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By order,

Milton Y. Kidd,
Chief Clerk.

MESSAGE

OF

Gov. Oden Bowie,

UPON THE SUBJECT OF THE

Chesapeake and Ohio Canal Company,

TO THE

GENERAL ASSEMBLY OF MARYLAND.

ANNAPOLIS:
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SPECIAL COMMUNICATION

FROM

Governor Oden Bowie.

On the Chesapeake and Ohio Canal.

EXECUTIVE DEPARTMENT,

ANNAPOLIS, *March* 14, 1870.

Gentlemen of the General Assembly:

In the annual message which I had the honor to submit to your Honorable Bodies, I stated, that attaching the greatest importance to the interest, and the large unproductive investment which the State had in the Chesapeake and Ohio Canal, I proposed to "make it at a later day the subject of a special communication to the General Assembly."

From the time of the incorporation of this Company by concurrent Acts of the States of Virginia, Maryland and of the United States, in 1824 and 1825, the State of Maryland, in furtherance of that policy which, for so many years prevailed in her councils, granted to it liberal and repeated aid.

Under the Act of 1827, chapter 105, she subscribed five hundred thousand dollars to its stock.

Under the Act of 1833, chapter 239, she subscribed an additional sum of one hundred and twenty-five thousand dollars, making in all, six hundred and twenty-five thousand dollars of common stock, which she holds in it.

Besides this, she is the owner of stock to the amount of one hundred and sixty-three thousand seven hundred and twenty-four dollars and forty-four cents, subscribed for under the Act of 1825, chapter 180, section 19, which she paid for in debts due to her by the Old Potomac Company, and in stock previously held by her in that Company, which, under the charter of the Chesapeake and Ohio Canal Company, she in common with other holders of such stock was authorized to exchange for stock in the new Company.

The subscriptions of the United States, Maryland, Virginia, and the District cities, together with those of the individual subscribers, having proved wholly insufficient for the construction of the work, application was made to the State in 1834, for aid, and in pursuance of the provisions of the Act of 1834. chapter 241, she loaned to the Canal Company two millions of dollars, which, with the interest to accrue thereon at the rate of six per cent. per annum, was required to be, and, in fact was, secured by a mortgage of all its lands, tenements, works, property, rights, net tolls and revenues.

This loan so made and secured, constituted then, the senior lien upon all the property and net revenue of the Company.

Under the provisions of the Act of 1835, chapter 395, commonly known as the eight million bill, the State made a further subscription of three millions of dollars to its capital stock, and under the Act of 1838, chapter 396, she subscribed again thirteen hundred and seventy-five thousand dollars, both of which subscriptions, amounting to four millions three hundred and seventy-five thousand dollars, she paid for by issuing to the Company from time to time, her bonds to that amount. Upon these subscriptions the Company guaranteed to the State six per cent. dividends annually, after the first day of July 1842, thus making so much of the stock so acquired by her, a preferred stock.

Upon these bonds she paid the interest for three years, ending on the first day of July 1842, which interest amounting in the aggregate to $663,611.94, the Canal Company was, by the terms of the Acts authorizing their issue, bound to pay, and under the Acts of 1838, chapter 386, and 1838, chapter 396, this debt was secured by mortgages from the Company to her.

From this summary, it will be perceived that in 1842, the State was the holder of mortgages from the Chesapeake and Ohio Canal Company upon all its property of every description, including its net tolls and revenues to secure—

1st. The loan of $2,000,000, under the Act of 1834, chapter 241, and interest, as in that Act provided ; and

2nd. The interest amounting to $663,611.94, in arrear for the three years ending 1st July, 1842, upon the bonds issued in payment of the subscriptions of $4,375,000, under the Acts of 1835, chapter 395, and 1838, chapter 396.

She also held this $4,375,000 of preferred stock, upon which annual dividends of six per cent. after the first of July 1842, were guaranteed by the Company, and $788,724.44 of common stock upon which no dividends were guaranteed. Notwithstanding all these and other aids, the construction of the Canal languished, and in 1844, all the means of the Company from all quarters were absorbed, its credit utterly exhausted, and the work still fifty miles east of Cumberland, its destination.

The State was not then in a condition, even had she been so inclined, to render any further direct pecuniary assistance to this great work which she had supported and cherished for so many years, under difficulties and disasters, and whose early completion to the coal fields of Allegany, was considdered absolutely essential to its prosperity if not to its existence.

