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A Massachusetts Perspective on the Income Tax Amendment

By David A. Rawson

In 1913, the United States adopted an amendment to its federal constitution which granted Congress the power to levy a tax on income. This change was the result of an eighteen year struggle between the "Eastern establishment" and the rest of the nation. The divisions this struggle created within the Massachusetts legislature mirrored the national debate.

Over the first century of the Republic, there were two primary sources of revenue for the government -- the tariff and sales of public lands, supplemented by various excise taxes and fees. By the 1890s many persons, both in and out of government, realized the need for a different means of creating revenue. Decreasing proceeds from land sales and falling tariff revenues had placed the government in a financial pinch.

The growth of the West had permitted the Democrats to finally break the Republican hold on the Presidency in 1884. The party of Andrew Jackson still maintained its traditional antipathy toward the Eastern money interests. Successive party platforms proposed the improvements needed in the frontier and expected the East to pay for them. Following their victories in the 1892 elections, they moved to alter the purpose of the federal government and its financing of programs in the public interest. This was a major reason for the financial difficulties faced in 1894.

The extent of the problem is apparent in the figures quoted at the beginning of the tariff debate of 1894. When Grover Cleveland left office in 1888, the Treasury had reported an annual surplus of \$105 million with a cash balance of \$185 million. By January of 1894, in his second administration, there

was no cash balance and the annual deficit was reported to be somewhere upwards of \$28 million.¹ Clearly, something needed to be done. Tariff reform appeared to be the answer.

Following six months of acrimonious debate, the Wilson Tariff Act was passed by Congress on August 28, 1894. It provided for a 25% reduction in some protective tariffs. To offset revenues lost to these reductions, new taxes were provided. One was a tax on incomes. During the debate, this provision raised little controversy. The country had seen an income tax before and the Supreme Court had decided that such a tax was within the power of the federal government.² Still the monied interests of the East chafed at the idea of paying the federal government monies which would be used in the West or South without benefit to them. Their only resource was the courts.

One Massachusetts petitioner, Charles Pollock, sought this avenue. He argued that a tax on his rental income was a tax on the property itself and, thus, it was a direct tax on the land. He filed suit to prevent a bank, which was acting as his agent, from paying the taxes on his investment income. The Circuit Court for the Southern District of New York heard the case and found for the government. Pollock appealed his loss to the Supreme Court. The case was argued in front of a court headed by Melville W. Fuller, a Jacksonian Democrat who believed the axiom that the best government was the least government. The decisions of his Court were marked by a reduction of government power through a consistently narrow interpretation of the law and the Constitution.

In his decision in *Pollock v. Farmer's Loan and Trust Company*, Fuller presented the Pollock position almost verbatim. He stated that a tax on rent was a tax on the land itself and, therefore, an unconstitutional direct tax. Fuller never even attempted to argue the logical basis for such a view. He simply presented it as an obvious truth. He further stated that the cases cited in the *stare decisis* arguments of both the government and the bank were applicable only if the Court was considering the same specific issues addressed within them. The income tax statute of 1894 was struck down.

1. The Nation, January 11, 1894.

2. Springer v. United States, 102 U.S. 586 (1881).

The *Pollock* decision ran counter to the popular will of the era. This was the time of the growth of Progressivism, a belief which held that government needed to regulate businesses whose activities infringed upon the public interest. The changes the Progressives sought were slow in coming and subject to compromise along the way. It was one such compromise, again in a tariff debate, which would lead the way toward the sixteenth amendment and a constitutionally recognized national income tax.

William Howard Taft made tariff reform a major issue in his 1908 campaign. He saw this as an answer to the continuing financial problems of shrinking revenue and rising expenses, and as president, he was required to follow through. The legislation proposed by Congress was intentionally flawed by the Congress' Republican leadership. Representative Sereno Payne and Senator Nelson Aldrich had allowed their committees to include an income tax provision nearly identical to the one struck down in *Pollock*, believing it would kill the entire reform package. This tactic, along with tariff rates favorable to the "sugar trust", caused the bill to stall in committee. President Taft stepped in to mediate.

