REPORT

OF

A. A. LILLY, Attorney General

TO

Legislature of West Virginia

REGULAR SESSION, 1917

IN REGARD TO

VIRGINIA DEBT CASE

AS REQUIRED BY

CHAPTER 45, ACTS 1907

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TRIBUNE PRINTING CO., CHARLESTON, W. VA.

REPORT OF THE ATTORNEY GENERAL

To the Legislature of West Virginia:

In compliance with Section 2 of Chapter 45 of the Acts of the Legislature of West Virginia 1907, requiring the Attorney General to make full and complete statement of his acts in the conduct of the litigation between Virginia and West Virginia in reference to the Virginia Debt, and report the same "to the legislature at each session thereof during the pendency of said suit", I beg most respectfully to submit the following in relation thereto.

Because of the former reports of the Attorneys General to the preceding legislatures, and especially the report of the Virginia Debt Commission, constituted by joint resolution of the West Virginia Legislature 1913, to the Governor of the State, and through him to the Legislature of West Virginia on February 5, 1915, I do not deem it necessary to make a report at great length, but will refer hurriedly to some of the more salient features involved in said litigation.

On February 26, 1906, the Commonwealth of Virginia brought suit against the State of West Virginia in the Supreme Court of the United States whereby she sought to recover from the State of West Virginia one-third of the debt of Virginia as of January 1, 1861, and interest thereon, until date of payment. The amount of the common debt as of January 1, 1861, exclusive of interest, of which Virginia claimed West Virginia should pay one-third was $33,000,000.00.

Under an Act of the Legislature of 1907 (chapter 45) the attorney general was directed to defend this suit and the board of public works authorized to employ associate counsel and agents to assist in said defense. During the incumbency of General C. W. May, the board of public works, acting under said act, employed as associate counsel Hon. John C. Spooner, late a United States Senator from the State of Wisconsin; Hon. John G. Carlisle, late a United States Senator from Kentucky and ex-Secretary of the Treasury; Hon. Charles E. Hogg, at that time Dean of the Law School of the West Virginia University; the law firm of Mollohan, McClintic and Mathews, of Charleston, West Virginia; and ex-Governor Wm. M. O. Dawson and numerous accountants were employed who went to Richmond, Virginia, to ascertain the true state of accounts between the two states relative to said

alleged debt. These accountants commenced work in the Second Auditor's office at Richmond the 15th day of February, 1908, and completed their work in the fall of 1909.

Process in this suit was made returnable October 8, 1906, and on that day the demurrer and amended demurrer were filed and set for argument in March, 1907, at which time exhaustive arguments were made by counsel for both sides. The demurrer and amended demurrer were overruled by the court and subsequently the answer of West Virginia was filed therein and a decree of reference entered on May 4,1908, referring said cause to a master; and on June 1, 1908, said cause was referred to Congressman Charles E. Littlefield, as such master. Subsequently thereto, counsel for the State of West Virginia filed their petition asking that the decree of reference be amended in certain particulars, and on June 1, 1908, the same was in part amended.

The bill of complaint of Virginia was predicated on the theory that the Wheeling ordinance August 20, 1863, was the basis of the contract between Virginia and West Viirginia whereby West Virginia assumed an equitable proportion of the debt of the Commonwealth of Virginia existing prior to the first day of January, 1861, which section is as follows:

> "The new state shall take upon itself a just proportion of the public debt of the Commonwealth of Virginia, prior to the first day of January, 1861, to be ascertained by charging to it all the state expenditures within the limits thereof, and a just proportion of the ordinary expenses of the State government since any part of said debt was contracted, and deducting therefrom the moneys paid into the treasury of the commonwealth from the counties included within the said new state during said period."

The foregoing provided for the settlement of the debt upon an arbitrary basis. West Virginia was to be charged with (*a*) all state's expenditures within her limits; (*b*) a just proportion of the ordinary expenses of the State government since any part of said debt was contracted and was to be credited with moneys paid into the treasury of the Commonwealth from the counties included within the State of West Virginia. There were to be two debit charges and one credit charge. By the provisions of this ordinance the amount of the debt prior to January 1, 1861, was not material to West Virginia. Neither were the common assets owned by Virginia on January 1, 1861, material. West Virginia would not be interested in the common assets held by Virginia prior to January 1, 1861.

The answer filed by West Virginia sought to defend the State upon the theory adopted by the plaintiff; that is, that the Wheeling ordinance controlled. The opinion of the court of May 27, 1907, overruling the demurrer to plaintiff's bill in substance held that the Wheeling ordinance was the basis of West Virginia's liability and prescribed the method of ascertaining the same. The decree of May 4, 1908, referring the cause to Master Charles E. Littlefield was predicated upon the theory of liability embraced in said ordinance. The report of the Master made in compliance with said decree of reference was substantially predicated upon the said ordinance. Arguments of counsel both for the plaintiff and defendant in the main were predicated upon the same theory.

Hearings were had before Special Master Littlefield, at Richmond, Virginia, and evidence introduced on behalf of plaintiff and defendant. Subsequently thereto hearings were had before the master in New York City, to which place he adjourned the hearings where the case was finally argued and submitted before him on the 1st day of January, 1910. On the 17th day of March, 1910, the master filed his printed report in the clerk's office of the United States Supreme Court. In this report he sustained many of the positions taken by West Virginia and also ruled against West Virginia in many of her positions. In April, 1910, West Virginia filed her exceptions thereto.

April 18, 1910, counsel for West Virginia filed a petition asking the privilege of taking testimony on questions not involved in the order of reference, which was denied by the court without assigning reasons for its refusal.

The court set the case for final hearing in October, 1910, but because there was not a full membership of the bench the case was continued until January 16, 1911, when the cause was extensively argued orally and printed briefs were filed and finally submitted to the court January 26, 1911.

On March 6, 1911, the court rendered its opinion to the effect that West Virginia was liable to pay her share of the old Virginia debt, and tentatively stated the amount to be $7,182,507.46, leaving open the question of interest, and intimated that if the two states did not agree another order of reference would be ordered. (See opinion of Court of March 6, 1911, 220 U. S. 1.)

On September 26, 1911, Virginia served notice on the attorney general that she would move the court on the 9th day of October, 1911, to "proceed with a further hearing and determination of said cause and to settle and determine all questions left open and unde-

termined by its decision rendered on the 6th day of March, 1911." This procedure was opposed by counsel for West Virginia, and the court on October 30, 1911, refused to proceed further, saying that "we are of opinion that the time has not come for granting the present motion. If the authorities of West Virginia see fit to await the regular session of the legislature, that fact is not sufficient to prove that when the voice of the state is heard it will proclaim unwillingness to make a rational effort for peace."

On the 21st day of February, 1913, the Legislature of West Virgina adopted a joint resolution creating a commission to be known as the Virginia Debt Commission. This Commission, which was to be appointed by the Governor, was to be composed of eleven members, two of whom were to be chosen from each congressional district of the State, and one at large, and not more than six of whom should belong to one political party.

At the time of the appointment of said Commission, there was no counsel retained to assist the Attorney General, and by virtue of Sec. 1 of Chapter 45 of the Acts of the Legislature of 1907, the Board of Public Works retained as associate counsel to assist in the defense of said litigation, the Honorable Charles E. Hogg, of Point Pleasant, West Virginia, V. B. Archer, Esq., of Parkersburg, West Virginia, and Judge J. H. Holt, of Huntington, West Virginia.

The Commission, which was appointed by the Governor shortly after his inauguration, met at Charleston and organized on the 10th day of June, with the following members:

First Congressional District—John W. Mason, of Fairmont; Henry Zilliken, Wellsburg.

Second Congressional District—J. A. Lenhart, Kingwood; W. T. Ice, Philippi.

