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GOVERNOR'S MESSAGE.

(CONCLUDED.)

Gentlemen of the Senate, and of the House of Delegates:

I propose, Gentlemen, in the farther 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 ses. 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 Sess. 1843, chap. 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 your consideration, that you may authorize a *new assessment* of "Salaries and Incomes" throughout the State and that the law may be equal and impartially executed.

The next revenue law to which I call your attention is the act of 1841, chapter 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 the two laws when fully enforced will yield a revenue of $20,000.

The act of March session, 1841, chapter 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 has been subsequently reduced by the action of the appeal tax courts to $177,136,645 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, chapter 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, chapter 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 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 holder 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, chapter 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 arrear 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 for arrears of taxes, due from the domestic stock and bondholders the sum of $2,563, 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, and lessen the demands upon the treasury by the sum of $27,602 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' and Planters', and the Western Banks, which now refuse to pay upon the ground that the act 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 the 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 286, 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 14,338; 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 we 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.

By the act of 1843, chapter 189, the collection of the direct tax upon the stock of the city of Baltimore was also taken from the city collector, and the register of the city was required to pay it into the treasury. This tax I also found had not been paid since the passage of that law; and with the view to such legal proceedings as might be necessary, I requested the Attorney General to call upon that officer to ascertain his determination in regard to the payment of this tax, he at once expressed his determination to comply with the law unless otherwise *officially* instructed by the City Authorities, by whom he was appointed; and I am pleased to inform you that this tax for the present year, amounting to the sum of $9,497 34, has been paid, leaving still due, the like sum for the tax of the past year, in reference to which you will make such provision, or give such instructions as to you may appear necessary and right.

As the direct tax must be looked to by you for the greater portion of the means to meet demands upon the treasury I was impressed with the paramount importance of supplying you with all the information necessary to the formation of a correct estimate of the probable revenue which will for the year be derived from that source; and I have been, I apprehend, more minute than will be acceptable to you; certainly more so than has been agreeable to myself.

I have prepared with some care, and will now submit for your consideration, a tabular estimate of the revenue which will have *accrued* from the *direct tax*, and which is, or may be *collectable* during the current fiscal year; and I shall consider my labor most amply rewarded if by this means I shall furnish you with any assistance in forming a *correct estimate* of the revenue which for the current year will be *collected* from this source.

The direct tax of one quarter of one per cent upon $177,139,645 the present assessed value of the real and personal property,	$442,849 11
Due for arrears of tax for 1841 1842, 1843, and '44, about	554,829 60
For items of direct tax not included in the general assessment, and from which but little revenue has been hitherto derived—to wit:	
Tax upon the capital stock of the Banks of the city of Baltimore,	19,752 50
Tax upon the capital stock of other incorporated institutions,	15,000 00
Tax on Baltimore city stock for 1844,	9,497 34
Tax on Baltimore city stock for 1846,	9,497 34
Tax on the funded debt of the State,	27,602 60
Tax on ships and other vessels,	5,430 55
Estimated arrears of tax on ships, &c.,	5,000 00
Tax for 1844 and '45, due from the Farmers' and Planters', and Western Banks of Baltimore,	4,542 25
	$1,094,001 29

I need not say to you that the amount of revenue which will *accrue* by no means furnishes the test of the amount which will be *received;* and I have furnished you an estimate of the former only with the view that you may as *practical Statesmen* (looking to the experience of the past, and the additional means of collection which your legislation will afford,) form an estimate of the latter, which may approximate correctness.

Your predecessors when they assembled to discharge the duties which now devolve on you, were informed by his Excellency, Governor Thomas, that the liabilities of the State had increased during the fiscal year which had then ended, by the sum of $279,088 and it manifestly became their duty to arrest this progressive accumulation of the public debt.

