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GOVERNOR'S MESSAGE.

Gentlemen of the Senate and House of Delegates.

Since the organization of the State Government, it has been customary for the Executive to transmit, annually, to the Legislature, a Message, detailing the manner in which the Government had been conducted since the adjournment of the preceding Legislature, and recommending the adoption of such measures as in his opinion would best conserve the honor and promote the interest of people. The time which I had set apart for the discharge of this duty has been occupied with domestic afflictions; and this Message will be consequently less concise than will be satisfactory to you, or desirable to myself.

Whilst I admit that in our country an enlightened public opinion is the surest criterion of *right*, I should be false to the station I occupy if I should (regardful of a misdirected popular excitement in any section of the State,) omit to recommend the continuance adoption of such measures as in my judgment will most surely redeem the public credit, and promote the welfare of our common constituency.

The financial condition of the State well merited the prominent position assigned to its consideration by my immediate predecessor in each of his Annual Messages to the Legislature With an anxious desire on his part to arrest the "*downward tendency*" of the public credit, it was his painful duty, year after year to announce to the legislature the entire inadquacy of the existing laws, if fully executed, to meet the current demands upon the treasury; and to point out the fatal error in the past legislation of the State by which the Executive Branch of the government had been deprived of the power originally vested in it to execute the laws which had been passed. In his last Message he made known to the Legislature, as the effect of the combined causes above assigned, (the inadequacy of the tax laws, and the want of power in the Executive to enforce them,) that the arrears of interest had progressively increased from $859,656, on the 1st December, 1842, to $1.171,872 27-100 on the 1st December, 1843, and to $1,450,961-51-100 on the 1st December, 1844; and that in seven counties of the State the tax laws were not enforced.

I have, gentlemen, to discharge the more pleasing duty of informing you, that collectors of the State tax have been appointed and that the direct tax is now being collected in every portion of the State, except in Calvert county, where the collector has been unable to obtain the assessment books from the tax commissioners.

I have still greater pleasure in announcing to you the fact that, during the past fiscal year, there has been received, and applied to the extinguishment of arrears of interest, a sum greater than the accruing interest for that period.

Although I have labored most assiduously, and for the time successfully, to produce this desirable result, it is my duty to inform you, that this success cannot be attributed to any actual power with which the Executive is clothed, to enforce the due execution of the revenue laws of the State.

Two causes have prominently contributed to foster the indisposition manifested in some parts of the State to pay the taxes hertofore imposed by the Legislature. First, the manifest and *proclaimed* inadequacy of those laws, if fully enforced, to pay the interest on the public debt; and secondly, the Executive annunciation of the want of authority to enforce them, followed by the actual non-observance of those laws in several counties of the State. The people of Maryland, always anxious to maintain the honor and credit of their State, where unable to appreciate the utility of a system of taxation admitted to be inadequate to that end; and the success; which has attended my efforts to give vitality to the system, is to be attributed to the energetic action of the last Legislature, by which the determination was evinced to provide *sufficient* means for the accomplishment of this desirable object.

The due execution of the laws is as essential as their enactment; and it will be a duty incumbent upon you, (which I cannot too urgently press upon your attention,) to clothe the Executive with such powers as will convince the people, that for the future, the revenue laws will be fully and impartially executed in every part of the State. Your immediate predecessors, I have no doubt, believed they had accomplished this object, by giving to the present Executive, as recommended by him, the power of appointing collectors irrespective of residence, in all cases where collectors had not, by the tenth of May in each year, duly qualified under appointment of the county authorities. The design of the Legislature was to clothe the Executive with the power to appoint collectors whenever the county authorities should neglect or refuse to discharge that duty; but the power, *as conferred*, unaccompanied with the power to compensate the persons appointed, was of course nugatory. The naked power to appoint was conferred upon the Executive, but the power *to pay* was still left with the county authorities; and as this power was only to be exercised by the Executive upon the contingency of the refusal of the county authorities to appoint, it is manifest that the same causes which would occasion the non-discharge of the duty to appoint would more powerfully operate to prevent their paying the Executive appointees. I have no doubt that the omission to confer this power was an oversight upon the part of your predecessors, and I have no hesitancy in expressing the opinion, that if the executive should be clothed by you with the power to compensate (within the limits prescribed to the county authorities,) the collectors hereafter to be appointed by him, that you will ensure the future appointment of qualified collectors throughout the State.