Third Congressional District—U. G. Young, Buckhannon; Joseph E. Chilton, Charleston.

Fourth Congressional District—R. J. A. Boreman, Parkersburg; John M. Hamilton, Grantsville.

Fifth Congressional District—W. D. Ord, Landgraff; Joseph S. Miller, Kenova.

At Large—W. E. Wells, Newell.

Hon. John W. Mason was elected chairman and John T. Harris secretary to the Commission.

At this meeting it was found necessary to order the reprinting of certain record information for the use of the members of the Commission, members of the Legislature, and for general distribution through-

out the State, which was accordingly done under the direction of this department. At the time of publication of the Master's report but a limited number of copies were furnished counsel for West Virginia and enough could not be had to supply even the members of the Commission. The same was true as to the court's opinions of March 6th and October 30th, 1911. While the briefs on final hearing of counsel for West Virginia were printed and liberally distributed as of that time, the briefs of counsel for Virginia were furnished only in sufficient quantity to supply opposing counsel. These facts led to the compilation and printing, for the use of the Commission and members of the Legislature, and for general distribution, of what is known as the "Debt Suit Book—Lilly—1913," a volume of over 800 pages, which contains the joint resolution of the Legislature of West Virginia creating the Virginia Debt Commission, the opinions of the Supreme Court of the United States, the briefs on final hearing of counsel for the complainant and defendant and the report of Special Master Charles E. Littlefield. Nearly eight weeks were required in which to do this work, and the West Virginia Commission had to await its completion before it could undertake to intelligently perform the service required of it by the Legislature.

At the conclusion of the organization meeting of the Commission an adjournment was had until July 22d, and when the Commission met on that day the record information above referred to was still in the hands of the printer and not completed. Between the dates of the first and second meetings correspondence was had between the Chairman of the West Virginia Commission and the Chairman of the Virginia Commission, which resulted in an agreement that the commissions of the two States should meet in joint conference at Washington, D. C., on July 25th, 1913, the Chairman of the West Virginia Commission anticipating that the re-printed record information would be in the hands of the members a sufficient time before that date to enable them to familiarize themselves, in a measure, with the case and to derive some benefit from the publication by way of suggestion and otherwise.

When the Commission met at Charleston on the 22d of July some of the members insisted upon the cancellation of the Washington engagement because the Commission—owing to the non-completion of the printed record—had not sufficient opportunity to acquaint itself with the case. It was finally decided, however, that it would be inexpedient to cancel the engagement, and that the West Virginia Commission should go to Washington and meet the Virginia Commission

on July 25th, where a preliminary discussion and exchange of views could be had. Accordingly, the West Virginia Commission went to Washington and met the Virginia Commission on the 25th of July. At the opening of the joint conference the Chairman of the Virginia Commission submitted a resolution adopted by that body, which stated that it was the sense of the Virginia Commission that in the conference to be held the subject for consideration and adjustment, as indicated by the court in its decision in the case, was the amount of interest West Virginia should pay upon the sum ascertained by the court to be West Virginia's share of the principal debt, namely $7,182,507.46. Virginia did not suggest any specific amount of interest, but the brief of the bond-holders contended for $14,498,925.50, interest, which added to the $7,182,507.46, the tentative finding of the Supreme Court makes a total of $21,681,432.96, as claimed by Virginia. Replying to this resolution the West Virginia Commission said that in its judgment the interest, if any, which should be paid to the State of Virginia, as set forth in the Virginia resolution, was not the only question to be considered, as the Supreme Court of the United States in its opinion of March 6, 1911, had indicated by the use of the following language:

> "We have given our decision with respect to the basis of liability and the share of the principal of the debt of Virginia that West Virginia assumed. In any event, before we could put our judgment in the form of a final decree there would be figures to be agreed upon or to be ascertained by reference to a Master. Among other things there still remains the question of interest and whether any interest is due, and if due from what time it should be allowed and at what rate it should be computed, are matters as to which there is a serious controversy in the record and concerning which there is room for a wide divergence of opinion. There are many elements to be taken into account on one side and on the other. The circumstances of the asserted default and the conditions surrounding the failure earlier to procure a determination of the principal sum payable, including the question of laches as to either party would require to be considered. A long time has elapsed. Wherever the responsibility for the delay might ultimately be placed, or however it may be shared, it would be a severe result to capitalize charges for half a century—such a thing hardly could happen in a private case analagous to this. Statutes of limitation, if nothing else, would be likely to interpose a bar. As this is no ordinary commercial suit, but, as we have said, a quasi-international difference referred to this court in reliance upon the honor and constitutional obligations of the States concerned rather than upon ordinary remedies, we think it best at this stage to go no farther, but to await the effect of a conference between the parties, which, whatever the outcome, must take place."

The conference at Washington was dissolved on July 26th, and no agreement was had. The Commission adjourned to meet again in the city of Washington on August 12th, 1913. A week or more subsequent to this adjournment, and at the very earliest practicable moment, advance copies of the printed record were sent to members of the West Virginia Commission and it was so voluminous in its character, and the consideration of it, together with the features of the case, was of such great importance, that some of the members advised the Chairman that it would be impossible for them to go through and properly digest the entire record, of which the last printed volume was only a small part, before August 18th, and suggested that the joint meeting set for that date be called off and the time of meeting extended to a date in the near future. The Chairman of the West Virginia Commission complied with this agreetion in a telegram to the Chairman of the Virginia Commission, dated August 9th, 1913, and also called a special meeting of the West Virginia Commission at Charleston on August 11th. At that meeting a sub-committee of three was appointed "to co-operate with the Attorney General and Associate Counsel in the case in drawing up the necessary data and statistics as basis of the proposition to be made to the Virginia Commission." This sub-committee met in the office of the Attorney General on the same day and the day following discussed various questions that came before it, agreed upon investigations to be made, and finally adjourned to meet on the 18th day of September. At the meeting held on the latter date it was decided that before the sub-committee could make a report it would be necessary to have certain data and information not contained in the present record, the obtaining of which would require further investigation by skilled accountants. The Board of Public Works offered to secure such data and information upon which a proposition of settlement might be predicated and the sub-committee expressed its desire to receive the same. Owing to the time that would necessarily be required in the securing of this data and information, the sub-committee adopted a resolution setting forth the facts and forwarded a copy of the same to Honorable John W. Mason, Chairman of the Commission, at Fairmont, enclosing also a draft of a letter to the Chairman of the Virginia Commission for Mr. Mason to sign and mail, explanatory of the delay that would necessarily be had, and stating that it would probably be three or four months before a proposition could be put in final and intelligent form by the West Virginia Commission. This letter was signed by Mr. Mason and for-

warded on the 22d day of September to Mr. Moon, Chairman of the Virginia Commission, at Charlottsville. On the very same day the Attorney General of Virginia served notice on the Attorney General of West Virginia that on Monday, the 13th day of October, 1913, he would "move the court to proceed with a further hearing, and determination of the case and to settle and determine all questions left open and undetermined by the decision of the 6th of March, 1911." The Attorney General filed the response of West Virginia opposing such motion and thereupon the motion was submitted on October 13th, and the court, in an opinion delivered November 19, 1913, denied the motion and set the cause for final hearing at the head of the docket on the 13th day of April, 1914.

Upon investigation, after the opinion of March 6, 1911, it became quite apparent that if West Virginia was required to pay her equitable proportion of the common debt of the Commonwealth of Virginia, based upon the relative resources of the two debtor populations, which debt was contracted for stocks and bonds invested in internal improvements of Virginia, and that Virginia retained possession of said property and had made no accounting to West Virginia therefor, West Virginia would be entitled as a credit on her part of the said debt to an equitable proportion of the stocks, bonds, cash and other common assets which were of value in the hands of Virginia as of the date of the assumption by West Virginia of an equitable proportion of the debt.