On June 17, 1909, Taft made public his greatest concern about the proposed legislation - the income tax. He recommended that a tax on corporate income be substituted for that of the personal income tax. Taft further proposed that once the substitution was made in committee, that the Senate propose an amendment to the Constitution to grant Congress the power to levy an income tax. Believing that such an amendment could be defeated in the states, the Republican leadership acquiesced to the wishes of their President.

Senator Norris Brown of Nebraska, a Bryan Democrat, proposed the amendment on the Senate floor, and it was passed unanimously on July 7, 1909. When the proposed amendment reached the House floor, it was passed 317-14. Of those fourteen representatives opposed to it, six of them were from New England and three of those from Massachusetts.

One of the negative votes was that of Massachusetts Congressman John W. Weeks. He felt that the fiscal emergency suggested by the proponents did not exist and that the only type of emergency which would require such an extraordinary

imposition on individual incomes was a war. His attempt to alter the proposed amendment to include that restriction was defeated.³

Massachusetts considered the proposed amendment for the first time in 1910. The debate and the vote reflected the changes occurring on the American scene. It was also a clash of political wills between the entrenched Republican leadership and the insurgent "progressives". The battle would last four years.

As the Massachusetts General Court gathered in January of 1910, the income tax amendment was not a high priority issue. In his annual address to the Legislature on January 7th, Governor Eben S. Draper discussed the two main concerns of the day, the inspection of meat (an urban issue) and the breaking of the "milk trust" (a rural issue). He proposed a pay raise for the state's Civil Service Commissioners, to make public the state's payroll and to allow savings banks in the Commonwealth to invest in the bonds of railroad companies, specifically the troubled New Haven Railroad. He did not utter one word on taxes.⁴

The following week, Draper submitted the certified copy of the proposed amendment to the legislature for its action. He made no recommendation either for or against it. The *Boston Post* noted the omission in an editorial:

The governor does not see fit to accompany the resolution with any suggestion or recommendation as to what the Legislature shall do with it. Such reticence is not altogether admirable. The amendment is a measure heartily approved by President Taft, who holds it to be a matter of great importance. It was adopted in both houses of Congress by a practically unanimous vote. Governor Hughes of New York has had the courage to oppose the ratification and to give his reasons in extenso . . . It is a proper and salutary power to be lodged in the general government. It is so recognized by our people, and it should be

3. Springfield Daily Republican, July 12, 1909, p. 12. Weeks' views were apparently similar to those of the Massachusetts Republican leadership since he was elected as U.S. Senator by the Massachusetts Senate in 1913 in a vote along strict party lines.

4. Massachusetts, House Journal, January 7, 1910.

affirmed by the Legislature promptly now that the governor has submitted it to the decision of the representatives of the people.⁵

The Legislature was dominated by the Republicans. The party leadership followed past practice concerning constitutional amendments and committed the amendment to the standing Joint Committee on Federal Relations. It was chaired by Charles H. Brown of Medford. His committee consisted of nine Republicans and two Democrats. The *Boston Evening Transcript* reported that: "All three (senators) are rock-ribbed Republicans. There is no Democrat on the Senate end." The article continued with no account of the leadership's position on the amendment:

In as much as the Republican state convention declared that the Legislature ought to consider the matter from a business standpoint, and called attention to the fact that Massachusetts already has an income tax law, it doesn't look as if the amendment would secure a favorable committee report.⁶

Indeed, a negative committee report was the basis of the opposition's strategy in defeating the amendment. Both Speaker Joseph Walker and Senate President Allen Treadway wanted this issue to quickly fade from the scene without too much discord. In their choices for the committee, they guaranteed a negative committee report. They hoped a quick acceptance of the report would follow. The amendment's proponents would fight this plan with parliamentary tactics of their own.

