

Excises and duties on trade, imposed by individual States, inconsistent with the rights of the Federal Constitution—An extract from an enquiry into the excise laws of Connecticut.

It is questioned by many good and sensible men, whether the excise of a particular State is consistent with the federal Constitution—I will endeavor to examine the subject, with all the candor its magnitude requires.

The clause of the Constitution, on which doubts have arisen, is in the tenth section of the first article, in these words, "No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws." The question then resolves itself into this point; whether the excise of any State is an impost or duty upon imports according to the letter and spirit of the Constitution. To determine the question, let us first discover the true meaning of the words on which the whole depends.

The taxes laid by government on goods, wares, merchandize or manufactures fall under the following denominations: duties, impost, customs, excise. Duties is a word of general import, comprehending every species of tax charged by the public upon any goods whatever. All imposts, customs and Excises, are duties. Impost, is strictly speaking a word of the same comprehensive signification. It is from the Latin *impono*, to lay upon or impose; or more accurately from the participle *impositum*, any thing laid upon or imposed. It is equivalent to duty, implying any charge or price imposed upon goods, and owing or payable by law to government. This will be more fully proved afterwards. Customs is derived from the French *coûtum* or *cout*, from whence we derive our word cost. It signifies originally price, charge, toll or tribute; but according to the practice of commercial nations, its proper sense is, duties or imposts upon goods imported from foreign countries, payable by law to government, by the importing merchant, at the ports of entry or delivery. Excise, from *excisum* to cut off, is "an inland imposition, paid sometimes upon the consumption of the commodity, or frequently upon the retail sale, which is the last stage before the consumption." Blackstone Com. vol. I, ch. 8. It was originally intended to be a duty or tax distinct from customs—customs being laid upon imports and excise upon home manufactures. In general this distinction is still preserved in England; excises being mostly laid upon articles manufactured in the kingdom, and paid at the manufacturers. In a few instances, duties are laid upon imported articles, as upon several kinds of spirits, tea, sugar, coffee, which duties are called excises; tho some of them are improperly so denominated, being collected by the officers of the customs, upon the articles in bulk. This is the case with liquors imported. See Postlethwaite Dict. of Com. vol. I, article excise.

The general distinction however observed in England, where we are to recur for the true meaning of these words, is this; duties on imports, payable at the port of entry or delivery are called customs; duties on home manufactures, which are usually paid at the manufactory, are called excises. This distinction is made, where duties are laid on the same articles, and by the same act of Parliament. Thus a duty on candles imported, laid by 3 Ann. I, is numbered among the customs. A duty on candles made in Great Britain, laid by the same statute, is called an excise. The same remark applies to skins, hides, soap, and many other articles. The distinction then between customs and excise is well established. See Postlethwaite, vol. I, articles, customs and excise.

What then is the distinction between impost and excise, or is there any distinction? The distinction seems to be this: Impost is a *genus*, of which excise is a *species*. Impost is a general term, comprehending every kind of tax, duty or imposition upon goods, whether imported or home-manufactured. Excise is one species of this tax, viz. a duty on home manufactures, and in three or four instances, has been extended to the retail sale of foreign commodities.

As the foregoing definition of impost is different from the common idea of it in this State, it is necessary to show the grounds on which it stands:

That impost comprehends every species of tax or duty, whether on imports, exports, or manufactures, is deducible first, from the derivation of the word; the original denoting any duty, charge or burden upon some person or thing. Secondly, the word has been generally used in this comprehensive sense by the best English writers. If so, then excise is one species of impost, and it is so understood in England.

The best compilers of dictionaries explain impost to be any tax, toll or tribute. A land tax is an impost upon land, in the true sense of the word; and the duty upon the postage of letters, upon chimneys, or hackney coaches, is strictly speaking an impost on those articles; the duty is laid to be imposed by act of Parliament, and that which is so imposed is an impost or an imposition. This explanation is founded on the best definitions of the word in our language. But not to rest on etymology, let us attend to common practice, or the popular sense of the word.

Postlethwaite, who treats expressly of commerce, defines impost to be, "a tax or duty laid by the sovereign authority, upon such merchandizes as are brought from foreign countries; it is sometimes applied to a tax imposed upon domestic productions and manufactures." It does not appear by this definition, that a particular mode of levying and collecting a tax is necessary to constitute it an impost. On the other hand, it seems that any tax or duty may be denominated an impost. To come nearer to the point; the excise itself is called an impost, in an ordinance of the Commons, dated 1649; the "impost of excise;" and Blackstone's definition of excise makes it an impost; for he calls it "an inland imposition;" imposition here signifying the thing laid, is precisely equivalent to impost. So that the best writers on the subject of duties use impost in the extensive sense before explained.