It is not, however, alone necessary that you should provide for the *certain* appointment of proper collectors of the State tax; it is equally essential that you should, with *equal certainty*, provide your collectors with the *power* to discharge their duty.

Under the existing law, the whole machinery (if I may so express myself) of the revenue system of the State is under the control & management of county authorities in most cases elected by the people of the counties, and wholly irresponsible to the State authorities. Although the assessment under the act of March, 1841, was made by State authority, and for State purposes, the custody of the assessment books is under the law as it now stands, confided to these county authorities, and the *power to levy the State tax* is exclusively vested in them. The neglect or refusal of these local authorities to levy the State tax, or to give up to the State collectors the assessment books, would for the time effectually prevent the collection of the State dues, and would render the existing tax laws perfectly useless as a revenue system. I am aware that the existing law subjects to indictment the members of the tax courts who refuse to discharge the duty imposed on them by the law; but experience has demonstrated the inadequacy of this remedy.

Commissioners of the tax have been elected by the people, who have refused to deliver the assessment books to the collector appointed by the Executive, and the grand jury of the county have refused to find an indictment against the delinquents.

I am also aware, that upon the hearing of a writ of mandamus, the courts of Justice would order the delivery of the assessment books; but in the new position which Maryland is now about to assume, the delay which would be consequent upon such a proceeding would be destructive of its utility. It will, gentlemen, be your paramount duty to remedy the defects in the existing legislation which have been pointed out for your consideration. As the law now stands, the Executive arm is powerless to vindicate the supremacy of the law; and the enactments of the Legislature may be treated with contempt and disregarded with impunity.

Formerly the levy or tax courts throughout the State were appointed by the State Executive. They were then responsible to the State authorities, and consequently respected and observed the laws of the State. Now in most of the counties these officers are elected by the people of the particular county, and having been thus converted from State into county officers, they have ceased to be responsible to the State authorities, and in fact are practically responsible solely to the people of the county by whom they are elected.—To this error in the past legislation of the State, is to be attributed the non-enforcement of the revenue laws; and the correction of this error by restoring to the State authorites the appointment of those officers will, in my judgment, render certain the future enforcement of those laws.

The manifest tendency of this improvident legislation to destroy the efficiency of of the government, which, was forcibly adverted to by my immediate predecessor in his second Annual Message to the Legislature, furnishes another cogent reason for the restoration of these appointments to the State authorities, to whom they were originally and legitimately entrusted. To the great body of our constituents, it is altogether immaterial whether this or that individual is appointed to discharge the duties of this or any other office—they are solely interested in having honest attentive & efficient officers. The people see & know, that under the new system the appointment of these officers is practically thrown into the hands of irresponsible county politicians, attached to the two great parties of the country, who often nominate the candidates for these offices, more in view of the *party* services of the individuals or their supposed local popularity, than in consideration of their fitness for the office; and I think experience has demonstrated that since this innovation, the persons selected have not been more honest or capable than those who were formerly appointed by the Executive. This unadvised legislation orignated in the desire of those who advocated it, to promote the political ascendency of themselves or their party; but in my judgment, politicians were never more mistaken, and the mistake is occasioned by the common error with politicians in placing an under estimate upon the intelligence of the people.

The people of Maryland entirely comprehend the political problem, and recognize as a political truism, that the tansfer of the appointment of the officers charged with the execution of the laws from the State authorities to the people of the several counties, would practically destroy the State Government, and build upon its ruins separate and independent county governments, irreponsible alike to the State and to each other. Our constituents desire that the laws passed by their representatives should be fully and impartially administered, and will, I am satisfied approve of no legislation which would deprive *their* government of the powers necessary for that purpose.

