

GOVERNOR'S MESSAGE TO THE LEGISLATURE

Is Terse and to the Point---Treats Solely of Tax Matter, Recommending Legislation That Will Straighten Out Difficulties.



GOV. GEORGE E. CHAMBERLAIN.

Salem, Dec. 21.—(Special)—Governor Chamberlain's message was presented to the legislature upon the convening of the extra session today. The message deals entirely with the tax law muddle, recommending the passage of amendatory legislation which will make effective the law purposed by the last legislature, or the re-enactment of the old law. The message, that is made up largely of quotations from decisions of the supreme court, is as follows:

Gentlemen of the Senate and House of Representatives:

The constitution of this state provides that the governor may on extraordinary occasions convene the legislative assembly by proclamation, and that instrument makes it his duty to state to both houses when assembled the purpose for which they shall have been convened.

An act was passed at the last session of the legislature entitled "An Act to provide a more efficient method for the assessment and collection of taxes, and to amend sections 3057, 3060, 3082, 3084, 3085, 3090, 3098, 3106, 3107, 3112, 3116, and 3120 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon." (See Acts 1903, page 295.)

In order to test the validity of this law, and to ascertain the effect of certain changes made thereby in existing laws, a suit was instituted in the circuit court of Multnomah county a few months since to enjoin the officers of said county from proceeding to levy a tax on the assessment roll of 1903.

By express provision, the law referred to was to go into effect and be in force from and after the first day of January, 1904. The purpose thereof was to change the dates upon which the several official acts required to be performed by the assessors, by the county courts, and by the governor, secretary of state, and state treasurer were to be performed by them.

A decree was rendered by the circuit court enjoining the levying of tax by the county court of Multnomah county on the roll of 1903, and on appeal to the supreme court the judgment of the lower court was affirmed.

In discussing the question involved in the suit the supreme court in the case referred to say: "All the dates in the process are completely shifted. That is to say, instead of beginning the assessment on the first Monday in March, and making it as of that date, returning the roll on or before the first Monday in September, giving notice of the meeting of the board of equalization on the last Monday in August to examine and correct the roll, making the estimate and levying the tax at the January term of the county court, and apportioning the revenues by the said board to the several counties in January, the amendments contemplate that the assessment shall begin on the first Monday in January and be made as of that date; that the return shall be made on or before the first Monday in July, and notice given of the meeting of the board of equalization to be held on that day; that the estimate be made and tax levied at the September term of the county court, and that the apportionment of revenues to the several counties shall be made in July, and instead of the tax becoming payable on the first Monday in April and October, and requiring the sheriff to proceed to collect after the first Monday in May, to extend the delinquent list on the roll after the first Monday in October, and give

tax shall become payable on or before December 31st and the first Monday in April following; that the sheriff shall proceed with collections after the first Monday in February, extending the delinquent list after the first Monday in April and give notice for the delinquent sale to be held not later than October 1st. The true situation is perfectly manifest. The old statute relative to the matters alluded to is to be replaced by the amendments, thus abrogating completely the law as it now stands. It is not the case of a repeal, either directly or by implication, except as the amendments supersede and displace the old statute. The new is substituted for the old, leaving no vestige of the old for operation. * * * The logical consequence is that the county court or the board of county commissioners will be left without power or authority to estimate the amount of money to be raised for county purposes, or to apportion the same with the state and school taxes according to the valuation of the taxable property in the county, or to levy a tax thereon for the purpose of raising revenue at its January term. So with the governor, secretary of state and state treasurer. They can not act in apportioning the revenues for the state among the counties until July. Whatever act shall be or shall have been regularly done under the old law up to the time of taking effect of the amendatory act must stand as perfectly valid and effectual; but no act can be performed thereafter under the sections of the old law falling within the purview of the amendments, simply because it will not then exist or be at all operative, having been wholly obliterated and displaced by such amendments. Such is the necessary and inevitable effect of the legislation, adopted no doubt in its present form through casual oversight, and, although it may operate unfortunately in leaving the state and its subordinate political subdivisions without adequate revenues for the current year, the courts are powerless to remedy the evil. They can not legislate, but must construe the law and determine its effect as they find it, and beyond that they cannot assume to act."