This feature of the defense of West Virginia had not been interposed or relied upon by West Virginia in the previous litigation in said cause, and it became necessary for the State of West Virginia to file an amended and supplemental answer setting forth West Virginia's equities in the common assets of the State of Virginia as of January 1, 1861, and ask an accounting therefor from Virginia. West Virginia sought to have credited upon her part of the debt as ascertained by the court in its said decree of March 6, 1911, the value of an equitable proportion of the common assets as of January 1, 1861, and as the court by its said decree found that West Virginia owed 23½% of the debt of Virginia, then by like analogy West Virginia owned 23½% of the common assets.

The opinion rendered for the first time made the amount of assets held by Virginia prior to the 1st day of January, 1861, material. The court was of opinion that a settlement under the Wheeling ordinance would entail a greater liability upon West Virginia than an adjustment under the provisions of the Constitution of

1862. It will be readily seen that if according to the court's view, West Virginia's liability under the Wheeling ordinance had been as much as the tentative finding of the Supreme Court on March 6, 1911, $7,182,507.46, and under that theory the common assets would not have been material, then the settlement, as provided by the Constitution of 1862, whereby we set up claim to a proper credit on the principal sum found due by the court by reason of West Virginia owning an equity of 23½ per cent in the common assets of Virginia as of January 1, 1861, would leave West Virginia a much smaller proportion of the common debt.

It is quite apparent from the opinion of Mr. Justice Holmes, rendered on the 6th day of March, 1911, that if Virginia owned stocks of value as of January 1, 1861, that West Virginia would be entitled to have a proper credit for her equity in such stocks and assets as of January 1, 1861, for in said opinion Mr. Justice Holmes, among other things, said

> "From this point of view the venture was on behalf of the whole State. The parties interested in the investment were the same, wherever the sphere of corporate action might be. The whole state would have got the gain and the whole State must bear the loss, *as it does not appear that there are any stocks of value on hand.*"

So after opinion of Mr. Justice Holmes of March 6, 1911, it was clearly obvious that the value of the common assets became, as of the date on which West Virginia assumed an equitable proportion of the debt, a very material factor in the proper adjustment and settlement of the pending litigation.

On March 10, 1914, the State of West Virginia, through her Attorney General, served notice on the Attorney General of Virginia, that on the 23rd day of March, 1914, the State of West Virginia would move the court for leave to file on or before the 13th day of April, 1914, a supplemental answer to the original bill of complaint. West Virginia sought to set up in said supplemental answer her equities in the cash, stocks and bonds of Virginia, as owned by her as of Jan. 1, 1861, and to set forth additional and special reasons why West Virginia was not chargeable with interest on any portion of the principal of the debt which might finally be found to be due, if any. On the 23rd day of March, 1914, the State of West Virginia moved said court for leave to file her supplemental answer on or before April 13, 1913. Elaborate oral and printed arguments were had on the 13th day of April, the date set by the court on November

10, 1913, for a final hearing of said cause, Virginia insisting on the one hand, that the court should proceed to final decree, West Virginia, on the other hand, that she had real substantial equities in the case that had not been disclosed or allowed, and that she in equity and good conscience should be permitted to file a supplemental answer setting forth her equities and be given chance for further opportunity to present her full rights and interests.

On June 8, 1914, the Supreme Court decided (234 U. S. 117):

> "The extraordinary nature of the suit between the Commonwealth of Virginia and the State of West Virginia, to determine the amount due to the former by the latter as its equitable share of the public debt of the original State of Virginia, which was assumed by West Virginia at the time of its creation as a state, requires that, contrary to the ordinary rules of legal procedure, the State of West Virginia be permitted, after the Federal Supreme Court has adjudged the amount due, save for clerical errors and the question of interest, to file a supplemental answer asserting the existence of credits which it is averred if properly considered would materially reduce the sum so fixed, and alleging various objections to the allowance of interest, although most of the items embraced in such supplemental answer were contained in the Masters report, and all were available then for every defense now based upon them if their consideration had been pressed in the aspect and with the assertions of right now made."

The case was again referred to Charles E. Littlefield, Esq., as Special Master, on the following order made by the court, 234 U. S. 122:

> "That the motion on the part of the state of West Virginia to file the supplemental answer be and the same is hereby granted; and that the averments in such answer be and the same shall be considered as traversed by the State of Virginia; that the subject matter of the supplemental answer as traversed be at once referred for consideration and report to Charles E. Littlefield, Esq., the master before whom the previous hearings were had, with directions to hear and consider such evidence and testimony as to the matters set forth in the supplemental answer as the State of West Virginia may deem advisable to proffer, and such counter showing on the part of the State of Virginia as that state may deem advisable to make. The report on the subject to embrace the testimony so taken and the conclusion deduced therefrom, as well as the views of the Master concerning the operation and effect of the proof thus offered, if any, upon the principal sum found to be due by the previous decree of this court. Nothing in this order to vacate or change in any manner or in any particular the previous decree, and the same to stand wholly unaffected by the order now made or any action taken thereunder until the examination and report herein provided for is made and this court acts upon the same. It is further directed that the proceedings before the Master be so conducted as to secure a report on or before the second Monday of October, 1914."

Commissioner Littlefield, at a preliminary meeting held in his office at 61 Broadway, New York, on the 17th day of June, 1914, fixed upon the 17th day of August, 1914, in the city of Richmond, Virginia, for the purpose of taking the evidence upon the matters alleged in the supplemental answer.

The meeting last referred to was held in Richmond from August 17 to 19, inclusive, and adjourned to the same place to September 2, 1914, where the hearing was continued before Commissioner Littlefield until September 12 when an adjournment was had to October 19, 1914, at which time the cause was to be heard before the Master in New York. At the conclusion of this hearing it was understood that each side had finished, except the possible taking of the deposition of one witness.

Pursuant to adjournment the plaintiff and defendant met before the Master in New York on October 19. Printed briefs were filed and the case was argued orally. The hearing lasted one week. During this argument Virginia, with the consent of the Master, asked leave to take further evidence by way of depositions in Richmond, and on November 20, 1914, she proceeded to take testimony and so continued for some time thereafter.

Pursuant to the direction of the Master, the plaintiff and defendant met again in New York on December 7, 1914, for the purpose of taking further testimony and making oral argument. Considerable additional evidence was taken, schedules filed, and further extended oral argument was had. At this hearing the cause was finally submitted to the Master, with leave at his direction for the accountants of Virginia and West Virginia to file certain data and information in regard to controversies specifically limited.

On January 21, 1915, the report of Special Master Littlefield on the supplemental answer was filed in the Supreme Court.

On the 20th day of February, 1915, while exceptions to the report of the master was pending in court the Legislature by Chapter 46 of the Acts of 1915 repealed the resolution of 1913, authorizing the Governor to appoint a commission of eleven, and provided for the creation of the "new Virginia Debt Commission," and in pursuance thereof the Governor appointed William E. Wells, William T. Ice, Jr., Joseph S. Miller and J. W. Dawson.

On the 2nd day of February, 1915, the Attorney General of Virginia served notice on the Attorney General of this state that on the 1st day of March, 1915, the Commonwealth of Virginia would file her exceptions to the Master's report and move the court to set the

cause for hearing upon the report of the Master. On the day named exceptions were filed on behalf of both parties to the litigation.

The cause was argued before the Supreme Court April 27, 28 and 29, 1915, and submitted for decision on the last named date. The court rendered its decision June 14, 1915.

