

## "A TARIFF FOR REVENUE": WHAT IT REALLY MEANS.

"TARIFF for revenue only" is the expression of a fundamental principle of one of the great political parties of the country, and has for years been familiarly used by statesmen, politicians, journalists, and disputants generally in discussing our National fiscal policy. To ask at this late day what this expression means may imply an assumption that it has not been understood; and singular and perhaps unwarranted as such an assumption may seem, an examination of the subject will, I believe, nevertheless show that the proposition in question embodies a principle that in its largest and legitimate sense is not yet popularly recognized, and a meaning far broader and more important than any that would follow from a limitation of its application to the mere levying of duties (taxes) upon imports. In justification of this belief, attention is asked to the steps and sequences of such an examination.

It is important in the first instance to recognize clearly the origin and justification of taxation. How happens it that the *entity* which we call the state has the right to take from the individual that which is absolutely his, annul his ownership, and convert the thing to its own use? How happens it that the exercise of this right is so absolute that the state requires the citizen to set apart from the earnings of his labor a certain sum for its use before he applies any of those earnings to the support of his family?

On this subject there has been a good deal of philosophizing: all of which, although interesting, is of little practical importance, inasmuch as it is only necessary to recognize that the state exists for certain definite purposes, even though they may be difficult of precise definition, to obtain a satisfactory answer to the question at issue. For the command of an adequate and certain revenue being absolutely essential to the existence of organized government, the power to compel or enforce contributions from the people governed, or, as it is termed, "*to tax*," is inherent in and an incident of every sovereignty and *rests upon necessity*. Without revenue (and a government never has any resources except what it derives from the people) regularly and uniformly obtainable, no governmental machinery for

the protection of life and property, through the dispensing of justice and the providing for the common defence, could long be maintained; and in default thereof production would stop or be reduced to a minimum, accumulations would cease or become speedily exhausted, and civilization would inevitably give place to barbarism. For like reasons also, or as the old-time Latin maxim "*salus populi suprema lex*" concretely expresses it, the state holds command of the lives and liberties of its citizens as it does of their fortunes. In fact, the sovereignty of the state exists and exemplifies itself in its power to abridge the liberty of the individual citizen and take his property; and the character of every government is mainly determined by the intent and purpose for which these two great functions, from which all its force proceeds, are exercised.

These conclusions naturally lead up to the consideration of the question as to the extent to which the power of the state to interfere with the citizen's rights to property may be exercised. Under a purely despotic government there is no limitation on its exercise except such as arises from the inability of the subject to contribute. The head of the state—shah, czar, or emperor—decides how much shall be exacted and the time and manner of exaction; and not infrequently the amount taken is only a little short of what it is necessary to leave to the producer in order to enable him to maintain a mere animal existence. People are accustomed to think that the extreme exercise of the power of exacting tribute has long since passed, but in this they are mistaken. Thus in Russia the present governmental exaction—under the name of taxes—from the agricultural peasant is understood to amount to about forty-five per cent of his annual product or earnings; and in Italy, although it is hardly fair to characterize its government as despotic, agriculture is burdened with a state exaction that absorbs from one-third to one-half of its annual returns.

In a truly free and highly developed state, the two great functions, namely, the right to interfere with the liberty of the citizen and with his property, have been called into existence and can be rightfully exercised for certain purposes only, which admit of precise definition. In such a state the fundamental and essential purpose of government is not to abridge the liberty of the individual citizen in respect to his person or his possession and use of property, but to increase it; and this result, as has already been pointed out, can only be attained by taking a part of the property of the citizen which the existence of

the state has enabled him to acquire, for the purpose of maintaining instrumentalities for preventing any encroachment upon his rightful liberty and punishing those who attempt it. In fact, in every free state there are limitations on the exercise of the taxing power, growing out of the structure of its government, or because it is free; or, as Chief Justice Marshall expressed it, "by the implied reservations of individual rights growing out of the nature of a free government, and the maintenance of which is essential to its existence."