Under these circumstances, regarding it as a matter of vital consequence that the Canal should be finished, as well for the security of what she had already invested in it as for the accomplishment of the great objects contemplated by its projectors, and realizing that with the existence of the then prior and paramount liens held by her upon the whole property and tolls of the Company far in excess of their entire value, no further loans of money could be obtained from any quarter, the Legislature, by the Act of 1844, ch. 281, as the next best, and, indeed, the only thing that could then be done, waived and postponed her priority as mortgagee under the mortgages then held by her upon the net tolls and revenues of the Company in favor of such parties as might be willing upon the security authorized to be given by that Act, to lend to the Company the funds then believed to be ample to complete the Canal to Cumberland.

By the terms of this Act, the Canal Company was authorized to borrow upon its bonds the sum of seventeen hundred thousand dollars, or so much thereof as it might deem necessary for the purpose of completing the Canal to Cumberland—to pledge as a security for the payment of such bonds and the interest to accrue upon them, all the net tolls and revenues of the Canal and its works between Georgetown and Cumberland, so as to make the same the first and preferred liens upon all such net tolls and revenues, and to perfect such pledge by the execution of any deed, mortgage or other instrument of writing that might be necessary to give the fullest effect to the provisions of the Act. By the express terms of the proviso to section 2 of the Act, the privilege and authority were given to the Company to apply such portion of its tolls and revenues as might be necessary "to put and keep the Canal in good condition and repair for transportation, provide the requisite supply of water, and pay the salaries of officers and agents, and the current expenses of the Company."

In pursuance of the power conferred by this Act, the Company issued bonds, known as Preferred Bonds, to the amount of one million six hundred and ninety-nine thousand five hundred dollars, ($1,699,500,) the proceeds of which were applied to the construction of the Canal from Dam No. 6 to Cumberland, and under the privilege granted by the proviso of the second section of the Act, its current receipts being inadequate, it subsequently issued bonds, known as Repair Bonds, to the amount of two hundred thousand dollars, ($200,000,) the proceeds of which were applied exclusively to the purpose of re pairing the Canal between Dam No. 6 and Georgetown.

These two classes of bonds were of the usual character of such instruments, with coupons for the interest, payable on the the first of January and July in each year, and were to mature, the Repair Bonds on the first of July, 1869, and the Preferred Bonds in 1883.

The State of Virginia, with a view of imparting a greater market value to them, guaranteed under her Act of March 7, 1847, three hundred thousand dollars of the Preferred Bonds, and under her Act of March 15, 1849, ch. 128, she guaranteed the whole of the Repair Bonds.

On the 8th of June, 1848, the Company executed a mortgage upon "all the revenues and tolls of the entire Canal and its works between Georgetown and Cumberland," to Phineas Janney, W. W. Corcoran and others, Trustees of the bondholders, which, therefore, under the Act of 1844, ch. 281, then constituted and still constitutes the *first* lien upon the *net tolls and revenues* of the Company.

On the 8th day of January, 1846, it executed to the State of Maryland, as required by section 4, of the Act of 1844, ch. 281, a mortgage which was recorded on the 5th of May, 1848, upon all its property of every description, net tolls and revenues, which accordingly constitutes the *first* lien upon all the tangible property and works of the Canal, and the *second* lien upon its net tolls and revenues.

With the proceeds of these two classes of bonds and the current receipts of the Company, the Canal was completed to Cumberland from Dam No. 6, and repaired from Dam No. 6, east, to Georgetown, and in 1851 it was pronounced finished.

This, however, as subsequent events proved, was not strictly accurate, much of the work being developed to have been unsubstantially done, and large outlays of money having been found necessary in subsequent years to keep the Canal in good condition for transportation.

By an arrangement made by the Company with Selden, Withers & Co., bankers, of the details of which it is unnecessary to speak, provision was made for the payment of the coupons on the Preferred Bonds falling due on January 1, and July 1, 1851, and January 1, 1852, but from the 1st of July 1852, until August 1867, it failed to pay any of the coupons upon the Preferred Bonds. Upon the Repair Bonds, it paid the coupon which fell due on 1st July 1852, but from that time until August 1867, it, in like manner, failed to pay any of the coupons on these bonds.