The Master reported that in his view the assets set up by West Virginia in her supplemental answer and detailed by the Master in his report were applicable according to their value as of January 1, 1861, to the public debt of Virginia which was to be apportioned as of that date; that the value of these assets then amounted to $14,511,-945.74 of which West Virginia's share 23½ per cent, would be $3,410,307.25; that if this amount were to be credited to her in reduction of her liability there should be offset certain moneys and stocks received by her from the restored government of Virginia aggregating $541,467.76, leaving a net credit to West Virginia of $2,868,839.49. This would reduce West Virginia's liability and principal from $7,182,507.46 to $4,313,667.97. The Master also concluded that West Virginia by virtue of her contract with Virginia was liable for interest from January 1, 1861, the date as of which her share of the principal was determined, but did not fix a rate of interest.

The Supreme Court allowed certain other credits upon exceptions by West Virginia to the Master's report, which reduced the principal of the debt for which West Virginia is liable to $4,215,622.28, and allowed interest upon this sum from January 1, 1861, to July 1, 1891, at 4 per cent, from July 1, 1891 to July 1, 1915 at 3 per cent, and interest upon the sum of principal and interest from the latter date at 5 per cent until the entire amount is paid. A statement of the debt thus ascertained follows:

Principal, after allowing credits as stated.....		$ 4,215,622.28
Interest,		
January 1, 1861, to July 1, 1891, at four per cent	$5,143,059.18	
July 1, 1891, to July 1, 1915, at three per cent	3,035,248.04	8,178,307.22
		$12,393,929.50

In pursuance to its decision of June 14, 1915, the Court entered the following decree:

"SUPREME COURT OF THE UNITED STATES.
"Original No. 2. October Term, 1914.
"*Commonwealth of Virginia, Complainant,*
"vs.
"*State of West Virginia, Defendant.*

"This cause came on to be heard on pleadings and "proofs, the reports of the Special Master and the excep-"tions of the parties thereto, and was argued by counsel.
"On consideration whereof, the Court finds that the de-"fendant's share of the debt of the complainant is as "follows.—
"Principal, after allowing credits as stated, $4,215,622.28; "interest from January 1st, 1861, to July 1st, 1891, at four "per cent per annum, $5,143,059.18; interest from July 1st, "1891 to July 1st, 1915, at three per cent. per annum, "$3,035.248.04, making a total of interest of $8,178,307.22, "which, added to the principal sum, makes a total of "12,393,929.50.
"It is therefore now here ordered, adjudged and decreed "by this Court that the complainant, Commonwealth of Vir-"ginia, recover of and from the defendant, State of West "Virginia, the sum of $12,393,929.50 with interest thereon "from July 1st, 1915, until paid, at the rate of five per cent. "per annum.
"It is further ordered, adjudged and decreed that each "party pay one-half of the costs.
"JUNE 14th, 1915.

Some time subsequent to the entry of this judgment, the Attorney General of the State of Virginia served notice on the the Attorney General of this state that Virginia would on the 5th day of June, 1916, move the Supreme Court that a writ of execution issue against the State of West Virginia upon this money judgment. The case was submitted on this motion on June 5, and decided by the court June 12, 1916. West Virginia resisted the granting of this motion on three grounds:

(1) Because the state of West Virginia, within herself, has no power to pay the judgment in question, except through the legislative department of her government, and she should be given an opportunity to accept and abide by the decision of this court, and, in the due and ordinary course, to make provision for its satisfaction, before any step looking to her compulsion be taken; and to issue an execution at this time would deprive her of such opportunity, because her legislature has not met since the rendition of said judgment, and will not again meet in regular session until the second Wednesday in January, 1917, and the members of that body have not yet been chosen.

(2) Because presumptively the state of West Virginia has no property subject to execution; and

(3) Because, although the Constitution imposes upon this court the duty, and grants it full power, to consider controversies between states, and therefore authority to render the decree in question, yet with the grant of jurisdiction there was conferred no authority whatever to enforce a money judgment against a state if, in the exercise of jurisdiction, such a judgment was entered.

On June 12, 1916, Mr. Chief Justice White rendered the following opinion:

In the original cause of Commonwealth of Virginia v. State of West Virginia, on the 14th day of June, 1915, a decree was rendered in favor of Virginia and against West Virginia for the sum of $12,393,929.50, with interest thereon at the rate of five per centum from July 1st, 1915, until paid. Virginia now petitions for a writ of execution against West Virginia on the ground that such relief is necessary, as the latter has taken no steps whatever to provide for the payment of the decree. West Virginia resists the granting of the execution on three grounds: (1) "Because the State of West Virginia, within herself, has no power to pay the judgment in question, except through the legislative department of her government, and she should be given an opportunity to accept and abide by the decision of this court, and, in the due and ordinary course, to make provision for its satisfaction, before any steps looking to her compulsion be taken; and to issue an execution at this time would deprive her of such opportunity, because her legislature has not met since the rendition of said judgment, and will not again meet in regular session until the second Wednesday in January, 1917, and the members of that body have not yet been chosen"; (2) Because presumptively the State of West Virginia has no property subject to execution; and (3) Because, although the Constitution imposes upon this court the duty, and grants it full power, to consider controversies between States and therefore authority to render the decree in question, yet with the grant of jurisdiction there was conferred no authority whatever to enforce a money judgment against a State if in the exercise of jurisdiction such a judgment was entered.

Without going further, we are of the opinion that the first ground furnishes adequate reason for not granting the motion at this time.

The prayer for the issue of a writ of execution is therefore denied, without prejudice to the renewal of the same after the next session

of the legislature of the State of West Virginia has met and had a reasonable opportunity to provide for the payment of the judgment.

And it is so ordered.

Expenditures in Case and by Commissions

In view of the fact that there has been some criticism from time to time as to expenditures in regard to the debt suit, and as we feel that your Honorable body, as well as the citizens of the state generally are especially interested in the amount of money that has been expended and the purpose for which expended in the defense of this litigation and by the Debt Commission, we will deal with this subject somewhat at length.

There was appropriated for the defense of this suit by the legislature in the year 1907, $50,000.00; 1909, $50,000.00; 1911, $50,000.00; 1913, $25,800.80 to reimburse the civil contingent fund of the governor for monies expended by him by and with the consent of the Board of Public Works in defense of said suit. There was also appropriated by the legislature of 1913, $20,000.00 for the Virginia Debt Commission and by the legislature of 1915, $50,000.00, and special appropriations to J. H. Holt, counsel, for services rendered and to be rendered, $16,000.00, and to A. E. Dover, accountant, $2,500.00, making total appropriations by the legislature of $264,300.80. In addition to the foregoing appropriations, there was expended out of the state emergency fund by virtue of the Board of Public Works, under the administration of Governor Glasscock, $12,048.76, and $1,904.53 out of the civil contingent fund of the said Governor Glasscock, with the approval of the Board of Public Works. In addition to the $25,800.80 expended out of the civil contingent fund of the present governor, there has been expended $13,236.06 out of said fund. The total expenditures of the preceding administrations were $146,886.49.

On the 4th day of March, 1913, at the time of the induction of the present Attorney General into office there remained unexpended of the appropriation of the legislature of 1911, in the hands of the Board of Public Works $16,366.80. This appropriation became exhausted on November 5, 1913, and it became necessary by reason thereof for the governor, with the approval of the Board of Public Works, to pay certain bills which amounted on December 31, 1914, to $25,800.80. These two items combined make a total of $42,157.60, which was the amount expended under the present administration, as

shown by my report to the legislature of 1915, up to and including December 21, 1914. There were a few outstanding bills at that time which had not been paid. The foregoing expenditures did not include postage, clerk hire, traveling expense, etc., which had been incurred in this litigation by the Attorney General's office and which expenses were paid by the Attorney General out of his contingent fund. Such expenditures heretofore were borne out of the general legislative appropriations for the defense of the debt suit, but because of the limited amount of money from the appropriation of 1911 for the payment of other expenses incident to said litigation the expense incurred by the Attorney General was paid as aforesaid.

