

ANGERS VS. THE QUEEN INSURANCE COMPANY.

Par l'impôt sur les billets de spectacles). Tantot le gouvernement exige que la marchandise porte une marque particulière, qu'il fait payer, comme le contrôle de l'argent, les timbres des journaux. Tantot il frappe non la marchandise elle-même mais l'acquittement de son prix, comme il le fait par le timbre des quittances et des effets de commerce. Toutes ces manières de lever les contributions se rangent dans la classe des contributions indirectes parceque la demande n'en est adressée à personne directement, mais au produit ou à la marchandise frappée de l'impôt" [Say, Economie Politique, pp. 521, 523].

All our text writers and jurists agree in giving the definition of *indirect taxes* in the same language as that I have just cited. I will only add two others—Favard de Langlade et Merlin. The former says: "On appelle contributions indirectes les contributions établies par la loi sur les choses dont l'usage est ordinaire dans les habitudes de la vie. Elles sont indirectes en ce qu'elles ne portent nominativement sur aucun contribuable, qu'elles ne sont acquittées que par le consommateur, quelqu'il soit, ou celui qui veut user et qu'il suffit de ne pas consommer ou user pour n'y être pas assujetti. Ainsi, par exemple, celui qui ne se sert pas de papier timbré et n'use pas de tabac est sur de ne payer aucune partie des droits établis pour le timbre et sur les tabacs. Il en est de même pour toutes les branches des contributions indirectes" [Favard de Langlade, Repert. V. Contributions Indirectes].

And Merlin, Repert. V. Contributions Indirectes, says: "On distingue deux sortes de contributions, les contributions directes et les contributions indirectes. Les contributions directes sont établies directement sur les personnes. Les contributions indirectes sont, suivant la définition qu'en donne la loi en forme d'instruction du 8 Janvier, 1790, tous les impôts assis sur la fabrication, la vente, le transport et l'introduction de plusieurs objets de commerce et de consommation, impôts dont le produit, ordinairement avancé par le fabricant, le marchand, ou le voiturier, est supporté et indirectement payé par le consommateur. C'est aussi à cette classe qu'appartiennent les droits sur les tabacs, sur les cartes à jouer, sur le sel, sur les boissons, &c., &c." See also Demeunier, Economie Politique, vol. 3, V. Impôts.

There cannot be, in my opinion, a shadow of a doubt that the duties imposed on the Assurance Companies by the Legislature of Quebec, let them be called licenses or stamp duties, come distinctly within the definition given by the French authors, and should be classed in the category of indirect taxes.

If I now examine the English authors, I also find it impossible to declare that these duties on the Assurance Companies fall into the category of direct taxes.

"Taxes are either direct or indirect," says Mill. "A direct tax is one which is demanded from the very persons who it is intended or desired should pay it. Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another, such as the excise or customs Most taxes on expenditure are indirect, but some are direct, being imposed not on the producer or seller of an article, but immediately on the consumer." (2 Mill, Pol. Econ. p. 415.) See also same volume, pp. 432, 458, 465, 466.

"A direct tax operates and takes effect independently of consumption or expenditure; while indirect taxes affect expenses or consumption, and the revenue arising from them is dependent thereon." 3 Smith's Wealth of Nations, pp. 3, 11 (10th Ed.) Taxes on operation, and those on commodities, are put in the same category. See Macdonnell—A Survey of Political Economy, p. 346. See also 2 Smith's Wealth of Nations, by Rogers, pp. 413, 466, and McCulloch's Principles and Practical Influence of Taxation and the Funding System, pp. 1 and 242.

In the United States the distinction between direct and indirect taxes is made upon the same principles as those upon which the French and English authors above cited make it.

Hilliard—Law of Taxation, par. 60—says, a license on particular pursuits is an indirect tax.

In the case of *Loughborough vs. Blake*, 5 Wheat. 517, Chief Justice Marshall, speaking of the celebrated duties which were the immediate cause of the American rebellion, says, "Neither the Stamp Act nor the duty on tea were direct taxes."

In the case of *Veazie vs. Ferns*, 8 Wall. 533, "A direct tax was held to be solely a tax either upon land or its appurtenances, or upon polls."

In *Pacific vs. Soule*, 7 Wall. 433, an income tax on the premiums, assessment, and dividends of an Insurance Company, were held not to be a direct tax, but a duty or excise.

The duties imposed by the Legislature of Quebec on the Assurance Companies, seem very much to be an indirect tax on the premiums. Moreover, cannot these duties be said to be excise.

What is excise? "Excise is the name given to the duties or taxes laid on certain articles produced and consumed at home; but exclusive of the duties on licenses, auctioneers and post horses, &c., &c., are in-