No one would probably question that if an assemblage of men reasonably intelligent—though not versed in law, political economy, or the teachings of social science—were to come together for the purpose of founding a state *de novo*, they would, while recognizing at once, and as it were instinctively, the necessity of insuring to the government of such state a revenue adequate to its support, never even so much as dream for one moment of intrusting to it a power to take the property of any individual member of such assemblage, except so far as might be absolutely necessary to carry out and fulfil the purposes for which it was proposed to call the state into existence. They would be mentally blind if they did not see at once that in intrusting to the state a power of unlimited interference with the citizen's right to property, they would create not a free government, but a despotism. And in proof that this reasoning is not mere rhetoric, but plain, hard legal and political sense, it is well to note what our highest legal tribunal, the United States Supreme Court, has had to say on this subject. Speaking through the late Justice Miller, in the celebrated case of "Loan Association v. Topeka," it unqualifiedly indorsed the position above taken by declaring that "in every free government there are certain rights beyond the control of the state—implied reservations of individual rights without which the social compact could not exist"; and that "a government which recognized no such rights, which held the property of its citizens subject at all times to the absolute disposition and unbounded control of even the most democratic depository of power, is after all but a despotism," and "none the less so" if it happens to be "a despotism of a majority." And in the same case the same court further declared that "the whole theory of our governments, State and National, is opposed to the deposit of unlimited power anywhere."

The limitation, accordingly, on the exercise of the power of taxation under a free government, necessarily grows out of the source and sole justification of the power, namely, its *necessity*; and the right-

eousness of any specific interference by the state with individual rights in respect to property (as well as in respect to personal liberty) may be tested by the question, *Is it necessary?* If the necessity exists, then the power may be justifiably exercised to a corresponding extent. But, on the other hand, if the interference transcends that which is absolutely essential for fulfilling the rightful purposes for which the state exists, then it loses its sole justification of necessity and becomes tyranny, the definition of which is "despotic use of power." Further, "if the state, even to promote its necessary and legitimate objects, takes the amount of property to which it is entitled in such a manner as requires a citizen to pay more than his just share of the requisite amount—whether it be great or small—it takes that to which it has no right; it does what if done by a citizen in defiance of law is called robbery, if under color of law is called fraud, but which in a government which makes law is simply confiscation and tyranny." And yet, very strangely, this tyranny has come to be regarded and defended, by not a few intelligent persons who claim to understand the theory and nature of a free and just government, as an act of wisdom and statesmanship and in the highest degree beneficent to the citizen whose property is confiscated.

Consider next the instrumentality by which taxation subserves the necessities of the state and enables it to effect the purposes for which it was instituted. The designation of this instrumentality is "revenue," as is indicated in the phrase "tariff (or taxation) for revenue." But the term "revenue" is abstract and most indefinite, and as popularly used conveys little meaning, other than a receipt of something of value. In rude or incipient forms of government, where tribute or taxes are payable in cattle, skins, cocoanuts, salt, grain, and the like, the term might be fairly interpreted as an income of property in general. But in a highly civilized state such a meaning is inadmissible. The government of such a state obviously could not defray its varied expenses by payments with various articles of property, even though their value may be unquestioned—as, for example, its executive with fish, fresh or salt; its legislators with distilled or fermented liquors; its judges with boots and shoes; its soldiers and sailors with cotton or corn; and its clerks with agricultural implements, even though the producers of all these forms of wealth or property may be most willing to give them in discharge of their tax obligations. To such a state revenue has and can have, therefore, but one meaning, namely, *money*; because money is the indispensable and practically the only means of

defraying the expenses of the state and efficiently administering its government; and taxation is the process by which the state obtains money from its citizens, who in turn obtain it in exchange for some product of their labor or for some direct personal service.