The Virginia Debt Commission, created by resolution of the legislature of 1913, expended out of the appropriation appropriated in 1913 of $20,000.00 the sum of $13,847.99, leaving a balance of said appropriation unexpended of $6,152.01. The total amount expended up to and including December 31, 1914, the date of my last report, in defense of the debt suit, was $189,044.09, which, together with the sum of $13,847.99, expended by the debt commission, as aforesaid, made a total expenditure of $202,892.08.

Since said date of December 31, 1914, the Governor has paid out of his civil contingent fund $13,236.06, as above stated, and there has been expended from special appropriations (Holt and Dover) $18,500.00, and out of the appropriation of 1915 of $50,000.00, by the New Virginia Debt Commission $5,273.05, making a total of expenditures from the beginning of the litigation to the present time in defense of the suit and by the two Virginia Debt Commissions of 1913 and 1915, not including expenditures incurred by the present Attorney General in said litigation, which was paid out of his contingent fund, the sum of $239.711.59.

An itemized statement of the expenditures incurred during the term of Attorney General May, Attorney General Conley and myself, together with expenditures of the Virginia Debt Commissions, with recapitulations of all expenditures, is as follows:

Expenditures in Defense of Suit Under Attorney General C. W. May

1907.

Date	Payee	Purpose	Amount.
Feb. 18,	John G. Carlisle,	retainer	$ 5,000.00
Apr. 1,	Mollohan, McClintic & Mathews,	on acct. of services and expenses	3,933.40
Apr. 2,	Acme Publishing Co.,	printing briefs	112.00
May 2,	Chas. E. Hogg,	services and expenses	3,675.00
May 22,	Judd & Detweiler,	printing briefs	109.75

July 25,	J. H. McKenney, 6 copies opinion	6.00
July 25,	Judd & Detweiler,printing briefs	155.00
July 25,	Douglas Taylor & Co., printing briefs	30.75
July 25,	P. B. Sheridan, stenographic services	32.00
July 25,	Pechin P. Johnson, stenographic services	278.00
Aug. 6,	J. E. Dana, P. M., stamps to mail out copies of the proceedings	150.00
Sept. 28,	John G. Carlisle, on account	1,000.00
Oct. 19,	J. E. Dana, P. M., stamps to mail out copies of the proceedings	100.00
Dec. 9,	Jno. C. Spooner, retainer fee	10,000.00
Dec. 26,	C. W. May, on account expenses	1,000.00
Dec. 26,	John G. Carlisle, on account	4,000.00
Dec. 26,	Mollohan, McClintic & Mathews, on account	1,500.00
Dec. 26,	Chas. E. Hogg, on account	1,500.00
1908		
Feb. 29,	Carl Priddy, work on accounts	25.00
Mar. 23,	Judd & Detweiler, printing briefs	16.00
Mar. 23,	Thos. B. Dixcy, work on records at Richmond	1,466.66
Mar. 23,	V. A. Lewis, expenses in suit	96.84
Apr. 11,	S. C. Steele, services at Richmond	165.90
Apr. 11,	L. A. Petty, services at Richmond	129.90
May 6,	Thos. B. Dixcy, services at Richmond	4,200.00
May 8,	V. A. Lewis, expenses in suit	34.94
May 8,	Mollohan, McClintic & Mathews, expense	425.30
May 8,	O. J. Wilkinson, services at Richmond	359.90
May 8,	S. C. Steele, services at Richmond	332.00
May 8,	L. A. Petty, services at Richmond	156.00
	Total	$ 39,960.34

Expenditures in Defense of Suit Under Attorney General W. G. Conley.

May 26,	Williards Hotel Co.	300.55
May 26,	O. J. Wilkinson, services at Richmond	169.80
June 17,	O. J. Wilkinson, services at Richmond	260.00
June 17,	S. C. Steele, services at Richmond	164.00
June 17,	L. A. Petty, services at Richmond	123.00
June 29,	Thos. Bird Dixcy, services at Richmond	1,600.00
July 10,	O. J. Wilkinson, srvices at Richmond	294.15
July 10,	L. A. Petty, services at Richmond	125.00
July 10,	S. C. Steel, services at Richmnod	125.00
July 13,	E. M. Gilkeson, expense attending Virginia Debt Committee meeting	17.25
July 13,	Judd & Detweiler, printing briefs	13.00
July 13,	Virginia Edmond, stenographic services	57.50
July 13,	L. A. Edwards, clerical services	51.00
July 22,	Jno. G. Carlisle, account services	1,000.00
July 22,	Thos. Bird Dixcy, use of Loomis & Conant	224.40
July 22,	Thos. Bird Dixcy, account services	1,358.93
Aug. 1,	Virginia Edmond, stenographic services	75.00

Aug. 1,	L. A. Edwards, clerical services	85.00
Aug. 17,	Thos. Bird Dixcy, account services	1,233.41
Aug. 17,	Thos. Bird Dixcy, account services	166.59
Aug. 17,	O. J. Wilkinson, services	260.00
Aug. 17,	L. A. Petty, services	125.00
Aug. 17,	R. M. Kittle, services and expenses	142.50
Aug. 24,	L. A. Edwards, services in August	63.75
Sept. 1,	Virginia Edmond, salary August	75.00
Sept.	O. J. Wilkinson, salary August	150.00
Sept. 15,	L. A. Petty, services August	65.00
Sept. 15,	R. M. Kittle, services August	125,00
Sept. 15,	H. M. O'Blenness, services and expenses	143.00
Sept. 15,	Thos. Bird Dixcy, part service August	1,215.03
Sept. 15,	T. B. Dixcy, on account services	201.70
1909		
Mar. 3,	Ida B. Lusk, stenographic services	$ 55.00
Mar 3,	Virginia Edmond, stenographic services	225.00
Mar. 3,	Chas. S. Edwards, salary Dec. 1908, Jan. and Feb. 1909	300.00
Mar. 5,	Wm. G. Conley, Atty. Gen. expenses in suit	500.00
Mar. 10,	National Cooper Bank, assignee Thos. B. Dixcy, services as accountant	4,282.26
Mar. 10,	Loomis & Conant, assignee T. B. Dixcy, services	584.41
Mar. 12,	L. A. Petty services Dec. 1908 and Jan. 1909	235.94
Mar. 20,	L. A. Petty, services Feb. 1909	125.00
Mar. 20,	Loomis & Conant, assignee T. B. Dixcy	124.73
Mar. 20,	T. B. Dixcy, services	2,814.50
Apr. 9,	Virginia Edmond, stenographic services	75.00
Apr. 9,	Charles S. Edwards, services Mar. 1909	100.00
Apr. 9,	Ida B. Lusk, services Mar. 1909	20.00
Apr. 9,	Mollohan, McClintic & Mathews, on account	3,000.00
Apr. 10,	T. B. Dixcy, services Mar. 1909	3,658.33
Apr. 10,	John G. Carlisle, on account	1,000.00
Apr. 10,	L. A. Petty, in full to Apr. 1909	273.07
Apr. 30,	Clerk Circuit Court, Monroe County, copy of court records	3.50
Apr. 30,	Ida B. Lusk, stenographic work	20.00
Apr. 30,	Virginia Edmond, stenographic work	75.00
Apr. 30,	Chas. S. Edwards, services	100.00
May 15,	T. B. Dixcy, professional services	4,030.15
May 15,	L. A. Petty, services	175.00
May 28,	E. S. Bock, taking depositions	42.60
June 1,	Chas. Edwards, services	100.00
June 1,	Virginia Edmonds, stenographic services	75.00
June 3,	L. A. Petty, services May, 1909	175.00
June 3,	T. B. Dixcy, services May, 1909	2,699.97
June 18,	V. A. Lewis, expense getting court orders	19.10
June 25,	Virginia Edmond, stenographic services	75.00
July 2,	Chas. E. Edwards, services	36.05
Oct. 1,	John G. Carlisle, expense	51.60

