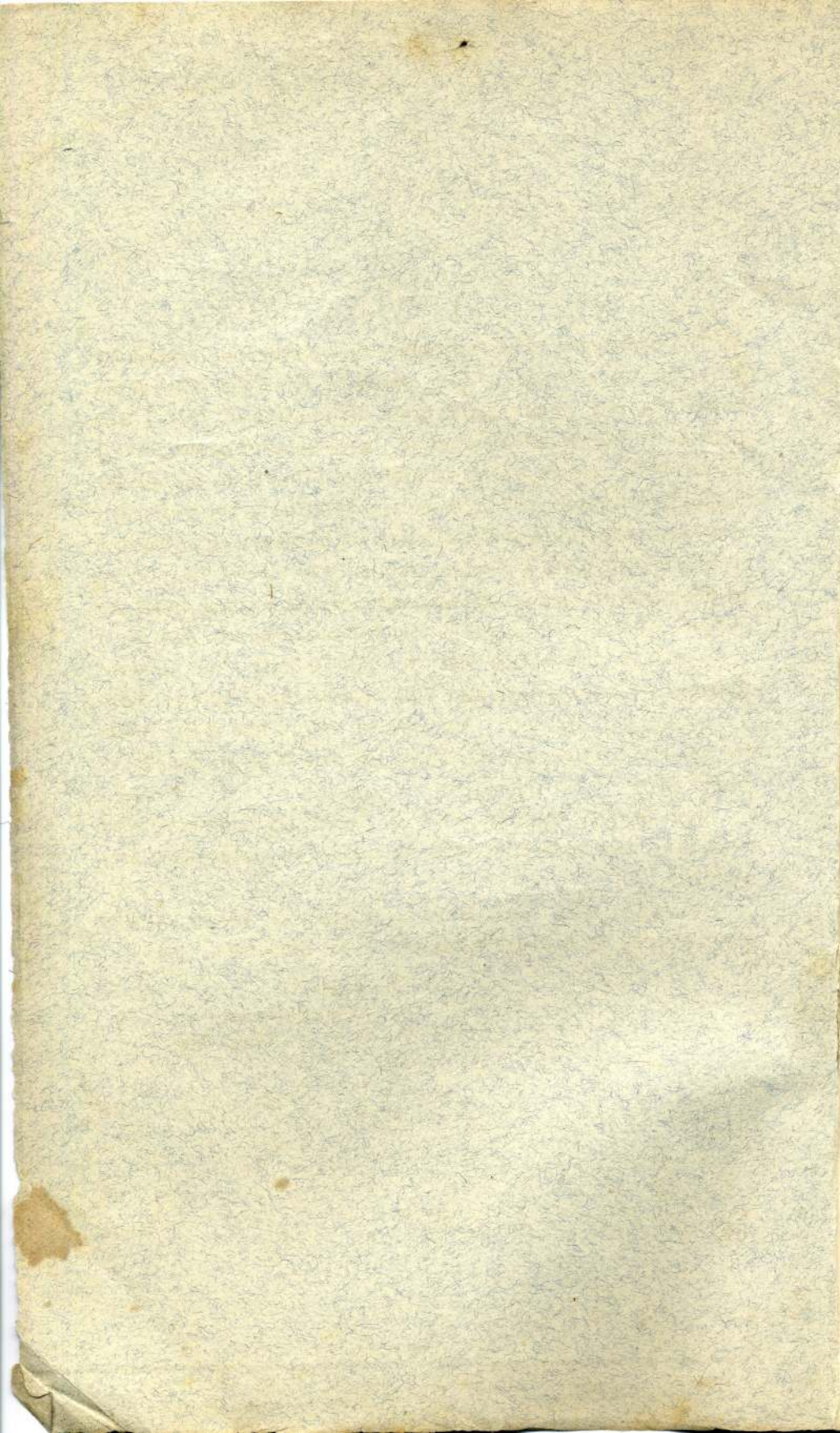

The facts about West Virginia's equitable proportion of the debt incurred by Virginia before she was divided.



The gentlemen who represent the certificates, issued by Virginia on account of our share of the debt contracted before the old State was divided, being advised that I was personally interested in some of these securities, employed me as their counsel upon an understanding that my advice would be followed by them in matters relating to the welfare of this State. My connection with the debt having been published by the newspapers, I receive too many letters of inquiry to be answered by private correspondence, and having given the subject special investigation the following paper has been prepared in the hopes that it will satisfy the general demand for information and will enable our people to form an intelligent opinion. An earnest effort has been made to present to the reading public all the facts as briefly as possible.

Any further inquiry will be cheerfully answered and copies of this pamphlet will be mailed on request to any address.

Gentlemen who have written to me will please receive this paper as an attempt to answer their questions.

J. M. MASON,
Charlestown,
West Va.

At an early day the State of Virginia embarked upon an extensive system of internal improvement. The plan was to build roads with money borrowed on long credit, and the theory was that these new roads would bring about such a rapid increase of population and property that the debt could be met without raising the rate of tax.

In other words, the scheme was to accelerate the general progress by lending the credit of the entire State to such localities as were too undeveloped to make their own roads.

When the war began the bonds of Virginia were outstanding for the money she had borrowed and had expended in these improvements.

Most of this money was spent east of the Blue Ridge, but several millions were expended within what is now West Virginia.

When the old State was divided everybody well knew that West Virginia was bound for, and must one day pay, her fair share of this common debt; that is to say, must pay her equitable part of the debt incurred before Virginia was divided. Nobody has ever supposed that West Virginia could avoid paying for the roads which had developed her territory, which her people are now using and which were built with the unpaid bonds of the old State.