The report of the joint committee surfaced on April 20, 1910, just over three months after the amendment's referral to committee. This constituted an inordinate length of time for the era. It stated that, on a vote of 8-3, the committee felt that the amendment presented required no legislative action on the part of the Legislature. All three dissenters were from the House,

5. Boston Post, January 12, 1910, p. 10.

6. Boston Evening Transcript, January 5, 1910, p. 6.

including the two Democratic members. The report was read and placed on the calendar for the next day, April 21.

The House did not have to accept any committee report as presented. Substitutions were frequently proposed. In this case, Representative Thomas P. Riley (D-Malden) circulated a substitute report written in the form of a resolution for adoption of the amendment. The leadership quickly discovered that they would lose the vote on accepting the committee report and that the Riley substitution would pass.

What followed was a scramble by the Republican leadership to pull the House back into line, through whatever means necessary. Chairman Brown rose on April 21 to ask unanimous consent to postpone consideration of the committee's report until April 28. He did the same on April 28, postponing until May 3.⁷

The Republican papers were strangely silent on the subject during this period of parliamentary maneuvering, perhaps out of a need to not upset the machinations of the leadership. But the *Post* was far from silent, excoriating the leadership on the editorial page:

A committee of the Massachusetts General Court controlled, of course, by the Republicans, reports to the House 'no legislation necessary' on the matter of the income tax amendment.

Will the House itself submit to this cavalier manner of smothering the expression of the state's opinion on a measure submitted by a Republican Congress and vigorously upheld by a Republican President? Even in New York, where Governor Hughes is outspoken in his hostility to the amendment, the question is really brought before the assembly for a direct vote and not shuffled out of sight on the cowardly way adopted here.

If the Republican members of our Legislature do not reprehend this sort of thing,

7. Massachusetts, House Journal, April 21 and 28, 1910.

they have little respect for themselves and none for their president.

It would seem the party in power ought to realize that it has enough to answer for at the polls in November without adding more broken pledges to the list of its misdemeanors.⁸

On May 1, the *Post* printed a lengthy wire service interview with President Taft, who was making the first presidential visit to Buffalo since the McKinley assassination. Taft reasserted his support of the amendment stating "My views on that subject have not changed in any way." The article also quoted Secretary of State Knox as being upset with press coverage of the amendment, accusing "some newspapers" with "diluting the news." The *Transcript* would seem to be guilty of this crime in not reporting the events on Beacon Hill. No coverage meant that no opinions or pressures were formed by the electorate.

On the editorial page, the *Post* continued its assault on the Republican leadership:

What is there about the income tax amendment that should alarm any but the selfish rich, who are quite willing to enjoy the benefits of a strong government but are averse to paying their just share of its expenses in time of need? . . . So let the Massachusetts House pass the resolution calling for ratification of the amendment, and pass it by such a rousing majority it will send to the Senate a message that cannot be disregarded. The lawmakers of the Commonwealth have not for years had a better chance to prove themselves possessed of statesmanlike and public spirited qualities. Let the test find the metal good.⁹

It was not noted in the media, but the writers and editors of these pieces must have known of the titanic struggle going on

8. *Boston Post*, April 22, 1910, p. 10.

9. *Boston Post*, May 1, 1910, p. 30.

behind the scenes on Beacon Hill. By the time the above comment was published, the fight was nearly over.

Tuesday, May 3rd, arrived and Chairman Brown was finally ready to proceed. The report was called from the calendar in the afternoon. Representative Riley then rose and moved to amend the report with his substitute adoption resolution.¹⁰ Debate on the motion began and carried over into Wednesday.

Debate was carried out under a relatively new "10 minute rule" whereby the person speaking in debate was recognized in renewable segments of ten minutes each. This allowed the Speaker to cut off rambling incoherent speeches while allowing long reasoned argument to continue. A report of this debate noted:

. . . during the last two years a new practice has grown up which has come to the full in the debate yesterday and today on the income tax, where carefully prepared arguments have been made and have been listened to with close attention by the members.¹¹

It seemed to have been used more in opposition to the Riley substitution than in defense of it. The account went on to say that the longest speech of the debate, one of fifty-five minutes by George Bean (R-Woburn), a member of the Brown committee, was against the amendment.

