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96 Md. 310, 53 A. 942, 103 Am.St.Rep. 364

Court of Appeals of Maryland.
 CORRY

v.

MAYOR, ETC., OF BALTIMORE et al.
 Jan. 16, 1903.

Appeal from circuit court of Baltimore city; J. Upshur Dennis, Judge.

Suit by James Corry against the mayor and city council of Baltimore and others. From a decree dismissing the bill, plaintiff appeals. Affirmed.


West Headnotes

Constitutional Law 92  **284(2)**
[92k284\(2\) Most Cited Cases](#)

Code, art. 81, § 144, providing that the valuation and assessment of corporate stock as fixed by the tax commissioner shall be final unless appealed from within a specified time, but failing to provide for the giving of a notice to the owner thereof, is not unconstitutional, as authorizing the taking of property without due process of law, as the corporation represents the stockholders, and has the right to appeal if the valuation is unsatisfactory.


Municipal Corporations 268  **966(3)**
[268k966\(3\) Most Cited Cases](#)

City Charter (Acts 1898, c. 123) § 6, providing that no stocks, bonds, etc., of a corporation situate within the limits of Baltimore, owned by persons residing out of the city, shall be taxed, etc., merely referring to owners of stocks, etc., living in the state, but not in Baltimore, does not apply to owners of corporate stock who are nonresidents of the state.


Taxation 371  **2100**
[371k2100 Most Cited Cases](#)
 (Formerly 371k37)

Statute providing valuation of assessment of

corporate stock as fixed by tax commissioner should be final unless appealed from within specified time was not unconstitutional. Code art. 81, § 144.

Taxation 371  **2201**
[371k2201 Most Cited Cases](#)
 (Formerly 371k93(1))

Bill of Rights, art. 15, declares that every person in the state, or “holding property therein,” should contribute to the public taxes. The Code provides that shares of domestic corporations, whether owned by residents or nonresidents, shall be taxed, and stock held by nonresidents shall be deemed situate, for the purpose of taxation, at the place where the principal business office of the corporation is located. Held, that a tax may be imposed on stock of a domestic corporation owned by a nonresident.

Taxation 371  **2573(4)**
[371k2573\(4\) Most Cited Cases](#)

(Formerly 371k407)
 Code, art. 81, §§ 141 , 144, which provide for the valuation for purposes of taxation of shares of stock by county commissioners, appeal tax court, and the state tax commissioner, and require the transmission to the president or other proper officer of the corporation of the valuation so fixed, and authorize an appeal within a specified time from the determination of these tax officials, do not contemplate a personal notice to the stockholder, and therefore a compliance with the requirements of the sections is a sufficient notice to nonresident stockholders.

Argued before McSHERRY, C.J., and FOWLER, BRISCOE, BOYD, PAGE, and SCHMUCKER, JJ.

Wm. P. Maulsby, Jr., and William S. Bryan, Jr., for appellant.
 Wm. Pinkney Whyte, Olin Bryan, and Isidor Rayner, Atty.Gen., for appellees.

BRISCOE, J.

James C. Corry, a resident of the state of Pennsylvania, and a nonresident of the state of Maryland, filed a bill in circuit court No. 2 of Baltimore city on behalf of himself and other nonresident stockholders of the New York & Baltimore Transportation Line, a corporation of the state of Maryland, against the mayor and city council of Baltimore, James P. Gorter, collector. Murray Vandiver, treasurer of the state of Maryland, and the New York & Baltimore Transportation Line, to restrain and enjoin the defendants from collecting certain state and municipal taxes for the year 1899 on 150 shares of the capital stock of the transportation company, of the par value of \$20 per share. The defendants answered the bill, but subsequently these answers were withdrawn, and by an agreement demurrers were considered as filed by the defendants; and from a decree of the circuit court of Baltimore city of the 24th of June, 1902, sustaining the demurrers and dismissing the plaintiff's bill, this appeal has been taken.

The principal and important question presented by the case is whether the method of taxation provided by the statutes of Maryland of stocks in Maryland corporations held by nonresidents of the state is valid and constitutional. The provisions of the several statutes of the state relating to the tax will be found in sections 2, 4, 141, and 144 of article 81 of the Code of Public General Laws and in the Supplement of the Code of 1900. These statutes distinctly provide that the shares of capital stock of all corporations, whether owned by residents or nonresidents, shall be liable to assessment and taxation, and by section 131 of the Code the stock held by nonresident stockholders in steamboat or other companies, etc., is situate for the purpose of taxation at the place where its principal office for the transaction of business is located; that is, in this case, in the city of Baltimore. The mode, method, and manner of the assessment, valuation, and taxation, as applicable

to stock held by nonresident shareholders is clearly and fully provided and directed by the several statutes, and it is admitted that the taxes in this case were imposed according to the provisions of the statutes.

The appellant urges four grounds why the tax laws of the state here in dispute are not constitutional and valid: (1) Because the tax is a personal one, and is beyond the powers and jurisdiction of the state to levy a personal tax against a nonresident of the state; (2) to enforce the collection "is taking property without due process of law" or color of right, and in contravention of the constitution of the United States; (3) that no provision is made by the statutes for a hearing or opportunity to be heard by the nonresidents of the state; (4) that the levy of the city tax upon stock held by nonresidents in corporations in Baltimore city is exempt by the new charter (Act 1898, c. 123). Some of the questions raised on this appeal can hardly, at this date, be regarded as *res nova* in this court. Similar statutes have been enacted from time to time by the general assembly of the state imposing a tax *943 upon corporate stock in Maryland corporations held by nonresidents, and in one form or another have been brought to this court for construction. The principle of this legislation has been upheld and recognized by this court in all the cases, except where the statute was plainly in contravention of the state or federal constitutions. Whatever may be the adjudications in other states, it is quite certain that in the construction of this statute we are to be controlled by the decisions of our own court in so far as they are applicable to the case. It is distinctly declared by the fifteenth article of the bill of rights that "every person in the state or person holding property therein, ought to contribute his proportion of public taxes for the support of the government, according to his actual worth in real or personal property." In the case of *Mayor, etc., of City of Baltimore v. Baltimore City Pass. Ry.*

