

THE PERCEIVED POWER:
GOVERNMENT AND TAXATION DURING THE
AMERICAN CIVIL WAR

A Dissertation

by

JANE FLAHERTY

Submitted to the Office of Graduate Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

December 2005

Major Subject: History

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Approved by:

Chair of Committee, Harold C. Livesay
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ABSTRACT

The Perceived Power: Government and Taxation during the American Civil War.

(December 2005)

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Chair of Advisory Committee: Dr. Harold C. Livesay

This dissertation examines how the internal revenue legislation enacted during the American Civil War fostered a new role for government in society. The delegates to the 1787 Constitutional Convention constructed a system of fiscal federalism for the United States. The national government relied on indirect taxes, particularly customs duties, as its primary source of revenue. Concurrently, the states developed an array of unique financing strategies, including taxing citizens directly. The dire need for war funds compelled this “unperceived” government to expand beyond the constraints imposed by this antebellum fiscal structure. Through my research, I found that the taxes imposed during the war represent an attempt to cope with a financial crisis, rather than impart a particular preconceived agenda. Because Congress had depended on customs receipts as its primary source of revenue for four decades, lawmakers had few ready options for meeting the overwhelming war costs. In developing the war revenue measures, lawmakers borrowed policies and statutes from the past, rather than relying upon the “free labor ideology” that united the party. The need to meet the escalating costs of war forced lawmakers to react with more speed than deliberation. They often sacrificed their principles to provide the means to prosecute the war and reunite the nation. Once peace returned, the question of whether to “sink” the debt or shrink revenues, vexed lawmakers, and kept the government from returning to its limited role in the economy. As a result, the United States government emerged from the Civil War as a perceived power, one that touched citizens “individually” through the new internal revenue system. I concluded that the fiscal powers of the national government expanded beyond the restraints imposed throughout the antebellum era. The internal revenue measures enacted during the war played a significant role in this transformation.

DEDICATION

For my parents, with love and gratitude.

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CHAPTER I

INTRODUCTION

“Nothing is more striking to the European traveler in the United States,” commented Alexis de Tocqueville in 1834, “than the absence of what we term the government.” Coming from a country with a “completely centralized” authority, the American government impressed de Tocqueville by retaining its “vigor” while distributing its influence so broadly. “This accounts for [the government] passing unperceived,” he continued. “The power exists but its representative is nowhere to be seen.”¹

This dissertation examines one aspect of the maturation of the American government from Tocqueville’s “unperceived” force into a perceived power. Through the internal revenue legislation drafted during the American Civil War, the national government became a tangible force in the American economy and society. This legislation, I suggest, played a significant role in expanding the national government beyond the state centered federalist structure of the antebellum era. Before the Civil War, the national government sustained itself primarily through import duties. Collecting tariffs emerged as the most efficient and cost effective means of providing revenue for the central authority.

Taxing citizens through imports also complemented the federalist structure of government. States assumed responsibility for “lives, liberties, and property” of citizens, maintaining control of the laws and activities within their boundaries. Concurrently, the national government remained dependent on indirect taxes to which Americans remained insensible. This system reflected the vision of government James Madison articulated at the Philadelphia Constitutional Convention. Madison reassured the fellow delegates that the national government would not exercise its authority over citizens of

This dissertation follows the format of the journal *Civil War History*.

¹ Alexis de Tocqueville, *Democracy in America*, 2 vols. (New York: Vintage Books, 1954): I: 72-74, 90-94.

the country “individually.”² Instead, states would remain the primary governing influence in the lives of Americans. “The Federal Union established by the Constitution was a novel political experiment,” observed Herman Belz “that combined features of both confederation of sovereign state and a sovereign national government.”³ Maintaining this balance in sovereignty became the challenge of political and judicial leaders throughout the antebellum era.

However, the early revenue system of the United States supported this federalist system. The national government relied overwhelmingly on indirect taxes on consumption. In collecting these taxes through an intermediary, such as a customs officer at a distant port or a merchant, indirect taxes provided steady revenue, but remained intangible. Since the tax became incorporated into the price of the good, the consumer paid the tax in small increments (through each purchase) and remained unaware of the actual amount contributed to the Treasury. The tax gatherer did not touch citizens individually.

Direct taxes, on the other hand, secured the states’ finances, through assessments of real and personal property. This provided the most tangible form of revenue collection a government can undertake. Citizens knew exactly how much they contributed paid these taxes “directly” to their local government officials, in lump sums, rather than piecemeal. These taxes supported local projects, where citizens saw the results of their investments. Further, states did not rely solely on direct taxes, as the national government relied on indirect taxes. Instead, states used a variety of funding schemes to meet their expenses. “There were few limits on what states could do to raise revenues,” noted John Joseph Wallis. This becomes an important aspect of fiscal policy at the outbreak of the Civil War; while states have a variety of options for meeting war expenses, the national government’s options remained far more limited. The influence

² These terms come from the Constitution, the Preamble and Article I, Section 8; James Madison, *Notes of the Debates on the Federal Convention of 1787*, Adrienne Koch, ed. (Athens, OH: Ohio University Press, 1960), 140.

³ Herman Belz, ed. *The Webster-Hayne Debate on the Nature of the Union* (Indianapolis, IN: Liberty Fund, 2000), viii.

exerted through this taxation made state and local governments responsive to constituents, and while leaving the national government confined within its “sphere.”⁴

In an attempt to curb the “power of the purse,” the delegates to the Constitutional Convention created a fiscal system that gave state governments great flexibility in meeting their expenses. Restricted only in collecting export duties and coining money, states retained a great deal of flexibility in generating adequate revenues. Conversely, the national government worked within more constrained powers, both from Constitutional provisions and public expectations, of taxation that contributed to its limited role in antebellum national development. The dearth of national revenue officers, and other administrators of power, kept the national government as an “unperceived” force in the lives of most Americans. This antebellum fiscal structure greatly inhibited the choices available to the Union government when faced with the challenge of raising enough funds to meet the expenses of the Civil War.

The delegates to the Constitutional Convention constructed a federalist form of government for the United States in which “national unification” was achieved through the “maintenance of subnational systems.” The success of this structure required cooperative relationships throughout the political system.⁵ Though elements of federalism rebounded in the late nineteenth century, the government fiscal policy never retrenched. Internal taxes became a fixed component of federal revenue, and forever altered the role of the central government in society. “The old federal republic in which the national government had rarely touched the average citizen except through the post-office,” James M. McPherson explained, “gave way to a more centralized polity that taxed people directly.”⁶ This study focuses particularly on the way in which internal taxation evolved from this federalist base into a national force. Other policy

⁴ John Joseph Wallis, “Constitutions, Corporations, and Corruption: American States and Constitutional Change, 1842-1852,” *Journal of Economic History*, 65 (March, 2005), 215.

⁵ Daniel J. Elazar, *American Federalism: A View from the States* (New York: Thomas Y. Crowell, 1966), 2.

⁶ James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Ballantine Books, 1998), 859.

implications of federalism have received great attention, most notably how this system fostered and perpetuated the national blight of slavery. Although scholars have recognized this evolution rarely do they tie the fiscal system of the antebellum era to the early stages of Civil War fiscal policy.

This in part explains the uniformity of criticism directed at the Civil War tax legislation. Studies of the Republican fiscal policies begin during the War, with opening of the emergency session of Congress on July 4, 1861, failing to take into account the obstacles that the Republican leaders faced. The “stunted government”⁷ that emerged after the antebellum era created many impediments to meeting the fiscal demands of the war. Chapter I examines the development of fiscal federalism, a structure that left little financial power with the national government, while vesting state governments with a great deal of flexibility in their revenue policies.⁸

Chapter II addresses the ramifications of this fiscal federalism. The Treasury department began the Civil War with few funds and poor credit. Bankrupt and disorganized, the Treasury had to find resources quickly. Because the central government had depended on customs receipts as its primary source of revenue for four decades, lawmakers had few options for meeting the tremendous war costs. The government faced an uncertain future. The subsequent decisions made by Union leaders, most notably Treasury secretary Salmon P. Chase, reveal why the Republicans adopted many of their controversial policies.

In Chapter III, I argue that the tax measures inaugurated during the War drew from tradition. The United States had not collected internal taxes since the War of 1812. Rather than drafting policy anew, Civil War legislators looked to precedent, particularly English tax policy. Because the war revenue legislation resulted from urgent necessity rather than design, lawmakers relied on accepted practices and policies that had worked

⁷ Term used by Bray Hammond, *Sovereignty and the Empty Purse: Banks and Politics in the Civil War* (Princeton, NJ: Princeton University Press, 1970), 1-26.

⁸ The term “fiscal federalism” found in Christopher Hamilton and Donald T. Wells, *Federalism, Power, and Political Economy: A New Theory of Federalism’s Impact on American Life* (Englewood Cliffs, NJ: Prentice Hall, 1990), 81.

in the past. Republican fiscal policy did not spring from the free labor ideology that arose in the late antebellum era. Nor did the designs of party members, hoping to cash in on their new power, solely direct the course of legislation. English fiscal policy of the seventeenth century greatly influenced the development of Civil War tax initiatives. This chapter examines the origins of the theories that laid the basis for Civil War financial legislation. In particular, I question the “regressive” nature of the taxes, and instead suggest that “sparing the necessities of the poor,” an ideal that arose in England in the late seventeenth century, greatly influenced the wartime fiscal legislation.

How did these influences manifest into policy? Scholarship on the Civil War fiscal legislation posits that the Republican Party directed the course of their legislation either to serve the interests of favored constituents, or to implement a pre-war ideology. I suggest, in Chapter IV, that the wartime fiscal policies represent an attempt to cope with a crisis, rather than impart a particular preconceived agenda. The lawmakers reacted with more speed than deliberation, and often sacrificed their principles to provide the means to prosecute the war and reunite the nation. The economic or ideological determinism that many scholars associate with Republican initiatives during the war does not surface in the formulation of tax policy. Instead, one finds a fledgling party that united on social rather than economic issues, struggling to cope with a fiscal crisis. Though conceived in haste, the internal revenue system, more than any other measures adopted by the wartime government, fostered the expansion and nationalization of government, one goal of the Whig element of the party. These policies also initiated the broad corruption of the government that pervades in the late nineteenth century. This consequence resulted more from the exigencies of war than the manifestation of political or economic objectives.

Chapter IV also examines the Herculean task of attempting to create a revenue system. As expenses continued to outpace receipts, lawmakers frantically expanded the tax legislation and incorporated segments of the economy that Republicans had hoped to avoid. Legislators designed a diffuse system of taxation, spreading the burden across the economy, rather than focusing on a few objects. The overwhelming expenses forced the

expansion of the revenue system into a program that reached into every pocket through a variety of consumer and industrial goods.

Chapter V looks at the post-war decisions regarding the future tax policy. Notable studies of the fiscal effectiveness of the war, particularly the introduction of the “Greenbacks” have shown how lawmakers dealt with the emergencies implemented during the crisis.⁹ However, little attention has been directed at the tax program.¹⁰ This chapter addresses the dilemma over what to do with the “war” revenue measures, and how this shaped American fiscal policy for the remainder of the nineteenth century. Historically, taxes on alcohol and tobacco, considered unhealthy and amoral luxuries rather than nourishing necessities, produced reliable sources of revenue, and thus became the basis of the post-war revenue system. In particular, this chapter examines the work of David A. Wells, a “scientist” whose well-respected study of the Civil War debt helped him secure the office of Special Commissioner of Internal Revenue. Wells helped convert the internal revenue system from “a confused mass of omnipresent, duplicating and oppressive taxes” into a “unified edifice founded on rational principles.”¹¹ His struggles to formulate new policy demonstrated how the fiscal system expanded during the war.

In matters of political economy, American leaders of different political leanings repeatedly displayed an extraordinary pragmatism. Americans, historians Carolyn Webber and Aaron Wildvasky in observed, “are the most unideological people” who

⁹ Three classics include: Wesley C. Mitchell, *A History of the Greenbacks, with Special Reference to the Economic Consequences of Their Issue* (Chicago: University of Chicago Press, 1903); Robert P. Sharkey, *Money, Class, and Party: An Economic Study of Civil War and Reconstruction* (Baltimore, MA: Johns Hopkins University Press, 1959); Irwin Unger, *The Greenback Era: A Social and Political History of American Finance, 1865-1879* (Princeton, NJ: Princeton University Press, 1964).

¹⁰ The income tax remains one of the few tax measures introduced during the war that has been studied in detail during the postwar period.

¹¹ Herbert R. Ferleger, *David A. Wells and the American Revenue System, 1865-1870* (Philadelphia, PA: Porcupine Press, 1977), 116.

“practice more than they preach.”¹² The development of American fiscal policy remained a fine balance between high ideals and grounded practicality. This began in the colonial era, when everything from scraps of paper to wampum passed as currency. The fiscal system created in the early Republic demonstrates this pragmatism. There always existed a “sharp dichotomy between theory and practice in American policy,” Daniel Elazar noted.¹³ When faced with difficult choices, lawmakers resorted to practical solutions. I do not dispute the commanding literature that shows ideology played a significant role in the development the American government,¹⁴ however this study does suggest that in the realm of fiscal policy, the “dominance of pragmatism,” often overwhelmed the ideological goals of political leaders.¹⁵

The “Forgotten Force”

The Civil War compelled an expansion of the federalist structure that endured from the ratification of the Constitution until the firing on Fort Sumter. The delegates to the Constitutional Convention erected a federalist system of government in which “authority is exercised concurrently by a national government and state or provincial governments.”¹⁶ Political scientists have examined this federalist structure, but most research has focused on the dramatic changes in the relationship between the state and national governments during the twentieth century.¹⁷ In historical literature of the early

¹² Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon and Schuster, 1986), 151.

¹³ Elazar, *American Federalism*, 24.

¹⁴ Two classics include: Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA: Harvard University Press, 1967); Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War* (New York: Oxford University Press, 1970).

¹⁵ Robert W. Fogel, *The Union Pacific Railroad: A Case in Premature Enterprise* (Baltimore, MD: Johns Hopkins University Press, 1960), 39.

¹⁶ Vincent Ostrum, *The Meaning of American Federalism: Constituting a Self-Governing Society* (San Francisco: Institute of Contemporary Studies, 1991), 7.

¹⁷ Excellent review of the literature in Harry N. Scheiber, “Federalism and Legal Process: Historical and Contemporary Analysis of the American System,” *Law and Society Review*, 4 (Spring, 1980), 663-722.

nineteenth century however, this federalist structure remains a “forgotten force.”¹⁸

Daniel Elazar, Harry Scheiber, and J. Willard Hurst remain the guiding forces in directing attention to the centrality federalism to American development during the antebellum era.¹⁹

Yet the federalist system greatly influenced the development of American fiscal policy. The opening of the House of Burgess in 1619 introduced an early version of federalism to the American polity. This assembly gave the British colonists the opportunity to exercise local control over questions that a distant Parliament could not resolve quickly. During the subsequent century and a half of “salutary neglect” Americans developed an enduring devotion to local governance. Autonomous colonial towns and counties “were largely autonomous, and they stood to lose more than they were likely to gain from a loose acquiescence in the action” of the remote Parliament and Crown.²⁰ Distrust of a distant, and corrupt power flourished in the years before the American Revolution. The “older tradition” of this governance “had been so institutionalized in colonial politics,” suggested Jack P. Greene, “that it could never really be displaced.”²¹

Americans have embraced this dual governance as a central component of political intercourse. “Our polity has been based on a conception of local political organizations which historically and economically have each a certain unity, which internally have a large degree of peculiar interest and geographically have conditions of their own, of quite diverse even from those of their neighbors. It has been based on a

¹⁸ Christopher Hamilton and Donald T. Wells, *Federalism, Power, and Political Economy: A New Theory on Federalism’s Impact on American Life* (Englewood Cliffs, NJ: Prentice Hall, 1990), Chapter I.

¹⁹ Daniel Elazar, op. cit., 1966; Harry Scheiber, *American Law and the Constitutional Order: Historical Perspectives* (Cambridge, MA: Harvard University Press, 1978); J. Willard Hurst, *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915* (Cambridge, MA: Harvard University Press, 1964).

²⁰ Bernard Bailyn, *The Ideological Origins of the American Revolution*. Second ed. (Cambridge, MA: Harvard University Press, 1992). 164.

²¹ Jack P. Greene, “Political Mimesis: A Consideration of the Historical and Cultural Roots of Legislative Behavior in the British Colonies in the Eighteenth Century,” *American Historical Review*, 75 (December, 1969), 359.

conception of the individual human being as the moral and social and so the political and legal unit.”²² The fear of losing local control became the rallying point for the Anti-Federalists who opposed the implementation of the Constitution. James Madison reassured his reticent “fellow-citizens” that the new national authority created by the Constitution would not “be charged with the whole power of making and administering laws.” Instead, the “subordinate governments ... will retain their due authority and activity” in order to secure “private rights and public happiness.”²³ Almost half a century later, Supreme Court Justice Joseph Story affirmed Madison’s vision. “The division and distribution of legislative powers between the state and national governments,” he explained, “is adapted to preserve the liberty and promote the happiness of the people of the United States.”²⁴

Defining the limits of power of the separate government spheres became more difficult as lawmakers struggled to convert constitutional aspirations into working statutes. The national government remained one of “specified and limited powers,” although those powers remained “ample” and “vast,” including, “the regulation of all external concerns,” protecting citizens from “foreign national and internal dissensions,” and the “regulation of commerce.” To attain “these great and desirable objects, the purse and sword are placed in its hands.”²⁵ But throughout the antebellum era, state and local governments remained the principal authority in the lives of most Americans.

²² Roscoe Pound, “Law and the Federal Government,” in *Federalism as a Democratic Process* (New Brunswick, NJ: Rutgers University Press, 1942), 10.

²³ James Madison, “Federalist 14,” in *The Federalist*, Paul L. Ford, ed. (New York: Henry Holt, Co., 1898), 84-87.

²⁴ Joseph Story, *Commentaries on the Constitution*. 1833. reprint. (Durham, NC: Carolina Academic Press, 1987), 514.

²⁵ Both Brockenbrough and Alexander Hamilton came up with a similar list of what the responsibilities of the government, although their views on the use of government power differed. See, Brockenbrough, *John Marshall’s Defense of McCulloch v. Maryland*, Gerald Gunther, ed. (Stanford, CA: Stanford University Press, 1969); Alexander Hamilton, “Federalist 23,” in *The Federalist*, 144.

“Nineteenth century American governance,” William J. Novak noted, “remained decidedly local.”²⁶

The first political parties coalesced around the different ideals over the role of the central government in American politics and society. The Federalists believed that the Constitution created “a vigorous and energetic government where a feeble and ineffectual confederation once stood,” explained Andrew Lenner. “The authority of the federal government was thus sovereign – ‘supreme, irresistible, absolute’ – in respect to national concerns.”²⁷ Alexander Hamilton, while serving as the first Treasury secretary, proposed actions that relied on the “complete powers” of the central government. Hamilton argued that, “every power vested in a government is in its nature sovereign, and includes . . . a right to employ all the means requisite and fairly applicable to the attainment of the ends of such power.” Hamilton reasoned that these powers “implied” powers “may be employed as an instrument or mean of carrying into execution any of the specified powers” outlined in the Constitution.²⁸ Although Hamilton’s program concentrated on financial policy, “economic development was far from foremost among his objectives,” Stuart Bruchey suggested. “He sought above all the stability and staying power of the national government.”²⁹

In opposition to this expansive use of national authority, the Democratic-Republicans argued that consolidating power within a central authority would lead to the emergence of a corrupt government. “Debt, taxes, wars, armies, and navies were all pillars of corruption,” Henry C. Adams explained.³⁰ Keeping the central authority from strengthening the military, assuming great financial burdens, and overtaxing the citizens,

²⁶ William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 1996), 10.

²⁷ Andrew Lenner, “A Tale of Two Constitutions: Nationalism in the Federalist Era,” *American Journal of Legal History*, 40 (January, 1996), 73.

²⁸ Alexander Hamilton, “Hamilton’s Opinion as to the Constitutionality of the Bank of the United States,” in *The Federalist*, 655.

²⁹ Stuart Bruchey, *The Wealth of the Nation: An Economic History of the United States* (New York: Harper Row, 1988), 21.

³⁰ Henry C. Adams, *History of the United States during the Administration of Thomas Jefferson*. 2 vols. Reprint. (New York: Albert and Charles Bohni, 1930): I, 239.

helped insure the continuance of a more virtuous government. Thus states must retain powers not delegated to the national government. “High taxation, extensive bureaucracy, financial and currency manipulations, special privileges and monopolies represented,” to the early Republicans, according to James L. Huston, “the concrete actions aristocratic government took to warp the distribution of wealth in favor of the few and to the detriment of the many.”³¹ In relying upon these ideals, Thomas Jefferson, as Secretary of State, resisted much of the economic program proposed by Hamilton. In his response to Hamilton’s proposal to establish a national bank, Jefferson countered that the general government might employ only the “expressed” powers clearly designated in the Constitution. To give the government the use of implied powers, “to do any act they please which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.”³² Jeffersonian Republicans “believed that the union would only be strong and vigorous if federal principles were respected; encroaching on local affairs would weaken and dissolve” the government.³³

By granting the Jeffersonian Republicans power through the “Revolution of 1800” the electorate embraced the ideal of a “limited government, consisting of clearly defined and enumerated powers,” argued Lenner.³⁴ Throughout the antebellum era, leaders invoked numerous checks to keep the national government distant, and confined, within its “sphere of action.” These included President James Madison 1817 veto of the Bonus Bill, President Andrew Jackson’s veto of the Maysville Road Bill, the attacks on the First and Second Bank of the United States, and the legislative tussles between free trade advocates and those who advocated protective tariffs to aid industrial development. Debates on the role of the national government continued, however one dominant

³¹ James L. Huston, “The American Revolutionaries, the Political Economy of Aristocracy, and the American Concept of the Distribution of Wealth, 1765-1900,” *American Historical Review*, 98 (October, 1993), 1089.

³² Thomas Jefferson, “Jefferson’s Opinion on the Constitutionality of a National Bank,” *The Federalist*, 651-652.

³³ Andrew Lenner, Separate Spheres: Republican Constitutionalism in the Federalist Era,” *American Journal of Legal History*, 41 (April, 1997), 281.

³⁴ Andrew Lenner, “A Tale of Two Constitutions: Nationalism in the Federalist Era,” *American Journal of Legal History*, 40 (January, 1996), 105.

political party, the Democrats, emerged during the antebellum era. One tenet of the party's platform stated that, "the federal government is one of limited powers."³⁵

Although expressed by a political party, the American voters embraced this sentiment. Jean Baker observed that, "Party leaders shaped and articulated mass inchoate sentiments, but did not create them"³⁶ Though different opposition parties offered a vision of a more vigorous national government, Democrats who supported a "limited" national government controlled the House of Representatives for 24 years and the Senate for 28 years, between 1828-1860.³⁷ Through this electoral supremacy, Americans showed they favored a limited role for the national government. Maintaining a stronger position for the government fell to the unelected justices of the Supreme Court under the leadership of John Marshall.

These differences in constitutional interpretation of government power emerged as the continuing force that divided political parties throughout the antebellum era. Economic policy emerged as the most tangible manifestation of these differences. The subsequent debates over support for internal improvements, protection of "infant industries", and government authority over banks symbolized the basic concern over what role the national government should play in civic society. The continuing belief that the development of "great executive prerogative" could foster "patronage, corruption, and tyranny" convinced many voters to support platforms that called for a limited national government. President James Madison vetoed the popular "Bonus Bill" of 1817 that would have applied the surplus funds from the Bank of the United States to the development of the nation's roads and canals, because he feared the effects of the bill. "Madison saw in it the worst of all possible corruptions . . . because it placed in

³⁵ Repeated in the platform for the Democratic party from 1840 to 1860. *National Party Platforms, 1840-1956*, Kirk H. Porter and Donald B. Johnson, eds. (Urbana: University of Illinois, 1956), 1-29.

³⁶ Jean Baker, *Affairs of the Party: The Political Culture of Northern Democrats in the Mid-Nineteenth Century* (Ithaca, NY: Cornell University Press, 1983), 23.

³⁷ Baker, *Ibid*, 19-20.

jeopardy once more the balanced federal system of government,” John L. Larson explained.³⁸

The fear of “corruption and consolidation” helped to limit the power of the national government, a limitation that Americans embraced. This structure had continuity throughout the antebellum era. Professor Charles B. Goodrich confirmed the role of the national government in society during an 1853 Lyceum lecture to an audience in Lowell, Massachusetts. He explained in words similar to those articulated by Madison, that the national government protects the citizens from outside “molestation,” from either foreign countries or other states, “thus securing the life, liberty, and estate.” State governments “reached nearer home” and “controls our rights, duties and obligations as members of society.”³⁹

Although the political parties that debated the boundaries between the national and state governments, both agreed that these separate authorities retained power within their respective spheres. This “division and distribution of legislative powers,” commented Joseph Story, “is adapted to preserve the liberty and promote the happiness of the American people.”⁴⁰ This consensus helped preserve the nation despite the growing sectional tensions. “The range of ideas which practical politicians can conveniently believe in is normally limited by the climate of opinion that sustains their culture,” Carter Goodrich reckoned. “They differ sometimes bitterly, over current issues but they also share a general framework of ideas which makes it possible for them to cooperate when the campaigns are over.”⁴¹ J. Willard Hurst identified this common conception of government thus: “[Americans] in the nineteenth century were prepared to make strong positive use of law to maintain such conditions as it thought essential to

³⁸ John L. Larson, “Bind the Republic Together: The National Union and the Struggle for a System of Internal Improvements,” *Journal of American History* 74 (September, 1987), 381.

³⁹ Charles B. Goodrich, *The Science of Government* (Boston: Little, Brown, Co., 1853), 5.

⁴⁰ Story, *Commentaries on the Constitution*, 514.

⁴¹ Carter Goodrich, *The Government and the Economy, 1783-1861* (Indianapolis, IN: Bobbs-Merrill, 1967), ix.

the main flow of private activity.”⁴² This meant that governance occurred at the state level, where citizens could keep a close eye on the use of resources, while the national government concentrated on broader policies. In embracing a federalist system, Americans did not reject “government,” but instead trusted and supported, through their tax dollars, local governance over national authority.

The Paradox of Federal Power

The entrenchment of slavery in American society during the antebellum era helps demonstrate the paradox of federal power throughout this era. The calls to curtail the expansion of government power grew shriller as slavery became obsolete in the North and more fundamental to the economy of the southern states. As more Americans rejected slavery, the continuance of the “peculiar institution” relied on the ability of the states to maintain control over their “domestic institutions.” Inaugurated at the Constitutional Convention, the relentless effort to maintain human beings as property contributed to the effort to keep the national government constrained. “Slavery was so clearly within the states’ reserved rights, and the Constitution so explicitly restricted congressional authority” over the institution, explained William H. Freehling, “that if the Constitution was preserved inviolate, Congress could never touch slavery.”⁴³ While the early “republican” ideal of limiting government derived from a fear of corruption and consolidation, the desire to preserve slavery soon overwhelmed these ideological concerns. Limiting the power of the national government became deeply enmeshed with the preservation of slavery. The doctrine of states’ rights has become so intimately associated with the antebellum South that Americans forget the first volatile states rights

⁴² J. Willard Hurst, *Law and the Conditions of Freedom in Nineteenth Century United States* (Madison: University of Wisconsin Press, 1967), 26.

⁴³ William H. Freehling, *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836* (New York: Harper Row, 1965), 111.

movement that threatened to sever the nation occurred in New England during the War of 1812, not South Carolina in 1831.⁴⁴

John Randolph of Roanoke incited the fear that granting the government “colossal” power created the potential for the abolition of slavery. During the 1824 debates over an ambitious program of internal improvements, Randolph declared that, “If Congress possesses the power to do what is proposed by this bill . . . they may emancipate every slave in the United States.”⁴⁵ John C. Calhoun made the same argument in a more nuanced manner in 1831 during the Nullification Crisis: “Our peculiar domestic institution mark us as its certain victim [of “mighty” government power] unless we can be protected by the interposed sovereignty of the states.”⁴⁶

Until the 1820’s, the period when slavery emerged as a dominant factor in the American economy, the liberalism of the early Republic thwarted the expansion of the national government’s power. However, the growing threat of abolition made it necessary to utilize national power in repatriating runaway slaves, keeping abolitionist literature from circulating, and asserting the right to move slaves into the territories, and potentially, free states. As *Debow’s Review* warned in 1853, “To accomplish the abolition of slavery is only one of the visionary dogmas of the day,” soon rights and property would be abrogated.⁴⁷ To keep citizens free, and their property inviolable, the power of the national government needed to remain confined to the “several powers conferred” by the Constitution. State governments must retain the power “to govern men and things within the limits of their dominion.”⁴⁸ The “fugitive-slave complex” created a

⁴⁴ James M. Banner, *To the Hartford Convention: The Federalists and the Origins of Party Politics in Massachusetts, 1789-1815* (New York: Knopf, 1970).

⁴⁵ Russell Kirk, *John Randolph of Roanoke* (Chicago: University of Chicago Press, 1951), 433. Henry Adams wrote of this speech, “it flashes through the dull atmosphere of the time, until it leaps at last across a gap of forty years . . . to reveal the dark cloud of smoke and night in which slavery was suffocated.”

⁴⁶ *Works of John C. Calhoun*, 6 vols. Richard K. Cralle, ed. (New York: D. Appleton, 1860): VI, 132

⁴⁷ *Debow’s Review*, 4 (May, 1853), 442-443.

⁴⁸ Bernard Schwartz, *Confederation to Nation: The American Constitution, 1835-1877* (Baltimore, MD: Johns Hopkins University Press, 1973), 15.

“basic formula for claiming federal protection of slavery while denying federal power to interfere with slavery” in the states where it existed.⁴⁹

To understand the vitriolic reaction of slaveholders to the expansion of government power, one must view the owners as “speculators” rather than “investors.” “Every political discussion of slavery was an event that could affect the value of every slaveholders’ property,” observed Gavin Wright. Protecting state sovereignty to preserve slavery fit neatly with the revolutionary vision of keeping the central government small. Other economic issues, such as “tariff, banking, and internal improvements” became “greatly defused and compromised by the 1850’s,” Wright continued. The preservation of slavery emerged as the dominant economic interest of the antebellum era.⁵⁰

A delicate balance ensued. Checking government power protected slavery within the states that permitted the peculiar institution to flourish. However, as the anti-slavery “clamor” grew nationally, slave-owners needed the government’s protection against the threat of the abolitionist movement. The postal service limited the distribution of inflammatory material in the slave states. The Supreme Court, under Chief Justice Roger B. Taney, struck down state Personal Liberty laws in the northern states that arose starting in the 1840’s.⁵¹ Slave-owners repeatedly huddled under the shield of the Fifth Amendment to guarantee their right to maintain their “property.” The Supreme Court decision in *Dred Scott v. Sanford* (1857) decision affirmed that slave-owners could carry this property, like any other, into territories, even if Congress or the residents of that territory disapproved. All these actions limited the national authority not only in principle, but also in reality.

Although most directly associated with the states’ rights agitation and the effort to limit the national authority, the “slaveocracy’s” efforts to preserve their hegemony also helped to augment the power of the central government. The federal government

⁴⁹ Donald E. Fehrenbacher, *Slavery, Law, Politics: The Dred Scott Case in Historical Perspective* (New York: Oxford University Press, 1981), 24.

⁵⁰ Gavin Wright, *The Political Economy of the Cotton South: Households, Markets, and Wealth in the Nineteenth Century* (New York: W.W. Norton, 1978), 144-150, 131.

⁵¹ Thomas D. Moriss, *Free Men All: The Personal Liberty Laws of the North, 1780-1861* (Baltimore, MD: Johns Hopkins University Press, 1974).

protected slavery most zealously with the enactment of the Fugitive Slave Act of 1850. Through this law, the national government exerted its authority over free states that did not cooperate with the repatriation of runaway slaves. Federal marshals intervened directly in returning runaway slaves to their masters. Many free blacks, who could not prove their nativity in a northern state, also fell victim to the government under this law. Assisting in the capture of fugitive slaves became a duty for citizens of free states under penalty of incarceration and a stiff fine for non-compliance, thus forcing people to participate in an activity they did not sanction. This measure expanded the role of government, in particular its relationship with individual citizens.

Beaten then arrested for publishing an account of a fugitive slave's capture, a Wisconsin newspaperman faced federal charges for impeding the Fugitive Slave Act. In the Supreme Court case that resulted, *Ableman v. Booth* (1859) Chief Justice Taney reaffirmed the "supremacy" of the national authority over State laws blocking the removal of runaway slaves from their boundaries.⁵² Donald Fehrenbacher also concluded that, "The fugitive slave complex as a whole provided the South with the basic formula for claiming federal protection of slavery while denying federal power to interfere with [the institution] directly."⁵³

The Democratic party evolved from a party that professed, "Congress had no right to legislate slavery out of the territories," to a new stance that, it must "protect slavery in them."⁵⁴ The growth of national power did not occur suddenly during the Civil War, but incrementally during the antebellum period. President James Buchanan "searched the Constitution" and found that he had "no power" to keep southern states from seceding during the winter of 1860-1861.⁵⁵ Yet, he authorized an army of 5900 men to march into a territory to quell a domestic institution that both Republicans and Democrats found repugnant. Buchanan spent almost \$40 million on the "Mormon War"

⁵² *Ibid.*, 178-79.

⁵³ Donald Fehrenbacher, *Slavery, Law, Politics: The Dred Scott Case in Historical Perspective* (New York: Oxford University Press, 1981), 24.

⁵⁴ Allan Nevins, *The Emergence of Lincoln*. 2 vols. (New York: Scribner, 1950), I: 118.

⁵⁵ "Speech of December 3, 1860," *The Works of James Buchanan*, John Bassett Moore, ed. 12 vols. (Philadelphia: New York: Antiquarian Press, 1910), XI, 22.

to stop polygamy from flourishing in the Utah territory, and potentially spreading to other states.⁵⁶ Yet, he could not muster the same resources to stop the secession movement. I use this example to show that slavery did not completely curtail government power, as often suggested, just redirected its focus.

The Myth of Laissez-Faire

A proper interpretation of government's role in society throughout the nineteenth century has eluded many who still cling to the "myth of laissez-faire."⁵⁷ During the antebellum era, a vigorous "hostility to government and government action," emerged, according to Sidney Fine. "The Jacksonian drive against monopoly," Fine continued, "created a negative rather than positive approach to government intervention in civic life." By limiting "monopoly and special privileges," competition would flourish and ensure a "free field for individuals."⁵⁸ Social scientists intrigued with "new institutionalism" and "state-building" have concentrated their efforts on government development in the late nineteenth and early twentieth century, suggesting that little state formation occurred earlier.⁵⁹ In an extreme statement of this sentiment, Richard F. Bensel theorized that the "American state" was a "mere shell" until 1859. The "modern" (post-Civil War) government inherited "nil" from the antebellum era."⁶⁰

The charged and increasingly partisan debates over slavery, tariff policy, the Bank of the United States, and the internal improvements seemed to signal a dispute between "laissez-faire" philosophy and a more interventionist doctrine. Leonard White,

⁵⁶ Richard D. Poll and Ralph W. Hansen, "Buchanan's Blunder: The Utah War, 1857-1858," *Military Affairs*, 25 (Autumn, 1961), 121-131.

⁵⁷ Louis Hartz, *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860* (Cambridge, MA: Harvard University Press, 1948).

⁵⁸ Sidney Fine, *Laissez-Faire and the General Welfare States: A Study of Conflict in American Thought, 1865-1901*. (Ann Arbor: University of Michigan Press, 1956): 3, 13-15.

⁵⁹ Literature summarized in David Brian Robertson, "The Return to History and the New Institutionalism in American Political Science," *Social Science History*, 17 (Spring, 1993), 1-36.

⁶⁰ Richard F. Bensel, *Yankee Leviathan: The Origins of Central State Authority in America: 1859-1877* (New York: Cambridge University Press, 1990), 1-2, ix

the expert on nineteenth century federal administration, found a “laissez-faire attitude reigned in the government” throughout the antebellum era.⁶¹ Harry Watson found no “national planning policy” to direct the “Market Revolution” that swept the United States after the 1820’s.⁶² In agreement, Douglass North related that “institutional and political policies . . . modified rather than replaced” the “forces” unleashed by the market economy.⁶³ Lawrence F. Kohl offered that the antebellum period relied on the “politics of individualism” and suggested that Americans refused to “surrender any portion of independence to achieve a larger public end.”⁶⁴

The idea that American government during this period represented a non-interventionist structure denuded of power or authority misses the mark. Though the national government did not resemble the more activist force of today, local and state authorities contributed directly to economic expansion throughout the antebellum era. Carter Goodrich noted that, “there was little sustained and inflexible opposition to the use of public agencies in the promotion of economic development.”⁶⁵ Through the 1820’s the national government promoted economic development both directly and indirectly. Tariffs and bounties provided the most direct sources of government aid. Distributing public lands, initially for education, then increasingly for the promotion of internal development, such as providing land grants to states for railroad development also demonstrated the government’s use of its authority to promote economic development.⁶⁶ When the movement to limit federal involvement in these enterprises crested, state governments continued the tradition. States launched a vigorous role in

⁶¹ Leonard D. White, *The Jacksonians: A Study in Administrative History, 1829-1861*. (New York: Macmillan, 1954), 407.

⁶² Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (New York: Hill and Wang, 1990), 251.

⁶³ Douglass North, *The Economic Growth of the United States* (Englewood Cliffs, NJ: Prentice Hall, 1961);

⁶⁴ Lawrence F. Kohl, *The Politics of Individualism: Parties and the American Character in Jacksonian Era* (New York: Oxford University, 1989): 108.

⁶⁵ Carter Goodrich, “The Revulsion Against Internal Improvements,” *Journal of Economic History* 10 (November, 1950), 168.

⁶⁶ Stuart Bruchey, *The Roots of American Economic Growth, 1607-1861* (New York: Harper Row, 1965), 113-125.

funding development. Governance in the nineteenth century, according to David Potter, became “a constant endeavor to make the economic abundance of the nation accessible.”⁶⁷

A group of “commonwealth studies” showed the state governments engaged in vigorous social and economic policy throughout the antebellum era⁶⁸. Robert A. Lively summarized this sentiment: “The movement was virtually unlimited as to time and place ... from the beginning to the end of the nineteenth century, governments were deeply involved in lending, borrowing, building, and regulating.” However, this investment occurred primarily at the state, not national, level.⁶⁹

States actively engaged in promoting internal improvements. They borrowed approximately \$109 million between 1830-1850, to develop transportation infrastructure (canals, railroads, and turnpikes).⁷⁰ “In Great Britain,” Carter Goodrich noted, “most canals and all railroads were built by private capital; in the United States, government was responsible for 70 percent of investment in canals and 30 percent of the investment in railroads”⁷¹ State and local governments pursued development when the national government withdrew. This became the hallmark of “fiscal federalism” discussed in Chapter I. “State, economy, and society were mutually interwoven in an overarching practice of well regulated governance,” posited William J. Novak.⁷² States assumed the role of promoting development, as the national government retreated from these enterprises.

⁶⁷ David Potter, *People of Plenty* (Chicago: University of Chicago Press, 1954), 123.

⁶⁸ Oscar and Mary Handlin, *Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861* (New York: New York University Press, 1947); Hartz, *Economic Policy and Democratic Thought*, 1948; Milton S. Heath, *Constructive Liberalism: The Role of the State in Economic Development in Georgia to 1860* (Cambridge, MA: Harvard University Press, 1954).

⁶⁹ Robert A. Lively, “The American System: A Review Article,” *Business History Review*, 29 (March, 1955), 86.

⁷⁰ B. U. Ratchford, *American State Debts* (Durham: Duke University Press, 1941), 88.

⁷¹ Carter Goodrich, *Government Promotion of American Canals and Railroads, 1800-1890* (New York: Columbia University Press, 1960), xxii.

⁷² Novak, *The People’s Welfare*, 84-85.

United in their eagerness to “build-up their country and make their fortunes, Americans relied on state government support.”⁷³ Government support provided access to the public domain, protected settlers from the Native Americans, provided a usable currency to facilitate trade, and built arteries to move goods back and forth to the market. “The great demand for capital in the United States, and the extent of territory compared to population,” Albert Gallatin reasoned, necessitated government sponsorship of internal improvements.⁷⁴ When the federal government withdrew from direct support of these projects after the presidency of John Quincy Adams, state government filled the void. State-based projects also relieved Americans of the fear of concentrating too much power in the central government. Andrew Jackson noted in his Maysville Road veto that the national government must “avoid an evil influence upon the local concerns of the country.” He did not “oppose federal projects in principle,” instead believed the Constitution mandated that state governments, not the national government, guide this development.

Facilitating the “release of individual creative energy,” noted J. Willard Hurst, “remained the dominant paradigm in American law during the nineteenth century.”⁷⁵ Rather than a “laissez-faire” attitude toward government, state and local governments assumed energetic responsibility for ensuring public safety, providing education and maintaining a “well-regulated market,” and “facilitated local trade.”⁷⁶ Indeed, while serving as president, Martin Van Buren complained that communities look to government “for too much.”⁷⁷ Lawrence Kohl described the American attitude toward government during the Jacksonian era as “protect me, then let me alone.”⁷⁸ Rather than

⁷³ Goodrich, “Revulsion Against Internal Improvements,” 169.

⁷⁴ Albert Gallatin, Report on Roads and Canals, March 2, 1807 in *American State Papers, Miscellaneous*, 741. Alexander Hamilton used similar justifications for government support of industry. Hamilton, *Papers on Public Credit, Commerce and Finance*, Samuel McKee, ed. (New York: Liberal Arts Press, 1957), 178.

⁷⁵ Hurst *Law and the Conditions of Freedom*, 7.

⁷⁶ Novak, *People's Welfare*, 19-50.

⁷⁷ John Ashworth, *Agrarians and Aristocrats: Party Political Ideology in the United States, 1837-1846* (New Jersey: Humanities Press, 1983), 18.

⁷⁸ Kohl, *The Politics of Individualism*, 104

an era of rugged individualism, Americans actively used government to further their ambitions. But this relationship occurred at the local and state level, not with the national government.

“Americans in the nineteenth century asked the impossible of their government,” quipped Wallace Farnham. They required it “to subsidize without governing, ... transfer the nation’s resources into their hands, ... underwrite enterprise without stomping on liberty,” and provide “domestic tranquility” without “consistent force or steady revenue.”⁷⁹ Economic development occurred with state aid and guidance.

The Revolution in Government

The American Civil War breached, but did not destroy, the lines of the federalist system established during the antebellum era. The national government assumed responsibilities that had, historically, been claimed by the states. The Homestead Act and the aid to the Pacific Railroad provided direct aid in economic development, two areas dominated by states since the 1820’s. Citizenship, the right to vote, and guaranteeing the civil rights of four million freedmen in southern states fell under national, not state, control. In the late nineteenth century however, the national government reverted back to the antebellum federalist structure of leaving these matters to state and local control. Both the Union and Confederate governments mandated conscription for the first time in both the Union and the Confederacy, ensnaring the poor and patriotic, but missing those with property or the means to buy a replacement.

States soon resumed their responsibility for the “life and liberty” of their citizens. They took control over voting rights through devices such as literacy tests and poll taxes. The army shrank again; only 9,000 troops served in the “occupied” South in 1870.⁸⁰ A narrow interpretation of the Fourteenth amendment reduced the governments’ (both national and state) regulatory authority over corporations. States soon re-established

⁷⁹ Wallace D. Farnham, “The Weakened Spring of Government: A Study in Nineteenth Century American History,” *American Historical Review*, 68 (April, 1963), 662.

⁸⁰ James E. Sefton, *The United States Army and Reconstruction, 1865-1877* (Baton Rouge: Louisiana State University Press, 1967), 262.

their control over the “personal” interactions of their citizens, including the freedmen’s newly established right to vote.

Justly lamented as the failure of Reconstruction and abandonment of the freedmen, who sought government assistance in establishing an independent livelihood, the endurance of the federalist system into the late nineteenth century created much of the despair of the twentieth century. However, this desertion resulted less from a lack of will, then because of the overwhelming burden and resilience of the federal structure. The endurance of state based federalism made the gains in national power during the Civil War temporary. “Congress subsidized, but did not supervise. The impact of events since Sumter was to sound loudly the message that the national government could achieve goals, old or new, through essentially traditional ways and means,” argued Harold M. Hyman.⁸¹ The Union fought the war to preserve the nation, not change it irrevocably. Soon after the war ended, Senator William Pitt Fessenden (R. ME), an influential member of the Senate, who served briefly as Treasury secretary, urged a return, “as fast as possible” to the “imperatives” of the written Constitution.⁸² Although the national government took on more power and authority during the course of the war, many Americans agreed with Fessenden that a return to dual federalism of the antebellum era would best suit the reunited nation.

However, the fiscal policy of the nation did change and never reverted to the federalism of the earlier era. The national government assumed a greater power through “the purse.” Federal revenues never exceeded \$74 million before 1861; after 1865, they never fell below \$257 million.⁸³ Instead of relying primarily on duties gathered at distant ports, the national government after the Civil War collected internal revenue directly from citizens as well as indirectly through tariffs. States also increased their budgets, and correspondingly, their revenue. Franklin Pierce reflected in 1853 that the

⁸¹ Harold M. Hyman, *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution* (New York: Knopf, 1973), 382.

⁸² Quoted in *Ibid*, 379.

⁸³ Davis R. Dewey, *Financial History of the United States*, 12th ed. (New York: Longmans, Green and Co, 1939), 267 and 399.

executive “must maintain an unsleeping watchfulness against the tendency of all national expenditure to extravagance.”⁸⁴ The watchfulness disappeared. Government corruption emerged and became rampant during the post-war Reconstruction Era, when the “old moral standards” collapsed.⁸⁵

The “growth of special [primarily internal improvement and corporate] legislation in the 1840’s and 1850’s” resulted in “corruption [becoming] a serious problem for the first time,” Douglas Bowers related. During the antebellum era, this exploitation of government power occurred more frequently at the state rather than the national level.⁸⁶ States allocated more money for development than the national government. State legislatures provided more opportunities for directing public funds to special projects; those assemblies, more than Congress, became the target for influence peddling. But the Civil War taught Americans that “government could legitimately spend on a grand scale,”⁸⁷ and this lesson paved the road for the expansion in national government authority, and the benefits and evils that accompany power. The new revenue that came into the federal coffers opened areas for expansion of federal reach, and the “unceasing watchfulness” of the antebellum period gave way to a period of “riotous living.”⁸⁸

This dissertation examines this transformation. The national government emerged from the Civil War as a perceived power, one that expanded its scope and

⁸⁴ Franklin Pierce, “First Annual Message,” December 5, 1853 in *Messages and Papers of the Presidents*, Richardson, ed., 2758.

⁸⁵ Samuel Eliot Morison and Henry Steele Commager, *The Growth of the American Republic*. 2 vols. (New York: Oxford University Press, 1950): II, 74; the classic study in this literature remains, Matthew Josephson, *The Robber Barons: The Great American Capitalists, 1861-1901* (New York: Harcourt, Brace, Co., 1934). For a study of national corruption, see Mark W. Summers, *The Plundering Generation: Corruption and the Crisis of the Union, 1849-1861* (New York: Oxford University Press, 1987).

⁸⁶ Douglas E. Bowers, “From Logrolling to Corruption: The Development of Lobbying in Pennsylvania, 1815-1861,” *Journal of the Early Republic*, 3 (Winter, 1983), 459. See also . . .

⁸⁷ Daniel J. Elazar, “Discussion on Government-Business Relations,” in *Economic Change in the Civil War Era* (Greenville, DE: Eleutherian Mills-Hagley Foundation, 1965), 105.

⁸⁸ Farnham, “The Weakened Spring of Government,” 662..

power under the duress of war, and now became a presence in the lives of most Americans. However, the embedded strength of federalism continued to act as a restraint on the full exercise of this new authority. While veterans, their widows and children received direct benevolence from Washington, the liberated freedman reverted to a condition of limited rights and penury. They received no support or protection from this new power. The ill that accompanies new largesse swooped faster and with more precision than the good. The greatest force for limiting national expenditure, the restraint on taxation, disappeared. Yet the newly enriched authority, with few restraints and little oversight upon its expenditures, used these revenues to assist Americans ‘individually,’ only touched a few.

CHAPTER II

FISCAL FEDERALISM

The delegates to the 1787 Constitutional Convention constructed a federalist system of government for the United States. The state and national authority would co-exist as “sovereign jurisdictions, each limited within a certain prescribed boundary.” Delineating the bounds of national and state power proved more difficult. Jurists and politicians, to this day, have struggled to interpret this ideal of federalism. The conflicts over how best to “agglomerate” the “small and sovereign nations” that united into a republic and declared independence from Great Britain shaped the course of events throughout the nineteenth century.¹

Establishing a fiscal policy within this structure surfaced as an early challenge. The delegates to the Constitutional Convention understood that “the power to tax is an essential part of the power to govern.”² Therefore, a particular intensity accompanied the debates over how to generate adequate revenue for the co-existing national and state governments. These separate governments had to tap the same taxpayers, and this constituency had demonstrated its prickliness during both the Colonial and Confederation eras. Despite the volatility of this topic, a consensus emerged before the Convention that the system of requisitions used to finance the government under the Articles of Confederation did not work and needed revision. Early in the deliberations over fiscal policy, the delegates agreed that the national government would receive most of its revenue from customs duties. State governments would retain sovereign powers over their finances, limiting only their ability to collect import and export duties. Both governments kept their ability for independent financing.

In this chapter, I argue that the federalist system adopted by the United States shaped the revenue structure that emerged in the United States until the onset of the Civil

¹ Charles B. Goodrich, *The Science of Government as Exhibited in the Institutions of the United States* (Boston: Little, Brown and Co., 1853), 4.

² Sidney Ratner, *American Taxation: Its History as a Social Force in Democracy* (New York: W.W. Norton, 1942), 18.

War. Whereas other areas of national and state influence remained influx throughout the antebellum era, the fiscal system originally envisioned in the late eighteenth century endured. Since Charles and Mary Beard published their seminal work, *An Economic Interpretation of the Constitution of the United States*, scholars have viewed the Constitution as an extension of the economic tumult that convulsed the movement toward independence.³ A narrow interpretation of the Beard's thesis suggests that the Framers designed the Constitution to protect their private assets, and securing this wealth played a decisive role in the development of the Constitution. A broader application of the Beards' ideas placed the Constitution within the context of class conflict, suggesting that the Constitution acted as "an aristocratic document to check the democratic tendencies of the period."⁴ This chapter begins with the understanding that the Framers hoped this new type of government would endure and this foresight, rather than a concern for their immediate pecuniary interests, directed their actions. They wanted the government to work, and made decisions and compromises to realize that end.

This chapter focuses on how the framers of the Constitution allocated the fiscal power in a federalist government. The economic interests of the different sections of the country played a role in shaping this development, but the challenge of maintaining both the state and national governments played a more decisive a role, I argue. Concurrence rather than discord characterized these debates. Disputes arose over the allocation of fiscal authority, particularly with regard to the direct tax. However, the Framers did not dispute the basic premises of fiscal federalism. The national government would rely on indirect taxes, while state and local governments would have few limitations on their fiscal power, and rely as necessary on direct taxes. During the ratification debates, Anti-federalists argued that the Constitution granted the central government "unlimited" taxing powers, however the national government's fiscal powers remained circumscribed. The distribution of the "power of the purse" between the state and

³ Charles A. and Mary R. Beard, *An Economic Interpretation of the Constitution of the United States* (New York: Macmillan Co., 1935).

⁴ Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969).

national governments played the predominant role in shaping the early nineteenth century tax structure. Concurrently, states developed unique fiscal strategies that accommodated local economies and interests.

Second, for over a century scholars have focused on the “centrality of slavery to taxation.”⁵ Slavery became the backbone of the American economy in the antebellum era. It represented the most important “economic interest” until the passage of the Thirteenth Amendment. This weight alone made slavery a key aspect in the government economic policy. While not denying that the peculiar institution affected the development of national fiscal structure, I suggest that balancing the reach between state and national authority played a more important role in shaping national tax policy. The attempt by the early Federalist administrations to expand the accepted limitations of the national government contributed significantly to the “Revolution of 1800,” and the ascendancy of the Democratic-Republican Party. This brought the national government back within its “due limits” of fiscal authority.

To understand the actions taken by Republican leaders during the early months of the American Civil War one needs to appreciate the limitations created by this system of fiscal federalism. Throughout the antebellum era, the fiscal powers of the national government remained constrained. States had far more flexibility when faced with financial crises. These limitations on financial power greatly influence the decisions made on financing the war.