As the *Post* noted that the arguments against ratification were motivated by self interest, they were also focused on what the original Payne-Aldrich income tax had provided for in defining income, even though this was now not a part of the question.

Representative White (R-Brookline), a staunch protectionist, would not vote for it because it was a "remedy for the tariff" which he saw no need to remedy. Further, he believed that the bonds of state governments would be taxable under the

10. Massachusetts, Legislative Documents, 1910, House #1603.

11. Springfield Daily Republican, May 5, 1910, p. 10. Description of the debate of May 4 is taken from a transcript contained in this article. The motions of the individual members is supported by the House Journal entries for that day.

amendment, in contravention of the precedent set in *McCullough v. Maryland*. He also believed that the tax was favorable to the West and not the East and that he "stood for Massachusetts, not for Idaho or Nebraska."

Representative Warren (R-Chelsea) argued that granting this tax to the Federal Government would rob the states of a valuable revenue source and that the Federal government could tax each state at a different rate under this amendment. Representative Carr (R-Boston), another committee member, sought to stem the encroachment of the Federal government in opposing the amendment. Representative Curtiss (R-Sheffield) argued that the Federal government was wasteful in its spending and did not need any new revenue sources. The "emergency" had never been proved and the Taft administration was the most extravagant ever.

While Thomas Riley was the author of the ratification resolution, the champion of the cause was Charles Dean of Wakefield. A minority Democrat, Dean had been the primary advocate in Massachusetts for tax reforms in general and the income tax in particular. In January he had made his annual filing of a bill to broaden the definition of income subject to taxation in the Massachusetts income tax law. Now he was called to defend the national income tax amendment.

Dean faced each of these challenges head on and, from the account of the debate, met each one logically and thoroughly. He quoted Justice Marshall on the subject of taxing the financial instruments of state governments. He derided the thought that the government could tax at differing rates by states. He noted that debate over the provisions of the tax proposed for the Payne-Aldrich Act was not germane, but he could not shake the argument that the tax was an infringement of states rights.

His most telling foe on this point was another Democrat, Frank Pope of Leominster. Pope, in a lengthy speech, espoused the doctrine of states rights, so long a part of the Democratic platform. He saw this tax as a means for the central government to grow, to spend money it did not have or need, to build a newer and larger Navy to further entangle the United States in foreign affairs contrary to the injunction of George Washington. He echoed the charge that the current administration was the most extravagant ever. And when he was done, the Republicans of the House gave him a thunderous ovation. Speaker Walker sent down

a message to Pope from the podium declaring that it was the "finest speech he had listened to in seven years." The House was then promptly adjourned for lunch.¹²

The proponents of the amendment were now on the defensive and knew it, as did the Republican leadership. Upon the House's return from lunch, Dean attempted to stem the tide arguing the issue of state sovereignty, but it was too late. Representative McKnight (R-Boston) moved the previous question, knowing the outcome was no longer in doubt. The proponents strove to continue debate by having William O'Brien (D-Boston) oppose the motion. Speaker Walker "acquiesced" to continuing the debate another hour and McKnight withdrew his motion. But in that hour, most of those the Speaker recognized were opposed to ratification.

Chairman Brown closed the debate with a simple restatement of the committee's position. The previous question was moved and the motion to substitute the Riley resolution for the committee report came to a vote. Substitution was defeated by a vote of 101 to 126. The committee report was then accepted on a voice vote and ratification was dead for 1910. The Senate formally concurred with the House action on May 20.