In this position of things the important enquiry was submitted to their consideration, whether for the additional revenue required, they should resort to *indirect taxation* or *increase the direct tax* to the required amount. Their determination to raise by *indirect taxation, all* the additional revenue that might be required, which was in my judgment wise and just, has since undergone the ordeal of a public canvass, and has been sanctioned by the approval of the people. The *principle of indirect taxation*, and the policy of a resort to this source for a portion of the public revenue, (which recommends itself to approval, by the diminished expense of collection, by the increased certainty of payment, and by the *justice* of relieving the owners of visible and tangible property, upon whom, under pre-existing legislation the burthens of taxation had exclusively fallen,) may now be considered as settled by the exigency of public affairs, and by the sanction of a well ascertained public sentiment.

I now propose to call your attention very briefly to the legislation of the last session, for the purpose of considering the revenue which may be expected from that source, and of suggesting such amendments as experience and the decision of the Court of Appeals have shown to be required.

The act of the last session, chapter one hundred and eighty-four, "imposing a tax upon the commissions of Executors and Administrators" has not yet gone into practical efficient operation. By this act Executors and Administrators are only required to pay the tax "*upon the passage of the account in which their commissions are allowed.*" Under the practice throughout the State, the commission is not allowed by the Orphans' Courts until the passage of the *final* account; and as the Executors and Administrators are allowed twelve months to settle the estate, it is apparent that the revenue arising under this law will only accrue in each case as they pass their final accounts, or after the expiration of twelve months from the date of the letters of administration in each case.

The Orphans' Courts are also authorized to extend the time for the settlement of estates beyond the twelve months; and as Executors and Administrators have the entire estates of their Testators or Intestates, and *consequently their commissons* in their own hands, they have no interest in expediting the adjustment of the commissions by the Orphans' Courts, and the revenue of the State will be probably beyond the twelve months from the date of the letters in each case. It would certainly be desirable if this law could be so amended as to make the revenue contemplated by it, more immediately available to the treasury.

In my judgment the defect suggested may be removed, and this law rendered conspicuously available in sustaining the credit of the State, if you will so amend it, *in cases which shall hereafter occur, instead of the tax now imposed*, as to require Executors and Administrators to pay to the register for the use of the treasury within thirty days from the return of the inventory, in each case, one per cent. upon the amount of the inventory; and to require that the Executor or Administrator in each case (upon the presentation of the final account for passage, and before it shall be passed, or his commission allowed,) shall pay to the register for the use of the State, one per cent. upon the difference between the amount of the inventory and the amount upon which the Executor or Administrator is entitled to a commission—the amount of the tax in each case to be deducted from the commission which may be allowed to the Executor or Administrator. Whilst the effect of the amendment suggested would be so salutary to the State, its only effect upon the Executor or Administrator would be to reduce the maximum of commission which could be allowed him by the Orphans' Courts from ten to nine per cent. and the minimum from five to four per cent.

You are aware that whenever an Executor is the residuary legatee, or the residuary legatee consents, and wherever the administrator is entitled to the whole residue, they are authorized, upon giving the bond required by the act of assembly, to take the estate without returning an inventory or account, or in any manner settling with the Orphans' Courts; and in this class of cases the tax imposed by this act cannot be collected. I would therefore recommend the repeal of so much of the act of 1798, chapter 101 as confers this privilege.

Permit me in this connection to refer also to the act of 1844, chapter 187, "imposing a tax on the commission of trustees and receivers," for the purpose of remarking that from a statement received from the register in chancery and from the clerks and registers of the several counties showing the amount of commissions allowed for two consecutive years to executors, administrators, trustees and receivers, (assuming the average of those years as the data of calculation the revenue which will accrue; (and if the proposed amendments are adopted) which will be received for the comming year from the two laws will not fall short of $30,000. Permit me also to suggest the enquiry whether this law may not be so amended as to make its proceeds more immediately payable into the treasury. Under the provisions of this law the tax is to be ascertained by the auditor, *when he audits the accounts of the trustee or receiver*, and is to be paid by the trustee or receiver within thirty days after the *final* ratification of the accounts so audited. It is unnecessary to point out the great delay which must occur under the existing provision in the payment of this tax. You are aware that the compensation of trustees and receivers is fixed by a *Chancery scale, graduated* by the *amount of the sale*, or the value of the property where no sales are made. If I am right in this statement, it is clear that the trustee or receiver can immediately after the ratification of the sales made by them, or after the ascertainment of the value of the property, when no sale is to be made, ascertain with as much certainty as the auditor, the amount of their commissions; and I can see no well founded objection to an alteration of this act by which they shall be directed to pay within thirty days after the ratification of the sale or ascertainment of the amount of property where no sale is to be made, the one-tenth of the commissions to which they are entitled by the *Chancery scale.* This amendment would certainly render this law greatly more available as a revenue measure; and if no well founded objection can be urged to its adoption I would invoke for it your favorable consideration.

