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West Virginia's Opportunity

A STATEMENT FROM SENATOR W. E. CHILTON ON THE CLAIM ARISING OUT OF THE CESSION OF THE NORTH WEST TERRITORY. : : : : -

REPRINTED FROM THE BAR
WITH SLIGHT CORRECTIONS

The within paper was published in the August-September number of The Bar. With some slight corrections, it is now given to the public in pamphlet form in the hope that it may be of use to the people of West Virginia in their investigation of this important phase of the state's resources.

TO THE BAR:

For the purpose of bringing an important legal and public matter to the attention of the lawyers, as well as the people of West Virginia, I am asking you to do me the favor of publishing some notes of facts and authorities upon the claim of West Virginia against the National Government. As you are no doubt aware, in April, 1912, I introduced a bill in the Senate of the United States, the object of which was to give the consent of the United States to the bringing of a suit by West Virginia or any of the thirteen original states, to settle the trust, which, in my judgment, was created by the cession of the Northwest Territory to the old Confederation, and which was accepted by the Continental Congress on March 1, 1784.

The essential facts upon which this claim is based are set forth in the address which I had the honor to make in the Senate of the United States, on April 10, 1912. There are two barriers of a general nature to overcome before this claim can be brought out into the light of day and decided upon its merits. One is that, so to speak, it is covered with the dust of ages. The other is that lawyers and the people generally have not taken the time to study its merits. I fully realized at the time I brought the matter to the attention of the United States Senate that, in a way, I was challenging accepted history. Virginia has been held up by her own people and the people of the country as a great benefactor for having made the sacrifice of *giving* to the Nation the vast territory Northwest of the Ohio River, comprising the states of Ohio, Indiana, Illinois, Wisconsin, Michigan, and a part of Minnesota. Thus it is written down in history. And since it is now proposed to show to the country that such is not the exact truth, we must surmount, not only the plea of long acquiescence, but also hundreds of historical enconiums on the munificence of the mother state. None of the praise given Virginia for her munificience, in the hour of national peril and necessity, need be withdrawn. She gave with a bountiful hand, but history has, in its enthusiasm for a patriotic act, exaggerated, as usually is the case. I venture to say that if the bar of West Virginia, and the reading people of the State, will give but a few hours time to a study of the facts as they are, they will agree with me that our case is so strong and clear that it will survive both the inaccuracies of history and everything that can possibly be construed into acquiescence, on our part, in the assumed attitude of the government.

In pressing this claim, as I have done on more than one occasion

in the Senate, before the Committee on the Judiciary and before its sub-committees, to which this measure was referred, I have been confronted with the query: "Why do not the people of West Virginia take more interest in the claim and press it?" I was relieved somewhat by the resolution of the Legislature of 1913, calling upon Senators and Representatives in Congress from this State to urge upon Congress, legislation which would enable West Virginia to be heard. The Legislature of Virginia has also passed resolutions of the same purport. However, it is plain that, as yet, there is not behind the movement that earnestness of conviction which is necessary to success. This is not said in a sense of complaining, because it is quite natural. It is not to be expected that many of our people have given that study and thought to the subject necessary to overcome impressions of accepted history; and it is to the credit of the people that they demand more than mere assertion before pressing a claim against their government. I have an abiding conviction that when the whole state of West Virginia shall understand this case as it is, they will see to it that it shall be pressed upon Congress. It is in the earnest hope that the bar, the press, and the people may study this question, and be convinced of the justice of our claim, as I am, that I want to present, in your columns, the facts, and some of the arguments, in favor of the claim.

We must bear in mind always that the present Constitution of the United States was not ratified by sufficient states to make it effective until 1789. Before that we had a Confederation of the states, which was a very weak organization, in which the Federal authority could not compel the States to pay taxes, nor do anything else. Up to 1781 Maryland had not joined the Confederation, so that instead of it being a Federation of thirteen states, it was a Federation of only twelve states. In 1779 Maryland passed resolutions laying before the Continental Congress the reasons why she did not join the Federation. These reasons were, speaking generally, that some of the States, including Virginia, had claims to Western lands, and, Maryland argued, that in case the colonies or states should gain their independence by the Revolutionary War, then being fought, those states could sell their lands in the West, thereby lessening their taxes, and thereby attracting population from the states not so favorably situated. When these representations were considered by the Continental Congress, the final action of that body was expressed in the following resolutions:

"Resolved, That copies of the several papers referred to the committee be transmitted, with a copy of the report, to the Legislatures of the several states, and that it be earnestly recommended to those who have claims to the western country to pass such laws and give their Delegates in Congress such power as may effectually remove *the only obstacle to a final ratification of the Articles of Confederation;* and that the Legislature of Maryland be earnestly requested

to authorize the Delegates in Congress to subscribe the said article."