Having discharged my duty in bringing distinctly to your notice the inadequacy of the Executive authority to enforce the observance of the revenue laws, and in pointing out the utter inutility of all the laws which have been, or which may be passed unaccompanied with adequate power to enforce them, I submit the subject to your consideration, with entire confidence in your patriotism and judgment, and with the full conviction that you will promptly and efficiently remedy these defects in the legislation of your predecessors.

After providing for the future prompt and certain enforcement of the revenue laws, you will, in my judgment, disregard public opinion, and the well ascertained will of your constituents, if you should omit to fix a day upon which the State shall resume the payment of the accruing interest on the public debt, & from which she shall continue to pay the interest as it becomes due. The honor of the State & the interest of her citizens imperatively demand of you efficient action upon this all important subject. I need not ask you, gendemen, in coming to its consideration, to throw aside all views of party or individual political advantage, and to look solely to the honor of your State, and the welfare of your constituents; for I am persuaded that the political destruction of the individual or party is irrevocably sealed, that shall omit to propose, or shall oppose the passage of such laws, as in the opinion of the people, will be certainly adequate to redeem, and, for the future preserve the credit of the State.

The annual interest on the public debt is $855,421,20; and there has been paid during the fiscal year ending on the 1st December, 1845, in liquidation of arrears of interest, the sum of $710,784,51. The gratifying result is consequently exhibited that the arrears of interest on the public debt (instead of increasing, as in previous years; at the rate of about three hundred thousand dollars per year,) have been actually diminished during the past fiscal year by the sum of $55,363 81. The arrears of interest as shown by the report of the Treasurer to the last Legislature, amounted, on the 1st of December, 1844, to the sum of $1,432,054 51, and on the 1st of December, 1845, the entire interest due to the creditors of the State was $1,376,-891.20 It is not, it cannot be expected, that you will provide for the *immediate* payment of this arrearage of interest; but some adjustment of this balance is essential as a preliminary to the resumption of payment by the State, as it would be manifestly unjust, and *therefore* inadmissible to provide for the future payment of the accruing interest, leaving unliquidated and unsatisfied the interest which is now due.

It is unnecessary to consider the various suggestions which have been made for the attainment of this object. To one, however, I will refer, for the purpose of expressing my conviction that its adoption would violate the faith of the State pledged to her *creditors* and to her *citizens*. The suggestion, to which I refer, is one which was mooted during the last session of the Legislature, "to stop the operation of the sinking fund, and appropriate its proceeds to the extinguishment of this balance."

The sinking fund commenced with the debt of the State. Each law which authorized a loan upon the public credit *created* a fund which would redeem the sum borrowed at the expiration of the period of credit specified in the law. By this means the payment of the principal was secured to the public creditor, and the citizens protected against the possibility of perpetual taxation, or the ruinous consequences of a tax to pay off the principal of the debt.

The sinking fund on the 1st December, 1844, amounted to $1,276,306 and on the 1st of December, 1845, to $1,-404,030 28-100. It is progressively increasing by the quarterly re-investment of the interest accruing on it; and its operation has demonstrated its adequacy to secure the citizen and creditor of the State by redeeming the principal of the public debt within the periods limited in the appropriation laws.

The public creditor with the *certain* assurance of the future prompt payment of the accruing interest, will, I am persuaded, be well satisfied to fund the arrearage of interest upon such terms as will comport with the ability of the State, and at *any* rate of interest you may deem *equitable* and just.

The entire debt of the State, bearing interest amounts to the sum of $11,986,784, 98-100.

Under the operation of the law which authorizes the payment of taxes in coupons or certificates of interest, the public creditor *in fact* receives the amount of his interest, *less* the discount at which the coupons or certificates are sold, and *less* the tax imposed on his stock. Coupons and certificates of interest are now selling, and have sold since the passage of the law, at an average of eighty per cent.

