

REPORTS OF CASES

ARGUED AND ADJUDGED

IN THE

COURT OF APPEALS

OF

VIRGINIA.

BY DANIEL CALL.

IN SIX VOLUMES.

VOL. II.

THIRD EDITION.

TO WHICH, (THROUGH THE FIRST THREE VOLUMES,) BESIDES THE NOTES OF THE
LATE JOSEPH TATE, ESQ., ARE ADDED COPIOUS REFERENCES TO STATUTES
AND SUBSEQUENT ADJUDICATIONS ON THE SAME SUBJECTS.

BY LUCIAN MINOR,

COUNSELLOR AT LAW.

RICHMOND:
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tained, according to the principles of this decree; also, for further proceedings to be had respecting the claims of Elizabeth Pleasants and Daniel Teasdale, to part of the slaves, under titles paramount to the will of John Pleasants, and the claim of the creditors of Charles Logan, upon proper statements of the facts and exhibits relative thereto; which [357] they are to be at liberty to introduce into the said Court.”*

[*See *Maria et al. v. Surbaugh*, 2 Rand. 228-246, in which this case is remarked on, and the subject elaborately considered by GREEN, J. The point decided was, that where a testator bequeaths a female slave, on condition that she shall be free at a certain age, and before that period arrives, she has issue, such issue are slaves.]

BRAXTON v. ANDREWS.

Wednesday, May 15th, 1799.

If the appellant dies, and no person will administer on his estate, so that the Court orders the Sergeant to take possession of it, no *scire facias* to revive the appeal lies against the Sergeant.

Braxton appealed from the Court of Chancery, to this Court; and then died. As no person would take administration on his estate, it was committed by the Hustings Court, to the Sergeant of the city, agreeable to the act of Assembly. Rev. Cod. 176, §61.

A *scire facias* was moved for against the Sergeant, to revive the appeal.

The Court thought it was a case not provided for, by the act of Assembly. And nothing was taken by the motion.*

N. B. The cause lay over for several terms; and, at length, was finally abated.

[*See acts of Mar. 3, 1819, c. 104, §67, R. C. 390, and Feb. 1819, c. 128, §38, R. C. 497.] And Code of 1849, p. 656, §3; authorizing a *scire facias* to revive, “in any stage of any case.”