince Anne	529,400.00
Giles	1,118,300.00	Pulaski	164,850.00
Gloucester	120,000.00	Rappahannock	120,300.00
Goochland	568,700.00	Richmond	118,230.00
Grayson	1,045,325.00	Roanoke	1,294,925.00
Greene	99,680.00	Rockbridge	1,632,180.00
Greensville	585,200.00	Rockingham	797,300.00
Halifax	757,000.00	Russell	1,727,705.00
Hanover	694,225.00	Scott	451,200.00
Henrico	690,000.00	Shenandoah	624,000.00
Henry	2,419,950.00	Smyth	657,500.00
Isle of Wight	473,900.00	Southampton	277,700.00
King George	109,000.00	Spotsylvania	767,900.00
King and Queen	151,000.00	Stafford	619,900.00
King William	292,740.00	Surry	359,200.00
Lancaster	173,386.75	Tazewell	13,160.00
Lee	949,965.00	Warren	703,895.00
Loudoun	1,699,300.00	Washington	1,505,180.00
Louisa	950,815.00	Westmoreland	425,480.00
Lunenburg	220,800.00	Wise	2,293,300.00
*Northumber-		Wythe	1,795,800.00
land	593,040.00	York	54,425.00
Madison	\$ 702,175.00		
		Total	\$55,592,536.19

		Balance brought forward	\$55,592,536.19
Cities and Towns	Amount		
Abingdon	\$353,570.00		
Buena Vista	41,825.00		
Colonial Beach	95,700.00		
Covington	150,000.00		
Galax	125,000.00		
Hampton	567,125.00		
Harrisonburg	276,600.00		
Hopewell	780,650.00		
Lexington	426,300.00		
Martinsville	302,500.00		
Newport News	224,925.00		
Portsmouth	50,514.98		
Radford	184,225.00		
Roanoke	301,500.00		
Virginia Beach	80,000.00		
Waynesboro	8,200.00		
Winchester	490,750.00		
			4,459,384.98
		Grand Total	\$60,051,921.17

EXHIBIT D.

STATEMENT OF THE LITERARY FUND

April 23, 1962

1. Principal of the Fund:		
a. Loans to school boards of Counties, cities and towns including tem- porary loans		\$60,054,471.17
b. Cash on hand		3,274,127.93
Total		<u>\$63,328,599.10</u>
2. Loans approved and re- leased by State Board	\$3,935,932.00	
Less amounts already advanced	<u>1,291,050.00</u>	
Balance due on loans ap- proved and released	\$2,644,882.00	
Amount due Retirement System 7/1/62	<u>1,465,000.00</u>	
Total Commitments		\$4,109,882.00
3. Funds available for loans:		
a. Cash Balance (Item 1b above)	\$3,274,127.93	
b. Estimated increments and repayments 4/23/62-6/30/62	<u>1,000,617.00</u>	
Total cash on hand and credit avail- able through June 30, 1962		<u>\$4,274,744.93</u>
Estimated funds available over com- mitments based on anticipated prin- cipal receipts through June 30, 1962		<u>\$ 164,862.93</u>
4. Loans approved by State Board of Educa- tion and held in abeyance pending release of funds (Includes loan approved 4/23/62 to Wythe County of \$250,000.00)		<u>\$19,336,966.00</u>
5. Pending application, not yet approved, from Stafford County		<u>\$ 35,000.00</u>

April 23, 1962

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LITERARY FUND OF VIRGINIA
APPLICATIONS APPROVED AND RELEASED

Application Number	Rate of Interest	County or City	School	Race	Amount	Installments Paid	Balance Due
1988	3%	Alleghany County	County High School	W	\$ 696,462	\$ —	\$ 696,462
2095	3%	Bland County	Bland High School	W	275,000	129,200	145,800
2045	3%	Floyd County	County High	W	450,000	200,000	250,000
3011	3%	Franklin County	Burnt Chimney Elem.	W	200,000	—	200,000
2078 (1)	3%	Greene County	William Monroe H.	W	150,000	9,700	140,300
4009	3%	Hanover County	Lee Davis High	W	82,000	42,500	39,500
3044	3%	King & Queen County	Central H. S.	N	60,000	54,500	5,500
1971	3%	Louisa County	Shelfar Elem.	N	120,000	90,000	30,000
3091 (2)	3%	Mecklenburg County	Thyne Elem.	N	125,000	31,400	93,600
3057 (3)	3%	Nansemond County	Florence Elem.	N	150,000	—	150,000
3064	3%	Page County	Luray H. S.	W	140,000	—	140,000
2046	3%	Prince William County	Yorkshire Elem.	W	50,000	—	50,000
3058 & 4016	3%	Radford City	Radford High	W	100,000	75,000	25,000
2062 & 3007	3%	South Norfolk City	Park Elem.	W	165,470	—	165,470
3029	3%	Southampton County	Boykins Dist. Elem.	N	225,000	133,700	91,300
3039	3%	Westmoreland County	Washington Dist. Elem.	N	\$ 30,000	\$ 25,000	\$ 5,000
2051	3%	Westmoreland County	A. T. Johnson H. S.	N	125,000	116,000	9,000
4013	3%	Westmoreland County	Washington & Lee H.	W	125,000	10,000	115,000
1921, 3075 & 4027	3%	Wise County	Pound Elem.	W	175,000	165,800	9,200
3014	3%	Winchester City	J. Handley H. S.	W	492,000	288,250	283,750
					<u>\$3,935,932</u>	<u>\$1,291,050</u>	<u>\$2,644,882</u>

- (1) Total application \$380,000, \$150,000 already released.
(2) Total application \$254,000, \$125,000 already released.
(3) Total application \$300,000, \$150,000 already released.

A Copy—Teste:

H. G. TURNER, Clerk.

Supreme Court of Appeals of Virginia

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