The State of Virginia, however, as guarantor, as has already been stated, of five hundred thousand dollars of the bonded debt of the Company, paid the coupons regularly up to 1st January 1861, upon the whole debt for which she was responsible, and from that time up to January 1st, 1865, she paid all the coupons which were presented for payment.

For the amount of such payments amounting to upwards of a quarter of million of dollars, she has, of course, a claim against the Canal Company, and is entitled to the benefit of the mortgage given to secure the bonds which she guaranteed. In August 1867, the Company paid the interest up to April 1, 1867, upon the certificates which, in 1854, it had issued to the holders of the unpaid coupons due July 1st, 1852, January 1st, and July 1st, 1853, and January 1st, 1854, who surrendered those coupons, and also took up all the coupons which were presented due July 1st, 1852 and January 1st, 1853, which the holders had neglected to fund in 1854, in pursuance of the resolution of the President and Directors' passed in that year.

Since August 1867, until the recent order of the Board of Directors distributing to the bondholders one hundred and sixty thousand dollars of net revenue, no interest on the funded coupons and no coupons themselves have been paid.

During all this period, the Company having failed to meet the interest upon its bonded debt, necessarily made no provision for the ultimate redemption of the principal, by the creation of a sinking fund, as required by section 5, of the Act of 1844, chapter 281.

Your Honorable Bodies will readily perceive from the aforegoing statement, that the debt having priority over the claims of the State, and which by the tenor of the contract between the Canal Company, the State and the stockholders, is absolutely entitled to be paid before the State can have any claim upon the revenues of the Company, has thus, in a period of twenty years under the past management of the Company, been steadily increasing, without any pecuniary benefit or advantage whatever to the State, until now the interest in arrear and unpaid amounts to more than the principal and the total bonded debt of the Company, principal and interest, has reached the enormous sum of four millions two hundred thousand dollars, *while the claims of the State have grown by the non-payment of dividends on her preferred stock and interest on her mortgage debts to nearly twenty millions of dollars.*

For this condition of affairs the State is to a great extent justly responsible.

The capital stock of the Canal Company is eight millions two hundred and twenty-six thousand five hundred and ninety-three dollars and sixty-seven cents, ($8,226,593.67.) Of this, the State owns five millions one hundred and sixty-three thousand seven hundred and twenty-four dollars and forty-four cents, ($5,163,724.44,) and therefore by virtue of her ownership of five-eighths of the capital stock, has had for more than thirty years, the exclusive management, and has absolutely shaped and controlled the policy of the Company. Administering its affairs by officers chosen by her; changing those officers with every change in her politics; removing one year officials who had just begun to be familiar with the duties and responsibilities of their position, and appointing in their place others who in turn were soon superseded by fresh incumbents, it is no wonder that this great enterprise has languished, and that the hopes and expectations of its far-seeing and sagacious projectors have not been realized. Without a fixed and stable policy; without a corps of trained and experienced officers; without judicious and systematic economy, paralysed by perpetual changes in its administration; the victim of abuses, mismanagement and lavish expenditures; its power and influence constantly used in the service of the political organization which, for the time, appointed its officers and regulated its direction; governed by ever fluctuating bodies who had no pecuniary interest in the increase of its revenues and the reduction of its expenses, it would indeed have been but little short of the miraculous if it had prospered.

It stands in melancholy contrast with its great and powerful cotemporary, the Baltimore and Ohio Railroad a monument of the radical error of its past administration and admonishes us of the necessity of divorcing all great works of internal improvement, from the blasting influence of politics, if we would have them judiciously economically, honestly and successfully administered.

Were the State the sole owner, or even the holder of the paramount lien upon the revenues of this Company, it would be difficult to assign a reason for tolerating or viewing with indifference a continuance of this condition of its affairs. But when it is borne in mind that she was unwilling and unable in 1844, when its progress was arrested by the absorption of all its means and the annihilation of its credit, to render it any further aid, and that the bondholders, upon the faith of the waiver and pledges then given to them by her Legislature, were tempted to come forward, and by their timely advances rescue from total loss the heavy investments which she had made in it, and with their assistance put it upon a firm and lasting basis by its completion from Cumberland, and that these virtual owners of the Canal without a voice in its management, and excluded from all participation in its affairs, have waited for some redemption of the pledges upon the faith of which they advanced their capital, until patience and forbearance have ceased to be virtues, it seems impossible that gentlemen having the honor and the interests of their State to protect and preserve, can turn a deaf ear to their application for relief.