In the Republican press, the vote was noted rather matter of factly. In the *Springfield Republican*, the story was the lead in the daily State House report on page ten:

Foremost of all the rumors in the House today was the amendment to the national constitution to permit an income tax to be levied by the national government. Speeches had been prepared with care and the names of members who desired to speak were listed by the speaker for some time in advance. Attendance was better than during most debates and better attention was given than to most of the speaking of the session. Debate was prolonged to the middle of the afternoon. On a rollcall the income tax has 101 votes to 126 against it. Quite a group of republicans, especially

12. *Boston Post*, May 5, 1910, p.1. The reference to "seven years" Speaker Walker was to the length of time he had served as the House Speaker.

from Western Massachusetts, voted for it and a few democrats voted no.¹³

The *Boston Evening Transcript* carried a short story on the front page stating the facts of the debate but little else. It reported Chairman Brown's, and thus the leadership's, position:

. . . stripped of its political aspects and considered only on its merits, he believed there would be little agitation for the bill and charged that its passage by Congress was only a concession to the Western states in return for votes for the tariff bill.¹⁴

The *Boston Post* was much more flamboyant in expressing its outrage over the turn of events. Beneath a banner headline which proclaimed "REPUBLICAN MACHINE DEFEATS INCOME TAX," it reported the defeat as coming

. . . after two days of oratory and considerably more than two days of work by the steam roller of the Republican state machine, which packed the House into shape against the resolve. Until recently the House had been claimed easily for the tax amendment.

It also quoted Representative Riley as saying "They got busy, that's all there is to it . . . I never saw harder work in the corridor." This was echoed by Representative William Robinson of Chelsea, the only Republican on the committee to vote against the committee's report. "Don't you Know," he said, "what defeated it? I'll tell you what it was. Somebody swung the whip."¹⁵

Indeed, someone had "swung the whip" and the proponents knew who it was. Charles Dean looked to the future in his comments following the vote, stating "it cannot be stifled

13. Springfield Daily Republican, May 5, 1910, p. 10.

14. Boston Evening Transcript, May 4, 1910, p. 1.

15. Boston Post, May 5, 1910, p. 1.

forever. It will come back and it will go through with Republican as well as Democratic votes." ¹⁶ Dean was overly optimistic.

With the ratification issue dead for the 1910 session, the adversaries planned for the next battle. The Legislature had disposed of the 1909 communication from the United States Secretary of State Knox. Now the legislators would have to deal with citizen petitions to reconsider their actions.

The fall of 1910 saw an election which further cut into the mainstream Republican control of the Legislature. The leadership had to take this into account in planning for the 1911 session. The 1910 strategy of whipping the House into line seemed to be ill-advised in light of the progressive changes in the House. Thus, the scene shifted to the much more amenable Senate chamber.

The proponents presented a petition from a citizen to the General Court asking them to ratify the proposed amendment. The petition was again assigned to the standing Joint Committee on Federal Relations. This time the chairman was from the Senate, Charles Pearson of Brookline. The rest of the committee was different also, with only Representative Carr of Boston who remained from the 1910 version. The committee report, as a result, was also quite different. A favorable recommendation came on a 7 to 4 vote. The proponents obviously gained ground as a result of the 1910 elections.

Another difference was that the *Boston Evening Transcript* recognized the shift in public opinion. On March 29, 1911, it came out in favor of the income tax amendment. The same piece quoted Chairman Pearson as expressing the belief that the Congress would pass a tax of 50 or 75 percent and that such a tax would be applicable only to some of the states, not all of them. The *Transcript* called this selfish, implying that the Republican leadership was paranoid. ¹⁷

On May 3, the committee report reached the Senate floor after another series of parliamentary moves to keep it off the agenda until the votes were lined up. The proponents were now faced with the same problem which faced the leadership in 1910.

16. Ibid.

17. Boston Evening Transcript, March 29, 1911, p. 14.

A relatively brief debate, which reiterated the positions of both sides, was held. Charles Brown (now a senator) led the opposition and Senator Hunt (R-Worcester) led the proponents. The question to accept the report which recommended ratification came to a vote. It lost by two votes, 16 to 18, with three pairings.¹⁸

The proponents scrambled through the evening of the third and the morning of the fourth to change two votes, intent on winning a reconsideration vote on the afternoon of the fourth. The swing vote was apparently Senator Gates (R-Westboro). Gates appeared to have agreed to vote for reconsideration. But when the vote on reconsideration was imminent, the proponents discovered that he was not with them. They attempted to dodge this bullet by moving to postpone reconsideration. A voice vote defeated that motion and the previous question came to a vote. Reconsideration lost by a single vote, 17-18. Gates denied to the *Transcript* that he had ever promised his vote to anyone. In the same article, it was succinctly noted that "The Federal income tax received its final death blow for this session in the Senate this afternoon."¹⁹