Now, if these premises are correct—and it is difficult to see how they can be disproved—it would seem to follow that to seek to make taxation, which is a fit contrivance only for raising revenue, an instrument for effecting some ulterior purpose, be it never so just and legitimate, to seek to use it for the attainment of any other advantage than the obvious one of raising money, is to lose sight of a fundamental principle of every free government and to forbid all expectation of recognizing any other basis for the exercise of this great sovereign power of the state than expediency, which in turn will depend upon the actions, passions, and prejudices of legislators, who may not be the same in any two successive legislative assemblies. Such a perversion of principle, furthermore, reaches its climax of absurdity in practice when its immediate beneficiaries claim to be the only proper persons by whom the incidence and amount of taxation can be intelligently determined, a claim that is practically equivalent to the assumption that privilege should take precedence of right in the theory of government.<sup>1</sup>

It is essential to the completeness of this discussion to call attention at this point to the circumstance that a full recognition and rigid adherence in practice by a government to these fundamental principles of taxation will not interfere with or impair the efficiency of its administration. The raising of revenue (money) by taxation is one thing; the determination of how the revenue collected shall be used or expended is quite another thing, and the danger line to the liberties of the people is crossed when these two functions are confounded. The exercise of the first, as already pointed out, is subject to limitations growing out of the conditions essential to the existence of a free government. The determination of the second rests primarily in the legislative department of such government, and is subject to no legal limitations in the United States other than what flows from the

<sup>1</sup> "To the extent that the mass of our citizens are inordinately burdened beyond any useful public purpose and for the benefit of a favored few, the Government, under pretext of an exercise of its taxing power, enters gratuitously into partnership with these favorites, to their advantage and to the misery of a vast majority of our people." Message of Grover Cleveland, President of the United States, December, 1888.

oft-repeated *dicta* and decisions of its highest judicial authorities, that money taken out of the pockets of the people by taxation cannot be used (expended) for any other than a public purpose; but what constitutes a public purpose is so indefinite that one eminent jurist, especially versed in the subject, has declared that "there is no such thing as drawing a clear line of distinction between purposes of a public and those of a private nature."<sup>1</sup>

If a state, therefore, in the plenitude of the wisdom of its legislators, desires "to interfere with the operation of the laws of trade, domestic or foreign, control the preferences of its citizens in respect to production or consumption, repress one form of industry and stimulate another, and discourage even to prohibition the indulgence of such tastes and passions as it may judge to be detrimental to itself or the individual," it may legitimately exercise functions entirely different from that exercised in raising revenue and governed by entirely different principles. The right to regulate trade and commerce and the power of police are entirely independent of the right to raise revenue.

If the state, in providing itself with what it regards as necessary revenue, levies its taxes in such a manner that no citizen is required to pay more or allowed to pay less than his just proportion, then there is no tyranny in taxation, even if the methods employed, without any such intent, may incidentally promote private interests and sumptuary purposes. But if, on the other hand, a just and equitable method of taxation will not promote these purposes, and, as usually the case, the state resorts to methods that are not just, not equitable, and imposes upon some citizens an undue share of the general public burden, then to just that extent taxation becomes tyrannical, and cannot be justified except upon the assumption that there is no limitation on the right of a state to interfere with individual rights to property; which is the same thing as asserting that the state in question is not "free," but is a "despotism." In short, the proposition would seem to be clear and not open to dispute that the state cannot, without violating that simple principle of justice which prescribes equality in taxation, use its taxing power for effecting any other purpose whatever except to raise money.

The principle here involved may be further illustrated by reference to a curious chapter of railroad experience. Some years ago the managers of one of the great railroads of the United States appropriated a part of its receipts from the carriage of freight and passengers

<sup>1</sup> Cooley: "Law of Taxation," p. 70.



to the support of an opera-house and a corps of ballet-dancers. Extraordinary as was this procedure, there was no question that the directors, who were trustees for the stockholders, had the right to determine how the earnings of the road should be applied, so long as the stockholders failed to restrain them or prevent their continuance in office; and as they did not, no legal action or restraint of their singular use of the receipts of the property was attempted. But if these same directors had decided not to take money directly from the aggregate earnings of the railroad for the furtherance of their peculiar views, but that in addition to certain rates for transportation all passengers and freight should pay a special sum (tax) for the support of the opera-house, the state would have undoubtedly and properly intervened and forbidden its collection, on the ground that the railroad was not chartered (called into existence) for any such purpose, and that the attempt to use any power other than what was granted or contemplated in its charter was illegal and unwarranted.