That relief, the success of the Canal, and the advancement of the large interest the State of Maryland has in this great work it seems to me, after much and careful reflection, can only be attained by removing its management from the field of politics and the hands of politicians, and by giving stability and fixedness of purpose to its direction and control. The amount of principal and interest which the State holds in the Canal is four times as much as the sum total of the State's indebtedness after disposing of her productive assets. Would it not be a wise and judicious act for this General Assembly to provide means by which this immense sum of nearly twenty millions of dollars might be saved to the State instead of going on by its interest accretions to pile up a mountain of lost wealth as a monument to the folly of the political management of this great enterprise? The political power contained in it which is now in the hands of the Board of Public Works to wield for the next two years, I would gladly yield in the interest of the State, and in justice to private individuals who have so largely invested their means without return.

As the Canal is now managed, the Board of Public Works changing every two years, the direction of the Canal changes with it, and the principal idea of each succeeding administration must necessarily be to reflect and assist the partizan influences that appointed it. Therefore, each one devotes itself to a greater or less extent to the developement of party or local personal interests, and not property interest. Rarely have President or Directors any property interest. Their interest is partizan, and they for the most part represent partizan interests.

In the ordinary affairs of men no business corporation could prosper in which no officer or manager had any property interest in the success of the undertaking, growing out of stocks, shares or salary, but here you have a property of many millions, entrusted to a management without any pecuniary interest in it except that the President receives a small salary, and the Directors an insignificant per diem, when engaged in its business.

The evils in the management then are, first, partizan control—and second, constant change of administration.

This communication has been delayed in the hope that in the general meetings of stockholders which have been held here since the assembling of the Legislature, some plan might be devised by those individually most interested, which would at the same time inure to their and the State's interest, by a removal of these evils. But the suggestions made in the stockholders' meetings, having been considered unconstitutional or impracticable by the Board of Public

Works, it has devolved upon me to recommend such measures as, in my judgment, I deem most conducive to the best interests of the State and of the bondholders.

To manage successfully any great private or public enterprise, we must have it under the supervision and direction of one or more who can and will devote their best energies and time to it. These must be commanded by the interest they have in it, either from the amount of capital they have invested, or from the salary paid to insure their efficient services.

There are gentlemen who have such large investments in the Canal, heretofore and for years utterly profitless, as will induce them to give their services as President and Directors free of any compensation, except such as may indirectly result from a proper and successful management. But they must have an active, competent, business, working manager or superintendent.

The expenses of the management of the Canal for the year 1870 under the present policy, assuming the expenses of the Board of Directors to be the same as in 1869, and the present number of officials to be kept at the increased salaries fixed by the now Board of Directors, would be as follows:

For President's salary........................	$2,500 00
Six Directors, per diem of........................	2,984 00
Board and travelling expenses of Directors.........	1,811 47
One Clerk and Treasurer........................	2,100 00
One Assistant Clerk........................	1,200 00
One Engineer........................	2,400 00
One Paymaster........................	1,500 00
One Collector at Georgetown........................	1,500 00
One Inspector of cargoes at Georgetown...........	900 00
One Harbor Master at Georgetown.................	900 00
One Collector at Cumberland........................	1,500 00
One Inspector of cargoes at ditto....................	480 00
One Collector at Hancock........................	300 00
One Collector at Williamsport........................	300 00
Seven Division Superintendents	7,000 00
Cumberland Division, 3 bosses, at $45, and 3 horses at $25 each........................	2,520 00
Hancock Division, 2 bosses, at $45, and 2 horses, at $25 each........................	1,680 00

Williamsport Division, 3 bosses, at $45, and 3 horses, at $25 each................................	2,520 00
Antietam Division, 3 bosses, at $45, and 3 horses, at $25 each..	2,520 00
Monocacy Division, 2 bosses, at $45, and 2 horses, at $25 each..	1,680 00
Seneca Division, 2 bosses, at $45, and 2 horses, at $25 each..	1,680 00
Georgetown Division, 2 bosses, at $45, and 2 horses, at $25 each..................................	1,680 00
Total..	$41,655 47

Taking the month of October, 1869, which I suppose to be an average, the number of laborers were on—