Oct. 1,	L. A. Petty, services July, 1909	34.80
Oct. 1,	T. B. Dixcy, services August, 1909	2,050.00
Oct. 1,	W. M. O. Dawson, salary July, Aug., Sept.,1909	1,250.00
Oct. 4,	W. G. Conley, Atty Gen. expenses in suit	500.00
Oct. 7,	T. B. Dixcy, services Sept., 1909	2,083.33
Oct. 7,	Board of Public Works, for the Civil Contingent Fund, reimbursement for amount paid on account of debt suit	2,570.22
Oct. 29,	Mollohan, McClintic & Mathews, expenses	961.57
Oct. 30,	W. M. O. Dawson, salary Oct. 1909 and expenses	696.91
Nov. 17,	Richmond Press, printing and binding	94.80
Nov. 24,	W. Mollohan, expenses to New York	107.25
Nov. 24,	W. M. O. Dawson, salary Nov. 1909	416.66
Dec. 22,	W. M. O. Dawson, salary Dec. 1909 and expenses	803.83
Dec. 22,	John C. Spooner, expenses in suit	885.86
Dec. 22,	T. B. Dixcy, services Oct. and Nov. 1909	2,475.00
Dec.	Katherine Banks, stenographic work	45.00
Dec. 22,	Virginia Good, stenographic work	55.00
1910		
Feb. 16,	John C. Spooner, on account	2,000.00
Feb. 16,	Mollohan, McClintic & Mathews on account	1,000.00
Mar. 2,	T. B. Dixcy, balance for services	500.00
Mar. 9,	W. M. O. Dawson, salary Jan. and Feb. 1910 and expenses	923.27
Mar. 30,	W. B. Donally Co., freight and drayage	3.00
Mar. 30,	Homer Gray, preparing statement	20.00
Apr. 6,	W. B. Donally Co., freight and drayage	5.05
Apr. 20,	Judd & Detweiler, printing motion	4.00
May 11,	W. M. O. Dawson, salary Mar. and Apr. 1910, and expenses	881.55
May 27,	John G. Carlisle, on account and expenses	2,621.40
June 1,	W. B. Donally Co., freight and drayage	11.65
June 1,	Chas. E. Hogg, expenses in suit	811.00
Aug. 1,	Charleston Utility Co., freight and drayage	6.19
Aug. 22,	Richmond Press, printing and binding record	1,065.60
Nov. 10,	J. R. W. Morris, Jr., stenographic work	2.00
Nov. 10,	Don Blagg, stenographic work	5.50
Dec. 21,	S. S. Moore & Co., typewriter rent	6.50

STATE EMERGENCY FUND.

John G. Carlisle	$ 101.90
W. M. O. Dawson	1,306.01
Chas. S. Edwards	214.00
Thos. B. Dixcy	7,255.05
E. S. Bock	30.00
J. M. McWhorter	17.45
L. A. Petty	610.00
Attorney General, Postage	200.00
O. J. Wilkinson	700.00

Ida B. Lusk	87.50
R. M. Kittle	364.60
H. M. O'Blenness	375.00
Virginia Edmond	225.00
Loomis & Conant	485.30
S. C. Steele	76.95
Total	$ 12,048.76

CIVIL CONTINGENT FUND.

Thos. B. Dixcy	$ 3,201.30
H. M. O'Blenness	145.00
R. M. Kittle	141.50
O. J. Wilkinson	273.40
John K. Thompson	3.55
	$ 3,764.75

TOTAL.

Virginia Debt Appropriations	$ 99,948.15
State Emergency Fund, above	12,048.76
Civil Contingent Fund, above	3,764.75
	$ 115,761.66
Less amount paid back to Civil Contingent Fund out of Virginia debt Fund	2,570.22
Total amount paid in defense of the Virginia debt suit to Dec. 21, '10	$ 113,191.44

1911

Mch. 1, W. M. O. Dawson, salary to January 15, 1911	$ 2,966.66
Mch. 1, L. A. Petty, balance of salary for services rendered as accountant	25.05
Mch. 1, Thos. Bird Dixcy, services as accountant	1,000.00
Mch. 3, Mollohan, McClintic & Mathews, legal services	5,000.00
Apl. 19, John C. Spooner, legal services	5,000.00
Apl. 19, Charleston Utility Co., drayage	4.84
Apl. 26, Wm. J. Kehoe and John G. Carlisle, Jr., executors, in full of services rendered by John G. Carlisle, deceased	2,500.00
Apl. 26, Chas. E. Hogg, in full for legal services rendered to date, $5,000.00; expenses, $292.00	5,292.00
Apl. 26, Brown Bros. & Co., preparing list of West Virginia deferred certificate holders	250.00
Nov. 8, J. F. Hudson, postmaster, stamps to be used for mailing lists of W. Va. deferred cert. holders	150.00
Nov. 15, J. F. Hudson, postmaster, stamps to be used for mailing lists of W. Va. deferred cert. holders	130.00
Nov. 15, J. F. Hudson, postmaster, stamps to be used for mailing lists, W. Va. deferred cert. holders	20.00

Dec. 15,	Mary Deadrick, five days work at $3 per day mailing lists of W. Va. deferred cert. holders.....	15.00
1912.		
Jan. 3,	Mollohan, McClintic & Mathews, in full of all services rendered to date.....	6,000.00
Jan. 3,	Mollohan, McClintic & Mathews, expenses incurred in Virginia debt suit.....	226.75
Mch. 6,	Chas. E. Hogg, legal services rendered to date, $5,000.00; expenses, $114.74.....	5,114.74
	Total.....$	106,926.15

Expenditures in Defense of Suit Under Attorney General A. A. Lilly.

1913.		
Sept. 15,	Charles E. Hogg, expenses incurred in suit.....$	164.50
Oct. 18,	Judd & Detweiler, Washington, D. C., 200 copies of note of argument	20.75
Nov. 20,	Thomas Bird Dixcy, professional services rendered in consultation with Atty. Gen. Lilly, $50; expenses, $20.17.....	70.17
Nov. 20,	Park, Potter & Co., professional services rendered in conference with Atty. Gen. Lilly and expenses.....	116.20
Dec. 19,	Clifford E. Scoville, public acct., professional services rendered in consultation with Atty. Gen. Lilly, and expenses.....	49.74
1914.		
Feb. 5,	H. D. Hatfield, Governor, to reimburse civil contingent fund amount paid to V. B. Archer for legal services and expenses.....	504.85
Feb. 5,	V. B. Archer, legal services and expenses.....	1,279.88
Feb. 5,	Chas. E. Hogg, legal services and expenses.....	1,227.30
June 1,	V. B. Archer, legal services and expenses.....	1,435.24
June 1,	Chas. E. Hogg, legal services and expenses.....	2,296.15
June 1,	Union Publishing Co., printing.....	379.12
June 5,	Griffith L. Johnson, stenographic services.....	250.00
June 29,	V. B. Archer, legal services and expenses.....	833.32
July 28,	C. W. Hillman and assistants, services as accountants.....	1,436.90
Aug. 1,	C. D. Bray, services as accountant.....	299.25
Aug. 1,	E. A. Dover, expenses as accountant.....	179.67
Aug. 8,	C. W. Hillman and assistants, services as accountants.....	1,809.09
Aug. 17,	Overton Howard, legal services.....	300.00
Aug. 24,	J. K. Anderson, expenses trip to Richmond, Va.....	143.04
Aug. 24,	C. W. Hillman and assistants, services as accountants.....	1,847.90
Aug. 26,	American Audit Co., services as accountant.....	1,065.00