Again, if the legislative department of the state decides that it would be expedient to establish or stimulate the manufacture of certain commodities, no one under a free government would venture openly to justify such action, except on the ground that public welfare would be thereby promoted, although practically such justification in the United States has long since ceased to be other than a pretence and a cover for the promotion of private interests. Suppose, for example, that the manufacture of the commodity which it is proposed to stimulate is tin-plate, and it is decided that the desired result can be best attained by giving the domestic manufacturer the difference between what his product will fetch in a free market and what he can make it for, say fifteen million dollars per annum: it would seem to be only simple justice that the state should fairly and honestly pay the sum representing this difference, and raise the money,<sup>1</sup> not by a tax on the consumers of the product artificially maintained, who are no more interested in the matter than all other citizens, but by a levy

<sup>1</sup> The statement of Senator Hoar, in his recent letter from Paris to the Massachusetts Republican Committee, that the assertion by the Democratic party in its Chicago platform that "the Federal Government has no constitutional power to enforce and collect tariff duties except for the purpose of revenue only" was equivalent to an unveiling of an opinion that "the American people alone, of all civilized nations, have no power to do anything for the encouragement of their own industries," displays an amount of ignorance and misconception of the powers and objects of the Government he serves which is, to say the least, most discreditable to the writer.

upon the community at large, in the same equitable manner as it raises money to defray its other expenses. In short, if any industry cannot live without state aid, and it is for the public welfare that it should live, let the state directly subsidize it, and not maintain it by allowing private interest arbitrarily to exercise the great sovereign power of taxation.

This was the idea of Alexander Hamilton, who in the early days of the Republic favored state interference with the pursuits of the people to a large extent, as the best method by which domestic manufacturing should be stimulated by the state. This idea, however, found no more favor with the parties specially interested at that time than it would at present; inasmuch as a brief practical experience would so soon demonstrate the smallness of the revenue necessary to be raised by honest taxation for the maintenance of the state, in comparison with the amount raised, for the most part by inequitable and unjust taxation, for the support of that interference by the state with production which goes under the name of "protection," as to make any long toleration of the latter policy by a free people exceedingly unlikely.

Attention is next asked to the generic difference between the "taxing" and "police" powers of the state (to which a brief reference has been made already), and to the incongruities and governmental abuses that inevitably result from a lack of full recognition of this fact. The object of the taxing power is to raise money to defray the expenditures of the state, and proof and argument seem conclusive that it cannot be legitimately used for anything else. By the power of police is understood the internal regulation of the affairs of the state in the interest of good order. The idea, therefore, of resorting to taxation for the purpose of enforcing morality, preventing social evils, or as an instrumentality for the punishment of crime, is to pervert an agency from the one sole purpose for which it can rightfully exist to another less fit and not warranted by necessity, and presupposes an entire misconception of the principles of a free government. If the prosecution of any trade or occupation or the manufacture and use of any product constitutes an evil of sufficient magnitude to call for adverse legislation, let the state proceed against it directly, courageously, and with determination. To impose taxes upon an evil in any degree short of its prohibition is in effect to recognize and license it. To demand a portion of the gains of a person practising fraud may be an effectual method for putting an end to his knavery by



making his practices unprofitable, but it would be all the same a very poor way for a state to adopt as a means for suppressing fraud. If absolute prohibition is the object, then such result should be attained through the police force of the state and through legislative enactments making the act, powers, or products which it is desired to suppress misdemeanors or felonies. The manufacture and sale of spirituous liquors, in common with all other branches of business, is a legitimate subject for taxation, but there is a broad distinction—indeed, nothing in common—between taxing this business for revenue and attempting to make the receipt of revenue proportionate to the expense which such business entails upon society and the state and in levying taxes with a view of preventing the business from being transacted at all and so preventing revenue.

If the above analysis of the origin, justification, and limitations of the power of taxation is correct, it would seem evident that to seek to make the occasion for the exercise of the power other than necessity, and the object anything else than the raising of money for meeting the expenditures of a government economically administered is to strike a blow at not only good government, but also at free government. It is also a flat denial of the authoritative statement of the United States Supreme Court that "there are rights in every free government beyond the control of the state," and that the theory of our Government, State and National, admits of no place for the deposit of unlimited power. For the deliberate recognition and indorsement of the right on the part of the state to disregard these limitations in a single instance is equivalent to a denial that there are any such, and certainly in this one department makes the government despotic rather than free. Once recognize the principle of inequitable taxation, and no one can foresee how far it may be carried.

