



# The BEACON *Lite*

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A Condensed Curriculum of Constitutional Study

## Clause Discussed:

- Article I, Section 8, Clause 1

## Concept Discussed:

- Duties

The second of four Acts enacted in quick succession by the Federalist-controlled Congress which laid domestic Duties (the first, dealing with carriages, was discussed in the last issue) in June of 1794 was "*An Act laying duties on licenses for selling Wines and foreign distilled spirituous liquors by retail*" (I Stat. 376).

This Act laid a Duty on retailing of wines and spirituous liquors.

The third was "*An Act laying certain duties upon Snuff and Refined Sugar*" (I Stat. 384).

This Act laid a Duty of eight cents for every pound of *snuff* manufactured for sale within the United States. Section 2 of the Act also laid a Duty (of two cents per pound) on all sugar refined within the United States.

The final of the four Acts enacted over a five-day period was "*An Act laying duties on property sold at Auction*" (I Stat. 397).

This Act laid a Duty on items sold at auction (with a number of exemptions).

In 1797, the last of the domestically-oriented Duties of the eighteenth-century was enacted, in "*An Act laying Duties on stamped Vellum, Parchment and Paper*".

Even before the (Democratic-) Republicans (also later known as Jeffersonian-Republicans) assumed the majority of seats in Congress (and before Thomas Jefferson began his Presidency in 1801), the Duties earlier enacted began to be eliminated.

The Duties on snuff (snuff mills) were the first to go. They were first modified, and then thrice suspended in their operation before they were finally abolished in 1800. The Duties were modified in 1795 (I Stat. 426) when Congress ended the Duty on snuff and replaced it with a Duty on "all mills employed in the manufacture of snuff within the United States".

This Duty on snuff mills was quickly suspended in operation for various periods of time, as detailed in Volume I of *the United States Statutes at Large*, on pages 495 (April 18, 1796), 509 (March 3, 1797), and 608 (July 16, 1798). Finally, the Act of April 24, 1800 (II Stat. 54) repealed the Duties on mills employed in the manufacture of Snuff.

On April 6, 1802, Congress and President Jefferson enacted "*An Act to repeal the Internal Taxes*" (**II Stat. 148**). **Section 1** of the understandably-popular Act stated:

"That from and after the thirtieth day of June next, the internal duties on stills and domestic distilled spirits, on refined sugars, licenses to retailers, sales at auction, carriages for the conveyance of persons, and stamped vellum, parchment and paper, shall be discontinued, and all acts and parts of acts relative thereto shall, from and after the said thirtieth day of June next, be repealed."

Section 1 continued with a proviso which allowed for continued collection of all past-due Duties, as well as all fines and forfeitures incurred under the old Acts.

**Section 2**, not to leave officers without anything to do, terminated the office of Superintendent of Stamps:

"That the office of superintendent of stamps shall cease and be discontinued from and after the thirtieth day of April, one thousand eight hundred and two; after which day the commissioner of the revenue shall perform all the duties by law enjoined on the said superintendent of stamps."

**Section 2** continued with the abolishment of the offices of Collector and Supervisor of the Internal Revenue, and Commissioner of the Revenue:

"The office of collectors of the internal duties shall continue in each collection district, respectively, until the collection of the duties above mentioned shall have been completed in such district, and no longer, unless sooner discontinued..."

"The office of supervisor shall continue...until the collection of the duties above mentioned, together with the collection of the direct tax...and no longer, unless sooner discontinued..."

"The office of commissioner of the revenue shall cease and be discontinued whenever the collection of the duties and tax above mentioned shall be completed, unless sooner discontinued by the President of the United States, who shall be, and hereby is empowered, whenever the collection of the said duties and tax shall have been so far completed as, in his opinion, to render that measure expedient, to discontinue the said office."

On July 1, 1802, Americans enjoyed their newfound independence from all Internal Revenue (other than amounts owing which were yet unpaid). One can imagine that the 26<sup>th</sup> annual *Independence Day* celebration was unusually festive.

The United States' first foray into Internal Revenue lasted a total of eleven years, from March 3, 1791 to June 30, 1802, with the bulk of the Duties laid and operating within an eight-year time frame.

The United States government was and is more "federal" in nature than "national". One of the principle roles of the federal government is to act as the unified agent of the States in foreign affairs. As such, it is proper that the bulk of the government's funds come from *external* sources.

It is true that the government does operate to a limited extent as a national government (to help ensure a free flow of people and goods across State borders). As such, it is also therefore not improper that a limited amount of funds come (certainly occasionally, at least) from *internal* sources.

Government collections between 1791 and 1857 show that *External Revenue* (Customs Duties, Duties on the Tonnage of ships and Duties on Passports) accounted for **84%** of all government collections (total revenue)!

Public Land Sales were the second major source of government revenue, which came in at another 10%.

Only a scant **2%** of all government revenue during the first six decades of government under the Constitution came from *Internal Revenue*.

This 2% is broken down into 1.35% of government revenue being raised from domestically-oriented *Duties* and .77% raised from *direct Taxes* (laid upon land, slaves, and dwelling houses).

Congress, by Article I, Section 8, Clause 1 of the Constitution, clearly has the authority to lay and collect *Taxes, Duties, Imposts* and *Excises*.

*Imposts*, as external revenue (customs Duties), are rarely questioned on their importance nor on the ability of Congress to lay them. That 84% of government collections over the first six decades came from this source shows its importance for providing proper revenue for the federal government.

Apportioned direct Taxes, though argument may be raised as to the necessity of resorting to them, are also not questioned as to the ability of Congress to lay them. The Constitution clearly empowers Congress to lay direct Taxes (they must simply be apportioned).

*Duties* and *Excises* are the two types of revenue left of the four named which Congress may impose. *Excises* will be discussed when Acts imposing them are covered.

There is little controversy over the ability of Congress to lay an internal *Duty*. With *Imposts* clearly named in Article I, Section 8, Clause 1, external *Customs Duties* are thereby covered by that term. A *Duty* would then logically mean *internal Duties* (though strictly it could mean a type of *external Duty* which could not be classed as *Imposts*; perhaps such as Duties on passports).

The ability of Congress to lay an internal *Duty* does not mean that they will ever be popular when laid, however.

The main source of debate about Congress laying an internal *Duty* has been whether Congress was attempting to bypass the Constitutional requirement of *apportionment* by calling that which really was a *direct Tax*, a *Duty*. If Congress sought to lay a direct Tax without apportionment by calling it a *Duty*, it would be unlawful (and improper).