⁵ Quote in Robin L. Einhorn, “Slavery and the Politics of Taxation in the Early United States,” *Studies in American Political Development* 14 (Fall, 2000), 182; Edwin R. Seligman, *The Income Tax: A Study of the History, Theory, and Practice of Income Taxation* (New York: Macmillan Co., 1914), 548-555; Charles J. Bullock, “The Origin, Purpose, and Effect of the Direct Tax Clause of the Federal Constitution,” *Political Science Quarterly*, 15 (September, 1900); Charles Dunbar, “The Direct Tax of 1861,” *Quarterly Journal of Economics*, 3 (July, 1889), 436-461; Bruce Ackerman, “Taxation and the Constitution,” *Columbia Law Review*, 99 (January, 1999), 1-58; Beard, *Rise of American Civilization*, II: 45.

Development of Fiscal Federalism

The thirteen colonies first united under one Constitution through the Articles of Confederation. Progressive historians, led by Merrill Jensen, held that the Articles resulted from conflict between the “classes” and “interests” in the emerging nation.⁶ Jack N. Rakove has challenged this traditional interpretation, and persuasively suggested that the Articles reflected an attempt to forge national unity. He minimized the role of competing factions, and instead saw the movement for a new government as a pragmatic response to the challenges of war and national formation.⁷

The Articles of Confederation created a decentralized government that succeeded on some fronts, but failed unequivocally on others. Under the Articles, the states enjoyed “sovereignty, freedom and independence” as distant colonies of Great Britain, then as a loose confederation of states that assembled in the Continental Congress. The “league of friendship” created by the Articles bowed to state autonomy. Each state held one vote in the unicameral legislature. Decisions regarding appropriations, the conduct of the Revolutionary War, and other matters of national concern, required approval by nine of the thirteen states, not a simple majority. In rejecting the British monarchy, the Articles created a decentralized government with no executive branch. This left the country with a leadership void, a distinct disadvantage for a nation at war. Though drafted in 1777, the Articles of Confederation did not take effect until 1781, because ratification required unanimous consent from all the states. Amending the Articles required consent from all the states.⁸

States controlled the “purse and the sword,” both requisitions and the militias, during the Revolutionary War. The Continental Congress could not levy taxes. The

⁶ Merrill Jensen, *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* (Madison: University of Wisconsin, 1940).

⁷ Jack N. Rakove, *The Beginnings of National Politics: An Interpretative History of the Continental Congress* (New York: Alfred Knopf, 1979).

⁸ The best, concise description of the Articles is found in Jack N. Rakove, “The Articles of Confederation,” *The Blackwell Encyclopedia of the American Revolution*, Jack P. Greene and J.R. Pole, eds. (Cambridge, MA: Basil Blackwell, Inc., 1991), 116.

eighth article of the Confederation stated that a “common Treasury” would pay the war costs and other “national expenses.” The assembly could not compel the states to provide either the supplies or funds for the Revolutionary War. Instead, the Continental Congress had to request, hat in hand, for state compliance with wartime requisitions. The individual legislatures then determined the level of their contribution to the national cause. State governments, not the national government, held the power of the purse until ratification of the Constitution.

The tax policies within the separate colonies varied. “By 1763, no two colonies had exactly the same revenue laws,” observed Robert A. Becker.⁹ Rather than trying to impose one system of taxation on the separate states, the Articles of Confederation allowed the individual legislatures to devise, or continue, their unique tax schemes. This reduced the “public and private finances in America” to a “system that was little short of national anarchy.”¹⁰ The supplies needed to feed, cloth, and arm the Continental forces often did not materialize. “For some days, there has been little less than famine” in the camp, wrote George Washington from Valley Forge during the disastrous winter of 1777. “For god’s sake,” pleaded his aide-de-camp, Alexander Hamilton, in one of many letters he penned begging for wartime supplies, “our distress is infinite.”¹¹

The ultimate success of the Revolutionary War did not ensure national survival. America entered a “critical period” in which the debt from the war, continued fear of foreign powers, competing ideologies, and a collapsing state-based revenue system imperiled the future of the country.¹² This economic tumult created the desire in citizens for a stronger central government. “The movement to strengthen the Union,” observed E. James Ferguson, evolved from the need to meet debt obligations and instigated the

⁹ Robert A. Becker, *Revolution, Reform, and Politics of American Taxation, 1763-1783* (Baton Rouge: Louisiana State University Press, 1980), 6.

¹⁰ William J. Shultz and M. R. Caine, *Financial Development of the United States* (New York: Prentice-Hall, Inc, 1937) 72-73.

¹¹ Ron Chernow, *Alexander Hamilton* (New York: Penguin Press, 2004), 107-8.

¹² John Fiske coined the term “critical period” in *The Critical Period of American History: 1783-1789* (Boston: Houghton Mifflin, 1888). A good review of the work on this scholarship is Richard B. Morris, “The Confederation Period and the American Historian,” *William and Mary Quarterly*, 3rd series, 13 (April, 1956), 139-156.

movement to grant Congress the “power of the purse.”¹³ Robert A. Becker argued that the Constitution stifled the more progressive tax policies emerging in the individual states.¹⁴ Roger H. Brown counters that the failure of the states to meet their Revolutionary War financial obligations provoked the nationalists to draft a Constitution that gave the central government more fiscal muscle.¹⁵ The states’ failure to act as effective “administrative agents” for the new nation began to chip at the fear of consolidating power in a stronger central government.¹⁶ “The fundamental defect,” in the Articles of Confederation,” Hamilton griped to George Washington, is that “the power of the purse is too intirely to the state legislatures.”¹⁷

By proposing a five percent duty on imported goods, the Continental Congress attempted to address its need for revenue independent of the states. The change required unanimous consent from all the states, but Rhode Island refused to acquiesce. The objection to the impost, Jackson Turner Main suggested, arose from concerns about shifting power to the central government.¹⁸ “The issue was control of the government,” Thomas Barrow observed, “and in revenue lay the key to sovereignty.”¹⁹ The states did not wish to relinquish any of their control over the national revenue. However, the Continental Congress had trouble meeting the payments on the war debt. The national debt totaled over \$27 million; the states had accumulated an even larger burden. No

¹³ E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (Chapel Hill: University of North Carolina Press, 1961).

¹⁴ Becker, *Revolution, Reform, and the Politics of American Taxation*, *op.cit.*

¹⁵ Roger H. Brown, *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution* (Baltimore: Johns Hopkins University Press, 1993).

¹⁶ Rakove, “The Articles of Confederation,” 294.

¹⁷ Alexander Hamilton to George Washington, *Documentary History of the Ratification of the Constitution*, Merrill Jensen, ed. 20 vols. (Madison: State Historical Society of Wisconsin, 1976), 13: 9 Referred to hence as Jensen, ed., *Documentary History*.

¹⁸ Jackson Turner Main, *The Anti-Federalists: Critics of the Constitution, 1781-1788* (Chapel Hill: University of North Carolina Press, 1961), 17.

¹⁹ Thomas Barrow, *Trade and Empire: The British Customs Service in Colonial America, 1660-1775* (Cambridge: Harvard University Press, 1967), 257.

clear understanding existed as to how, or who (the states or the nation) would service or reconcile these obligations.²⁰

The economy of the fledgling country suffered in the early years. Between 1775-1790, “something truly disastrous happened to the American economy.” McCusker and Menard estimated that the economic performance during this period fell by 46 percent (in comparison, at the onset of the Great Depression the gross national product fell 48 percent.)²¹ Strained for revenue throughout the Revolutionary War, Congress in the post-war period could not rectify its financial embarrassments. Americans, who as citizens of the British Empire had enjoyed a standard of living “probably the highest achieved ... in any country up to that time,” experienced a rapid reversal of their fortunes.²² They had endured “acute suffering” during the war “when prices began to run away and everyone felt the pinch.”²³ States resorted to “currency financing,” printing paper money to pay their obligations, and contracting loans to help meet wartime costs.²⁴ These currencies depreciated after the war. Soldiers paid with bonds found the value of their securities dwindling, and sold them to speculators. This precarious state of the nation’s finances convinced many that they stood on the “very brink of a precipice.” Americans abandoned their fear of centralizing power in the national government in order to rectify the finances of the country. To ensure survival, they determined “to experiment with a conservative formula of sound money and unrestrained private enterprise.”²⁵

²⁰ Ferguson, *The Power of the Purse*, 252.

²¹ John J. McCusker and Russell R. Menard, *The Economy of British America, 1607-1789* (Chapel Hill, University of North Carolina Press, 1985), 373-374.

²² Alice Hanson Jones, “Wealth Estimates for American Middle Colonies, 1774,” *Economic Development and Cultural Change*, 18 (1970), 130.

²³ Robert A. Gross, *The Minutemen and Their World*. Reprint. (New York: Hill and Wang, 2001), 60.

²⁴ E. James Ferguson, “Currency Financing: An Interpretation of Colonial Monetary Practices,” *William and Mary Quarterly*, 3rd series, 10 (April, 1853), 153-180. This practice is repeated in both the War of 1812 and the American Civil War.

²⁵ Ferguson, *The Power of the Purse*, 250, 112-113.

The Continental Congress's inability to generate adequate funds and supplies for the war had frustrated James Madison, who represented Virginia in the assembly. On the eve of the Constitutional Convention, Madison identified the "Vices of the Political System of the United States," and listed the "Failure of States to Comply with the Constitutional requisitions" as the first ailment, and the one that proved "fatal to the object of the present system."²⁶ Although still unsure of how much power to vest in a national government, many began to question the state-based economic structure of the emerging nation. This sentiment spurred the consolidation of the nation's fiscal power under the Constitution.²⁷

"The Life and Soul of Government"

"Taxation is the great means of protection, security and defence in a good government," remarked Robert Yates, in one of his many Anti-Federalist tracts under the pen name "Brutus." However, he continued, it can also produce "the great engine of oppression and tyranny in a bad one."²⁸ The delegates to the Convention faced the challenge of providing for the former, without unleashing the latter. Upon their arrival in Philadelphia, a majority of the delegates readily agreed to vest the "power of the purse" in the national government. "The power which holds the purse-strings absolutely must rule," Hamilton noted, and few of the Convention delegates dissented from this belief.²⁹ The "vile state governments" niggardly contributions to the war effort "nearly prevented America from becoming a nation," Henry Knox complained.³⁰ Congress's fiscal impotency under the Articles of Confederation spurred the Philadelphia delegates to grant new taxing powers to the central government.

²⁶ *The Writings of James Madison*, Gaillard Hunt, ed. 9 vols. (New York: G.P. Putnam Sons, 1901): II, 349.

²⁷ Curtis P. Nettels, *The Emergence of a National Economy*. (New York: Holt, Rinehart, and Winston, 1962), 87-92.

²⁸ Jensen, ed. *Documentary History*, XIII: 414.

²⁹ Quoted in Ferguson, *Power of the Purse*, 111.

³⁰ Wood, *The Creation of the American Republic*, 467.

“The fundamental problem of federalism,” Jack Rakove posited, “was to assure that different groups of states would feel that their essential interests would be secure in a Union in which they might find themselves a distinct minority.”³¹ Small states did not wish to lose the equal representation they enjoyed under the Articles of Confederation. Honoring this tradition, and the power it bestowed on the smaller states, while creating a representative government emerged as the decisive issue at the Constitutional Convention. “The great difficulty lies in the affair of Representation; and if this could be adjusted, all others would be surmountable,” Madison noted on June 19.³² The “Great Compromise” resulted. Population became the basis for representation in the “lower” House of the bicameral legislature. States, large and small, shared equal representation in the Senate, as they had under the Articles of Confederation. Achieving this settlement consumed the first weeks of the Convention.

Because of the size of the nation, state governments needed to maintain internal order. This belief helped shape the early commitment to a federalist structure of government. Most political thinkers at the time believed the states needed to retain some autonomy and power because no republican government could rule such a large country. Even before purchasing Louisiana from France, the United States comprised as much land as the largest countries in Europe. State governments needed to maintain internal order, thwart incursions from the European powers that surrounded the American territory, and protect citizens from the “merciless Indian savages”³³ who resented being driven from their lands. In the second grievance listed in the Declaration of Independence, Thomas Jefferson complained that King George III had “forbidden governors” from “passing laws of immediate and pressing importance” to the colonists. Without some local authority, the Americans would lose the promise of the revolution. States needed to retain their self-sufficiency, or only a tyrannical central government,

³¹ Jack Rakove, *James Madison and the Creation of the American Republic* (New York: Longman Press, 2002), 224.

³² James Madison, *Notes of the Debates on the Federal Convention of 1787*, Adrienne Koch, ed. (Athens, OH: Ohio University Press, 1960), 147. Hence, Madison, *Notes*.

³³ Thomas Jefferson’s description of Native Americans in the Declaration of Independence.

that controlled a large army, could maintain the extensive borders of the new country and keep internal peace.

“A very extensive territory cannot be governed on the principles of freedom otherwise than by a confederation of republics,” argued the Pennsylvania Ratification Convention’s minority report. Therefore the states must maintain authority over their “internal government.”³⁴ Local representatives and governance best protected the interests of the people. Having rid themselves of one unresponsive, authoritarian government, Americans did not wish to establish another. James Monroe articulated this fear when he stated that, “the territory lying between the Atlantic Ocean and the Mississippi ... far exceeds the German Empire. It is too extensive to be governed but by a despotic monarchy.”³⁵

The breadth of the country made self-supporting state governments necessary. As James Madison stated in *Federalist 14*:

The subordinate governments ... will retain their due authority and activity. Were it proposed by the plan of the Convention to abolish the governments of the particular states ... the general government would be compelled by the principle of self-preservation to reinstate them in their proper jurisdiction.³⁶

The states had to retain authority over their citizens, or the United States would devolve into a less republican form of government.³⁷ Therefore the delegates in Philadelphia had to protect the authority of the state governments. This dilemma provided the basis for the federalism that emerged in the antebellum period. Madison confided to George Washington before departing for Philadelphia that he wished to grant Congress “a negative in all cases whatsoever on the local legislatures,” while admitting

³⁴ Jensen, ed. *Documentary History*, XV: 21.

³⁵ *Debates on the Adoption of the Federal Constitution*, Jonathan Elliot, ed. 5 vols. Reprint, 1888. (Salem, NH: Ayer, 1987): III, 215-216. Hence, Elliot, *Debates*.

³⁶ James Madison, “Federalist 14,” in *The Federalist: A Commentary on the Constitution of the United States*, Paul L. Ford, ed. (New York: Henry Holt and Col, 1898), 84. Hence, *The Federalist*.

³⁷ One point made in Drew McCoy, *The Elusive Republic: Political Economy on Jeffersonian America* (Chapel Hill: University of North Carolina Press, 1980).

that a “consolidation of the whole into one simple republic would be as inexpedient as it is unattainable.” Pragmatically, he accepted instead that a “middle ground” that would support a “due supremacy of the national authority” but “not exclude the local authorities wherever they can be subordinately useful.”³⁸

During the proceedings, Madison told the delegates that the national government needed “vast” powers within its sphere, however this authority would not be exercised on the citizens of the country “individually.”³⁹ He expanded on this theme later in *Federalist 45*. The powers granted to the national government, he wrote, were “few and defined.” Its influence would grow only in times of “war and danger.” Otherwise, the central government would exert little “personal influence” over the citizens of the country. State governments would remain the guarantors of the “lives, liberties, and properties of the people,” while securing “internal order, improvement, and prosperity.”⁴⁰ These thoughts reflect Madison’s understanding “that a national government would be too distant to perform all the functions traditionally performed by the states.”⁴¹ They also foretold the national system of taxation that emerged from the Convention.

Indirect taxes became the basis of the national government’s finances. The new Constitution granted the central government the power to “lay and collect taxes, duties, imposts, and excises,” independent of the states. States would no longer contribute to a “common Treasury,” as they had done under the Articles of Confederation. The national government would not depend solely on state “requisitions” or need unanimous state approval to meet the nation’s fiscal needs. Uniformity in the duties, imposts, and excises obligated the same tax on goods throughout the country, and would keep the majority in the large states from indiscriminately taxing the smaller states. This system of taxation

³⁸ James Madison to George Washington, April 16, 1787, *Writings of James Madison: II*, 344-345.

³⁹ These terms come from the Constitution, the Preamble and Article I, Section 8; Madison, *Notes*, 140.

⁴⁰ Madison, “Federalist 45,” in *The Federalist*, 307, 310.

⁴¹ Kevin R. Gutzman, “A Troublesome Legacy: James Madison and the ‘The Principles of ’98,’” *Journal of the Early Republic*, 15 (Winter, 1995), 572.

gave the national government independence from state fiscal control. No longer would it have to rely on requisitions from the states to pay its bills. “Money is the nerve – the life and soul of government,” Governor Randolph explained to the Virginia ratification convention in defense of taxing powers vested by the Constitution. The general government needs to have, “the power of providing its own safety and existence.”⁴²

The Constitutional Convention delegates proceeded with the understanding that the United States would generate most of its revenue from indirect taxes. Import and export duties, as well as excise taxes comprised indirect taxes. The broad acceptance of this form of taxation relied on the belief that levying duties on imported goods steered towards a form of progressive taxation. Imports such as wine, silk, and other fineries represented “luxuries,” and taxing these “extravagant” goods shielded those who did not indulge from paying these duties. These distinctions have become the difference between progressive and regressive taxation. With a progressive tax, the average rates rise with the tax base; the wealthy pay a higher percentage of their income as taxes than those less fortunate. Regressive taxes take a higher percentage of the earnings of those with low incomes. Since duties on imports tended to hit goods purchased by the wealthy, rather than the poor, taxing imports constituted, at the time, a form of progressive taxation.⁴³ “The rich may be extravagant, the poor can be frugal; and private oppression may always be avoided by a judicious selection of objects proper for such impositions,” explained Alexander Hamilton in *Federalist 21*. Well-selected import duties avoided the “inequalities” in taxation.⁴⁴

Thomas Cooley, who wrote a definitive, four-volume study of the development of American tax law, gives another reason the Philadelphia delegates embraced indirect taxation as the primary source of revenue in the new country. “They are levied upon commodities before they reach the consumer,” he noted, “and are paid ultimately not as

⁴² Elliot, *Debates*, III: 115.

⁴³ I elaborate upon this idea in Chapter III. Edgar K. and Jacqueline M. Browning, *Public Finance and the Price System*, fourth ed. (Englewood Cliffs (NJ): Prentice Hall, inc., 1994), 346.

⁴⁴ Hamilton, “Federalist 21,” *The Federalist*, 129.

taxes, but as part of the market price for the commodity.”⁴⁵ They become a hidden tax, with the citizen’s contribution to government masked by his or her consumerism.

Revolts against state impositions continued throughout the “critical period,” according to Roger H. Brown. Those writing the Constitution wanted to avoid additional unrest, and import duties seemed ideal for the task.

“Strange as it may seem,” remarked historian Frederic C. Howe, “that section of the Constitution,” Article I, section 8 that grants Congress authority to levy indirect taxes, “was enacted without much opposition or discussion.”⁴⁶ Relying on indirect taxes, especially import or export duties, also seemed the most practical means of meeting the Treasury’s needs. “A very considerable part of the revenue of the United States will arise from that source,” James Wilson explained to the Pennsylvania ratification convention. He then reiterated the virtues of indirect taxation:

It is the easiest, most just, and most productive mode of raising revenue. It is a safe one because is it voluntary. No man is obliged to consume more than he pleases, and each buys in proportion only to his consumption. The price of the commodity is blended with the tax, and the person is often not sensible of the payment.⁴⁷

Collected at ports or individual businesses, indirect taxes did not involve systematic assessments of individual property. Therefore, they required fewer revenue officers. This kept the national government confined within its fiscal sphere, and not interacting “individually” with citizens. Also, the “infatuation with foreign commerce and luxury” led to an “anti-luxury hysteria amongst many commentators who extolled the virtues of republican simplicity,” Drew McCoy noted.⁴⁸ Consumption taxes also had the advantage of “discouraging luxury,” since fineries would become more costly.⁴⁹ Indirect taxation re-enforced the ideals of establishing a republican nation.

⁴⁵ Thomas M. Cooley, *The Law of Taxation*, 4 vols. (Chicago: Callahan Publishers, 1924), I: 224.

⁴⁶ Frederic C. Howe, *Taxation and Taxes in the United States under the Internal Revenue System, 1791-1895* (New York: Thomas Y. Crowell Co., 1896), 10.

⁴⁷ James Wilson in, Elliot, *Debates*, II: 467.

⁴⁸ McCoy, *Elusive Republic*, 90-104.

⁴⁹ Madison *Notes*, 498.

The convention delegates considered three options for indirect taxation: import duties, export duties, and excise taxes. Following from colonial precedent, they soon agreed on import duties as the best means for collecting national revenue. This continued a precedent established during the colonial era. England had long relied on tariffs for its national revenue. “The duties of customs are much more ancient than those of excise,” noted Adam Smith.⁵⁰ Customs officers inhabited American ports since 1671, when Dudley Digges, a native born Virginian, received a royal commission to stem the “numerous frauds” on the tobacco trade.⁵¹ During the Revolutionary War, the individual colonies assumed control over the ports, and customs houses, wrested from British control. Although the Articles of Confederation barred the national government from collecting import duties, state governments could and did. Individual states collected tariffs until the ratification of the Constitution. Americans paid these duties to the British government while colonists, thus the practice did not rankle when the states took over the customs houses. A customs administration existed, making tariffs the “easiest” to collect in the inchoate fiscal system.

This helps explain the ready acceptance of customs duties as the primary source of federal revenue: the system existed and would not have to be created anew. Although the President George Washington’s first administration revamped and expanded the customs administration, a skeletal system existed, complete with customs houses, an understanding the productivity of different tariffs, even an internal jargon that all understood. In addition, as Oliver Ellsworth explained to the Connecticut ratification convention, import duties do not “fill the country with revenue officers, instead confined the tax collectors to the sea coast.”⁵²

Anti-federalists also acknowledged that import duties should provide the income for the national authority. “The general government ought to have sole control over the impost upon goods imported from foreign countries,” commented the usually critical

⁵⁰ Adam Smith, *An Inquiry into the Nature and Causes of The Wealth of Nations* (1776; reprint, New York: Random House, 1937), 829.

⁵¹ Barrow, *Trade and Empire*, 12-13.

⁵² Elliot, *Debates*, II: 193.

Brutus.⁵³ “The delegation of the power of taxation to Congress,” chimed the Anti-Federalist, Centinel II, “as far as duties on imported commodities, has not been objected to.”⁵⁴ Oliver Ellsworth (CT) reassured localists at the Connecticut ratification convention that import duties “interfere less with the internal police of the states.”⁵⁵ The central government would not have to “stretch its hand directly into the pockets of the people scattered over so vast a country,” observed Gouverneur Morris (PA).⁵⁶ Finally, many believed that the foreign producers assumed a portion of the tariff fee; therefore the tax did not fall wholly on American citizens.⁵⁷ For all these reasons, customs duties emerged as the ideal source of revenue for the general government in a federalist system.

The Philadelphia delegates never considered excise taxes seriously as a permanent source of national revenue. Though the Constitution granted the power to collect these “odious” taxes, they had the potential of inciting the citizens’ hostility. The power to lay excises, cautioned Luther Martin, “authorizes officers to go into your houses, your kitchens, your cellars, and to examine into your private concerns.” Congress could tax “every article of use or consumption, on the food that we eat, on the liquors that we drink, and the clothes we wear, or the hearths necessary for our warmth and comfort.”⁵⁸ Excise taxes had been “in detestation in most countries and have always met with opposition,” noted a petitioner to the first Congress.⁵⁹ “The genius of the people will ill brook the inquisitive and peremptory spirit of excise laws,” Alexander Hamilton predicted in *Federalist 12*.⁶⁰ Excise taxes also strained the structure of fiscal federalism. Many states collected excise taxes (particular liquor), and they did not wish

⁵³ Jensen, ed. *Documentary History*, XV: 239.

⁵⁴ Jensen, ed. *Documentary History*, XIII: 465.

⁵⁵ Elliot, *Debates*, II: 190-197.

⁵⁶ *1787: Drafting the United States Constitution*, Wilbourn E. Benton, ed. 2 vols. (College Station: Texas A&M University Press, 1986), I: 944.

⁵⁷ Edward Stanwood, *American Tariff Controversies in the Nineteenth Century*, 2 vols. Reprint. (New York: Russell and Russell, 1967): I, 85-86.

⁵⁸ “Luther Martin’s Letter on the Federal Convention,” in Elliot, *Debates*, I: 364.

⁵⁹ “Petition on the Whiskey Excise,” January 28, 1791. *New American State Papers, Finance*, vol. 32, 13.

⁶⁰ Hamilton, *Federalist 12*, 74.

to compete with the national government for this revenue. Collecting excise taxes would also mean expanding the role of the federal government, since the “excise man” would move within the states collected the taxes. Only with the beginning of the Civil War did the government commence using excise taxes extensively.

Taxing exports represented the final form of indirect tax revenue considered by the Philadelphia delegates. Americans had paid export duties as colonists in the British Empire and many states collected export duties after independence. The thirteen American colonies shipped on average over £2.5 million in commodity exports annually between 1768-1772, with the upper and lower South dominating this trade.⁶¹ Many of the “staple states” (Maryland, Virginia, North Carolina, South Carolina, and Georgia) collected export duties on tobacco, rice, and indigo, and relied on this source of revenue for the local government. Because this tax would fall primarily on these states with high slave populations, this species of tax became entangled with the debate over the future place of slavery in a republic. During the discussion that resulted in the “three-fifths clause,” General Pinckney (SC) expressed his “alarm” that Congress might tax exports. On July 12, he insisted on adding a clause “restraining the Legislature from taxing exports.” Otherwise, this would unfairly burden South Carolina and other “staple states,” he complained.⁶²

Accordingly, when the Committee of Detail presented a draft of the Constitution, it included a ban on taxing exports from any state. Rufus King (MA) angrily complained about the “sacrifices” made by the northern states for the benefit of the southern states. “The importation of slaves could not be prohibited, and exports could not be taxed. Is this reasonable?” he demanded on August 8. “Either slaves should not be represented or exports should be taxable.”⁶³ Gouverneur Morris picked up on this theme. “The Southern states are not to be restrained from importing fresh supplies of wretched Africans . . . nay they are encouraged to it by an assurance of having their votes in the national government increased in proportion, and at the same time have their

⁶¹ McCusker and Menard, *Economy of British North America*, 108, 130, 174, 199.

⁶² *Madison's Notes*, 277.

⁶³ *Ibid*, 409.

exports and their slaves exempt from all contributions.”⁶⁴ Since southern states exported more than the other states, their representatives in Philadelphia repeatedly framed the demand to ban the tax on exports as a form of “security.” This security meant not only for their property in slaves, but also for their future place in the Union.

Although the early protests to taxing exports centered on sectional tensions and the future of slavery, these subjects did not wholly direct the debate. The continual process of creating a nation from a group of sovereign states came to the fore in this discussion. States without large ports, such as Connecticut, sent their exports to neighboring states, such as New York, for shipment. Thus, the Connecticut producer and merchant paid an extra tax: the first, upon leaving his state, then again when the good left New York. The states with the large ports also had the opportunity to lay a duty on goods produced in other states, unbalancing the relationship between states. This would give one state the ability to tax, perhaps prohibitively, the citizens of another state. So barring the tax on exports from the states not only altered the relationship between the states and the national government, but between the states themselves.

The delegates discussed this provision again on August 16. Madison suggested, “it would be unjust to the States whose produce was exported by their neighbours, to leave it subject to be taxed by the latter.” This grievance, he continued “already filled New Hampshire, Connecticut, New Jersey, Delaware, and North Carolina with loud complaints.” James Wilson (PA) continued with this theme. He spoke against taxing exports, citing the “injustice and impolicy of leaving New Jersey and Connecticut ... subject to the exactions of their commercial neighbours.” Elbridge Gerry (MA) noted that it “might be exercised partially, raising one and depressing another” part of the country.⁶⁵ George Mason (VA) predicted that allowing the government to collect export duties would reduce states “to mere corporations ... a majority when interested will oppress the minority.” George Clymer (PA) pointed out that the vulnerability of his state as well. “[The middle states] may apprehend also combinations against them

⁶⁴ *Ibid*, 412.

⁶⁵ *Ibid*, 466-469.

between the eastern and southern states” just as the southern states feared the combined forces of the northern and middle states.⁶⁶ Gouverneur Morris (NJ) also worried about the future necessity, as the nation grew, of preventing “the Atlantic States from endeavoring to tax the western states.”⁶⁷ Unless the ban on exports remained in the Constitution, “nothing will save states in the situation of New Hampshire, New Jersey, and Delaware from being oppressed by their neighbors.”⁶⁸

The sovereign authority of the central government presented another concern. “The government would not be trusted with such a power,” Roger Sherman (CT) warned on August 21. “A power to tax exports would shipwreck the whole.”⁶⁹ Taxing exports would place too much power in the national government, agreed Elbridge Gerry (MA), forcing states “to comply with the will of the general government and to grant it any new powers which might be demanded. It will enable the general government to oppress the States as much as Ireland is oppressed by Great Britain.”⁷⁰ James Madison (VA), who wanted the central government to retain as many options for taxation as possible, proposed “a lesser evil:” rather than banning the export tax, he wanted to give each chamber in Congress the opportunity to levy this tax if a two-thirds majority agreed. This suggestion did not pass.⁷¹

Pragmatic concerns also governed this discussion. Oliver Ellsworth noted that “they [export duties] discourage industry”, make “uniformity in taxation difficult”, and create “incurable jealousies” between the states. In *Federalist 11*, Hamilton also declared a practical reason why exports should not be taxed. “Unrestrained intercourse between the states themselves will advance trade,” he opined. Imposing this duty would inhibit this trade.⁷² Allowing states to impose duties would also interfere with

⁶⁶ *Ibid*, 501.

⁶⁷ *Ibid*, 545.

⁶⁸ *Ibid*, 632.

⁶⁹ *Ibid*, 469.

⁷⁰ *Ibid*, 498-500.

⁷¹ *Ibid*, 502.

⁷² Hamilton, *Federalist 11*, 69.

Congress's ability to regulate commerce with both "foreign nations" and "among the several states." (Article 1, Section 8).

In the end, after many compromises, Massachusetts and Connecticut joined the "staple states" in passing this measure. Article I, section IX bans the national government from imposing a "tax or duty" on "articles exported from any state." Section X forbids states from levying export duties "without the consent of Congress."

In summary, "all hands" at the Philadelphia Convention agreed that indirect taxes, more specifically, import duties, would provide the primary source of revenue for the national government.⁷³ Relying on custom duties proved the most politically acceptable, and practical means of generating future revenue for the new government. An inchoate collection system existed, so the government could start the process quickly and efficiently. Accustomed to this "hidden" tax, import duties would not rouse Americans as an excise tax might. Relying on import duties gave the central government a steady form of revenue without sending tax collectors across the country, allowing the individual states to retain their internal autonomy. "They [import duties] will be productive ... collected with ease and certainty ... and constantly increasing fund, for our commerce will grow," Brutus agreed.⁷⁴ In *Federalist 12*, Alexander Hamilton stated plainly that, "In America, it is evident that we must a long time depend for the means of revenue" from "duties on imported articles."⁷⁵

Although sharp debates erupted over export duties, the delegates readily agreed on this tax structure for the new nation. Anti-federalist critics of the Constitution also embraced this idea. Limiting the national government to collecting import duties meant less interference with state internal affairs. States could continue to collect taxes locally, while the central government took in revenue at distant ports. Federalists also accepted this revenue structure. States no longer controlled the national purse, as they had under the Articles of Confederation. Since states could not collect import or export duties, they would not compete with the general government over this revenue nor interfere

⁷³ Elliot, *Debates*, V: 455.

⁷⁴ Jensen, ed, *Documentary History*, XV: 110-117.

⁷⁵ Hamilton, *Federalist 11*, 74.

with Congress's control over interstate commerce. The national government held a monopoly over customs duties, a reassurance after the fiscal chaos that resulted from the requisition system during the "critical period." Because Americans had paid import duties for over a century the new fiscal system would launch efficiently, thus ensuring steady revenue soon after the first Congress assembled.

For these reasons, the tax policy of the new country quickly emerged as a method for buttressing the federalist system. Two separate forms of government, able to generate distinct revenue for their different spheres, could draw from the same taxpayers without provoking their wrath. "Congress would take what was easiest to the people," Theodore Sedgwick reassured the Massachusetts ratification convention, "the impost, next excise, [and] the direct tax would be last."⁷⁶ Although this system of relying on indirect taxes for the national revenue emerged with little conflict, vesting the national government with the power to collect a direct tax raised more hackles, both in Philadelphia and during the ratification debates. Securing this secondary, "back-up" form of income provoked great angst because it deviated from this federalist structure, and many believed, threatened the ability of states to co-exist with a more powerful central government.

The Direct Tax

The direct tax provisions in the Constitution unleashed more bitterness and angst both at the Convention and in the debates prior to ratification, though all recognized that this would constitute a minor form of national revenue. An indirect tax falls on consumption; for this reason, many understood it as an avoidable tax. "An import duty," Benjamin Franklin explained, "is added to the first cost ... if the people don't like it at the price, they refuse it and are not obliged to pay" the tax.⁷⁷ Alexander Hamilton elaborated in *Federalist 21*. Indirect taxes provide a "complete barrier against any material oppression of the citizens," he reasoned. If you set the tax too high, people will

⁷⁶ Elliott, *Debates*, II: 60.

⁷⁷ Thomas P. Slaughter, "The Tax Man Cometh: Ideological Opposition to Internal Taxes, 1760-1790," *William and Mary Quarterly*, 3rd series, 41 (October, 1984), 575.

not purchase the article, or they'll smuggle it past the customs agent. This response keeps indirect taxes within their "proper bounds."⁷⁸ Further, the consumer paid the tax to a merchant through the purchase of a good, and not "directly" to the government. This kept the national authority from "individually" taxing Americans and reinforced the ideal of allowing the local, rather than the national, government to interact personally with citizens. In contrast, a direct tax bears on the value of what you own, as determined by an assessment of your property. Thus, it represents a forced tax. You can avoid indirect taxes by not purchasing a good, however you could not avoid paying a direct tax. The taxpayer must pay or lose his property. Agents of the government would assess and collect the tax directly from each person. These taxes went right from the citizen to the national government, without any intermediary.⁷⁹

Article I, section II states "representatives and direct taxes shall be apportioned among the several states", and Article I, section IX reaffirms that "no capitation or other direct tax shall be laid unless in proportion to the census." These clauses inflamed the populace because they addressed three issues that smoldered throughout the ratification debate: the division of power between the state and federal government, how the state and central government would share the limited tax revenue extracted from Americans, and finally, how slaves should (or should not) be counted when determining representation. Before addressing these points, one must first examine the importance of the direct tax amongst scholars.

Like the fury unleashed in the late eighteenth century, the direct tax provisions of the Constitution have drawn more attention from scholars than the indirect tax clauses. Direct taxes fell on "capitation or poll taxes, taxes on land or buildings, and general assessments whether on the whole property or on individuals or on their whole or real

⁷⁸ Alexander Hamilton, *Federalist 21*, 130.

⁷⁹ Charles Bullock, "Direct and Indirect Taxes in Economic Literature," *Political Science Quarterly* 13, (September, 1898), 442-476. The passage of the Sixteenth Amendment made defining the income tax as direct or indirect a moot question. However this concern the various tax schemes proposed to eliminate the income tax, such as the "fair" tax or the "flat tax" could refocus attention on the limitations inherent in the direct tax.

personal estate.”⁸⁰ The exclusion of the word “income,” or a broader definition of what constitutes “whole or real personal estates” has frustrated lawmakers and scholars since. Did the income tax constitute a direct or indirect tax? This question became part of the “raw class conflict” that engulfed the income tax debates of the late nineteenth and early twentieth centuries.⁸¹

Enacted as indirect taxes, both the 1862 and 1894 income tax laws required only that uniform rates be applied across the country. This allowed lawmakers to incorporate high exemptions, in an effort to “to equalize the burden” of taxation, and target those “able to bear” a tax on income.⁸² The early income tax statutes thus spared the poor, laborers, and farmers from paying these taxes. If passed as a direct tax, the income tax laws would be apportioned according to population, without regard to a person’s ability to pay. This would destroy the progressive feature of the tax, and require all to contribute equally, according to their state’s population, regardless of their wealth or income. Those in states with small populations (poor rural farmers) could potentially carry a higher burden than (wealthy) urban dwellers.

Subsequent Supreme Court rulings, most definitively the 1895 case, *Pollock v. Farmers Loan and Trust Co.*, concluded that the income tax constituted a direct tax, therefore had to be apportioned according to population.⁸³ *Pollock* destroyed the progressive feature of the “indirect” income tax. Passed as an attempt to distribute the burden of taxation off the regressive excise taxes and tariffs of the late nineteenth century, *Pollock* destroyed the progressive feature of the “indirect” income tax. Popular

⁸⁰ Alexander Hamilton’s brief in *Hylton v. United States*, in *The Works of Alexander Hamilton*, Henry Cabot Lodge, ed. 12 vols. (New York: G.P. Putnam, 1904), 8: 381-2. See also *Federalist 21*, in Ford ed, 130.

⁸¹ Elmer Ellis, “Public Opinion and the Income Tax, 1860-1890,” *Mississippi Valley Historical Review*, 27 (September, 1940), 225-242.

⁸² William Pitt Fessenden, *Congressional Globe*, 37th Congress, 1st session, July 25, 1861, 255.

⁸³ Two decisions were rendered: 157 US 429 (1895), called “Pollock I”, and 158 US 601 (1895), called Pollock II. For a history of the controversy: E.R.A Seligman, *The Income Tax: A Study of the History, Theory and Practice of Income Taxation at Home and Abroad* (New York: Macmillan Co., 1914), 531-589.

support for the income tax led to the passage of the Sixteenth Amendment in 1913, made it a permanent fixture in American fiscal policy.⁸⁴ The high exemptions in these early twentieth century statutes again relieved most Americans from contributing. Only during World War II, when “mass taxation became more important than class taxation” did the income tax become ubiquitous.⁸⁵

The confusion over how Americans interpreted a “direct tax” began at the Convention. Madison recorded that on August 22 Rufus King (MA) asked for a “precise meaning” of the term “direct taxation, but no one answered.”⁸⁶ However, King later showed a clear understanding of the concept when he distinguished the types of property that assessors would evaluate.⁸⁷ After independence, direct taxes provided the primary source of revenue for the state and local governments. Though the types of property taxed differed in each state, all understood that direct taxes fell on property, real and personal, both the value and productive capacity of that property, as well as on individuals as capitation or poll taxes.

“The idea that land is the primary source of wealth and that governments should derive support from taxing its produce has deep roots,” wrote historians Carolyn Webber and Aaron Wildavsky in their sweeping account of taxation in western civilization.⁸⁸ Land provided the basis of wealth in western society. Direct taxes based on the value of land provided a sound basis of taxation for countries with a feudal tradition. Few individuals collected a livelihood independent of the farm, explaining the exclusion of “income” or wages from this mix. Only with the rise of the “fiscal-military” state in which individuals earned income from interest and speculation in securities, did tax

⁸⁴ “Congress shall have power to lay and collect taxes on incomes from whatever source derived without apportionment among the several states, and without regard to any census or enumeration.”

⁸⁵ W. Elliot Brownlee, *Federal Taxation in America, A Short History* (New York: Cambridge University Press, 2004), 115.

⁸⁶ Madison *Notes*, 494.

⁸⁷ Elliot, *Debates*, II: 36. (See footnote 91 below).

⁸⁸ Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon and Schuster, 1986), 151.

gatherers start counting wealth in less tangible assets.⁸⁹ “Tax officials” in antebellum America, “bemoaned ... the impossibility of tracking down” the “substantial holdings in banks and insurance companies” possessed by many of the wealthiest citizens, Edward Pessen observed. These dandies would “swear that they possessed no personal wealth whatever, yet how were they to be proven wrong?”⁹⁰

Three circumstances not present in Europe further complicated the American understanding of direct taxation. First, many Americans speculated in land, owning huge tracts of “unimproved” property. Direct taxes would apply to “surveyed lands and the improvements thereon,” the Massachusetts ratification convention determined, rather than all the land owned.⁹¹ Extensive land speculation made collecting these taxes from absentee owners difficult. Further, owners residing from their property resented paying taxes to local governments for services they did not receive. This forced the “actual residents” to “tax their own land more heavily to compensate for the unimproved lands of the nonresidents.”⁹² Another wrinkle came from squatting. Squatters lived on the land, however did not own it. They instead paid taxes on the improvements, dwellings, or livestock (horses, pigs, “milch” cows, for example.)

Second, direct taxes differed in the United States because of the prevalence of slavery for many landowners. Levied on individuals both enslaved and free, capitation or poll taxes, fell on each “head.” Local governments in the colonial era used poll taxes extensively. These taxes placed an additional fee on the slaveholder for each of his chattel. “Southern poll taxes were not sharply regressive levies,” explained Robin Einhorn. They represented “poll taxes on free men, but in an economic sense, they were

⁸⁹ The concept of the English “fiscal-military state” is best described in John Brewer, *Sinews of Power: War, Money, and the English State, 1688-1783* (New York: Alfred A. Knopf, 1989).

⁹⁰ Edward Pessen, “Wealth in America before 1865,” in *Wealth and the Wealthy in the Modern World*, p. 179 167-188

⁹¹ Elliot, *Debates*, II:36.

⁹² Jon Gjerde, “‘Roots of Maladjustment’ in the Land: Paul Wallace Gates,” *Reviews in American History*, 19 (March, 1991), 145.

also property taxes on slaveholders.”⁹³ In a community or state with a high slave population, the poll tax becomes a progressive tax, bearing heaviest on the slave owner. However in a population of free laborers, the poll tax extracts the same for everyone, regardless of wealth. Thus poll taxes became a common source of revenue in slave states during the antebellum era, but not used much in the free states. As George Clinton warned at the New York ratification convention, any national direct tax targeting southern slaves would “all times oppress the poor” in the non-slave states.⁹⁴

Finally, sovereignty of the different governments in a federalist system presented a third complication in defining a direct tax. Direct taxes provided most of the revenue for local and state governments. Each state within the union had its own criteria for assessing the tax. Direct taxes promoted local control, and reflected the strengths of regional economies. The states used various strategies for collecting these direct taxes. Some states apportioned them uniformly across the state; others fixed a certain amount to specified localities, such as the counties that would benefit directly from a proposed canal. Henry C. Adams observed that states also determined how best to collect the direct tax. Connecticut classed citizens by their “religious societies,” with assessors beginning their task in different churches. North Carolina and Georgia used the militia musters “to which people prepared lists of property” to determine an individual’s obligation. “The more one studies” the individual state schemes for direct taxation, Adams related, “the greater differentiation does he observe.”⁹⁵ In preparation for laying the first national direct tax in 1798, Treasury Secretary Oliver Wolcott wrote a summary of how the different states handled their assessments. He noted the “diversity of the principles by which taxes are apportioned and collected” in the different states. He summarized the “principal” direct taxes collected by the states as:

1. uniform capitation taxes; 2. taxes on the stock and produce of farms; 3. taxes on stock employed in trade and manufactures, and on

⁹³ Robin Einhorn, “Species of Property”, 983.

⁹⁴ Becker, *Revolution and Reform*, 226.

⁹⁵ Henry C. Adams, “Taxation in the United States, 1789-1816,” in *Johns Hopkins University Series in Historical and Political Science*, second ser. (May/June, 1884), 53.

moneys loaned on interest; 4. taxes on the profits resulting from certain employments; 5. taxes on lands; 6. taxes on houses; 7. taxes on slaves.⁹⁶

Trying to reconcile these different criteria into one national understanding of a direct tax further vexed early American jurists and politicians.

Direct taxes in the United States differed from those in Europe because of the unique presence of extensive ownership of cultivated and uncultivated land, slavery, and state sovereignty. Because of the difficulty of assessing income before the nineteenth century, direct taxation did not fall on either wages or income, instead on the “faculty” or potential productivity, of a farm. For this reason, nineteenth century lawmakers, looking for a means to “equalize the burden of taxation” to those whose wealth came from investments and income, referred to income taxes as “indirect taxes.” Historians have added to the confusion by misusing the terms indirect and direct in reference to taxes. Americans now pay many different taxes “directly” to the national government, so the important historical distinction has become garbled.⁹⁷

Slavery played a significant role in developing of the direct tax powers in the Constitution. Offered as a means for breaking the stalemate over representation and slavery, the direct tax incorporated the infamous “Three-fifths clause” that counted three-fifths of the number of slaves in a state for calculating representation to Congress. Delegates from states with small slave populations objected to this proposal, arguing that it would over represent slave owners in the legislative branches.⁹⁸ James Madison suggested that the delegates needed to check one “vice and interest” with “another vice

⁹⁶ “Direct taxes,” 4th Congress, 2nd sess., December 14, 1796, in *New American State Papers, Finance*, 32, 29-87. Number 4 on the list brings into question the repeated claims by historians that the income was not considered a part of the “direct tax” formula in early America.

⁹⁷ For two examples of how historians have misused the term, see Cecilia Kenyon, ed. *The Anti-Federalists* (New York: Bobbs-Merrill, Co, 1966), civ; Heather Cox Richardson, *Greatest Nation of the Earth: Republican Economic Policies during the Civil War* (Cambridge: Harvard University Press, 1997), 116.

⁹⁸ Howard Ohline, “Republicanism and Slavery: Origins of the Three-Fifths Clause in the United States Constitution,” *William and Mary Quarterly*, third ser. 28 (October, 1971), 663-584.

and interest” and proposed “representation and taxation ought to go together.”⁹⁹ The next day, July 12, Gouverneur Morris (PA) suggested a “proviso that taxation shall be in proportion to Representation.” He admitted that some objections to this motion would surface, but this idea would be favorable by “restraining the rule to direct taxation.”¹⁰⁰ He offered this compromise to assuage those who resented including slaves in the enumeration. His motion passed quickly. Later he regretted his compromise, and his paternity for a tax he came to loathe. He meant it as a “bridge to assist over a certain gulph,” he lamented, not a permanent feature of the tax code.¹⁰¹ Roger Sherman (CT) criticized any attempt to tie slaves to taxation. “It made the matter worse,” he complained, because it implied “they were *property*” and denied their humanity.¹⁰² However, the compromise worked and became incorporated into the Constitution.

Madison explained to the Virginia Ratification Convention the advantage southerners reaped from this arrangement. This “mode of representation and taxation,” he informed his fellow Virginians, meant that Congress could never “lay such a tax on slaves as will amount to manumission.”¹⁰³ A majority in the non-slave holding states could levy a high excise tax on slaves knowing their constituents would skirt most of the burden. An excise tax on slaves could have resulted in slaveholders facing a stiff fee for their chattel. Under the direct tax provision, the same poll tax on slaves would apply to free laborers and “five negro children of South Carolina are to pay as much tax as the three governors of New Hampshire, Massachusetts, and Connecticut.”¹⁰⁴ Southerners received further security for their “peculiar” property, knowing that, “Congress could no longer tax slaves arbitrarily,” Charles Bullock noted.¹⁰⁵

⁹⁹ *Madison's notes*, 272-3.

¹⁰⁰ *Ibid*, 277.

¹⁰¹ *Ibid*, 362.

¹⁰² *Ibid*, 507. This argument re-emerges during the American Civil War. See page 196 below.

¹⁰³ Elliot, *Debates*, III: 453.

¹⁰⁴ Elliot, *Debates*, II: 37.

¹⁰⁵ Bullock, “The Direct Tax Clause,” 462. A poll tax is a type of capitation tax, often with different amounts levied on individuals based on race, class, or gender. It is not a tax paid when going to vote, although in the post-Reconstruction era, not paying the high

Nationalists argued that the direct tax protected the federal government in case of a disruption in trade during a war. “Should our tranquility be exposed to the assaults of foreign enemies, or violence among ourselves,” James Wilson argued at the Pennsylvania Ratification Convention, “the objects of commerce may not furnish a sufficient revenue. Certainly, Congress should possess the power of raising revenue from their constituents to provide for the common defence and general welfare of the United States.”¹⁰⁶ Alexander Hamilton, remembering his “infinite distress” during the Valley Forge winter, defended retaining the direct tax power in the Constitution as a means for the central government to ensure it had enough revenue. In *Federalist 36* he stated, “I acknowledge my aversion to every project that is calculated to disarm the government of a single weapon which might be usefully employed for general defense and security.”¹⁰⁷ The direct tax would act as a supplement to the indirect taxes, if needed.

Southerners welcomed the direct tax as a means of protecting their slave property from excessive taxation. Since all agreed that import duties would generate the most revenue for the federal government, the additional tax they would have to pay for their chattel proved a small concession for the opportunity to expand their representation in Congress. When it became clear that southern leaders would not accept the Constitution without “security” for slavery, the direct tax provided a reasonable compromise, and remained one of many “bridges” erected to ratify the Constitution, but not removed until the Civil War.

Born of compromise, the direct tax appeased both northern and southern delegates at the Constitutional convention. However, the direct tax clauses drew the ire of the Constitution’s critics. Localists interpreted the new government’s power to collect direct taxes as an assault on state sovereignty.

poll taxes levied on African-Americans became a means for preventing them from voting.

¹⁰⁶ Elliot, *Debates*, II: 467.

¹⁰⁷ Hamilton, *Federalist 36*, 227.

“To annihilate totally the State Governments”

A federalist system of government relies on authority being exercised concurrently but not oppressively. Anti-Federalists believed that granting national power of direct taxation would undermine the ability of the state governments to collect the revenue they needed, thus threatening the viability of the states. During the colonial era and the Confederacy, local governments depended on land, poll, and faculty taxes for their revenue. All these constituted direct taxes. “Land was the major base of taxation in colonial America,” and provided the primary means of support for the state governments.¹⁰⁸ Granting the national government the power to collect these same taxes would endanger the revenue base of the states. George Mason summarized this concern during the Virginia Ratification convention. This power, he railed, “is calculated to annihilate totally the state governments,” he fumed. “Will the people submit to be individually taxed by two different and distinct powers?”¹⁰⁹ The direct tax power provided further evidence to the Anti-Federalists that the Constitution created a “national, consolidated government not a federal or confederated one,” according to Cecilia M. Kenyon.¹¹⁰ Brutus echoed this sentiment. “There is no way of avoiding the destruction of the state governments” if this provision was not changed, he predicted.¹¹¹ Melancton Smith equated the state governments under this provision, to “an animal without blood or subsistence.”¹¹² John Williams elaborated on this point:

States have concurrent jurisdiction with Congress in taxation ... it is evident as the laws of Congress are the Supreme Laws of the land that their taxes whenever they interfere with taxes laid by states, must and will claim a priority ... they may abolish state taxes; they may constitutionally monopolize every source of revenue and thus directly overturn the state

¹⁰⁸ Summer Benson, “A History of the General Property Tax,” in *The American Property Tax: Its History, Administration, and Economic Impact* (Claremont, CA: Claremont Men’s College, 1965): 24.

¹⁰⁹ Elliot, *Debates*, II: 29.

¹¹⁰ Kenyon, ed. *The Anti-Federalists*, cii-civ.

¹¹¹ Jensen, ed. *Documentary History*, XV: 112.

¹¹² Elliot, *Debates*, II: 341.

governments. Either the people will be doubly taxed or the state governments will be destroyed.¹¹³

Destroying state government would extinguish the liberty the nation fought and suffered for during the Revolution. “Central to the defense of liberty were popularly controlled institutions,” explained Max Edling. Only the local and state governments, the most responsive and representative assemblies, “could secure this liberty.”¹¹⁴

The Anti-Federalist’s vitriol against this provision had precedent. When the British Parliament enacted the Stamp Act in 1765, they stumbled across a barrier that the colonists considered sacrosanct. “Americans,” explained one member of Parliament to his colleagues, “think that the imposition of internal taxes ought to be confined to their own assemblies.” The colonists accepted external taxes, such as duties levied on goods imported to the colonies, as legitimate sources of revenue for a distant monarch. However, internal taxes, including poll taxes, excises, stamp duties, and taxes on land, remained the sole purview of local colonial assemblies, according to Thomas Slaughter. English rulers in London had no right to share “concurrent jurisdiction” in internal taxes. Local representatives best understood their situation and could determine the proper means and amount to tax. Therefore, Parliament had no right to dip into this internal revenue well.¹¹⁵

Parliament’s blunder helped stoke the developing animus that pushed Americans to declare independence. This distinction between external and internal taxes of the colonial era re-emerged during the debates over the new republic’s Constitution, however the focus changed to indirect and direct taxes. “All hands” agreed that the national government could collect duties on imports, just as England had collected external taxes. However, direct taxes, like internal taxes, remained the sole purview of the state and local governments.

¹¹³ Elliot, *Debates*, II: 339.

¹¹⁴ Max Edling, *A Revolution in Favor of Government: Origins of the United States Constitution and the Making of the American State* (New York: Oxford University Press, 2003): 42.

¹¹⁵ Slaughter, “The Tax Man Cometh,” 583-84.