The result is that the creditors of the State, holding the bonds or stocks of the State, bearing an interist of six per cent., amounting to the sum of $3,829,359 14-100, receive an interest of four and fifty-five hundredths per ct.—the creditors, holding the five per cent. bonds of the State, amounting to $7,557 425 84-100, receive an interest of three and three-quarter per cent; those holding the bonds of the State, bearing an interest of four and a half per cent., amounting to $100,000, receive three and thirty-five hundreds per cent., and those creditors who hold the three per cent. bonds of the State, amounting to $500,000, receive two and fifteen hundredths per ct. I have adverted to these facts for the purpose of showing that the *interest* of the public creditor would be eminently promoted by any liquidation of the arrearage of interest, by which *its payment* within some fixed and reasonable period would be ensured, and by which the future regular payment in money of the accruing interest, according to the contract of the state would be undoubtedly secured.

If, after a thorough investigation of the subject, you should determine that the State *shall* resume payment on the first day of October next, it will be necessary to fund the interest inclusive of the quarter ending on the first of July, 1846.

In view of the anxiety which will exist on the part of the tax payers to avail themselves of the privilege of paying in Coupons or certificates of interest (a privilege which they are aware must be denied so soon as you decide to resume the payment of the current interest) I do not think the present arrearages of interest will be much increased. Suppose the arrearages of interest, on and including the interest of the first July 1846, would amount to the sum of $1,500,000; this funded at three per cent. would increase the current interest from that date by the sum of $45,000, and if you should decide to pay off the principal, thus funded, in twenty years, it will be necessary to provide annually the further *sum* of $75,000; which sums added *to* the current interest on the present funded debt, would make the sum of $715,421 20-100 to be raised annually to meet the demands upon the treasury.

Gentlemen, I feel the responsibility of the position we mutually occupy. I believe that now is the *accepted time*, and that to you is accorded the distinguished privilege of redeeming the honor and credit of our State. There is not a citizen of the State who is worthy to be called her Son, who does not feel shame at the position she now occupies, and who will not hail with applause your *efficient action* to place her *now* and for the *future* in the position of *right* she should occupy. The people of Maryland were never in a more prosperous condition. Those of her citizens who are engaged in Agriculture have been blessed, through divine Providence; with abundant harvests; and the *increased* price which has been obtained for the grain crops of the State would alone equal the public debt. In evidence of the prosperity of those engaged in commerce and the mechanic arts it is only necessary to look to our commercial emporium (whose rapid strides towards commercial pre-eminence over her sister cities of the Union must gratify the pride of every Marylander) to witness an increase of wealth during the past few years equal to the quadruple of the debt of the State.

I propose, Gentlemen, in the future discharge of *my duty* to review the existing revenue laws, and recommend such legislation as will in my judgment, without inflicting unnecessary burthens upon the people, be adequate, if concurred in by you, to meet the future demands upon the treasury.—The subject must I know, be uninteresting to many of you, from the detail necessarily incident to its consideration; but the superior importance of giving you full information upon *a subject* upon which your action will be of such vital consequence to the State, will satisfy you that I could not take any other than the course indicated without a departure from the path of duty and the sacrifice of *utility*, (the sole object of this communication) to your convenience.

The revenue laws are now scattered through many volumes of the laws of the State; they are in some respects inconsistent with each other, and certainly, require amendment. I would, therefore, most respectfully suggest the propriety of digesting and embodying them in one enactment, that the officers and people of the State may distinctly understand the duties imposed on them.

The first of these laws to which I invite your attention is the "Income tax law," passed at December session 1841. ch. 325. In a large portion of the State the *assessment* under this law was not made, and in portions of the State where the assessments were made they were so partial in their character as to render the law exceedingly obnoxious to the people. The result is that this law during the past fiscal year was not enforced in the city of Baltimore, and but partially enforced even in the counties in which assessments had been made; and the revenue derived from it has not exceeded $1,000. I am aware that by the supplemental act of December session 1843, ch. 307, the Executive is empowered to appoint assessors and collectors, where they had not been appointed by the local authorities; but as no power was conferred upon the Executive to compensate the persons appointed by him, I was unwilling to encounter the certain failure which must have attended any attempt on my part to execute its provisions.