Aug. 29,	C. D. Bray, services as accountant	346.75
Aug. 29,	Standard Printing & Pub. Co., printing	105.00
Sept. 9,	J. K. Anderson, expenses trip to Richmond, Va.	38.17
Sept. 9,	E. A. Dover, expenses as accountant	122.65
Sept. 15,	Hotel Kanawha, room and meals for V. B. Archer, counsel in Virginia debt suit	5.95
Sept. 15,	J. K. Anderson, on account of expenses of trip to Richmond, Va.	30.21
	Total, balance of appropriation, 1911	$ 16,356.80
1913.		
Nov. 5,	V. B. Archer, services in Virginia debt matter	472.50
Nov. 14,	Virginia Hill, stenographer, Virginia debt matter	75.00
Nov. 14,	Virginia Hill, stenographer, Virginia debt matter	36.00
Dec. 8,	Kanawha Hotel, expenses V. B. Archer, Virginia debt matter	32.35
1914.		
Feb. 4,	R. L. Gregory, expenses in Virginia debt matter	218.30
Feb. 11,	R. L. Gregory, expenses reporting Virginia debt records	38.15
Feb. 11,	Overton Howard, in matter Virginia debt case	25.00
Feb. 11,	American Audit Co., services in Virginia debt case	25.00
Feb. 11,	John C. Bond, expenses to Washington in Virginia debt case	58.00
Feb. 11,	J. D. W. Melvin, expenses in Virginia debt matter	200.00
Apr. 3,	Standard Printing & Lithographing Co., printing briefs Virginia debt case	199.00
Apr. 3,	Ohio Valley Pub. Co., Printing briefs Virginia debt case	145.04
Apr. 20,	Kanawha Hotel Co., expenses V. B. Archer Virginia debt case	24.10
Apr. 22,	H. D. Hatfield, two trips Washington and hotel; J. H. Holt and Joseph Miller	266.20
May 5,	R. L. Gregory, expenses Washington, Virginia debt case	80.25
May 30,	R. L. Gregory, services, Virginia debt case	600.00
May 30,	R. L. Gregory, expenses Richmond, Va. debt case	300.00
May 30,	Septimus Hall, expenses Richmond, Va. debt case	150.00
July 24,	H. D. Hatfield, expenses Washington and New York	99.15
July 24,	H. D. Hatfield, expenses Richmond July 1	66.65
July 28,	Septimus Hall, expenses investigation Richmond	150.00
Aug. 12,	Septimus Hall, expenses investigation Richmond	100.00
Aug. 12,	R. L. Gregory, expenses investigation Richmond	200.00
Aug. 12,	H. D. Hatfield, expenses Richmond debt case	50.80
Aug. 25,	R. L. Gregory, expenses investigation Richmond	200.00
Aug. 25,	R. L. Gregory, services Va. debt case	500.00
Aug. 29,	John H. Holt, legal services Va. debt case	2,000.00
Aug. 31,	H. D. Hatfield, expenses Richmond, Aug. 16	69.98
Sept. 9,	H. D. Hatfield, expenses Richmond, Sept. 2-7,	70.75

Sept. 9,	John H. Holt, services as counsel.....	2,000.00
Sept. 12,	Overton Howard, services as counsel.....	336.50
Sept. 12,	Septimus Hall, expenses investigation Richmond..	100.00
Sept. 12,	H. D. Hatfield, expenses Richmond, Sept. 9-12.....	59.40
Sept. 12,	J. K. Anderson, part expenses Richmond.....	39.43
Sept. 18,	R. L. Gregory, Personal expenses, stenographer, binding	350.00
Sept. 23,	Mutual Audit Co., services C. W. Hillman et al.....	1,460.00
Sept. 23,	American Audit Co., services Va. debt case.....	440.00
Sept. 24,	J. W. D. Melvin, expenses New York, Va. debt case	78.02
Sept. 24,	C. D. Bray, 21 days' service, expenses, etc.....	269.25
Sept. 24,	R. L. Gregory, expenses Richmond, Va. debt case..	172.34
Oct. 1,	E. A. Dover, expenses Richmond, Va. debt case....	110.15
Oct. 1,	American Audit Co., balance due on services.....	78.02
Oct. 1,	Weymouth, Meister & Smith, binding exhibits....	3.50
Oct. 1,	I. B. Weller, stenographer, Va. debt case.....	21.00
Oct. 15,	Septimus Hall, services investigation.....	250.00
Oct. 27,	E. A. Dover, expenses New York to hearing.....	102.21
Oct. 27,	Mutual Audit Co., services C. W. Hillman et al..	1,045.00
Oct. 31,	John H. Holt, services as counsel.....	3,000.00
Oct. 31,	Wm. Byrd Press, insurance premium on records..	8.75
Oct. 31,	R. L. Gregory, services Va. debt case.....	500.00
Nov. 11,	A. Horn & Co., 100 maps.....	20.00
Nov. 11,	Mutual Audit Co., services C. W. Hillman et al....	685.86
Nov. 11,	Standard Printing Co., printing briefs.....	67.50
Nov. 11,	Chas. E. Hogg, services and expenses.....	2,476.95
1914.		
Nov. 11,	Clarence Bonynge, stenographer.....	2,451.80
Dec. 2,	C. C. Pearson, expert services.....	89,80
Dec. 3,	O. Raymond Brown, stenographic services.....	31.20
Dec. 5,	Mutual Audit Co., services C. W. Hillman et al..	478.35
Dec. 11,	J. K. Anderson, expenses Richmond.....	41.90
Dec. 19,	Underwood Typ. Co., typewriter, R. L. Gregory....	83.03
Dec. 21,	John H. Holt, services as counsel.....	2,000.00
Dec. 21,	John T. Harris, services and expert indexing....	451.64
	Total paid out of Civil Contingent Fund to Dec. 21, 1914.$	25,800.80

The above $25,800.80 was repaid the governor's contingent fund by special appropriation, Chapter 4, Acts, 1915.

Additional expenditures after December 21, 1914, from civil contingent fund of the Governor.

1914.		
Dec.	Wm. Byrd Co., printing.....$	400.00
1915.		
Jan.	Mutual Audit Co.....	699.73
March	Overton Howard	150.00
	Septimus Hall.....	500.00

April	Wm. Byrd Co., printing	771.60	
	Freight dray express	31.32	
May	Overton Howard	33.50	
	Septimus Hall	144.31	
June	R. L. Gregory	3,400.00	
	Standard Printing & P. Co.	165.00	
	Clarence Bonynge, stenographer	2,451.00	
July	John T. Harris, balance salary to 12-23-14	590.00	
	Virginia Hill, stenographic service	57.00	
Oct.	R. L. Gregory, traveling expenses	17.90	
Dec.	Clarence Bonynge, stenographic service	364.40	
	C. E. Hogg, Balance legal service	3,811.80	
1916.			
June	Duncan & Holt, printing	48.50	
	Total		$13,636.06

Special Appropriations (Acts of the Legislature, 1915.)

1915			
March	J. H. Holt, balance for services rendered and to be rendered	$ 16,000.00	
	E. A. Dover, services in debt case	2,500.00	
	Total		$18,500.00

Per Diem, Traveling Expenses, Clerk Hire and Contingent Expenses of the Virginia Debt Commission (1913.)

(First Debt Commission.)