Allowing the national government to levy direct taxes mimicked Parliament's attempt to collect internal taxes in the colonies. State and local governments alone understood local problems and conditions of citizens and therefore levied fair and equitable direct taxes. A distant government (in Philadelphia, New York, or London) imposing a direct tax would apply the burden unfairly, especially if apportioned to the states by population without other distinctions.¹¹⁶ Every state collected direct taxes, both in the colonial and early Republic eras. Both the colonies and early states printed paper money, necessitated, in part, to provide a mechanism for paying these local taxes. These burdens increased after the war. "Crackdowns" on delinquent tax payers "detonated rural violence" that rocked many state governments and increased the frustrations with the confederation's fiscal structure.¹¹⁷ Shay's rebellion remains the most prominent of these uprisings, but certainly not the only one. The direct taxing powers in the Constitution exacerbated these tensions.

Anti-Federalists believed that the direct tax clauses granted the national government taxing powers that would overwhelm the state governments' ability to raise their own revenues. "The idea of confederation is lost," lamented Brutus.¹¹⁸ This authority, according to Luther Martin, proved the "aim and desire" of the supporters of the Constitution, to "encrease the power of the general government as far as possible," thereby "destroying the powers and influence of the states."¹¹⁹ The Pennsylvania ratification convention's minority report predicted, "Congress may monopolise every source of revenue and thus indirectly demolish the state governments."¹²⁰ Massachusetts, South Carolina, New Hampshire, Virginia, New York, and North Carolina shared this sentiment. The report from the ratification conventions of these

¹¹⁶ Becker, *Revolution, Reform and Politics of American Taxation, 1763-1783*, 226.

¹¹⁷ Brown, *Redeeming the Republic*, 32-40; Perkins gives a thorough description of the tax schemes in the different states. Edwin J. Perkins, *American Public Finance and Financial Services, 1700-1815* (Columbus, OH: Ohio State University Press, 1994), 137-174.

¹¹⁸ Jensen, ed. *Documentary History*, XIII: 414-415.

¹¹⁹ Jensen, ed. *Documentary History*, XV: 378.

¹²⁰ *Ibid*, 22.

states proposed amending the Constitution to deny Congress the authority to levy a direct tax, or at least require the government to collect it through the state tax apparatus, rather than sending federal officers into local communities.¹²¹

As part of an empire, state governments received significant revenue from the British government. Parliament granted the colonial assemblies “substantial reimbursements” for military campaigns. Between 1740-1775, the British government spent an estimated £450,000 (\$40.5 million in 1985 dollars) annually on the American colonies. Local officials distributed these funds judiciously, Edwin J. Perkins argued, and they quickly became absorbed into the economy.¹²² This loss of revenue, coupled with the new taxing powers granted to the national government, would reduce states to poverty, localist leaders believed. The deterioration of the American economy during the Revolutionary era exacerbated these concerns. This economic tumult helps explain the vitriolic response to granting the national government the power to levy direct taxes. Historians have overlooked the importance of this reaction against direct taxation for two reasons. Research on the direct tax has focused instead on its contribution to the early decisions regarding slavery in the colonies, concentrating on the implications of the Three-fifths clause. Second, most studies have also concentrated on the development of the direct tax and its relation to the income tax, as noted above. These studies jump from the Constitutional Convention to the Supreme Court decision in *Hylton*. Both strategies miss the deep concerns of politicians of the period regarding the role of maintaining sovereign states in the federalist system.

In clouding the literature further, historians have accepted the Anti-federalists’ charge that the Constitution grants “unlimited” power to levy taxes “in any mode they please,”¹²³ another concern expressed by the Anti-Federalists. E. James Ferguson and Thomas P. Slaughter repeat this propaganda, each referring to Congress’s taxing power

¹²¹ The suggested amendments are reprinted in *The Federalist*, Ford, ed., 632-651.

¹²² Edwin J. Perkins, *The Economy of Colonial America*, 2nd ed. (New York: Columbia University Press, 1988), 196-197.

¹²³ Jensen, ed. *Documentary History*, XIII: 414-415.

as “unlimited.”¹²⁴ Dall Forsythe and Max Edling equivocate; Forsythe stating that they were “almost entirely successful” in placing “no limitations on the kind of taxes” the government could levy. Edling noted that Congress had “almost unlimited power to tax.”¹²⁵

Contrary to these perceptions, the Constitution constrains the central government’s taxing power. First, the House of Representatives, the legislative chamber most representative and beholden to voters, levies all taxes. No monarch or executive can arbitrarily demand revenue from the American citizens. Once enacted by the House, the Senate, representing the states, had to concur. “No taxes [may] be imposed upon [Americans] without their consent by representatives of their own choosing, who will participate with them in the public burthens and benefits,” Roger Sherman argued.¹²⁶ Money cannot leave the Treasury “but in consequence of appropriations made by law.” Further, Congress must publish “public accounts of the receipts and expenditures of all public money” from time to time. (Article 1, section 9).

Apportioning the direct taxes by population stripped the national government of its ability to levy taxes “discriminatingly” on property.¹²⁷ One section could not overburden another (in principle at least). Again, this restriction calls into question the constitutionality of the early income tax. Third, the Constitution permits the central government to collect excises, imposts and duties, but requires uniform taxes throughout the country. Individual states could not be selectively taxed, despite their wealth or population. Also, because “there is no material difference” in what individuals in states purchase, the uniform duties, the Founders believed, fell evenly across the country.¹²⁸ Finally, as discussed above, Article I, section IX bans any taxes on exports; in 1787, this greatly limited the revenue gathering opportunities of the government. This restriction

¹²⁴ Ferguson, *Power of the Purse*, 290; Slaughter, “The Tax Man Cometh,” 584.

¹²⁵ Dall Forsythe, *Taxation and Political Change in the Young Nation, 1781-1883* (New York: Columbia University Press, 1977), 53; Edling, *Revolution in Favor of Government*, 42.

¹²⁶ Jensen, ed. *Documentary History*, XV: 280.

¹²⁷ Hamilton, *Federalist 36*, 227.

¹²⁸ Jensen, ed. *Documentary History*, XV: 277.

becomes important again in 1865, when Congress yearned to place an export duty on cotton, but grudgingly followed this restriction.

The Constitution did not establish a government with “unlimited” taxing powers. Tariffs would generate most revenue with other taxes unleashed in times of war or when trade fluctuated. Limiting the taxing authority any further would strip the government of its ability to secure the United States against foreign aggression, any disruption in trade, or the government ran a deficit. Thus, the taxing authority granted to the national government by the Constitution became a perceived power: one that citizens sensed, and knew, but remained less tangible than anticipated. National direct taxes would strain the federalist structure. Loosed from seaports and customs houses, national tax collectors would cross the boundary of the state and national “sphere” and cut into revenue designated for the local governments. States wanted to keep these taxing options available to protect their viability. All agreed that state and local governments helped preserve and protect national sovereignty and individual liberty across a broad and expanding nation.

Although the Anti-Federalist efforts to limit the direct tax clauses of the Constitution did not work, their reaction helped shape the tax policy during the antebellum era. However, as anticipated, the government resorted to direct taxation only during three crises: the “Quasi-War” scare in 1798, the War of 1812, and the American Civil War. The expense and difficulty in collecting these taxes limited their appeal as a regular source of national revenue. The national government would remain within its “due limits,” collecting revenue only indirectly from citizens. During war or disruptions in trade, it could invoke greater taxing powers in order to protect the nation. Otherwise, it would have little “personal influence” over citizens. Limited only by the ban on collecting import or export duties, states had more flexibility in their taxing powers: they did not face the same uniformity or apportionment restrictions under the Constitution. They needed this flexibility not only to protect the “lives, liberties and properties” of their citizens, but also to help maintain a republic stretched over a large

territory. Throughout the antebellum era, the states, not the national government, flexed this fiscal muscle.

Government and Taxation

Congress enacted the nation's first revenue measure on July 4, 1789. The resulting tariff provided a modicum of protection, but remained primarily a revenue measure. The legislation imposed specific duties on thirty-six commodities and applied *ad valorem* rates to selected, enumerated imports. The duties averaged approximately fifteen percent.¹²⁹

By 1791, the revenue needs of the government overwhelmed import duties. At the behest of Treasury Secretary Alexander Hamilton, Congress levied the first internal taxes. Historically, duties on alcohol had proven one of the most dependable forms of taxation. Many states, including Pennsylvania collected alcohol excises. These taxes target distilled liquors. Duties on “ardent spirits,” Hamilton argued in *Federalist 12*, favored “agriculture, the economy, the morals and health of society.”¹³⁰ Besides these virtues, Hamilton had another motive for invoking a liquor excise as an early tax. He had assured opponents of the Constitution that states would possess “independent and uncontrollable authority to their own revenue for the supply of their own wants.”¹³¹ However, he admitted early in his tenure at the Treasury that he hoped to “leave the states under as little necessity as possible of exercising the power of taxation.”¹³² He pushed for the enactment of the whiskey excise to claim “so valuable a resource of revenue before ... preoccupied by the state governments.” Hamilton wanted to “starve

¹²⁹ Edward Stanwood, *American Tariff Controversies in the Nineteenth Century*, 2 vols. Reprint. (New York: Russell and Russell, 1967), 114-118. *Ad valorem* tariffs, duties “according to value,” levy a fixed percentage (forty percent on shelled almonds, for example) upon an imported good. When the value of the merchandise changes, so does the actual import. Conversely, a specific duty affixes a set amount collected on the imported good (.04 per pound on shelled almonds, for instance.) The amount collected does not fluctuate with the changing value of the imported article.

¹³⁰ Hamilton, *Federalist 12*, 77.

¹³¹ Hamilton, *Federalist 32*, 197.

¹³² *Hamilton's Papers*, Sept-Dec, 1789, V: 218.

the states of revenue,” Chernow theorized, in order to “shore up the federal government.”¹³³ He wanted to use the taxing powers conferred in the Constitution as an instrument for strengthening the government’s power. Hamilton espoused taxation as a primary vehicle for “consolidating the strength of the [national] government” even after he left office.¹³⁴ These efforts threatened the balance between the state and central government envisioned in the federalist system.

The excise taxed whiskey at the still, not through sales. This provision drew into the taxman’s net the small scale, rural distiller who produced liquor for home consumption or barter, who would escape a tax levied on the sale of distilled liquor. This legislation sparked the “Whiskey Rebellion” in western Pennsylvania. These folk had experience protesting liquor taxes. Western Pennsylvanians harassed colonial then state revenue officers as early as 1684 with the same zeal they exhibited in 1794 while tarring and feathering the federal taxman. These demonstrations constituted more than an effort to shirk taxes. Instead, Thomas P. Slaughter suggested the whiskey uprising demonstrated the conflict between “center and periphery, cosmopolitans and localists, East and West, those who feared strong central government and those who demanded local autonomy.”¹³⁵ The distant governments did not respond to the rural citizens’ need for roads and protection from the Native Americans. They only showed up when they needed money. This angered the residents of rural counties throughout the Republic, Slaughter posited.

The difference between the protests against the state tax collectors and 1794 protest against the national government came in the government’s response. During the debates over the Constitution, Anti-federalists warned that the national government would use its extensive powers to enforce tax collections. “Congress, with the purse-string in their hands, will use the sword with a witness,” predicted William Bodman at

¹³³ Chernow, *Alexander Hamilton*, 347.

¹³⁴ Alexander Hamilton, *Writings*, Joanne B. Freeman, ed. (New York: Library of America/Penguin Books, 2001), 918.

¹³⁵ Thomas P. Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986), 226.

the Massachusetts ratification convention.¹³⁶ What if the “excise man” cannot fulfill his commission, Patrick Henry asked at the Virginia Convention. Will he “call on the militia to enable him to collect taxes?”¹³⁷

Although Alexander Hamilton dismissed the fear that allowing the “sword and the purse” to reside in Congress endangered “American liberties,” his response to the Whiskey Rebellion fulfilled the worst of the Anti-Federalist predictions.¹³⁸ He convinced President Washington the new government must crush the Rebellion. He then marched 13,000 militiamen to the western counties. “Shall the majority govern or be governed? Shall the nation rule or be ruled? Shall there be government or no government?” he demanded in an open letter under the pen name Tully.¹³⁹ The unrest dissipated long before the militia arrived, and excise tax revenue continued to lag in rural counties throughout the country. Despite the show of force, the whiskey tax revenue continued to disappoint expectations. Although the Pennsylvanians stopped tarring the collectors, they continued to resist the tax.

Since the proceeds from the whiskey excise fell short of expectations, Congress levied additional taxes. To quell criticism that the whiskey excise fell hardest on those least able to pay, the Revenue Act of 1794 attempted to fix more progressive taxes, by imposing duties on pleasure carriages, luxuries at the time, the manufacture of snuff and fine sugar, the proceeds from sales at auctions, and stamp duties. Under this bill, practicing law or selling any type of alcohol required a license.¹⁴⁰ Necessitated to meet the interest payments on the Revolutionary War debt, this revenue measure became part

¹³⁶ Jackson Turner Main, *The Anti-Federalists: Critics of the Constitution, 1781-1788* (Chapel Hill: University of North Carolina, 1961), 124.

¹³⁷ Elliot, *Debates*, III: 412.

¹³⁸ Elliot, *Debates*, II: 348.

¹³⁹ *The Papers of Alexander Hamilton*, Harold C. Syrett, ed. 18 (New York: Columbia University Press, 1972), 148-150.

¹⁴⁰ Frederic C. Howe, *Taxation and Taxes in the United States under the Internal Revenue System, 1791-1895* (New York: Thomas Y. Crowell, 1896), 18-20. With a progressive tax, the average rate rises with the tax base; the wealthy pay a higher percentage of their income as taxes than the less fortunate. Edgar K. and Jacqueline Browning, *Public Finance and the Price System*, fourth ed. (Englewood Cliffs, NJ: Prentice Hall, 1994), 346.

of the Federalist Party's program of consolidating power within the new central government. Assuming state debts, fortifying the nation's credit, and creating a revenue system that would support these initiatives would bolster the national government's authority, and undermine the power of the states. Hamilton wanted to bring the "national arm [of the government] into daily contact with the people," significantly fortifying the role of the central government in relation to citizens. This greatly extended the central government's sphere, and obliterated Madison's ideal of the national government removed from "individually" influencing citizens.¹⁴¹

Slavery also tainted the opposition reaction against the 1794 revenue measure. The carriage duty troubled Madison. Classified as an indirect tax, the carriage duty posed a particular threat to southern interests. Virginians owned more carriages per capita than any other Americans, so the tax fell disproportionately on those he represented. Also, Madison had assured the delegates to the Virginia Ratification Convention that the direct tax clauses protected slave owners from forced manumissions because indirect taxes could not be levied on individuals.¹⁴² However, the carriage tax challenged this supposition. This duty fell on a specific form of property. Rather than collecting the tax on the sale of carriages, the assessor would tax the ownership of carriages, taxing property rather than consumption, the primary difference between direct and indirect taxation. The owner paid the tax directly to the government agent without an intermediary. Classifying slaves as property rather than persons, as southern delegates to the Constitutional Convention had done repeatedly, opened slaves to the same tax that Hamilton proposed for carriages. The attack on the carriage duty did not just aim to thwart the Federalists' "nationalizing pretensions,"¹⁴³ but also provided an early attempt to keep the national government from interfering with the ownership rights in slavery.

¹⁴¹ Howe, *Taxation and Taxes*, 24.

¹⁴² See above, footnote 102.

¹⁴³ Bruce Ackerman, "Taxation and the Constitution," *Columbia Law Review*, 99 (January, 1999), 20.

Madison led the attack against the measure in Congress. The excise duties “should be thrown aside” he argued in May 1794.¹⁴⁴ Instead, allow state officials to collect direct taxes, with assessment and enforcement controlled by local officials. This would limit the national government’s role in collecting the necessary revenue, and also give state officials, rather than Hamilton’s Federalist cronies, the ability to determine the best objects for taxation. This also restated the demands of the Anti-Federalists with regard to direct taxation. The revenue measure passed over these objections, so a legal challenge ensued.

The Supreme Court case of *Hylton v. United States* (1796) created important precedents. First the justices used the prerogative of judicial review (before *Marbury v. Madison*), where the Supreme Court determined the validity of congressional legislation.¹⁴⁵ Second, the Court determined that a tax on carriages did not represent a direct tax and therefore did not violate the constitution’s restriction on apportionment. More specifically, the Court defined a tax on expenditures as an indirect tax. The justices did not enumerate specific items that qualified for a direct tax, only stating that “capitation or poll taxes” plus those “apportioned” could be considered under this category. To tax “any specific article by the rule of apportionment would ... create great inequality and injustice,” Justice Chase observed.¹⁴⁶ Direct taxes, then, could not be laid on any “specific article.”

This decision created the standard for internal revenue in the nineteenth century. After the Civil War, it became the basis for the court battles over the income tax. Throughout the antebellum era, when the national government needed to supplement customs duties, southerners pushed for direct taxes. Since states with heavy slave populations would pay more under this scheme (again because of the representation/taxation formula in the three-fifths clause), this seems curious. However, direct taxes, done properly, afforded southerners two measures of comfort: local control

¹⁴⁴ James Madison, *Abridged Annals of Congress*, 3rd Cong., 1st sess., May 19, 1794.

¹⁴⁵ Jack N. Rakove, “The Origins of Judicial Review: A Place for New Contexts,” *Stanford Law Review*, 49 (May, 1997), 1039.

¹⁴⁶ Ackerman, “Taxation and the Constitution,” 23.

of assessments and eliminating the possibility of an excise tax laid on their particular form of property.

President John Adams's administration recommended the first direct tax in July, 1798. The plan distributed the burden of \$1.3 million amongst the states according to population. In collecting the tax, officials could assess "dwelling houses" and land, and fix a per capita tax on slaves. Federal officers assessed the property and collected the taxes. Local authorities only outlined the rules for assessment.¹⁴⁷ This schema ignored the proposals made by the state ratification conventions, Anti-Federalists, and Democratic-Republicans in Congress. The national government, not local governments, controlled the assessment and collection process, limiting the state governments role in implementing this law. As with the Whiskey Rebellion, the tax became the most tangible means for demonstrating a greater objection to the national government.

The direct tax passed the same day as the Alien and Sedition Laws. These acts particularly inflamed the residents of Bucks and surrounding counties in southern Pennsylvania, because many of these residents claimed recent German ancestry. John Fries, one of the three leaders of the rebellion, had fought in the Revolutionary War, and led a militia company against the Whiskey insurgents in 1794. He named his favorite dog "Whiskey." He considered himself both a loyal American and a Federalist. However, the Alien and Sedition Acts angered the veteran. Compounding the problem, most of the residents did not know the assessors and collectors, as they knew their local officials. The collectors did not speak German, as did many residents of the area. Soon after the assessors arrived, a rumor spread that they differentiated between German and non-German speaking property owners, and assessed the "foreigners" homes differently (by counting windows.) No injuries occurred, and the crowds resisting the tax assessors dissipated as quickly as they formed.¹⁴⁸

¹⁴⁷ Henry C. Adams, "Taxation in the United States," 54; Forsythe, *Taxation and Political Change*, 53.

¹⁴⁸ Paul Douglas Newman, *Fries Rebellion: The Enduring Struggle for the American Revolution* (Philadelphia: University of Pennsylvania, 2004), 141; also William W. H. Davis, *The Fries Rebellion, 1798-1799* (New York: Arno Press, 1969).

When the Whiskey Rebellion erupted, Hamilton advised President Washington that, “whenever the government appears in arms, it ought to appear like Hercules”¹⁴⁹ President Adams decided to follow that precedent and sent armed forces into Bucks country to stop the revolt. Like the Whiskey Rebellion, the Fries uprising registered the public’s anger at the direction taken by the new government. The participants in Fries Rebellion “believed they had acted in accord with the Constitution, not against it.” The opposition centered less on the money requisitioned by the government than the means they used to collect it. This represented a reaction against expanding federal power as much as a tax revolt. Rather than remaining in its sphere, the national government had expanded its power, both in passing “unconstitutional” laws, than sending their agents into communities to collect taxes. Anthony Joseph stressed that the Fries Rebellion represented an attack on the Alien and Sedition acts, rather than a “tax revolt.” However, like later direct tax measures, the return from the tax disappointed. Only 83 percent of the anticipated revenue landed in the Treasury. This long lapse between enacting the legislation and collecting the cash became the norm rather than the exception with the direct tax.¹⁵⁰

Tired of the titan knocking on their door, these popular uprisings gave a political opportunity to Thomas Jefferson and the emerging Democratic-Republican Party. John Fries, for example, after convicted of treason, then pardoned by President Adams, never voted again for a Federalist candidate. President Jefferson opposed all internal revenue schemes and the Federalist administrations’ methods of collecting them. The election of 1800 signaled the public’s desire for a more limited national government “with clearly defined and enumerated powers.”¹⁵¹ After his election, Jefferson asked a willing

¹⁴⁹ *The Papers of Alexander Hamilton*, Harold C. Syrett, ed. 26 vols. (New York: Columbia University Press), XXVI: 552-553.

¹⁵⁰ Anthony M. Joseph, “The Cheerful Taxpayer: An Early Modern Political Idiom in the Early American Republic,” Unpublished paper read at the 2000 SHEAR Conference.

¹⁵¹ Andrew Lenner, “A Tale of Two Constitutions: Nationalism in the Federalist Era,” *American Journal of Legal History* 40 (January, 1996), 105.

Congress to repeal all internal taxes. The Treasury relied on import duties and land sales for all its revenue until the War of 1812.

Jefferson's Treasury secretary, Albert Gallatin, demonstrated the way in which tax policy determines the type of government a nation follows. In preparing his first Annual Report, Gallatin urged Jefferson that, "to strike at the root of evil and avert the danger of increasing taxes." Taxes, Gallatin warned, led to "encroaching government, temptations to [start] offensive wars ... nothing can be more effectual," to maintaining a republican government, "than a repeal of all internal taxes."¹⁵² Gallatin held federal expenditures below \$10 million, raised tariff rates, and then reaped a windfall as US trade expanded. Gallatin's frugality and the increasing customs revenue helped generate a surplus each year from 1801-1811, excluding the 1809 deficit created by the Embargo Act. The average tariff rate rose from 8.5 percent in 1789 to 16 percent during Jefferson's tenure. Concurrently, the public debt declined from \$86.4 to \$45.2 million.¹⁵³

In advocating limiting internal taxation, a practical concern arose also. Gallatin estimated an average cost of 25 percent to collect the excise taxes, and 35 percent to collect the direct taxes. The revenue produced in either case never met expectations. The Federalist Treasury hired 400 officials to implement the law. In contrast, through 1815, the cost of collecting customs duties averaged 4 percent.¹⁵⁴ To destroy the "root of evil" and keep the central government well within its sphere, the Jefferson administration dismantled the internal revenue system. Soon, though, war forced another round of internal taxation.

¹⁵² Albert Gallatin to Thomas Jefferson, November 16, 1801 in Henry Adams, *The Life of Albert Gallatin*, second ed. (New York: Peter Smith, 1943), 270.

¹⁵³ Paul Studenski and Herman Kross, *Financial History of the United States: Fiscal, Monetary, Banking and Tariff*, second ed. (New York: McGraw-Hill, 1963). 68.

¹⁵⁴ Adams, *Taxation in the United States*, 57.

War of 1812

A resurgence of hostilities with Great Britain culminated in the War of 1812. The “financial disasters and absurd treasury management” of this conflict portended many of the problems that arose during the American Civil War.¹⁵⁵ Congress renewed internal taxation reluctantly. Secretary Gallatin strongly recommended inaugurating a schedule of internal duties, and reviving the collection apparatus, before the war started. In his 1812 report, *Increase of Revenue*, Gallatin proposed doubling selected customs duties, as well as imposing an internal tax scheme that resembled the Federalist program.¹⁵⁶

Gallatin became Treasury secretary in 1801, and served President Jefferson for two terms, then President James Madison until 1813. He committed his only “political sin” as he later described it, when he defended the Pennsylvanians implicated in the Whiskey Rebellion. Thereafter, “he would be forever linked with the region’s opposition to the excise,” according to Thomas P. Slaughter. However, this did not preclude Gallatin from proposing his own whiskey excise as a means of funding the War of 1812. “There was not any more eligible object of taxation than ardent spirits,” he stated in his recommendation. His proposal limited the impact on small distillers like his brethren in western Pennsylvania, but he acknowledged that these taxes could be “augmented” if necessary “with greater ease” than any untried taxes. Gallatin remained a steady “public advocate of free trade” throughout his career, so one cannot accuse him of equivocating. Instead when he faced a fiscal challenge he adopted a pragmatic strategy of advocating a tax that he believed would work. Although most of the Federalist excise taxes had returned disappointing revenues, the whiskey tax, despite the protests, had succeeded, bringing in almost as much revenue as anticipated.¹⁵⁷ Gallatin’s

¹⁵⁵ Adams, *Taxation in the United States*, 58.

¹⁵⁶ Albert Gallatin, “Increase of Revenue,” 12th Cong., 1st sess., reprinted in *The New American State Papers, Finance*, Thomas C. Cochran, ed. 32 vols. (Wilmington: scholarly Resourced, Inc., 1973), III: 34-44. Taxes included: carriage duty, sugar tax, licenses for professionals and sellers of liquor, stamp duties, and auction proceeds.

¹⁵⁷ Slaughter, *The Whiskey Rebellion*, 124, 114; Gallatin, “Increase of Revenue,” 37.

about-face on a whiskey tax shows that the need for securing revenue often overwhelmed an individual's convictions regarding just taxation.

These internal taxes produced \$14.2 million between 1812-1817. In addition to the excise taxes, the Madison administration also levied a series of national direct taxes. Apportioned according to the 1810 census, these added another \$10.5 million to the war chest. To further assist with the war financed, Congress authorized the Treasury to issue short-term notes, most bearing five to six percent interest. These notes soon circulated, and depreciated, like a currency. Soldiers received these notes as their payment. In addition, long term six and seven percent bonds produced \$57.3 million. This financing scheme later served as the blueprint from which Salmon P. Chase, a Gallatin admirer and first Civil War Treasury secretary, designed his financing plan.

The Madison administration rejected using Washington revenue officers to collect these taxes; instead they gave states a greater role in this tax program. State agents assessed the property then collected the tax. This gave local control to the national taxes. The Direct Tax of 1813 apportioned the tax not only among the states, but also to the different counties within the states. It gave each state the option of paying their tab upfront and receiving a 15 percent discount on their quota. Rather than creating a new, and costly, federal bureaucracy as the Federalists did, Gallatin's proposal used state officers to assess and collect the taxes, in the manner recommended during the ratification debates.

Congress enacted one more direct tax during the course of the War of 1812. State governments determined how best to distribute the burden amongst the counties. Under the Federalist plan, the Treasury determined the amount each county throughout the nation would pay. Also, a state could receive a 15 percent discount on its bill if it paid the entire amount within a year. Eleven states took advantage of this opportunity. Finally, the Madison Treasury discarded the complicated valuation system devised by Wolcott, instead basing the tax on the value of lands, houses, and slaves "at the rate each is worth in money" rather than a predetermined fixed rate. This resembled the requisition system used under the Article of Confederation. While vested with expanded

powers under the Constitution, the national government still had trouble getting the states to pay in full. Despite the incentive for paying the tax promptly, the direct tax returns disappointed again, and revenue trickled into the Treasury as late as 1825.¹⁵⁸

Throughout the war, Congress expanded the tax schedule in an effort to keep pace with the interest payments on the burgeoning debt. Candles, nails, iron, hats, umbrellas, saddles, bridles, shoes, and playing cards all carried new duties. The Democratic-Republicans, who had vehemently protested Hamilton's economic policies, soon found themselves adopting a similar program. They chartered a Second Bank of the United States, revived the most contentious taxes, and increased custom duties, culminating in the Tariff of 1816, the most protective tariff enacted in the United States at that time. Necessity overwhelmed earlier concerns about the invidious nature of national taxation.¹⁵⁹

Although Gallatin's successor, Alexander J. Dallas, recommended retaining internal taxes as a permanent part of the government's fiscal policy after 1817, Congress did not comply. After 1817, Congress levied no internal taxes until 1861. Tariffs, collected "with more ease to Government and less inconvenience to the People," remained the primary source of revenue for most of the nineteenth century.¹⁶⁰

From these initial experiences with taxation came lessons that guided the fiscal system until the Civil War era. "All hands" agreed that tariffs would provide the bulk of national revenue. Stripped of their power to impose import duties, states could not meddle or contravene federal tariff policy. Neither the state nor national government could levy export duties. Customs officials would not interfere with the "internal police" of the states. The hidden nature of the tariff would not excite the taxpayers. Duties could target selected luxuries thus putting the burden of taxation on those who indulge in such fineries. Thus tariffs contributed to the vision of creating a virtuous and less frivolous society, one of the republican ideals of the Revolution.

¹⁵⁸ Adams, *Taxation in the United States*, 59; Charles F. Dunbar, "The Direct Tax of 1861," *Quarterly Journal of Economics*, 3 (July, 1889), 443.

¹⁵⁹ Howe, *The Internal Revenue System*, 46.

¹⁶⁰ Gallatin, *Increase of Revenue*, 35.

Moving beyond tariffs, internal taxes posed more challenges for the emerging government. Anti-Federalists had predicted correctly that taxation would provide a vehicle for the national government to establish its supremacy over state legislatures. Hamilton's dual thrust of consolidating the state war debts under one roof, then inaugurating a revenue program to meet the interest payments on that debt, aimed, according to Barber, "to establish a federal hegemony over all taxation so that Congress could raise revenue or shape the national economy unhindered by obtrusive state legislation."¹⁶¹ During the early Federalist administrations, the central government stepped beyond the limits of its sphere, unleashing its "vultures" and intruding on local matters and state prerogatives.¹⁶² The Whiskey and Fries rebels would not pay for their allegiance to a government that intruded unsympathetically in their local economic arrangements, or flagrantly disregard the liberties guaranteed in the recently printed Constitution. For these reasons, the two disturbances represented more than mere tax revolts. Instead, like the American Revolution, they represented a reaction against imposition on local control and a quest for a more representative government.

The official reaction to both the Whiskey and Fries Rebellions confirmed localists' fears about uniting the "purse and sword."¹⁶³ The Federalist administrations set loose a massive army to quell these disturbances; in both cases the uprisings had dissipated long before the forces arrived. The national government had flexed its muscle, assembled militias, and marched on citizens. Whereas unrest, and economic dislocation, had inspired the movement to form a stronger national government, the overzealous use of that power spurred the desire for a more restrained central authority. The Democratic-Republicans, led by Thomas Jefferson and James Madison, replaced the Federalists, and returned the national government to what citizens considered its appropriate sphere. They dismantled the Federalist tax machine and renewed the fiscal

¹⁶¹ William D. Barber, "Among the Most Techy Articles of Civil Police: Federal Taxation and the Adoption of the Whiskey Excise," *William and Mary Quarterly*, third ser., 25 (January, 1968), 84.

¹⁶² Elliot, *Debates*, II: 72-73.

¹⁶³ George Mason, *1787: Drafting the US Constitution*, I: 872.

policy shaped by the Constitutional Convention and Anti-Federalists reaction to the direct tax.

Victory in the War of 1812 led to a more interventionist role in government economic and tax policy. Congress resurrected the Bank of the United States, created a standing army and permanent Navy, and initiated a series of protective tariffs that waxed until 1833 and the Nullification Crisis. From then until 1861, tariff rates declined (with one brief interruption in 1842). Limited to the revenue collected from tariffs, the restrained actions of the central government reflected American priorities of commerce over national initiatives in social, military, and economic affairs. The power to invoke a broader tax program lay dormant. State and local government continued their separate and independent fiscal policies that underwrote social spending. Aid to education, poor relief, and internal improvements fell to the states, as the national government assumed what Madison called it “due limits.”

Other Revenue Options

Until the Civil War, customs duties regularly provided 95 percent of federal revenue. “All hands” agreed early they would provide the best source of revenue for the government, lawmakers considered other options. Throughout the late eighteenth and early nineteenth century, Congress debated the extent to which public lands could help bolster the government’s revenue. Both the early Federalist and Republican administrations hoped to use public land sales as a reliable source of funds. The original thirteen colonies comprised over 300,000 square miles; the Louisiana Purchase added another 400,000 miles to the public domain. Land remained the single greatest asset controlled by the federal government through the nineteenth century. Naturally, many saw this asset as a potential source of wealth and stability for the emerging government.

However, two competing interests soon emerged. Speculators wanted land sold in large tracts, with prices attached to the entire parcel, not per acre. This would favor wealthier purchasers with ready capital for investment, and provide a relatively quick and easy means of getting money into the Treasury, and allow a relaxation tariff rates.

However, speculators would then control the land, and the prices set for selling it to future migrants. Settlers, however, preferred small allotments sold at per acre prices. This strategy encouraged more westward migration and provided a greater benefit for farmers hoping to develop the vast domain. Should the government encourage settlement or use the land primarily for revenue? Selling land in small segments to individuals provided less revenue and created greater bureaucratic challenges in administering the sales, but facilitated the growth of the overall economy.¹⁶⁴

The Land Ordinance of 1785 allowed anyone to purchase 640 acres for one dollar per acre. The policy changed in 1800 to selling 340 acres for two dollars per acre. These policies favored those with large sums of money, and discouraged the small farmer from moving west and establishing his homestead. In 1820, the tide changed to opening the land for settlement, rather than using it as a source of revenue. Land sold in lots as small as 80 acres, for \$1.25 per acre. This policy continued until the Homestead Act of 1862 granted land to settlers for free, and relinquishing the use of public lands for revenue.¹⁶⁵

Settling, rather than selling, the land became the government's primary objective. The presence of squatters, whose farms began to dot the vacant tracts, made relying on income from land sales impractical. "The settlers did not have the money were destined not to have it, but settle the land they would. And back of every demand for revenue ... was the stronger desire to make the government secure and great through the spread of people over millions of acres."¹⁶⁶ Relinquishing this bountiful source of future income also tied the government to tariff financing and indirect taxation. The movement to

¹⁶⁴ Marion Clawson, *The Land System of the United States: An Introduction to the History and Practice of Lane Use and Land Tenure* (Lincoln: University of Nebraska Press, 1968).

¹⁶⁵ Harold U. Faulkner, *American Economic History* (New York: Harper Brothers, 1924), 216-217.

¹⁶⁶ Benjamin H. Hibbard, *A History of Public Land Policies*. Reprint. (Madison: University of Wisconsin Press, 1965), 5. Marion Clawson, *The Land System of the United States: An Introduction to the History and Practice of Lane Use and Land Tenure* (Lincoln: University of Nebraska Press, 1968); Paul W. Gates, "Charts of Public Land Sales and Entries," *Journal of Economic History*, 24 (March, 1964): 22-38.

lower the rates of these duties prompted many to call for land sales to help pay the government's bills. However, public land sales had proven an inefficient and unreliable source of federal revenue.

Selling national public lands spread over millions of acres, and located over a thousand miles from Washington proved difficult to administer. (States enjoyed greater success because they controlled a small portion of land to sell and distribute.) Thus public land sales proved an inefficient and unreliable source of federal revenue. Most land sold on credit or with dubious paper currency, resulting in forfeiture. In 1820, for example, land purchasers owed the government \$21 million for their property whereas the entire federal budget that year totaled \$17.8 million.¹⁶⁷ When President Andrew Jackson made these transactions payable only in specie, rather than credit or paper currency, the revenues from public land sales plummeted from \$24.8 million in 1836 to \$6.7 million in 1837.¹⁶⁸ Although abundant, and potentially productive sources of revenue, land sales did not provide a practical source of reliable funds for the national government.

Throughout the antebellum era, politicians faced this choice: either use the public domain for generating revenue (by selling to the highest bidder, generally speculators), and subsequently lowering tariff revenue, or distribute the land for a minimal fee to those who wished to settle the West. The latter choice would wed the country to relying on customs duties as the primary source of revenue. This debate lay at the heart of the controversy over the Homestead policy, and partially explains the vehement opposition to providing cheap land for farmers.

Reviving the direct tax became another financing option for the government during the 1850's. Calling to "change the existing system of taxation," advocates of free trade wanted to revive the national direct tax.¹⁶⁹ The Southern Commercial Convention in Savannah, meeting in December 1856, called for the elimination of all customs duties

¹⁶⁷ Dewey, *Financial History of the United States*, 168.

¹⁶⁸ *Ibid*, 246.

¹⁶⁹ *Debow's Review* strongly promoted this idea during the 1850's. See *Debow's Review*, "Direct Taxation and Free Trade," 25 (July, 1858), 1-25;

and adoption of a national direct. “Each man would pay according to his ability ... [and] Congress would be more economical of the public money as the rich and influential would be averse to taxing themselves.”¹⁷⁰ John C. Calhoun, Jr. argued further that, “the South had been prosperous in defiance of a most unjust and oppressive system of taxation.” Repealing the tariff would allow southern commerce to “flourish like the green bay tree.”¹⁷¹ Collecting direct taxes through the states would relieve the dependence on tariff income, which would allow for an easing of the rates. However, the difficulty of collecting direct taxes made this idea unpopular outside of the southern commercial interests. Keeping the government dependent on tariffs also freed states to experiment with their own financing options.

State Policies

While the central government resorted to tariff financing, state and local governments developed an imaginative array of fiscal schemes. “Tax free finance” became the objective of most states, according to Peter Wallenstein.¹⁷² Hamilton’s plan for assuming and centralizing the Revolutionary War debts not only strengthened the national government, but allowed states to begin their federal life with a clean fiscal slate.

A series of three ordinances passed between 1784-1790 that established the policy of the federal government allocating public lands to states for education and development. Grants of the public domain benefited “directly or indirectly” virtually

¹⁷⁰ *Debow’s Review*, “Report of the Southern Commercial Convention,” 22 (January, 1857)92-93.

¹⁷¹ *Debow’s Review*, “Report on the Savannah Convention,” 22 (March, 1857), 307-309.”

¹⁷² Peter Wallenstein, *From Slave to New South: Public Policy in Nineteenth Century Georgia* (Chapel Hill: University of North Carolina Press, 1987), 23-32; John Wallis adopts this term as well. John Joseph Wallis, “Constitutions, Corporations, and Corruption: American States and Constitutional Change, 1842-1852,” *Journal of Economic History*, 65 (March, 2005), 211-256.

“every function of state and local governments,” Daniel Elazar explained.¹⁷³ Allocations of public lands allowed states to support education, commence internal improvements, and, through land sales to settlers, provide revenue for state budgets. Local administration made state land sales a more stable and reliable source of revenue than national land sales. States acquired land from federal allotment, but also “the seizure and redistribution of Indian land.” Grabbing “western lands” from Native Americans gave states “revenue far exceeding the costs of administering the land program.”¹⁷⁴

States also invested in “quasi-public corporations.”¹⁷⁵ These activities produced revenue that paid for social welfare and education initiatives. Banks emerged as one of the favorite ventures for state investment. States purchased bank bonds and stocks, and also taxed the capital, dividends, deposits, notes, and profits banks generated. Throughout the antebellum era, Massachusetts, for example, collected over half of her revenue from a one percent tax on bank capital. “New York and Virginia were the only states to derive less than 20 percent of their revenue” from banks in any five year period, Sylla, Legler, and Wallis found.¹⁷⁶

The purchase of stock or investment in bonds of corporations helped underwrite internal improvements in states. The interest from these investments provided another source of “tax-free” revenue. States helped foster private initiatives. Between 1807-1867, France chartered 647 corporations, whereas the six New England states alone chartered over 6700 corporations from 1800-1862.¹⁷⁷ Road, canal, and railroad companies all received state support and in turn helped support social spending through

¹⁷³ Daniel Elazar, *The American Partnership: Intergovernmental Cooperation in Nineteenth Century United States* (Chicago: University of Chicago Press, 1962), 131-133.

¹⁷⁴ Wallenstein, *From Slave South to New South*, 27.

¹⁷⁵ Stuart Bruchey, *The Roots of American Economic Growth, 1607-1861* (New York: Harper Row, 1965), 128-

¹⁷⁶ Richard Sylla, John B. Legler, and John J. Wallis, “Banks and State Finance in the New Republic: The United States, 1790-1860,” *Journal of Economic History*, 47 (June, 1987), 391-403, quote on 400. The decision in *McCulloch v. Maryland* only barred the state from taxing the notes of the Bank of the United States, not any other banks.

¹⁷⁷ Wallis, “Constitutions, Corporations, and Corruption,” 246.

interest and dividend payments as well as toll collections. New York's sponsorship of the Erie Canal remains the most famous, and successful, example of state support for a "quasi-private" venture. The state reaped a great windfall from the canal's success, and this example encouraged other states to provide support for internal improvement projects. Not all these projects succeeded. John Majewski reported on the "disastrous" investment made by Pennsylvania on the Mainline canal system. The state poured over \$100 into the project, with little return. This misadventure, coupled with the Erie's success, helped propel New York City past Philadelphia as the nation's leading commercial metropolis.¹⁷⁸ Although the federal government withdrew from supporting internal improvements after the election of President Andrew Jackson in 1828, states quickly filled the void. Between 1790 and 1860, state and local governments spent over \$425 million on transportation, while the federal government spent only \$54 million.¹⁷⁹ In Pennsylvania, for example, the Legislature enacted 132 laws in 1815, and 725 in 1860, and "perhaps 90 percent of these" involved private business concerns.¹⁸⁰

Where did the states get this money, if not from general taxation? States demonstrated flexibility and ingenuity in their tax schemes. Many states employed specialty taxes, such as licenses, fees, taxes on corporate profits, and poll taxes. Maryland passed a tax on the notes used by the Bank of the United States notes that led to the famous Supreme Court decision *McCulloch v. Maryland* (1819), which asserted the supremacy of the national government over the states when the two collide. Mississippi used her tax policy to advocate social and economic policy. The state's first constitution exempted banks and railroads from taxation to encourage development. To discourage free blacks from settling in the state, the Mississippi legislature in 1822, the

¹⁷⁸ John Majewski, "The Political Impact of Great Commercial Cities: State Investment in Antebellum Pennsylvania and Virginia," *Journal of Interdisciplinary History* 28 (Summer, 1997), 1-26.

¹⁷⁹ Wallis, "Constitutions, Corporations, and Corruption," 226.

¹⁸⁰ Douglas E. Bowers, "From Logrolling to Corruption: The Development of Lobbying in Pennsylvania, 1815-1861," *Journal of the Early Republic*, 3 (Winter, 1983), 443.

state levied a \$3.00 capitation tax on each “free male of color,” while male slaves and free white males paid only 75 cents.¹⁸¹

These various taxes contributed a small portion to state finances. For the real money used to fund the purchase of banks and corporate shares, and support the development of internal improvements, states borrowed money. Capitalists near and far invested in state bonds, and the private securities that received the backing of state governments. Foreign investors poured over \$500 million into the United States before the Civil War, underwriting national and state debts. Foreigners liked these state-supported bonds because “faith in the nation’s resources were so great,” and Americans “were so frugal.”¹⁸² Also, the investors believed they would receive steady interest payments from taxation if the states’ other financing schemes fell short.

This expectation received its first great trial after the Depression in 1837. “One after another” of the state budgets collapsed under the weight of their indebtedness. The states carried a debt of \$230 million at the time and could not keep up with the interest payments. Florida and Mississippi completely repudiated their obligations. Arkansas, Indiana, Illinois, Maryland, Michigan, Pennsylvania, and Louisiana all defaulted on interest payments. This defalcation created a great backlash, both within the states and abroad. Jefferson Davis, the governor of Mississippi when the state defaulted, would later regret his indifference to the “crocodile tears” shed by English investors who lost thousands on the bonds issued by his state. During the American Civil War, English investors who remembered Davis’s role in the default hesitated to lend money to the Confederate States of America.¹⁸³ The enthusiasm foreign capitalists had for all types of “American things” soured. When questioned on why American railroad securities sold

¹⁸¹ Charles H. Brough, “Taxation in Mississippi,” in *Studies in State Taxation with Particular Reference to the Southern States* (Baltimore, MD: Johns Hopkins Press, 1900), 177-178.

¹⁸² Guy S. Callender, “The Early Transportation and Banking Enterprises of the States in Relation to the Growth of the Corporations,” *Quarterly Journal of Economics*, 17 (November, 1902), 142.

¹⁸³ Reginald C. McGrane, *Foreign Bondholders and American State Debts* (New York: Macmillan Co., 1935), 204-206.

poorly on the British market in 1859, an Englishman replied that, “the record of that experience [states defaulting] now operates as a bugbear to Englishmen to this day.”¹⁸⁴ Although national bonds continued to attract foreign investment any sign of trouble made these investors cautious. Bond sales during the Civil War relied heavily on Union army victories.

Movements to revise state constitutions swept the country. Before 1840, no state constitution limited the amount of debt a state could carry, but within 15 years, 19 states added these restraining amendments.¹⁸⁵ Until the early 1840’s, states succeeded in bolstering their budgets without extensive taxation. Once they could no longer depend on deficit financing, states relied on direct taxes to provide for the basic services of governing. “They provided minimum revenue but remained cumbersome and unpopular,” Sylla noted. Alexis de Tocqueville described the process for collecting these taxes:

The state usually employs the officers of the township or the county to deal with the citizens. Thus, for instance, in New England the town assessor fixes the rate of taxes; the town collector receives them; the town treasurer transmits the amount to the public treasury; and the disputes that may arise are brought before the ordinary courts of justice. This method of collecting taxes is slow as well as inconvenient.¹⁸⁶

Poll and property taxes, tailored to local conditions, predominated. In response to the fiscal collapse of states under their debt obligation, tax revenue had to increase. Most states adopted a general property tax, both to provide more secure revenue, but also to keep officials from encumbering the state with unsustainable debt. Sixteen states adopted uniformity clauses that applied the same rate to both real and personal property.¹⁸⁷ States also experimented with income taxes (Pennsylvania, Maryland,

¹⁸⁴ *Ibid*, 280-281.

¹⁸⁵ B. U. Ratchford, *American State Debts* (Durham, NC: Duke University Press, 1941), 98-106.

¹⁸⁶ Alexis de Tocqueville, *Democracy in America* (New York: Vintage Books, 1954), I: 91-92.

¹⁸⁷ Robin L. Einhorn, “Species of Property: The American Property Tax Uniformity Clauses Reconsidered,” *Journal of Economic History*, 61 (December, 2001), 974-1008.

Virginia, North Carolina, Alabama, and Florida), and inheritance taxes (Pennsylvania, Louisiana, North Carolina, Massachusetts, Virginia, and Maryland.) Though Americans paid taxes to the national government only through tariffs, they experienced taxation through their state and local governments. In 1860, states collected \$93.6 million in direct and indirect taxes from their residents, whereas the national government collected \$56 million.¹⁸⁸

When all else failed, states turned to lotteries. Approximately 130 separate lotteries were authorized for “government functions” between 1790-1860. Virginia used lottery proceeds to build a toll bridge whose revenue supported “needy children.” In 1811, Maryland promoted a lottery to erect a monument to George Washington.¹⁸⁹ In 1832, lottery sales throughout the country generated \$66.4 million in revenue; the national government’s receipts for that year totaled only \$31.8 million.¹⁹⁰

Conclusion

States emerged as the sources of finance for internal improvements as well as social welfare and education spending. They accomplished this through direct taxation of citizens and a number of innovative financing strategies. Through these initiatives, the federalist ideal of states meeting the needs of citizens “individually” strengthened. The national government remained removed, both in collecting taxes and in spending on social welfare or education. In 1860, as the nation stumbled toward war, this system impaired the ability of the national government to address the pressing needs for economic mobilization.

¹⁸⁸ *Statistics of the United States in 1860, compiled from the Eighth Census* (Washington, DC: GPO, 1866), 511; Dewey, *Financial History of the United States*, 267.

¹⁸⁹ John Samuel Ezell, *Fortune’s Merry Wheel: The Lottery in America* (Cambridge: Harvard University Press, 1960), 120, 135.

¹⁹⁰ G. Robert Blakey, “State Conducted Lotteries: History, Problems, and Promises,” *Journal of Social Issues*, 35 (Dec, 1952), 68.

CHAPTER III

THE “EXHAUSTED CONDITION OF THE TREASURY”

The Civil War fiscal crisis began before April 12, 1861. The United States Treasury tottered in a state of “utmost confusion” months before Edmund Ruffin shot at the troops holed up in Fort Sumter.¹ The Treasury had been the country’s traditional “dynamic center” of government, yet now it faced bankruptcy.² Congress was notified on February 11, 1861 that “little more” than \$500,000 remained in the central depository in Washington. Demands for \$2 million “unanswered” requisitions had accumulated in the department, with \$6 million more due to public creditors in early March.³ Staff in most executive departments could not draw their salary that January. Members of Congress had gone unpaid since the start of the session the previous December.⁴ Worse yet for a nation stumbling into war, “The War and Navy departments,” reported the department’s secretary, John A. Dix, “have calls for large requisitions [that] have been delayed on account of the exhausted condition of the Treasury.”⁵

“To understand the measures submitted to Congress,” John Sherman wrote in reference to the fiscal legislation introduced in the Thirty-seventh Congress, “it is necessary to have a clear conception of the condition of the Treasury at that time, and of the established financial policy of the government immediately before the war.”⁶ Yet historians rarely include the state of the pre-war Treasury in their review of the Civil

¹ Morgan Dix, comp., *Memoirs of John A. Dix*, 2 vols. (New York: Harper Brothers, 1883), I: 364.

² Leonard D. White, *The Jacksonians: A Study in Administrative History, 1829-1861* (New York: Macmillan Co., 1954), 163.

³ John A. Dix to John Sherman, *Congressional Globe*, 36th Congress, 2nd session, February 12, 1861, 871.

⁴ John Sherman, *Cong. Globe*, 36th Cong. 2nd sess., December 18, 1861, 42.

⁵ John A. Dix, *Condition of the Treasury*, 36th Cong., 2nd sess., House Ex. Doc. 20, serial set 1103, January 18, 1861, 2.

⁶ John Sherman, *Recollections of Forty Years in the House, Senate, and Cabinet: An Autobiography*, 2 vols. (Chicago: Werner Co., 1895): I, 251.

War legislation.⁷ Studies of finances during the war usually offer only a brief mention of the “unsatisfactory condition of the Treasury in 1860,” then move on to the wartime policy.⁸

Analyses of the economic impact of the Civil War era often begin with a litany of Union strengths: in manpower, industrial output, capital resources, railroad miles, and the value of real property. These factors gave the Union “an overwhelming preponderance in most sources of economic power,” according to Richard N. Current.⁹ However, in April 1861, the economic power of the Union seemed more tenuous. Merchants and planters in the future Confederate states owed northern businesses approximately \$200 million in unpaid receipts at the start of 1861; as more southern states seceded, repayment seemed unlikely.¹⁰ Throughout 1861, 5935 northern businesses failed, with over \$193 million in liabilities.¹¹ When Civil War erupted, trade revolving around cotton represented the “major feature in American commerce.”¹² “King Cotton” not only intoxicated southern Firebrands, but also held many northern businesses in his grasp. The secession crisis foretold a great financial loss, rather than a potential war boom, accompanied the secession crisis. In part, this explains why many northern “economic interests,” especially the “vast majority of merchant and capitalist classes” in New York did not vote for the Republican ticket in 1860.¹³

⁷ For example, Leonard P. Curry, *Blueprint for Modern America: Nonmilitary legislation of the First Civil War Congress* (Nashville, TN: Vanderbilt University Press, 1968).

⁸ Davis R. Dewey, *Financial History of the United States*, 12ed ed. (New York: Longmans Green and Co., 1939), 272.

⁹ Richard N. Current, “God and the Strongest Battalions,” in *Why the North Won the Civil War*, David Donald, ed. (New York: Collier Books, 1960), 15.

¹⁰ Philip Foner, *Business and Slavery: The New York Merchants and the Irrepressible Conflict* (Chapel Hill: University of North Carolina Press, 1941), 218.

¹¹ Emerson D. Fite, *Social and Industrial Conditions in the North during the Civil War* (New York: Peter Smith, 1930), 106. These figures count only businesses with over \$5,000 in capital.

¹² Robert G. Albion, *The Rise of New York Port* (New York: Charles Scribner’s Sons, 1939), 400.

¹³ P. Foner, *Business and Slavery*, 206.