And again; as even the successful exercise of this power by me would not remedy the defects in the assessments which have been made, I thought it would be better to submit the subject to you consideration, that you may authorize a *new assessment* of "Salaries and Incomes" throughout the State, and that the law may be equally and impartially executed.

The next revenue law to which I call your attention is the act of 1841, ch. 297 which imposes a specific tax on "Silver plate and watches." This law has I believe been enforced in no part of the State, and it cannot be carried properly into effect without an assessment. The assessors of the "Income Tax" (if you should authorize their appointment) can also make the required assessment of those articles; and I the two laws when fully enforced will yield a revenue of $20,000.

The act of March session, 1841, ch. 23, "for the assessment and valuation of the property of the State and to lay a direct tax," will also require revision.

The assessment of the property of the State made under its provisions in 1841, which amounted to the sum of $196,763-847 98, has been subsequently reduced by the action of the appeal tax courts to $177,-139,645 23, although the wealth of the State has within that period greatly increased. It is a question of grave importance, which will demand your early consideration, whether a new assessment of the property of the State would not greatly augment the public revenue, and at the same time render more equal the burthens of taxation. Any assessment which may be authorized (being for State purposes) should in my judgment be made under the supervision and appointment of the State authorities as the only means by which the great desideratum—equality of taxation—can be attained.

By this act the stock of the State held by domestic holders is taxed, and that portion held by non-resident holders is exempt from taxation. An investigation of the subject convinced me that the greater portion of the stock designed to be taxed by this law had escaped taxation.

The attention of the Commissioner of Loans had not been drawn to the 3d section of the act of 1841, ch. 281, by which he is directed to retain out of the interest accruing on the State stock the tax due on said stock;" and this tax upon the stock of the State was paid but in comparatively few instances. Great difficulty (as will be apparent to the legislature by an examination of this section of the act of 1841;) existed in discriminating the domestic from the foreign stock, and consequently ascertaining which was liable, and which exempt from taxation. By the act of 1844, ch. 172, the stock or debt of the State held by non-residents was also subjected to taxation, and the Treasurer was directed "to retain the tax out of the interest falling due on the 1st of July in each year, and to authorize the Commissioner of Loans to draw only for the balance of interest after deducting the tax." It will be perceived that this law did not diminish the difficulty which existed in discriminating the domestic from the foreign stock. It was manifest that both the domestic and non-resident holders were taxed—the tax of the former to be retained by the Commissioner of Loans, and the tax of the latter to be retained by the Treasurer. As the interest of July, 1845, from which the latter tax was to be deducted, has not been paid, the Treasurer has not as yet encountered the difficulty which has been suggested; but, as under another law, the coupons and certificates of interest including those due on the 1st of July, 1845, were to be received by the Commissioner of Loans in payment of taxes, that officer has been obliged to meet the difficulties engendered by both laws.

By my direction the Commissioner of loans has adopted as the rule of construction of the act of 1841, ch. 281 "to consider all stock and bonds as domestic which are not proved to be the property of non-residents;" and in reference to the act of 1844, chapter 172, "to consider all coupons and certificates of interest offered in payment of taxes as the property of domestic holders." In order to secure the payment of the arrears of tax due from the domestic holders of stock or bonds of the State, the commissioner of loans, with my approval has determined to consider the entire tax on the domestic stock as in arrears until shown to have been paid; and to retain from the interest of July, 1842, (which has been paid by the treasurer at the loan office in liquidation of the interest of this quarter,) the tax thus found to be in arrear. By this means the commissioner of loans has received from arrears of taxes, due from the domestic stock and bond-holders, the sum of $2,563-75-100, and will hereafter be enabled to collect all which is due from that source.

By directing that the treasurer shall retain the tax on the domestic stock and pay over only the difference between the tax and interest, as is provided by the act of 1844 in reference to the stock of non-resident holders, you will remedy the difficulties which have been pointed out, & lessen the demands upon the treasury by the sum of $27,602-60-100, the amount of the tax upon the entire funded debt of the State.