Unfortunately, no one has ever attempted to ascertain the amount which West Virginia is bound to assume; her liability is not disputed, but the extent of that liability has never been determined, and this unsettled liability has hung like a mill-stone about the neck of the State; it has embarrassed private enterprise and hindered the general progress. Those acquainted with the facts about this debt believe that a proper settlement will give as the proportion for West Virginia, a comparatively small sum, and will exhibit as her indebtedness an amount which she can carry as easily as an elephant carries a pack-saddle; not only so, but those acquainted with the facts well know that her proper share may easily be ascertained beyond any question and within the fraction of a penny. The ordinance of the

Wheeling Convention in 1861, which created the State of West Virginia, prescribes exactly how her share shall be determined.

"The new State shall take upon itself a just proportion of the debt of Virginia prior to January 1st, 1861, to be ascertained by charging to it all 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 from the counties included within the new State during the same period."*

If this account had been stated immediately after the war, as was recommended by all our leading men of that day, our State would have escaped the dark cloud which has hung over her and, it is safe to say, our progress would certainly have been many times greater. This State has so many advantages over the territories and over the Western States, and has so much natural wealth, that she ought to have developed very rapidly. But this impending cloud suited the machinations of a certain class of men; it exactly suited those who wanted to buy up our best coal and timber lands cheap; those who wanted to scare off foreign buyers and foreign capital,—those who wished to keep away competition, and who schemed to absorb and to concentrate in the hands of a few individuals the immense treasures of West Virginia. Hence it resulted, that while such men were personally interested to delay a settlement, nobody was specially concerned to bring it about.† It was reported, and to-day it is believed abroad, that West Virginia owes fifteen millions and interest; the assessed value of our real and personal property being less than \$150,000,000: we could not carry so large a debt, and hence it was easy to spread an idea that presently, when the day of settlement came, (and every sensible man knows that that day is sure to come, sooner or later), the State would be crippled by heavy taxation. Strangers avoid an insolvent State precisely as we avoid an insolvent neighbor, and hence West Virginia having this (false) reputation, has remained for fifteen years with her best coal lands begging a buyer at a mere fraction of the price similar lands will bring in the adjoining States of Maryland, Pennsylvania and Ohio.

* If the old State had not been divided, our territory would have carried a very much larger proportion than is fixed on us by this ordinance.

† There has been a good-deal of loose talk about this account, but nothing practical has been done, because nobody was sufficiently concerned for the public welfare to undergo the study and hard work necessary to state this account. The truth is, in matters of this sort which involve much closet-study and closet-labor, it seldom happens that THE PEOPLE—it seldom happens that THE STATE receives the full benefit of the services of competent and faithful men, unless some private and personal interest is at stake.

But this unsettled liability has retarded our progress and hindered our advancement in a thousand different ways. The State has a bad name and strangers avoid our enterprises. Every day we see capital passing across West Virginia to seek investment in Montana, New Mexico and even in South America. Those acquainted with our mineral deposits well know that one dollar invested here does not run half the risk and will bring more solid fruit than five dollars invested in Montana. But capital is more afraid of such an unsettled liability as that we carry than it is of wolves and wild Indians. It is within bounds to say that our unascertained and unsettled debt hurts us more than we would be hurt by a certain and admitted liability of many times the amount fixed upon the State by the Wheeling Ordinance.

It is remarked by every one that we have no railroad development except the sporadic offshoots of the trunk lines. The reason is, that a local company cannot negotiate its bonds in distant markets. A West Virginia security labors under a cloud. A West Virginia security will not sell except to some chance buyer who happens to know the truth about our debt. The business men of Wall street and Lombard street have not leisure to listen to the long story that is necessary to explain away the cloud which has been raised by our failure to fix the amount we honestly owe. The result is, our railroad development must wait on the pleasure of the trunk lines or must wait until a few individuals have purchased for a mere trifle all the treasures along any projected route. It is true we hear of "a railroad boom," but the two or three new roads now projected are not being built with capital obtained in open market by the ordinary methods; the securities of our local roads are not traded on Exchange and cannot be floated on the market like similar securities from other States are traded and floated. The point is, that if Maryland, Pennsylvania or Ohio possessed our natural advantages or our resources at least three roads would have been already built for every one road that we now hear talked about. Foreign capital will not come to West Virginia unless offered extraordinary inducement, and hence we have the astounding spectacle of a county like Randolph actually offering a free gift of \$50,000 to any company that will make a road to her almost unlimited treasures. The mineral resources alone of this rich county are sufficient to guarantee enough freight to repay the entire cost of a road within twenty years. If any county in Maryland possessed the wealth of Randolph, foreign capitalists would

hasten to pay a large bonus for the bare privilege of making this road. The wonderful wealth of West Virginia seems to be known and well understood; our exhibition at the Philadelphia Centennial in 1876 attracted the attention of the world, yet capital will not come here unless offered five or ten times the profit expected from other States. And hence it was also that we had the remarkable spectacle of the bonds which the County of Jefferson subscribed to the Shenandoah Valley Railroad selling in Baltimore at fifty cents when the bonds of Hagerstown were held at par.*

The following letter is a fair and truthful example of the replies received by our public spirited men who have written to New York or to London to obtain capital to develop some local industry, and this short letter covers the entire ground.