The economic dominance of the Union seems obvious in hindsight, but those engaged in managing the Union's finances perceived economic weakness and uncertainty. On the eve of the war, the Union finances "humiliating," John Sherman worried that, "The problem was not whether we could muster men, but whether we could the raise money."¹⁴ The lawmakers charged with organizing the divided nation's finances had to balance their great faith in the future with the limitations inherent in the federal fiscal system. Victory seemed less likely the longer the war continued. We know that the United States emerged one hundred years after this catastrophe not only as a stronger country, but also as a dominant economic power. However, those who tended the nation at the onset of the war had a different perspective. "Confidence in everyone is shaken to the very foundation," Massachusetts Republican Henry Dawes wrote to his wife on January 6, 1862. "The credit of the country is ruined ... and [the nation's] ruin inevitable."¹⁵

One can trace this uncertainty, in part, to the fiscal federalism erected during the Constitutional Convention, and solidified throughout the antebellum era. Contrary to the perception that the national government possessed "unlimited" taxing authority, a tight fiscal leash inhibited the options available for addressing "financial embarrassments."¹⁶ Americans created a government that taxed its citizens minimally and indirectly. Throughout the antebellum era, state and national leaders reinforced this structure. America did not need standing armies, Alexis de Tocqueville explained, because, "no discontented minority has as yet been reduced to declare open war." Should this occur, he continued, the American fiscal system "would prove a perpetual hindrance to a government whose pecuniary demands were large."¹⁷ The antebellum determination to curtail the national government's role in managing the economy created obstacles to

¹⁴ Sherman, *Recollections*, I: 259.

¹⁵ Dawes to Mrs. Dawes quoted in Benjamin P. Thomas and Harold M. Hyman, *Stanton: The Life and Times of Lincoln's Secretary of War* (New York: Alfred A. Knopf, 1962), 135.

¹⁶ A common term used when the government ran a deficit.

¹⁷ Alexis de Tocqueville, *Democracy in America*. 2 vols. Reprint. (New York: Vintage Books, 1954), I: 89-90.

generating enough revenue for fighting the war. The “purse and the sword” had become separated. The “hindrances” in fiscal authority played a significant role in directing the Union’s financial options as the Civil War began. The men who redesigned this system did so with more urgency than deliberation or conviction. The need to overcome the antiquated fiscal system fostered during the antebellum era played the predominant role in influencing the financial decisions of the administration.

When Charles and Mary Beard declared that the Civil War represented a “Second American Revolution,” they continued their iconoclastic disclosures of the influence wielded by “economic interests” throughout the course of American history.¹⁸ Louis Hacker refined the Beards’ ideas in 1940. The resulting “Beard-Hacker” thesis identified the economic determinism of the industrial North as the primary force in establishing the Civil War political agenda and post-war development. The Republican Party, established in 1854 and triumphant in the presidential election of 1860, represented the interests of this rising order. “Industrial capitalism was now in control of the state,” Hacker declared. Republicans succeeded in “capturing the state” and used it as an instrument to secure the “progress of industrial capitalism.”¹⁹ The secession of the southern states, and withdrawal of their elected officials from Congress, allowed the economic structure of “machine industry [to] tower above agriculture” once the “capitalists, laborers, and farmers drove from power the planting aristocracy.” This upheaval created a “profound social and economic transformation.”²⁰

The Beard-Hacker thesis has permeated the literature on economic change in the Civil War era. So thoroughly that scholars, such as Richard F. Bense, who find this thesis “colorful, but theoretically unsatisfying,” nevertheless mimic much of the

¹⁸ Charles A. and Mary R. Beard, *The Rise of American Civilization*, 4 vols. (New York: Macmillan, 1927).

¹⁹ Louis Hacker, *The Triumph of American Capitalism: The Development of Forces in American History to the End of the Nineteenth Century*. Second ed. (New York: Simon, Schuster, 1947), 340, 373, 361.

²⁰ Beards, *The Rise of American Civilization*, II: 52-121, quotes on 105, 54. For the historiography of the Beard-Hacker thesis, Roger Ransom, “Fact and Counterfact: The Second American Revolution Revisited,” *Civil War History*, 45 (March, 1999), 28-60.

language and theses presented by the Beards and Hacker. “The American state was captured by the Republican Party,” Bensel contended. Thus, the “antebellum northern agenda for the political economy was impressed upon the American state with little compromise or mediation.” He continued, “The party-state sponsored the creation of a new class of finance capitalists during the war.” These “finance capitalists” emerged as direct beneficiaries of the “Republican hegemony.”²¹

Starting in 1961, economic historians launched a sustained challenge to the premise that the Civil War sparked an industrial revolution and economic transformation.²² These scholars have demonstrated instead that a “tremendous thrust” in manufacturing production occurred before the war.²³ Rather than an impetus to industrialization, the war represented a “costly and bitter interruption” to the dynamic economic expansion that occurred during the antebellum era.²⁴ While exposing one fallacy of the “Beard-Hacker” thesis, they have overlooked one relevant aspect of this argument. In challenging the breadth of revolutionary change, economic historians have focused too narrowly on production. By limiting their explorations to enumerating and comparing the scale of industrial output, they have lost sight of the many ways in which the Civil War “fundamentally altered the economic *structure* of the United States.”²⁵

On another front, scholars intrigued by the resonance of the Republican Party’s pre-war ideology have discounted the economic determinism of the Beard-Hacker approach. “Republicans brought into the war an ideology grounded in a conviction of the superiority of free to slave labor,” noted Eric Foner, the historian who identified the

²¹ Bensel, *Yankee Leviathan*, 419, n. 7; 236-237.

²² Thomas C. Cochran, “Did the Civil War Retard Industrialization,” *Mississippi Valley Historical Review* 48 (Sept, 1961), 197-210.

²³ George Rogers Taylor, “The National Economy Before and After the Civil War,” in David T. Gilchrist and W. David Lewis, eds., *Economic Change in the Civil War Era* (Greenville, DE: Eleutherian Mills-Hagley Foundation, 1965), 22.

²⁴ Douglass C. North, *The Economic Growth of the United States, 1790-1860* (New York: W.W. Norton, 1966), v.

²⁵ Roger L. Ransom, *Conflict and Compromise: The Political Economy of Slavery, Emancipation, and the American Civil War* (New York: Cambridge University Press, 1989), 254. Emphasis mine, not Ransom’s.

new party's "free labor ideology." Republicans believed the "distinctive quality of Northern society as the opportunity it offered the wage laborer to rise to the status of independent farmer or craftsman."²⁶ Where the Beards depicted economic goals as the impetus for change, scholars intrigued the free labor ideology view it as the primary determinant in shaping wartime legislation. "Party members' faith in individual labor *made* them pass sweeping laws to enable workers to prosper and develop the nation, but the same faith *made* Republicans oblivious to the actual conditions they were creating for those workers," concluded Heather Cox Richardson.²⁷ Similarly, Michael Green asserts that Republican policy flowed from "their shared beliefs."²⁸ One common "Beardian" element in these studies presumes that the Republican lawmakers managed to promote a preconceived agenda undeterred by the tumult of the Civil War.²⁹ These interpretations also neglect to adequately address the challenges the Republicans inherited from the previous administrations, particularly the "exhausted" state of the Treasury when they came to office.

I do not deny that constituent interests influenced Republican legislators.³⁰ Nor do I question the ideological commitment made by politicians or soldiers to preserving the Union.³¹ Instead, I argue in this chapter that the condition and structure of the government in 1861 greatly influenced the wartime policy. The Republicans assumed control of a government that had been systematically "divorced" from the economy during the antebellum era. The limitations inherent in the federalist system created

²⁶ Eric Foner, *A Short History of Reconstruction* (New York: Harper Row, 1990), 12.

²⁷ Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War* (Cambridge: Harvard University Press, 1997), 255. Again, emphasis mine, not Richardson's.

²⁸ Michael Green, *Freedom, Union, and Power: Lincoln and His Party during the Civil War* (New York: Fordham University Press, 2004), 9.

²⁹ Fighting was a "fleeting incident" according to the Beards. *Rise of American Civilization*, II, 54.

³⁰ Best demonstrated in Marc Egnal, "The Beards Were Right: Parties in the North, 1840-1860," *Civil War History*, 47 (March, 2001), 30-56. Also discussed in Chapter Five.

³¹ James M. McPherson, *What They Fought For, 1861-1865* (Baton Rouge: Louisiana State University Press, 1994).

many “hindrances” as de Tocqueville predicted. Because states, rather than the national government controlled policies regarding banks and currency, the national government could not readily harness the wealth of the nation when the Civil War erupted.

The first “modern war in American history” compelled many changes in the economy, particularly the fiscal system.³² These developments did constitute “revolutionary” changes, as the Beards suggested. However, the effort to manipulate these transformations, either for ideological reasons or to reward specific economic interests has been overstated. Rather the exigencies of war overwhelmed the limits that constrained the government during the antebellum era. The “revolution” identified by the Beards did not occur because a “capitalist class was marching onward in seven league boots” intent on rewarding their patrons.³³ Nor did the “Republicans’ belief in the ultimate power of individual labor” play a dominate role in shaping wartime fiscal policy.³⁴ Rather preserving the nation placed insurmountable strains on the antebellum organization of government finance. Overcoming this antiquated fiscal system played the primary role in the financial decisions of the administration. “When I left [Washington],” Dix wrote to retired president James Buchanan on March 28, 1861, “I do not think the [Lincoln] administration had any settled policy. It was merely drifting with the current, at a loss to know whether it were better to come to an anchor, or set sail.”³⁵ This statement, I believe, more accurately reflects the nature of the “party-state,” and the nation, on the eve of the Civil War.

The Growing Debt

President James Buchanan’s administration mismanaged the nation’s finances. Upon Buchanan’s inauguration in 1857, the Treasury recorded a \$1.3 million surplus,

³² For the Civil War as the “first modern war,” Joseph G. Dawson, “First of the Modern Wars,” in *The American Civil War: Explorations and Reconsiderations*, Susan Mary Grant and Brian Holden Reid, eds. (New York: Longman, Green, Co., 2000), 121-141.

³³ Beard, *The Rise of American Civilization*, II: 105.

³⁴ Richardson, *Greatest Nation*, 250.

³⁵ John A. Dix to Buchanan quoted in George T. Curtis, *Life of James Buchanan*, 2 vols. (New York: Harper & Bros., 1883), I: 537.

and a moderate \$28.7 million debt. By the start of Abraham Lincoln's first term, the Treasury sagged under the weight of a \$25.2 million deficit and a \$76.4 million debt, the largest peacetime obligation in the nation's history.³⁶

Bad luck, fiscal imprudence, and political stalemate fostered this derangement. Soon after President Buchanan settled into the White House, the Panic of 1857 swept the country. The Ohio Life Insurance and Trust Company failed in August 1857. The largest bank in Ohio and purveyor of eastern loans and specie to the western states collapsed after embezzlement and easy credit emptied its reserves. Banks in New York responded by calling many of their loans, thus triggering a ripple effect. Businesses and banks nationwide, unable to respond to the demands of their paymasters, declared bankruptcy. One by one, New York, Boston, and Philadelphia banks reacted defensively, hoarding their reserves and tightening their credit. As a result, an epidemic of business and bank failures occurred.³⁷ *Harper's Weekly* reported in December 1857 that, "the people are suffering from a revulsion almost unprecedented in severity."³⁸

Iron furnaces throughout Pennsylvania, the president's home state, closed and production fell from 883,000 tons in 1856 to 705,000 in 1858. The value of wheat exports dropped from \$22.2 million to \$9 million between 1857 and 1859. Wheat comprised the largest export commodity produced by the northern states. Contrasting this despair, foreign and domestic cotton sales continued apace. Cotton exports rose in value to \$161.4 million in 1859 from \$131.56 million in 1857. The economy of the free laborers languished, while the "King Cotton" economy, built upon the scarred backs of slaves, flourished. The economic effects of the Panic further exacerbated this sectional

³⁶ Paul Studenski and Herman E. Krooss, *Financial History of the United States* (New York: McGraw Hill, 1952), 125, 152; J. W. Schuckers, *The Life and Public Services of Salmon Portland Chase*, 1874. reprint. (New York: Dacapo Press, 1970), 274; Dewey R. Dewey, *Financial History of the United States*, 12th ed. (New York: Longmans, Green and Co, 1939), 255.

³⁷ James Huston, *The Panic of 1857 and the Coming of the Civil War*, (Baton Rouge, LA: Louisiana State University Press, 1987), 14-34.

³⁸ *Harper's Weekly*, Dec. 19, 1857, 802.

tension. This disjunction convinced many southerners of the “superiority” of the slave labor based economy.³⁹

Although the Panic ended quickly, the downturn in northern and western states, coupled with the growing prosperity of the South, increased sectional tensions. The Panic, according to Samuel Rezneck, “The South boasted of its relative immunity to the shock of depression, inasmuch as the [panic] was felt most severely in the East and the West.”⁴⁰ *Debow’s Review* bragged in December, 1857 that, “The wealth of the South is permanent and real, that of the North fugitive and fictitious.”⁴¹

The Panic also initiated a financial crisis. Customs receipts, the primary source of revenue for the national government, lagged throughout the Buchanan administration. Federal revenues never matched the income collected during any year of President Franklin Pierce’s term. Import duties fell from \$64.2 million in 1856 to \$41.7 million in 1858 with only a slight rebound to \$49.5 million in 1859.⁴² While the Buchanan administration had the misfortune of coming to office at the onset of the Panic, they exacerbated their troubles by not adjusting their wants to fit this new economic climate.

Reduced revenue did not curtail the administration’s spending. Expenditures from 1857-1861 topped those of any previous peacetime administration’s, despite the drop in income. Buchanan initiated a “flood of innovations,” according to Philip Klein.⁴³ His attempt to acquire Cuba, the attack against the Mormons, using the Navy to “protect” American vessels engaged in the illicit slave trade, and expansion of the postal service all extended the scope of government spending and increased the deficit.⁴⁴

³⁹ *Commerce and Navigation Report, 1857*, House Ex. Doc., 145, ser. set 960, 21; *Commerce and Navigation Report, 1858*, 35th Cong., 2nd sess., House Ex. Doc., 120, ser. set 1015, 49.

⁴⁰ Samuel Rezneck, “The Influence of the Depression upon American Opinion, 1857-1859), *Journal of Economic History* 11 (May, 1942), 4.

⁴¹ *Debow’s Review*, 23 (December, 1857), 592.

⁴² Dewey, *Financial History*, 267.

⁴³ Philip S. Klein, *President James Buchanan: A Biography*, (University Park, PA: Pennsylvania State University Press, 1978), 327.

⁴⁴ Allan Nevins, *The Emergence of Lincoln*, (New York: Charles Scribner’s Sons, 1950), II: 476-487; John Bach McMaster, *History of the People of the United States*, 9 vols.

Heated exchanges in Congress over these problems added to the political and sectional tensions. As Roy Nichols noted, “The bitter struggle for money had widened the political divisions and intensified the rival attitudes which encouraged them.”⁴⁵

Corruption also sapped the federal budget. Historian Mark W. Summers described the administration’s malfeasance as “the most devastating proof of government abuse of power since the founding of the Republic.” President Buchanan built his cabinet from political friends and supporters. This “compatible group” shared a common sympathy with the objectives of the tenacious southern wing of the Democratic party. President Buchanan gave autonomy to his secretaries, dubbed the “Buchaneers,” and rarely questioned their appointments or budgets. Corruption and profiteering beset the War and Navy departments. Scandals erupted in the War Department over excessive payments to political friends. Secretary John Floyd bought everything from military sites to mules for excessive prices. He facilitated a shady payment scheme with a military contractor that allowed over \$6 million in payments to channel through his personal bank accounts. Government printing contracts were used to finance Buchanan’s political machine, including the intra-party war against his chief political rival, Stephen A. Douglas.⁴⁶

Republicans in Congress convened the Covode Committee to investigate the charges. Although they could not find any hard evidence for an impeachment proceeding, they uncovered many dubious and suspicious activities conducted by the president and his “Buchaneers.” “Considerable evidence” exists, according the Jean H. Baker, “that the president’s efforts to bulldoze the Lecompton Constitution” through Congress “involved several forms of bribery.”⁴⁷ These rumors of improbity also extended to lending aid to the seceding states. During the “secession winter,” Henry C.

(New York: D. Appleton, Co., 1916), 8: 358-360; Carl H. Scheele, *A Short History of the Mail Service* (Washington, DC: Smithsonian Institution Press, 1970).

⁴⁵ Roy F. Nichols, *The Disruption of American Democracy* (New York: Macmillan Co., 1948), 194.

⁴⁶ Mark W. Summers, *The Plundering Generation: Corruption and the Crisis of the Union, 1849-1861* (New York: Oxford University Press, 1987), 239-260, quote on 258.

⁴⁷ Jean H. Baker, *James Buchanan* (New York: Henry Holt, 2004), 113-116.

Adams reports, “rumors circulated of cabinet secretaries aiding the secession movement.” Suspicions of disloyalty circulated throughout the capital. “Many believe,” he writes, “that [John Floyd] ordered the transfer of arms to southern states threatening secession.” Howell Cobb, Adams continued, quietly moved specie from depositories in northern states to those in states that eventually seceded.⁴⁸ Cobb denied this charge, but carried it for years. Alexander H. Stephens, while vice president of the Confederate States, teased him about “not even leaving ‘old Buck’ two quarters to put on his eyes when he died.”⁴⁹ Although the historical jury remains uncertain about the validity of Adams’s and the Republicans’ charges, investors looking for a reliable and stable place to place their funds viewed the Americans situation with skepticism. Remembering the losses from the 1840’s, when two state governments repudiated their debts, foreign investors were not anxious to place their faith in a deteriorating situation. These rumors dampened investor confidence in United States securities.

On top of these extravagances, the government had legitimate bills to pay. To meet all these obligations, President Buchanan’s administration resorted to deficit financing. Treasury notes and longer-term bonds paid the accumulating expenses. Issued for one or two year terms, Treasury notes could be renewed each year, whereas investors held bonds for longer periods (at least five years, but not more than 20 (5/20’s) for example.) Authorized only five other times in American history before 1857 (War of 1812 and Panic of 1837), Treasury notes provided a means of overcoming deficits. If redeemed quickly, they incurred less overall expense than bonds, because of the shorter period of interest payments. However, these notes often exacerbated any financial distress, because investors redeemed their principal sooner than on bonds.

The Treasury issued \$30 million in Treasury notes during Buchanan’s term. (In contrast, during the Depression of 1837, the nation’s worst downturn before the Great

⁴⁸ Henry C. Adams, *The Great Secession Winter and Other Essays*, George Hatfield, ed. (New York: Sagamore Press, 1958): 7-8.

⁴⁹ Ellis P. Oberholtzer, *Jay Cooke: Financier of the Civil War*, 2 vols. (Philadelphia: George W. Jacobs, Co., 1907), I: 124. Buchanan denied these charges. See George T. Curtis, *Life of James Buchanan*, (New York: Harper Bros., 1883), 261.

Depression, the government issued \$43 million in Treasury notes.) In the past, the notes carried a uniform interest rate of 5.4 percent, but the credit of the nation suffered from the Panic and sectional animosity.⁵⁰ The first issue, released in December, 1857, sold at 6 percent. The Treasury issued another \$10 million another in notes in December, 1860. This began the pattern of short-term borrowing that characterized one facet of the Civil War financing.

Issued in smaller denominations than bonds, and received for all [state] taxes, import duties, public land sales, and federal bond purchases, Treasury notes acted as a form of currency. Three types of “money” were used at the onset of the Civil War. Gold, silver and copper coins, state bank notes, and Treasury notes. Received as “money” and convertible to specie at most banks, Treasury notes performed many of the functions of a currency. When faith in the government’s ability to redeem the notes for gold waned, they sold at a discount, for higher interest rates. For this reason, the Treasury notes issued in December, 1860 sold well below par (between 86-94, meaning \$100 worth of notes could be purchased for \$86-\$94), and the lenders demanded interest rates as high as 36 percent.⁵¹

To reign in these expenses, and recover some of the outstanding Treasury notes, Secretary Cobb also issued 10 – 20 year bonds. “It would be ruinous practice in the days of peace and prosperity to go on increasing the national debt to meet the ordinary expenses of government,” Buchanan acknowledged in 1859. However, he never stopped the borrowing binge. Buchanan authorized the last loan of his administration on March 2, 1861, two days before the inauguration of Abraham Lincoln.⁵²

⁵⁰ John Jay Knox, *United States Notes: A History of the Various Issues of Paper Money by the Government of the United States*, 3rd ed. (New York: Charles Scribner’s Sons, 1888), 88.

⁵¹ Robert T. Patterson, “Government Finance on the Eve of the Civil War,” *Journal of Economic History* 12 (Winter, 1956), 35-44.

⁵² Richardson, *Compilation of the Message of the Presidents*, Buchanan’s Third Annual Message, December 19, 1859, (New York: Bureau of National Literature, 1925), 3105; Jane Flaherty, *The Revenue Imperative*, unpublished MA thesis, Department of History, Texas A&M University, 2000, 36-47.

The United States had managed its debt well, despite early republican concerns about the perils of indebtedness. Rafael Bayley, who completed a history of U.S. debt for the Census Bureau remarked, “The United States have been wonderful in their rapid accumulation of debt and their equally rapid reduction.”⁵³ Only during times of great uncertainty, such as the months before the War of 1812, did the government sell securities at interest rates higher than 8 percent. On a decennial average, United States long-term interest rates never went higher than 6.39 percent between 1810-1820.⁵⁴ The United States carried a debt throughout its history, except briefly in 1835.⁵⁵

Throughout the antebellum era, investors had poured money into the United States. The reliability of the federal interest payments enticed many Europeans to invest in U.S. securities. After the collapse of the state bonds in the 1840’s foreigners surveyed the debt in the United States more cautiously. Foreign investing declined, but did not stop. In 1853, investors abroad held \$222 million in American securities, or about 18 percent of all outstanding debt (including state bonds, railroad stock and bonds, bank shares, and federal government securities.) By 1860, this amount increased to \$400 million. “We are heavily in debt to Europe,” the *New York Tribune* noted in April, 4 1857.⁵⁶ Despite the experience with the states, the national debt remained a good investment for Europeans because scheduled interest payments arrived on time and in gold. However, skittish concern for these securities resurfaced. Between 1857–1861, investors expressed their distrust in the stability of the Union by demanding some of the highest interest rates and steepest discounts ever.

The debt accumulated during Treasury secretary Howell Cobb’s tenure imperiled the national budget. Interest rates soared as investors viewed the growing sectional

⁵³ Rafael Bayley, *Public Indebtedness: A Report in the Tenth Census*, (Washington: GPO, 1884), 269.

⁵⁴ Sidney Homer and Richard Sylla, *A History of Interest Rates*. Third ed. (New Brunswick, NJ: Rutgers University Press, 1991), 286-287.

⁵⁵ Dewey, *Financial History of the United States*, 124-126; John Jay Knox, *United States Notes*, second ed. (New York: Sanford J. Durst, 1978), 21-23, 60-62.

⁵⁶ Margaret G. Myers, *A Financial History of the United States* (New York: Columbia University Press, 1970), 117-119; *New York Tribune*, April 4, 1857, 2.

tensions in the United States with deep wariness. In the past, Congress relieved these derangements by trying to increase revenue. Since customs duties overwhelming provided the bulk of funds for the Treasury, duties would be placed on selected imports, such as coffee, tea, and sugar that would otherwise enter the country duty-free. However, the political crisis of the late 1850's stymied the chances adjusting the tariff in order to raise more money for the ailing Treasury. Internal taxes had not been collected in the United States since the War of 1812, so adjusting tariff rates provided the most efficient means of correcting budget shortfalls. In 1859 Buchanan asked Congress to raise tariff rates, stating that, "I would recommend that the necessary revenue [for government expenses] be raised by an increase in the present duties on imports."⁵⁷

However, the sectional tensions stymied legislative action on adjusting the tariff. Both the Thirty-fifth and Thirty-sixth Congresses became bitter forums for the increasing sectional divide. These tumultuous congresses featured the angry debates over the admission of Kansas and the Lecompton Constitution, the reaction to Dred Scott decision, the vitriol over the John Brown raid, and the caning of Senator Charles Sumner. A "fiscal logjam" resulted.⁵⁸ No tariff measure could pass, although both Republicans and Democrats agreed that something needed to be done. "Things look dark here," Secretary Dix lamented on January 16, 1861. "The utter inactivity of Congress stupefied those who otherwise would have some hopes."⁵⁹

Not until March 2, 1861, when President Buchanan signed the Morrill Tariff into law, did Congress fulfill his request for increased revenue. Obscured by the political cant of both contemporaries and historians, the bill's significance as a revenue measure has been under appreciated. Implemented as a direct response to the fiscal crisis created by the Buchanan administration, the Morrill Tariff represented a bipartisan effort to augment federal revenue for the depleted Treasury. As Justin S. Morrill (R. VT) noted

⁵⁷ Richardson, ed. *Compilation of the Messages of the Presidents*, 3105.

⁵⁸ Regarding the Congresses: David M. Potter, *The Impending Crisis, 1848 – 1861* (New York: Harper Row, 1976); Mark J. Stegmaier, "Intensifying the Sectional Conflict," *Civil War History*, 31 (September, 1985): 197-221; Huston described the situation in Congress as a logjam in James L. Huston, *The Panic of 1857*, 193.

⁵⁹ Dix, *Memoirs*, I: 364.

repeatedly during the course of the debates, that the tariff aimed to reinstate the rates of the “free trade” tariff of 1846, rather than implement a new system of protection. The administration needed funds to pay the interest on the accumulating debt. Without more revenue, the government’s credit remained impaired. However, congressional stalemate blocked the efforts of both Democrats and Republicans to pass this tariff bill. The political acrimony overwhelmed repeated efforts to address the “exhausted condition of the Treasury.”⁶⁰ This impasse and the resort to Treasury notes began the government’s dependence on short-term borrowing that became an integral part of the Civil War financing. Sectional tensions hobbled all remedies to the fiscal emergency that rended congress and the nation.

In December 1860, the Buchanan administration began to disintegrate. Four cabinet officers resigned in support of the secessionist movement. Howell Cobb left his post at the Treasury on December 8, 1860. Secretary Cobb’s “gross mismanagement of the Treasury,” led Senator James Blaine to grouse that, “There was embarrassment when there should have been security; there was scarcity when the most ordinary prudence would have insured plenty.” The “money markets of the world” lost faith in US securities. Interest rates for Treasury notes rose, and prospective investors demanded discounts on the issues.⁶¹

Disarray ensued. The president asked Philip F. Thomas, commissioner of Patents and former governor of Maryland, to fill the Cobb’s slot. On December 18, 1860, Thomas attempted to issue \$5 million in Treasury notes, but only 1.8 million sold at the extraordinarily high interest rate of 12 percent. The remainder of the loan attracted few takers, and those who bid demanded interest rates as high as 36 percent.⁶² The “awakening political fears,” created, according to *Hunt’s Merchant Magazine*,

⁶⁰ Jane Flaherty, “Incidental Protection: An Examination of the Morrill Tariff,” *Essays in Economic and Business History*, 19, 2001, 103-118.

⁶¹ James G. Blaine, *Twenty Years of Congress from Lincoln to Garfield*, (Norwich, CT, 1884), 397.

⁶² Patterson, “Government Finance on the Eve of the Civil War,” *Journal of Economic History* 12 (Winter, 1952), 37

“prostrated credit.”⁶³ Buchanan’s choice of Thomas further undermined the government’s credit. Thomas openly sympathized with the secessionist movement (later his only son served in the Confederate army); this did not inspire confidence from investors. Thomas confided in his memoirs that, “New York capitalists had gone to Mr. Buchanan and said they would not subscribe for the loan as long as a southern man remained at the Treasury.” Buchanan sacked Thomas after the new secretary had served less than a month.⁶⁴

Immediately thereafter a meeting of “bank officers and directors of moneyed institutions,” held at the Bank of Commerce recommended John A. Dix as the next secretary. He was confirmed on January 11, 1861. Dix had served in the Army for sixteen years and fought in the War of 1812. Admitted to the bar in Washington, D.C. in 1824, Dix returned to New York, and quickly emerged as a leader in his state’s Democratic Party. He held a number of public positions in the 1830’s and 40’s, including Secretary of State for New York. Between 1845 and 1853, he served in the U.S. Senate, completing the term of the Silas Wright, who became New York’s governor. Dix ran unsuccessfully for governor of New York in 1848. President Franklin Pierce asked Dix to serve as his Secretary of State. A “cabal” of southern politicians, who abhorred Dix’s sympathy for the Free Soil Movement, thwarted his nomination. Dix’s son later reported that, “great indignation was felt by this breach.” This fostered Dix’s long animosity for the Democracy’s “slave interests.” It also invoked great sympathy and support amongst the northern Democrats, particularly in New York. Dix returned to private law practice and launched a literary magazine called the *Northern Light*. Regarded as a cultured and well-read man of great integrity, he traveled frequently in Europe, and his travelogues enjoyed popularity in the U. S. When “great frauds” besmirched the New York post office in 1860, President Buchanan, a long-time friend of Dix’s, asked him to take over the position of Postmaster. He established order

⁶³ *Hunt’s Merchant Magazine*, January, 1861, 75-76.

⁶⁴ Quoted in Philip G. Auchampaugh, *James Buchanan and His Cabinet on the Eve of Secession*, (Lancaster, PA: Lancaster Press, 1926), 68.

to the New York postal service, which endeared him to the political and business leaders of the city. They turned to Dix again to rescue the Treasury in 1861.⁶⁵

When Dix arrived at the Treasury, he found that, “Public business had been neglected, letters from merchants and capitalists remained unanswered, complaints from all parts of the country had been unheeded.” The New York banking community felt more confident with Dix in charge at the Treasury, but Boston bankers announced they would make no further loans unless the “affairs of the South are satisfactorily settled.”⁶⁶ Dix resorted to an inducement to bolster confidence in the market. He asked Congress on February 12 to accept the offer from several states, “to superadd a pledge of their faith . . . for the redemption of any bonds” issued by the government, “using public moneys deposited with them in June, 1836.”⁶⁷ This offer of the federal surplus funds distributed to the states during the Jackson administration, “seem[ed] strange to the ears of those who were accustomed to the unbounded credit of the Republic,” commented James G. Blaine.⁶⁸ In his last Treasury report, Howell Cobb had suggested using public lands as collateral for bond sales. These offers revived financing schemes employed during the Revolutionary and Early Republic Era; the tenuous prospect of “deals,” rather than solid credit once again seemed necessary to secure financing. Congress rejected these suggestions, fearing a greater loss of faith in the public credit. Bray Hammond noted sardonically that, “On the eve of the Civil War, the United States represented a sovereignty that had far less credit in the market than most of the states it comprised.”⁶⁹

With the debt enlarged by \$50 million during the four years of the Buchanan administration, faith in U.S. securities now ebbed. The deterioration of the country’s

⁶⁵ Dix, *Memoirs*, I:362-363; Biographical information in James Ford Rhodes, , *History of the United States From the Compromise of 1850 to the Final Restoration of Home Rule at the South in 1877*, 9 vols, (New York: Macmillan Co., 1919) I: 386-7, 395; III: 251-252. Philip Foner questions the veracity of the Dix memoirs regarding the bankers’ meeting. P. Foner, *Business and Slavery*, 246.

⁶⁶ *New York Times*, February 11, 1861, 8.

⁶⁷ *Cong. Globe*, 36th Cong., 2nd sess., February 12, 1861, 871-872.

⁶⁸ James G. Blaine, *Twenty Years*, 396-7.

⁶⁹ Bray Hammond, *Sovereignty and the Empty Purse*, (Princeton University Press, 1970), 31; Patterson, “Government Finance,” 43.

finances inspired the *London Economist* to observe in the early months of the war that, “It is out of the question, in our judgment, that the Americans can obtain, either at home or in Europe, anything like the extravagant sums they are asking – for Europe won’t lend them; America cannot.”⁷⁰ Even before the large outlays for the war, lenders expressed skepticism about the debt carried by the United States. The fiscal straits of the country only grew worse as the Civil War approached.

The Secession Crisis and the Treasury

Secretary Dix soon faced new difficulties. As the southern states seceded, local authorities claimed the federal revenue stored in their local customhouse vaults. On January 30, 1861, for example, Joseph E. Brown, governor of Georgia, ordered the collector in Savannah to pay “no more money from the customs house to any government or person without my order.”⁷¹ Of the 152 ports of entry that collected tariffs in 1858, 52 of these lay in states that eventually joined the Confederate States of America.⁷² These ports generated approximately six percent of the federal customs revenue (New York alone accounted for 68 percent) during the late antebellum years, but their detachment threatened to disrupt trade at a time when the government needed every cent.⁷³ More importantly, cotton would no longer travel North for export, which would curtail northern imports.

Dix received a flurry of dispatches, many from southern customs officers declaring their intention, “as good and loyal citizens to obey the authority of my state,” and turnover the duties they collected to their state governments. Other officials who wished to remain loyal to the Union wrote Dix, pleading for instructions.⁷⁴ Many

⁷⁰ Quoted in J. W. Schuckers, *Life and Public Services*, 225-226.

⁷¹ Dix, *Memoirs*, I: 366.

⁷² *Annual Report of the Secretary of the Treasury*, House Ex. Doc. 3, 35th Cong., 2nd sess., ser. Set 996, 240-259.

⁷³ “Collection of Duties in the Seceding States,” House Ex. Doc. 73, 36th Cong., 2nd sess., ser set 1100, 3-8.

⁷⁴ *Ibid*, 3-8; Sampling from Dix, *Memoirs*, I: 366-372.

captains of the revenue cutters stationed in southern ports surrendered their ships.⁷⁵ The captain of the *McClelland*, a cutter anchored in New Orleans, refused to obey the order to depart for a safe port. Dix instructed the lieutenant who reported the insubordination to arrest Captain Breshwood and sail for New York. “If anyone attempts to haul down the American flag,” Dix commanded, “shoot him on the spot.”⁷⁶ (This occurred 10 weeks before the assault on Fort Sumter.) Despite Dix’s bravado, the *McClelland* fell into Confederate control until June, 1862 when Major General Benjamin Butler reclaimed federal authority in New Orleans. As a token of respect and friendship, Butler sent Dix “an identical flag” plus the “Confederate flag which was hoisted by traitor hands in its place.”⁷⁷ Revenue cutters were not the only loss. When the Louisiana secession convention seized the port, they also took control of the Mint and Customs House. The vaults in the two buildings contained approximately \$600,000 in specie, a further blow to the ailing Treasury.⁷⁸

Losing New Orleans had long-term repercussions beyond that of coin, tariffs, and revenue cutters. It imperiled the economic stability of the Union because, as a Treasury report warned, the seizure of the port, “struck a fatal blow at the free navigation of the Mississippi.” Seizing this key port gave the future Confederate States control of the “commerce of the West ... Any importer sending his wares up the river to northern consumers would have to pay two tariffs – one to the [Confederate States] when he passed through New Orleans, and one at the final destination.” Over 20 Union inland ports would be affected, including Chicago, St. Louis, and Pittsburg. Farmers exporting their commodities might face to an export tariff, the report speculated, a scenario that eventuated when the Confederate Congress enacted an export duty in May, 1861.⁷⁹

⁷⁵ *New York Times*, February 1, 1861, 1. Now we refer to these revenue cutters as the Coast Guard.

⁷⁶ Dix, *Memoirs*, I: 371.

⁷⁷ *Ibid*, 374.

⁷⁸ John D. Winters, *The Civil War in Louisiana*, (Baton Rouge: Louisiana State University Press, 1963), 12-14;

⁷⁹ “Collection of Duties in the Seceding States,” 5.

General William T. Sherman, whose service in the army had taken him to many southern states, and therefore given him a keen perspective on southern politics and culture, outlined the magnitude of the problem to his brother John in a February 1, 1861 letter:

If the South have free trade, how can you collect revenues in the eastern cities? Freight [from these cities] would be about the same as rail from New York, and importers at New Orleans [who] have no duties to pay undersell the east ... the north [must adopt free trade] or blockade because it could no longer control New Orleans.⁸⁰

John Sherman, representative, and soon senator, from Ohio, found these events of special importance. As Chair of the House Ways and Means Committee he remained deeply concerned with the fiscal straits of the government. Further, his constituents relied on the export of farm commodities for their well-being and had elected Sherman to represent these interests.⁸¹ He understood that the loss of New Orleans as a blow to the economic fortunes of his state as well as the Union. The disruption in trade led to a fall in customs receipts for the first three months in 1861.⁸²

The money grab extended to the capital as well. According to the *New York Times*, on March 3, the day before Lincoln's inauguration, federal employees scrambled to pocket some loot before the change in administrations. Under the "spoils system," a new administration meant a change not only at the helm, but also throughout the government, particularly with a new party in power. Federal workers expected to lose their sinecures to Republican partisans, and determined to take what they could.

The rush upon the Treasury was greater than was ever before known, and before noon, every dollar in the public vaults had been paid out. [One man] ran from room to room endeavoring to get ahead of the crowd and secure the requisite officials' signatures before he could reach

⁸⁰ W. T. Sherman to John Sherman in Sherman, *Recollections*, I, 241.

⁸¹ Egnal, "The Beards were Right," 52.

⁸² *Hunt's Merchant Magazine*, 44 (May, 1861), 668-669. Critics of the Morrill Tariff claim that it caused a reduction of import duties, however revenue declined before its enactment.

the Treasurer's counter . . . When every eagle had taken flight, drafts were issued on the sub-Treasurer at New York.⁸³

Marauding civil servants emptied the Washington vaults, leaving little behind for the new administration. "There was not enough money," at the beginning of the Lincoln presidency reminisced Lucius E. Chittenden, Register of the Treasury, "to pay for the daily consumption of stationery [and] no dealer would furnish it on credit."⁸⁴

The Lincoln administration faced these challenges when sworn into office on March 4. The Union carried the largest debt the government had ever accumulated without engaging in a war. The growing hostilities made large outlays inevitable, although the vaults stood empty. Note and bond holders expected their interest payments, on time and in gold, an inflexible demand if the government wanted to keep its credit from sinking any lower. Attempts to borrow additional funds met with skepticism. The loss of customhouses and the uncertainty of trade curtailed government revenue. The Union faced the prospect of war with an empty Treasury, no secure source of income, and the national credit hobbled. "Financially, the federal government was more poorly prepared for war in the early months of 1861 than it had been since its establishment," stated economist Robert T. Patterson. On the eve of the Civil War, the Treasury stood broken and bereft of funds, facing a perilous future as new leadership assumed responsibility for the bankrupt, crumbling nation.⁸⁵

The New Administration

Into this mess stepped an administration comprised of a political party that had existed for only seven years. The Republicans, a minority party with an unstable base, had won their first national election against a divided opponent, and with fewer votes than the other candidates combined. They won 116 seats to the Thirty-sixth Congress,

⁸³ *New York Times*, March 3, 1861, 1.

⁸⁴ Lucius E. Chittenden, *Personal Reminiscences, 1840-1890* (New York: Richmond, Croscup and Co., 1893), 90.

⁸⁵ Patterson, "Government Finances," 35.

but did not reach that number of seats again until the Thirty-ninth Congress.⁸⁶ Roy Nichols noted that, “in the spring, 1861 elections – the first public referendum since the Republican administration was assembled, Lincoln faced defeat at the polls, particularly in Ohio and Connecticut.” The withdrawal of southern representatives gave them an overwhelming majority in Congress, however they knew the Democracy remained strong, and their majority could slip away. Throughout the Civil War, they had a tenuous political mandate and always had to look over their shoulders to gauge the voters’ reaction.⁸⁷

A rejection of the more aggressive policies of the southern slaveholders’ demands had united a disparate group of Democrats, Whigs, and American Party nativists under the banner of this new party. Although they agreed that a “political heresy” now dictated that slavery could exist “in any or all territories of the United States,” they did not agree on many other substantive issues.⁸⁸ Richard Hofstadter described the early Republican Party as a conglomeration of:

abolitionists and Negrophobes, high and low tariff men, hard and soft money men, former Whigs and former Democrats embittered by old political fights, prohibitionists and tipplers, Know-Nothings and immigrants.⁸⁹

Although they shared a common “rising hostility to the aggressive slave power” and believed this threat endangered the future for free labor, other political issues continued to cause rifts within the ranks.⁹⁰ Sharp disagreements over practical matters of governance plagued the Republicans as they assumed leadership. This dilemma

⁸⁶ Kenneth C. Martis, *The Historical Atlas of Political Parties in the United States Congress, 1789-1989* (New York: Macmillan Co., 1989), 113-118.

⁸⁷ Roy F. Nichols, *The Disruption of American Democracy* (New York: Macmillan, Co., 1948), 509-510.

⁸⁸ *National Party Platforms, 1840-1964*, Kirk Porter, ed. (Urbana: University of Illinois Press, 1966), 32.

⁸⁹ Richard Hofstadter, *American Political Tradition and the Men Who Made It* (New York: Alfred A. Knopf, 1949), 116.

⁹⁰ William E. Gienapp, *The Origins of the Republican Party, 1852-1856* (New York: Oxford University Press, 1987.)

surfaced quickly with regard to fiscal policy. Many former-Democrats, most notably the new Treasury secretary, Salmon P. Chase, did not dance to the Whig fiddle.

Former Whigs dominated the Republican Party. The Whig party, which rose and fell between 1834-1856, coalesced in opposition to President Andrew Jackson's economic initiatives. A common approach to handling the nation's finances lay at the core of their organization. Michael F. Holt summarized their approach to governance in stating that, "government at all levels of the federal system should be used positively to elevate people economically, socially, and morally through internal development of the nation's civil institutions and economic infrastructure."⁹¹

This faith in an energetic government translated into defense of the Second Bank of the United States, "a well-regulated currency, a tariff for revenue to defray the necessary expenses of the government, and discriminating in special reference to the protection of domestic labor," as they stated in their 1844 platform. The Constitution vested Congress with the power to "make [internal] improvements [that] are necessary for the common defence," they reiterated in 1852.⁹² Jackson's attack against the Second Bank of the United States united Whigs; they continued to rail against the state bank system erected in its stead. Whigs justified protective tariffs to spur industry, provide wage security for workers, and generate additional revenue for federally funded internal improvement projects. The "American System," articulated by Whig leader Henry Clay, epitomized the Whig economic philosophy.

In contrast to the Whigs, the Democratic Party espoused a limited national government and repeatedly extolled the virtues a "laissez-faire" doctrine for the national government. Their "characteristic commitments," according to Jean H. Baker, "included states rights, federal restraint, and an assertive Unionism ... they were for state rather than national government, for white rather than black, for freedom rather than control."⁹³

⁹¹ Michael F. Holt, *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War* (New York: Oxford University Press, 1999), 951-952.

⁹² *National Party Platforms*, Kirk, ed. 9, 20.

⁹³ Jean H. Baker, *Affairs of Party: The Political Culture of Northern Democrats in Mid-Nineteenth Century* (Ithaca, NY: Cornell University Press, 1983), 109.

The Jackson administration's economic policies emphasized these philosophies. In "killing" the Second Bank of the United States, the Jacksonians hoped to end the "privilege" and "monopoly" in the distribution of government funds. State banks became the main government depositories in an effort to provide them, and their customers "greater regularity and predictability" in finances.⁹⁴ "Government should have no more concern with banking and brokerage than it has with baking and tailoring," lectured William M. Gouge, a Democratic Secretary of Treasury.⁹⁵ The complementary call to restrict government transactions to "sound currency," with gold and silver coins the soundest of them all, emphasized the Jacksonian desire to retain "economy" in government. The use of bank notes, checks, and other forms of "paper money," led to extravagance, overspending, and "ruinous fluctuations arising from alternate expansions and contractions of bank issues."⁹⁶ To further limit government expenditure, the Democratic Party in the post-Jackson era abhorred protectionism and called repeatedly for tariffs for revenue only.

These approaches to fiscal policy differed sharply. "The Constitution does not confer upon the general government the power to commence internal improvements," stated a series of antebellum Democratic platforms. The "federal government is one of limited powers," that has no right to "interfere or control the domestic institutions in the states."⁹⁷ Democrats relied on "hard" money, where Whigs looked to the credit opportunities available through "soft" currencies. Democrats distributed many of the financial powers of the government to the states, whereas the Whigs fought for economic development through national programs. Democrats consistently invoked the benefits of free trade, where Whigs aimed to instill a protectionist trade policy.

⁹⁴ Peter Temin, *The Jacksonian Economy* (New York: W.W. Norton, 1969), 37.

⁹⁵ William M. Gouge, *The Curse of Paper-Money and Banking or A Short History of Banking in the United States of America* (1833; reprint, New York: Greenwood Press, 1968), 191.

⁹⁶ John M. McFaul, *The Politics of Jacksonian Finance* (Ithaca, NY: Cornell University Press, 1972), 58-106. McFaul provides a more critical analysis of Jackson's policies than does Temin.

⁹⁷ *National Party Platforms*, Kirk, ed. 9-21. One is struck by the consistency of the Democratic platforms throughout the antebellum era.

Democrats wanted state governments to fund internal improvements; Whigs believed in federally directed, large-scale improvement projects. Democrats advocated using direct taxation when necessitated by “embarrassments,” than loans or increased tariffs. Whigs preferred the ease, efficiency, and benefit of protection for industries provided by raising import duties. Horatio Seymour, a New York leader in the Democratic Party, summarized the parties’ differences when he characterized the Democrats as the “let-alone party” and the Whigs as the “meddling party.”⁹⁸

Salmon P. Chase came to the Treasury through a winding political course. He had supported the Attorney General William Wirt’s 1832 Anti-Mason candidacy for president. He served on the Cincinnati City Council in 1840 as a Whig. Chase worked, unsuccessfully, to solidify the Liberty and Free Soil parties during the 1840’s. In 1849 he was elected to the Senate as a Democrat. In reaction to the Kansas-Nebraska Act, in 1854, he started work on a new political organization that became the Republican party. Ohio voters chose him as their first Republican governor in 1855, then senator in 1859.⁹⁹

Chase’s commitment to the abolitionist movement spurred this eclectic political journey. He emerged as one of the nation’s leading anti-slavery politicians in the 1830’s, before the movement gained popular support. As an attorney in Cincinnati, Chase represented fugitive slaves fortunate enough to escape into Ohio. So many, in fact, that Chase developed a reputation as the “Attorney-General for runaway slaves.” His well-publicized briefs in these cases, and frequent denunciations of the peculiar institution, gave Chase a national reputation as a leader in the effort to end slavery. “It is difficult now for any one unacquainted with the earlier days of the slavery struggle,” to understand the intense animosity toward Chase because of these efforts, according to Jacob W. Schuckers, Chase’s secretary and later biographer. Chase, “was the object of

⁹⁸ Quoted in Baker, *Affairs of the Party*, 143.

⁹⁹ Many biographies have been written about Chase. The most comprehensive: John Niven, *Salmon P. Chase: A Biography* (New York: Oxford University Press, 1995); Frederick Blue contributed a political biography of Chase. Frederick J. Blue, *Salmon P. Chase: A Life in Politics* (Kent, OH: Kent State University Press, 1987).

hate, bitter and unrelenting” because of his abolitionist views, according to Schuckers.¹⁰⁰ However, when the public sentiment turned, and support for abolitionism spread in the northern states during the 1850’s, Chase received accolades for his many years of service to the anti-slavery cause. In moving between parties, Chase wanted to find the best political vehicle to abolish slavery. The Republican party finally achieved this goal. On the eve of the 1860 Republican convention, Chase enjoyed a greater national reputation than Abraham Lincoln, and thought, optimistically, that he might win the nomination. However, his well-known criticism of protective tariffs made him an impalpable candidate for the former Whigs in the party.

Despite his political vacillations, and early legal career representing the Bank of the United States in Ohio, Chase consistently retained his faith in the economic principles of the Democratic Party. In a 1851 letter, Chase restated his belief in the “fundamental laws” that included:

Limitation of state indebtedness, coupled with prompt and honorable discharge of existing obligations; equal taxation of all property, whether corporate or individual (direct taxes), restriction of legislative power to legitimate subjects ... No Democrat,” he continued, “will dissent from those resolutions which administer a deserved rebuke to the Whig administration now controlling the actions of the general government, and reaffirm those Democratic doctrines in relation to the tariff, the Bank of the United States, and the Independent Treasury.¹⁰¹

Later, in 1868, he confided to a friend that, “on the questions of finance, commerce, and administration generally the old democratic principles afford the best guidance.”¹⁰² Chase distrusted banks and bankers, supported “sound” rather than “soft” money, remained uneasy with the large loans contracted during the Civil War, preferred direct rather than indirect taxes, and continually urged “economy” in government administration. All these views expressed the core economic principles of the

¹⁰⁰ Jacob W. Schuckers, *The Life and Public Services of Salmon Portland Chase* (New York: D. Appleton, Co., 1874), 52.

¹⁰¹ Chase to Charles Miller, September 11, 1851 in *Salmon P. Chase Papers*, John Niven, ed. 5 vols. (Kent, OH: Kent State University Press, 1994): II, 323-325.

¹⁰² Niven, *Salmon P. Chase*, 427.

Democratic Party. “The first Republican Secretary of the Treasury,” quipped David H. Donald, “was a Democrat.”¹⁰³

In reference to Chase, Justin S. Morrill, Republican member of Congress and author of the Morrill Tariff, lamented that, “His philosophy is free trade.”¹⁰⁴ Chase tried to soften his anti-protectionist position to earn the 1860 presidential nomination, but his equivocating earned him distrust rather than supporters. Indeed, the many former Whigs in Lincoln’s administration never warmed to Chase because he suffered from the cancer of “excessive ambition.” Despite Chase’s consistency in supporting the abolitionist cause, many suspected that his desire to become president often trumped his anti-slavery fervor. He migrated to different parties not only to end slavery, but also to provide a vehicle for his presidential aspirations. He wanted that office, and set his mind and heart to winning it.¹⁰⁵ “He strove to attain an honor which was never his,” Jay Cooke related.¹⁰⁶

Former Whigs’ suspicions regarding Chase seemed justified when he mounted a surreptitious campaign to take the 1864 Republican president nomination from President Lincoln while serving as Treasury secretary. After this attempt failed, he courted Democrats to win their support for their party’s nomination in 1868, while he served as Chief Justice of the Supreme Court. Chase’s demeanor only exacerbated these misgivings. His niece recalled that

He abominated cards and waltzes ... there was no going to the races or the theatre for any member of his family. He was very religious; and almost puritanical in his observance of the Sunday. He would not even allow us to write letters on Sunday.¹⁰⁷

¹⁰³ David Donald, ed. *Inside Lincoln’s Cabinet: The Wartime Diaries of Salmon P. Chase* (New York: Longmans, Green and Co., 1954), 36.

¹⁰⁴ Justin S. Morrill to Henry C. Carey, July 6, 1861. *H.C. Carey papers*, HSP.

¹⁰⁵ Blue, *Chase, Life in Politics*, 322.

¹⁰⁶ Oberholtzer, *Jay Cooke*, I: 129.

¹⁰⁷ Eliza Whipple to Jacob Schuckers, June 29, 1873, in Schuckers, *Life and Public Services*, 629-630.

Jay Cooke described Chase as “somewhat severe, ponderous, and ostentatiously correct Puritan.”¹⁰⁸ These misgivings, coupled with Chase’s differences fundamental differences with regard the economic policy, created a great animosity toward the Treasury secretary. Chase maintained a “cold courtesy” with the William H. Seward and other former Whigs in the party.¹⁰⁹ One “Ohio Whig” who learned of Lincoln’s plans to include Chase in his Cabinet in order to represent all elements of the new party, mourned, “in the name of God can it be that,” you incorporate, “such incongruous and repulsive elements as Chase.”¹¹⁰

Deep differences on the core economic issues of the antebellum era still divided the Republicans when they assumed the leadership of a broken nation. Republican candidates had practiced “avoidance and compromise” in articulating their economic platform before and during the 1860 election.¹¹¹ Members of the party wrangled throughout the war years on the basic economic questions that had divided the political classes throughout the antebellum era. Hard money or soft, free trade or protective tariffs, expansive or limited government: these differences did not disappear once the Republicans came to office. These internal differences tainted the efforts of the administration to meet the fiscal challenges brought by the Civil War.

Chase began his tenure at the Treasury without preparation. He and President-elect Lincoln had not developed any plan or strategy for addressing the economic peril of the nation. Chase met with Lincoln in Springfield, Illinois for two days in January, 1861, but left the meeting believing that “he would be more useful in the Senate” than as Treasury secretary.¹¹² Lincoln told Chase during their discussions that, “I sent for you to ask whether you will accept the appointment of secretary of Treasury without, however,

¹⁰⁸ Oberholtz, *Jay Cooke*, 128.

¹⁰⁹ *Diary of Gideon Welles*, 3 vols. (Boston: Houghton Mifflin, Co., 1911): I, 203.

¹¹⁰ Clifford Arick to A. Lincoln, January 22, 1861 in *Abraham Lincoln papers*, LC. (available online.)

¹¹¹ Foner, *Free Soil*, 176.