This close call caused a great deal of concern among the Republican leadership. It would be very different in 1912. When Charles Dean again presented the petition of a citizen for ratification of the amendment, it was again sent to the Joint Committee on Federal Relations. This time a restacked committee never reported on the petition. The Legislature prorogued in June without being able to consider ratification of the amendment.

That November the progressive wave swept over Massachusetts. A new governor, Eugene N. Foss, was elected. The Speakership went to Levi Greenwood of rural Gardner. The changes were many and obvious, yet the old line held firm on the issue.

Recognizing this resistance, Governor Foss took the issue directly to the people. By this time, 34 of the required 36 states

18. Senate Rule #56 (1911) allowed absent members to record their vote on a specific issue by pairing up with a member in the opposition. The member present declared this pairing before the calling of the roll for the vote in question. This courtesy to absent members is still in use currently.

19. Boston Evening Transcript, May 4, 1911, p.1.

had ratified the amendment. It was obvious that the amendment would become effective in the coming months. The governor did not want Massachusetts to be seen as an obstructionist in the eyes of the nation. In his first annual message to the Legislature Foss lambasted the leadership with apparent relish:

It is unfortunate for Massachusetts that her name is not already on the list of assenting states, and I recommend favorable action upon this amendment in order that our state may not be placed in the position of dissenting to an amendment conferring upon the nation a power vital to its welfare and even its safety.

And he also attacked them for blocking Dean's reform measures:

After making due allowance for the considerable amount of personal property which is exempt from taxation under our laws, it appears certain that we do not reach more than one-fifth, and probable that we reach even less than one-fifth, of the personally legally subject to taxation. These conditions are a reproach to the State and productive of gravest inequality in the distribution of taxation. The subject should receive your serious attention and some remedy should be devised.²⁰

The leadership referred Foss' message to committee, biding its time in hopes of being able to repeat its 1912 strategy.

The rest of the nation did not wait for Massachusetts to act. Less than a month later, on February 3, 1913, three states ratified the amendment. Wyoming was the actual thirty-sixth state. The issue had become moot. The national income tax would come whether the Republican leadership wanted it or not. In one of his final official acts, Philander C. Knox issued a proclamation certifying the ratification on February 25. The Sixteenth Amendment was now an accomplished fact.

20. Massachusetts, Senate Journal, January 7, 1913.

The *New York Times* was still defiant: "Americans are not unwilling to pay an income tax in case of a National emergency. But they will resent paying an income tax when there is no emergency, or if drawn in an oppressive and discriminating manner."²¹ The *Times* had been vociferous in its opposition throughout the ratification process. When New Jersey reconsidered its NO vote in 1911, the *Times* was confounded:

There will be varying opinions regarding the wisdom of legislators in these states who are putting their constituents in the way of paying the money of which others will have the spending. It is not surprising that when the states which are the consumers of capital, and the spenders of taxes, cast their influence in favor of taxing the states where capital accumulates, but it is a marvel when the states in the latter class offer themselves up in sacrifice to the former.²²

While this statement had been issued in New York, it was a succinct statement of the views of the "rock-ribbed" Republican leadership of the Massachusetts General Court. The ratification of the amendment by the required three-fourths of the states did not alter this view in the least. The *Springfield Republican* exemplified this attitude in an editorial concerning the final ratification:

Now that slavery is abolished and apportioned taxes are practically obsolete, the most rational method of disposing of the problem of an income tax would be simply to eliminate from the Constitution the clause or clauses referring to direct taxes, rather than tinker up a broken down rule of the Constitution by an amendment introducing a special exception to that rule . . . So long as the words 'direct taxation' remain in the Constitution,

21. *New York Times*, February 7, 1913, p.10.