* * * * * I have canvassed the prospect of floating the stock of your Company but am not sanguine of being able to do so. The parties I have approached, who have or represent such capital as go into these enterprises, all admit that your figures and representations are very low and that you have a good thing, but they do not seem to seize hold. The simple truth is, that an enterprise in your State commences with an up-hill pull. You, as a business man, understand the difficulty of making a START when the first few initiatory steps need a long story of preliminary explanations. After I spend the time to remove from the mind of a friend his preconceived doubts and prejudices against your State, and bring him to perceive the merits, then he must see his own way clear to remove these doubts and answer the questions of some other person in case he hereafter wishes to sell his stock. The class of men who put their money in these distant enterprises do not have leisure for a long story and will not buy stocks unless in a shape to be sold without explanation. One of the first questions asked me is, "What has West Virginia done about her part of the debt of the old State?" Old Virginia always had so many bonds on the street that every person in financial circles is informed that your people owe something, much or little, for such improvements inside of your State lines as were built with these bonds, and (as you have remarked) uninformed persons think that you owe a great deal more than you really do. But, while the amount is unfixed and exaggerated, no one can say how much or how little is your State debt, and the effect is worse than if you actually owed as much as is currently reported.

The facts were explained to me by a mere accident. What you need is a final, complete and authoritative statement of the account with old Virginia presenting the legal liability of your State, with the facts and figures, so that persons may see for themselves. This would settle all question. As the matter now stands nobody even in your own State pretends to know the size of the debt. If the amount was fixed strangers would know what to depend on and I could sell your stock as readily as I sell similar securities from other States.

A great number of similar letters received by our business men during the last ten years are at hand to be here copied, but it is idle to continue these illustrations; the matter is perfectly well understood by all thoughtful persons; every

* It is true the city bonds of Wheeling sold for a good price, but this was because the loan was absorbed by local capital. If these bonds had been forced on a distant market, the debt cloud would have frightened off buyers.

merchant who asks credit abroad, every citizen who tries to borrow money in a distant market meets with a shyness and a distrust that clog his energy and he labors under a disadvantage that the man from Maryland does not encounter. The result is that in order to procure capital our people submit to sacrifices which would not be tolerated elsewhere and which seem incredible to persons in other States.

In Pennsylvania coal lands sell for \$500, and \$1,500. Why? Because the owner can readily obtain, on easy terms, ample capital to develop his property. Similar land sells here at \$1, and \$5. Why? Because a West Va. owner cannot procure capital on reasonable terms. Hence the native born and those who when the war ended owned all this treasure are as poor as they were twenty years ago and nearly as poor as if this treasure had no existence. Our mineral wealth is being bought up for a mere trifle by the few individuals who alone have special and unusual access to non-resident capital and we, whose ancestors ran the Indians out of these mountains, are as poor as ever.

We recently read in the papers that Mr. ———, of Pennsylvania, had purchased in West Va. 100,000 acres of choice mineral and timber land for \$100,000. It was said that such land, if in Pennsylvania, would sell for \$1,000 per acre. This land will be worth as much here twenty years hence as similar property is now worth in Pennsylvania, and Mr. ———, or his children, if they retain the investment, will make a profit which will be counted by the millions. But the more thoughtful citizen is not jubilant to witness our most valuable lands thus rapidly passing to non-resident owners at a mere nominal price. Those permanently identified with the welfare of this State, those whose children must live here and share the fortunes of West Va., those who still possess and wish to develop or to sell the remnant of our natural wealth are not able to perceive how, when and where the native born citizen will receive a benefit from such a sacrifice as is here recorded.

It is infinitely to be regretted that this debt-cloud was not cleared up long ago. The State and consequently every man in it (except a few individuals who fatten on the disease) has suffered beyond calculation and suffered none the less heavily because the evil is not one of those noisy, obtrusive maladies that fester conspicuously on the surface of the body politic.

It is infinitely to be regretted that this debt-cloud was not

driven away long ago. When the war ended, it was predicted everywhere that West Virginia would go forward with giant strides; she was known to be richer than the Lehigh Valley, she was richer in mineral than the same area anywhere else on the habitable globe; there is no country in the world more healthy. Here were 24,000 square miles, within the very heart of civilization and population, as wild and as untrodden as Montana. Such being the fact, it was expected that there would be an influx of that permanent capital and permanent population which alone give substantial and solid progress.

Experience shows that *temporary* capital, that is, capital which comes with an intention of leaving, does more harm than good; it simply makes a harvest and then returns home, leaving the State poorer, because its treasures are exhausted. Those who think, those who reflect, realize now what those who do not think will surely realize some ten or twenty years hence; that when the coal is taken from our hills, our treasure is gone.

This is exactly what has been going on in certain parts of this State.

In order to coax capital to come here, our people have been obliged to offer the most extravagant inducements, and such capital as has come feels uneasy and keeps itself ready to leave at a moment's warning. In order to obtain a solid and healthy development, we must have that character of investment which feels safe and secure, and which, when it comes, comes to stay. But the debt-cloud, keeps strangers, whose investment in West Virginia are in the hands of agents, uneasy and suspicious; the result is, our State has not prospered a tithe as much as she would otherwise have done.

In considering the following table, it will be remembered that, in 1870, West Virginia was a new and undeveloped district; that she was known to be marvelously rich in mineral and in timber, and that she adjoined the old and very wealthy States of Maryland and Pennsylvania. Bearing these facts in mind, who is not startled by the following statistics?

A TABLE, compiled from the censuses of 1870 and 1880, showing the per cent. of increase and decrease in the value of land and personal property in the 14 Western States as contrasted with the increase and decrease in West Virginia :

	Land.	Personal Property.	
	Per cent. of Increase.	Per cent. of Increase.	Per cent. of Decrease.
WEST VIRGINIA	9 $\frac{3}{8}$		22
California	164	27	
Colorado	300	357	
Iowa	31	33	
Illinois	65	57	
Indiana	17		6*
Kansas	67	96	
Minnesota	224	147	
Michigan	81	78	
Missouri	9 $\frac{1}{2}$	9	
Nebraska	43	118	
Nevada	23	9	
Oregon	88	41	
Ohio	54		4
Wisconsin	32	16	

This table is conclusive that our State labors under some disadvantage. Considering her central situation, her natural resources, her good climate, her undeveloped wealth she ought to make as fair a showing as either Colorado or Minnesota. Why should Capital, without stopping to find a home in West Virginia travel 3,000 miles further west ?