¹¹² Schuckers, *Life and Public Services*, 203.

being exactly prepared to offer it to you.”¹¹³ Chase lobbied for the position, telling those who agreed with him with regard to the “proper financial and economical policy of the Administration,” that they needed to “visit Mr. Lincoln and discuss everything and unreservedly with him,”¹¹⁴

However, Chase began to reconsider. He preferred to represent Ohio in the Senate, he concluded. Chase knew he had strong support from many fellow Democratic-Republicans in the ranks of the party, but he also knew he faced strong opposition within the Cabinet. When Chase arrived in Washington, D.C. on March 1, 1861 he still believed he represented Ohio as its Senator. Without informing Chase, Lincoln sent his name to the Senate for confirmation after the start of the session. Selecting Chase as Treasury secretary “nettled” the Whig establishment in the party, most prominently, William H. Seward, Lincoln’s choice for Secretary of State. The President-elect believed that all elements of the party needed representation in his Cabinet. “It became apparent,” observed John Niven, “that Lincoln wanted a coalition Cabinet in which previous party affiliations, competing ideologies, and representatives of the distinct sections of the Union were balanced.”¹¹⁵

The Cabinet divided along sectional and political lines. Their ideological commitment to limiting the expansion of slavery did not lead to any agreement over how to manage the crises of disunion and national bankruptcy. Little cooperative discussion occurred before the inauguration. The Lincoln administration began its tenure without a firm plan of action in hand. The skirmishing between former Whigs and Democrats to secure factional influence in the new administration replaced meditative discussions over how best to address the nation’s problems. Seward so opposed Chase’s nomination that he offered his “resignation” even before the inauguration, an offer Lincoln declined. The dialogue that did occur, particularly between Chase and Seward, seethed with tension.

¹¹³ Donnal V. Smith, “Chase and Civil War Politics,” *Ohio Archaeological and Historical Quarterly* 3 (July/Oct., 1930), 25.

¹¹⁴ Richard H. Luthin, “Salmon P. Chase’s Political Career Before the Civil War,” *Mississippi Valley Historical Review*, 29 (March, 1943), 536.

¹¹⁵ Niven, *Salmon P. Chase*, 238; Schuckers, *Life and Public Services*, 202

At one cabinet meeting, while Chase discussed his “financial views,” Gideon Welles, Secretary of the Navy, observed that the other secretaries, “were not prepared to have him [Chase] set up a standard of financial, political, or party orthodoxy for them.”¹¹⁶ Chase had no time to work on the economic problems of the country before he took office.

Although known for his haughtiness and ravenous ambition, one may look at Chase’s predicament upon assuming his new job with some sympathy. In his first official report to Congress in July 1861, Chase wrote that:

He [Chase] has but reluctantly assumed the charge of the vast and complicated concerns of his department, and he is deeply conscious how imperfectly he is qualified by experience, by talents or by special acquirements for such a charge. He understands also, better perhaps than anyone outside can understand, the difficulties incident to the task . . . the criminal insurrection deranges commerce, accumulates expenditures, necessitates taxes, embarrasses industry, deprecates property, cripples enterprise, and frustrates progress. He has simply endeavored, under these perplexing circumstances to meet the case just as it is.¹¹⁷

Although the Republicans won a majority in the House of Representatives in 1858, they had no experience as a governing party. They did not share common beliefs regarding economic policy. This lack of cohesion, coupled with the “exhausted condition of the Treasury,” did not bode well for successful implementation of a strategy to correct the nation’s economic distress. The disaffection within the ranks extended beyond the Whig-Democrat divides. Senator William Pitt Fessenden, an old line Whig, admitted two months before Lincoln’s inauguration that, “I am getting fairly to detest him [Seward].”¹¹⁸

¹¹⁶ *Diary of GW*, I: 224.

¹¹⁷ *Report of the Secretary of the Treasury*, 37th Cong., 1st sess., Senate Ex. Doc. 2, ser. Set 1112, July 4, 1861, p. 15-16.

¹¹⁸ William Pitt Fessenden to “His Dear Lizzy,” January 12, 1861, *Fessenden Papers*, Bowdoin College.

Once the war began, a common purpose to reunite the nation emerged, both within the party, and the nation. However, the challenges faced by the new administration continued. The government's finances rested upon an antiquated fiscal system. When the Civil War erupted, the new administration labored under the constraints of a fiscal system designed to "divorce" it from the economy. The Republicans did not initiate a fundamental change in the nation's financial structure, the war forced it.

The "Stunted Government"

A systemic change in the American banking system occurred after President Andrew Jackson's "Bank War" of 1832. The demise of the Second Bank of the United States, followed by the Panic of 1837, left the financial institutions of the nation in a state of disarray, and subsequently depression. Peter Temin has argued persuasively that many exogenous factors led to the Panic, and not solely the domestic financial policies.¹¹⁹ Those who suffered during the downturn believed the actions of private bankers created the crisis. "By casting doubt on the solvency of some banks," Harry Scheiber wrote, "Jackson contributed to public distrust of all banks and increased the tendency of private persons to hoard specie."¹²⁰ One congressman declared in 1838 that, "Hereafter I will doubt the solvency of all banks."¹²¹ The void created by the dissolution of the Second Bank of the United States, plus the public perception that bank policy had created the depression they endured, led to the fundamental reordering of the fiscal framework of the country. "Whether caused by specific economic grievances or

¹¹⁹ Peter Temin, *The Jacksonian Economy* (New York: Norton, 1969).

¹²⁰ Harry N. Scheiber, "The Pet Banks in Jacksonian Politics and Finance, 1833-1841," *Journal of Economic History*, 23 (June, 1963), 213.

¹²¹ Samuel Rezneck, "The Social History of an American Depression, 1837-1843," *American Historical Review* 40 (July, 1935), 673.

qualms about the perversion of the proper moral order,” Michael Holt noted, “anti-banking sentiment was a major political force until the 1840’s.”¹²²

Congress established the Independent Treasury in the wake of this financial upheaval. Inaugurated in 1840, at the end of Martin Van Buren’s one term as president, the “Constitutional Treasury,” or “Sub-treasury” as its advocates liked to call it, aimed to “divorce” public funds from private banks. The Treasury alone should secure public funds, rather than placing the wealth of the nation in the hands of untrustworthy bankers. Bank failures took public as well as private funds. Banks recklessly issued notes without sufficient reserves, and this ended the nation’s prosperity, according to the political rhetoric. Therefore the Independent Treasury, which kept government funds out of weak banks, best protected the public credit. David Kinley, who wrote the definitive history of this institution, summarized this sentiment when he noted that, “the severance of the government from the banks, as banks were then constituted . . . was the means of removing a large element of uncertainty from the credit of the government, and of insuring to the currency the “soundness” for which the people had struggled so long in vain.”¹²³

The Independent Treasury act, repealed in 1841 when the Whigs ascended to power, returned in 1846 during the administration of James K. Polk. The key provision of the revitalized law directed receivers of public funds to keep them “safely without loaning, using, or depositing in banks or exchanging for other funds.” The government would not entrust its revenue to state or private banks, except to facilitate a transfer from receivers to a public depository. This measure aimed to “divorce” public funds from capitalists who could use them for private gain. In addition, the 1846 act introduced the “Specie clause”: the Treasury could use only of gold and silver coins, or Treasury notes, in all transactions. This law also left the regulation of the banking industry to the

¹²² Michael Holt, *Political Parties and American Political Development from the Age of Jackson to the Age of Lincoln* (Baton Rouge: Louisiana State University Press, 1992), 36.

¹²³ David Kinley, *The History, Organization and Influence of the Independent Treasury of the United States*, 1893. reprint. (New York: Greenwood Press, 1968), 57.

individual states. The national government became its own banker and securities broker, and allowed states to frame the rules under which banks operated.¹²⁴

Supporters of the Independent Treasury hailed the institution as the ballast that secured the government's credit. William Gouge, a former Treasury secretary in the Jackson administration who emerged in the 1850's as the Independent Treasury's ombudsman, captured the Democracy's enthusiasm for this system in 1855:

[the Constitutional Treasury] is all that now stands between us and paper money inflations similar to those of 1817 and 1835 to be followed by revulsions similar to those of 1819-21 and 1837-43. It is a system which ought to be strengthened and extended so that it may be faithfully carried out in all its provisions.¹²⁵

The ease with which the government raised \$49 million to finance Mexican-American War, and blunted the impact of the Panic of 1857, convinced Democratic officials that the Independent Treasury best secured the government's credit. "I am well satisfied," Howell Cobb stated in his 1858 annual report, "that the wholesome restraint which the collection of the government dues in specie exerts over the operation of our present banking system contributed in no small degree to mitigate the disasters of the late revulsion."¹²⁶ President Buchanan, two months later, also cited the Independent Treasury as a great success.¹²⁷ "Notwithstanding its many imperfections," Kinsley commented, "the system seems to have been at this time in good working order, and was apparently accomplishing all that its advocates had claimed for it."

Some of these "imperfections" demonstrate the rigidity of the Independent Treasury, and why it created problems for the management of the economy on the eve of the Civil War. Under the 1846 law, Treasurers and receivers could deposit their specie with banks only to facilitate transfers and exchanges. The banks often ignored this provision, and used the deposited specie for their purposes, allowing for handsome

¹²⁴ *Ibid*, 29.

¹²⁵ William Gouge, *Report on the Constitutional Treasury System*, 34th Cong., 1st sess, Senate Ex. Doc. 2, ser. set 814, 212.

¹²⁶ *Treasury Report*, 1858, House Ex. Doc., 35th Cong., 2nd sess., ser. set 996, 16.

¹²⁷ *Debow's Review*, 26 (February, 1859), 193.

profits to select banks, a situation that undermined the spirit of the law. Because banks had a disincentive to transfer money quickly, these transactions moved slowly.

Transferring funds from New York to Washington, for example, took as long as 135 days; in one case, 604 days passed before \$25,000 arrived in New Orleans from Boston.¹²⁸ Mobilizing the nation's wealth under this system proved problematic.

Because of these delays, and the commissions charged by bankers, Gouge suggested that the proliferation of railroads and steamboats allowed for government agents to transfer specie from one depository to another, "with great dispatch and very small expense," and without using banks.¹²⁹ When implemented, this change resulted in the wealth of the nation moved about in steamboat holds, railroad cars, and in some instances, "horse-pulled dray-carts."¹³⁰ When the vaults in Washington, D.C. were emptied on March 3, 1861, officials were not sure when they would have money at their disposal in the central Treasury.

Another "imperfection" related to how the Treasury held the funds. The depositories secured funds in the insecure manner in many facilities. When Gouge toured the different depositories in 1855, he found a lack of vaults or protection from fire or other natural calamities. The 1846 legislation had directed the Treasurers to hold the public funds in safes, but did not allocate the money for their purchase until after 1857. \$10,000 had been stolen from the Pittsburgh depository when the nightwatchman ("a drunkard") accosted the Assistant Treasurer and took his keys. One depository in Indiana consisted of an apartment off the "chief tavern in town" where "hundreds of thousands of dollars of United States money" rested peacefully over the years in

¹²⁸ John Burton Phillips, "Methods of Keeping the Public Money of the United States," *Publications of the Michigan Political Science Association* IV, 1900-1902, 129.

¹²⁹ William Gouge, *Report on Depositories*, House Ex. Doc., 5 33rd Cong., 2nd sess., ser. set 780, 261-262.

¹³⁰ Bray Hammond, *Banks and Politics in the Civil War*, (Princeton: Princeton University Press, 1970), 545.

“wooden boxes resembling in form a giant coffin.”¹³¹ Small-scale transactions, such as those at the post offices across the country, could not be completed with specie; so those civil servants ignored the law and traded in local currency, postage stamps, or other substitutes for money. After collecting the fees for postage, they turned to banks to convert the local currency into coin, and paid a fee for the service.

The limits of this archaic system did not impede the expanding economy of the late 1840's and pre-Panic 1850's. California gold, as well as an upsurge in cotton and wheat exports, doubled the amount of specie circulating throughout the country. The increase in commerce created “little friction in the workings of the new fiscal machinery,” Kinley opined.¹³² Despite the withdrawal of public revenue from the monetary mix, the economy continued to chug. “The specie from these sources [California and exports] so greatly increased the gross amount in the country that the spasmodic influence of Treasury receipts and disbursements upon the reserved and the lending power of banks became apparent only in crises,” Bray Hammond noted.¹³³

Treasury Secretary Cobb strengthened the Independent Treasury in a series of circulars issued between 1857-8 that prohibited the deposit of public revenue in banks even for transfers. Instead the Treasurers could issue drafts that could be cashed for specie at a depository. (Only postmasters were exempt from this rule.) He ordered the number of depositories increased to “one or more for each state,” to encourage collectors in rural areas to follow the rules and not use banks as intermediaries. He also allocated more funds for vaults and fireproof safes. Cobb's orders further strengthened the “divorce” between the government and the banks by not interjecting public funds into private or state banks for any purposes.¹³⁴ In interpreting these regulations as late as 1862, Salmon P. Chase advised his employees that, “It must be remembered that the law confined national payments and receipts to coin and notes of the United States. Officers

¹³¹ Gouge, *Report on Depositories*, 256-257; Phillips, “Methods of Keeping Public Money,” 131-133.

¹³² Kinley, *Independent Treasury*, 58.

¹³³ Bray Hammond, *Banks and Politics in America: From the Revolution to the Civil War* (Princeton: Princeton University Press, 1957), 545.

¹³⁴ Kinley, *Independent Treasury*, 284-286.

of the Treasury, army or navy, all officers of all departments must obey and enforce this law.”¹³⁵ Bray Hammond quipped, “Like a good lawyer, Chase was sticking to what he considered to be the law’s demand.”¹³⁶ Rather than “eased constitutional scruples about the government’s role in economic activity,” Chase’s decision to adhere too firmly to the law set in motion the sequence of events that led to the suspension of specie payments the following December.¹³⁷

The Independent Treasury had two important implications at the onset of the Civil War. First, it concentrated public funds in diffuse locations and rendered them only as secure as the rectitude and loyalty of their keepers. This facilitated the spoliation that occurred in New Orleans and throughout the southern states during the secession crisis. Officials with access to the Treasury vaults in the seceding states could, and did, take the customs revenue, minted coins, and other government receipts, and transfer them to the Confederate state governments without any intervention from a third party (such as bank officials). Employees in Washington grabbed all they could before the change in administrations.

Second, the government had to sell its own loans. Before 1846, banks “sold” government loans, and provided credit while holding the issued notes and bonds.¹³⁸ Banks not only facilitated these transactions, but “private bank note companies” printed the securities (the actual pieces of paper that constituted the bonds), a duty the Treasury had to assume.¹³⁹ Under the Independent Treasury, banks could no longer act in this intermediary role. Instead they had to purchase the bonds with specie, then turn around and resell them to the public. The loans taken to prosecute the Mexican-American war

¹³⁵ *Treasury Report*, 1862, Sen. Ex. Doc, 1, 37th Cong., 3rd sess., ser. set 1149, 14.

¹³⁶ Hammond, *Banks and Politics*, 721.

¹³⁷ Richardson, *Greatest Nation*, 28.

¹³⁸ Routine practice before 1846, and an important reason for instituting the 1863 National Banking Act. The famous “bond drives” of World Wars II and I also went through banks.

¹³⁹ Franklin Noll, “The Start of a Government Monopoly: Civil War Finance, the Rise of the Bureau of Engraving and Printing, and the Decline of Bank Note companies, 1863,” presented at the 2005 *Economic and Business Historical Society Conference*, April, 2005. This limitation necessitated the creation of the Bureau of Printing and Engraving.

totaled only \$49 million, during a period when the economy showed strength and promising future. Senator Thomas Hart Benton noted that the “Sub-treasury system” sold more bonds for that war than expected. “Government bills were [sold] above par! And every loan taken at a premium! . . . this is the crown and seal upon the triumph of the gold currency.”¹⁴⁰

The situation at the start of the Civil War differed dramatically. The government needed more money than in the Mexican-American War, but the system in place could not handle the burden. With the Treasury forced to market its own securities, the decision to turn to Jay Cooke to help with the bond sales becomes more understandable. Cooke’s biographer Henrietta Larson noted that, “Nobody in the United States knew how to sell hundreds of millions of bonds. Such a thing had never been done.”¹⁴¹ Enriching his “finance capitalist” acquaintance concerned Chase less than obtaining the funds he needed to prosecute the war.¹⁴² The limitations imposed by the Independent Treasury created, according to Bray Hammond, a “stunted government” that greatly circumscribed the operations of the Treasury. These institutional restrictions, erected purposefully, minimized the role of government in the economy and society. This system limited the options available to rectify the “embarrassments” faced by the Treasury on the eve of the Civil War.¹⁴³

Congress revised the Independent Treasury law on August 5, 1861 to allow the government to borrow from banks and keep funds lent in bank vaults until the Treasury disbursed it. However, the “specie clause,” instructing the government to pay for its goods in gold, remained in place. In practical terms, this meant that the government

¹⁴⁰ Thomas Hart Benton, *Thirty Years’ View*, 2 vols. (New York: D. Appleton and Co., 1856): I, 726.

¹⁴¹ Henrietta M. Larson, *Jay Cooke, Private Banker* (Cambridge: Harvard University Press, 1936), 109.

¹⁴² Chase knew Jay Cooke’s brother, Henry, a newspaper publisher in Ohio during the 1850’s. Chase contracted 148 loan agents to sell the first war loan in August, 1861. Jay Cooke sold one fifth of this issue himself, which brought him to the attention of the Treasury secretary. See, Schuckers, *Life and Public Services*, 229.

¹⁴³ Bray Hammond, *Sovereignty and the Empty Purse: Banks and Politics in the Civil War* (Princeton: Princeton University Press, 1970).

could not use checks, state bank notes, or other “paper heresies” to purchase war goods or pay soldiers; disbursements still had to be made in specie or Treasury notes, by the Treasury, which held only \$3.6 million when Chase came to office. Because of the dearth of coin, beginning in August 1861:

[Treasury notes were used] for salaries in Washington. They were received with reluctance, and the merchants and shopkeepers endeavored to discredit them. Railroad corporations refused them in payment of fares and freight; and leading banks in the city of New York refused to receive them except on special deposit. The Secretary [Chase] and other officers of the treasury signed a paper agreeing to accept them in payment of salaries ... General Scott issued a circular on September 3, 1861, announcing to the army that treasury notes in five, ten, and twenty dollars would be used to pay troops ... The available coin [was needed] in payment of the interest upon the public debt.¹⁴⁴

This sorry state prevailed at the onset of the war. The federal government held only perceived powers: the successful separation of the government from the economy impaired the effort to resolve the “exhausted condition of the Treasury,” and meet the long-term challenges of paying for the coming war.

The “Paper Anarchy”

The Independent Treasury represented the first structural defect that inhibited the government’s actions to address the fiscal emergency at the beginning of the war. The second impediment relates to currency. The revulsion against banks that manifested after the Panic of 1837 also affected state banks. The demise of the Second Bank of the United States effectively ended the national government’s oversight of banking procedures until 1863. Each state established its own set of rules for chartering banks. From this void emerged the system of “free banking.”¹⁴⁵

¹⁴⁴ Knox, *US Notes*, 89-90.

¹⁴⁵ John Jay Knox, *History of Banking*. Reprint. (New York: A.M. Kelley, 1969), 305-328; Paul Trescott, *Financing American Enterprise: The Story of Commercial Banking* (New York: Harper Row, 1963).

New York State instituted a Free Banking law in 1838 that soon became the basis of banking reform at the state level (and the model for the National Bank system introduced by Chase in 1863). Sixteen of the thirty-four states adopted free banking laws by 1860. Free banks could open without a state legislative charter as a limited liability company. Any individual or consortium could open a bank if he/they could accumulate the capital required by the state. Once incorporated, the free banks would deposit bonds or mortgages with a state auditor as security against any notes they issued. The composition of these securities varied from state to state; originally most relied on state bonds, but federal issues also fulfilled the requirement. Increasingly, after the mid-1840's railroad bonds became an acceptable form of security.¹⁴⁶

Banks proliferated under this state centered system. The number of banks in the United States jumped from 829 in 1838 to 1601 in 1861. This lack of oversight created economic instability in many regions of the country. A study conducted of the free banking system in Minnesota, Indiana, Wisconsin, and New York found that 104 of 709 free banks established before 1861 failed. Nationally, about half the banks formed under this deregulated system closed within ten years of opening.¹⁴⁷

The public tolerated this spurious system of public finance because banks in all states during the antebellum era served a different function than they do today. Besides their role in bolstering state revenues, they existed to create and circulate money. "The most important public function which banks perform is the creation of a currency for the people," noted an 1860 Treasury report.¹⁴⁸ Article 1, section 10 of the Constitution forbids states to "coin money, emit Bills of Credit, make anything but gold and silver coin a tender in payment of debts"; however a liberal interpretation of the Constitution implies that no limitations prevented private entities from issuing script or notes. Since

¹⁴⁶ Hugh Rockoff, *Free Banking Era: A Re-examination* (New York: Arno Press, 1975). Contrary to my argument, Rockoff posits that the currency craziness created by free banking was not harmful.

¹⁴⁷ Arthur J. Rolnick and Warren E. Weber, "The Causes of Free Bank Failures: A Detailed Examination," *Journal of Monetary Economics* 14 (1984), 271.

¹⁴⁸ John A. Dix, "Condition of the Banks," 36th Cong., 2nd sess., House Ex. Doc. 77, ser. set 1101, 46.

states could not disseminate money, Congress allowed banks throughout the country to fill the void. This practice began in the colonial era, when Great Britain banned the incorporation of banks in British North America. In order to have some form of money, Americans adopted a loose system of paper currency, another sign of American pragmatism with regard to fiscal policy. After independence, state banks circulated their own notes as a form of currency to keep pace with the growing demands of commerce.¹⁴⁹ In 1860, approximately \$180 million in state bank notes circulated, most of this “money” controlled by “a relatively large number of incorporated banks operated in the interests of their owners.”¹⁵⁰ The Treasury estimated over 7,000 various forms of legitimate bills circulated in 1860.¹⁵¹ More over, 80 percent of these individual bills had been successfully counterfeited. This meant that various “forms of money may have performed as a reasonably effective medium of exchange within localities,” where fake bills could be recognized, but “they were unacceptable at par outside the local community.”¹⁵² A “paper anarchy” resulted.¹⁵³

Theoretically, the states required free banks to pay specie on demand for any of their circulating notes, but in practice states did not enforce this regulation. Gold and silver coin constituted only one quarter of the money in the United States, with deposits and bank notes comprising the remainder.¹⁵⁴ Louisiana, the state with the tightest “free” banking laws, required banks to maintain a specie-to-deposit ratio of 33 percent. Most state banks had only ten percent of their notes guaranteed by reserves, according to Paul Trescott.¹⁵⁵ “It is not possible,” noted Schuckers, “that these state institutions” could act

¹⁴⁹ Hammond, *Banks and Politics*, 6-9.

¹⁵⁰ Edward J. Stevens, “Composition of the Money Stock Prior to the Civil War,” *Journal of Money, Credit, and Banking* 3 (Feb., 1971), 87.

¹⁵¹ Schuckers, *Life and Public Services*, 282-284; the figures are on 284.

¹⁵² David R. Johnson, *Illegal Tender: Counterfeiting and the Secret Service in Nineteenth Century America* (Washington: Smithsonian Institution, 1995), 37.

¹⁵³ Beard, *Rise of American Civilization*, II, 12.

¹⁵⁴ Knox, *History of Banking*, 312.

¹⁵⁵ Schultz and Caine, *Financial Developments of the United States*, 244-246; Trescott, *Financing American Enterprise*, 18.

as “auxiliaries to the financial measures of the government” during the course of the war.¹⁵⁶

“Currency, not credit” became the distinctive problem in American commerce, especially in the western states.¹⁵⁷ “Manufacturers had always done business in an atmosphere of monetary uncertainty ... forced to use “money” issued by banks, customers, and merchants. Expenses required immediate payment, whereas income trickled in through the credit cycle,” Porter and Livesay related.¹⁵⁸ And when funds arrived, distinguishing the good money from bad became a business in itself. Private banks, which functioned without a charter and whose principals bore the liability if the bank failed, often acted as “note shavers,” validating and converting state bank notes to specie for a premium. Businesses employed “note detectors” to examine the notes they received and determine their validity:

The note detector scrutinized the worn and dirty scrap for two or three minutes . . . turned it up to the light and looked through it, because it was the custom of banks to file the notes on slender pins which made holes through them. If there were many such holes, the notes had been often in the bank and its genuineness was ratified.¹⁵⁹

“Runs on banks,” in the antebellum era John Knox related, “were not made by depositors, but by note holders,” eager to reclaim what they could from the issuing bank at the first sign of weakness.¹⁶⁰

The Coinage Act of 1834 abetted the emergence of this crazy monetary system. This legislation reduced the gold content of the dollar, which changed the ratio of silver to gold from 15 to 1 to 16 to 1, making silver (for cutlery or jewelry) more valuable than silver coins. Gold coins soon overwhelmed silver coins, which circulated less frequently. Substituting for silver coins, a variety of small “change” notes exacerbated

¹⁵⁶ Schuckers, *Life and Public Services*, 283.

¹⁵⁷ Lynne Pierson Doti and Larry Schweikart, *Banking in the American West: From Gold rush to Deregulation* (Norman: University of Oklahoma Press, 1991), 7

¹⁵⁸ P. Glenn Porter and Harold C. Livesay, *Merchants and Manufacturers* (Baltimore: Johns Hopkins University Press, 1971), 125.

¹⁵⁹ Hepburn, *A History of Currency in the United States*, 164-165.

¹⁶⁰ Knox, *History of Banking*, 315.

the proliferation of paper currency. The intent had been to fortify the bimetalism but instead silver coins, the only official monetary instrument under the value of \$2.50, were hoarded or exported. This mistake was corrected in 1853, when the silver ratio was lowered so the coins were no longer squirreled away or shipped to England for bullion. But the use of postage stamps, “shinplasters,” and fractional notes for change continued in many parts of the country. “We never had money enough in this country for the proper conduct of business,” Samuel Hooper (R. MA) complained in 1866 that, “The effect of the bank notes, under the old system of state banks, was to expel the money from the country. Those notes were not money but only used as substitutes for it within certain localities.”¹⁶¹ Not only did the government face the challenge of trying to utilize this peculiar monetary system to pay for munitions, supplies, and soldiers, but an estimated one quarter of the circulating currency had left the Union with the seceded states.¹⁶²

This created the second great structural challenge facing the Treasury on the eve of the Civil War: how do you pay for a war when your vaults are nearly empty, your credit impaired, and the “money” of the nation comprised of 7,000 different types of hole-ridden scraps of paper? Approximately \$253 million was deposited in banks in 1860, \$104 million in New York alone. Banks held roughly \$83 million in specie. The government had no claim or ready access to this wealth; the coins circulated or were hoarded at their owner’s discretion. The currency held value in its locality only, where those familiar with it could detect counterfeits. Once it left the area, the value depreciated. The state was prostrate, weakened not only by the political and economic turmoil, but also by the limitations of the government’s fiscal structure.¹⁶³

¹⁶¹ S. Hooper to H. C. Carey, May 16, 1866, *Edwin Carey Gardner papers*, HSP, Box 69, F-34.

¹⁶² Hepburn, *A History of Currency in the U.S.*, 176; Stevens, “Composition of Money Stock,” 86-87.

¹⁶³ John Sherman, *Recollections*, I: 251; Knox, *United States*, 72.

The Secretary's Choices

Salmon P. Chase faced these challenges when he was sworn in as Treasury Secretary on March 7, 1861. The Union carried the largest debt the government had ever accumulated without engaging in war. Empty vaults, unpaid bills, and large outlays awaited him. Creditors expected their interest payments as scheduled, a demand that would have to be met to keep investor confidence from sinking any lower. The law bound the Treasury to a fiscal system that barred it from using anything but coin and Treasury notes as a means of payment. The currency circulating in the country worked where it was issued, but depreciated quickly once it left its locality.

These limitations placed Chase in an awkward position. He could only sell bonds that Congress had authorized. President Lincoln did not want Congress to convene until July, because “he thought it best for the administration to have a free hand in coping with the emergency.”¹⁶⁴ Chase could only acquire needed funds by selling undersubscribed loans approved during the Buchanan administration (June 22, 1860, February 8 and March 2, 1861). Further, Chase determined that the Treasury would not to sell the issues at “market price,” meaning well below par, as the Buchanan administration had done. This decision greatly vexed the domestic bankers whose capital Chase needed. “[Mr. Chase] determined to accept par bids for Treasury notes rather than dispose of [them] at any considerable discount,” according to Jay Cooke.¹⁶⁵ Selling them at a discount would have reaped profits for the “finance capitalists,” and incurred greater expense for the nation. This in part explains their animosity towards Chase. The secretary explained his reasoning in the July 4 Treasury report to the Congress:

as the contest in which the government is now engaged is a contest for national existence and the sovereignty of the people, it is eminently proper that the appeal for the means of prosecuting it . . . should be made to the people themselves.

¹⁶⁴ Schuckers, *Life and Public Services*, 282.

¹⁶⁵ Oberholtzer, *Jay Cooke*, I, 135

He wanted to extend the “circle of contribution” as widely as possible, to make the “burden press as lightly as practicable upon each individual contributor, and if possible, to transmute the burden into a benefit.”¹⁶⁶ Chase wanted the “people,” not just the “finance capitalists” would benefit from holding the bonds .

Chase secured just over \$15 million by the end of May. His “puritanical” nature, and obsession with economy, did help rally the bond market. However, the position of the Treasury deteriorated so rapidly that by June, Treasury notes could not be sold at par. Chase instead used them as collateral for a \$5 million, 60-day loan. On July 17, 1861, Congress authorized the first “war” loan, and the secretary began borrowing anew.¹⁶⁷

Even with this new authorization, Chase faced limited options. Foreign investment, traditionally a reliable source for government bonds, could not be tapped for wartime contributions. Remembering the defaults on state bonds in the early 1840’s, foreign investors, particularly the English, remained cautious when investing in US securities. “It was obvious [that] if a war should occur,” Hugh McCulloch recounted, “that no money could be borrowed on the other side of the Atlantic. [During the 1860 bond sales] not a bond could be sold in either English or French markets. Mr. Chase perceived that the home market was the only one in which the United States securities could be disposed of – that to the people of the loyal states he must look for support of the Treasury.”¹⁶⁸ Indeed, Americans owned most of the debt accumulated by the Union during the war. By 1866, foreigners held only 13 percent of the United States debt, the lowest percentage of overseas investment in United States history to that time. Once Union victory became certain, foreign money resumed its historic pace: by 1869, over \$1 billion of the U.S. debt was owned by foreigners, or approximately 45 percent of the debt.¹⁶⁹ Foreign investment had the additional advantage of bringing needed specie into

¹⁶⁶ *Treasury Report*, July 4, 1861, 4.

¹⁶⁷ Patterson, “Government Finance,” 42-43; Niven, *Salmon P. Chase*, 248.

¹⁶⁸ McCulloch, *Men and Measures of Half a Century*, 184.

¹⁶⁹ Donald R. Stable and Jeffrey A. Cantor, *The Public Debt of the United States: An Historical Perspective, 1775-1990* (New York: Praeger, 1991), 60-61.

the country. Conversely, the lack of foreign investment during the war further limited the specie available to the Treasury.

Chase did not trust state banks as a source of steady investment for government bonds. “As a chief reliance in the varying fortunes of war, they were clearly inadequate,” Shuckers related. “They were located in widely separated places, they were managed by men of every shade of political opinion; their capital varied largely; they were bound by no public purpose and were subject to no common direction.”¹⁷⁰ Also, the state banks would use their own notes to purchase government bonds. During the War of 1812, banks used state bank notes to purchase federal government bonds, with calamitous results. The notes depreciated to just half their value, causing considerable loss to the national government.¹⁷¹

Conclusion

We must evaluate Secretary Chase’s early decisions regarding war finance in this context. Both Chase and many leaders in Congress abandoned their principles of political economy to do what they felt was needed to prosecute the war. Chase, the man who believed in “economy” in government spending, oversaw the creation of the largest debt in American history at that time. He trusted only “sound” money, yet ran the Treasury when it introduced a national fiat currency for the first time. Later, as a Supreme Justice of the Supreme Court in 1870, Chase wrote the majority decision that declared the “Greenbacks” an unconstitutional violation of the Fifth Amendment.¹⁷² As Treasury secretary, he supervised the collection of the largest tax program up to that time, though he hoped to use only limited direct taxation.

On April 23, 1861, the *New York Times* compared the new Republican administration to “a person just aroused from sleep, and in a state of dreamy half-consciousness.”¹⁷³ The challenges of secession and war, coupled with the government’s

¹⁷⁰ Schuckers, *Life and Public Services*, 282-284.

¹⁷¹ Dewey, *Financial History*, 354-355.

¹⁷² *Hepburn v. Griswold*, 8 Wall 603 (1870)

¹⁷³ *New York Times*, April 23, 1861.

structural liabilities, influenced many of the policy decisions made during the four years of conflict. The limitations inherent in the American fiscal system of 1860 narrowed the choices opened to the new administration. The constructed divorce of the national government from banks and local economies hindered Secretary Chase's ability to address the overwhelming pecuniary needs that hit the Treasury as the war began. Faulty credit that limited their borrowing options, a spurious system of paper currency, and a Treasury secretary who did not wish to invoke the "implied powers" of the government, limited the options for war financing. The delay in launching a vigorous tax program earlier has generated the most uniform, and barbed, criticism of Chase's performance. Immediate and more aggressive taxation would have been the answer to the Union financing dilemmas, critics contended. The delay in introducing tax legislation cost the reunited nation millions from inflated currency and additional interest payments. We will examine this argument in Chapter IV.

CHAPTER IV

ENGLISH ORIGINS OF AMERICAN CIVIL WAR TAXATION

The economic legislation drafted during the American Civil War restructured national development for the remainder of the nineteenth century. Although historians have debated the degree to which the war spurred or impeded industrial development in the United States, they do agree that the wartime initiatives, including the Homestead Act, the creation of a national banking system, the adoption of paper currency, renewed investment in internal improvements, and the emancipation of four million slaves, defined the contours of the “blueprint for modern America.”¹

“Why did economic institutions and patterns of economic action start when they did and in the way they did,” Alfred D. Chandler asked at a 1964 conference addressing the impact of economic change during the Civil War era.² Within this broad context, historians have been grappling with a narrower question – What guided the Republican legislators to develop the economic programs inaugurated during the American Civil War? The financial legislation initiated during the war reshaped the American economy. The currency, banking, and government revenue policies laid permanently altered the government’s role in the economy. Introduced by a new political party during the crisis of Civil War, the question provides an opportunity to study how men and events collide and shape one another.

The internal revenue laws enacted during the war provide a unique opportunity to address this question. Since no national internal revenue laws were in effect when the war began, these law represent original policy. Tariffs had provided the federal government with its revenue before the war. The bitter tariff controversies of the early antebellum era did not resurface after 1846. Prosperity throughout the 1850’s muted any

¹ Leonard P. Curry, *Blueprint for Modern America: Nonmilitary Legislation of the First Civil War Congress* (Nashville, TN: Vanderbilt University Press, 1968)

² *Economic Change in the Civil War Era*, David T. Gilchrist and W. David Lewis, eds. (Greenville, DE: Eleutheran Mills-Hagley Foundation, 1965), 163.

calls for tariff revision, so the Tariff of 1846 remained in place throughout the 1850's, with only slight adjustments. Only when surpluses piled in the Treasury's coffers did Congress move to reduce import duties. The Tariff of 1857 received support across party lines, and overcame the sectional tensions that impeded the passage of other legislation. The controversy regarding this tariff erupted between producers of raw goods, such as woolgrowers, and manufacturers who wished to import cheap materials for their industries. The tariff removed, or lowered, most of the duties on wool, cotton, sugar, and wheat. Farmers depended on this protection to keep their goods competitive with cheaper imports.³

The introduction of systematic internal taxation demonstrated one area of fiscal policy initiated solely by the advent of the Civil War. Taxation, unlike other policy decisions made during the war, had not undergone the intense partisan and sectional debates that characterized the late antebellum congresses. The direct tax movement remained a small dissent within the broad context of the growing sectional tensions. Since Congress had not enacted internal tax legislation since the War of 1812, no representatives in either the House or Senate had experience with formulating national tax policy. Thus, the internal revenue laws represent original policy. The overwhelming costs of feeding, supplying, and moving armies across the country necessitated the development of new revenue sources. Thus the initiatives did not arise in response to antebellum political objectives and ideals, but rather from the dire needs of the nation.

The "fiscal and monetary policy" enacted during the war years offers a "less colorful and contentious"⁴ field of research than many of the social changes spurred by the war, particularly in terms of race and the future of the freedmen. For this reason, the topic has drawn less attention since the advent of the "new" histories (social, economic, political) that emerged from the social convulsions of the 1960's. Inspired by the Civil Rights and Women's Liberation movements, scholars have focused on a "bottom up"

³ Richard Hofstadter, "The Tariff Issue on the Eve of the Civil War," *American Historical Review*, 44 (October, 1938), 50-55.

⁴ Allan G. Bogue, *The Earnest Men: Republicans of the Civil War Senate* (Ithaca, NY: Cornell University Press, 1981), 80.

approach that concentrates on how individuals of all classes, races, and the different sexes, have shaped American institutions. This approach has redirected historical research to exciting areas hitherto ignored, and produced a great body of work that provides a fuller and more accurate picture of historical change in the United States. However, this new focus also leaves open the question of how broader policies, instituted by political leaders, also directed the course of American development. As Michael Holt recently stated, “What politicians do in elective office matters, often profoundly, to the lives of ordinary Americans.”⁵

Ideology played a significant role in the prosecution of the Civil War. James McPherson has demonstrated the soldiers who suffered most directly throughout the war shared the commitment to a larger cause. “Everyday I have a more religious feeling that this war is a crusade for the good of mankind,” wrote a Pennsylvania officer to his wife. McPherson’s study of soldiers’ diaries and letters convinced him that, “A large number of these men of blue and gray were intensely aware of the issues at stake and passionately concerned about them.” McPherson found this ideological commitment to the war up and down the Union and Confederate ranks.⁶ “The disease of sectional ideology,” as Foner described it, overwhelmed the confines of the late antebellum political parties and reasonable debate. Men in both the Union and the Confederacy picked up their arms and marched into Gahanna because of, “the conviction that North and South represented two social systems whose values, interests and future prospects were in sharp, perhaps mortal, conflict with one another.” Without doubt, the Civil War represents an intensely ideological battle.⁷

⁵ Michael F. Holt, *The Fate of the Country: Politicians, Slavery Extension, and the Coming of the Civil War* (New York: Hill and Wang, 2004), xi.

⁶ James M. McPherson, *For Cause and Comrades: Why Men Fought in the Civil War*. (New York, 1997): 13, 91. McPherson also produced a condensed version of this study, focused exclusively on the attitudes of soldiers. James M. McPherson, *What They Fought For, 1861-1865* (Baton Rouge: Louisiana State University Press, 1994).

⁷ Eric Foner, *Politics and Ideology in the Age of the Civil War*. (New York, 1980): 44; Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War*. Rev. ed. (New York, 1995): 310.

However the political lines did not break solely on ideological grounds. This assertion is supported by analysis of congressional voting records during the war. Glenn M. Linden conducted a roll call analysis of the votes on economic policy of Republican and Democratic congressmen and senators in the Thirty-seventh and Thirty-eighth congresses. He concluded that loyalty to one's "geographic section" played a greater role in voting on economic issues than party ideology.⁸ Constituent interests did influence Republican legislators, as one would expect in a democracy with narrow representation.⁹ Although the franchise had expanded beyond property limitations, only white males could vote, and congressional leaders often voted with their interests in mind. Further, as Yontan Eyal explained, the Democracy began to unravel because many northern Democrats in the "Young America" movement embraced the economic ideals put forth by the opposition party.¹⁰ Similarly, Roger Ransom noted that many of the "Republican" policies inaugurated during the war had antecedents before the war in both political parties. "Only the National Banking Act could be described as a truly novel experiment," he observed. And that measure, he continued did not represent a "Republican" initiative since the measure "faced serious opposition from within the Republican party."¹¹

Neither ideology nor the determinism to establish a new economic order for the benefit of their constituents determined the course set by the war leaders. "Neither North

⁸ Glenn M. Linden, "Radicals and Economic Policies: The Senate, 1861-1873," *Journal of Southern History*, 32 (May, 1966): 188-199; Glenn M. Linden, "Radicals and Economic Policies: The House of Representatives, 1861-1873," *Civil War History*, 13 (March, 1967): 51-65. Richardson, *Greatest Nation of the Earth*, also noted that Republicans voted geographically, but she limited her conclusions to an east-west split in the party and did not include Unionists or Democrats in her summary as Linden did.

⁹ Best demonstrated in Marc Egnal, "The Beards Were Right: Parties in the North, 1840-1860," *Civil War History*, 47 (March, 2001), 30-56.

¹⁰ Yontan Eyal, "Trade and Improvements: Young America and the Transformation of the Democratic Party," *Civil War History*, 51 (September, 2005), 245-268.

¹¹ Roger Ransom, *Conflict and Compromise: The Political Economy of Slavery, Emancipation, and the American Civil War* (New York: Cambridge University Press, 1989), 279.

nor South engaged in Civil War to achieve economic gain,” Patrick O’Brien noted.¹² When examining the guiding principles of the Republicans during the war, the literature has overemphasized motives, rather than interpreting the legislation as a reaction to the circumstances they faced throughout the course of the war. The Republicans needed to meet the fiscal challenges of a nation at war, in whatever way possible. Therefore the revenue system they inaugurated resulted more from the exigencies of war than the desire to fulfill a political agenda. And in doing so, they relied on precedent.

As mentioned above, the most recent example in the American experience came from the War of 1812. The fiscal demands of the Civil War exceeded those of that earlier conflict, and the means for funding that war would not suffice. Thus, the lawmakers turned to the English tax system. As America’s most important trading partner, legislators closely followed English tax practices, particularly with regard to the tariff. This chapter examines the English origins of the American internal revenue system. This piece of American fiscal legislation had long historical roots, and did not spring from an original, antebellum era ideology. The urgent needs of the Treasury dictated the development of legislation rather than a deliberative process to erect long-term changes in the American fiscal system. In relying on precedent, the leaders who drafted Civil War fiscal policy fell back on the distinct American pragmatism that had shaped the nation, particularly in the area of economic policy.

The congressional leaders who drafted the fiscal legislation that financed the war were forced to make a series of capitulations as they crafted their measures. While governor of Ohio, Salmon P. Chase modified his well-publicized enthusiasm for hard currency and free trade. Both times he described his change of heart as a “practical” acceptance of a situation that would endure for “an indefinite period.” While Treasury secretary during the Civil War, Chase oversaw the adoption of Greenbacks as a legal paper currency, earning him the nickname “Old Greenbacks”. “Chase had resorted to greenback currency . . . as a matter of necessity in a unique situation [although] he had

¹² Patrick O’Brien, *The Economic Effects of the American Civil War*. (Atlantic Highlands, NJ: Humanities Press International, 1988), 67.

always been a hard-money man,” concluded John Niven, his recent biographer. He turned to greenbacks solely as a “wartime expedient.” Similarly, Hugh McCulloch first visited Washington DC in 1862 in his capacity as a bank president to lobby against the National Bank bill introduced by Chase. A year later, he accepted the nomination for the position of comptroller of the currency, with administrative duties over the very system he journeyed to Washington to oppose. “My opinion in regard to the establishment of a national banking system underwent a change,” he admitted later.¹³

In each instance, these Civil War leaders faced enormous challenges and ceded their principles to the circumstances. The economic policies crafted during this period were dictated less by Republican determinism or ideology than by the exogenous forces of war. These demands compelled the Republican lawmakers to pass legislation that they would never have considered previously. And they had to do so hastily. The historical literature places too much emphasis on how Republicans directed the course of the war. Instead, the war directed the policies. The crisis that rent the nation soon after the Republicans took office played a far more significant role in the development of their fiscal policy than the predisposition of the party leaders.

The tax policy crafted during the war must also be appreciated as a series of capitulations, rather than the fulfillment of a party’s economic determinism. Gavin Wright once observed that, “. . . in many areas, Republicans were pressured by events into accepting policies they would otherwise not have dreamed of adopting.”¹⁴ The Republicans enacted legislation to cope with the fiscal pressures created by the war, not to fulfill their antebellum economic agenda. They acted less like captains charting a new economic course than sailors clinging to the ships’ steering wheel hoping to survive the storm.

¹³ William Belmont Parker, *The Life and Public Services of Justin Smith Morrill* (Boston: Houghton Mifflin, 1924), 144; Hugh McCulloch, *Men and Measures of Half a Century: Sketches and Comments*. (New York: Charles Scribner’s Sons, 1888), 164.

¹⁴ Gavin Wright, Review of Richardson, *Greatest Nation of the Earth*, www.h-net.msu.edu, January 19, 1998.

Borrowing from English practices helped hasten the flow of needed funds into the Treasury. The lawmakers understood that they needed to devise a wartime revenue system quickly. In facing this real challenge, they did not turn to unpredictable theory or rely on party ideology, but instead took practical steps to overcome the troubles they inherited and the crisis they anticipated. They replicated practices that had been tested and proven effective in similar circumstances.¹⁵

In response to Chandler's question, I suggest that the internal revenue policies enacted during the American Civil War claim a mixed parentage. The principles of taxation established in England during the internecine wars within the country and with European monarchs became the basis for American Civil War taxation. The reliance on credit as the primary source of war revenue, with interest payments supported by excise taxes on consumer goods, apportioned direct taxes on land or levies on the value of property, stamp taxes, licensing fees, and internal duties on manufactured products were known sources of reliable revenue. The experiences of England in developing her internal revenue system through the tumult of national consolidation, Civil War, and expansion abroad provided the "blueprint" for American Civil War tax policies. Robert A. Becker observed that Americans during the colonial era, "developed no radically new form of taxation when they came to the New World for they took their taxes as they took most of their political and social institutions, from the mother country, but with a difference."¹⁶ I propose that the legislators of the Civil War era followed this example, and created a revenue system based on English precedents, but with differences.

Senator James F. Simmons, (R. RI), a member of the Senate Finance Committee, predicted during the July 1861 special session of Congress that, "I suppose the House of Representatives propose to follow . . . the rule of the British Parliament and their [tax] system . . . I do not think it strange that statesmen in this country should conclude that that is best." Simmons's insight proved accurate. In looking for a model upon which to base the emerging tax system, the Civil War legislators turned to England. American

¹⁵ Patterson, "Government Finance on the Eve of the Civil War," 35.

¹⁶ Robert A. Becker, *Revolution, Reform, and the Politics of American Taxation, 1763-1783* (Baton Rouge, LA, 1980): 6.

lawmakers modeled the war tax policies on those employed by English statesmen to cope with the fiscal challenges created by intermittent war. Simmons continued, “In drawing a bill of this kind, going into any system of taxation, I think it is a pretty safe rule to follow the practice of older nations who have had this tax for many years.” Civil War congressmen repeated many of the policies employed by the English because they needed a stream of revenue quickly and writing comprehensive tax laws took time. The necessity of generating enormous revenues quickly induced them to adopt a wartime revenue system that they knew and understood. Because of their urgency, the Civil War Republicans drew their inspiration for the new revenue measures from the English system of taxation.¹⁷

English Taxation

The British fiscal system remained remarkably static from the Norman Conquest until the beginning of the English Civil War in 1641. Two sources generated most of the ordinary government revenue: land and customs duties. Custom duties provided the regular and stable source of ordinary revenue for the realm. For the privilege of trading within the Kingdom, the merchant paid custom duties as “prisage” or in-kind appropriations to the King’s household. The King routinely took from incoming ships portions of a merchant’s cargo that he “prised,” such as a cask or two of wine.¹⁸ “The Crown claimed and exercised from time immortal” the right to “take and buy” “at its need, or for its use, an indefinite bulk of cargo at such prices and on such terms of payment as the circumstances of the case may warrant,” according to Herbert Hall.¹⁹ The King routinely took from incoming ships at the port of entry portions of a merchant’s

¹⁷ *Congressional Globe*, 37th Congress, 1st session, July 29, 1861, 315.

¹⁸ Henry Atton and Henry Hurst Holland, *The King’s Custom: An Account of Maritime Revenue and Contraband Traffic in England, Scotland and Ireland, from the Earliest Times to the Year 1800*. 1908 reprint. 2 vols. (New York: A. M. Kelley, 1967), I; 1-19.

¹⁹ Hubert Hall, *A History of the Custom-Revenue in England from the Earliest Times to the Year 1827*. 2 vols. reprint, 1885. (New York, 1970): I, 64

cargo that he “prised,” such as a cask or two of wine. These goods provided exotic fare for the King’s table.²⁰

King Edward I (1274-1307) organized the collection of regular duties. Before his reign, “kings made frequent levies upon merchants’ goods and purses”²¹ Thereafter, merchants no longer had to provide a portion of their wares to the Crown as prisage, but as a fee for the privilege of engaging in commerce. The fees fell predominantly on wine, wool, woolfells, hide, cloth, and wax²². A “triangular system” of customs administration standardized the processing of articles, by first, “examining the goods, collecting the duties, then updating the accounts.” The “King’s weight,” formulized the scale for appraising the goods by load, that became a feature in all markets and port towns. By the mid-fourteenth century, the Crown had established “staple towns,” or ports that had the monopoly on trade. A customs service developed with regular officials who oversaw the collections of customs to replace the looser system of local collection.²³

Ostensibly designated as the means for maintaining the Navy, the Crown also used customs duties as a source of ready money to discharge troublesome debts, pay soldiers, and mollifying local officials. Customs duties quickly emerged as the Crown’s preferred source of revenue. Altered with ease when necessary and collected by officials loyal to the Crown customs became an effective and efficient source of revenue, particularly in times of distress, such as war. The English customs taxed goods both entering and leaving the country. Once awarded, Parliament granted the custom duties to the Crown for the life of the monarch.

Originating in the tribute collected by the King from his royal demesne, land and property taxes became a staple of Crown finances. Robert S. Hoyt defined the royal

²⁰ Henry Atton and Henry Hurst Holland, *The King’s Custom: An Account of Maritime Revenue and Contraband Traffic in England, Scotland and Ireland, from the Earliest Times to the Year 1800*. 1908 reprint. (New York, 1967), I: 1-19.

²¹ *Ibid*, I:7.

²² Norman S. B. Gras, *The Early English Customs System: A Documentary Study of the Institutional and Economic History of the Customs from the Thirteenth to the Sixteenth Century*. (Cambridge, MA: Harvard University Press, 1918), 72.

²³ Edward Carson, *The Ancient and Rightful Customs: A History of the English Customs Service* (Hamden, CT: Archon Books, 1972), 18.

demesne as, “all lands in England which the King held *in dominio*, in his own hand . . . [including] forests and highways.”²⁴ The feudal tradition of a vassal paying tribute to his Lord provided the basis for the regular income and provisions the King received from the demesne lands. The later system of direct taxation sprang from these “medieval fiscal arrangements.” This revenue furnished the Crown with the means to meet the expenses of day-to-day operations, as well as provide comestibles for the “King’s table.” The revenue and goods produced on the royal demesne were collected and tabulated by Crown officials. The income from the royal demesne provided the means for the Crown to maintain itself.²⁵

Until the sixteenth century, these two sources of revenue, proprietary income from Crown lands and customs duties, provided the government with its ordinary fiscal needs. However, when these sources would not suffice, the government requisitioned “extraordinary” sources of revenue. Invoked most frequently for the “defense of the realm,” these taxes “developed as an obligatory response to the necessity of war,” according to historian G. L. Harriss. Initially, these taxes included a scutage, or knight’s fee, that replaced the required military service performed by knights, with an in-kind payment; the tallage, a percentage of the fees paid by the inhabitants on the royal demesne, and the caruage, or tax on plowed land. “The Crown exploited its feudal and traditional taxes, and was extended them to meet the requirements of new military demands,” according to Harriss.²⁶ Customs duties also contributed to supporting military campaigns. “The correlation between war and customs revenue is a close one, according to Norman Gras.”²⁷

²⁴ Robert S. Hoyt, *The Royal Demesne in English Constitutional History: 1066 - 1272*. (Ithaca, NY: Cornell University Press, 1950), 2.

²⁵ P. K. O’Brien and P. A. Hunt, “The Rise of the Fiscal State in England, 1485 – 1815,” *Historical Research: The Bulletin of the Institute of Historical Research*. 66 (June, 1993), 135.

²⁶ G. L. Harriss, *The King, Parliament, and Public Finance in Medieval England 1013-1369*. (Oxford: Clarendon Press, 1975), 36.

²⁷ Hall, *Customs Revenue of England*, I:151; Gras, *English Customs System*, 72.

The early abuse of this system of “extraordinary revenue” led to the principle of taxation by popular consent, the fundamental aspect of the English revenue system introduced with the Magna Carta, and strengthened during the Glorious Revolution. When King John I (1199-1216) changed the purpose of the scutage from “an extraordinary impost reserved for extraordinary occasions,” to “a means of supplying his heavy financial needs,” his barons objected. This and other grievances led his subjects to craft the Magna Carta in 1215, which dictates that “no scutage shall be imposed unless by common counsel,” and further limits the right to seize property, and set arbitrary fees in lieu of feudal service. “[These] taxes were imposed on the nation only when war, or the likely prospect of it, could justify such exceptional burdens,” G. L. Harriss noted, “war always affected the national purse in the most direct and obvious manner.”²⁸ This document became the basis for the “eloquence against arbitrary taxation from the time of John to the acceptance of the United States Constitution,” according to Shepard A. Morgan.²⁹ Americans adopted the principle of limiting the executive’s ability to levy taxes by requiring all government expenses must be “drawn from the Treasury” (Article I, section 9) and that these revenue measures must originate in the House of Representatives. (Article I, section 7).