The lesson of all history is to the effect that, save in the case of war or invasion, nations have rarely or never lost a freedom once possessed, except through a tolerance (born of indifference) of a succession of gradual and insidious perversions and weakening of those fundamental principles which must be maintained unimpaired to make popular liberty possible. And it is alike startling and discouraging to note how rapidly, in recent years, the United States, as a political entity, has been travelling in this direction.

The idea of using the power of taxation for other purposes than that of obtaining revenue for defraying the necessary expenditure of the Government was one hostile at the outset to all the beliefs and

habits of thought of the American people; was totally incongruous with the social and political system which they instituted and expected, and was reluctantly admitted under the idea that the industries of a new country might need some temporary stimulus and assistance at the outset.<sup>1</sup> The old Whig party did not advocate the theory of protection as an article of faith. It admitted that the Federal Government had no original right to exercise the power of taxation except for revenue, but it claimed that taxes on imports might and should be so adjusted as to afford protection to our infant industries. And in this they were joined by some Democrats who argued in favor of what was called "incidental" protection, or the protection which inevitably results in a greater or less degree from the imposition of duties without any such premeditated purpose. But it was not until after our late war that anybody ventured to openly maintain or defend the proposition that protection was other than the incidental and not the main object of the exercise of the taxing power, although this perversion of principle was tacitly recognized by the imposition and continuance of taxes which had for their intent or resulted in a prevention of the raising of revenue.

One of the most instructive examples of this kind was afforded by the imposition of a tax in 1869 of five cents per pound on the importation of crude or unmanufactured copper, which proved so prohibitive that in one year (1878) revenue to the extent of only five cents, accruing from the importation of only one pound of copper, was collected. The legislators who enacted the law productive of such a result might have pleaded in justification that revenue was their intent;<sup>2</sup> but when a brief experience had proved that the taxing power had been used to prevent the raising of revenue by the state, and for a different purpose, it was evident that a continuance of the policy (and the tax was long retained) was in effect a justification and an indorsement of it. To complete the illustration, it should be further pointed out that the result of this perversion of the taxing power was to enable the owners of copper mines in the United States, especially certain ones of unprecedented richness—formerly the property of the

<sup>1</sup> The doctrine of Hamilton was that while the payment of bounties for the encouragement of new industrial undertakings was justifiable, their "continuance on manufactures long established was most questionable." "Report on Manufactures," 1791.

<sup>2</sup> The United States Supreme Court has held that the judicial power cannot inquire into the intentions of Congress in imposing a tax; and that if injustice is done, the only remedy is an appeal to the legislative power that has inflicted it.

United States, but sold for a mere song—to extort for a period of years from the people of the whole country the sum of five cents for every pound of copper they consumed, but from which exaction (aggregating millions) the people of other countries, who consumed the large surplus product of American copper exported, were exempt, as the tax laws of all countries have no extra-territorial jurisdiction. During the discussion, enactment, and defence of the so-called "McKinley tariff," however, all pretence and evasion were discarded, and the position openly taken that the Government could rightfully levy taxes, not for the purpose of raising revenue, and not to subserve any necessity of the state, and under the name of protection delegate to private or corporate interests the right to collect and appropriate them.

Again, no more disgraceful reflection on the intelligence of the American people was ever made than was involved in their sanction of an attempt to use the power of taxation for the prevention of the use of one of the great discoveries of the age, namely, the manufacture of artificial butter, which, when properly prepared, is a most valuable and perfectly healthful addition to the food resources of the people. The practical results of this attempt are exceedingly curious and ought to be in the highest degree instructive. The burden of the tax has not been sufficient to accomplish the object of its levy, for the annual production, sale, and consumption of oleomargarine in the United States has continually increased (from 30,797,000 pounds in 1889-90 to 43,215,000 pounds in 1890-91 and 47,283,000 pounds in 1891-92), and the Federal courts have decided that it is a merchantable article.<sup>1</sup> The Government derives a considerable revenue from its production and sale; and if such production and sale are fraudulent and wrong, then the Government has become a partner in such fraud and wrong and in effect licenses them.