[Co.](#), [57 Md. 31](#), it is said that express provision is made by the act for valuing the stock owned by nonresidents at the place where the company has its principal office for the transaction of business, that the shares of stock held by nonresidents are liable to taxation, and that for the purposes of taxation such shares are situate in the city of Baltimore, where the appellee has its principal office. The provisions of the statute under discussion clearly fixes the situs of stock held by nonresidents for taxation at the place of the principal office of business of the corporation within the state, and, the shares of stock being taxable property under the statute, the state and municipality of Baltimore, under the conceded facts of this case, clearly had jurisdiction to impose a tax upon the property situate here, and to collect taxes thereon, notwithstanding the fact that the appellant was a nonresident of the state. It would answer no good purpose to discuss at length the question of the constitutionality of this tax in the light of the many and recent adjudications of this court upon the subject, but we need only refer to the following cases, which sustain the conclusion we have reached: [American Coal Co. v. Allegany County Com'rs](#), [59 Md. 185](#); [United States Electric Power & Light Co. v. State](#), [79 Md. 70](#), [28 Atl. 768](#); [Crown Cork & Seal Co. of Baltimore v. State](#), [87 Md. 696](#), [40 Atl. 1074](#), [67 Am.St.Rep. 371](#); [American Casualty Ins. Co.'s Case](#), [82 Md. 563](#), [34 Atl. 778](#), [38 L.R.A. 97](#); [Bonaparte v. State](#), [63 Md. 456](#); [Baldwin v. State](#), [85 Md. 587](#), [43 Atl. 857](#); and [Kinehart v. Howard](#), [90 Md. 1](#), [44 Atl. 1040](#).

The second and third objections urged by the appellant are that section 144 of article 81 of the Code fails to provide a notice to the shareholder of the assessment and valuation of this property, and he was, therefore, without an opportunity to be heard as to the value of the shares, and to enforce the collection would be "taking property without due process of law." This section of the Code was under consideration in the recent case

of [Distilling Co. v. Mayor, Etc.](#), [95 Md. 468](#), [52 Atl. 661](#), and we distinctly said that: "A notice to each shareholder is unnecessary, because the corporation represents the shareholder. If the valuation is not satisfactory, an appeal may be taken by the corporation for the shareholder. An opportunity is thus afforded for the shareholders to be heard through the corporation, and that gratifies all the requirements of the law." It will be also seen that sections 141 and 144 of article 81 of the Code do not contemplate a personal notice to the property holder, but a compliance with the requirements of the statute is a sufficient notice to the nonresident property holder of the assessment and valuation of the property. We find nothing in the cases of [Gittings v. Mayor, Etc.](#), [95 Md. 419](#), [52 Atl. 937](#); [Ulman v. Mayor, Etc.](#), [72 Md. 609](#), [21 Atl. 711](#); [Allegany County Com'rs v. Union Min. Co.](#), [61 Md. 545](#), relied upon by the appellant, in conflict with this construction of the statute.

The appellant's fourth contention is that the shares of stock held by him are exempt from city taxes by reason of the provision of the city charter (Acts 1898, c. 123), which provides that no stocks, bonds, mortgages, certificates, or other evidences of indebtedness of any bank or other corporation situate within the limits of the city, which are owned or held by persons residing without said limits, shall be subject to taxation for the purpose above set forth. Section 6, subsec. "Taxes," City Charter (Acts 1898, c. 123). This section of the charter has no reference to stocks, bonds, etc., owned and held by nonresidents of the state. It applies to persons living within the state, but without the limits of Baltimore city; that is, to stocks, bonds, etc., held by persons residing within the counties and cities of the state. It therefore has no application to this case.

We have examined the federal decisions bearing upon the questions raised on this appeal, and find them in harmony with the views we have

expressed. We cite the following cases in support of the conclusion reached by us in this case: [City of New Orleans v. Stemple](#), 175 U.S. 309, 20 Sup.Ct. 110, 44 L.Ed. 174; [Savings & Loan Soc. v. Multnomah Co.](#), 169 U.S. 421, 18 Sup.Ct. 392, 42 L.Ed. 803; [McCulloch v. Maryland](#), 4 Wheat. 316, 4 L.Ed. 579; [Coe v. Town of Errol](#), 116 U.S. 517, 6 Sup.Ct. 475, 29 L.Ed. 715; [Pullman Car Co. v. Pennsylvania](#), 141 U.S. 18, 11 Sup.Ct. 876, 35 L.Ed. 613; [Bank v. Sedgwick](#), 104 U.S. 111, 26 L.Ed. 703; [Kirtland v. Hotchkiss](#), 100 U.S. 491, 25 L.Ed. 558; [Bristol v. Washington Co.](#), 177 U.S. 139, 20 Sup.Ct. 585, 44 L.Ed. 701. We hold, therefore, that the shares of stock held and owned by the appellant, a nonresident of the state, in a Maryland corporation, are liable to taxation under the statutes of this state, and that the tax is not in violation of either the state or federal *944 constitution. For these reasons the decree of the circuit court No. 2 of Baltimore city will be affirmed, with costs.

Decree affirmed, with costs.

Md. 1903.
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