Levied in 1188 as the first general tax on moveable goods (including farm stock, corn or other products of the land, furniture, and money and stock-in-trade of the burgher or townsmen) the “Saladin Tithe” contributed to the expenses of the Third Crusade. Each contributed “one tenth” of the value of his possessions to help rid Christendom of the Muslim threat. Morgan noted that this tithe represents the “earliest recorded instance of a general tax upon movables.”³⁰

Apportioned to counties or towns throughout England, “each person was to swear to the number, quantity, and value of his movables and those of his two nearest neighbors; disputed cases were settled by the elected knights by means of a jury of

²⁸ Harriss, *King, Parliament, and Public Finance*, 26.

²⁹ Shepard A. Morgan, *The History of Parliamentary Taxation in England*. (New York: Moffat, Bard and Co., 1911), 55-64.

³⁰ Morgan, *History of Parliamentary Taxation*, 36.

twelve of the neighbors of the person assessed.” This process of self-assessment, allowing the taxpayer to make the first declaration of his wealth, becomes an important feature of English and American tax practices. The success of “fractional taxation” of personal property soon endeared the Crown and Parliament to the method of generating extraordinary revenue. Levied more regularly for defensive or military purposes, by 1334 the fractional fifteenths and tenth changed from a general percentage to an apportioned, or quota, tax. Officials collected a tenth of the value of movables or personalty in cities and on the royal demesne, and a fifteenth from the value of rents or realty. This extraordinary revenue “evolved to a fixed land tax” and became the “standard form of direct taxation on land” in England. Required to pay a set amount, every town and county determined locally how best to raise its share.³¹ Though a national tax, local authorities maintained control over how best to extract their quota. Americans incorporated this concept when levying the direct tax.

Parliament experimented with other means of generating revenue, most notably the “subsidy” and poll taxes. The subsidy became a tax on the value of wealth, with assessments made by local officeholders. This system “tested the relationship” between local and national government. Too often, the assessor evaluated the property on the basis of “perceived ability to pay rather than actual wealth.” For this reason, in the seventeenth and eighteenth centuries, the quota taxes (tenths and fifteenths) proved more productive than the assessed subsidies.³² Parliament levied poll taxes as singular requisitions for specific purposes, generally for military expenditures. Levied “per head” as a capitation tax, the poll taxes featured a “bewildering” array of “complex gradations according to wealth and status.”³³ Because of the limitations on these other levies, the fifteenth and tenths became methods of collecting extraordinary taxes, and “continued in force for nearly 300 years.” Apportioned throughout the kingdom, then

³¹ Stephen Dowell, *History of Taxation and Taxes in England: From Earliest Times to Present Day*. 4 vols. (London: Longman, Green and Co., 1884): I, 95-101; Edwin R. Seligman, *Essays in Taxation*. 8th ed. (London: Macmillan Co., 1913), 41-45.

³² Michael J. Braddick, *The Nerves of State: Taxation and the Financing of the English State, 1558-1714* (Manchester: Manchester University Press, 1996), 93-95, 211.

³³ *Ibid*, 103-104.

collected through “local arrangements” these taxes gave each town or district the ability to determine how best to administer their portion. What began as an extraordinary tax to finance “defense of the realm” evolved into a “standard tax” that provided general support for the Kingdom. “Anything resembling a systematic assessment was, as a rule, unknown.”³⁴

Thus, by the mid-fourteenth century, elements of the English fiscal system emerged that Americans would later replicate. Both governments relied on customs duties as the primary source of revenue through standard levies, collected at selected ports, by agents of the Crown/government. Direct taxes, in the form of apportioned taxes on land and “movable property,” provided another source of dependable revenue. Assessed and collected locally in England, these direct taxes became the primary means of supporting local government. Originally, the national government used them only for “extraordinary” expenses, but national taxes on movable property became an accepted and familiar element in royal government.”³⁵ They became more a more regular fixture of the national revenue. Local officials, appointed for the purpose, collected these national taxes. Self-assessment and local determination made this a less oppressive form of taxation.

“In England, the property tax remained for centuries the sole local tax,” while [continental European governments] also collected local excise taxes that became the staple of their revenue systems, Seligman noted.³⁶ Americans replicated the English system of relying primarily on direct, property taxes for local government. Direct taxes would be levied in the United States only in times of “extraordinary” revenue needs. Because the direct taxes addressed local needs, and were collected by local officials, the English citizen believed himself, as Sir Francis Bacon stated, “the master of his own valuation, and the least bitten in purse of any nation in Europe.” Americans would express the same sentiment during the Civil War.³⁷ Once apportioned, the local officials

³⁴ Dowell, *History of Taxation*, I: 68; III: 6-7, 75-77.

³⁵ Harriss, *King, Parliament, and Public Finance*, 27.

³⁶ Seligman, *Essays in Taxation*, 40.

³⁷ Bacon quoted in Seligman, *Essays in Taxation*, 46

determined how best administer the valuation. For this reason, “direct taxes appear in the records under a variety of names,” according to O’Brien and Hunt.³⁸ So too in America, as noted in Chapter II. By apportioning these direct taxes, and relying on local officials for assessing and collecting the dues, the English system reduced number of bureaucrats needed for tax collection. Historian D. M. Palliser estimated that at the commencement of Queen Elizabeth’s reign (1558-1603), England employed one royal officer for every 3000 Britons, whereas the French monarchy employed one officer for every 400 citizens.³⁹

Finally, an intimate symbiosis existed between war and taxation. Wars necessitated taxes, and these funds kept armies on the march and stoked the fires of war. “Ordinary” revenue supported normal government operations, but war created the need for “extraordinary” sums. Incrementally, these war taxes became permanent revenue machines for the government. Americans inculcated this principle as well, expressed later through the “republican” linkage of taxes, armies, and corruption. Limiting taxes and standing armies, keeping the national government confined within its “sphere,” kept Americans out of war, and corruption at bay.

Many of these elements of taxation appear in other governments. The concept of direct and indirect taxation has many homes. Most countries that emerged from a feudal tradition based taxes on land, and some measure of the productivity of land. Customs duties became a standard form of indirect taxation in many countries. However, in other European countries, other elements of taxation appear that England and America did not embrace. Labor as a form of tax payment, the *corvée* in France for example, do not appear as a systemic, forced contribution in Anglo-American tradition.⁴⁰ Although fiscal privileges for the nobility and clergy existed in England, the highly regressive tax structures do not appear in early English or American fiscal experience. Also, the Anglo-

³⁸ O’Brien and Hunt, “Rise of the Fiscal State in England,” 139.

³⁹ Bacon quoted in E.R.A. Seligman, *Essays in Taxation*. Tenth ed. (New York: Macmillan Co., 1931), 46; D. M. Palliser, *The Age of Elizabeth: England Under the Later Tudors: 1547-1603*. (New York, 1983): p. 303.

⁴⁰ Although in the US southern slave states, work allotments did become a form of tax.

American tradition that states individuals own their property and *contribute* to the state differs from the idea of sharing the product of the land with the state, as practiced in France before the Revolution.⁴¹

“Ye Best and Easiest Tax”

The English direct taxes periodically exempted the poor, representing a unique feature of their fiscal system. One 1336 statute announcing the fifteenth and tenth decreed that “people . . . whose goods in all exceed not the value of 10s . . . and from the goods of people of cities [and] boroughs which exceed not the value of 6s in all.” The direct taxes in England regularly differentiated taxpayers according to their class. Not strictly collected “per head”, rates on poll taxes also took into account a person’s wealth and status. Only “bona fide beggars” received exemptions from the poll tax, but individuals paid at graduated rates. The traditional fifteenths and tenths included exemptions, but not high enough to exclude many, and still welcomed most to the tax rolls. The laboring poor did pay taxes, but at lower rates than “dukes, earls and widowed countesses, barons and baronets and widowed baronesses, knights, esquires, lawyers, traders, franklins and farmers.”⁴² While the local officials determined the standard of assessment, the “income of the taxpayer became the standard for all who paid direct taxes by the seventeenth century,” according to William Kennedy.⁴³

Early in the reign of King Henry VIII (1509-1547), the number of vagrants in England rose sharply. Inflation swept Europe with the influx of gold taken from the Americas during the Spanish conquest. Traditional labor relations in England underwent a transition. The feudal system of land tenancy disintegrated as more landowners turned

⁴¹ E.R.A. Seligman, *Essays in Taxation*. Tenth ed. (New York: Macmillan Co., 1931), 19-61; Smith, *Wealth of Nations* contains a great deal of comparative information regarding taxation in Europe; Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon and Schuster, 1986, 259-296.

⁴² A. E. Bland, P. A. Brown, and R. H. Tawney, comps. *English Economic History: Selected Documents*. (London: G. Bell and Sons, Ltd., 1914), 204-205

⁴³ William Kennedy, *English Taxation, 1640-1799: An Essay on Policy and Opinion* (London: G. Bell and Sons, Ltd., 1913), 38.

from farming to wool production. The prices of food and clothing rose faster than wages, and contributed to the suffering of the poorest in England. “English poor relief law developed between 1514-1644 . . . with the assumption that all able-bodied persons could find work if they tried.” English society distinguished between the “able-bodied” and the impotent, leading to vagrancy regulations that shock modern sensibilities: whippings, the stocks, and hangings awaited “idlers.” “The Tudor policy of dealing with poverty and vagrancy was two-fold: to punish and deter the vagrants and to relieve the ‘deserving poor.’”⁴⁴

“The earlier years of the sixteenth century began a period of great changes in the position of the poorer classes,” stated E. M. Leonard.⁴⁵ The growth in population, coupled with the economic changes of the period, “strained food supplies, and added to the number of landless laborers.”⁴⁶ These changes led to a significant reappraisal of English policies towards the poor. With England expanding its “continental engagements” and initiating the settlement of Ireland, direct tax levies became more frequent. This, coupled with the growth in the impoverished lower classes, led to a movement to exempt the poor from taxation. “Over a course of centuries [in English fiscal history] there was no uniform tradition regarding the taxation of the poor man,” William Kennedy explained, “but the tradition of exempting the poor from taxation reigned during Elizabethan and Stuart England.”⁴⁷

From 1629 until 1640, Parliament did not meet, and King Charles I (1625-1646) relied on customs and ship writs (a demand to supply a ship) for his pecuniary needs. War with Scotland prompted Charles to summon Parliament in 1640 to raise funds. This “short Parliament” proved uncooperative, and Charles soon released them. However the

⁴⁴ C. G. A. Clay, *Economic Expansion and Social Change: England 1500-1700*. 2 vols. (New York: Cambridge University Press, 1984): I, 223-226; Palliser, *Age of Elizabeth*, 123.

⁴⁵ E. M. Leonard, *The Early History of English Poor Relief*. Reprint. (London: Frank Cass & Co., 1965), 1-21;

⁴⁶ L. A. Clarkson, *The Pre-Industrial Economy in England, 1500-1750* (New York: Schocken Books, 1972), 163.

⁴⁷ Kennedy, *English Taxation*, 66.

second Parliament he called, while still rancorous, cooperated in raising funds and launching a permanent change in English fiscal policy. Parliament levied a poll tax in 1641 that signaled the beginning of a new attitude toward taxation of the poor. This tax, as other poll taxes, differentiated individuals based on class, but included a levy even on the “meanest throughout the kingdom.” With the outbreak of the English Civil War in 1642, Parliament needed the resources “for the speedie raising of money,” which led to the enactment of the first national excise tax, which “clearly fell upon all sectors of society.”⁴⁸

The Civil War excise taxes provoked a systemic change that altered English tax policy. First adopted as a temporary wartime measure, soon they became the “key to the fiscal cupboard.”⁴⁹ Continental European countries had incorporated the excise into their fiscal structure long before England. Considered “un-English . . . because of the inquisitorial activities of the excise man,” English Kings had avoided these duties.⁵⁰ Excise taxes are collected as indirect taxes on consumption. Instead of local administration and collection, excise taxes were organized from the Treasury, with commissioned officers used for collection. Mass opposition to the excises, including a 1647 riot in Smithfield that started over the tax charged for the purchase of an ox, induced a cutting of the charges on the “prime necessities of life.” However taxing the sale of domestic and select imported goods, particularly beer, ale, cider, perry, French wines, and coffee, continued.⁵¹ “The revenue from this source was so considerable and

⁴⁸ Dowell, *History of Taxation*, III, p. 9; Kennedy, *English Taxation*, p. 54; J. V. Beckett, “Land Tax or Excise: The Levying of Taxation in Seventeenth-and Eighteenth-Century England,” *English Historical Review*, (April, 1985), 305.

⁴⁹ Edward Hughes, *Studies in Administration and Finance, 1558-1825* (Manchester: University of Manchester, 1934), 118.

⁵⁰ Barry Coward, *The Stuart Age: England: 1603-1714*. second ed. (New York: Longman Press, 1994), 211; C.D. Chandaman, *The English Public Revenue, 1660-1668*. (Oxford: Oxford University Press, 1975), 40.

⁵¹ Dowell, *History of Taxation*, II:, 11; Chandaman, *Public Revenue*, 40.

so indispensable,” J.E.D. Binney observed, “that however unpopular the duties, it was virtually impossible to discontinue them.”⁵²

Collecting excise taxes provided a challenge to the government. Unlike the earlier direct taxes, the central government administered and collected the excise. Parliament empowered commissioners to collect the tax in London and appoint a team of sub commissioners for the countryside. Merchants and brewers made weekly payments to these worthies. Despite the centralization of this system, during the first three years of the Civil War, locals pilfered the duties. The division of loyalties inherent in a civil war further complicated the collection process. “Parliamentary commanders or sheriffs seized the proceeds in their districts as a means for recruiting and paying their local forces and garrisons . . . a disquieting number of the sub commissioners ignored the commissioners’ directions, falsified their amounts and either embezzled or unduly retained their excise receipts,” Chandaman reports.⁵³

To circumvent these administrative problems, Parliament initiated a system of “tax farming.” In exchange for remitting a portion of the tax receipts in advance, private individuals collect the tax. The government secured the needed revenue while the tax farmer earned a nice commission (generally 2 percent) for his services. Despite these advantages, excise tax farming ceased in 1683. Curbing the “abuses” of the “mercenary” tax farmers proved more difficult under this system. The replacement of local officials with professional, private tax gatherers undercut the traditional basis of support and patronage, a disadvantage to the restored monarchy. The death knell for excise farming tolled when gross revenues did not keep pace with the expanding economy. Corruption sapped the revenues from this system. The graft and inefficiency in many districts convinced the Crown to reassert its control over excise collection. The Treasury department assumed control, and by 1688, the “Restoration excise” grossed twice what had been realized under the farm system.⁵⁴ Tax farming re-enforced the

⁵² J.E.D. Binney, *British Public Finance and Administration* (Oxford: Clarendon Press, 1958), 34.

⁵³ Chandaman, *Public Revenue*, 51-52.

⁵⁴ *Ibid*, 67-76;

public's distrust of the "little pestilent creatures," "dregs and scum," and "dirty little fellows" who collect the tax.⁵⁵ The public's unhappy toleration of the taxman into an intense vitriol that Englishmen, and American colonists, have expressed since.

Once invoked, excise taxes soon became the largest single source of government revenue. The excise gave government officials advantages over direct taxes, explained by John Brewer thus:

They were assessed less obtrusively and more accurately than duties on wealth or realty; their incidence was less visible than a poll tax because they were levied on producers and distributors who passed the costs onto consumers, and less subject to fluctuations that plagued customs.⁵⁶

The reliability of the excise, especially those levied on goods with steady demand, such as beer, domestic spirits, salt, coal, tea, and sugar, made this tax the staple of British public finance. Indeed, King Charles II (1660-1685), in recognizing the potential for the excise, referred to it as, "ye best and easiest tax."⁵⁷

Introduced as a temporary measure, the Civil War excise became a permanent fixture in English fiscal policy. The adoption of the excise tax marked a significant transition in English fiscal policy. First, the tax receipts and system of collection elevated the status of the Treasury department within the central government. The Treasury "established its authority over the monarch, the Privy Council and the spending departments, and successfully defended its power against the expanding authority of the secretaries of state." The Treasury hired more revenue officers with the termination of tax farming. By the dawn of the eighteenth century, the department directed the nation's, and soon empire's, fiscal policy. This vigorous Treasury would serve as the model followed by Alexander Hamilton eighty years later.⁵⁸

⁵⁵ Paul S. Boyer, "Borrowed Rhetoric: The Massachusetts Excise Controversy of 1754," *William and Mary Quarterly*, 3rd series, 21 (July, 1964), 341.

⁵⁶ John Brewer, *The Sinews of Power: War, Money, and the English State, 1688-1783* (New York: Alfred A. Knopf, 1989), 146.

⁵⁷ Hughes, *Studies in Administration and Finance*, 118.

⁵⁸ Brewer, *Sinews of Power*, 92.

Second, from the time of the English Civil War onward, the poor in England paid taxes, “regularly in excise duties, and at intervals in direct taxes.”⁵⁹ This led to a defining concept in taxation, both in England and later in the United States: all citizens must contribute to the maintenance of government, to the best of their abilities. Not until after the Great Depression did the ideal of exempting the poor from contributing taxes towards governance take root in America. Just taxation did not mean exempting people from paying taxes, but instead ensuring that the poorer citizens paid in proportion to their ability. The tax policy during the American Civil War did not attempt to shield any class in society from bearing a portion of the taxes, but only to limit the impact of the burden on the less fortunate.

Necessaries of the Poor

Permanent excise taxes inculcated the English to the practice of taxing all citizens. Indirect taxes do not separate the duty from the final price of the good, thus all who purchase the article pay the tax. Conversely, direct taxes can incorporate exemptions. With the heavier reliance on indirect taxes came a growing acceptance of all members of society, even the poorest, would pay taxes. Excise revenue depended heavily on alcohol and other goods with inelastic demand that all classes consumed. Unwilling to forsake this treasure trove, but cognizant of the burden this placed on the poor, lawmakers determined to mitigate the impact. During the period of the Glorious Revolution, the conviction advanced that everyone must contribute towards the support of the government. The poor ought to pay taxes as part of their duty to society, and contribute to the best of their ability. This became part of the evolving liberalism unleashed during the late seventeenth century, a legacy that “was ongoing” to the “end of the eighteenth century in the American colonies.”⁶⁰

To secure the Crown, William of Orange accepted a settlement with Parliament, called the “Declaration of Rights.” This document became the “Bill of Rights” when the

⁵⁹ Kennedy, *English Taxation*, 83.

⁶⁰ Lois F. Schwoerer, *The Declaration of Rights, 1689*. (Baltimore, MD: Johns Hopkins Press, 1981), 291.

newly coroneted King William III (1689-1702) accepted its terms on December 16, 1689. Americans recognize not only with the document's title, but also many of the tenets it affirms. These include the right to bear arms (in England, as long as you are a Protestant), freedom in elections, a ban on "cruel and unusual" punishment, and the right for citizens to have trials heard by a jury.

For the purposes of this study, Article 4 proved most important. This re-established the restriction, first articulated in the Magna Carta, that the Crown could not levy taxes without the consent of Parliament, a requirement incorporated in the United States Constitution. Second, Parliament granted revenue from customs and the excise to the Crown for limited periods, typically four years, rather than for life. Americans followed this example as well. "The theory of our government," John Sherman noted just before the American Civil War, "is that a specific sum shall be appropriated by a law originating in this House [of Representatives] for a specific purpose and within a given fiscal year."⁶¹

John Locke, the political theorist intimately connected with the Glorious Revolution and whose writings served as the basis for the Declaration of Independence, also strongly supported the idea that all citizens needed to support the government. The contract between government and its citizens, he believed, included an obligation on the part of each constituent for the maintenance of the administration. "Governments cannot be supported without great charge," Locke professed, "and it is fit everyone who enjoys his share of protection should pay out of his estate his proportion for the maintenance of it." Adam Smith's first "maxim of taxation" declares, "The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities."⁶² In turn, this obligated governments, "not [to] raise taxes on the property of the people without the consent of the people."⁶³ In this spirit, one

⁶¹ John Sherman, *Recollections of Forty Years in the House, Senate, and Cabinet: An Autobiography*, 2 vols. (Chicago: Werner Co., 1895), I: 155.

⁶² *Smith, Wealth of Nations*, 777.

⁶³ John Locke, "Of Civil Government," in *The Works of John Locke*, 10 vols. (London, Thomas Tegg, 1823), V: 422-423.

pamphleteer, writing in 1690, proposed that if excises did not touch the food of the poor, “there could be nothing said against this tax.” This did not represent an entirely new concept. As early as 1608, English customs duties did not tax the “necessaries of the people.” The pervasiveness of the excise taxes gave this idea new currency at the end of the century.⁶⁴ Indeed, in 1776, Adam Smith argued that “every tax, however, is to the person who pays it a badge not of slavery, but of liberty. It denotes that he ... has some property, [and] cannot himself be the property of a master.”⁶⁵ Paying taxes demonstrated that an individual had a place in civic life.

These ideals, that the poor should pay taxes, but the government, in turn, should spare their “necessities” shaped tax legislation in England through the eighteenth century. According to William Kennedy:

The three ideas that most influenced eighteenth century view on taxation were, first, that everyone should pay taxes, including the poor man. Second, that necessaries of his subsistence should, if possible, be exempted out of compassion. Third, exempting these necessaries served not only a charitable purpose, but also prevented high wages and benefited trade. These ideas led to the condemnation of taxes on necessaries, ... and the acceptance that the tax on luxuries” represented the most “ideal tax.”⁶⁶

Necessaries encompass, according to Adam Smith, “not only the commodities which are indispensably necessary for the support of life, but whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without.”⁶⁷ But an acceptable “departure from the principle” allows a minimal tax on some necessities, because of their ubiquity and inelastic demand such as salt. A small tax on items of great demand goes unnoticed to the taxpayer, but returns great revenue to

⁶⁴ Kennedy, *English Taxation*, 13.

⁶⁵ *Ibid*, 808.

⁶⁶ *Ibid*, 111-112. I have paraphrased portions of this quote.

⁶⁷ Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, 2 vols. 5th ed. (London: Methuen and Co., 1922): I, 821-822.

the Treasury. Other items included “candles, beer, cider, soap, coal, leather, and malt.”⁶⁸ “By the mid-eighteenth century there was a general condemnation of taxes on necessities,” while the “ideal tax” became “the tax luxuries.” These luxuries included, “male (not female) servants, carriages, pleasure horses, larger homes, wine, spirits, imported foodstuffs (sugar, dried fruit, nuts, citrus fruits, and spices), glass, printed cloth, linens tobacco, and stamp duties on legal services.”⁶⁹

Increasingly over the course of the eighteenth century imports, and the customs duties collected thereon, became associated with luxuries. Domestic goods, fixed with excise taxes, were seen as necessities. This explains part of the later American acceptance of import duties as an appropriate tax, while excises constituted a more repressive tax. Import duties tax luxuries while excise duties fall more often on necessities. This dichotomy, as demonstrated in Chapter II, resurfaced at the Constitutional Convention and became the basis tax policy in the United States.

Liquor, lawmakers agreed, proved another ideal source of tax revenue because of the tax “is finally by the different consumers exactly in proportion to their respective consumption.” Further, liquor has an “infelicitous effect upon the health and morals of the laboring classes,” and therefore the tax penalizes the intemperate.⁷⁰ This belief resurfaced as well in the American concept of the ideal tax. Taxing “ardent spirits,” Alexander Hamilton noted in *Federalist 12*, “might furnish considerable revenue,” and “would tend to diminish the consumption of it,” which would “be favorable to the morals and health of the society. There is,” he continued, “nothing so much a subject of national extravagance as these spirits.”⁷¹ Indeed, when launching internal tax programs in the United States, Federalists in the Washington administration, Republicans in the Madison administration, then Republicans in the Lincoln administration, all turned first to taxes on liquor as their first source of revenue.

⁶⁸ O’Brien, “Political Economy of British Taxation,” 12. In America, leather was not considered a luxury, since it was produced domestically, not imported.

⁶⁹ *Ibid*, 12-13.

⁷⁰ Smith, *Wealth of Nations*, 828.

⁷¹ Alexander Hamilton, “Federalist 12,” in *The Federalist*, Paul L. Ford, ed. (New York: Henry Holt and Co., 1898), 77.

These principles of taxation embraced by the English became the creed in America when implementing tax policy; first, that all must contribute to the support of government; second, that indirect taxes should spare the “necessaries of the poor;” and finally, that taxing luxuries provided the “ideal tax.”

The Fiscal-Military State

The intimate symbiosis between war and taxation escalated through the “Long Century.” Between the period of the Glorious Revolution (1688-9) until Napoleon Bonaparte’s final defeat (1815), Great Britain “plunged into financial commitments on level previously unimaginable.”⁷² War became the centric force in British society, and completely altered her political economy. This level of warfare required dramatic increases in revenue, and new sources of funds. The British embarked on the “financial revolution,” that transformed England into an international financial and military powerhouse.⁷³

Taxes alone could not provide enough revenue to build this new “fiscal-military state,” so the British government embarked on an intensive program of deficit financing. The “funding system” relied on a “powerfully extractive fiscal system” to secure the interest payments for both the short and long term debt.⁷⁴ The British raised approximately 75 percent of the finances needed for their eighteenth century wars (1702-13; 1739-48; 1756-63; 1775-83) by borrowing funds. They incorporated the Bank of England to facilitate the management of their debt.⁷⁵ The capacity of the English government to levy taxes efficiently proved a crucial element in this transformation. Without the tax machine constructed during the late seventeenth century, this rapid fiscal transformation would not have occurred so expeditiously. This, again, becomes an

⁷² Beckett, “Land Tax or Excise,” 287.

⁷³ P.G.M. Dickson, *The Financial Revolution in England: A Study in the Development of Public Credit, 1688-1756*. (London: Melbourne, 1967); H. V. Bowen, *War and British Society: 1688-1815* (New York: Cambridge University Press, 1998), 20-40.

⁷⁴ Brewer provides the best examination of this transformation. Brewer, *The Sinews of Power*, 22.

⁷⁵ Beckett, “Land or Excise,” 307.

important point in comparison with the American experience during the Civil War; no similar structure existed in the United States Treasury department, which delayed the implementation tax collecting. Edward Hughes observed that, “efficiency in the sphere of revenue collection was the first condition of success of the new funding devices.”⁷⁶ This “efficiency” eluded the inchoate American Civil War tax system, since no national internal revenue apparatus existed in 1861.

This “financial revolution” encumbered the public with a massive debt. The interest payments on that debt devoured half the annual expenses of government. To “service” or meet steady interest payments, a more aggressive tax regime also emerged.⁷⁷ While the English believed themselves the “least taxed” in Europe before their Civil War, Mathias and O’Brien demonstrated that they emerged from the Napoleonic Wars as the bearers of a higher tax burden than most of the citizens on the Continent.⁷⁸

The eighteenth century taxes secured and serviced the loans that financed the expansion of the fiscal-military state. The taxes paid the interest on the loans. The steady interest payments, secured by tax revenue, gave investors confidence that their investment would reap steady profit, while the principal remained secure. The “stability” in this system came primarily from the implementation of the Land Tax, “a direct tax levied year in the year out in peace and war.” Until 1714, receipts from the Land Tax dominated the revenue supporting this new fiscal structure. Direct taxes were transformed from extraordinary to ordinary sources of revenue. Apportioned across the country, the Land Tax, like the tenths and fifteenths, assigned a quota to each county in the kingdom, and “most counties utilized whatever system they found to be most appropriate to collect their share.” This gave local control to a portion of the national tax

⁷⁶ Hughes, *Studies in Administration*, 167

⁷⁷ Brewer, *The Sinews of Power*, 22;; Bowen, *War and British Society*, 22. The definitive works on this phenomenon are: Patrick K. O’Brien, “The Political Economy of British Taxation, 1660-1815,” *Economic History Review*, 2nd ser., 41 (Feb., 1988), 1-32 (quote on p. 4).

⁷⁸ Peter Mathias and Patrick O’Brien, “Taxation in England and France, 1715 – 1810,” *Journal of European Economic History*, 5 (1976), 601-21

system. Beckett continued, “The land tax was based upon consent and not force, and the government preferred to take the guaranteed income it provided rather than endanger this principle by attempting to adopt a more inquisitorial income tax.”⁷⁹

Introduced as a war tax in 1692, the Land Tax provided the British government approximately 47 percent of its revenue initially. This tax attempted to “bring taxation into some proportional relation to income,” without the intrusiveness of an income tax. However, by the dawn of the nineteenth century, this tax accounted for only 21 percent of government revenue.⁸⁰ “Perhaps the country could have given more,” through the land tax, Colin Brooks observed, “but the country gave a massive amount, and perhaps more critical, gave year in and year out.”⁸¹ The reliability of this income provided an important base for government revenue, even as the Land Tax provided less of the overall revenue. Increasingly, during the eighteenth century, the “excise became the most important source of state income,” Brewer noted.⁸² The revenue from excise taxes increased “ten fold” during the course of the eighteenth century.⁸³ However, the British citizens accepted these taxes, O’Brien suggested, because flexible administration and enforcement. The continued policy of self-assessment and local administration of the direct taxes created a non-coercive manner of generating revenue that did not pique citizens. Second, the indirect taxes remained hidden within the objects consumed, thus, also deflecting the anger felt by taxpayers who paid lump sums of tax at set times of the year (as with an income tax). O’Brien posited that:

flexible administration, complemented by an expedient tolerance of evasion and a prudent selection of the commodities and social groups “picked upon” to bear the mounting exactions of the state made rising taxation tolerable and politically manageable from 1660 - 1815. Apart from revolt in the thirteen [American] colonies the assessment and

⁷⁹ Beckett, “Land Tax or Excise,” 295, 301

⁸⁰ O’Brien, “Political Economy of British Taxation,” 10.

⁸¹ Colin Brooks, “Public Finance and Political Stability: The Administration of the Land Tax, 1688-1720,” *The Historical Journal*, 17 (June, 1974), 285

⁸² Brewer, *Sinews of Power*, 95.

⁸³ O’Brien, “Political Economy of British Taxation,” 16.

collection of taxes within the kingdom provoked only the mildest of political crises over the long eighteenth century.⁸⁴

As the demands for money grew in the eighteenth century, the British government returned to indirect taxes, both excises and custom duties, as the primary source of revenue. Whereas the direct taxes provided the backbone of the tax regime, indirect taxes became the bulk. The ideal of avoiding the “necessaries of the poor” gave way to placing light duties on common household goods, such as soap, salt, leather, and newspapers and newspaper advertising. Small taxes on articles of widespread consumption would generate large revenue without inflicting a heavy burden on any individual. In defending the salt duty in 1732, Sir Robert Walpole stated that, “the tax which is the most equal and the most general is the most just and the least burthensome. Where every man contributed a small share, a great sum may be raised for the public service, without any man’s being sensible of what he pays.”⁸⁵ Thus, a tax could be laid on necessities as long as it remained a light tax that did not prove “burthensome.” Walpole also introduced the idea of devoting a portion of the tax revenue to a “sinking fund” that would whittle down the principal of the debt, on top of meeting the interest payments.

When William Pitt became Chancellor of the Exchequer in 1784 he determined to continue the practice of winnowing the debt. As a student of Adam Smith’s, he also resolved to rationalize the British tariff system by lowering a number of high duties in order to thwart smuggling and restore revenue from tea and other popular goods. Pitt also shifted the tax burden by increasing the duties on “luxuries of the well-to-do, including hats gloves, mittens, perfumery, female servants, and horses.” He championed Walpole’s idea of making taxes “diffuse,” by placing a light duty on articles in wide use.

⁸⁴ O’Brien, *Ibid*, 7-8.

⁸⁵ A.E Bland, A. Brown, and R.H. Tawney, *English Economic History: Selected Documents* (London: G. Bell and Sons, 1914), 679.

The most equitable principle of taxation will be to render the objects as diffuse as possible,” he stated in 1796.⁸⁶

In 1792, at the end of the American Revolution, and just before the start of the Napoleonic Wars, the British collected £17.25 million in revenue; the two primary direct taxes, the land tax and tax on houses, contributed only £3.75 million to that total.⁸⁷ Another shift in tax policy occurred during the 22 years of war with France (1793-1815). As public discontent mounted over increased taxation on consumer goods, Parliament devised more methods of direct taxation.⁸⁸ William Pitt, British appointed First Lord of the Treasury and Prime Minister in 1783, at the beginning of the Napoleonic Wars, determined to augment revenue, in an attempt to “raise supplies within the year.” Pitt revived Walpole’s practice of creating a “sinking fund,” that devoted a portion of the annual revenue to retiring the debt. Pitt introduced the “triple assessment” in 1798. This increased the “assessed” direct taxes (trebling some, but not all categories, as the name suggests), and graduated the tax, to “weigh less heavily upon the lower classes of housekeepers.”⁸⁹ Most significantly, the tax helped shift war financing from the “funding system,” of depending on loans, toward one that tried to raise the needed funds through taxation.

With expenditures still outpacing revenue, the British implemented their first income tax. Inaugurated in 1799, the income tax shifted the source of revenue to the more “modern” construct of taxing income instead of expenditure. Although not an abandonment of the tenet that “all must contribute to society,” the Triple Assessment and

⁸⁶ Richard Cooper, “William Pitt, Taxation, and the Needs of War,” *Journal of British Studies*, 22 (Autumn, 1982), 94-103; Cooper, *British Government Finance 1793-1807: The Development of a Policy Based on War Taxes*, Ph.D. dissertation, University of North Carolina, Chapel Hill, 1976.

⁸⁷ Edwin R. A. Seligman, *The Income Tax: A Study of the History, Theory, and Practice of Income Taxation at Home and Abroad* (New York: Macmillan, Co., 1914), 60-61.

⁸⁸ Placing too high a tax encourages evasion, such as smuggling, so customs duties and excises on items cannot be raised continue and still contribute revenue.

⁸⁹ Richard A. Cooper, *British Government Finance, 1793-1807: The Development of a Policy Based on War Taxes*, Unpublished Dissertation, University of North Carolina, Chapel, 1976, 164.

Income Tax began the movement toward “the fairest form of taxation possible.” The British Income Duty set high exemptions, but still collected from all who earned an income as well as émigrés who continued to draw from assets in their homeland. Repealed in 1802, after the short-term Peace of Amiens, then re-introduced in 1803, the Income Duty continued until 1816. Although graduated, the Income Tax raised the ire of the British, Arthur Hope-Jones mused, “because payments are visible and made in comparatively large sums at fixed intervals.” Indirect taxes, on the other hand, “although unfair is often unnoticed and always paid in the form of small additions to the price of the article taxed.”⁹⁰ It did not become a permanent fixture in British fiscal policy until 1842.⁹¹

This brief history of the British income tax resembles the start and stop nature of the American income tax, with some notable differences. First, the British classed their income tax as a direct tax, whereas the first two American income tax bills passed as an indirect tax.⁹² Second, the income tax represented a high hurdle for the British to overcome. One consistent lament in British tax history deplores the “most tormenting of all taxes.” The “quantity and value of land” cannot be hidden, whereas “inquisitorial” methods are needed to determine the profits from stock, interest payments, and non-farm income of the individual. Thus, the “impossibility of taxation according to revenue,” discouraged implementing an income tax. However, like the earlier direct taxes, using a mix of local officials to assess and collect the tax, and a strict procedure for reporting and counting conducted by national officials, the income tax became a begrudged, but accepted feature of British national revenue.⁹³

⁹⁰ Arthur Hope-Jones, *Income Tax in the Napoleonic Wars* (Cambridge: Cambridge University Press, 1939), 112-113.

⁹¹ Seligman, *The Income Tax*, 57-118.

⁹² Significantly, I believe, the first US Supreme Court case that examined the difference between direct and indirect, *Hylton v. United States*, occurred in 1796, before the British levied their first income tax. This provides some insight as to why “incomes” were never included in the Court’s definition of a direct tax.

⁹³ Seligman, *Ibid*; Smith, *Wealth of Nations*, 811-821.

To claim that Americans adopted their tax policies from England may seem at odds with the great myth that Americans rebelled and established Independence because of onerous taxes. During the late colonial period, the belief grew that the English government had become corrupted, both from within through political favoritism, and from outside by the pernicious influence of the “idle drones” who lived off the public debt. As Drew McCoy noted, fear of the “Anglicization” of American government facilitated rise of the Democratic-Republican party.⁹⁴ Taxing the population to pay interest to wealthy investors became the loud and angry republican criticism of government debt, and corruption, voiced repeatedly during the Early Republic and Antebellum eras. After a century of internecine warfare, the British revenue system relied on taxing “expenditure rather than possessions.” The American colonists had only contributed to this burden through tariff duties. Their local tax payments stayed at home. As the British sought new sources of revenue, they naturally looked to their colonists in the Americas.

Beginning in 1660, the British controlled the colonial trade through the Navigation Acts that required selected goods going to and from the colonies to sail on British ships and pass through her ports before entering the European market. This helped insure that the English would benefit most directly from colonial trade, but also facilitated tariff collections on both imports and exports. Americans paid no other taxes to Parliament, however they paid a variety of direct taxes to their local, colonial government. After the War of 1763, George Grenville, First Lord of the Treasury, decided to curb smuggling, enforce customs laws more strictly, and impose limited taxes on the American colonists. These taxes followed the practice of targeting the prosperous through stamp duties, as well as better supervision and collecting on the lucrative molasses-rum trade. On top of this, Redcoats, dispatched to the Americas to fight the French in the War of 1763, lingered and raised colonists’ concerns about “standing armies.” This dual thrust of increased vigilance with a new judicial and military force,

⁹⁴ Drew McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill: University of North Carolina Press, 1980), 151.

combined with taxation “without representation in Parliament,” exacerbated the tensions that culminated in the Declaration of Independence in 1776.

American revolutionaries criticized the heavy debt carried by the British government, and the subsequent taxation to provide the interest payments for that debt. “Republican” revolutionary leaders continually expressed their concerns for the “social dangers traditionally associated with regular armies, high taxes, and preparations for war.”⁹⁵ The amount of the revenue Parliament now tried to extract from the prosperous colonists did not bother Americans as much as the idea the “unconstitutional taxing, the invasion of placement, plural office holding, and standing armies, were major evidences of a deliberate assault of power upon liberty.”⁹⁶ McCoy added, “In the eyes of the American Revolutionaries, England had degenerated by the 1770’s into a state of irredeemable corruption ... the revolutionaries had little doubt, moreover, that England’s contagion would engulf the colonies if the imperial connection was not severed.”⁹⁷ Debt, more than taxes, became the source of American distrust. In paying taxes, however, the public has the greatest opportunity to express their displeasure in the government, by refusing the money or attacks upon the agent.

This summary of British taxation through the Napoleonic Wars provided a guide for American lawmakers. Throughout the narrative, I have stressed commonalities between the systems, and how Americans broadly shaped their revenue policy on the British legacy. Now, I will show more specifically how American tax policy, particularly during the Civil War, emerged from the British mold.

Necessaries of Life

Americans inculcated three of the basic tenets outlined above in local and national taxation before the Civil War. First, they assumed the differences in direct and

⁹⁵ Lance Banning, *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca, NY: Cornell University Press, 1978), 224.

⁹⁶ Bernard Bailyn, *The Ideological Origins of the American Revolution*. Second ed. (Cambridge, MA: Harvard University Press, 1992), 117; see 94-143.

⁹⁷ McCoy, *Elusive Republic*, 48.

indirect taxation. Direct taxes fell on “land” and “property,” and became the basis for local and state revenue. Like the British, these became “quota” taxes, apportioned evenly throughout the country to states. Self-assessment of property became the standard means of determining each individual’s contribution to the apportioned amount. Second, indirect taxes, collected primarily through consumption of imported goods, fueled the national government. Excises became an instrument of “extraordinary” tax revenue, collected only in times of war or serious financial derangement. Although Americans resisted excise taxes nationally during the first Federalist administrations and the War of 1812, they became permanent in the United States, as in England, after the Civil War.

In the United States, the ideal of limiting taxes on the “necessaries” or “necessities” of the poor, while taxing “luxuries” emerged as a standard doctrine. From the Constitutional Convention forward, Americans associated imports selected imports (such as wine, silk) as luxuries thus suitable targets for taxation. “The theory that luxuries are best fitted for internal taxation has been followed consistently,” throughout the nineteenth century, asserted Frederic C. Howe.⁹⁸ Finally, “it was desired that all should contribute in proportion to his abilities,” observed Richard T. Ely.⁹⁹ Exempting the poor from taxation has emerged as the goal of tax policy in the late twentieth century. However, limiting, but not exempting, the poor from taxation remained the rule in American taxation until the post-Great Depression era.

The attempt to protect the “necessaries” or “necessities” of the poor from taxation re-emerges consistently in discussions of early American political economy, but with a “difference.” The American twist came through embracing the ideal, but redefining the term. In the United States, limiting the burden on the poor transformed into an attempt to spare the “necessaries” or “necessities of life.” This reference appears over and over in both official and popular literature from the founding through the

⁹⁸ Howe, *The Internal Tax System*, 37.

⁹⁹ Richard T. Ely, *Taxation in American States and Cities* (New York: Thomas Crowell, 1888). 11.

American Civil War.¹⁰⁰ In one of the earliest official recommendations regarding taxation, Alexander Hamilton, in his *Report on the Public Credit*, advocated high tariffs on imported “wines, spirits, teas, and coffee” and other superfluities, to lessen the burden, “upon objects [that] are more regarded as necessaries of life.”¹⁰¹ Andrew Jackson, in a January, 1833 speech regarding the Nullification Crisis, urged Congress to change the tariff law because, “enormous taxes are laid in the necessaries of life ...” while “articles of luxury, universally acknowledged to be the fittest subjects for taxation, are admitted free.”¹⁰²

In an effort to revise the Tariff of 1833, Treasury secretary Thomas Ewing recommended that “items of luxury not now, may very properly be taxed” while some “necessaries of life might” move from dutiable to duty free.¹⁰³ In anticipation of the Mexican American War, Albert Gallatin, a highly respected private citizen at the time, recommended levying a “direct tax on property” rather than “taxes on consumption.” Levying taxes on articles of “first necessity, such as provisions,” Gallatin continued, “or on those articles like sugar, tea, coffee ... impose almost the same amount of duty on

¹⁰⁰ The arrival of easily searchable, digital collections has given scholars the ability to make bold assertions like this with actual data, rather than just hubris. In the U.S. Congressional Serial Set Digital Collection, which includes the Congressional Serial Set, vols. 1-1543, 1817-1872, (infoweb.newsbank.com) one finds 656 “hits” on the search term “neces* NEAR life.” In the Early American Newspaper series (1690-1879) one finds “over 1,000” hits on a search of “poor” and “necessities.” In Making of America, University of Michigan (moa.umdl.umich.edu) the search “neces* near poor” renders 1,130 references; a request for “neces” near life” hits 5,457 citations. In Making of America, Cornell University (cdl.library.cornell.edu/moa), searching for “neces* near life” returns 2,957 citations and 487 for “neces* near poor.” These searches are not foolproof, but certainly a strong indication of the ubiquity of the terms. I thank Joel Kitchens of the Sterling C. Evans Library at Texas A&M University for assistance in compiling this information.

¹⁰¹ *Alexander Hamilton’s Papers on Public Credit, Credit, Commerce, and Finance*, Samuel McKee, ed. (New York, 1957): 37-38; Albert Gallatin, *Expenses of War*. (New York, 1848): 12;

¹⁰² “Message from the President, January 18, 1833,” Ser. Set 230, 22nd Cong., 2nd sess., Senate Doc. 30, 32.

¹⁰³ “Report from Sec. of the Treasury,” 26th Cong., 2nd sess., Sen. Ex. Doc 93, ser. Set 377, 6.

every individual, whatever that of his property may be.”¹⁰⁴ In 1854, a request to lower the protective duties on sugar asserted that, “to tax sugar is to tax the comforts and necessities of the poor for the benefit of the wealthy,’ who live in the most magnificent and profitable estates of the country.”¹⁰⁵

The emphasis on the “necessities of life” rather than the “poor” demonstrates the inherent belief in many Americans that the richness and vastness of the country allowed any person willing and able to work could care for himself and his family, thus avoiding poverty. The dearth of labor across the country allowed workers to ask for higher wages, reinforcing the idea that American workers fared better than their contemporaries in Europe. “Americans insisted that the political (not the economic) system determined the extent of poverty and maldistribution of wealth,” according to James L. Huston.¹⁰⁶ Although historians have demonstrated that both poverty, and many dimensions of class structure, permeated American society from the founding through the Civil War, this belief in upward mobility echoed throughout the literature and official reports of the era.¹⁰⁷ This ideal, expressed since the early Republic, became the basis of the free labor ideology articulated by the Republicans. Rather than a new or unique concept, this belief in the ability of Americans to rise above their status at birth became a central feature of national identity.

“In a country where laborers are few and the means of employing industry to advantage are numerous,” noted the *North American Review* in 1819, “no man remains in poverty who possesses even moderate industry and economy.” Though wages may seem low in some places, the employer provides “not wages alone, but the necessaries of

¹⁰⁴ Albert Gallatin, “Expenses of War,” in *Pamphlets in American History, Mexican War, 1846-1848* (New York: John T. Towers, 1848), 12.

¹⁰⁵ “Letter of the Secretary of the Treasury,” 33rd Congress, 1st session, House Ex. Doc., 74, ser. set 723, 224.

¹⁰⁶ James L. Huston, *Securing the Fruits of Labor: The American Concept of Wealth Distribution, 1765-1900* (Baton Rouge: Louisiana State University Press, 1998), 201.

¹⁰⁷ John Iceland, *Poverty in America: A Handbook* (Berkeley: University of California Press, 2003); Michael B. Katz, *Poverty and Policy in American History* (New York: Academic Press, 1983).

life,” so those who possess “even moderate industry and economy” can advance.¹⁰⁸ Two decades later, the *United States Democratic Review*, a publication with a different political readership, extolled a similar message. “The nation virtually bestows upon each of its poor citizens as much land as he can cultivate,” author W. Kirkland asserted. “We secure independence to all who are able and willing to work ... an enforced simplicity of living will prove a benefit instead of an injury to the farmer and his rising family ... the real lack of the Western farmer concerns the inner, not the outer man.”¹⁰⁹ Thus, the popular belief that any American could attain wealth if he lived worked hard and lived frugally. Those who purchased “luxuries” could pay the extra price, while sparing the “necessities of life” allowed the industrious to prosper and advance.

What constituted the “necessities of life” in antebellum America? This definition kept changing, expanding or contracting to fit different political needs. “Articles which are of large consumption and rank among the necessaries of life,” stated an 1825 congressional report, including “coffee, teas, and cocoa.”¹¹⁰ In 1833, residents of Westmoreland Co., Pennsylvania identified, “clothing, salt, implements of husbandry” as necessities.¹¹¹ In 1853, during discussions over trade policy with Canada, “cheap lumber,” became a necessity.¹¹² Various congressional reports, especially the Commerce and Navigation reports, consistently listed “bread and breadstuff” as “necessities of life.”¹¹³ Sometimes, though, the fiscal demands of the government made these every day articles appropriate objects to tax as long as the duty did not fall too hard on individuals. But Walpole’s idea of small taxes on ubiquitous items also came forth.

¹⁰⁸ “Birkbeck’s Letters from Illinois,” *North American Review*, 8 (March, 1819), 351-352.

¹⁰⁹ W. Kirkland, “The West, The Paradise of the Poor,” *The United States Democratic Review*, 15 (August, 1844), 189-190.

¹¹⁰ “Report on the State of the Finances,” 19th Cong., 1st sess., Dec. 22, 1825, Ser. Set 131, 21-22.

¹¹¹ “Petition from Residents of Westmoreland, PA,” 22nd Cong., 2nd sess., House Doc. 144, February 25, 1833, Serial Set 235.

¹¹² “Reciprocal Trade,” 32nd Cong., 2nd sess., House Report 4, February 11, 1853, Ser. Set 687.

¹¹³ “Bread and breadstuff” is listed as one of the exempt items in the Civil War revenue measures.

In determining which taxes to eliminate after the War of 1812, the House Finance Committee recommended retaining the duty on salt, even though it represented “a necessary of life,” because the duty did not increase the price considerably.¹¹⁴ This follows the British practice, outlined by Sir Robert Walpole, of placing a small tax on articles of common widespread use.

These influences came forth when Republicans crafted their Civil War revenue legislation. Thaddeus Stevens, Chair of the House Ways and Means Committee, defended the first Civil War excise taxes in 1862 by lamenting that, “[we] have attempted to raise the largest sums from articles of luxury . . . we have the consolation to know that the food of the poor is untaxed.”¹¹⁵ Joseph J. Lewis, the first Commissioner of Internal Revenue, boasted in his first report that Congress had succeeded in providing, “relief from taxation on the common necessities of life” and instead had targeted “hurtful luxuries.”¹¹⁶ Lewis also made direct comparisons between the new United States internal revenue measures and the British taxes on distilled spirits, malt liquor, tobacco, and stamps. He cited and favorably contrasted British and American collection costs for taxes. Writing in support of the new income tax, Lewis reasoned, “If the English people could tolerate without murmuring [an income tax], to sustain a war of conquest American citizens will certainly endure a lighter one for union and freedom.”¹¹⁷

As the costs of the Civil War outpaced the income from the early tax measures, Secretary Chase voiced his opinion that “hurtful luxuries” and other “voluntary products” including liquor and tobacco, provided the most appropriate sources of tax revenue. Wine, he described as a “luxury, useless to the consumer.” By taxing these objects, “relief could be given to the common necessities of life.”¹¹⁸ In 1864, Treasury secretary William Pitt Fessenden lamented that the “great expansion of prices” on all

¹¹⁴ “Recommendations on the Salt Duty,” Senate Ex. Doc. 84, 15th Cong., 1st sess., ser. Set 2, Jan. 17, 1818, 1.

¹¹⁵ *Congressional Globe*, 37th Congress, 2nd session, April 8, 1862, 1577.

¹¹⁶ *Report of the Commissioner of Internal Revenue*, Nov. 30, 1863, p. 8.

¹¹⁷ *Report of the Commissioner for Internal Revenue*, Nov. 30, 1863, 11.

¹¹⁸ “Report on Finances,” House Ex. Doc 3, 38th Cong., 1st sess., Dec. 10, 1863, 67.

“necessaries of life” had placed a burden on the lower classes throughout the war.¹¹⁹ In the first comprehensive report outlining recommendations for the postwar revenue system, David A. Wells, the Special Commissioner for Revenue, in 1866 advised exempting from excise taxes “articles of prime necessity” for all consumers.¹²⁰

Aside from referring to “necessaries” throughout the tax debates, lawmakers made many specific references to British practices while formulating the internal revenue legislation. Senator James F. Simmons (R. RI) who served on the Finance Committee and helped write the initial revenue measures adopted during the July 1861 emergency session, “supposed” that, “the House of Representatives propose to follow ... the rule of the British Parliament and their system.” He continued, “I do not think it strange that statesmen in this country should conclude that that is best.” Simmons wrote the first income tax measure for the United States, and noted that “the time constraints” faced by Congress in passing this legislation necessitated using the British bills as an early template for the American measures. Their income tax bill, he noted “filled fifty-nine pages” of the Parliamentary record. “I could not write such a bill from now till January,” he stated.¹²¹

When discussing excise taxes on liquor, the income tax, licensing fees on insurance companies, and taxes on specified commodities, lawmakers repeatedly referred the British precedent. Senator Charles Sumner (R. MA) quoted from *McCulloch’s Commercial Dictionary*, “which I have before me” during the debate on the cotton tax.¹²² Senator John Sherman (R. OH), a member of the Finance Committee and future Treasury secretary, opposed the preliminary version of a tax on livestock sales by invoking three of Adam Smith’s four maxims of taxation. Sherman charged that the tax under review “was not certain,” “difficult to collect,” and that it would not “bear lightly on the people.” Sherman demonstrated his continued knowledge of the British tax

¹¹⁹ “Report of the Secretary of the Treasury,” House Ex. Doc 3, 38th Cong., 2nd sess., ser. Set 1222, 54.

¹²⁰ “Revenue System of the United States,” House Ex. Doc 34, 39th Cong., 1st sess., Jan. 29, 1866, 39.

¹²¹ *Congressional Globe*, 37th Cong., 1st sess., July 29, 1861, 313-315.

