

TAXATION, STATE, AND CIVIL SOCIETY IN GERMANY AND THE UNITED STATES, 1750–1950

Conference at the GHI, March 18–20, 2004. Conveners: Alexander Nützel (Universität Köln) and Christoph Strupp (GHI). Made possible by a grant from the Thyssen Foundation, Cologne.

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Taxes are a fundamental element of all modern societies. They play an important role in defining the complex and contentious relationship between state and civil society, and can be interpreted as a hinge-like mechanism connecting the public and private spheres. Moreover, taxes secure the financial basis of state activity, redistribute income and wealth, compensate for negative external effects of the private sector, and help to stabilize economic fluctuations.

This conference brought together experts from history, economics, and the legal sciences to discuss the historical origins and transformations of the modern fiscal state in both an interdisciplinary and comparative perspective. It was particularly rewarding to look at the history of two countries with very different “tax cultures”: Germany, where taxation is regarded as a central feature of state-building and modernization “from above”; and the United States, with its long tradition of antifiscalism and tax protest.

The panels of the conference were composed thematically and focused on: the emergence and development of modern taxation; taxation, state building and political representation; tax protests; the political economy of taxation; and taxation in times of political crisis.

In the introductory panel, Martin Daunton and Christoph Strupp discussed approaches and problems of a transnational history of taxation from different perspectives. Daunton presented seven “axes” to structure comparative historical analysis of fiscal systems: the economic performance of tax regimes; the relationship between state and citizen; the political system that determined the structure of the tax system; the public administration created in order to levy and organize the tax revenue; the relation between taxes and public debt; the connections between taxation and the franchise; and the role of other sources of state income. Strupp analyzed the German perceptions of the American tax system in Germany in the nineteenth and early twentieth centuries. The fiscal structure of the United States attracted considerable attention among German economists. Before 1914, the U.S. tax system was usually regarded as premodern and very different from the system established in the modern bureaucratic nation-state of Germany. During the First World War and in the post-war years, economic nationalism gained additional ground. Several publications of the influential school of Karl Bräuer further emphasized the differences between Germany and the United States, and questioned whether a democracy could have a functioning tax system at all. After 1945, with the beginning of a new era of close economic contacts, historical interpretations of the American tax system by German scholars rapidly lost out to studies that were motivated by the practical interests of businessmen and politicians.

In the United States, the situation was different. Ajay K. Mehrotra pointed out that the transformation of the American system of public finance around the turn of the twentieth century was strongly influenced by a group of German-trained political economists such as Richard T. Ely, Henry Carter Adams, and Edwin R. A. Seligman. As leading economic experts of the Progressive era, they were at the forefront of the intellectual battle to dismantle the orthodox theories of *laissez-faire* and to advance the adoption of new and more effective forms of taxation. Indeed, the shift of U.S. tax policy toward the use of a direct income tax, finally introduced in 1913, was not guided simply by the requirement of new government revenue, but also by a concern for economic and social justice. The more differentiated fiscal system in Germany, guided by historicist social theory, was thus seen as a blueprint for an efficient and modern tax system.

Mehrotra’s interpretation was partly supported by the findings of Holger Nehring, who examined the role of the income tax in the process of state-building in Germany and the United States between 1890 and 1914. Nehring argued that in this period the income tax fulfilled similar tasks in both countries. It not only contributed to an efficient and universal system of taxation, but also played a crucial role in the building of

public institutions. In both countries, the state had to cope with the constitutional complexities of a federal system as well as with the social and economic problems of forced industrialization. Nehring thus questioned the conventional picture of two completely different “paths” of fiscal development. The American federal state was not as weak as many scholars have asserted, nor was the German state as strong and conservative as those historians who highlight a German *Sonderweg* have argued.

What were the main forces that drove the evolution of the modern fiscal state in Germany and the United States? In his broad analysis of the development of public finances and taxation between ancien régime and modern Germany, Hans-Peter Ullmann focused on what Josef Schumpeter once defined as specific *WendeePOCHen* (eras of change): the sixteenth and seventeenth centuries, which saw the emergence of the “Tax Leviathan” as part of absolutist state building; the period following the French Revolution, with the establishment of a system of modern public finance; and the late nineteenth century, when a modern fiscal system emerged that aimed at social redistribution and control of economic processes. Ullmann pleaded for separate analyses of distinct long-term processes such as the growth of public expenditure as well as the increasing institutionalization and homogenization of tax systems.