Next, a measure known as the "Anti-Option" bill was introduced and found favor in Congress, which is nothing more nor less than an attempt to make people dealing in certain staple commodities honest by the exercise of the taxing power; a measure devised for effecting indirectly that which it would be unconstitutional to do directly; namely, to prevent trading in cotton, grain, etc., for future delivery, by first assuming that all such sales are "immoral, unnatural, unjust, and injurious," and then attempting to put an end to them, not by the exercise of the police power, but by licensing and taxing them, under

<sup>1</sup> Being such, a state may to a certain extent regulate its sale, but it cannot prevent its importation.

a pretence of collecting revenue, and intentionally fixing the license and tax at a rate so high as to prevent the raising of any revenue. It is difficult to see why, if this extraordinary measure is made law and obligatory on all citizens, the policy of restraint involved should not be made also applicable to the buying and selling of all articles other than cotton and cereals—as cloth, stoves, boots and shoes, securities—and even personal service; and why, if it is right to extinguish one trade or calling by taxing it, every other may not be uprooted and extinguished in the same way.

Next we have a proposition from an eminent judge<sup>1</sup> to employ Federal taxation for the crushing out of State lotteries, with the absurd accompaniment of no revenue (taxes); for if the desired object is attained, the payment of taxes and the procurement of revenue will be prevented. It seems clear, also, that if such a measure was once adopted it would constitute a precedent and authority for the destruction by the Federal Government, through the exercise of the taxing power, of nearly every faculty or power now belonging to and exercised by the several States; and that houses of prostitution, gambling and liquor saloons, opium "joints," and other haunts of vice now under the control and supervision of the police powers of the States might be regulated or suppressed by Federal taxation, as well as lotteries.<sup>2</sup> Certainly since the proposition of the right of secession from the Union was made and stamped out, no proposition more fraught with prospective evil to the Republic has been advanced than that of Judge Cooley, that Federal taxation should be resorted to for crushing lotteries authorized by a State within its territorial jurisdiction. And yet such is the indifference of the public in respect to this matter that when application was made by a writer for opportunity to review the article of Judge Cooley, in the "Atlantic Monthly," its editor replied that he was unwilling "to publish any paper against the Federal taxation of lotteries"; and the editor of another leading magazine also declined to accept such review on the ground that the public was not interested in the subject.

During the early years of the late war, taxes were imposed on the circulation of the State banks, "manifestly with a view to raise rev-

<sup>1</sup> Judge Cooley, in the "Atlantic Monthly," April, 1892.

<sup>2</sup> When the Provincial Legislature of Canada recently decided to suppress lotteries in the Dominion, the measures which it instituted for so doing were the imposition of heavy fines and penalties, not only on those engaged in the business, but also upon those having lottery tickets in their possession.

enue and inform the authorities of the amount of paper money in circulation, and for no other purpose." But in 1865 these taxes were greatly increased, not for revenue, but with the admitted intent of destroying all banking institutions chartered by the States, leaving only similar institutions chartered by the Federal Government in existence. The attempt was successful, although no one probably will seriously deny the constitutional right of States to charter banks,<sup>1</sup> and found justification under the then admitted necessity for the exercise of war powers. But this necessity having now passed, the continuance of the taxation in question is equivalent to an assertion that the Federal Government has a right to exercise this power not for revenue, and not therefore by reason of any necessity that can justify it.