¹²² *Congressional Globe*, 37th Cong., 2nd sess., see 2283, 2368, 2370.

policy when, six years later, in a speech advocating the retention of the income tax, he quoted extensively from Parliamentary speeches on the subject.¹²³ One observer with knowledge of both revenue systems immediately connected the British and American policies. “With regard to the financial measures [passed by the Congress],” Karl Marx wrote to Frederick Engels in August 1862, “they are clumsy, as they are bound to be in a country where up to now, no taxes have existed; but they are not nearly so idiotic as the measures taken by Pitt and Co.”¹²⁴

Other Origins

Scholars looking for the origins of Republican economic legislation have focused narrowly on the influences of two political economists, Francis Wayland and Henry C. Carey, who gained widespread popularity during the antebellum era.¹²⁵ Although Republicans agreed with aspects of the writings of these men, and succeeded in enacting an array of “non-military” legislation (such as the Homestead Act and the Pacific railroad bill) that incorporated the broad themes articulated Wayland and Carey, many of these ideas had been in Congress for years, and came from mixed parentage. Calling these initiatives “Republican” ignores the bipartisan support these measures drew in the 1850’s, and obscures some of the depth and complexity of the Democratic Party during the late antebellum.¹²⁶

¹²³ *Congressional Globe*, 37th Cong, 2nd sess., May 27th, 1862, 2337; *Congressional Globe*, 41st Cong., 2nd sess., Appendix, 377-380. For Adam Smith’s four maxims of taxation, Smith, *Wealth of Nations*, 777-779.

¹²⁴ Karl Marx and Frederick Engels, *The Civil War in the United States*, Richard Enmale, ed. (New York: International Publishers, 1937), 253.

¹²⁵ Arthur M. Lee, *The Development of an Economic Policy in the Early Republican Party*, Unpublished Dissertation, Syracuse University, 1953; Gabor Boritt, *Lincoln and The Economics of the American Dream* (Memphis, TN: Memphis State University Press, 1978), 121; David Donald, *Lincoln* (New York: Simon Schuster, 19XX), 110; Donald points out that Lincoln did not think much of Wayland because of the economists free trade stance; Richardson, *Greatest Nation of the Earth*, 20-27.

¹²⁶ Yontan Eyal, “Trade and Improvements: Young America and the Transformation of the Democratic Party,” *Civil War History* 5 (September, 2005), 245-268; also Roger Ransom, *Conflict and Compromise*, 268-279.

Francis Wayland, president of Brown University, wrote *The Elements of Political Economy*, a standard economics text in the 1840's and 1850's. In this treatise, he restates many of the English ideals of taxation. Taxes, Wayland lamented, "torment [the taxpayer] and deprive him of his dearest rights." However, when collecting taxes Wayland professed that, "Articles of necessity should be either exempt from taxation, or taxed very lightly." "Taxation should be heaviest upon articles of luxury and ostentation," he continued. "The poor man's clothes, his cow and his pig, should never be enumerated among taxable property." Ideally, individuals should pay taxes "in proportion to their property ... or the amount of protection which they receive of the government."¹²⁷ As we have seen, these ideas on taxation had deep roots, and did not originate from an American ideology. Wayland also disavowed government manipulation of the economy, especially through protective tariffs. When Wayland spoke before the Rhode Island Society for the Encouragement of Domestic Industry in 1852, "he informed the manufacturers that they ought to depend more on themselves," and less on government protection through tariffs.¹²⁸ This skepticism regarding government influence of the economy runs counter to the Republicans' broader acceptance of active governance. Charles Dunbar, writing in 1904, gave little credence to Wayland's text. "This [Wayland's *Elements*] owes whatever value it has to its manner of presenting for easy comprehension some of the leading English doctrines,"¹²⁹ Wayland's views popularized the policies and principles of English taxation, rather than inspiring a uniquely American system of political economy.

Conversely, Henry C. Carey emerged as the leading antebellum advocate of the protectionism that Wayland found so distasteful. He argued that protecting industry would benefit the American laborer. The "British system," he claimed, brought only "universal war" supported by "farmers and planters," resulting, he continued, in

¹²⁷ Francis Wayland, *The Elements of Political Economy*. (New York: Leavitt, Lord and Co., 1837), 442-450, 394.

¹²⁸ Joseph Dorfman, *The Economic Mind in American Civilization, 1606-1865* (New York: Viking Press, 1966): II, 766.

¹²⁹ Charles F. Dunbar, *Economic Essays* (New York: Macmillan Co., 1904), 12.

“pauperism.” Whereas the “American system,” produced both an “elevating” and “equalizing condition of man throughout the world.”¹³⁰

His father, Matthew Carey, an Irish émigré, instilled in his son a deep loathing for the British, particularly their rigid class system. Matthew also gave his son a partnership in his successful Philadelphia publishing house, Leo and Carey. Henry used this position to launch a career as a political economist, publishing a number of books and pamphlets. Carey first advocated a free trade policy, and incorporated a free trade doctrine into his three-volume tome, *Principles of Political Economy*, which became a standard college textbook. However, Carey experienced an epiphany after the Panic of 1837, from which he emerged a vocal proponent of protective tariffs. His relentless preaching for protectionism, facilitated by his wealth and access to the publishing establishment, did not resonate nationally until the Panic of 1857, when his writings suddenly seemed prophetic.¹³¹ Carey used the printing press he owned to launch a sustained campaign for implementing protective tariffs. Because Carey wrote and published extensively as an advocate of protectionism, scholars have posited he had a strong influence on the economic views of the early Republican Party.¹³²

Carey held court in his stately home, and those who favored protection certainly enjoyed the meals he provided during his regular Sunday gatherings with friends and admirers. Pennsylvania protectionists agreed wholeheartedly with his preaching for protection of iron and maintained a vigorous correspondence with him. Carey wrote letters obsessively, and with no humility. At one point, he sent a picture of himself to Kate Chase, Salmon P. Chase’s daughter, and the belle of Washington society. Yet his

¹³⁰ Henry C. Carey, *Harmony of Interests: Agricultural, Manufacturing and Commercial* (Philadelphia: J.S. Skinner, 1851), 288-289.

¹³¹ Jane Flaherty, “Henry C. Carey,” in *Encyclopedia of the American Civil War*, I, 354-355.

¹³² George Winston Smith, *Henry C. Carey and the American Sectional Conflict* (Albuquerque: University of New Mexico Press, 1951); Arthur M. Lee, *The Development of an Economic Policy in the Early Republican Party*, PhD. Dissertation, Syracuse University, 1953, 304; Richardson, *Greatest Nation of the Earth*, 22-24.

influence may not have matched his hubris. Regarding Carey, Justin S. Morrill, one person whom Carey supposedly influenced, remarked,

Mr. Carey, it should be confessed had superb confidence in his own opinions, and a scanty respect for such as differed from him. ... [He lacked] the compactness of statement and the felicity of language of Adam Smith, Mr. Carey is likely to have a permanent reputation. He wrote me long and frequent letters – difficult to read but not difficult to understand, and always of more or less importance.¹³³

Morrill kept Carey apprised of the passage of the Tariff of 1861, but Morrill did not seek his opinion, and made excuses for not visiting Carey when he had the opportunity.¹³⁴ Carey remained influential amongst his fellow protectionist travelers. He remained a forceful and prolific commentator throughout the war, and for this reason, he had some influence on the party. However, his role in directing Republican policy needs a closer examination.

Carey's idea that "manufacturing, agriculture, labor, and all other economic interests interacted harmoniously and positively,"¹³⁵ also seemed to influence the Republican economic thinking. Yet this idea did not spring from an ideology unique to "new" Republican Party. Thomas Jefferson struck a similar note in his First Annual Message as president: "Agriculture, manufactures, commerce and navigation, the four pillars of our prosperity, are the most thriving where left most free to individual enterprise. Protection from casual embarrassments however may sometimes be seasonably interposed."¹³⁶ Republican ideology, Eric Foner noted, "incorporated many of the basic values of the northern public," and this certainly remained true with their economic ideas.¹³⁷

¹³³ Justin S. Morrill, "Notable Letters From My Political Friends," *The Forum* (November, 1897), 146.

¹³⁴ Morrill to HC Carey, E. Carey Gardiner Papers, Historical Society of Pennsylvania, February 6, 1861, July 6, 1861. Hence, Carey Papers, HSP.

¹³⁵ Richardson, *Greatest Nation of the Earth*, 105.

¹³⁶ Jefferson, First Annual Message

¹³⁷ Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War*, second ed. (New York: Oxford University Press, 1995), 8.

Republican lawmakers did not follow Carey's prescriptions regarding internal taxation. Carey opposed taxes on consumption, particularly of goods used by the general population, "salt, sugar, coffee, and tobacco." These taxes raised the price for laborers, and inevitably led to higher costs for employers.¹³⁸ However these commodities became the first targets of taxation both in July 1861 and 1862. When Carey learned of the provisions in the first major tax bill written by Congress, he wrote an angry letter to Thaddeus Stevens, Chair of the House Ways and Means committee, voicing his opposition: "*Nothing can make it [the tax scheme] work ...*" he thundered in his letter.¹³⁹ Carey's disillusionment with the Republican Party continued after the war. He continued to complain about the Republican tax policy as late as 1871.¹⁴⁰ Indeed his impression that the Republicans mishandled the economy during and immediately after the war prompted his bolt from the ranks in the 1872 election. Dunbar also dismissed Carey's influence on the development of American political economy, stating, "that he overturned any previously accepted principle of leading importance, still more that he had established any new and valuable principle originated by himself, is a claim which, in our judgment, cannot be made good."¹⁴¹

Seligman and Dunbar, two respected scholars of American tax history, tout the influence of the Physiocrats on the development of American political economy. "The physiocrats . . . exercised a perceptible influence on contemporary American thought," stated E.R.A Seligman.¹⁴² Charles Dunbar opined that the American understanding of what constitutes a direct tax was derived from the Physiocrats.¹⁴³ One can trace the philosophical lineage between the Physiocrats belief that the labor of husbandmen and farmers creates wealth and the labor theory of value. But, when implementing a system

¹³⁸ Henry C. Carey, *Principles of Political Economy* . reprint (New York: Augustus M. Kelley, 1965), 321. Smith, *Wealth of Nations*, 822.

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¹⁴⁰ James A. Garfield to HC Carey, March 11, 1871, in Carey Papers, HSP, Box 66, F-22.

¹⁴¹ Dunbar, *Economic Essays*, 15.

¹⁴² Seligman, *Incidence of Taxation*, 139.

¹⁴³ Charles Dunbar, "The Direct Tax of 1861,"

for public revenue the rejection of the Physiocrats ideas provides an example of the disjunction between ideological persuasions and practical application in American political economy.

The Physiocrats, a group of French political economists including Francois Quesnay, Dupont de Nemours, and Marquis de Mirabeau, whose writings gained notice in the 1760's, believed that all wealth came from the products from land, or the *produit net*.¹⁴⁴ Agricultural surpluses provided the source of all true wealth. Therefore, taxing this wealth directly through a "single tax" on agriculture would lessen the need for indirect taxes, both excise and custom duties.¹⁴⁵ Free trade, particularly duties on agricultural products, would ensue. *Laissez faire, laissez passer*, became a central tenet of their doctrine. "The most important and inviolable rule of economic government is not to cause injury, through taxation, to the security and progress of cultivation," wrote Meek, to summarize the Physiocrats on taxation.¹⁴⁶

As a corollary to this, the Physiocrats did not believe manufacturing or commerce produced wealth. As Smith noted "The capital error of this system lie[s] in its representing the class of artificers, manufacturers and merchants as altogether barren and unproductive."¹⁴⁷ The Physiocrats advocated minimal government support for commercial enterprises, or a *laissez-faire* approach the government involvement in the economy. These ideas accorded well with the growing dissatisfaction Americans felt under British rule, and the distrust of government intervention and manipulation in the economy. Thomas Jefferson, who served as an American representative to France, and Albert Gallatin, a native of Switzerland, and fluent in French, both knew well the ideas

¹⁴⁴ Francois Quesnay, *Tableau Economique*, translated. (London: W. Owen, 1766). This book first introduced the ideas of the Physiocrats. Also

¹⁴⁵ Elizabeth Fox-Genovese, *The Origins of Physiocracy: Economic Revolution and Social Order in Eighteenth Century France* (Ithaca, NY: Cornell University Press, 1976): 120, 15).

¹⁴⁶ Ronald L. Meek, *The Economics of Physiocracy: Essays and Translations* (Cambridge, MA: Harvard University Press, 1963), 106.

¹⁴⁷ Smith, *Wealth of Nations*, 638-639.

of the Physiocrats, and agreed with their advocacy for direct taxes and against protective tariffs. One can trace the link between these policies to the Physiocrats.

However, both Jefferson and Gallatin advocated government support of building “roads and canals” in aid to commerce.¹⁴⁸ Gallatin, as Treasury secretary, crafted the direct tax measure employed during the War of 1812. Gallatin realized though, that a direct tax did not provide the most effective means for the national government to collect taxes. Local and state government could best administer a direct tax, relying on local officials, a British, not a French practice. The span of the United States made a national direct tax unfeasible, except as a wartime expedient to supplement ordinary revenue.¹⁴⁹ “Most Americans of Jefferson’s era were practical as well as flexible in their approach to the problems posed by economic and social development,” observed Drew McCoy. European systems of direct taxation would not have work at the national level in the United States because of the sparsely populated landscape, and the vast tracts of uncultivated land.

Finally, John Locke originated the idea that land, and the productive capacity of land, provided the best source of tax revenue. The incidence for taxes falls eventually on landowners, Locke proposed, as merchants shift the expense of a tax or customs duty to them. Taxing them directly, rather than indirectly, would provide a more efficient system of taxation. “Taxes, however contrived ... do in a country where their great fund is in land, for the most part terminate upon land,” he suggested. “It is in vain,” Locke continued, “to lay the publick charge of government on anything else [for] there at last it will terminate.”¹⁵⁰ Seligman noted that Locke first articulated the idea that tax should fall directly on landowners, thus employing the terminology of the direct tax for the first

¹⁴⁸ Thomas Jefferson’s Second Inaugural Address, in

¹⁴⁹ Virgle G. Wilhite, *Founders of American Economic Thought and Policy* (New York: Bookman Associates, 1958), 368-370.

¹⁵⁰ John Locke, *Some Considerations of the Consequences of the Lowering of Interest, and raising the Value of Money* (London: Black Swan, 1692),87-96.

time in the English language.¹⁵¹ Even the French tax ideology of the Physiocrats had English origins.

Conclusion

The Republican lawmakers who crafted the internal revenue legislation during the Civil War relied on well-established precedents, rather than a new ideology. The resulting legislation, according to Revenue Commissioner David A. Wells, “raised the largest possible revenue in the least possible time without much regard to acknowledged politico-economic laws.”¹⁵² Specifically, they levied taxes to guarantee payments on the interest rates for war loans rather than “pay for the war.” Steady tax revenues assured lenders they would receive regular interest payments, which allowed officials to negotiate lower interest rates. Both William Pitt and Salmon P. Chase chose this approach for financing their wars initially. When both men realized that the wars would take longer to win, therefore entailing more costs than anticipated, both changed their strategy and advocated more aggressive taxation to cover the interest rates on loans and establish a sinking fund to expedite retiring the war debt. As Richard Cooper noted,

When heavy wartime borrowing and the associated higher interest rates threatened to swamp the sinking fund and demolish his dream of redeeming the debt, Pitt resorted to such radical expedients as a graduated income tax. But he did so largely to preserve the sinking fund, not in order to fight a larger war. Pitt viewed the war as limited in its objectives, and therefore saw no compelling reason to adopt the new principles of revolutionary finance.¹⁵³

The concept of redistributing wealth through taxation, placing a higher rate of taxation on the wealthy in order to transfer benefits to the less fortunate, did not apply in the mid-nineteenth century United States at the national level.

¹⁵¹ Seligman, *Shifting and Incidence in Taxation*, 101-103.

¹⁵² *Revenue System of the United States*, 39th Cong., 1st sess., House Ex. Doc., 34, January 29, 1866, 2.

¹⁵³ Richard Cooper, “William Pitt, Taxation, and the Needs of War,” *Journal of British Studies*, 22 (Autumn, 1982), 103.

Local and state governments performed these services, and collected the taxes needed for the purpose. At the national level, all citizens would contribute “cheerfully” to the war costs, but in proportion to their ability. Sparing the “necessaries of life” while taxing luxuries helped to minimize the tax on the poor, while shifting the burden to the rich. This represented, for the time, an attempt at progressive taxation. Introducing the income tax during the war emerged as a political expedient to mollify representative from western states more than an attempt towards economic redistribution. They needed the funds they knew an income tax would produce. Relying on indirect taxes as the most cost-effective, and easiest mode of taxation also followed precedent.

Finally, the internal revenue measures enacted during the Civil War did not represent a fulfillment of a Republican economic ideology. These measures came instead from mixed parentage. The English system of taxation provided a base from which lawmakers worked. The overwhelming need for war revenue within a short period of time, created an urgency regarding taxes. In session for only thirteen months between July 4, 1861 and March 3, 1863, the Thirty-seventh Congress did not have much time to fashion a new revenue system from scratch. Meeting these demands required haste rather than deliberation. Writing comprehensive tax measures proved an enormous chore since four decades had passed since the last effort at internal taxation.

Many of the patterns the English established, Americans followed. Introducing permanent excise taxes during the Civil War provides one example. Invoking the income tax to balance, and supplement, direct taxes also manifested in the United States. Americans also replicated the start-and-stop nature of the British income tax. The English income tax levied during the Napoleonic Wars lasted from 1798-1815; when in 1842, Parliament “arrived at the limits of taxation on articles of consumption,” they reintroduced the income tax, and it became permanent.¹⁵⁴ In the United States, Congress enacted the first income

¹⁵⁴ Seligman, *The Income Tax*, 130.

tax in 1861, then it “died a natural death” in 1872, when the measure expired. The next American income tax passed in 1894, ending the next year when the Supreme Court declared it unconstitutional. Enacted again in 1913, after the passage of the Sixteenth Amendment to the Constitution, the tax became permanent. Twenty seven years elapsed before the British resurrected their income tax to relieve another budget crisis exacerbated by war, while Americans took forty-one years to reintroduce theirs.

Did the Republicans deliberately copy British policies? In some instances, such as the income tax, they did. They used British laws as a convenient source of information when writing many of the excise taxes and stamp duties. The concepts of exempting the “necessaries of life” and establishing a “sinking fund” certainly replicated British practices. However, in creating an internal revenue system, American lawmakers acted more like a distant cousin raised in a different environment, who has the same quirks and characteristics with another family member. They share a family resemblance, and many traits, but still live different lives.

CHAPTER V

THE POVERTY OF THE TREASURY

The fiscal transformation that occurred during the four years of Civil War rivals the long-term impact of the social and political changes that occurred. The United States adopted a uniform currency, established a national banking system, embraced an aggressive protectionist revenue policy, and created an internal revenue system. Before the Civil War, the national government never collected more than \$74 million in revenue; after the Civil War, the Treasury never tallied less than \$257 million in receipts.¹ In 1861, the Treasury department employed roughly 4,000 workers nationwide; by 1866, the number ballooned to over 10,390.²

In earlier chapters, I argued that the Union began the war in a state of economic disarray. Rather than a unified vision for addressing the war finances, Republicans differed sharply over economic policy. The fiscal structure of the nation proved a great impediment, and restricted the options at hand for addressing the Civil War fiscal crisis. Because they needed to produce tax revenue quickly they turned to precedent rather than creating policy anew. The ideal of sparing the “necessaries of life” from taxation became one of the foundations on which they based their new revenue scheme. Moving forward from this base, this chapter contends that many of the basic presumptions made by earlier by scholars regarding the Civil War internal revenue measures need to be placed in this historical context.

The revenue measures enacted during the Civil War broke the old structure of fiscal federalism, and created in its stead a lasting program of national internal taxation.

¹ Davis R. Dewey, *Financial History of the United States*, 12th ed. (New York: Longmans, Green and Co., 1939), 267, 398.

² Paul P. Van Riper and Keith A. Sutherland, “The Northern Civil Service: 1861-1865,” *Civil War History*, 11 (December, 1965), 351-369; Schuckers put the number of Treasury employees at the end of the war, “both direct and indirect,” at 15,000. Jacob Schuckers, *Life and Public Services of Salmon Porter Chase*. Reprint. 1874 (New York: DaCapo Press, 1970), 481.

Instead of relying primarily on customs officers sequestered in ports collecting tariffs, after the war tax officials became a more common sight throughout the country, assessing and collecting taxes. This altered the relationship of both state and national governments, as well as the national government and the citizens.

The need for receipts emerged as the primary causal factor in designing this new system. Initially, “men and means were voted in numbers and amount then thought prodigal and extravagant,” Jacob Schuckers chronicled.³ However, as the war progressed, and expenses continued to outpace revenue, taxes increased, and became more “inquisitorial.”⁴ Like most aspects of the Civil War economic legislation, the exigencies of war dictated the policy, rather than leaders implementing a preconceived agenda. Justin S. Morrill, for example, disapproved of the Legal Tenders Act of 1862, speaking forcefully in opposition to their introduction. He voted against the first issue of Greenbacks in February 1862. However, in 1863, when the need for more “purchasing power” to meet the overwhelming war expenses compelled a reissue of the Greenbacks, Morrill voted in favor of the measure.⁵ He admitted that he had not “abated a jot of my repugnance” for the Greenbacks, yet felt compelled to vote yea. “It is not my will that consents,” he lamented, “but the poverty of the Treasury that compels me.”⁶ The “poverty of the Treasury” compelled the Republican legislators to adopt many measures they would have avoided. This “poverty of the Treasury” more than any other factor, directed Republican fiscal policy.

³ Jacob W. Schuckers, *Life and Public Services of Salmon Portland Chase*. Reprint. (New York: Da Capo Press, 1970), 214.

⁴ A term used frequently and disapprovingly by Adam Smith to describe unnecessary intervention in individuals’ privacy to collect revenue. For example, Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*. Reprint. (New York: Random House, 1937), 798-803

⁵ Redlich uses the apt term in his sympathetic discussion of the Greenbacks. Fritz Redlich, *The Molding of American Banking: Men and Ideas*. 2 volumes. Reprint. (New York: Johnson Reprint Co., 1951): II, 101.

⁶ William B. Parker, *The Life and Public Services of Justin Smith Morrill* (Boston: Houghton Mifflin Co., 1924), 144.

Second, describing the taxes as “regressive” does not place the legislation in proper historical context. The Civil War revenue measures did not tax agricultural produce, a remarkable conciliation when one remembers that America remained a decisively agrarian country until the late nineteenth century. They tried to spare the poor from bearing a large portion of the tax burden by avoiding taxes on the “necessaries of life.” Instead, they designed the legislation to fall on manufacturers, than make these taxes as diffuse as possible to spread the burden of taxation between the profits of these businesses and a broad segment of the American population. Also, Republicans introduced the first national income tax and tax on inheritances, decisively progressive taxes. The tax on manufacturers generated more income than any other duty. 48.3 percent of all the revenue collected from internal taxes between 1863 and 1870 came from the three progressive taxes: the manufacturing excise, the income tax, and the tax on legacies and successions.⁷

Finally the ideals of achieving social justice through taxation, taxing one segment of the community for the support of another segment, remained a local phenomenon in nineteenth century. State and local governments lay direct taxes based on the value of property owned by individuals, as well as progressive taxes (such as income, inheritance, and taxes on luxuries, like carriages or gold watches) to look after the needs of the residents in their states. The national government instead focused on the challenges facing the nation, particularly during the Civil War, as they moved to thwart a domestic insurrection. Thus, just taxation on the national level during this era attempted, primarily, to “equalize taxation,” and “secure *uniformity* and certainty in the assessments in the various districts of the country.”⁸ But because taxing the “indolence and vanity of the rich” provided “an easy manner” of relieving the less fortune from the burden of heavy taxation, this became a secondary goal in the revenue scheme. The effort did not

⁷ Harry E. Smith, *The United States Federal Internal Tax History from 1861-1871* (Boston: Houghton Mifflin, Co., 1914), Table 29.

⁸ United States Assessors, *Suggestions of Amendments to the Excise Tax Laws, recommended by a Convention of United States Assessors, December 16-18, 1863* (Boston: George C. Rand and Avery, 1864), 14. Emphasis in the original text.

attempt to redistribute wealth from one group to another, but to tap into the pool of wealth that would provide ready funds for the war effort. This represents a fundamental difference in tax policy between the Civil War era and the post-Great Depression era.⁹

As noted in Chapter IV, these ideals arose in England in the late sixteenth century, and became the basis of the early nineteenth century concept just fiscal policy in the United States. Adam Smith's "First Maxim of Taxation" read, "The subjects of every state ought to contribute towards the support of the government as nearly as possible, in proportion to the revenue which they respectively enjoy under the protection of the state."¹⁰ This idea lay at the heart of the war revenue measures. The modern acceptance of "discriminately" taxing one segment of the population for the benefit of another went against the concept of everyone contributing and fulfilling his obligation to society. When levying the income tax, for example, the debate never centered on making the wealthy "pay more," but rather insuring that they pay their just share, so a "millionaire who has his entire property in stock," cannot escape from the taxes paid "by a farmer who lives by his side" and counts his assets in acres.¹¹

Finally, this chapter draws upon two assumptions. All revenue measures originate in the House of Representatives, and members of the House "derive [their] powers from the people of America," and "ought to be acquainted with the interests and circumstances" of their constituents. Senators derived their powers from the States, and represented the broader interests of the state as "political and coequal societies."¹² For these reason, both representatives and senators worked as advocates of their constituents, either the residents of their districts, or the broader interests of the states themselves when formulating tax policy. Representatives and senators from states that raised corn opposed the heavy duties on distilled liquors. Senators from New York worked to lower the rates of the income tax laws, as residents from that state paid more on these taxes

⁹ Smith, *Wealth of Nations*, 683.

¹⁰ *Ibid*, 777.

¹¹ Schuyler Colfax, *Congressional Globe*, 37th Cong., 1st sess., July 27, 1861, 306.

¹² James Madison, "Federalist 39," in *The Federalist*, Paul L. Ford, ed. (New York: Henry Holt and Co., 1898), 249-250.

than did residents of any other state. These efforts crossed party lines, as Republican, Democrats, and border state Unionists tried to keep the taxman at bay. This loyalty to local economic concerns comes forth in the votes and debates on internal revenue policy. Tariff legislation also reflected this reality. From Thomas Fitzsimmons in the first Congress forward, Pennsylvania representatives framed tariff legislation to protect the iron industry, a tradition followed by William D. Kelley during the Civil War. Consistently in these debates, representative tried to protect the interests of their constituents. Distinguishing between the regional interests, whose concerns these public officials have a duty to represent, and the “special” interests that corrupt becomes an important ingredient in analyzing the tax measures. The appropriate advocacy for a local economic concern becomes conflated with the improper corruption by outside influences. The same individual who takes a high moral stance one day, may become a shill for special interests a week later.

Second, the pragmatic approach to legislation that played a decisive role in establishing the fiscal federalism of the antebellum era, also guided the Civil War internal revenue legislation. This becomes evident from the beginning, with the introduction of HR 71, the direct tax bill. Lawmakers relied on taxes they knew they could enact and thought they could collect. Too often this practical basis for taxation is ignored.

“The magnitude of the contest”

The administration’s management of the economy during the Civil War has drawn sharp, and uniform, criticism from a broad field of historians and economic historians. While highlighting different aspects of the Republicans’ efforts, the literature on the Civil War economy has remained consistently disparaging. Introducing a national fiat currency created unnecessary inflation.¹³ The Republicans initial response to war

¹³ Explained most succinctly in Wesley C. Mitchell, “The Greenbacks and the Cost of the Civil War,” in *The Economic Impact of the American Civil War*, Ralph L. Andreano, ed. (Cambridge, MA: Schenkman Publishing Col, 1962): 66-78. Explained more fully in Mitchell, *A History of the Greenbacks, with Special Reference to the Economic*

introduced “obsolete and impractical procedures” to address the crisis.¹⁴ Treasury Secretary Chase should have used banks as government depositories, rather than clinging to the Independent Treasury system.¹⁵ However, once he finally shed this anachronistic structure, he replaced it with a National Banking system that stifled the innovative and market responsive aspects that worked in the old order.¹⁶ The Republicans then proceeded to foist upon the country high tariffs, thus giving rise to the new industrial order that emerged in the late nineteenth century.¹⁷ Despite these high tariffs, Chase and congressional leaders unnecessarily increased the cost of the war by financing it “mainly by loans.”¹⁸ Neither Chase nor his associates “realized that bold [tax] measures were needed”¹⁹ The delay in taxing the citizens proved “a major blunder.”²⁰ When the Republican legislators finally introduced internal revenue legislation, they “failed to provide adequate taxation.”²¹ Instead, they recommended “regressive taxes”²² that demonstrated “the party state’s” support for the creation of a “new class of finance capitalists during the war.”²³ Indeed “Mr. Chase’s failure,” and by

Consequences of Their Issue (Chicago: University of Chicago Press, 1903).

¹⁴ Bray Hammond, “The North’s Empty Purse, 1861-1862,” *American Historical Review*, 67 (October, 1961), 9-10.

¹⁵ Paul Studenski and Herman E. Krooss, *Financial History of the United States: Fiscal, Monetary, Banking and Tariff* (New York: McGraw-Hill, 1952), 159.

¹⁶ Mark Thornton and Robert B Ekelund, *Tariffs, Blockades, and Inflation: The Economics of the Civil War* (Wilmington, DE: SR Books, 2004).

¹⁷ Reinhard H. Luthin, “Abraham Lincoln and the Tariff,” *American Historical Review*, 49 (July, 1944), 609-629.

¹⁸ Davis R. Dewey, *Financial History of the United States* (New York: Longmans, Green and Co., 1939), 300.

¹⁹ Sidney Ratner, *American Taxation: Its History as a Social Force in Democracy* (New York: W.W. Norton, 1942), 63.

²⁰ Robert F. Sharkey, *Money, Class, and Party: An Economic Study of Civil War and Reconstruction* (Baltimore: Johns Hopkins University Press, 1959), 14.

²¹ Robert T. Patterson, “Government Finance on the Eve of the Civil War,” *Journal of Economic History*, 12 (Winter, 1956), 36.

²² W. Elliot Brownlee, “Reflections on the History of Taxation,” in *Funding the American State, 1941-1995*.

²³ Richard F. Bensel, *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877* (New York: Cambridge University Press, 1995), 237.

extension the failure of the Republican revenue program, “was inevitable”²⁴ Because Republicans clung to their “naïve” economic policies, “they unwittingly laid the groundwork for the turmoil of the late nineteenth century.”²⁵

These critiques, while remaining somewhat contradictory (inadequate taxation at the same time that the United States collected protectionist tariffs, for example), point in the same direction: the Republicans bungled the financing of the war, and these mistakes created, either unwittingly or (more cynically) by design, the economic disparities that surfaced in the late nineteenth century. In considering these criticisms, one must first remember that, as noted in Chapter III, Republicans did not share a unified vision with regard to the economy. The Republican economic policies during the war did not evolve through a singular party design. They differed on fundamental policies regarding war finance, particularly with regard to taxation. Secretary Chase and his colleagues, compelled by the demands of the war, reached further into consumers’ pockets than originally intended. Chase and his contemporaries had to cope with a war of unprecedented, and unanticipated, magnitude in which the revenue needs of the government far surpassed the capacity of the traditional fiscal measures.

These criticisms regarding the revenue measures remain, as David H. Donald noted, “unhistorical.”²⁶ Scholars have based their studies of the war fiscal policy on the ultimate result of the legislation rather than its origin. By 1895, a highly regressive tax structure based on alcohol and tobacco excise taxes supported the government; 76 percent of all internal revenue and 28 percent of total government receipts (internal taxes plus tariffs) came from taxes and license fees on these articles, “recognized quite universally as deleterious both to the morals as well as the social well-being of the

²⁴ Albert S. Bolles, *The Financial History of the United States from 1865 to 1885* (New York: D. Appleton and Co., 1886), 116.

²⁵ Heather Cox Richardson, *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War* (Cambridge, MA: Harvard University Press, 1997), 255.

²⁶ *Inside Lincoln’s Cabinet: Civil War Diaries of Salmon P. Chase*, David Donald, ed. (New York: Longman’s Green, 1954), 34.

community.”²⁷ The Civil War income tax expired in 1872. The Supreme Court declared the 1894 income tax measure “unconstitutional” in 1895. The tariff policies remained aggressively protectionist. More significantly, the social changes of the post-bellum era introduced America to the persistent problem of entrenched disparities in wealth that accompanied the hurley-burley development of lightly regulated capitalism. Fortunes accumulated while poor immigrants congregated in squalid tenements. Workers fought for basic rights and reasonable pay. Farmers, who had prospered after the Civil War, fell into economic despair by the 1890’s. The Gilded Age of political corruption, infighting, and legislative stalemate, kept lawmakers from addressing the needs of the nation, while they catered to the increasingly dominant lobbyists.

Scholars have linked the war tax policies to these results. However, one must remember that the economy after the Civil War differed from that of the prewar period. In a speech given on February 27, 1865, John Sherman summarized this sentiment:

None of us appreciated the magnitude of the contest – the enormous armies demanded and the vast sums required ... when the war came, we were without a currency and without a system of revenue. With the terrible lessons of 1815 and 1837 staring us in the face, no one advised adopting as a standard value the issue of 1500 [state] banks.²⁸

Although critics of the Civil War policies know this intuitively, the recognition of these problems does not surface in their appraisal of the policies enacted. Produced in a cyclical fashion, the literature on the Civil War fiscal legislation reflects the strongly a presentist influence. The late nineteenth century debates over the justness and constitutionality of the income tax inspired a spate of studies by economists on the Civil War policies. Edwin R. Seligman, Charles Dunbar, A. C. Miller and Charles Bullock all wrote influential treatises on taxation during the late 1890’s and early twentieth century. These studies aimed to provide intellectual force to the argument in favor of re-

²⁷ Frederic C. Howe, *Taxation and Taxes in the United States Under the Internal Revenue System, 1791-1895* (New York: Thomas Y. Crowell, Co., 1896), 217, 292-293.

²⁸ John Sherman, *Selected Speeches of John Sherman* (New York: D. Appleton and Co., 1879), 81-82. By 1815 and 1837 Sherman refers to the great depreciation of currency nationally during the War of 1812 and the Depression of 1837.

introducing the income tax.²⁹ Seligman, in particular, openly admitted his advocacy for the income tax. “I think it may safely be said,” he wrote in 1900, “that in all the communities of the civilized world there is no system of taxation that begins to compare with ours in injustice and inequality.”³⁰ Thorough and comprehensive, historians (including me) rely heavily on these sources, justly using the expertise of these well-respected scholars. However, written before World War II, these studies present the problems created by Civil War finance as unique experiences in American history. At the turn of the century, before the enormous outlays and commanding of resources that occurred during World Wars I and II, these conclusions had merit, but since need a broader context for interpretation.

The Great Depression and World War II inspired another round of studies about taxation in the United States. This literature demonstrated a greater concern for using taxation to provide certain social protections. The duty of providing social “welfare” legislation fell to the state, not national, government. State government developed more dynamic, and progressive systems finances to address these needs. Providing relief for the poor, reaching their citizens “individually,” remained a local, not national responsibility. Advocacy for introducing more progressive taxation has greatly influenced this later work that helped justify expanding the use of the income tax during World War II.³¹ This has resulted in unfounded criticism of Civil War legislators for not using “endowed powers” to achieve a “fuller and richer life” for the “common people” through tax policy. This basis of interpretation misidentifies the nature and role of government during this time, and unduly characterizes the Civil War tax legislation as

²⁹ Edwin R. A. Seligman, *The Income Tax: A Study of the History, Theory, and Practice of Income Taxation at Home and Abroad* (New York: Macmillan Co., 1914); Charles Dunbar, “The New Income Tax,” *Quarterly Journal of Economics*, 9 (October, 1894), 26-46; Henry Adams, *Taxation in the United States, 1789-1816* (Baltimore: Johns Hopkins University Press, 1884); A. C. Miller, “National Finance and the Income Tax,” *Journal of Political Economy*, 3 (June, 1895), 255-288.

³⁰ Edwin R. A. Seligman, “Remarks on the General Problem of Tax Reform,” *Michigan Political Science Association Publications*, 4 (1900), 59.

³¹ For example, Bruce Ackerman, “Taxation and the Constitution,” *Columbia Law Review*, 99 (January, 1999), 1-58.

overtly harmful to the “common people.”³² The Civil War legislation aided the endowment of these powers to the national government.

The complaint that the administration did not begin taxing sooner also needs better context. All revenue measures must pass through the House of Representatives; the executive branch could neither collect nor appropriate money without congressional approval. Chase managed to secure \$7 million from the loan measures passed in the last session of the Thirty-sixth Congress, but he could not enact tax legislation without a sitting Congress. Chase wrote to congressional leaders in June 1861 asking them to come to Washington early to work on finance bills before the opening of the special session.³³ Congress met for a month long special session, recessed, then convened again in December. Within seven months, Congress had approved borrowing over \$300 million, and enacted \$200 million in internal revenue taxes, an enormous leap in the nation’s fiscal boundaries. Rather than a slow response to war demands, if viewed from the actual time in session, this represents a remarkably fast turnaround for new, complex legislation.

Since people believed the war would end quickly, inaugurating a comprehensive tax bill before 1862 would not have made sense. “The northerners have all along thought themselves infinitely superior to the South and have boasted that they would soon crush the rebellion.”³⁴ The *Herald Tribune* proclaimed on July 19, 1861 that, “It seems to be the universal and joyful conviction that this is the beginning of the end.”³⁵ Making plans for a long war “would [lead] to expenses which could later prove to be unnecessary.”³⁶ Unnecessary expenditures did not conform to the antebellum era ideals of keeping an “unsleeping watchfulness” on government extravagance.

³² Sidney Ratner, *American Taxation: Its History as a Social Force in Democracy* (W.W. Norton and Co., 1942), 22.

³³ S. P. Chase to William Pitt Fessenden, June 18, 1861, *Fessenden Papers*, Bowdoin College.

³⁴ Elizabeth R. Comstock to unknown, July 25, 1861, in *Life and Letters of Elizabeth L. Comstock*, Catherine Hare, ed. (Philadelphia, PA: John C. Winston and Co., 1895), 97.

³⁵ *New York Herald Tribune*, July 19, 1861, 4.

³⁶ Sumner, *History of Banking*, 461.

The Special Session of Congress did not meet until three months after the attack on Fort Sumter. “There was no serious apprehension of a prolonged and calamitous war,” amongst the leaders in Washington.³⁷ Indeed, as Mark Grimsley observed, only after June 1862, when Confederate General Robert E. Lee drove the Union’s George B. McClellan away from Richmond, did most northerners believe the war would not end quickly. McClellan’s defeat outside Richmond “brought a sea change in the attitude of many northern civilians,” Grimsley noted, “who now saw a seemingly imminent triumph disappear into a stalemate whose duration no one could predict.”³⁸ At the start of the war, President Lincoln requested from Congress only the “legal means for making this contest a short and decisive one.”³⁹ When it became clear the war would require more blood and money than originally anticipated, Congress accepted the challenge with alacrity.

Secretary Chase’s initial report to the Special Session of Congress estimated the government would spend \$318.5 million during the next fiscal year. He requested \$240 million in loans, and \$80 million in tax revenue. Chase wanted to use loans to pay the war expenses, and rely on taxes to meet the “ordinary” costs of government, as well as the interest payments on the loans, a practice that the English had employed throughout the eighteenth century. This sum represented the single largest appropriation ever sought from Congress.

Chase recommended an interest rate of 7.3 percent for three-year Treasury notes. Although historically high for US securities, this interest rate nevertheless fell below the demands made by lenders at the end of the Buchanan administration. Chase also requested authority to issue 30-year bonds, carrying a 7 percent interest rate. Senator William Pitt Fessenden (R, ME), now Chair of the Senate Finance committee, wrote to his son on July 1, 1861, “We shall have to authorize a loan for \$250 million and I am

³⁷ Schuckers, *Life and Public Services*, 223.

³⁸ Mark Grimsley, “Conciliation and Its Failure, 1861-1862,” *Civil War History*, 39 (December, 1993), 331.

³⁹ *Message of the President to the Special Session of Congress, 37th Cong., 1st sess., July 4, 1861*, 10.

afraid it will be hard to get. We shall probably give Mr. Chase authority to get it in any way he can."⁴⁰ Part of "getting it" meant enacting taxes that would pay steady interest. "Public credit can only be supported by public faith, and public faith can only be maintained ... by prompt and punctual fulfillment of every public obligation," Chase stated in his report to Congress. He advised raising \$80 million in tax revenue.

Chase left it to "the superior wisdom of Congress" to determine what type of internal taxes to levy. In the past, executive branch had often taken the lead in pushing desired revenue schemes. Treasury secretaries Alexander Hamilton, Albert Gallatin, and Robert J. Walker, all wrote, or significantly influenced, the development of tax or tariff policy from their perch in the Treasury. Though Congress always took its role in enacting legislation, the secretaries often exerted an authority not vested in the Constitution. Although Chase aspired to assume the same activist role in the nation's fiscal policy, he bowed to the Constitution. Repeatedly, throughout his tenure, Chase practiced a firm construction of the Constitution, where it states that Congress, not the Executive Branch, will dictate revenue policy. This reveals another irony of Civil War governance; chided for invoking too much power and suspending civil liberties, in this other important area of government to citizen relations, Chase deferred to "wisdom" of Congress.⁴¹ Further, President Lincoln, overwhelmed by his role as the "Commander and Chief" of the military, left financial policies to Chase. Exhibiting the pragmatism that governed many executives, Lincoln also left financial decisions to Chase "because as a follower of [Henry] Clay, and as a Whig, [Lincoln] believed in expedients."⁴²

Chase did suggest levying taxes on stills and distilled liquors, tobacco, carriages, jewelry and inheritances, however he did not go further in guiding the tax legislation. A believer in a narrow interpretation of the Constitution, Chase knew that revenue measures would ultimately come from Congress, and did not wish to encroach on their

⁴⁰ WPF to William Fessenden, July 1, 1861, *Fessenden Papers*, Bowdoin College.

⁴¹ Most famously attacked in James G. Randall, *Constitutional Problems Under Lincoln* (Urbana: University of Illinois Press, 1951); more nuanced approach in Mark E. Neeley, *Fate of Liberty: Abraham Lincoln and Civil Liberties* (New York: Oxford University Press, 1991).

⁴² *Diary of Gideon Welles*, I: 525.

authority. Also, as an opportunist who wished to protect his own political future, Chase ducked on this potentially volatile issue and left it to Congress to take the heat.

Chase's report also betrayed his Democratic heritage and economic principles. Although acknowledging that it may entail extra expenses to collect, Chase spoke favorably of the direct tax, a measure championed by many Democrats, and scorned by Whigs during the 1850's. Advocacy for the direct tax during the late antebellum became an ironic segment of the broader sectional confrontation. Southerners wished to resurrect the direct tax as a means of lowering tariff rates. Northerners flinched, because the costs of collecting the direct tax far outpaced those of the customs system already in place. Many Republicans did not wish to supplant direct taxes with tariff revenue. Chase believed the best tax system relied on, "the manifest equity of the distribution of burdens in proportion to means, rather than in proportion to consumption." He also acknowledged that in some states, the local system of taxation would make for a "certain and convenient method of collection." Chase showed his distaste for the Morrill tariff, suggesting it hindered the "prosperity of the nation," and urged its repeal or at least adjusting duties so "the articles now exempt" would carry a "light" tax. This would allow for lower duties on wool and other protected articles. Chase wanted coffee, tea, and sugar taxed, and estimated that would raise an additional \$20 million, "while the burden of this revenue will be mitigated by participation on the part of the foreign producers."⁴³

Finally, Chase also set forth a theme he would repeat constantly during the war. "The Secretary respectfully asks ... whether the current disbursements of government may not be themselves diminished?" He continually urged economy in government, another Democratic principle that often put him at odds with his Whig cohorts, who found his constant nagging about "economy" an irritant.⁴⁴ Although this emphasis on restrained spending bothered his colleagues, Chase's vigilance against "extravagance" impressed others. "The secretary's reputation for efficiency and integrity," David H.

⁴³ *Report of the Secretary of the Treasury to the Special Session of Congress, 37th Cong., 1st sess., Senate Ex. Doc. 2, July 4, 1861, 6-9*

⁴⁴ *Ibid.*, 10-11.

Donald noted, played a decisive role in “the gradual restoration of federal credit in 1861” and played an instrumental role in securing the loans the government contracted between Lincoln’s inauguration and the opening of the Special Session.⁴⁵

The greatest consideration in financing the war remained the need to bring fresh funds into the Treasury. The government’s acute need for additional revenue directed the Civil War fiscal policy. The Republicans reactively inaugurated a system of national internal taxation to meet the unexpected and unprecedented expenses incurred in fighting the war. This concern, more than any other, influenced the war fiscal policy.

Civil War Revenue Measures

Congress enacted three comprehensive revenue measures during the course of the war: House Resolutions (HR) 71 (1861), HR 312 (1862), and HR 405 (1864). The first measure, HR 71, represented a bridge between antebellum fiscal policy and the demands of a modern government. Based on legislation written for the War of 1812, HR 71 relied on direct taxes, collected in all the states, including those in rebellion.

The congressmen assembling in Washington for the Special Session that began on July 4, 1861, faced the challenge of reuniting a nation consumed by civil war. Bereft of funds, and its credit impaired, all knew that the crisis necessitated some form of internal taxation. For seventy years, the United States had relied on duties collected from imports as the primary source of revenue. Obtaining loans from foreign countries had cushioned the financial “embarrassments” that occurred when tariffs did not meet all the expenses. Yet, these two traditional sources of revenue now seemed threatened.

Trade slackened before the war began, and would continue to falter, they feared. Without cotton to export, ships would bring fewer goods to the Union ports. The Confederate Congress, on February 9, 1861 enacted a revenue measure that relied on the Tariff of 1857, which fixed lower rates on average than the Morrill tariff. Suddenly, goods unloaded at Confederate ports paid a substantially lower duty than those delivered to New York. Ships returning to Europe could fill their holds with bales of cotton, an

⁴⁵ *Inside Lincoln’s Cabinet*, Donald, ed., 36.

advantage northern merchants feared they had lost. Thus the Union government's traditional sources of income, customs duties and, when necessary, foreign loans, now seemed imperiled. After the secession of states with key customs houses, the legislators recognized that the precarious state of the government's finances required an incisive action. The assembling congressmen confronted a problem no Congress had faced since 1816: how best to levy internal taxes.⁴⁶

The emergency session opened on July 4, 1861 and Congress received Chase's report the next day. Though members reacted favorably, James G. Blaine wrote, they did not accept all of Chase's recommendations, and agreed quickly that the crisis required a more reliable stream of revenue. However, "the legislators were not inclined to go farther than the head of the Treasury suggested," Blaine recorded.⁴⁷ The House concentrated first on the tariff legislation, and passed a measure on July 25, 1861 that retained the Morrill tariff, and increased most of the rates established in that bill. Removing coffee, tea, and sugar from the free list, as the Treasury secretary recommended, they fixed specific rates to these articles to generate guaranteed revenue. Clement L. Vallandigham (D. OH) charged that these duties on coffee, tea, and sugar unfairly taxed the "necessaries of life" and "subjects of universal consumption. He demanded they be placed on the free list instead of bearing a tax. Thaddeus Stevens (R. PA), Chairman of the Ways and Means Committee snapped back that the necessity to "sustain" the government for the "prosecution of the war," made these duties inevitable. Raising duties on these staple "luxuries" had been a favorite revenue device during the antebellum era to correct budget shortfalls.

The time constraints on the Special Session became the most decisive factor in crafting the HR 71. Because the session would last only a month, the House Ways and Means Committee felt compelled to borrow from the past, and adopt a law that had already been written. The measure copied "section by section" the 1813 and 1815 direct tax measure penned by former Treasury secretary Albert Gallatin. When critics

⁴⁶ *Congressional Globe*, 37th Cong., 1st sess., July 17, 1861, 171-173..

⁴⁷ James G. Blaine, *Twenty Years of Congress from Lincoln to Garfield*. 2 vols. (Norwich, CT: Henry Bill Publishing Co., 1884), I: 404-405.

characterized the bill as “undigested,” Thaddeus Stevens, retorted that “this undigested, ill-considered bill is an exact copy of [Gallatin’s].”⁴⁸ Hoping they only needed to readjust the apportionment, the Committee simply reworked the earlier direct tax in haste. They introduced HR 71 on July 23, 1861, two days after the Union army’s humiliating defeat at the Battle of Bull Run.

The original measure called for \$30 million in direct taxes from all the states, with \$20 million divided amongst the “loyal” states and \$10 million from the states “in rebellion.” A group of congressmen moved for the postponement of HR 71 until the next session to give members more time to craft new tax legislation. Justin S. Morrill (R. VT), Chair of the Subcommittee on Taxation, who became instrumental in developing the national internal revenue program, rose to address this challenge. “We want to pass something now promptly,” he extorted, “something that will enable the Secretary of the Treasury to negotiate a loan ... [otherwise] he will not be able to negotiate a single dollar.”⁴⁹

Although this bill represented the fifth time Congress proposed a direct tax, the changes in the composition of the country generated more friction for the measure than it had in earlier congresses. Three main objections to HR 71 emerged during the course of the five days of intermittent debate. The direct tax provisions assessed only real property, and did not tax any wealth in the form of capital. This reflected the origins of the direct tax in the late eighteenth century when wealth equated with land and property (houses and slaves) ownership. The transition from an agrarian to a more mercantile and industrial economy, well underway by 1861, moved more and more Americans toward a new source of income. Representatives from western states, and states with rural populations, reacted with hostility to direct taxes. Their states comprised small populations with extensive land holdings, thus the tax would place a high quota on the citizens they represent. Congress apportioned the 1813 direct tax by population and the assessed value of “all lands, lots of ground and their improvements, dwelling-houses,

⁴⁸ *Congressional Globe*, 37th Cong., 1st sess., July 23, 1861, 307.

⁴⁹ *Congressional Globe*, 37th Cong., 1st sess., July 24, 1861, 247, 252.

and slaves.”⁵⁰ Created in a time when scattered farms comprised the base of the economy, the formula for direct taxes no longer matched the demographics of the country. Sixteen southern and western states had joined the United States since 1815, and most of these states had small populations of farmers who owned large tracts of land. Thus, the direct tax would fall heavily on these individuals. Western representatives realized immediately that this bill would disproportionately tax their land rich but cash poor constituents. The increased urbanization of the East, and accompanying concentration of capital that occurred after the first Industrial Revolution in the 1840’s and 1850’s, created a class of wealthy, urban residents who did not count their holdings in acres. These differences in national demographics meant the tax would fall “discriminately” on the western states.

Second, this measure changed Gallatin’s system of using state officials to assess and collect the taxes, to one that used federal government officials. A group of congressmen, led by New York representative Roscoe Conkling, raised the fear that “an army of [federal] officers whose business it is to collect these taxes” would swarm across the country. They suggested employing state tax collectors who could double as the federal revenue officers, a scheme that would avoid having to construct a new bureaucracy. Conkling wanted to rely on the precedent of 1813, when Congress requested that state tax officials act as their emissaries, collecting their quota, and then submitting it to the Treasury for a discount on their portion of the tax.⁵¹ Third, abolitionist Congressmen objected to collecting the direct tax on slaves. Each direct tax measure before 1861 included slaves in the assessments, however they did not wish to sanction slavery by formally recognizing slaves as property “like a horse.”⁵² Again this signaled the more aggressive position that many northerners had taken against slavery since the Early Republic.

Schuyler Colfax (R. IN) led a group of western representatives in fighting for tax on capital as well as land. “The most odious tax of all we can levy is going to be the tax

⁵⁰ Act of July 22, 1813, 3 *United States Statutes at Large*, 26.

⁵¹ *Congressional Globe*, 37th Cong, 1st sess., July 24, 1861, 246.

⁵² *Ibid*, 247.

upon the land,” objected Colfax on July 24. He continued, “[I cannot vote for a bill] that would allow a millionaire, who had put his entire property into stock, to be exempt from taxation, while a farmer who lives by his side must pay a tax.” Colfax insisted on dropping the direct tax and instead taxing stocks, bonds, and mortgages. “Put this burden upon the men who are best able to bear it.”⁵³

Hiram Bingham (R. OH) answered Colfax’s concerns. Bingham, a former county district attorney and member of the Judiciary committee, had served in Congress since 1855. He had established his reputation as an authority on the Constitution and the law. Bingham countered Colfax’s proposal by observing that the Constitution did not allow for a direct tax on incomes or capital; their only options included levying a direct tax apportioned by population, or indirect taxes that had to be uniform throughout the United States and collected as duties, imports, or excises. “This is not the time,” he lectured, “for friends of the country and the Constitution to undertake to establish a new construction ... There is no power conferred upon the Constitution to impose direct taxes upon personal property.” John A. McClerland (D. IL) renewed Colfax’s objection that the tax would weigh “very heavy, if not ruinous” upon the “great agricultural states.” Owen Lovejoy (R. IL) joined the fray, and demanded that the tax extend to “luxury” articles as well as property. Frederick A. Pike (R. ME) called for scrapping the tax on land, and instead “raising the sum by an income tax.”⁵⁴

Based on these strong objections, the House voted to return the bill to the Ways and Means Committee, to see if they could include some form of tax on capital.⁵⁵ Stevens reported back the next day that they could not find any method for sanctioning this. Senator Thomas M. Edwards (R. ME) advocated moving beyond the Constitution, and determining a way to tax all property, not just land. “Why stickle about terms?” he

⁵³ *Ibid*, 248-249. The word “odious,” originally pegged to taxes by Adam Smith, is used frequently in the tax debates to describe different types of taxes.