In this State, we have made a distinction between an impost and an excise; making one to be a duty payable on the first importation; the other a duty payable by the retailer. But the distinction is, in a great measure, a creature of our own; and it arises from our mistaking imposts for customs. We use impost as the English do customs; whereas both excise and customs are equally imposts. Thus the word impost does not make a distinct head of duties in English writers, for it comprehends all. Postlethwaite, Blackstone, the Parliamentary register use impost in this general sense, and class the duties payable on importation or exportation, under the head of customs—and the duties paid on the retail sale of tea, coffee, sugar and certain liquors, together with those paid by the manufacturer, under the head of excise. We have, in our practice, confounded terms, using a general term for one of the species; and it is matter of some doubt whether the United States will agree to our sense of the word, in their construction of the Constitution.

But if the word impost did not comprehend excise, so as to restrain the States from laying the duty; yet the word duty, which is used in the same clause, would extend the prohibition to every possible method of levying money on imports. This word is universal in its signification, and the Convention, in wording that clause of the Constitution, seem to have been aware of some misconstruction of the word impost, and therefore used the word duty which is of unequivocal meaning. They used two words of general import; "imposts or duties." They could not use them in different senses, for all imposts are duties; but they used duties as an explanatory term more generally understood. Thus far we meet with little difficulty. But an explanation of the subsequent part of the clause is not so easy. The question depends on the true meaning of the words imports and exports.

(The remainder on Saturday.)

SYSTEM OF PUBLIC EDUCATION.

VOTES of the COMMITTEE appointed to carry into execution the SYSTEM of PUBLIC EDUCATION, adopted by the Town of BOSTON, 15th October, 1789.

A meeting of the said Committee, held Dec. 1, 1789.—
VOTED—I. That the Latin Grammar School be divided into four Classes, and that the following Books be used in the respective Classes.

1st Class—Cheever's Accidence. Corderius's Colloquies, Latin and English. Nomenclator. Æsop's Fables, Latin and English. Ward's Latin Grammar, or Eutropius.

2d Class—Clarke's Introduction, Latin and English. Ward's Latin Grammar. Eutropius continued. Selectæ & Veteri Testamento Historiæ, or Castalio's Dialogues. The making of Latin from Garretson's Exercises.

3d Class—Cæsar's Commentaries. Tully's Epistles, or Offices. Ovid's Metamorphoses. Virgil. Greek Grammar. The making of Latin, from King's History of the Heathen Gods.

4th Class—Virgil, continued. Tully's Orations. Greek Testament. Horace. Homer. Gradus ad Parnassum. The making of Latin, continued.

That those Boys who attend the Latin School, be allowed to attend the Writing Schools in the following hours, viz. The 1st Class from half past nine o'clock, A. M. until eleven, or from half-past three, P. M. as shall be found most convenient, and the 2d class in the same manner for the first half of that year.

II. That the following Books be used in the Reading Schools, viz.

The Holy Bible. Webster's Spelling Book, or first part of his Institute. The Young Ladies' Accidence; and, Webster's American Selection of Lessons in Reading and Speaking; or third part of his Grammatical Institute.

That the Masters introduce the following Books when found expedient, viz.

The Children's Friend. Morse's Geography abridged. That the News-papers be introduced occasionally, at the discretion of the Masters.

That the upper Class in the Reading Schools be instructed in epistolary Writing and other Composition.

III. That an uniform method of teaching Arithmetic be used in the several Writing Schools; viz.

Numeration. Simple Addition, Subtraction, Multiplication and Division. Compound Addition, Subtraction, Multiplication, and Division. Reduction. The single Rule of Three, direct. Practice.

[Tare and Trett, Interest, Fellowship, Exchange, &c. are considered as included in the above rules.]

Vulgar and Decimal Fractions.

That the Children begin to learn Arithmetic at 11 years of age.

That at 12 years of age, the Children be taught to make Pens.

IV. That the Reading Schools be divided into four Classes.

That from the third Monday in October to the third Monday in April, for one month, viz. from the first Monday in the month, the first and second Classes attend the Reading, and the third and fourth, the Writing Schools in the Morning. The first and second attend the Writing Schools, the third and fourth the Reading Schools in the afternoon. The month following, the order be reversed, and so alternately during the above time. And that from the third Monday in April to the third Monday in October, for one month, viz. from the first Monday in the month, all the Boys attend the Reading Schools, and all the Girls the Writing Schools in the Morning; that all the Boys attend the Writing Schools, and all the Girls the Reading Schools in the afternoon; the month following the order to be reversed, and thus alternately during those six months. That it be understood that from the third Monday in April to the first Monday in June, be considered as the first Month of the Summer term. That from the third Monday in October, to the first Monday in December, be considered as the first month of the Winter term.

V. That the following hours be punctually observed in all the Schools, viz. From the third Monday in April to the third Monday in October, the Schools begin at half past 7 o'clock, A. M. and continue until 11; and begin at half past one o'clock, P. M. and continue until 5. That from the third Monday in October to the third Monday in April, the Schools begin at half past 8 o'clock, A. M. and continue until 11; and begin at half past one o'clock, P. M. and continue until half past 4.