Cumberland Division..	20
Hancock Division..	18
Williamsport Division...	25
Antietam Division...	22
Monocacy Division...	17
Seneca Division...	17
Georgetown Division...	20

It will thus be seen that on the Cumberland Division one superintendent and three bosses are employed at salaries amounting to three thousand five hundred and twenty dollars to oversee twenty hands, and the other Divisions are overlooked at about the same ratio of expense

As before stated, how many of these officials have now or have heretofore had any direct personal or pecuniary interest in the success of the Canal? How many of them could be dispensed with, or their services be obtained at a smaller salary under an efficient and energetic superintendent or manager? How much less expensive and more efficient would be the management now proposed? Has the President, the highest salaried officer, ever given, or been expected to give, his exclusive attention to this great work? Could it be expected of any competent man with the small salary paid? The answer is found in the questions, and the solution of the difficulty would be reached, I think, in placing the Presidency and direction of the Canal in the hands of those whose interests would prompt their services, as in the cases of the directors of railroads and private companies, free of any compensation, except what return the Canal itself, under proper management, would make to them, and, as a consequence, to the State; and in the employment of a proper person under a commensurate salary as the active business, working agent, whose reports should be made monthly to the Directors, and the earnings of the Canal be placed monthly in the Treasury of the State, rather than as now, in banks or private coffers, in and out of the State, until they shall have been properly distributed, according to law, to those entitled to receive them. And here it must be remembered that the State cannot be a receiver of any of these returns until the bonded debt of the Company is paid in full.

I would, therefore, suggest the passage of a law prohibiting any salary except a nominal one to pay traveling expenses to the President, and of any compensation at all to the Directors and providing for the abolition of Paymaster, Treasurer, &c., and the employment by the Board of Public Works of the best Superintendent, who, in their judgment, can be obtained at a salary of say $8,000 to $10,000 per annum, for a term of five or ten years, removable only for cause, and of a Clerk, say at $2,000 per annum, to be appointed annually, who shall discharge all these duties, who shall, under sufficient bond, give their whole time and energies to this great work, so important to the State, and who shall make monthly returns to the Board of Directors, and monthly payments into the State Treasury.

This arrangement would not cost as much as the present, would secure the services of able and honorable gentlemen as President and Directors, who have a direct personal interest in the proper management of the Canal; would secure a competent and experienced business manager, without which, I believe, the Canal cannot be made remunerative to either the State or bondholders; would give stability and fixedness of purpose to the management; would establish a systematic and permanent policy; would remove the Canal from party control and influences, and would, in time, I am confident, fully pay off the preferred creditors, and return the Canal to the State, which has invested in it so largely of the people's means, to be in the future a compensating agent for all these large and burdensome investments.

Under such a vigilant and economical management as I have suggested, the gross revenues for the current year, 1870, would in all probablility, or certainly in 1871, when it had gotten fully into operation, amount to.........$500,000

Deducting for current expenses........................150,000

There would remain a balance of..................$350,000 applicable to the payment of the overdue and unpaid coupons on the bonds, which, if steadily received year by year, will, in a few years, greatly reduce the arrearages of interest, amounting now to more than the principal of the bonds, and possibly extinguish them altogether. Inasmuch, however, as the accruing interest for each year amounts to one hundred and fourteen thousand dollars, it is manifest that the surplus revenues applicable to the reduction of the interest already accrued, must largely exceed this sum, if any expectation is to be indulged in of the payment of the heavy arrearages I have referred to.

In this connection it is proper that I should call attention to the fact that the bondholders claim interest upon their coupons from the dates of their respective maturity.

This claim in the opinion of the Attorney General is untenable, or at all events cannot be enforced to the prejudice of the State as second mortgagee.

If, however, it should be decided to be well founded, the bondholders would be perfectly willing, I am assured, to fund the arrearages of interest, and in that event whatever surplus remained after paying the current expenses of the Company, would be applicable to the payment of the coupons on the bonds, and the interest on the coupons funded, and any surplus over and beyond that could be appropriated partly to the creation of a sinking fund for the ultimate redemption of the bonds, and partly to the State herself as the holder of the second mortgage.

Upon the question of the propriety of authorizing such funding I refrain from offering any suggestion in view of the opinion of the Attorney General upon the matter, but submit the subject to your consideration.

ODEN BOWIE.