Note, in passing, that the Western land situation was *"the only obstacle to the final ratification of the Articles of Confederation"* and that the Continental Congress was urging Maryland to ratify the articles, and thus complete the Confederation.

After this, to-wit, in January, 1781, Virginia passed a resolution of her Legislature, setting forth the terms upon which she would convey to the Federation her Northwestern lands. In that resolution it was provided that the territory should be laid out and formed into states not less than 100, nor more than 150 miles square, and that the states should be distinct republican states, and admitted as members of the Federal union. It provided further than the expenses incurred by Virginia in subduing the British posts and maintaining forts and garrisons and acquiring the territory, should be reimbursed by the United States; that the French and Canadian inhabitants, who professed themselves citizens of Virginia, should be protected in their holdings, and that a quantity of land, not exceeding 150,000 acres, should be allowed to General George Rodgers Clark, and to his officers and soldiers, and thereafter it contained the following clause:

"That all the land within the territory so ceded to the United States and not reserved or appropriated to any of the beforementioned purposes, or disposed of in bounties to the officers and soldiers of the American Army, shall be considered AS A COMMON FUND for the use and benefit of such of the United States as HAVE BECOME OR SHALL BECOME MEMBERS OF THE CONFEDERATION, OR FEDERAL ALLIANCE, of the said States, VIRGINIA INCLUSIVE, according to their USUAL RESPECTIVE PROPORTIONS in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose and FOR NO OTHER USE OR PURPOSE WHATSOEVER."

Immediately after this resolution of the Legislature of Virginia was passed, that is, in March, 1781, Maryland ratified the Federal compact, and from that time there was a Confederation of the thirteen original states. The bounty of Virginia had been sufficient to complete the Federal compact. All that the Continental Congress had asked her to do was "to remove the only obstacle to a final ratification of the articles of confederation" so as to bring Maryland into the Union. Virginia did it; and even before the cession was formally made, Maryland, relying upon the honor of Virginia to act in accordance with the resolutions of her Legislature, and upon Congress to accept the trust, ratified and signed the Federal compact.

On March 1, 1784, Thomas Jefferson, Samuel Hardy, Arthur Lee and James Monroe, delegates from Virginia to the Continental

Congress, presented the deed of cession to the Congress, in which deed the resolutions of January, 1781, were set forth at length, including the trust clause quoted above. Thereupon, Mr. Howell, of Rhode Island, presented a series of resolutions accepting the deed and the same was "enrolled upon the Acts of the United States in Congress assembled." As a matter of fact, before the final resolution was passed, a motion was made to accept the deed without the conditions named by Virginia, but that motion was laid on the table, and then the resolution of Mr. Howell prevailed. This action is contemporaneous with, in fact a part of the history of, the grant and its acceptance, which almost conclusively proves that Virginia, as well as the Congress, set some store upon the "conditions and stipulations" of the deed, as Chief Justice Marshall afterwards designated this trust clause.

After this the United States decided to make five states out of the territory, and recognizing the conditions of the deed of cession, on July 7, 1786, it made application to the state of Virginia for its consent to change the conditions, so far as they related to the limits of new states; and on December 30, 1788, the General Assembly of the state of Virginia made the modification requested by Congress. See Journal of Congress, July 7, 1788; Hennings Statutes of Virginia, Vol. 12, page 780. This is mentioned here to show that the fact that the grant was not absolute was recognized by the Confederation. If the deed were absolute, what had Virginia to do with the situation afterwards? The necessity to obtain Virginia's consent arose out of the "conditions and stipulations" of the deed of cession regarding the limits of area of states to be formed, which was a political agreement in the nature of a treaty between Virginia and the Continental Congress. Shall any one say that another covenant, in the same paper, affecting the title to land and the disposition of the proceeds of a sale thereof is less binding upon the high contracting parties?