We do not say that the debt-cloud is the sole cause of our want of progress, but we do say that it is a great cause, and

*After this table was prepared, we inquired of the proper officers whether the decrease in Ohio and Indiana could be explained. We are informed that there is a mistake in the census as regards Indiana, her personal property in

1870, was, \$203,334,070.

1881, " 220,858,701.

At the time of sending this MS. to the printer, we have not received an answer to our letter to Ohio.

the chief cause : we do say that if this cloud be removed, if the size of our liability be once fixed so that strangers will know exactly what to depend on in respect to future taxation, that then capital will come here as readily and on the same terms that it now comes to other States : but we do say, and we do know it is true, that as the matter now stands, strangers who are inclined to come here, express themselves thus: "I am afraid to put my money in West Virginia because when her debt is settled her taxes will be higher than in other States."

Again, we do not say, that we are now prepared to shoulder a large debt ; on the contrary, we say that we are not prepared to do so ; we must keep our tax-rate as low as it is in the other States ; but we do say, and we are certain that what we say is correct, that the moment the amount of our liability is fixed an era of solid prosperity will set in and that under a system of laws which will compel each man to pay a tax in proportion to his ability, in a very few years we can carry what we owe without feeling the burden. Our proposition is, to fix the amount by stating the account required by the Wheeling Ordinance, and having fixed it, to tell the creditors that we will commence the first year with a small payment and that we will increase our payments as the State becomes richer. The creditors will cheerfully accept this proposition ; they have sense enough not to cripple our development. Not only so, but it is clearly to their interest to bring and to send capital to hasten that development. It will be seen presently, when we come to identify our creditors, that they are the very class of men who occupy a position to direct towards this State the vast sums of money now going to the wild woods of the West.

The status of this debt is absolutely without precedent and is a disgrace to the State.* Here is a matter of easy solution and of vital importance which has been dodged by our office-seekers as they would dodge a storm-cloud on the prairie and yet there is no cause for alarm and no reason to

* There is not a similar case in history. Even Egypt, although hopelessly bankrupt, attempted to adjust her debt, but West Virginia has done nothing.

Be it observed, there is a great difference between our debt and the debts of the States which have defaulted. In Mississippi, the bonds were issued in direct violation of her constitution : In Tennessee, the Railroads seduced the legislature to release the security on which the debt was based : In the Southern States, the defaulted bonds represent " carpet-bag plunder : " In Virginia, the Readjusters claim to deduct from the bonds issued since the war the amounts in excess of what the State honestly owes. But when the account required by the Wheeling Ordinance is stated, nobody can question the indebtedness of West Va. Our liability will be represented by the roads, &c., the people are now using.

be afraid. The only thing necessary is put all the facts squarely before the people of this State: it is very evident, a settlement will benefit the private business of each and every citizen whose personal interests are promoted by increasing the prosperity of his neighbors.

When the Richmond Convention passed the ordinance of secession, the delegates representing the western part of Virginia left that city and a new convention was convened in Wheeling. This rival Convention met in June, 1861.

The Congress of the United States and the Supreme Court have both decided that this Wheeling Convention was the only legal government in Virginia; that it was a convention of the whole State, and that the body at Richmond was, after the passage of the ordinance of secession, a rebel and an illegal organization.

This Wheeling convention proceeded to establish and put into operation what became known as "the Restored Government of Virginia." This Wheeling convention adopted two ordinances: the first, organized "The Restored Government," and the second, created the State of West Virginia. This second ordinance consists of two sections; the first, names the counties which shall comprise the new State; the second, declares what part of the debt shall be assumed by the new State. This second section prescribes in exact terms, how an account shall be stated in order to determine the amount to be assumed by West Virginia.

The new State is to be CHARGED with all *expenditures by Virginia* within her territory and with a *just* proportion of the *ordinary* expenses of the State government *since* any part of the debt was contracted; and CREDITED with the moneys collected during the same period from the counties composing the new State.

The amount of our indebtedness under this ordinance will be considered presently.

The new State thus provided for was organized by the convention which framed the Constitution of 1863. This constitution was ratified by a popular vote, and contained an article as follows:

"An equitable proportion of the debt of Virginia, prior to January 1st, 1861, shall be assumed by this State; and the Legislature shall ascertain the same as soon as may be practicable, and provide for the liquidation thereof, by a sinking fund sufficient to pay the accruing interest, and redeem the principal within thirty-four years."

"The Legislature may at any time direct a sale of the stocks owned by the State in bank and other corporations, but the proceeds of such sale shall be applied to the liquidation of the public debt."

When Congress came to consider the bill providing for the admission of West Virginia into the Union, Mr. Olin said :

"I desire to ask, what will become of the bonds and other obligations which Virginia has issued or incurred by the recognition of a new State"?

Mr. HUTCHINS.—"I will answer my friend from New York; here is the provision of the Constitution of West Virginia, in reference to that matter. 'An equitable portion of the debt of Virginia prior to January 1st, 1861, shall be assumed by this State, and the Legislature shall ascertain the same as soon as may be practicable.'"

Mr. CRITTENDEN.—* * * * * "There is another question; the State of Virginia owes a large debt. How is this debt to be divided"?