22. *New York Times*, March 31, 1911, p.10.

similar difficulties will arise in the future, even if the income tax matter is disposed of.²³

Even in defeat, they still believed their view to be the proper one, the will of the people be damned. The *Post* noted: "Massachusetts is distanced, and what she does now with the amendment is of small importance, save to her self respect in deciding right, even if behind the time."²⁴ But there were still some legislators on Beacon Hill who were concerned with their state's self respect.

On February 20, 1913, the amendment was reported out of the Federal Relations Committee with a favorable ruling and appropriate ratification language. The leadership managed to have it recommitted the next day. The committee again reported favorably on the 26th, the day after Knox's certification. Ratification then passed on a voice vote the next day. The resolution was sent to the House for concurrence.²⁵ The leadership had made a last ditch effort to block ratification. But with the issue now moot, they lacked any leverage with legislators who wanted to look good to their progressive constituents.

The ratification resolution was placed on the House calendar on March 3rd. Another voice vote on the fourth of March registered the House's concurrence. Massachusetts had ratified, twenty-nine days after the thirteenth state and a week after the certification.²⁶

It was also the day that Woodrow Wilson was inaugurated as President of the United States. Neither the *Post* or *Transcript* ran a story concerning the Legislature's actions. It was very old and irrelevant news. What now grabbed the Commonwealth's, and the nation's, attention was how the new Congress would deal with its new found authority. The answer was not long in coming.

23. Springfield Daily Republican, February 4, 1913, p. 6. The words "direct taxation" do not appear in the U.S. Constitution. There are references to "direct" and "indirect" taxes.

24. Boston Post, February 4, 1913, p. 12.

25. Massachusetts, Senate Journal, 1913.

26. Massachusetts, House Journal, 1913.

Following the March inauguration, the House Ways and Means Committee, again, began drafting a tariff reform bill. It would contain a new income tax provision written by Representative Cordell Hull of Tennessee. Following a summer of debate in both chambers, the Underwood-Simmons Tariff Act would become the law of the land on October 3, 1913. The tax was effective on income earned from March 1, 1913.²⁷

From the Massachusetts perspective, the new tax did put a larger proportional "bite" on the citizens income. In Boston alone, where but 0.7% of the nation's population lived, the city would provide 1.3% of the total revenue anticipated from the new tax.²⁸ This effect was what the Republican leadership had fought unsuccessfully.

The larger impact on Massachusetts, though, was in terms of the tariff. The reductions under the Underwood-Simmons Act caused stiff competition for the consumer dollar and drove down corporate profits. The industrial concerns of the Northeast began to look for more profitable situations in which to manufacture their commodities. After World War I, the exodus of textile and machine tool industries began in earnest. The tariff reduction may not have triggered the beginning of this exodus, but it was certainly a contributing factor.

Meanwhile, the income tax had assumed a more important position in the federal finances. In the wake of the *Pollock* decision, the expanding role of the Federal government was left with a contracting fiscal base. The belief in the need for the Federal Government to be able to tax its citizens according to their ability to pay was definitely socialistic in origin. It was also realistic. The concentration of wealth and the extravagant behavior it produced was both appealing and appalling. It represented a significant challenge to the "democratic" principles this country was purported to be based upon. Recognizing this dilemma, the country reacted with the Sixteenth Amendment.

In his dissent from the *Pollock* opinion, Justice John Marshall Harlan wrote about the dangers of vesting certain interests with privileges not held by others and the sectional disputes it may cause. He warned that we must always be vigilant

27. New York Times, February 3, 1913.

28. New York Times, February 10, 1913.

"of those, unhappily not few in number, who are without any proper idea of our free institutions, and who have neither respect for the rights of property nor any conception of what is *liberty regulated by law*."²⁹ This is the essence of the United States Constitution. Liberty is regulated by law. The Sixteenth Amendment continued an evolutionary process away from property rights to a society of individual rights and a recognition of the responsibility those rights entail.

29. Pollock v. Farmer's Loan and Trust Company 158 U.S. 601 (1895).