I will now call your attention to the act of the last session, chapter 237, "imposing a tax on Collateral Inheritances, Distributive Shares and Legacies." The delay which also occurs under this law in the payment of the tax imposed, and the propriety of adopting such amendments as will render it more practically beneficial as a revenue measure will merit your attentive consideration.

Under its provisions the tax on distributive shares and legacies is required to be paid by the executor or administrator "*before he pays over the distributive share or legacy;*" and in reference to the tax on real estate it makes it the duty of the executors and administrators (without a penalty) to report to the Levy Courts all the real estate of which their testator or intestates have died seized, and the Levy Courts are required on the 1st of June in each year to value the estates, and at the next period of making the county levy, to levy this tax.

I submit it for your consideration, whether the delay incident to the existing provisions of this law would not be removed by an amendment, requiring (in all future cases,) the Orphans' Courts to issue a summons directed to all collateral devisees and inheritors of real estate, being of full age, and to the guardians of such as are minors, requiring them to pay the tax imposed by this act within three months from the service of such summons, and imposing such penalties upon the adult parties and the guardians of minor parties for their neglect or refusal to pay within the time prescribed as would make it their interest to comply, and consequently ensure their compliance with the law.

I am satisfied that this law can and will be so amended by you, as to make it at once practically efficient as a revenue measure; and then the annual *receipts* from it may be estimated at an average of $10,000.

The act of the last session, chap. 302, 'imposing a tax upon clerks and registers,' has, I believe, been generally complied with, and the tax, amounting to about $10,000, imposed by it, has been almost entirely received. The like sum may be relied on from this source for the current year.

In referring to the laws of the last session, which have been so far considered, it may be remarked that they have met with the almost universal approval of the people, and your predecessors certainly deserve great credit for the adoption of a *system* of taxation which will so prominently contribute to the relief of the State, and which, at the same time, is so entirely in accordance with the public will.

I should, gentlemen, be wanting in duty to myself, and to your predecessors, by whom it was passed, if I should omit to refer to the act of the last session, chapter 280, imposing "the Stamp Tax," the only revenue measure adopted by them which has proved unacceptable to any portion of the people in any part of the State. If unmeasured denunciation—through the public press—from the hustings—and in every other shape which the ingenuity of its enemies could devise, could mislead the judgment of an enlightened people in reference to a measure so eminently calculated to promote their *individual interest* and the *public good*, the first act of the session you are about to commence, would be entitled, "An act to repeal the Stamp Tax."

But the representatives of the *people* of *Maryland* may always rely with certain confidence upon the support of their constituents, when, like your predecessors, (after testing the insecurity of the beaten path—the inutility of further laws, based upon the *pre-existing principle of taxation,*) they at once (regardless of unjust censure, and with a proper reliance upon their own judgment, and the judgment of the people,) abandon the path which had hitherto only led to disappointment, and pursue a new course, leading to the redemption of the honor of the State, and the good faith of her citizens.

I ask, gentlemen, I feel I may ask with confidence, your candid consideration of a measure which, when properly amended, will be of more practical utility in the present monetary condition of the State, than any law upon the statute book.