Mr. BLAIR.—"The constitution framed by the convention of the people by of the proposed new State, binds the new State to pay its just proportion of the debt owed by Virginia prior to the ordinance of secession."

Mr. CRITTENDEN.—"I only knew, that in this bill there was no provision made for a division of the State debt. The gentleman tells us there is provision made for it in the Constitution, and I am satisfied with that. As it has been attended to, I have no more to say about it."

It appears from the debate, of which we give this brief extract, that Congress would not have admitted West Virginia, had she failed to bind herself to assume a just proportion of the common debt.*

During the war, three distinct governments existed : 1st, one at Richmond, claiming authority over the entire territory of the old State ; 2d. The Restored Government, residing at Alexandria, and claiming authority over what was left after West Virginia was cut off ; 3d. The Government of West Virginia, residing at Wheeling. When Lee surrendered the Secession Legislature at Richmond, collapsed and was superseded by the Restored Government which moved from Alexandria.

In 1869, Virginia adopted her present constitution, which declares :

"The General Assembly shall provide by law, for adjusting with West Virginia the proportion of the public debt of Virginia proper, to be borne by the States of Virginia and West Virginia."

In obedience to this mandate of the Constitution, the General Assembly resolved that the Governor should tender an arbitration, and the resolution provided :

"That the arbitrators should adjust and decide upon *fair and equitable* principles what proportion should be paid by West Virginia."

It will be observed that this resolution proposed that the

* See "Congressional Globe," 2d and 3d Sessions of the 37th Congress.

arbitrators should determine what principles are "fair" and what principles are "equitable;" that is to say, this resolution gave the arbitrators a power to undo what the Wheeling Ordinance had settled; the ordinance prescribes what account shall be stated: it says that our proportion shall be ascertained by stating a particular account. But, if the matter were submitted to them, it might well happen that these arbitrators would consider a different basis of settlement *more* "fair" and *more* "equitable." Hence West Virginia acted wisely in not appointing arbitrators, and nothing was ever accomplished.

The Legislature of Virginia has always believed that West Virginia ought to shoulder one-third of the debt, whereas we insist and have ever insisted that our obligation was measured by this ordinance.

In 1871 Virginia wanted to fund the debt; the holders of the bonds she had issued before the war were insisting that she should make some arrangement. It was evident that the old State ought not to pay the entire debt; it was evident that it was unreasonable to expect the people of Virginia to pay for the roads within the State of West Virginia. The effort to arbitrate having failed, the General Assembly was confronted with the alternative of either delaying any adjustment with the creditors until the share of West Virginia could be legally ascertained, or else of setting aside such a part of the debt as the General Assembly considered was the proper proportion for our territory. This latter course was adopted, and Virginia assumed that, when a settlement was had, the share of West Virginia would amount to as much as one-third.

Nobody pretended that old Virginia had a right to decide how much was our share; this was merely a make-shift between Virginia and her creditors, by which the creditors agreed to wait for one-third until the two States came to a settlement.

It will be remembered that at the time the General Assembly was discussing the Funding Bill of 1871, it was the current opinion in Virginia, that the ordinances of the Wheeling Convention were not obligatory, and she did not expect to settle with this State on the basis of the ordinance. But, subsequent to the passage of the bill of 1871, the Supreme Court of the United States decided: 1st. That the Wheeling Convention was a convention of the *entire* State, and 2nd. That its ordinances constituted the organic law of both States, and could not be disregarded by either or effected by subsequent legislation. (XI. Wall.)

This decision is conclusive that our share is to be ascertained by charging us with what we got and crediting us with what we paid.

But it is well known that this account will fix on West Virginia very much less than one-third of each bond which was outstanding in January, 1861. Hence the parties concerned in this matter were in this predicament.

THE CREDITORS had agreed to wait for one-third of what they had loaned to the undivided State until Virginia and West Virginia settled.

VIRGINIA had irrevocably divested herself of one-third of each bond.

WEST VIRGINIA stood on her rights, and said: "We are ready to settle and pay on the basis of the Wheeling ordinance."*

* The following letter by the Governor places our State in the proper attitude:

STATE OF WEST VA.,
EXECUTIVE DEPARTMENT,
WHEELING, May 16, 1881.

*** The subject of your communication was proper to be considered by the Legislature and not by this Department. I do not understand, however, that the creditors of the State of Va. have any demand against this State as a State. Whatever liability exists against this State on account of the debt of Va. (if any such exists) is a liability to the State of Va., and not to the creditors of that State.

The creditors of Va. when they accepted the certificates are estopped from any demand on this State for the payment of any portion of their debt, as by the terms of said certificates so accepted by the creditors, they looked to the State of Va. for payment, after that State should have adjusted, the proportion that West Va. was liable for, with West Va. ***

The people of this State are willing and anxious to adjust with the mother State the amount of their liability on account of the public debt.

This liability can be readily ascertained when the mother State is willing to state the account with us. The Convention of the State of Va., held in this city on the 20th day of August, 1861, in giving its consent to the formation of this State out of the territory of the mother State, provided, by section 9 of the ordinance passed that day, as follows:

'The new State shall take upon itself a just proportion of the debt of Virginia prior to January 1st, 1861, to be ascertained by charging to it all 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 from the counties included within the new State during the same period.'

The validity of this ordinance and the convention which passed the same has received the sanction of every department of the National Government.

The Supreme Court of the United States, in a suit in that Court, instituted by the State of Va. vs. West Va., to recover jurisdiction over the counties of Jefferson

This Act of 1871 provided that a new bond should be issued for two-thirds of each old bond, and that a certificate should be given to represent the other one-third. These certificates read as follows:

No. * * *

COMMONWEALTH OF VIRGINIA, § * * * * *

TREASURER'S OFFICE,

Richmond, Virginia.

