

Statement of Facts.

As it does not appear that the Circuit Court might not, in its discretion and consistently with law and justice, have denied the applications for the writ at the time they were made, we are of opinion that the judgment in each case must be affirmed, but without prejudice to the right of the petitioner to renew his applications to that court at some future time should the circumstances render it proper to do so.

Affirmed.

EX PARTE ROYALL.

ORIGINAL.

Argued December 1, 1884.—Decided March 1, 1886.

The petitioner prayed for a writ of habeas corpus on the ground that the State statute under which he was arrested and held in custody was repugnant to the Constitution of the United States: *Held*, That, without deciding whether the court has power under existing legislation, and on habeas corpus, to discharge a prisoner held in custody under process of a State court of original jurisdiction for trial on an indictment charging him with an offence against the laws of that State, such power ought not, for reasons given in *Ex parte Royall*, ante 241, to be exercised in advance of his trial.

This was an original petition for a writ of habeas corpus. The proceedings were founded upon some of the legislation of the State of Virginia respecting the receipt of coupons by the State in payment of taxes which is considered in *Antoni v. Greenhow*, 107 U. S. 769; the *Virginia Coupon Cases*, 114 U. S. 269; *Barry v. Edmunds*, 116 U. S. 550; *Royall v. Virginia*, 116 U. S. 572; *Sands v. Edmunds*, 116 U. S. 585; and *Ex parte Royall*, ante, 241. The case is stated in the opinion of the court.

Mr. William L. Royall in person and *Mr. Daniel H. Chamberlain* for the petitioner. *Mr. William B. Hornblower* was with them on the brief.

Syllabus.

MR. JUSTICE HARLAN delivered the opinion of the court.

This is an original application by W. L. Royall, to this court, for a writ of habeas corpus, directed to N. M. Lee, sergeant of the city of Richmond, Virginia, commanding him to produce the body of the petitioner before this court, together with the cause of his detention, that he may be discharged from the custody of said officer. The writ is asked upon the ground that the statute under which he was arrested and is held in custody is repugnant to the Constitution of the United States, and, consequently, that he is restrained of his liberty in violation of that instrument. The petition was filed here on the 1st day of December, 1884. It states the same facts as are set out in the petition in *Ex parte Royall No. 1*, and *Ex parte Royall No. 2*, *ante*, 241, just determined.

The application for the writ must be denied. It is sufficient to say that if this court has power, under existing legislation, and upon habeas corpus, to discharge the petitioner, who is in custody, under the process of a State court of original jurisdiction, for trial on an indictment charging him with an offence against the laws of that State—upon which it is not necessary to express an opinion—such power ought not, for the reasons given in the other cases just decided, to be exercised in advance of his trial.

Denied.

APPLEGATE & Others v. LEXINGTON & CARTER
COUNTY MINING COMPANY & Others.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE
DISTRICT OF KENTUCKY.

Argued March 4, 1886.—Decided March 15, 1886.

When an ancient deed forms part of the original papers in a suit in a court of record to determine the title to land to which the deed relates, the record of the case is admissible against persons who are not parties or privies to the suit in order to prove the antiquity of the deed and to account for its custody.