In 1789 the present Constitution of the United States was adopted. It is provided in that instrument that when adopted by nine of the states it should become effective as to the nine adopting it, and the ninth state ratified it in that year.

The Constitution, sec. 3, art. 4, provided: that

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory, or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or *of any particular state.*"

The deed of cession gave the power to the Continental Congress to dispose of the land. It says that the property "shall be faithfully and bone fide *disposed of, etc.*" But recognizing that it was necessary that there should be delegated to the new government the power to dispose of the public domain, sec. 3, art. 4, was inserted.

But can we not see the hand of the Virginian in the second clause, so modifying the general power of disposing of the public domain as to make it clear that the claim "of any particular state" should not be prejudiced by that general grant of power? What claim of any "particular state" could there have been except the claim arising from the grant or grants of western lands? Why should this clause guarding the "claim of any particular state" be inserted in the section dealing with the public domain, except to protect the states under this Western land grant?

Again, by accepting the grant, the old Confederation was made a trustee under the terms of the trust set out in the grant. Therefore, article 6 of the Constitution provides:

"All debts contracted and *engagements entered into* before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation."

The effect of this provision is that when the acts of the Confederation made it a trustee, the new United States became likewise a trustee. Note the words again, "all debts contracted and engagements entered into, etc." The framers of the Constitution were not satisfied to protect "contracts". It might be doubtful that the acceptance of the trust was a contract on the part of the Confederation, since the latter probably had no power to enter into such a contract. But it had, nevertheless, *engaged* to do so. The Confederation had an "engagement" to act as trustee, and that "engagement" was recognized in the new Constitution. There are many other material facts and details of this momentous transaction, all of which, so far as I have been able to construe them, speak for the contention of Virginia and West Virginia, rather than against it, and I do not take the space to recite them here. If this movement shall ever develop into a litigation, no doubt the industrious lawyers will bring them out and analyze and mass them upon the one side or the other of the controversy. But I am persuaded, no one will ever find any release or waiver by Virginia of the trust contained in the original grant and in the resolutions of 1781.

I now desire to call attention to the terms of that trust. First, let us inquire what land was embraced in it, for besides the political considerations of the grant, Virginia conveyed the fee of the land. The trust provides that "all the land within the territory so ceded and not reserved or appropriated" etc., "shall be considered as a common fund," etc. This is clear, because immediately preceding this clause of the deed of cession it explicitly states what land should be reserved. In administering the trust the United States had no trouble in specifying the reserved lands, and, it promptly and without difficulty, took possession of all of the land not so reserved or appropriated in the grant. This brings us to the other terms of the trust, as follows: "Shall be considered as a common

fund for the use and benefit of such of the United States as have become, or shall become members of the Confederation, or Federal Alliance, of the said states, Virginia inclusive," etc. It is my contention and claim that this clause meant that the thirteen original states should be the beneficiaries, and not the forty-eight states which constitute the Union, nor the entity, the United States, as then or afterwards organized, and that for the following reasons: First, the states were to participate "according to their usual respective proportions in the general charge and expenditure." The only states which could have paid, or did, in fact, pay anything into the general charge and expenditure, were the thirteen original states which formed the Confederation; which continued in the Federation until the new Constitution was adopted; carried on the Revolutionary War and brought it to a successful conclusion. There is nothing uncertain about this description, because by article 8 of the Confederation, the expenses of the war were paid out of a common fund, "supplied in proportion to the value of the land in each state." This provision of the articles of Confederation was carried into effect by the appointment of commissioners to value the land in each state, and, upon this basis of valuation, each state paid into the common fund. Not a single one of the thirty-five states which have been admitted into the Union since the Constitution was adopted, could come in as answering the descriptive terms: "according to the usual respective proportions in the general charge and expenditure," nor could any one of them claim that they "had become" members of the Confederation or Federal Alliance."