— — — 1871.

THIS is to certify that there is due unto * * * * * § * * * * *, being ONE-THIRD of bond No. * * *, surrendered under the provisions of AN ACT, &c., &c., amounting to § * * * * *.

Payment of said ONE-THIRD will be provided for in accordance with such settlement as shall hereafter be had between the State of Virginia and West Virginia in regard to the Public Debt of the State of Virginia, and the State of Virginia holds the said bond, so far as unfunded, in trust for the holder of this Certificate.

These certificates were issued and were accepted by the creditors upon the clear and distinct understanding that there would be a settlement between the States, and that the amount assumed by West Va. would be paid to the holders.

and Berkeley, now a part of this State, adjudged said ordinance valid and binding. This State was erected in pursuance to said ordinance. We admit its binding authority, and hold ourselves ready at all times to settle with our mother State on that basis. Our obligation is to the mother State and not to the creditors of that State. *** **

In this connection, and as showing that the Executive only expressed the current opinion in West Virginia, I here copy an extract from a private letter recently written to me by one of our most successful and best informed business men, and I have received probably twenty letters of similar import from every part of the State.

"To the reproach of West Virginia, it cannot be denied that she has not done her full duty respecting a settlement of this debt question. The failure of the old State, impoverished by war and torn by faction, to urge a settlement, is no fair excuse for our neglect. The parties to whom the money is due are entitled to be heard and they will be heard. We owe some debt, and common honesty demands that we should ascertain the amount and take steps to pay it. It is to be hoped this duty will not be longer delayed."

The following also is pertinent, and is from a gentleman much trusted in his section of the State:

"When the people understand the extent our industries have suffered, because our would-be leaders were either incompetent or too timid to deal with this debt matter, certain demagogues will find they have grievously miscalculated the intelligence of voters. It would have been infinitely better for all of us if we had in office a few men with enough courage to seek popularity by working for the real good of the State, instead of catering to errors arising from ignorance. Simply as a matter of dollars and cents, the debt should have been settled promptly, and it would have been, if we had had in public life a higher grade of men."

At the passage of this act, it was computed that the debt amounted to some \$45,000,000. The bonds of Virginia were scattered all over the world—they were very largely held in England, Germany, and in all the Northern States. When these bonds were funded every holder received his corresponding certificates: hence fifteen million dollars of securities, known as “West Virginia Certificates,” became scattered among the capitalists of the financial centres of the world, and it was published far and wide that this State had a very large debt.

In order to contradict this report and to diminish somewhat the damage that was being done to our State, Governor Jacob appointed a committee, consisting of General Jackson, Mr. A. W. Campbell and Hon. J. M. Bennett, whose duty it was to make such a publication as would show that we did not owe near so much as the one-third. These gentlemen were not appointed to fix the amount of our share; they were appointed simply to disprove the doctrine which had been advanced by Virginia—that we ought to carry one-third, and this task they performed with signal ability. It was very evident to the committee that if we departed from the rule of settlement under which the old State was divided there would be a great diversity of opinion as to what basis of adjustment should be considered “equitable;” and by way of illustrating how *inequitable* was the one-third doctrine, they mapped out a scheme of settlement which, in the absence of the ordinance, would certainly be as reasonable as the theory entertained in Virginia; hence this committee showed, that taking the basis, suggested by them as a mere illustration, the share of West V. would be about \$950,000, with interest since 1861.

Of course nobody ever regarded the report of this Committee as fixing the amount of our debt; it was not intended to do so; the committee do not mention or even refer to the ordinance—they simply show what might be the result if the parties at interest (*viz.*: Virginia, the holders of certificates and West Va.), departed from the plain requirements of the Wheeling Convention.

This report was circulated in the Fall of 1872, and its effect was to lower the market value of the certificates. It is estimated by writers on finance, that not more than two-thirds of such securities as State or Railroad bonds are held by “*permanent* investors,” and that the other one-third are constantly changing hands; hence, at least five millions of these certificates have been all the time “on the street,” passing

from one speculator to the other ; at one period they sold as low as five cents, and at another time at thirty cents. It is true that "the permanent investors" still hold the two-thirds which represent to them that many dollars actually loaned to the undivided State, and at an early day this class of investors put their certificates safely away "in pigeon-holes," to await the settlement between the States, but the amount on the street and held by speculators has been sufficient to keep West Va. constantly before the public in the attitude of a defaulting and insolvent State.

Matters remained in this unsatisfactory condition until 1880, when a large number of the foreign "permanent investors" met in London for consultation, and for the first time competent business men gave the subject proper investigation. When the holders became acquainted with the facts, they at once recognized the following propositions :

I.—That for ten years Virginia had based all her legislation on the assumption that she would never pay one penny on account of these certificates, and had adjusted her debt on the assumption that she would never reshoulder any part of this one-third.

II.—That a settlement between the States must be based on the Wheeling Ordinance, and that under this Ordinance West Va. would not owe near so much as the amount called for by the certificates.

III.—That in order to bring about a settlement the holders must agree to accept, in full satisfaction of their certificates, whatever might be paid by West Va.—be it much or little.

But those present at this meeting, although representing probably one-half of the certificates, well knew the difficulty and the expense of communicating with each individual holder, and making him understand that it was necessary for him to agree to accept a few cents on the dollar, yet there was no alternative, because it was very evident that nothing could be done unless all the holders co-operated and acted in concert. Hence, it was agreed to appoint an Agent, and give him full authority to assent to and to do whatever either State might desire or might consider proper and expedient.