It has been called the *British Stamp Act*, and denounced as *anti-Democratic;* but I do not propose in addressing *you*, to consider such gratuitous and unfounded denunciations, for I am aware that you are too conversant with the history of you country, not to know that our fathers, in their opposition to the tyrannical impositions of the mother country, were governed by the principle "of resistance to taxation *without representation*," and that *they* opposed the Stamp Tax passed by the British Parliament, *not* because it was a *Stamp Tax*, but because they were unrepresented in the Parliament which passed it. And I might be considered wanting in respect, were I to remind *you* that a similar law to the one now denounced as *anti-Democratic*, was passed by Congress during the Presidential term of Mr. Madison, *by the party vote* of the *then Democratic party.*

I will not, therefore, consider for a moment these mere denunciations against a measure so vitally important to the interest of your constituents; but will proceed to the consideration of such objections to the principle and policy of the measure; as have been in good faith, and with a belief in their reality, urged against it.

It *was* said that the law was *inconvenient*, but the practical operation of the measure has clearly evinced the error of this assertion.

It has been urged that the law was unequal in its bearing, *because* the greater portion of the revenue derived from it was paid by the mercantile interest. But this argument was certainly a two edged sword; for it was apparent, that if the fact were as asserted, the *mercantile interest* only paid the greater portion of this tax, *because* of *their* ownership of a greater portion of the description of *property taxed*, precisely as the *landed interest* paid a greater portion of the tax upon real estate than the *mercantile interest*, because of their ownership of a larger proportion of that particular description of property.—And the owner of *real estate* might as justly claim an exemption from taxation for that description of property, because he paid more than the merchant, as could the merchant from *this tax*, because he received and owned more promissory notes, and consequently paid more than the land holder. The supposed unequal bearing of this law upon a particular class of the community, has constituted the only plausible objection which has been urged against the continuance of the measure. If, therefore, I can demonstrate to the unanswerable satisfaction of every one who will consider the argument, that the inequality which does exist is a *practical inequality in favor* of *those who pay this tax;* I shall expect for this measure the support of all those who now oppose it upon this ground.

The direct tax law of eighteen hundred and forty one imposes a tax of one-fourth of one per cent. upon all the property in the State, and requires the collectors annually to assess all the property which should thereafter come into existence, or be found in the State and not assessed by the assessors appointed by that law. The increase of visible personal property, (such as slaves,) and the increase of real estate, (by the erection of houses,) are under the provisions of the direct tax law brought at once into the assessment, and the owners pay the tax of one-fourth of one per cent. upon it. By the direct tax law, all obligations for the payment of money are taxed at the amount expressed in the obligation, and although every new obligation taken since the act of 1841 should, under its provisions, be assessed, and pay the tax of one-quarter of one per cent.—yet from the nature of the property, and the impossibility of its ascertainment by the collectors, all this description of property which has come into existence since 1841 has escaped the tax imposed by that act, and now only pays under the Stamp Act the *one twentieth* of one per cent., *instead of the one-fourth of* one per cent., *the tax* which is paid by the owners of *every* other description of property which has come into existence since 1841. Sincerely trusting that this view of the subject may change the opinion of some of those who have hitherto opposed the continuance of this law upon the ground of its supposed inequality, I will now ask your consideration of such amendments as experience and the construction placed upon its provisions by the Court of Appeals, have shown to be necessary.

This law went into effect on the tenth of May of the present year, and under its provisions quarterly returns were to be made of the receipts under it, commencing with the first of June. The returns which were made on the 1st of June consequently embraced only twenty days, the entire period for which the law had then been in force, and the receipts for this period will, in my opinion, furnish the data from which a correct estimate may be formed of the revenue which would be derived from this law, if made to embrace all the instruments upon which the law practically operated prior to the decision of the Courts of Appeals.

The Treasurer's Report will, I suppose, furnish you the receipts from this law for the first twenty days ending on the 1st of June; and taking this as the basis of calculation, you will see, that the revenue for the entire year from a law embracing the instruments which were for this period practically included in the operation of the law, would exceed the sum of $100,000.

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