	Per Diem	Expenses	Total
John W. Mason, Chairman	$ 760.00	$ 595.00	$1,355.00
W. D. Ord, Chairman Sub.-Com.	800.00	801.25	1,601.25
U. G. Young, Member Sub.-Com.	400.00	237.27	637.27
W. T. Ice, Member Sub.-Com.	320.00	167.22	487.22
Henry Zilliken	330.00	355.15	685.15
Joseph E. Chilton	150.00	73.25	223.25
W. E. Wells	160.00	120.80	280.80
J. M. Hamilton	360.00	233.55	593.55
R. J. A. Boreman	400.00	337.72	737.72
J. A. Lenhart	250.00	201.77	451.77
Joseph S. Miller	290.00	248.13	538.13
Total	$4,220.00	$3,371.11	$7,580.39

Amount paid Secretary on account of services from June 10, 1913, to January 12, 1915	$4,580.00
Amount of expenses paid Secretary	1,519.63

MISCELLANEOUS BILLS.

Tribune Printing Company, for stationery	4.50
Same, for printing 20,000 pamphlets, "Statement of Negotiations" etc.	71.92

Same for expressage on "Debt Suit" books	5.95
Same for stationery	10.75
Underwood Typewriter Co. for rent of machine at Charleston for two months	8.00
Tribune Printing Company, expressage	8.40
George W. McClintic, expenses to Washington	48.45
R. J. A. Boreman, amount paid for having two typewritten copies of final report made for Messrs. Hamilton and Lenhart	10.00
Entire expense of Commission	$13,847.99

Expenses of the New Virginia Debt Commission (Acts of 1915.)

(Second Debt Commission.)

1915.		
July	J. W. Mason, per diem and expenses	$ 539.73
	W. T. Ice, Jr., per diem and expenses	95.25
	J. S. Miller, per diem and expenses	245.45
	W. E. Wells, per diem and expenses	57.22
	J. T. Harris, salary and expenses	490.63
	E. A. Dover, traveling expenses	75.50
	Tribune Printing Co., stationery, etc.	41.46
Sept.	J. T. Harris, salary and expenses	336.00
	Postage on reports	55.58
Oct.	J. T. Harris, salary and expenses	357.84
	H. D. Hatfield, traveling expenses	131.25
Nov.	J. W. Mason, per dem and expenses	44.95
	J. S. Miller, per diem and expenses	29.95
Oct.	J. T. Harris, salary and expenses	340.00
	Postage on reports	103.83
Dec.	J. T. Harris, salary and expenses	352.00
1916.		
Jan.	J. T. Harris, salary and expenses	354.00
Feb.	J. T. Harris, salary and expenses	360.00
March	J. T. Harris, salary and expenses	346.00
April	J. T. Harris, salary and expenses	356.00
May	J. T. Harris, salary and expenses	354.00
June	J. T. Harris, salary and expenses	355.14
	W. T. Ice, Jr., per diem and expenses	33.85
	J. S. Miller, per diem and expenses	77.60
	W. E. Wells, per diem and expenses	40.72
	Total	$ $5,273.45

RECAPITULATION.

Expenditures Under Former Administrations.

John G. Carlisle, legal services	$17,000.00	
Expenses	274.95	$ 17,274.95
Mollohan, McClintic & Matthews, legal services	20,000.00	
Expenses	2,154.27	22,154.27
Chas. E. Hogg, legal services and expenses	16,392.75	16,392.75
John C. Spooner, legal services	17,000.00	
Expenses	885.86	17,885.86
Total counsel fees		$ 82,952.72
Thomas Byrd Dixcy, accounting	43,404.85	
Printing briefs, opinions, etc.	1,600.30	
Clerk hire, stenographic services, etc.	18,928.62	63,933.77
Grand total		$ 146,886.49

Expenditures Under Present Administration.

Chas. E. Hogg, legal services and expenses	$ 9,976.70	
V. B. Archer, legal services and expenses	4,588.19	
John H. Holt, legal services	25,000.00	
Overton Howard, legal services and expenses	845.00	
Total counsel fees		$ 40,409.89
Mutual Audit Co.; American Audit Co., et als., Accounting	15,183.87	
Printing briefs, opinions, etc.	2,364.08	
Clerk hire, stenographic services, etc.	15,745.82	
Total		33,293.77
Grand total, present administration		73,703.66
Entire cost, legal services	$123,362.61	
Entire cost printing briefs, records, etc.	3,964.38	
Clerk hire, stenographic services, etc.	34,674.44	
Entire cost accounting	58,588.72	
Total expense all administrations for defense of suit		$ 220,590.15
Expended during term of General May	$ 39,960.34	
Expended during term of General Conley	106,926.15	
Expended during term of General Lilly	73,703.66	
Total		$ 220,590.15

Expense of first Virginia Debt Commission (Acts 1913)	$ 13,847.99	
Expense of the New Virginia Debt Commission (Acts of 1915, second Debt Commission)	5,273.45	
Total expense of both commissions	$ 19,121.44	
Grand total of expenses of all administrations for defense of suit		$ 220,590.15
Total expense of both Virginia Debt Commissions		19,121.44
Entire expense, litigation and commissions		$ 239,711.59

From the beginning of our connection with this litigation it has been our purpose to expedite and speedily terminate the same with the greatest possible dispatch, consistent with the welfare of the state's interests, and to secure, at the conclusion thereof a full and complete settlement, based on equitable principles, whereby no wrong or injustice shall be done our state. Some who are not fully advised may be inclined to criticise because the suit did not progress more rapidly during our connection with it. In view of the new and serious complications and perplexities of the case, and the immense amount of work done we feel that most extraordinary progress was made.

We deem it not amiss in this connection to state that it has been the unswerving policy of this department to follow carefully and accurately the proceedings of each and every phase of the case and with painstaking method, prepare data in relation thereto for proper presentation to the public for its information. It is, and has been, our opinion that the public should be intelligently enlightened on all matters touching this question, and to that end we have ever been ready and prompt to supply such information. In this, however, we have faithfully endeavored to exercise a decree of caution and good judgment, commensurate with the dignity of this office, and at the same time adequately satisfy the just inquiries of the citizens of our commonwealth. Feeling keenly the responsibility that rests upon this department in this connection, and knowing it to be the gateway through which official information may be properly disseminated, we have tried to doubly safeguard that information by having it at all times accessible, accurate and free from ambiguity, when it reached the knowledge of the people. With this intention in view, we have attempted to take and maintain an attitude, that would justify our procedure, in the eyes of our own people as well as those of the

whole world, in our contention with Virginia, and at the same time satisfy every citizen in the State of West Virginia, interested in the outcome of this litigation.

While material progress and headway was made toward reducing the finding of $7,182,507.46 of the Supreme Court of the United States, yet we were sadly disappointed that the court charged West Virginia with such an enormous amount of interest, aggregating $8,178,307.22 extending over a period of more than one-half a century. If the principal of the debt of $7,182,507.42 had not been reduced by the common assets of Virginia and West Virginia as of January 1, 1861, which were set up in the amended and supplemental answer of West Virginia to $4,215,622.28, and if interest had been allowed upon the original finding upon the same basis that the court found interest against West Virgina the total debt would have been $21,235,247.36, or in other words, by West Virginia securing an accounting of the common assets owned by Virginia through her amended and supplemental answer as of January 1, 1861, West Virginia reduced the principal of the debt $2,966,885.14 and saved interest based upon the finding of interest by the court on the principal sum found due by West Virginia to Virginia of $5,874,432.72, or a total saving of $8,841,317.86.

I desire to acknowledge that the most excellent help and assistance which has been rendered me in this litigation has in a material way and to a large extent been the cause of whatever progress and success has been accomplished.

It is not the province of this department to make recommendation to Your Honorable Body as to your legislative duties.

Respectfully submitted,

A. A. Lilly

January 10, 1917. *Attorney General.*