The representative of this meeting at once visited New York, and the holders here being informed of the action in London, called a meeting of the American holders, who adopted what had been done.

The result is, that this agent (who does not own a single certificate) has complete authority to adjust and finally settle this debt, on any terms the people of West Virginia may consider equitable, and the whole business has fortunately assumed such a shape, that it may be finally disposed of without delay, and to the satisfaction of all the parties at interest.

It will be observed that it is of the first importance to have the account stated by some tribunal, in whose integrity we have implicit confidence, and whose decision will be entirely satisfactory to the people of this State; it will be further observed, that strictly speaking, West Virginia owes Virginia, and that Virginia owes the holders of the certificates; it will also be observed, that since this is a controversy between the two States, the Federal Supreme Court has exclusive jurisdiction, and that the Court will render a judgment against West Va. for the amount due by her to Old Virginia. But it may be that this State will prefer to select its own tribunal, and hence, to avoid unnecessary delay, the agent of the certificate holders, acting under his authority, and having full power to release Virginia from all responsibility, will petition her Legislature to enact a bill of the following purport:

THE OUTLINE OF

A BILL TO GIVE EFFECT TO SECTION I. OF ART. X. OF THE CONSTITUTION.

WHEREAS, The Constitution requires the General Assembly "to provide for adjusting with West Va. the proportion of the debt proper to be borne by that State"; and,

WHEREAS, The holders of the certificates issued on account of the share of West Virginia, petition The General Assembly to settle with West Va. as to the amount due by her, so that whatever is paid by said State may be divided among the holders of said certificates; and,

WHEREAS, The Act of 1879 pledges this Commonwealth to aid said certificate holders in effecting a settlement with West Va.; and,

WHEREAS, The people of Virginia having now finally ascertained and settled the amount of her part of the debt, are anxious likewise to procure the settlement of the

amount due by West Va., to the end that the entire debt may be adjusted to the satisfaction of the parties concerned, and that further public agitation of the subject may cease: Now, therefore,

BE it enacted, &c., That after the holders of the certificates have, in such manner as may be prescribed by a Board, consisting of the Governor, Auditor and Attorney General, released this Commonwealth from all liability on account of the bonds surrendered to be funded, the Governor shall invite the State of West Virginia to appoint a tribunal to ascertain the amount of her indebtedness in respect to the debt incurred by Virginia before she was divided; and should West Va., by declining, for the space of 18 months, to appoint such a tribunal, thereby indicate her pleasure to refer said controversy to the Federal Supreme Court, then the Attorney General shall institute in said Court such proper proceedings, in the nature of a friendly suit between the two States, as may be necessary to ascertain and determine the indebtedness of West Virginia.”*

Two questions are constantly asked:—How much is West Va. able to pay? and How much do we owe?

In our judgment this State, at present, is able to pay very little: the tax-rate should not be increased and her current revenue is barely sufficient for the expenses of the State Government. What she *will* be able to pay depends on our future development and on the amount of our surplus revenue after our very defective assessment laws are revised and corrected. It is believed by those who have given the subject special consideration that a very large proportion of

* It will be remembered that the Certificates read: * * * * *

“Payment of said one-third will be provided for in accordance with such settlement as shall hereafter be had between the States of Va. and West Va.: and the State of Va. holds said bond, so far as unfunded. IN TRUST, for the holder of this certificate.”

Hence Va. occupies a two-fold relation:

FIRST. She is the principal debtor. (Were this a matter between individuals.) If on a settlement between the States, West Va. owes Va. less than the face of the certificates, Va. would be compelled to make up the difference.

AGAIN. A court, at the suit of the certificate-holders, would compel a settlement between the States.

SECOND. Va. is a trustee for the certificate-holders and, as such, would be compelled, by a court, to settle with West Va. Or, the certificate-holder could use the name of Va. (his trustee) and sue West Va.

But (considering the States as individuals:) Va. might well hesitate to settle

the personal property in this State now escapes taxation: if this be so, then under an effective and intelligent system of assessing property there will soon be a considerable surplus revenue without increasing the present burden upon honest taxpayers. One thing is very certain, if it turns out that we owe more than we are able to pay at once the Agent of the holders of the certificates has full authority to accept such terms as will not cripple the State, and it is equally certain that this Agent has sense enough to meet the views and wishes of our people.

It would seem that our ability to carry a part of this debt is derived from the roads and other improvements made by the old State, precisely as a man's ability to pay a debt descended from his father depends on whether he inherited, and has now in his possession the identical property for which such debt was incurred. We have therefore prepared a map showing the different roads in West Virginia which, in part, represent the money due to the holders of the certificates.*

The other question is, How much do we owe? Until the account required by the Ordinance is stated, it is absolutely impossible for any one to speak intelligently about the size of our debt. The writer of this pamphlet has probably given the subject more investigation and study than anybody else and he, certainly is not prepared to do so. But, as this is a matter of the greatest consequence to the welfare of the State, and as it will correct some misapprehension caused by the "loose talk" of persons who have not examined the subject, we present such observations touching the account as may give the reader some clear cut views in regard to it.

because a settlement would disclose her liability for the difference between the face of the certificates and the amount due by West Va., hence, in order to induce Va. to sue, the certificate-holder might well release her from all pecuniary liability:—releasing her as principal debtor would not release her as trustee, and her office as trustee gives her a standing in court.

[It may be suggested that, perhaps, if Va. be released, her office as trustee is not a sufficient locus standi in a court; but all cavil is cut short by the fact that a small amount of the certificates will be withheld from the release: Everybody understands that so long as a suitor has one penny's interest the court is bound to hear him.]