VI. That the Masters be excused from keeping school on the following days and times, viz.

The afternoon of every Thursday and Saturday throughout the year. The afternoon preceding Fast and Thanksgiving. Four half days of Artillery Training, in the afternoon. First Monday in April. Six days in Election Week. First Monday in June. Fourth Day of July, or Anniversary of Independence. The four last days in Commencement Week. Christmas Day, and on the general Training Days.

Dec. 14, 1789, Voted, That it be the indispensable duty of the several School-Masters, daily to commence the duties of their office by prayer, and reading a portion of the sacred scriptures, at the hour assigned for opening the School in the Morning; and close the same in the evening with prayer.

Dec. 21, 1789, Voted, That the Masters never expel any boy from School, but with the consent, and in the presence of the inspecting Committee.

Voted, That the Instructor of the Latin School be entitled *The Latin Grammar Master*; the Instructors of the Reading Schools be intitled *English Grammar Masters*; the Instructors of the Writing Schools be intitled *Writing Masters*.

Dec. 28, 1789, Voted, That the several School-Masters instruct the Children under their care, or cause them to be instructed in the Affirmatives' Catechism, every Saturday, unless the parents request that they may be taught any particular Catechism of the religious Society to which they belong; and the Masters are directed to teach such children accordingly.

RECOMMENDATIONS to the SCHOOL MASTERS, by the Committee appointed to carry the preceding SYSTEM into execution.

THAT the Schoolmasters consider themselves as in the place of parents to the children under their care, and endeavor to convince them by their mild treatment, that they feel a parental affection for them.

That they be sparing as to threatenings or promises, but punctual in the execution of the one and the performance of the other.

That they never make a dismissal from school, at an earlier hour than usual, a reward for attention or diligence; but endeavor to lead the children to consider being at school as a privilege, and dismissal from it as a punishment.

That they never strike the children on the head, either with the hand, or any instrument; nor authorize one scholar to inflict any corporal punishment on another.

That, when circumstances admit, they suspend inflicting punishment, until some time after the offence committed, or conviction of the offence.

That, as far as is practicable, they exclude corporal punishment from the schools; and, particularly, that they never inflict it on females.

That they introduce such rewards as are adapted to stimulate the ingenuous passions of the children.

That they inculcate upon the scholars the propriety of good behavior, during their absence from school.

That they frequently address their pupils on moral and religious subjects; endeavoring to impress their minds with a sense of the being and providence of God, and the obligations they are under to love, serve, and pray to him; their duty to their parents and masters; the beauty and excellence of truth, justice, and mu-

tual love; tenderness to brute creatures, and the sinfulness of tormenting them and wantonly destroying their lives; the happy tendency of self-government and obedience to the dictates of reason and religion; the duty which they owe their country, and the necessity of a strict obedience to its laws; and that they caution them against the prevailing vices, such as sabbath-breaking, profane cursing and swearing, gaming, idleness, writing obscene words on the fences, &c.

That, for the sake of uniformity, in the government of the schools the masters, in their conferences together, form systems of rules for the observance of the children, and present them to the Committee for their approbation; which being approved, shall be considered as the standing Laws of the Schools.

Convention for altering and amending the Constitution of Pennsylvania.

PHILADELPHIA, January 11.

Since the committee of the whole agreed, that the Senators should be chosen in the districts by the taxable inhabitants thereof, they have farther agreed that those districts should each contain, as nearly as may be, such a number of taxables as should be entitled to elect one Senator.

The Senators are to be chosen for four years; but, when first assembled, are to be divided into four classes, and one fourth go out every year; their places to be annually supplied by new elections.

It had been proposed that the number of Senators assigned to each district, should be in proportion to its quota of public taxes, as in the constitutions of Massachusetts and New-Hampshire; but this was generally rejected. Afterwards it was proposed that the representation in the Senate, should be in a compound ratio of the number of taxables and quota of taxes of each district as in the constitution of South-Carolina, but this also was rejected.

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A General Assortment of EAST-INDIA GOODS.

Among which are the following Articles:

BOOK Mullins 8-4 6-4 5-4	HUMHUMS,
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A Variety of handsome painted MUSLINS.

With many other Articles, which will be sold by the Piece or Package, low for cash.

And a few pair large handsome Cotton COUNTERPANES, much warmer than Blankets.

JANUARY 9, 1790.

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BOSTON STAGE.

THE subscriber informs the public, that having contracted to carry the public mail in the stage from New-York to Boston, for the year 1790—commencing January the first to go twice a week till the first of May, and three times a week from first May to first November, and to employ a person to go thro' with the mail to take Care of it. He engages that this conductor shall transact all private business committed to him with fidelity at a reasonable Commission—he will carry bundles, money, newspapers, &c. And may be seen every Wednesday and Saturday Evening in New-York, at Fraunces Tavern, in Boston at the subscribers House, in Hartford at Frederick Bull's, Coffee House.

Four active men are now engaged as Conductors, who have given bonds for the faithful discharge of their trust.

January, 1790.

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