Ullmann’s overview was supplemented by several more narrowly focused papers. Robert Beachy’s case study on public debt and taxation in Leipzig during the *Sattelzeit* supported Ullmann’s argument that the period during the French revolution and the Napoleonic era was characterized by radical transformations of the fiscal system in Germany on both the municipal and state levels. Under the pressure of French military occupation, governments struggled to pay contributions, often leveraging their credit with the new tools of modern public finance. Demands for political participation arose immediately, but protest remained largely unanswered until the revolution of 1830 in France sparked a riot. As both municipal and state governments quickly discovered, the acceptance of systems of public finance and taxation was closely tied to the legitimacy conferred through constitutional governance.

Inspired by recent approaches of public choice in economic theory, Mark Spoerer challenged the conventional wisdom that the nineteenth-century history of public finance is characterized by a trend toward more tax equity. Contesting the seminal interpretation of the Heidelberg economic historian Eckart Schremmer, Spoerer argued that political actors and institutions, including the government, operate in their own interest. The assumption that the state behaves as a rational welfare maximizer does not withstand the test of empirical analysis. According to Spoerer, the share of indirect taxes, which usually have a regressive effect on income, increased during the nineteenth century. Moreover, already in

this period, local taxation was affected by tax competition. This further questions the “benevolent dictator model” that underlies traditional theories of public finance.

In his comparative analysis of the tax regimes of the German states, Frank Zschaler confirmed the existence of institutionalized tax competition during the nineteenth century. Within the federal system of the German Kaiserreich, the states acted almost autonomously in the field of fiscal policy. The competition pitted states with inefficient tax regimes against those with efficient arrangements. By contrast, Andreas Thier interpreted the emergence of the modern fiscal state as a major challenge for the constitutional monarchy during the nineteenth century. The division of legislative powers between king and parliament established a situation of permanent institutional tension. Tax legislation became one of the driving forces of the development of modern state institutions as the role of the parliament was continuously extended and the tax system became more and more an instrument of social reform.

In the United States, the emergence of modern taxation was closely intertwined with the problems of state- and nation-building in a socially and ethnically fragmented society. Robin Einhorn pointed out specific difficulties of introducing a federal tax after the American Revolution. American politicians were confronted with the question as to whether Afro-American slaves were to be counted as “persons” or as “property.” As this was highly controversial, contemporary debates over taxation can be read as evasive maneuvers to get around the problem of slavery. In framing the Articles of Confederation, the Continental Congress avoided the issue by adopting a completely unworkable scheme of apportionment among the states based on real estate value. As this plan was never realized, a 5 percent “impost” on imported goods was introduced. The delayed institutionalization of federal taxes in the United States was therefore closely linked to the existence of slavery.

This interpretation was challenged by Bennett Baack, who analyzed the emergence of federal taxation from the perspective of institutional economics. In 1775, the Continental Congress established the fiscal powers of the government for the period before and during the war. For revenue, Congress decided not to grant itself the power of taxation, but instead to rely upon voluntary contributions from the states. The provision of a national army to achieve independence furnished the states with a public good. As in any case where the government provides a public good but lacks the power of taxation, the states had little or no incentive to actually make voluntary payments. Baack analyzed various attempts of the Congress to overcome this “free rider problem.” Initially, it tried to circumvent it by establishing a national currency. As the financial return from this effort declined as a result of rapid inflation, Congress spent the

rest of the war trying out a variety of measures to reduce the severity of the free rider problem. The lessons learned from these attempts were to have a significant impact upon the fiscal powers granted to the government in the Constitution.

Max Edling offered a look at the transformation of the American tax system in the decades after the Revolution. Three main developments can be distinguished. First, the central government replaced the provincial or state governments as the dominant actor in the fiscal sphere. Second, customs duties were substituted for direct taxes as the major form of public revenue. Third, although overall per capita taxation in America increased about threefold with independence, the shift from direct taxes to duties nevertheless meant that few citizens made any direct contribution to the federal government at a time when state taxes were very limited.

Ballard Campbell continued the story into the late nineteenth century. He argued that the economic depressions of 1873–79, 1893–98, and 1907–15 led to the creation of modern fiscal institutions in the United States. According to Campbell's model, periodic economic disturbances destabilized the prevailing political equilibrium and provided critical inducements for political change. Especially in the field of taxation, depressions triggered policy innovation. For example, the introduction of the federal income tax in the years before World War I would not have been possible without the severe disturbances between 1907 and 1915.