* The preparation of this map involved some expense and much labor, but it was impossible, within the time at our disposal, to locate some of the routes with accuracy, and we have probably altogether omitted several roads. It will be observed that in several instances we have marked roads which were not completed when the war began: as for example, the "Slavin's Cabin," on which Virginia expended in different places some \$16,000. We have also omitted the bridges and river improvements by the State.

For convenience we reprint the ordinance and refer to the comments by *figures*.

The new State shall take upon itself a just proportion of the debt of Virginia prior to January 1, 1861,¹ to be ascertained by charging to it all State expenditures within the limits thereof;² and a just proportion³ of the ordinary expenses of the State Government, since any part of said debt was contracted;⁴ and deducting therefrom the moneys paid into the treasury of the Commonwealth from the counties included within the said new State during the same period.

1. The object was to cut out any debt contracted by the Restored Government.

2. Is West Va. to be charged with the expenditures within her limits made *before* any part of the debt was contracted? We are confident that the true construction is:—She is to be charged “with all expenditures, within her limits, *since* any part of the debt, existing in 1861, was contracted and with a just proportion of the ordinary expenses *since* any part of said debt was contracted.”

The fact is, that many years before any part of the debt, represented by the bonds outstanding in 1861, was contracted, Virginia had expended within our limits a very large sum for roads, &c., and we do not believe we can be charged with it.

3. West Va. is to be charged with a *just* proportion of the *ordinary* expenses of the State Government.

It is easy to distinguish between the ordinary and the extraordinary expenses; the difficulty is to determine what part of the expenses is a *just* proportion for our territory. It would seem that our judgment should be controlled by one or the other of five considerations; viz.—the *proportion* must be determined by reference to either:

First.—The relative size of the two sections.

If so, we are chargeable with one-third of the ordinary expenses of the State Government.

Second.—The relative population of the two sections.

If so, we are chargeable with $\frac{1}{4}$ in 1830 and $\frac{1}{4}$ in 1860.

Third.—The relative amount of taxable property in each section.

If so, our proportion would be light before 1830 and heavy after 1850.

Fourth.—The relative amount actually expended by the State in each section on executive, legislative, judicial, fiscal and police account.

If so, our proportion would be very heavy.

Fifth.—The relative amount of revenue contributed by each section.

If so, our proportion would be comparatively small prior to 1820 and very considerable after 1850.

Having decided what part of the ordinary expenses is a *just* proportion for West Virginia (a task not now attempted), the amount to be charged for each year is a matter of mere clerical labor.

4. The accounting is to commence—*since* any part of the debt, existing in 1861, was first contracted. It appears to be very difficult to ascertain exactly when a part of this debt was *first* contracted. Virginia had a small debt, for which her securities were outstanding, as far back as 1814, and although her first “*long bond*” was issued about 1822, yet she then had a debt which, if our information be correct, was subsequently funded. But the preliminary step in stating the account will be to fix with certainty the very day when the debt commenced, and this may be done if the records at Richmond are sufficiently examined.

When we come to consider the matter, it is very evident that this account cannot be stated from such of the records of Virginia as have been published. The Auditors and Board of Public Works never had occasion to collect and exhibit the character of information necessary to satisfy either of the above five considerations, and while the books of “original entry” at Richmond show all the facts, yet the

statistics must be compiled *de novo*, and in a manner never before attempted.*

It would perhaps be unsatisfactory to close this paper without referring, briefly, to a report by the Senate Finance Committee, in December, 1873, which, while not adopted by the Legislature and not issued as an authoritative declaration by the State, had the effect of placing West Virginia before the public in the curious attitude of making, within twelve months, two different publications—one showing that she owed old Virginia \$950,000 with interest since 1861, and the other showing that, instead of being in debt, West Virginia had overpaid Virginia some \$525,000. In regard to this report, it is amply sufficient to say that subsequent investigation has shown that it charges our State with many expenditures which, under the ordinance, must not be reckoned against us (as, for example—we are not to be charged with the cost of that part of the North-Western Turnpike which is in Maryland); and it omits many items with which we are properly chargeable (as, for example—the expenditure on account of the Berryville and Charlestown Turnpike is put at \$6,000, whereas it was \$27,605.75.†

* It will be remembered that the ordinance dividing Virginia having fixed the proportion which should be considered and taken as the *just or equitable* share of West Virginia, the Constitution of 1863 provided :

“An equitable proportion of the debt of Virginia, prior to January 1st, 1861, shall be assumed by this State; and the Legislature shall ascertain the same as soon as may be practicable, and provide for the liquidation thereof, by a sinking fund sufficient to pay the accruing interest, and redeem the principal within thirty-four years.”

The Legislature may at any time direct a sale of the stocks owned by the State in banks and other corporations, but the proceeds of such sale shall be applied to the liquidation of the public debt.

It will be remembered also that the Convention of 1872, well knowing that the ordinance settled every question, expressly refused to do anything calculated to shake what had been done, and simply declared :

Art. 10, Sec. 4. “No debt shall be contracted except to meet casual deficits in the revenue, to redeem a previous liability of the State, to suppress insurrection, repel invasion, or defend the State in time of war.”

Sec. 5. “The power of taxation shall extend to provisions for the payment of the State debt and interest thereon.”

It may be remarked that Section 7 of Art. 10 of the Virginia Constitution of 1869 is identical with Section 4, above quoted.

† The facts are: Virginia subscribed to this road \$21,000 and paid \$20,455.75. The road was sold under a deed of trust in 1858, and the State purchased it for \$7,150, viz.; Virginia expended \$27,605.75. One-half of this turnpike is in Jefferson.

MAP OF

WEST VIRGINIA,

*Showing the Roads built with the Bonds
issued by Virginia.*

