

of Maryland, which is taxed twenty cents upon every hundred dollars for the school fund, and which has been in operation for forty years, during which time all holders of this stock have contributed, because the banks are obliged to pay over this tax to the school fund, out of the profits, before any dividend is made to the stock holders. Should the Legislature attempt to tax the real estate of her citizens beyond the limits of the State, and that should fail, he did not see with what propriety it could be attempted to tax personal property out of the State. In his opinion, the same principle should govern whether as to real or personal estate.

Mr. Tuck said, he desired to offer an amendment of which he had given notice on a former day, and which, as modified, read as follows:

*Article 13th.* "That taxes for the support of government, and fines, duties and taxes, with a political view for the good government and benefit of the community, may be imposed or laid on property within this State, and the legislature ought to declare the objects for laying or imposing the same."

Mr. Tuck would state briefly his reasons for offering the amendment.

He desired to leave the power to the legislature with as few restrictions as possible. In times of difficulty and financial embarrassment, it is easy to find means to avoid the restrictions; and thus the spirit of the bill of rights, might be violated without any redress to the tax payer.

The opinion is entertained by many persons, that this had been done by some of the tax laws passed since 1840. It is very well known that all these laws were passed for the purpose of raising revenue for the support of government—that is, for the purpose contemplated by the first clause of the thirteenth article of the present bill of rights. The taxes were designed "for the support of government," and not "with political view;" yet, they were not assessed according to each man's "worth in real and personal property, within this State," as required by that article. He alluded to the tax on collateral inheritances; the tax on the commissions of executors and administrators—the tax on the public offices—the stamp tax, &c.

He did not mean to say that these taxes were wrong in themselves. All he meant to say, was, that they were laid to raise revenue for the support of government; that that was the design and no other. And in that view he thought the legislature had done wrong in not declaring the objects for which these bills were past.

He admitted that the legislature should have the power to levy taxes "with political view." The peace and welfare of society required this. The license system, lottery taxes, auction duties, and such other taxes were referable to this power. These required regulation.

But no such necessity existed when the bills to which he had referred were passed. It was not pretended that collateral inheritances, commissions, promissory notes, &c., needed regulation. The Treasury needed the revenue, and thus the latter clause of the thirteenth article was involv-

ed in aid of the purpose contemplated by the first clause.

His amendment required that the laws should state the object for which the taxes were laid—whether to raise revenue for the support of government or with political view, so that the tax payer might have the validity of the tax tried by the courts. This could not be done under the present laws, because the acts do not disclose the object for which the taxes are laid, and being within the provision of the latter clause of the thirteenth article, though passed for a different purpose, the courts can do no otherwise than say that they are constitutional. The power of Congress to pass tariff laws for the protection of domestic labor has been, and is now denied by a large party in the country. But this power can never be tested in the United States courts, so long as the laws profess to be mere revenue laws. The power to raise revenue being conceded, the courts are bound to declare all such laws to be constitutional, unless they are in terms against that instrument. The courts cannot go behind the laws, and decide according to what may be the motive of the legislature in passing them.

Mr. T. said that his amendment would allow these questions to be settled by the judicial tribunals, by shewing to the court the object and purpose of the law—and if these were not warranted by the Bill of Rights the act would be declared void. He had no disposition to disturb the present tax system. That system will remain until repealed by law. But cases under that system had been carried to the Court of Appeals. This showed doubt and dissatisfaction. And when this is likely to occur by the exercise of uncertain powers, the people should have an opportunity of testing the question. Nothing is more unwelcome to the people than heavy taxes. But they will submit when they are satisfied that a necessity exists, and that the power to impose the burden is vested in the Legislature. He had said that he would confide this power to the Legislature without restriction. But if we are to say any thing on the subject in the Bill of Rights he would prefer plain and definite language, not only to indicate to the Legislature the limits of their powers, but to allow the tax-payer to have his case properly tried, if complaint were made.

He had also inserted the words "in this State," so as to prevent the Legislature from taxing property beyond the State. He never could understand by what authority the Legislature taxed Bank and other Stocks, beyond the State, for the support of our Government, when the thirteenth article of the Bill of Rights declares that "every man shall contribute according to his actual worth in real and personal property *within the State.*" The Stocks of foreign Banks are not within this State. The gentlemen from Frederick and from Anne Arundel had made arguments on this point which have not been and cannot be answered. The true doctrine is taxation according to protection. Why does a man pay taxes on his property? On what theory is this required? Only because justice suggests that his property shall pay according to the protection it receives. He would not multiply words on this