FLANDERS VS. MULTNOMAH COUNTY ET AL., DECIDED OCT. 31, 1903.

The result of the decision of the court is, that whilst there may be a valid assessment of property for the year 1903, made prior to the taking effect of the amendments, no levy was made or could be made under the old law, and there will exist no power or authority under the new law or elsewhere to make any levy prior to the next September term of the county courts or boards of county commissioners, nor will any tax become due or payable until on or before December 31st and the first Monday in April following, and no remedy will remain or exist to be applied for its collection until after that date.

Under this decision, the work done by the assessors of the several counties in making the assessment rolls for 1903 is work thrown away unless some immediate legislation is had empowering the county authorities to levy a tax thereon, and the governor, secretary of state and state treasurer to make an apportionment of the revenues to be raised for the state among the several counties thereof. Consequently no revenues could be raised on the assessment rolls of 1903 for state, county, school district, or city purposes without new and express legislative authority. As a result of this there would be insufficient moneys in the state, county, school district, and city treasuries to meet current expenses, and warrants drawn would of necessity be endorsed "Not paid for want of funds," and would each and all bear interest until provision could be made by subsequent appropriate legislation to raise money sufficient to meet the deficiency. It is impossible to determine at this time how great the deficiency would be and how large an interest payment would be required to be made later on by all of these municipalities. Chaos in fiscal affairs of the state would be the result, and to avoid this condition I have felt it incumbent upon me, after personal investigation and after correspondence with members of the legislature and numerous representative bodies and citizens of the state, to convene the legislature in extraordinary session, to the end that the act referred to may be amended so as to give it force and immediate vitality, or repealed and the law reinstated as it existed prior to the attempted amendment.

That the tax laws of the state need revision there can be no question. Repeated amendments from time to time have but made confusion worse confounded, and it was for this reason that in my last message to your body I earnestly recommended the creation of a tax commission with ample powers to prepare and report to a subsequent session of the legislature a law which would reduce the crazy-quilt legislation now on the statute books to a harmonious whole, and give it the order and method of a code.

Take as one instance of inconsistency in the tax legislation passed at the last session of the legislature: Section 3098 of Bellinger and Cotton's code provides that "It shall be the duty of each school district and of each incorporated town and city to notify in writing the clerk of the county court within which the school district, town or city is respectively situate, of the rate per cent of the tax levy made by it on or before the first day in February in each year, which notice shall be kept on file by the several clerks and remain a part of the records of the office." On page 295 of the acts of 1903, this section was amended so as to require the clerk

January in each year. On page 295, acts 1903, this same section of the statute is attempted to be amended so as to require the clerk of the county court to be notified on or before the first day of September in each year. This is one of the many instances of similar inconsistent acts and amendments.

The fiscal year of nearly every city in the state ends December 31, and a full knowledge of the requirements of the cities and the necessary revenue to be derived from taxation for an ensuing year can not be obtained until after an accurate statement of the finances of each city is made at the close of a current year, and therefore a levy of taxes made prior to January 1 would not be based upon any official accuracy. Moreover, nearly all of the city charters have been drawn with the purpose of making a levy after January 1. Consequently the amendment to section 3098 of Bellinger and Cotton's code as found in the acts of 1903 at page 22 ought to be repealed.

In my opinion, sections 3057, 3060, 3082, 3084, 3085, 3090, 3098, 3106, 3107, 3112, 3116 and 3120 of Bellinger and Cotton's annotated codes should be reinstated by appropriate legislation after the repeal of the act found on page 295 of the acts of 1903 and after the repeal of that other act purporting to amend section 3098 of Bellinger and Cotton's codes found at page 23 of the acts of 1903, and I recommend this legislation for your consideration.

GEO. E. CHAMBERLAIN.



The Short and Tall

Can Get Special Fit
Tailor-Made Garments
PICKWICK SYSTEM.

P. A. STROKE



ELA
Takes the place
For flat and steep
climates. Reasonable
prices and information
THE ELATER