Next we have a recent recommendation, from an eminent American writer on taxation, that a Federal tax should be imposed on silver, varying from month to month according to the changes in its market price as bullion, with a view of establishing and maintaining a parity of value between gold and silver, with, of course, a total disregard of the sole object and justification of taxation, namely, revenue. But the most curious illustration of the extent to which an entire misconception of the nature and functions of taxation has obtained favor in the United States is to be found in a pamphlet entitled "Rational Principles of Taxation," recently published by Prof. Simon N. Patten, professor of political economy in the University of Pennsylvania, and included among the authorized publications of the university. In this the author advocates the levying of taxes by the National Government for the purpose of effecting "stability in prices"; and on the assumption that a large and increasing percentage of the National wealth is consumed in the expenses of the retail distribution of commodities, proposes to remedy the evil by imposing a discriminating tax on retail dealers so heavy as to crush out all such whose business and profits in a given time do not exceed a certain amount to be prescribed by statute. Among the anticipated advantages enumerated by the author of the adoption of such a scheme would be the saving of rent "on one-half the stores" of cities and a great reduction of rent on the other half. "There would be little need

<sup>1</sup> In the case of *Vesey Bank v. Fenno* (8 Wallace, 552) the United States Supreme Court, "after the fullest consideration, held that the States possessed the power to grant charters to State banks"; that "the power was incident to sovereignty, and that there was no limitation in the Federal Constitution" of such power. Minority Report, United States Senate Committee on Finance, 1892.

of advertising; . . . the stocks of goods carried by the whole trade would be greatly reduced, from which there would be great saving of capital." But "perhaps the greatest saving of all would arise from the reduction of the force of salesmen and in the cost of delivering goods." And finally, carried away apparently by a beatific vision of the glories of such a tax millennium, the professor exclaims, "Think of all the elements of economy in conjunction, and an idea can be formed of the amount of taxes that could be levied on retail dealers without putting the public to any inconvenience";<sup>1</sup> and "would not the unnecessary capital now absorbed in business be fully sufficient to furnish us with pure water, lovely parks, fine art galleries," etc.? One can hardly escape the thought, on reading this remarkable essay, that if the Federal Postmaster-General did not suggest its writing and publication, it was exactly what it was for his special interest to do.

In view of such experiences and propositions, the questions are most pertinent: How much further is such a perversion of the taxing power to be carried? And is not our entire recent experience as a nation in this respect, in the direction of supplanting a "free" by a "paternal" government, which last in turn finds its highest expression in the enactment of sumptuary laws for the control by government of the private life of its citizens? All despotic power is alike in its nature; and once indulged in, the results are always the same. Once let it be fully accepted as a legitimate feature of public policy that the great public power of taxation may be intrusted to individual hands for private purposes, and the power of life and death will be promptly seized to make the former effective. Once confer upon government the power of dealing out wealth, and the day is not far distant (if it has not already come in the United States) when its recipients will control the Government and by the use of money elect their magistrates and legislators to perpetuate this policy.

The foregoing discussion leads up to and warrants the following conclusions:

First. That equal and honest taxation constitutes the foundation of every free government, and that the unimpaired maintenance of such taxation is essential to the continual existence of such government.

<sup>1</sup> Obviously Professor Patten supposes that the retail dealers of this country are such simple-minded people that they will cheerfully pay their proposed heavy taxes out of their capital, and not transfer them, through increased prices of their goods, to their consuming purchasers.



Secondly. In order that taxation may be equal, honest, and not tyrannical, its exercise must conform to the following conditions. It must be justified by necessity or be absolutely essential for fulfilling the object of every truly free government; which is, not to abridge the liberty of the individual citizen in respect to either his person, business, or property, but to increase it by restraining and punishing all those who would lawfully encroach upon it. Its burden should not bear more hardly upon one man or class of men than on another. Its exercise by the state should contemplate no other purpose than the raising of money for defraying its expenditures.

Thirdly. The instant that these natural conditions, lawful purposes, and just limitations of taxation are violated; the instant that the state takes property from its citizens that is not needed or takes inequitably that which is needed, that instant the exercise of the power becomes a matter of will and might and not of law and right. The greatest evils that characterize free and popular governments of to-day are evils that result from the abuse of taxation, and their magnitude and tendency to increase are so great as to make the boast of individual freedom on the part of citizens in respect to the full ownership and control of their property very often little more than an unmeaning phrase. Shall these abuses be recognized and tolerated, and a tendency to further progress in this same direction be encouraged, or shall they be met with stern and uncompromising protests, immediate check, and ultimate complete arrest and prevention? These are the real questions at issue at the present time between the two great political parties of this country, and the situation exemplifies anew the lesson of history—that all the great contests for freedom from the earliest times have originated in abuses of taxation.