The First and Second World Wars led to a dramatic growth of public expenditure and thus increased pressure on all governments to find new sources of tax revenue. In the United States, the political and financial options of raising new taxes were limited to corporate taxation. Still, as W. Elliot Brownlee showed in his paper, President Woodrow Wilson and the Democratic leadership in Congress tried to make excess-profit taxation a permanent part of the nation's revenue system in order to achieve a structural solution to the problem of monopoly power. Mark H. Leff demonstrated how New Deal politics and World War II shaped the re-examination of fiscal policies in the United States. Income tax, once seen as a "class tax" on "abnormal incomes," was now transformed into a mass tax that affected most incomes. Moreover, tax policy became a central feature of economic and social policies in a more general way following the reform impetus of the New Deal era.

The last day of the conference was dedicated to the relationship between taxation and political participation. Beyond their financial function and economic impact, taxes played an important role in state-building and the emergence of a civil society. In his analysis of the emergence of limited franchise in nineteenth-century Germany, Alexander Nützenadel pointed out the crucial role that direct taxation played in defining the

individual's right of political participation. The notion that those who contributed financially toward state and community should be rewarded with voting rights was widely accepted, especially among the liberal German *Bürgertum*. As Nützenadel demonstrated, the transformation of the tax system was closely intertwined with the emergence of modern citizenship in Germany. Still, the highly exclusionary three-class voting system, first established on a local level in the Rhineland in 1845 and later adopted for the state by the Prussian constitution of 1849, demonstrated the limits and contradictions of the liberal concept of "tax-citizenship." Especially during the last decades of the Kaiserreich, it privileged the old aristocratic elites and became a symbol of antidemocratic Prussian ideology.

In his case study of New York and Leipzig, Thomas Adam confirmed this interpretation. During the late nineteenth century, both cities were confronted with social tensions and a rapidly growing labor movement. These developments challenged the hegemony of the old cities' elites. Leading representatives of the local bourgeoisie demanded a reform of the municipal voting system to prevent the lower classes from taking control of the city. In both New York and Leipzig, reformers suggested the introduction of an electoral system that would take into account the amount of taxes paid by each citizen. But whereas these exclusionary reform attempts failed in New York, the highly restrictive three-class franchise was enacted in Leipzig in 1894.

In his study of the Mennonites, Mark Jantzen analyzed how taxes shaped the relationship between the state and religious minorities. In 1773, the Prussian state introduced a special tax policy for Mennonites in West Prussia. They were granted an exemption from military service in accordance with their religious principles in exchange for paying additional state taxes. In the following decades, new laws shifted the state's emphasis from making money to making Mennonites better subjects of the state. These laws linked exemption from special taxes and restrictions on property rights to the acceptance of military service. By the 1870s, the Mennonites' desire to avoid these additional taxes and to gain civil rights propelled a majority to renounce the pacifist stance of their religion and become Prussian soldiers. The history of Mennonite taxation policies in Prussia therefore presents a new and compelling view of the connection between taxation and society.

While taxes seemed to have played an important role in defining citizenship in Germany during the nineteenth century, there was also an increase in tax protests and tax evasion, especially in the first half of the century. Pia Nordblom analyzed the role of state parliaments in the political power struggles over taxation. Budget control and tax policy were the main fields of parliamentary competence during the nineteenth cen-

tury. Gabriele Kersting explored tax resistance in the Kingdom of Württemberg before 1848. The high tax rates on beer and wine in particular were the subject of conflicts and protests in this period. Kersting maintained that the protests and petitions were spurred by excessive controls and invasion of privacy rather than economic motives.

This interpretation was sustained by Walter Rummel's look at tax protests in the Prussian Rhine Province. Given the risk of severe punishment that tax protests involved, citizens of a state were driven by more than a desire to avoid paying money to the government. Tax protests in the Rhineland have to be seen as a desperate response to forced state-building and to the financial demands of the Prussian state, which were seen as an unjust burden on the local population. The protest against taxes was a driving force of the popular revolutionary movement that gained momentum in the years 1848–1849, especially in the rural areas of the Rhineland.

The final discussion especially problematized the idea of homogeneous "tax cultures" in Germany and the United States. Still, the participants agreed that national traditions and path-dependencies of fiscal systems must be interpreted within the framework of comparative history.

The three days of the conference led to fruitful exchanges between German and American experts, and offered valuable insights into the specifics of the history of taxation in Germany and the United States. Moreover, the conference must be regarded as a first methodological approach toward a transnational history of modern taxation. The organizers envision the publication of a volume with a selection of the papers presented at this conference.

Alexander Nützenadel