At the time Virginia passed her resolution, and at the time the deed of cession was made and accepted, there were no entities or organization of states except the thirteen original states. One reason why Virginia described them as states which "have become, or shall become, members," etc., was that Maryland had not, at that time, joined the Confederation, and the very purpose of Virginia in making the grant, as I have shown, was to induce Maryland to become a member of the Confederation. If Maryland had not joined the Confederation she could not have participated. It seems impossible to escape this conclusion, when the history of the transaction is taken into consideration. How can it be controverted that the thirty-five states, which then had no political or other existence, and did not pay, and could not have paid, anything into the "general charge and expenditure," were not meant to be embraced as beneficiaries in the trust? Secondly, bear in mind the words, "Virginia inclusive" in the trust clause. Virginia intended to make it plain that she, the grantor, should be included among the beneficiaries of the trust. The Constitution could have been ratified by nine states, and it was among the possibilities that Virginia would not ratify it. Indeed, it was ratified by only ten majority in the Virginia convention. It might have happened that nine states

would have adopted the new constitution and that Virginia would have failed or refused to do so, and that then the nine adopting it would have formed the present United States Government. In that event, those who may claim that the adoption of the Constitution wiped out all that happened before, or that the condition of the grant embraced the states which were afterwards admitted into the present United States, would put Virginia in the strange attitude of creating a trust, in which the trustee would have the right to ignore, not only the essential conditions of the trust, but also leave out Virginia as a beneficiary. By the words, "Virginia inclusive" the intent to make the beneficiaries separate states and not the general entity of the Union as it might thereafter develop, becomes clear. It so happened that Virginia did ratify the Constitution, but we must look upon this trust and construe it so as to make it consistent with either the ratification or failure of ratification by Virginia. If Virginia had failed to ratify the Constitution, certainly the nine states could not have dissolved the old Confederation, and converted a trust, intended for the thirteen states, into a trust for the benefit of the nine states ratifying, leaving Virginia enirely out. Can we say that Virginia, in making the grant, and the Continental Congress in accepting it, so understood and construed the paper? Thirdly, The beneficiaries are "such of the United States (in 1784) as have become or shall become members of the Confederation or Federal Alliance, of the *said states*, Virginia inclusive". Without recourse to the words which follow, this description of the beneficiaries fixes their limit to the members of the then existing Confederation, or Federal Alliance, and any which "shall become" members. The Constitutional Convention and the United States as a government under the present constitution, were not then in Virginia's contemplation. Members of the "Federal Alliance", and the one state whose membership was desired covered the whole field of Virginia's bounty. There was but one Confederation, one Alliance. It is one of the strange things of this long-neglected situation that the opponents of West Virginia's contention seem to think that the Federal Alliance of 1777 could have been expanded by the admission of any number of states. They overlook the fact that the Articles of Confederation name the states which are members. It begins: "Articles of Confederation and Perpetual Union between the states of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia". That is why the Continental Congress was so anxious to have Maryland, the hesitating member, sign the articles. That is why it was provided in the articles that certain things should not be done without the vote of at least nine states. (See Art. IX.) A minimum of nine states to authorize an act would have little significance, if the right

of unlimited state admission had been in contemplation. Think of providing that it should require the vote of nine states to grant letters of marque and reprisal, if the same instrument had in view the admission of states till the whole numbered 48!

Virginia's purpose and the meaning of the words now under discussion become clear by reading Article XI of the Confederation which, after providing for admitting Canada, reads: "but no other colony shall be admitted into the same unless such admission be agreed to by nine states." It was a Confederation of the thirteen original states, and the articles which bound them together provided the vote necessary to admit any other colony not mentioned in the caption. Maryland could come in by signing the articles, but it would require the vote of nine states to admit any other colony except Canada, for instance Vermont, Maine, Ohio, Kentucky, Indiana, etc. Virginia could protect herself under this construction because she and her twelve sister states could prevent the admission of other states to share the trust subject. It is clear to me that this trust, or what is the same thing, "the use and benefit of this land," was intended for the twelve states which had ratified the old Confederation, and for Maryland, if she should thereafter come in, which she did, and that Virginia and the old Confederation thoroughly understood that the bounty of Virginia extended to the thirteen colonies or states with whom she had been associated during the Revolutionary War, and each was to participate in the "use and benefits" in the proportion that it had contributed to the expenses. Thus there was created a trust wherein the property is described, the trustee is named, the beneficiaries designated with accuracy, so that a clerk with a pencil can, in a short time, ascertain from public records the exact interest which each beneficiary has in the trust. With that intention, Virginia provided that this trust fund or property, "shall be faithfully and bone-fide disposed of for that purpose, and for no other purpose whatsoever." What defense could the defaulting or delinquent trustee make, under such an instrument, in a court of equity, were the beneficiaries and trustee individuals instead of sovereign states?