Sharp political criticism has been made, and during the present pending campaign will undoubtedly continue to be made, against that part of the platform adopted by the Chicago Democratic Convention which unequivocally asserts that "the Federal Government has no constitutional power to enforce and collect tariff duties except for the purpose of revenue only." Such criticism, however, has no validity if any respect whatever is to be paid to the true principles of taxation; and if such assertion, as is claimed, involves a "radical departure from any of the previous official utterances of the party," it is a departure in the nature of true progress and in the direction of freedom, and not a retrogression. In fact, the only mistake which the framers of that part of the Chicago platform made was that they did

not go far enough in their declaration of principles. For although conversant with our tariff policy, they apparently did not see that there was a much more important matter involved in the present National political contest than the mere adjustment of duties upon imposts, and so failed to recognize and point out to the American people a greater truth; namely, that had the framers of the Federal Constitution even so much as dreamed that the government to be established under it would ever practically refuse to acknowledge any limitations on its right to interfere with the property of its citizens, would use the taxing power with undisguised intent for promoting private rather than public purposes, and would levy taxes to prevent the payment of taxes, the Constitution itself would never have been called into existence, and the great American Republic would never have had a history.<sup>1</sup>

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<sup>1</sup> For the views advanced in the above article respecting the origin, purposes, and limitations of the right of taxation, no claim for originality is preferred. At the same time they are not familiar to the public, are not embodied in any work on political economy, finance, or the polity of civil government with which the writer is conversant, and have been rarely discussed in a sense of full appreciation by American statesmen and politicians. The most marked exception to this latter statement is a remarkable speech delivered by Hon. W. C. P. Breckenridge, at Creston, Iowa, August 27, 1891; and in his speech in taking the chair at the National Democratic Convention in Chicago in June last, Hon. William L. Wilson showed that he clearly appreciated the dependence and existence of a free government on the correct and limited exercise of the function of taxation. Whatever of originality pertains to the subject should be credited to Hon. Theodore Bacon, of Rochester, N. Y., who, in an essay contributed in 1867 to the "New Englander," so originally and exhaustively discussed the subject that little more has been left to the present writer than to reproduce Mr. Bacon's statements and arguments and re-enforce and illustrate them by more recent experiences.

## THE ENLARGED CHURCH.

THE Christian Church bows to a constitutional law of our planet and slowly changes and advances. As the state under Victoria or King Oscar is not that state which once answered to the name of Zenobia or Augustus, as the literature of the English nation is not that shape of thought which once found utterance through the Hebrew and Sanskrit tongues, so the popular religion of our period is not that faith and practice which prevailed when King David ascended the marble steps of his temple or when Paul delivered his sermon on Mars Hill. As in painting the artist first draws in outline and with a few pencil-marks foreshadows a great picture, so in religion the earliest ages draw a mere sketch of the virtues and deeds which the subsequent times must produce. All the good of our race is cumulative. If the physical globe is growing under a perpetual shower of star-dust which makes the sky blue and helps compose the rich colors of the sunset, not otherwise do knowledge and sentiment grow wider and deeper as the centuries come and go. That would not seem a wise Providence which should permit the mind to remain shallow and should constantly deepen the earth's dust.

It is not known in what form or when or by what means man came into existence, but he has always acted in harmony with this formula: Given a good or a beauty, to find a greater beauty or a greater good. His world has therefore been cumulative, and his religion has always passed from one idea toward two and from one virtue to many virtues. All students of the qualities and habits of primitive man find his religion to have been composed largely of fear. Unable to escape the notion that an effect implied a cause, the primitive mind soon reached the conclusion that some cause or causes lay back of the many things the eye could see and the hand touch. But only a high education could have attached to this godhood great moral qualities. Early man could not ascribe to his Deity attributes undreamed of by man himself. The conception of a great cause must have reached our world long in advance of the notion of an all-wise and benevolent cause.

The historic religion began more as a dread than as a loving