The tax imposed by this law upon the stock of the Banks and other incorporated institutions of the State has been the occasion of continued litigation. The Banks of the city of Baltimore, under the impression that their several charters exempted them from taxation, refused to pay the tax; and a suit was instituted, during the term of my predecessor, to test the constitutionality of the tax imposed on them by this act; which resulted in the decision of the Supreme Court of the United States "that the Banks of the city of Baltimore, chartered in 1821, were exempt from taxation during the *continuance* of the charters then granted, and that the other Banks of the city were legitimately taxed." Under the impression that this decision had settled the question of liability to taxation, I requested the Attorney General to call upon the several Banks and request their compliance with the law. The Banks,' chartered in 1821, contending that their charters of 1821 did not expire until 1846, and the other Banks contending that under the act of 1835, chapter, 142, no other tax could be imposed on them than was or could be imposed on the Banks chartered in 1821, still refused to pay the tax: and I immediately directed proceedings to be instituted to test the validity of their claim to exemption. This proceeding resulted in a decision by the Court of Appeals, "that the banks chartered in 1821 were liable to taxation from the 1*st of Jan.* 1846, and that the other Banks were liable for the tax from the *date of its imposition in* 1841." All the Banks of the city of Baltimore have acquiesced in this decision, except the Farmers' & Planters,' and the Western Banks, which now refuse to pay upon the ground that the acts of 1841, chapter 281, and 1843, chapter 289, which make it the duty of the "*Presidents* of the Banks and other incorporated institutions of the State to retain and pay the tax directly into the treasury," are unconstitutional A proceeding has been instituted, and is now pending in the court of appeals, to test the validity of this objection; the decision of which *may* render further legislation necessary.

The revenue which will be derived from the direct tax during the coming year will be increased by the sum of $24,297-72-100, the tax upon the capital of the Banks which have not hitherto paid, including the unpaid tax of the two Banks before mentioned, which are still contesting their obligation to pay.

Upon investigation I found that *but one Bank* in the city of Baltimore (the Merchants' Bank,) and but few of the other incorporated companies had paid the direct tax, since the passage of the act of 1843, chapter 289, which transferred the collection of this tax from the local collectors to the Presidents of the several corporate institutions. The treasurer, at my instance addressed a circular to the Presidents of each of the incorporated companies, of whose locality he could obtain information requiring them to pay into the treasury the tax due from the companies over which they presided; which has resulted in the payment by many of them of the entire tax due from their respective institutions, amounting to the sum of $14 388 87-100 and which will justify me in applying for a mandamus against those who may continue delinquents, to enforce their observance of the law.

The treasurer will furnish you with a list of the corporations, and the capital of each, of whose locality and capital he could obtain information, distinguishing those which have from those which have not paid; from which you will see that the revenue which will be probably derived from this particular source during the coming year will amount to $15,000: exclusive of the tax on the Baltimore City Stock, and the Stocks of the Banks of the State.

Prior to the last June term of the Court of Appeals, I requested the Attorney General to embrace in the tax cases, which were to be argued, all the questions which had arisen under the various tax laws, that they might be all settled by the decision of the highest judicial tribunal of the State; and I will furnish you, for your information and guidance, with the decision of the court upon the tax questions which were raised and decided.

The direct tax law specifies as one of the subjects of taxation "all ships and other vessels owned by citizens of this State." From this source the State has hitherto derived no revenue; the owners of ships and vessels insisting that the tax imposed was in violation of that clause of the Constitution of the United States, which confers upon the General Government the power to regulate commerce. By reference to the decision of the Court of Appeals you will see that the constitutionality of this tax is sustained.

The registered and licensed tonnage belonging to the port of Baltimore on the 1st of October, 1845, amounted in value to $2,172,220, to which must be added the tonnage registered at the other ports of the State, the value of which I have not ascertained.

The revenue from the direct tax for the coming year will be consequently increased by the tax upon this description of property from 1841 to the present time, and will furnish a valuable item in your estimate of means to meet the demands upon the treasury. It will be necessary however for you to consider whether the assessment of this species of property has been fully made, and whether some legislation is not necessary to render the tax upon it fully available.

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