West Virginia claims that the United States has not been faithful to that trust. This territory embraced, as nearly as can be ascertained, the following acreage:

In Ohio	25,576,960
In Indiana	21,937,760
In Illinois	35,465,093
In Wisconsin	34,511,360
In Michigan	36,128,640
In Minnesota, east of Mississippi River	16,588.800
Total	170,208,613

This land has been granted to states for local uses, to individuals,

to colleges and schools, and the rest of it has been sold and the money covered into the treasury of the United States, and even this latter, instead of being paid to each of the thirteen original states in the proportion that they severally paid into the "general charge and expenditure" during the time of the Confederation, has been expended for governmental purposes on the general account of the United States government.

There is no contention that the land can be recovered, because the right to *dispose* of the land was specifically vested in the trustee by the deed of cession, and section 3 of article 4, as we have shown, also gives the Congress that power. It need not be enquired into now as to how this power granted by the Constitution would have effected the situation if the original deed had not granted the power. Inasmuch as both the deed and the Constitution gave the power to Congress to sell the trust subject, no one of the beneficiaries can complain that the property was sold. But the beneficiaries can complain that the trustee gave away the trust subject and converted the proceeds of the land sold to purposes other than those specified in the trust.

If the above propositions are correct, the United States stands in the position of a delinquent trustee, which is one of the most unenviable positions which an individual, a corporation, or a municipality can occupy. The old Confederation had taken into her hands a sacred trust. The reasons which moved Virginia to part with her land were that the original Federal compact, formed to prosecute the Revolutionary War, could not be completed without a sacrifice on Virginia's part. Besides, the Federal Government at that time was without funds and without much credit. Virginia placed a vast domain of over 170,000,000 acres of land into the hands of the then Federal Government, which at once gave it credit and standing and removed causes of dissension among the thirteen original states. Virginia was willing that her twelve sister states should participate with her in this "common fund," and she, therefore, guarded the grant so that these twelve sister states should each participate with her, each to have the same proportion in the proceeds of the land that it had contributed to the "general charge and expenditure." But Virginia never contemplated that nine states, or thirteen states, either with her or without her, could thereafter form a government, put into the Constitution of the new government a clause making the new government a trustee, as was the old Confederation, and convert the deed of trust into an absolute deed in fee simple to any government of the United States which might thereafter develop. She did not contemplate that there would be thirty-five states formed from the territory conveyed or from territory purchased from Spain and France, and from territory acquired by war or treaty, and that these thirty-five states, who had no existence and were not in contemplation when

the original deed was made, and which could not, and did not, pay anything into the "general charge and expenditure" for prosecuting the Revolutionary War, should be the beneficiaries the same as those it had so specifically described in the original deed. It is not right, legally or morally, for the present national government to take any position which will do violence to the self-evident intention of the parties to this transaction in 1784.

One word regarding Virginia's title. It is sufficient to state that under the deed, the United States acquired possession and has conveyed title to the land embraced in the deed. It does not now lie in the mouth of the United States to say that the grantor in the deed of trust did not have title to the land, as an excuse or defense for not paying over the money in her hands as trustee derived from its sale. No claim is being made by any grantee. The United States has never been called upon to repay to a purchaser a dollar which she received from the sale of any of these lands. Her title from Virginia, has been sanctioned by the Supreme Court of the United States, GRAHAM'S LESSEE *v.* MCINTOSH, 8 WHEATON 543. By the way, in this case, Chief Justice Marshall recognized that the deed from Virginia to the Confederation was made upon "certain stipulations and conditions," and that is all that West Virginia claims now. But whatever may be said about the claims of New York, Connecticut, Massachusetts, or other states, to the Northwest Territory, Virginia had the oldest title and asserted it. By her energy, and with her arms and means, she conquered the Northwest Territory, and converted her paper title into an actual possession. Virginia arms, under George Rogers Clark, Lord Dunmore, Gen. Andrew Lewis and others, settled, by conquest, the question of the paper title; and with her deed in 1784, Virginia gave actual possession, as well as the right of possession, to the then existing Federal Government.

If it should ever be decided that after the United States, as a trustee, had taken actual possession of the trust subject, and had disposed of it and converted it into money, without the title which she conveyed being challenged by a single grantee, she can herself raise the qustion of title, it may be safely said that Virginia will have no trouble in demonstrating that her grant from England was prior in time to all other claimants, and that she added to her superior paper title an energetic and successful fight for possession. The lawyer can hardly imagine that such a monstrous proposition of law will ever be urged.

Of course, the rights of West Virginia are based upon her partnership with Virginia up to the separation in 1863. It could hardly be possible that the considerations which have been gone over in the Virginia debt suit could fail to lead to the conclusion that West Virginia is entitled to a just and equitable proportion of all of the assets of Virginia up to the time that the new state was formed. I

know of no opposition in Virginia now to this basis of settlement, so far as this claim is concerned. The two Senators from Virginia stated, at the time my bill was introduced in the Senate, that Virginia conceded that West Virginia would be entitled to her proportion of whatever might be recovered from the Federal Government. I am sure that upon that point there will be no serious dispute.

I have always entertained grave doubt as to whether or not this suit could be brought in the Court of Claims. I had not examined the question with much care when I introduced the first bill. My theory then was that legislation would be required to give the consent of the Federal Government to its being sued. I confess that a more recent investigation of the subject has left some doubt in my mind as to whether a suit can be brought now in the Court of Claims. In the case of the United States against Louisiana, 123 U. S. 32, it is held that the Court of Claims has jurisdiction of an action brought by a state against the United States for a demand arising upon an act of Congress. Before that time it had been contended that the clause of the Constitution giving the Supreme Court original jurisdiction in a suit in which a state was a party, would prevent a state from suing in the Court of Claims. The case quoted settles that question, but it leaves open two points: First, whether or not this is a demand arising upon an act of Congress; and second, when the statute of limitations of six years would begin to run, if it could run at all in favor of a trustee under the circumstances in this case. I will not discuss these two points, because I think the better way is to get authority from Congress to bring the suit in the Supreme Court of the United States and settle the question once and for all. But it might be well for those in authority to look into this question of the right to sue in the Court of Claims and the advisability of doing so. That is not a matter for me to decide but it would seem to me that the right to do so would be very doubtful.

The purpose of the bill which I have introduced is to give the consent of the Federal Government to a suit. It does not ask for any money settlement by the Federal Government; it does not ask Congress to commit itself to anything, except to the proposition that the Federal Government can not afford to occupy the relation of a defaulting or delinquent trustee, especially where the beneficiaries are sovereign states. West Virginia can well urge, and I feel convinced that Virginia will second her every move in this direction, that the United States can not afford to deny to a sovereign state the right to litigate so important a matter. Indeed, it would seem to me that the Federal Government ought not to deny to a state the right to sue in the Federal Court on any matter. But when it comes to a case wherein it is claimed that the Federal Government is a defaulting, delinquent, or negligent trustee, and

that she is taking the benefit of a defect in the Constitution to withhold, from states, money or property which was placed in her hands for a purpose as sacred as the consummation of the original Federal compact, and the successful prosecution of the Revolutionary War, the citizens of the country should hang their heads in shame till a settlement be made. The right to sue in the Court of Claims has already been given to Indians, Indian tribes, corporations and individuals. Liberal with all private interests, why should the government be a hard task master with the sovereign states which gave it birth? Some court, some tribunal, must sooner or later do justice in this important matter, and it has seemed to me that now is the time for the legal profession to give the matter consideration, and for the people to consider the question fully and carefully; and, unless the judgment of the State is against my contention, let us press this claim with the vigor and determination which we have shown in other matters where the rights of all are involved.

We have been forced to submit to the decision of the Supreme Court of the United States in a case wherein a judgment for over twelve million dollars has been rendered against us. Whatever we may do or say; however much we may believe that no such judgment should have been rendered; it is on record against us as the judgment of the highest court in the land, and to us, that means the highest court on earth. In our uncertainty and doubt over this unfortunate situation in which we have been placed, we find that the Federal Government owes us on a solemn contract the proceeds of an inheritance reserved to us by our forefathers of Virginia, possibly written by the hand of the great Jefferson, as he was one of the delegates who presented the deed. Shall we give it up? Shall we ignore a claim which seems so just, and the evidence of which is so clear? Shall we sit by and do nothing? Or shall we grasp this opportunity like young, vigorous West Virginians are accustomed to do in everything, and by the compelling power of a united, determined effort make the halls of Congress ring with the demand for justice. With such a cause we can not and will not fail, if we do our full duty.

Charleston, W. Va., July 23rd, 1915.

W. E. CHILTON.

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