⁵⁴ Quoted in Seligman, *The Income Tax*, 430-435. This book provides the best, concise description of the nineteenth century income tax measures.

⁵⁵ *Ibid*, 247-249.

asked.⁵⁶ While acknowledging that the Constitution did not allow assessing incomes under the direct tax provisions of the Constitution, Bingham suggested using the indirect taxing authority, and treating income taxes as excises or duties.⁵⁷ Anxious to move the bill forward, the members accepted this compromise.

The Ways and Means Committee sent the measure back to Congress with the direct tax apportionment dropped to \$20 million, and a three percent tax on all incomes above \$600. They accepted Bingham's contrivance of terms, and henceforth referred to this tax as the "income duty" during subsequent congressional debates.⁵⁸ This christened the tax as indirect, rather than direct, according to the taxing powers in the Constitution. This reference, Seligman noted, derived from British precedent, where a "duty was a generic term applied to every source of revenue" and taxes and duties remained "interchangeable."⁵⁹ The measure passed the House on July 29, 1861. Justin S. Morrill, acknowledging that taxing incomes would "be the most just and equitable" means of taxation, worried that "we have no time in this session to mature an income tax." Morrill continued, emphasizing the importance of passing legislation during the session to provide means to prosecute the war. "I have no doubt [an income tax] will be adopted ... But now, for this emergency, it is necessary that we have something."⁶⁰

Senators did not "stickle with terms" and voiced support for incorporating an income tax from the beginning of their debates on the measure. "Let us tax property in the last resort," suggested Senator James F. Simmons (R. RI), member of the Senate Finance Committee. "We can meet all the exigencies ... with a moderate duty on importations and a moderate tax on incomes," he predicted.⁶¹ Simmons introduced an amendment for the income tax on July 29. As he announced the amendment, he encouraged the Senate to abandon "old notions" and replace a land tax for national income tax.

⁵⁶ *Ibid*, 283.

⁵⁷ *Ibid*, 279.

⁵⁸ Seligman, *The Income Tax*, 435.

⁵⁹ *Ibid*, 559-560.

⁶⁰ *Congressional Globe*, 37th Cong., 1st sess., July 25, 1861, 272.

⁶¹ *Ibid*, 254.

Simmons served in the Civil War Senate briefly. Elected as a Whig representing Rhode Island from 1841-1847, he lost his re-election bid and resumed his career in yarn manufacturing. Re-elected to the Senate in 1856 as a Republican, Simmons joined the Finance Committee and emerged as an influential participant in their deliberations. Jerold Waltham has shown that Simmons wrote the income tax provisions that became incorporated into HR 71. Scandal however smote this legacy; forced to resign in 1862 rather than face censure for a bribery charge, Simmons's work on the income tax has receded from attention. Because Simmons anticipated delays in debating then writing a new income tax bill, he began his research early. On July 12, 1861, Simmons sent a request to the State Department for "references on the subject of the British income tax." Portions of the income tax law followed those of the British statutes, word for word, although Waltham noted that the British tax "was not copied verbatim; rather it served as a fountainhead for ideas."⁶²

The final version of HR 71 levied an income tax of three percent on all incomes above \$800 derived from "any kind of property, or from any profession, trade, employment or vocation carried on in the United States," an amount well above a wage earner's salary. The uniform rate followed the Constitution's constraints on indirect, not direct, taxes. "The indirect or income tax which is to be raised by this bill will be, in my judgment, at least twice as much as they shall raise by direct taxation," Justin S. Morrill predicted. Income from securities was taxed at one and a half percent, but the interest from government bonds remained untaxed. Citizens did not have to pay the income "duty" until July 30, 1862.⁶³

Second to the distribution and incidence of the tax burden came the objection as to how the government would collect the tax. With eleven states in "rebellion," many fretted that state revenue officers would not have sufficient loyalty to the United States to render the moneys collected. The 1813 and 1815 direct tax legislation had allowed

⁶² Jerold L. Waltman, *Copying other Nation's Policies: Two American Case Studies* (Cambridge, MA: Schenkman Publishing Co., 1980), 15-17. Full exploration on pages 3-20.

⁶³ *Congressional Globe*, 37th Cong., 1st sess., July 29, 1861, 330.

states to collect their quota for the national government, a system that proved more efficient than the Federalist method of sending federal revenue officers to districts throughout the country. But the first draft of this bill did not permit states to pay their quota in advance for a discount. The recent experience with the southern customs officers had left some members with the belief that only national officers could collect the revenue. This change from the 1813 statute had less to do with building patronage opportunities, and extending the reach of the government, than with trying to pass a measure that would secure revenue, and mollify creditors worried about the security of their interest payments.

Roscoe Conkling (R. NY) led the dissent on this portion of the bill. Conkling insisted the “state machinery” would prove more effective in collecting the needed revenue. While Conkling’s suggestion seemed to concern itself with a reliable and cost effective means of collecting revenue, one can also look at this as part of the federalist struggle between state and national control over local governance. Conkling, an ambitious sophomore representative, had won election as the mayor of Utica, New York in 1858, and accepted the Republican nomination to the House months later. “Boss Conkling,” as his biographer David M. Jordan refers to him, integrated well into the New York political system. During the Gilded Age, “he succeeded to the place which [Thurlow] Weed held,” as master of the fetid New York spoils system. “[Conkling] dominated politics” through his control of the New York Custom House.⁶⁴ As the nation’s busiest port, New York’s customs officials supervised the flow of a large share of the revenue from imports. “The New York Customs House afforded unequal opportunities for graft and extortion and lay at the center of the spoils system.” As one federal employee in the New York customs house stated, “we clerks . . . consider ourselves as in the service of the collector and not in the service of the United States.”⁶⁵

⁶⁴ David M. Jordan, *Roscoe Conkling of New York: Voice in the Senate* (Ithaca, NY: Cornell University Press, 1971), 142.

⁶⁵ Sean Dennis Cashman, *America in the Gilded Age: From the Death of Lincoln to the Rise of Theodore Roosevelt* (New York: New York University Press, 1984), 217; Dorman B. Eaton, *The Spoils System and Civil Service Reform in the Custom-House and*

Conkling emerged in the decades after the Civil War as one of the most notorious lords of Gilded Age corruption and political patronage. In 1880, he led the Stalwarts, a faction in the Republican Party that wanted to perpetuate the spoils system against the growing agitation for civil service reform. Conkling resigned from the Senate in 1881 over a dispute regarding federal appointments to the New York City customs house; clearly, control of the collection system in New York long remained a matter of great concern to him. By keeping control of the “state machinery,” and control of appointments, he strengthened his power base. Opening similar positions to federal power would undermine his authority in New York State. Once again, we find the merging of public and personal interests in the development of national fiscal policy.⁶⁶ This mattered in the nineteenth century; state legislatures, not the voting public, elected senators. Securing a power base in New York meant the possibility of moving beyond the House of Representatives to the Senate.

Besides the question of how to collect the tax in the Confederate states, the rejection of Conkling’s protest relied on a more immediate concern. The direct taxes levied in 1813 and 1815 had not fulfilled expectations. Intended to generate \$12 million, the tax produced only \$10.5 million total. Not all states collected their share, and no mechanism for enforcement existed. Thaddeus Stevens reminded the members that Civil War would exacerbate this problem. Stevens believed that granting only the federal government the authority to hire revenue officers would secure the necessary revenue.⁶⁷

The third and most impassioned objection to the bill came from abolitionists who did not want Congress classifying slaves as property. Article I, section II of the Constitution cites representation and direct taxes as the twin policies directly affected by the “three-fifths” clause. Counting slaves as taxable property acknowledged the southern wealth invested in slaves. However, this policy provided federal recognition of the status of slaves as property, a concession that anti-slavery, “Radical” members of Congress would not allow. The recent Dred Scott decision (1857), that granted Fifth

Post Office at New York, 1881. Reprint. (New York: Arno Press, 1974), 12-14, 21-22.

⁶⁶ Cashman, *America in the Gilded Age*, 220-225.

⁶⁷ *Congressional Globe*, 37th Cong., 1st sess., July 24, 1861, 247-248.

Amendment protection to slave owners to bring their property into the territories, gave this question added importance. Under Chief Justice Roger B. Taney's interpretation of the Constitution, classifying slaves as property may open the free states to the property of slaveholders. Owen Lovejoy, one of President Lincoln's trusted friends on Capitol Hill, "found the word "slaves" in the bill "with a good deal of surprise." He noted that "if we tax [slaves] as property, among dwelling-houses and horses, we are bound to protect them as property." Stevens replied that, "If this provision is excluded from the bill, you exclude from taxation more than half the means of raising revenue in the rebel states."⁶⁸ Determined to collect the southern states' share of the direct tax, Stevens would allow this concession for the broader goal of financing the effort to quell the rebellion and destroy the southern slave society.

As so often occurred with financial measures, compromise and efficacy prevailed over principle. Though acknowledged as a direct tax, the legislators accepted the income tax by redefining it as a "duty." The final version of the bill apportioned \$20 million to all (including the seceded) states. The states would have the chance to collect their portion of the tax and submit the revenue in one payment to the federal government. If the states did not succeed in collecting their share, then the federal revenue officers would intervene and collect the outstanding amount. Striking the word "slaves" from the bill, Congress instead allowed each state to determine what constituted taxable property. Justin S. Morrill acknowledged that of the \$20 million estimated revenue; they expected to realize only \$12 million from the Union states. The assessments for the tax would not begin until April 1862, another sign that many believed the war would end soon and that the bill served to assuage bondholders as much to collect revenue. President Lincoln signed the law on August 5, 1861.

HR 71 failed as a revenue measure. The states met their tax quota through their requisitions of troops and supplies, not with money. "The government received nothing from the direct tax during the war which it would not have received otherwise," Charles

⁶⁸ *Ibid*, July 25, 1861, 269.

Dunbar speculated.⁶⁹ During the American Revolution, states failed to provide their requisitions because the central government had no means for compelling them to meet their obligations. In this case, the federal government used its limited resources to fight the war, and had neither the means, nor the will, to force the states to provide more than they did. The states in turn “paid” their tax in goods, rather than the much needed cash. Alive and still influential, the fiscal federalism honed during the early nineteenth century blocked the national government from exerting its will over the economy, even at a time of great need. Faced with the need to pass something into law, Congress accepted the expedient of a flawed tax bill. While understanding that they moved beyond the narrow constraints outlined in the Constitution, they chose not to “stickle,” but instead compromise with representatives from the “new” western and southern states. They used both the direct tax and income tax because they had already written statutes on hand they could use as templates, and would not have to create the legislation anew. The need to pass something in the short, emergency session forced them to accept these measures.

Finally, the dominance of one “special interest” rose to the fore in these debates. While scholars tend to focus on the rising power of industrial and commercial concerns during the Civil War era, HR 71 and later tax laws show that the agrarian representatives exerted more power in designing these measures than their colleagues who spoke for other segments of the economy. No one got all he wanted, but the influence of “farm interests” in the House held sway, demonstrating the predominance of agriculture both in representation and in the economy during that period.

Congress never collected any revenue under the first income tax. During the next session, they developed a more comprehensive and well-defined levy. However, through this initial failure, the legislators came to understand that the needs and resources of the nation had changed since the War of 1812. The direct tax would neither be accepted nor practically enforced. The shortfall between expenses and receipts

⁶⁹ Charles Dunbar, “The Direct Tax of 1861,” *Quarterly Journal of Economics*, 3 (July, 1889), 436-461.

required them to ditch the antiquated and impractical direct tax, and try something else. The central question as to whether the income tax constituted a direct or indirect tax did vex Congress briefly, but the exigencies of war, and the need to finish business during this short session, shortened any prolonged philosophical debate on this constitutional question. Once they accepted an income tax, this question did not trouble them again. They needed the money too much.

The Special Session, a remarkable though short assembly, adjourned the day after President Lincoln signed HR 71 into law. Aside from initiating internal taxation, Congress authorized Secretary Chase to borrow \$250 million, and imposed a tariff on coffee, tea, and sugar, the favored and most reliable revenue tariff of an earlier era. They took their first steps toward funding the Civil War.

The Touchstone of Our Patriotism

When Congress reconvened on December 2, 1861, exasperation had replaced the expectation that hovered in the chambers the previous July. The war continued, and the optimism flagged. Over the recess, the Union's fortunes had turned grim. Union forces seemed disorganized, and the leadership bereft of talent. The Yanks lost the Battle of Ball's Bluff that October. Despite the low number of casualties, the Confederate troops embarrassed the Federal army, whose disorderly retreat turned into a rout. This humiliating loss spurred Congress to establish the Joint Committee on the Conduct of the War, a move that foreshadowed the ensuing power struggle between the executive and legislative branches. General George McClelland, in whom the Union had placed its hopes for a quick and decisive victory, preened and marched, but did not attack. Confederate soldiers camped in Virginia, within marching distance of Washington. Tensions mounted with Great Britain after Captain John Wilkes stopped the *Trent*, a British ship passing through international waters, to forcibly remove two Confederate emissaries.

Secretary Chase greeted the congressmen with more bad news. The economic state of the country had declined again. He stated in his first *Annual Report* that the

deficit totaled \$213 million and only \$2.2 million remained in the Treasury. The government could not meet outstanding requisitions, including the Army payroll, despite having borrowing over \$150 million that fall. Chase repeated his call for a “reduction in expenditure” as a means of alleviating the fiscal crisis. He also asked for \$50 million as an “adequate provision of taxation for ordinary expenditures,” while he planned to continue financing the “extraordinary” expenses of war through loans.⁷⁰ Chase also recommended “relieving the nation from competition with local circulation” by taxing bank notes, and introducing a standard national currency.⁷¹

This report angered the “finance capitalists” upon whom Chase relied for the loans he needed for the war costs. Throughout that fall, Chase negotiated with an “Association” of bankers from Philadelphia, New York, and Boston for \$150 million of the \$240 million in loans he wanted for the war expenses. They agreed to provide Chase with three installments of \$50 million, all of which Chase had received and spent during the fall. In return, these bankers pressed Chase for a more aggressive program of internal taxation. “The success of the proposed loans will depend upon the enactment by Congress” of a program of taxation “adapted to the existing emergency,” read a resolution of the New York Chamber of Commerce.⁷² They wanted assurance that their interest payments would arrive regularly and their principal remained intact. They also advocated taxes as a means of curbing inflation, a perennial fear of lenders during times of economic uncertainty.

Chase did not have a good relationship with these men. They distrusted him. Chase’s adherence to the Subtreasury Act meant that he refused to use the private banks for government deposits. Chase’s demands that the banker’s provide their loans in gold, rather than accepting their banks’ notes, irked them. On top of this, Chase refused to stop using small denomination Treasury notes that competed with their own profitable

⁷⁰ *Report of the Secretary of the Treasury*, December 9, 1861, 37th Cong., 2nd sess., House Ex. Doc, 28, ser. Set 1121, 13-15.

⁷¹ *Ibid*, 18.

⁷² New York Chamber of Commerce to Chase, *S.P Chase Papers*, LC, August, 1861, reel 13, no. 364.

bank notes, and they feared would depress the value of the bonds they received in exchange for their specie. This Association knew, better than most, that the Union could not rely on foreign loans to finance the war. “The credit of the government had become impaired to such a degree,” remembered Moses Taylor, president of City Bank in New York, “that a large loan could not be obtained in any ordinary fashion.”⁷³ They alone had sufficient resources to help the country through this peril. Yet the Secretary of the Treasury continued to parry their demands for more aggressive taxation, the acceptance of bank checks and notes instead of gold for the loan payments, and withdrawal of the US treasury notes.

Further, Chase expressed some odd opinions. He refused to sell the Treasury notes and bonds at the “market price,” which at that time meant well below par, and this cut into the bankers’ profits. Second, Chase kept saying curious things about “the people” of the United States sharing the benefits of the Union debt, rather than relying on the established system of allowing a small circle of elite financiers to market and profit from, the public debt. Finally, an upstart named Jay Cooke, who successfully pulled the state of Pennsylvania out of a fiscal crisis in 1858 by selling the state’s bonds directly to the public, rather than through established financial channels, seemed to have the secretary’s ear. All this troubled the cabal of bankers, who liked to run the financial show.⁷⁴

The first \$50 million installment of the loan arrived in the New York Subtreasury from late August through late September 1861. After agreeing to Chase’s terms for this first payment, John Stevens, a member of the “Association,” told Chase in a post-dinner speech that, “you have now received that vast sum of \$50 million. We all earnestly hope this sum will be sufficient to end the war; should it not ... you cannot depend on further aid.”⁷⁵ However, the rapid pace of war expenditures, and the generous interest rates they

⁷³ Bray Hammond, *Sovereignty and an Empty Purse: Banks and Politics in the Civil War* (Princeton, NJ: Princeton University Press, 1970), 87.

⁷⁴ Henrietta Larson, *Jay Cooke, Private Banker* (Cambridge, MA: Harvard University Press, 1936).

⁷⁵ Niven, ed., *Chase Papers*, III: 266-267.

received convinced the bankers they could afford to lend the Treasury an even more “vast” sum of money.

On October 1, they negotiated the second installment. In exchange for another \$50 million in specie, they received government bonds, paying a fair, if not generous interest rate above 7 percent at par. All went well, so the third installment began arriving on November 15. On December 7, the banks’ specie reserves “were actually stronger than in August when the first loan to the government was made,” noted Robert Sharkey.⁷⁶ However, the banks’ ability to provide specie to the government depended on public confidence. Banks sold many of the bonds obtained from the government to replenish their capital, but if no one purchased these bonds, or demanded more than the bankers had paid, this scheme would collapse, which it did in December 1861.

Chase’s *Annual Report* raised deep skepticism amongst investors who felt the Secretary had not pushed for enough tax revenue. The Trent Affair, first greeted as symbol of Union strength, soon became a source of deep concern. The British believed (correctly) that the United States had violated international law by boarding their ship and removing diplomats. The Lincoln Administration’s tepid response to their early protests pushed the British to consider declaring war against the Union government. British factories depended on southern cotton; from the beginning of the war, the British had refused to take sides, but many feared their economic dependence on King Cotton would induce them to support the Confederate cause. These events triggered a loss of confidence, in both the general population, and the investment community. Between December 7 – 28, New York banks lost \$13 million of their specie reserve to depositors who wished to hoard their gold. On December 28, banks in New York suspended their specie payments, and other banks soon followed.⁷⁷

The government needed money, so the secretary initiated a series of financial measures that dismantled the seventy years of fiscal federalism erected during the course

⁷⁶ Robert Sharkey, *Money, Class and Party: An Economic Study of Civil War and Reconstruction* (Baltimore, MD: Johns Hopkins University Press, 1959), 24.

⁷⁷ Both Hammond, *Sovereignty and the Empty Purse*, 109-163 and Sharkey, *ibid*, 22-28 recount these events.

of the antebellum era. In February 1862, Congress passed the Legal Tenders Act, creating a national currency. The Treasury began issuing the “five-twenties,” bonds held for no less than 5 years, but no more than 20 at 6 percent interest. When the initial sales fell short of expectation, Chase decided to experiment and sell bonds directly to the public. He commissioned a number of agents for the task, but only one succeeded. In October 1862, he hired Jay Cooke as the “special agent” to sell bonds to the general public, not solely through the traditional banking community. Cooke’s program of advertising through newspapers and circulars throughout the country revolutionized the financing of the war, and created a link of profit and patriotism between the government and citizens that had never existed before. Chase also laid the groundwork for the National Banking System. Established in 1863, the national banks would become a vehicle for distributing the new currency, and an outlet for the purchase and sale of government bonds. All these changes occurred within the course of a year.

Concurrently, Congress moved to create a new revenue system. The financial calamity Congress faced in January 1862 prompted them to adopt a more ambitious stance regarding taxation than the Treasury secretary recommended. They agreed to keep the direct tax in place, however Congress voted to delay the appointment of national assessors and collectors. They continued to hope the states would provide the bulk of the funds through their own “machinery,” but the House also determined to launch a new tax program. On January 15, they passed a resolution requesting the Ways and Means Committee to formulate a \$150 million tax plan, tripling the amount requested by Chase. Clement L Vollandigham called for a delay in pushing through the resolution so the committee members would have time to develop a more comprehensive proposal. “Taxation, heavy taxation, but upon sound principle, and in the right way, can alone save us.” What Vollandigham meant by the “right way” remained unclear, because the members rejected his call for postponement.⁷⁸ The public debt had reached \$300 million, with \$100 million in payments due by the end of January. This action signaled to the financial community that Congress would secure their investment. Since

⁷⁸ *Congressional Globe*, 37th Cong., 2nd sess., January 15, 1862, 345.

the war began, Congress had been in session for only two and a half months when they approved this resolution. Already they had increased tariff duties twice, approved over \$250 million in loans, and \$80 million in taxes, with another \$150 million to follow.

That March, Justin S. Morrill, acting as spokesman for the Ways and Means Committee, opened the debate on House Resolution 312 (HR 312), the first comprehensive internal revenue measure in American history. Raised in a small town in Vermont, Morrill worked as a shop clerk during his teens, and later owned a number of shops, as well as a business that supplied goods to shopkeepers. He sold his business in 1848, dabbled in farming, and then decided to run as a Whig for office in 1854, winning a seat to the House of Representatives. Because he never went to college, Morrill became interested in helping others obtain that privilege. Education had remained the responsibility of state governments throughout the antebellum era, however Morrill believed that the federal government should help provide the opportunity for those who could not afford to attend college. He wanted farmers and laborers to have exposure to the latest developments in these areas. Thus, he became best known to the public for his stewardship of the Morrill Land Grant Act, which led to the establishment of 70 public colleges and universities for teaching “agriculture and the mechanical arts.”⁷⁹

Although best known to the public for the Land Grant Act, Morrill distinguished himself amongst his colleagues as a master of public finances. He served on both the House Ways and Means Committee and the Senate Finance Committee during his 44 years in Congress. He wrote the Tariff of 1861, also known as the Morrill Tariff, that moved the United States away from taxing imports on an *ad valorem* basis, relying

⁷⁹ Jennifer L. Bertolet, “Justin S. Morrill,” in *Encyclopedia of the American Civil War*, David and Jeanne Heilder, eds. 5 vols. (Santa Barbara, CA: ABC-CLIO, 2000), III: 1364-1365; although folksy, Parker’s biography of Morrill remains the most comprehensive, and contains many important letters and portions of speeches (alas, unfootnoted.) William Belmont Parker, *The Life and Public Services of Justin Smith Morrill* (Boston: Houghton Mifflin Co., 1924). The students and professors at Texas A&M University, and other land grant institutions, owe Morrill a nod of gratitude.

instead on specific duties, a policy that has been employed since.⁸⁰ Morrill also advocated protecting raw materials, from field, stable, and mines, instead of manufactured goods. Thus he supported high import duties on iron, lumber, and farm products, particularly wool, which Vermont farmers raised. Although a “protectionist,” Morrill’s form of protection had little to do with the industrial interests of the country, and focused more on keeping agricultural prices competitive. As Richard Hofstadter pointed out in 1938, the conflict in pre-Civil War tariff debates focused less on the sectional tensions between slave and free labor, instead pitted manufacturers, who wanted cheap raw materials to transform into goods, against farmers, who wanted to keep the price on their agricultural products competitive with imports.⁸¹ In this debate, Morrill sided with the farmers.

Subsequently, the revenue program that Morrill helped design relied on taxing industry, and not raw materials. A general, three percent duty on manufacturers would provide the “largest item of revenue,” Morrill foresaw as he outlined the bill. “A burden that would paralyze the agriculturalists of the country will be taken on the backs of the steam giants with alacrity and confidence,” he predicted.⁸² Inherent in this program remained the goal to “propose duties upon a large number of objects, rather than confine them to a narrow field.”⁸³ Instead of laying taxes on a few articles, the Ways and Means Committee determined to make the taxes “diffuse.”⁸⁴ Rather than a unique Republican ideology with regard to taxation, this program echoed the programs used by Sir Robert Walpole and William Pitt during the eighteenth century in England.

When one considers the scope of this tax measure, it’s surprising that the debates

⁸⁰ This remains an under explored aspect of the protection vs. free trade policy debates. Protectionists prefer specific duties, while free trade advocates prefer *ad valorem* duties.

⁸¹ Richard Hofstadter, “The Tariff Issue on the Eve of the Civil War,” *American Historical Review*, 44 (October, 1938), 50-55; see also, Jane Flaherty, “Incidental Protection: An Examination of the Morrill Tariff,” *Essays in Economic and Business History*, 19 (2001), 103-118.

⁸² *Congressional Globe*, 37th Cong., 2nd sess., March 12, 1862, 1196.

⁸³ *Ibid*, 1195.

⁸⁴ The term used by David A. Wells, the Special Commissioner of Internal Revenue. See Chapter V.

on the bill did not focus more on the expansion of government power inherent in the legislation. Border state representatives raised this concern first by reviving the antebellum fears that expanded government power would inevitably lead to emancipation. “Shall reserved rights be surrendered to a consolidated government,” asked William H. Wadsworth (U. KY). ““I am here to resist this new and overshadowing danger, this tendency of the federal government to swallow up the powers reserved to the states and the people respectively.”⁸⁵ Hiram Bingham countered that, “because certain madmen have taken up arms against the Republic,” that the Congress wishes to expand government power. “The word centralization has no meaning in reference to American institutions ... so long as we recognize the supremacy of the written Constitution.”⁸⁶

While the tax on manufacturers would produce the most revenue, “few taxable articles or forms of wealth were permitted to escape.”⁸⁷ Relying on long recognized principles that “sin” taxes, on articles with inelastic demand, remained a bountiful source of revenue, the bill fixed a twenty cents per gallon against distilled spirits; beer, ale, malt liquors, and fermented liquors would pay one dollar a barrel. Graduated rates applied to different grades of tobacco and tobacco products (cigars, cigarettes, and chewing tobacco). Taxing luxuries also provided a bulwark. The legislators drew up “Schedule A” upon which appeared the articles that had long been considered luxuries of the wealthy: carriages, yachts, billiard tables, watches, pianos, and gold or silver plate. People had to purchase licenses to auctioneers, butchers, jugglers, lawyers, peddlers, and soap makers. All contracts, insurance policies, bank checks, wills, and loans now required a stamp for authorization. To insure that “men with large incomes pay more in proportion to what they have than those with limited means who live by the work of their own hands,” the bill included taxes on gross receipts of corporations, inheritance

⁸⁵ *Congressional Globe*, 37th Cong, 2nd sess., March 12, 1862, 1197; see also, 1199-1200; 1294-1295.

⁸⁶ *Ibid*, March 19, 1862, 1287. The irony here, of course, is that Bingham thought of the way to circumvent the Constitution in order to enact the income tax.

⁸⁷ Howe, *Taxation and Taxes in the United States*, 57.

and succession taxes, and a new income tax.⁸⁸ “The committee have thought it best to propose duties upon a large number of objects rather than confine them to a narrow field,” Morrill explained.⁸⁹ Albert S. White (R. IN) proclaimed, “this tax is to be the touchstone of our patriotism. It is the price that we are to pay for being true and loyal to our country.”⁹⁰ Thaddeus Stevens, Chair of the Ways and Means Committee articulated the broad principles in this tax plan:

The [Ways and Means] committee have found it necessary to visit many articles which they would have gladly spared. They have, however laid no burdens on those with small means ... They have attempted to raise the largest sums from articles of luxury, and from the large profits of wealthy men ... while the rich and thrifty will be obliged to contribute largely from the abundance of their means, we have the consolation to know that no burdens have been imposed on the industrious laborer and mechanic; that the food of the poor is untaxed; and that no one will be affected by the provisions of this bill whose living depends solely on his manual labor.⁹¹

In sparing the “food of the poor,” agricultural products, especially farm produce, implements, “breadstuff and flour,” remained untouched by this bill. So too, did the raw material used for production (iron and wool, in particular). Sparing these articles fit with Morrill’s ideal of “protecting” raw materials used for industry, and sparing farmers from the burden of taxation. This also served the communities that both Morrill and his good friend “Thad” represented, a fact not lost on other congressmen during the debates. The “economic interests” of these lawmakers did play a role, but not in the way the Beards suggested. “Industrial capitalists” bore the largest portion of the taxes, while sparing the northern “agricultural interests.

⁸⁸ *Congressional Globe*, 37th Cong., 2nd sess., March 12, 1862, 1196.

⁸⁹ *Ibid*, March 12, 1862, 1195. Text of statute: 12 *Statutes at Large*, 37th Cong., 2nd session. July 1, 1862, 432- 489.

⁹⁰ *Ibid*, March 13, 1862, 1225.

⁹¹ *Ibid*, April 8, 1862, 1577.

Those who “Suck the Vitals of Society”

By far, the “agricultural interests” of the country and rural residents fared much better under this tax program, than the “steam giants.” The direct tax became increasingly ineffective, as Congress passed a series of resolutions to halt the collection of this tax. They determined to rely instead on indirect taxes. This shift left the land of farmers, as well as their produce, untouched by the taxman. Agriculture still represented the largest segment of the economy, and farmers, by far, the largest portion of the population. They had many representatives in the House. A practical element guided this development as well. Trying to tax agricultural products would require an extensive “machinery” of collection, with assessors patrolling the farmstead scattered all across the vast territory of the nation. Instead of taxing farmers specifically, the bill aimed to collect from the subsidiary economic activity of farmers, such as slaughterhouses, peddlers, and the clothing worn by farmers, through the tax on manufacturers. Further, collecting taxes at established businesses that had ease of access would require less effort than trying to assess and collect from farmers spread across the country. Farmers paid an income “duty”, like others, if they recorded profits over \$600, which few did. Senator William Pitt Fessenden expressed his frustration with this system:

We are obliged to pay tax on our salaries and our income of any other description, and we pay it on the gross income, and are not permitted to take out the expenses of living. But a farmer as he goes along supports his family out of the produce of his farm from day to day and regards as his income only the surplus, that which he sells and puts in the shape of money ... under this bill the farmer must inevitably be the best off, and he will escape easier than others, though as a general rule, he is abler to pay and more independent than any other class of men in the community.⁹²

Not all agricultural products remained untouched: corn (used for making distilled

⁹² *Congressional Globe*, 37th Cong., 2nd sess., May 23, 1862, 2310.

liquors), tobacco, and cotton felt the taxman's sting.⁹³ Different products, including these, had their defenders as well. In looking at the "economic interests" represented in this measure, one finds a mix. Responsible representation of the needs and interests of constituent often became conflated with base lobbying to protect narrower concerns and personal interests. Although the Beards correctly identified the corruptibility of human weaknesses, they over emphasized the role of "industrial" interests in these debates. The industrialists won some minor victories in framing the tax legislation, but they did not achieve the escape from taxes that they had desired. The government collected more internal revenue from the tax on manufacturers than any other levy.

"A swarm of lobbyists arrived to press their concerns on the congressmen, lamented John Law (D, IN) in March, 1862. He chided the Ways and Means Committee for not working on the tax bill more diligently during the recess, thus clearing from Congress, "the army who are now here besieging [us] from having ...every conceivable description of article exempted from duty."⁹⁴ Delegations from the New York City Chamber of Commerce and the Boards of Trade from Boston and Philadelphia arrived to press their concerns "As many as fifty or sixty interested parties were milling about the door of the room occupied by the [Ways and Means Committee]," asking for tax relief for their various clients.⁹⁵

Intensive lobbying of this nature had occurred at the state level throughout the antebellum era.⁹⁶ At the national level, lobbyist descended on Congress during tariff debates, John Pincus noted that, "the pressure group successes" in tariff measures affected local concerns, more than national, even as these local industries tried to tie

⁹³ For summaries of this bill, George Boutwell, *The Taxpayer's Manual* (Boston: Little Brown and Co., 1866); Harry E. Smith, *The United States Federal Internal Tax History from 1861 to 1871* (Boston: Houghton Mifflin Co., 1914).

⁹⁴ *Congressional Globe*, 37th Cong., 2nd sess., March 27, 1862, 1406.

⁹⁵ Leonard P. Curry, *Blueprint for Modern America: Non-Military Legislation of the First Civil War Congress* (Nashville, TN: Vanderbilt University Press, 1968), 164.

⁹⁶ Douglas E. Bowers, "From Logrolling to Corruption: The Development of Lobbying in Pennsylvania, 1815-1861," *Journal of the Early Republic*, 3 (Winter, 1983), 439-474.

their fortunes to the nation's well being.⁹⁷ State, governments, not the national government, provided funds for the mix of private and public development. HR 312 represented a tremendous shift in the concentration of public funds. Now the national government, not just the states, would have discretionary power over private goods and services. The scale of this power shifted as well. Before the Civil War, public officials never had more than tens of millions at their disposal. Hence, Congress had at its disposal hundreds of millions. While allocated to set public expenses, the change made a significant shift from the private economy to the public. No one understood this better than the various industries and services whose prices and fees the national government would tap for revenue.

During the debates on this bill, representatives did not focus as much on the constitutionality of the different provisions, but rather on trying to keep their constituents from carrying the tax burden. Charles A. Wickliffe (U. KY), who represented tobacco farmers who would soon pay heavy taxes, urged Congress to hit bankers, brokers and other money men, “who suck the vitals of society,” instead of the “planting interests.”⁹⁸ Often petty local concerns overwhelmed the national effort. On March 20, a prolonged debate occurred between James R. Morris, Harrison G. Blake, and John Hutchins, all Republicans from Ohio, over the merits of taxing different types of cheese. Throughout the tax debates, lofty moral, ideological, and political issues mixed with base personal influence peddling. Senator Charles Sumner, recovered from the caning he received from Preston Brooks on the floor of the Senate in 1856, emerged as one of the more forceful and eloquent spokesmen for emancipation, then freedman's rights. During the tax debates, he advocated placing a high “excise” tax on slaves, with the idea of forcing manumissions. Yet, he strongly opposed a moderate three cents per pound tax on cotton, which would have hit the same slaveholders he sought to punish in other ways, but also squeeze the textile manufacturers in his state. Later, he can be found pleading to remove

⁹⁷ J. J. Pincus, “Pressure Groups and the Pattern of Tariffs,” *Journal of Political Economy*, 83 (August, 1975), 775.

⁹⁸ *Congressional Globe*, 37th Cong., 2nd sess., March 21, 1862, 1325.

the tax on paper, another product of Massachusetts' mills.⁹⁹ Historians (including me) love to quote Schuyler Colfax as he defends farmers and attacks capitalists as he called for the first income tax in HR 71. Yet Colfax also fought with equal vigor to have the tax removed from newspapers and the advertisements that finance them. As a part owner in the *South Bend Free Press*, this tax cut directly into his profits.¹⁰⁰

Rested after the long recess, Roscoe Conkling returned to the Second Session, ready to defend his patronage castle once again. Conkling persisted in his desire to have state officers collect the federal taxes, pressing the point the day after the debate opened on this bill. New York alone would need 3600 revenue officers, Conkling insisted. Thomas D. Eliot (R. MA), John S. Phelps (R. CA), Samuel Shellabarger (R. OH), and George H. Pendleton (R. OH) all concurred that state officers, rather than the national government should collect these taxes. "It is not the taxgather [citizens] hate so much as the taxes," Thaddeus Stevens replied. "How can we [collect the taxes] if we allow those who have caused this trouble to make the assessment."

Efforts to retain local control of assessments and collections failed, primarily because a Civil War raged, and legislators feared that they would never see revenue from the seceded states if they relied on local officials to collect tax from their fellow confederates.¹⁰¹ "It is indispensable that the government have within its own control the means of meeting its all its vast engagements, Morrill concurred.¹⁰² They could trust only federal tax officials, appointed by the president, to secure the payments from southerners. The economic interests of their constituents, as well as the personal interests of the lawmakers, played a role in developing this bill. However, this represented less of a "breakdown in the old moral standards" than a shift in the theater of money politics, from the state houses to Congress. Efforts to spare their constituents from paying high taxes mingled with less legitimate concerns. Leeches swarm to blood, and lobbyists flock to money. Despite these competing forces, the bill passed the House and moved to

⁹⁹ *Congressional Globe*, 37th Cong., 2nd sess., May 23, 1862, 2317; also 2400-2408.

¹⁰⁰ Curry, *Blueprint for Modern America*, 168.

¹⁰¹ Debates on this matter, *Ibid*, March 13, 1862, 1217-1226; March 14, 1238-1242.

¹⁰² *Ibid*, March 12, 1862, 1194.

the Senate.

The Senate received of the bill on April 10, 1862, but did not start debating it until May 6. The Finance Committee tinkered with the legislation causing the committee's chair, William Pitt Fessenden, to "crack the whip" and move the measure onto the Senate floor.¹⁰³ Regarding the "infernal tax bill," Fessenden remarked in an April 25 letter that, "There is no time to make a new one, and all we can do is to patch this. It will be odious."¹⁰⁴ The Senate began consideration of the bill on May 6.

We have looked at the relationships in a federalist system between the states and the national government, and within the government between the executive and legislative branches. This tax bill affords the opportunity to examine the balance of power between the House of Representatives and the Senate. Clearly the authority to levy taxes lies with the House of Representatives, where "bills for raising revenue" originate. However, the Senate may "propose or concur" on revenue measures. Elected in general elections, House members, in theory, represented the interests of the people who elected them to office. Senators, chosen by their state legislatures, often spoke for the broader interests of their state, not merely the concerns of one district.¹⁰⁵ An individual Senator could exert more influence within his chamber than any individual congressman (except in cases like Thaddeus Stevens, the "fearless leader in the House.>").¹⁰⁶ The deliberations on HR 312 demonstrate this dichotomous relationship.

First, the Senate tarried with the bill once it reached the floor. The *New York Times* guessed that "speculators and monopolists" delayed the bill in an attempt to make their deals with different Senators.¹⁰⁷ *The New York Herald* opined the abolitionist Senators want to delay the bill to punish the administration for their laxity on the slavery

¹⁰³ Curry, *Blueprint for Modern America*, 174.

¹⁰⁴ William Pitt Fessenden to ?, April 25, 1862 in Francis Fessenden, *Life and Public Services of William Pitt Fessenden*, 2 vols. (Boston: Houghton, Mifflin and Co., 1907), I: 190.

¹⁰⁵ This changed with the passage of the Seventeenth Amendment in 1913, which allowed direct election of Senators.

¹⁰⁶ James G. Blaine, *Twenty Years of Congress: From Lincoln to Garfield*. 2 vols. (Norwich, CT: Henry Hill Publishing Co., 1884), I: 326.

¹⁰⁷ *New York Times*, May 3, 1862, 2.

question and ineffective management of the war.¹⁰⁸ No clear answer comes forth, but the delay created frustration for other senators, whose tempers flared during the debates on this bill.

The “economic interests” of the various states present themselves clearly during the Senate deliberations. Senators from tobacco growing states disapproved of the tax on leaf tobacco. John Sherman, representing corn farmers, spoke against the liquor excises made from his constituents’ corn.¹⁰⁹ New Englanders opposed the manufacturing duties, and advocated replacing them with a broader income tax or a general sales tax. However, all understood that they needed to introduce some form of taxation; they just hoped to keep the taxman out of their states or districts. The Senators did try to shift the burden of taxation from their state onto others

The Senate sent the bill back to the House on June 9, with 315 amendments. Thaddeus Stevens tried to get the Senate’s amendments dropped by having the House declare that they did not concur with the changes. This attempt failed. A conference committee met, with both House and Senate members, and worked through the amendments. The Senate withdrew 16, and saw 253 of their amendments pass from the committee.

The Income Duty

The Senate had the greatest impact on the income tax portion of the bill. Debates on the income tax focused less on the merits or legitimacy of an income tax, and more on the particulars of collecting the tax. No more “stickling” about whether the income tax represented a constitutional form of taxation. Once the Congress had decided to levy it as an indirect tax, this concern did not arise again until after the war. Lawmakers saw people “employed on a fixed income” as the main targets for this tax. Justin S. Morrill described the tax as the “least defensible” and most “inquisitorial” portion of the bill, but

¹⁰⁸ Quoted in Curry, *Blueprint for Modern America*, 172

¹⁰⁹ Henderson and Wilson from Missouri, Powell, Kentucky. Senators from Virginia, Maryland, Missouri, and Connecticut supported this effort. Curry, *Blueprint for Modern America*, 173.

the need for more revenue trumped these worries. He understood that this represented a bountiful form of taxation. “Ought not men with large incomes pay more in proportion to what they have than those with limited means?” he asked.¹¹⁰ Whether that tax would count “gross” or “net” income emerged as the first point of concern. Thaddeus Stevens explained that they meant “net” income, but if they included that word in the bill. It would open the door to a multitude of frauds.

Fessenden advocated making the income “duty” graduated. A three percent tax applied to incomes up to \$10,000; anyone with an income over \$10,000 paid a five percent tax, starting June 30, 1863. The Senate also recommended lowering the exemption to \$600. Provisions agreed to by both chambers included taxing American citizens residing abroad five percent tax on all income derived from property held in the United States.¹¹¹ In a nod to the federalist system, those paying the income duty could deduct state and local taxes. Corporations paid taxes on their gross receipts, and railroads withheld for the tax collector three percent of the interest payments they made to those who held their bonds. Government employees in “civil, military, or naval services” had the income tax withheld from their paycheck, another extraordinary change in the relationship of the government to individual citizens. “Tapping revenue at the source,” a practiced from the British mode of collecting income taxes, did not apply to those employed in the private sector, leading Smith to conclude that, “after the depreciation of the greenbacks” government employees “found the tax more burdensome than most other people.”¹¹² To assess the tax, the payer provided a report of his income, and then swore an oath on the accuracy of the statement. Self-assessment became the basis for

¹¹⁰ *Congressional Globe*, 37th Cong., 2nd sess., March 12, 1862, 1196.

¹¹¹ According to Schuckers, Chase and policy makers were greatly offended when U.S. citizens moved their assets abroad after the firing at Fort Sumter. “Many persons of large wealth, in apprehension of war, had, even before the breaking out of hostilities, transferred their property to foreign countries . . . it was to escape not only the pressure of war taxes, but also to preserve their opulence should the result of the war prove unfavorable to the national cause.” Schuckers, *Life and Public Services*, 330 (footnote).

¹¹² Harry E. Smith, *The United States Federal Internal Tax History from 1861 to 1871* (Boston: Houghton Mifflin Co., 1914), 55.

determining the amount of the tax. This mode of self-reporting allowed for more fraud, but it also made the tax less “inquisitorial” and more acceptable to the public.¹¹³

President Lincoln signed the tax bill into law on July 1, 1862. George Boutwell, former governor of Massachusetts, became the first Revenue Commissioner on July 17, 1862. He ran a small operation initially, working with three clerks the first year to count the taxes. Although Boutwell considered HR 312 was “incomplete in parts” and an “imperfect plan,” however the best one could expect “under the circumstances”¹¹⁴ The returns disappointed. Morrill had estimated the tax bill would generate \$101 million the first year; Chase, after hiring some “practical men” to review the measure, guessed \$85 million. However, the taxes generated only \$37.6 million. The shortfall, Dewey noted, “was largely due to the unsettled conditions of business as well as to the necessity of establishing at short notice an entirely new branch of treasury administration for the collection of duties.”¹¹⁵

No infrastructure existed to handle the taxes. The revenue districts followed the same outline as congressional districts. For this reason, Congressmen and Senators played a role in recommending individuals for these posts. Since the Democratic Party retained power through most of the antebellum era, “the long exclusion from power” of the Republicans “keenly whetted the Republican appetite for place and office.” Daily, Secretary Chase faced “throng[s]” of applicants daily who hoped to fill these new positions. Controlling this patronage further exacerbated the divisions within the administration, not only between members of the executive branch, but between the different Cabinet secretaries and members of Congress. Secretaries Chase and Seward fought over patronage positions in New York, a situation that eventually led to Chase’s resignation in June 1864. Members of Congress competed with the administration over the positions within their district and state. Schuckers related a meeting that took place between Secretary Seward, Senators Preston King and Ira Harris, and President Lincoln,

¹¹³ Chapter V discusses the ramifications this exemption.

¹¹⁴ George B. Boutwell, *Reminiscences of Sixty Years in Public Affairs*, 2 vols. (New York: Greenwood Press, 1968): I, 303.

¹¹⁵ Dewey, *Financial History of the United States*, 302.

in which Seward “embarrassed” the Senators by presenting the president with a list of candidates for different patronage opportunities in New York that differed with their recommendations.¹¹⁶

The mounting debt became the concern of all lawmakers. Secretary Chase, admitting that the “vast expenditure” necessitated by the war caused “fear in his mind,” admitted in a February 1864 letter, that “I am anxious to have them provide for at least one-half of our whole expenses that way.”¹¹⁷ However, he and Congress still remained at odds over how best to accomplish this. Chase wanted “the largest possible proportion of expenditure [to] be provided by direct contributions from the property and incomes of the people.”¹¹⁸ However, it became clear to the lawmakers that excise taxes, which played a significant, although secondary role in HR 312, would provide the “key to the fiscal cupboard.” They knew from the experience of the British that a high tax on distilled spirits could produce more revenue than under the current statutes. Joseph J. Lewis, Commissioner of Internal Revenue lamented that the British liquor taxes raised 20 percent of their revenue, while those in the United States less than ten percent.¹¹⁹ “England taxes spirits enormously, but has her drunkards still,”¹²⁰ Morrill noted during the earlier debates on the revenue bills.

Thus Congress targeted the taxes on alcohol with particular zeal. They retained the idea of keeping taxes diffuse, but determined to target selected articles, particularly those that corrupt the “morals of the community.”¹²¹ They passed another revenue law, HR 405, in March 1864 that raised the tax on distilled spirits from twenty to sixty cents a gallon. But as the debt grew, they determined to enact a more comprehensive bill. The result, HR 405, enacted in June, 1864, built upon the foundation of HR 312, but increased duties on most articles. The tax on distilled spirits rose again to \$1.50 per

¹¹⁶ Schuckers, *Life and Public Services*, 481-483.

¹¹⁷ Chase to Cyrus W. Field, February 17, 1864, *SP Chase Papers*, Niven, ed., IV: 293-295.

¹¹⁸ *Annual Report of the Secretary of the Treasury*, 1863, 13.

¹¹⁹ *Annual Report of the Commissioner of Internal Revenue*, 1863, 5.

¹²⁰ *Congressional Globe*, 37th Cong., 2nd sess., March 12, 1862, 1194.

¹²¹ *Congressional Globe*, 37th Cong., 2nd sess., March 20, 1862, 1312.

gallon. Licenses to sell all types of liquor increased. Tobacco also took a hit. They doubled the tax on smoking tobacco, and increased the rate on leaf (unmanufactured) tobacco. The cigar duty soared from \$3.50 to \$40.00 per 1,000.

The 1864 debate on the liquor tax focused on whether or not to tax liquor “on hand” that distillers had produced and warehoused in anticipation of a tax increase. Fernando Wood (D. NY) insinuated that “unseemly influences” had lobbied Congress in order to shield the liquor on hand from the tax.¹²² The *New York Herald Tribune* made a more explicitly charged that one “mercantile house” in New York had paid “certain parties operating in Washington” \$72,000 to keep the tax off whiskey on hand. “Judge then what must have been paid in all.” In 1868, when the “Whiskey scandal was revealed, *The New York Times* lamented that “this was the beginning of the fearful corruption and demoralization” that engulfed public officials after the war.¹²³

The most productive tax thus far, the general duty on manufactured products, also increased from three to five percent. Again they raised the income tax, to five percent on incomes between \$600-\$5000; seven and one-half percent for incomes ranging from \$5,000-\$10,000; and ten percent for those over \$10,000 per year. The top rate doubled the income tax duty from the earlier bill. In addition to this increase, Congress enacted a special income tax in October 1864 that went directly to paying bounties for soldiers who re-enlisted, or volunteered. This one time tax charged a rate of five percent on all incomes over \$600. This became the first direct transfer of income from one class in society to another.¹²⁴ William Pitt Fessenden, appointed Treasury secretary after Chase’s resignation, advocated in his only report as Secretary of the Treasury, a further increase in income taxes by removing all exemptions. “In a young and growing country the vast majority of incomes are small while all participate alike in the blessings of good government.”¹²⁵

¹²² *Congressional Globe*, 38th Cong., 1st sess., April 21, 1864, 1786.

¹²³ Quoted in Smith, *United States Tax History*, 195-196.

¹²⁴ Smith, *Taxation in the United States*, 64-65; Seligman, *The Income Tax*, 443-445.

¹²⁵ *Annual Report of the Secretary of the Treasury*, 1864, 15.

Although the general manufacturing tax remained the most productive through the course of the war, the shift towards excise taxes on selected goods began. Considered luxuries, or at the least, non-necessities, they represented a fair tax, one that the taxpayer could avoid by not choosing to drink or smoke. When John Sherman complained that his corn raising constituents paid the “heaviest tax in this bill (HR 312)” through the levy on distilled liquors, Fessenden snapped right back, “That is a tax only on those who drink liquor.”¹²⁶ This remained a fundamental idea in American taxation since the Constitutional Convention: that taxes laid on consumption, particularly on items deemed “luxuries,” fell only on those who chose to purchase the good. When the base for taxation had to expand, Congress concentrated the “diffuse” taxes on manufacturers that spread the burden of taxation through the broad range of goods produced on these goods. This attempted to bear upon the profits of the steam giants, and spread the incidence through most sectors of the economy. Rather than regressive taxes, laid upon the “politically mute consumer who shouldered the tax burden,”¹²⁷ the Republicans laid taxes that on manufacturers and wealth first, in the form of the manufacturing duty, income, legacy, and corporate taxes. Second, they targeted excises taxes on, historically, the most productive sources of revenue that also proved to be destructive to the health and morals of society.

The General Sales Tax

I have argued throughout this chapter that the war congresses enacted revenue legislation out of necessity, rather than choice. To assess fully where volition ends and obligation begins, one must look not only at what measures the Congress passed into law, but those they did not. The proposal to introduce a general sales tax provides such a test. In writing both HR 312 and HR 405, legislators considered incorporating a sales tax to shift the burden of both the income tax and the tax on manufactured goods more directly to consumers. The sales tax would have placed a national *ad valorem* duty on

¹²⁶ *Congressional Globe*, 37th Cong., 2nd sess., May 23, 1862, 2310.

¹²⁷ Curry, *Blueprint for Modern America*, 180.

sales, with rates of one percent (recommended in 1862) to one and a half percent (1864). Advocated most strenuously by representatives from manufacturing states, and those with the highest contribution to the income tax, the sales tax would have lightened the duty on the manufacturers and instead placed it consumers as they purchased the finished goods.

Without doubt, manufacturers would have escaped from fronting the brunt of the Civil War internal taxes if the proposed amendments passed. While benefiting larger, vertically integrated enterprises, that handle distribution and sales without middlemen or jobbers, the tax would hurt smaller distributors, and those located in rural areas, particularly in the West, who generally purchased goods from intermediaries. These middlemen remained the “most important men in the economy,” according to Livesay and Porter. They not only sold goods, but provided capital and credit to both their suppliers and customers and helped spur regional development, and “served as the primary economic integrators” for the developing western and rural communities.¹²⁸ In rural areas, they provided the “simplest and most pleasant banking operations” for local farmers.¹²⁹ The merchant’s centrality to the economy waned slightly in the pre-war years, as railroads facilitated the distribution of goods from producers to market without intermediaries. The introduction of the greenbacks, which moved businesses off the “credit treadmill” and onto a cash only basis, played a significant role in the decline of mercantile influence, and the rise of corporate power, during the late nineteenth century.¹³⁰

Instituting a national sales tax would have expedited this process. This tax, as Congressman James E. English noted, represented “a great national measure intended to affect all the interests of the country.”¹³¹ It would swiftly help create a more national

¹²⁸ Glenn Porter and Harold C. Livesay, *Merchants and Manufacturers: Studies in the Changing Structure of Nineteenth-Century Marketing* (Chicago: Ivan R. Dee, Inc., 1989), 8.

¹²⁹ Lewis E. Atherton, “The Services of the Frontier Merchant,” *Mississippi Valley Historical Review*, 24 (September, 1937), 160

¹³⁰ Porter and Livesay, *Merchants and Manufacturers*, 126.

¹³¹ *Congressional Globe*, 37th Congress, 2nd sess., March 27, 1862, 1404.

economy by tying the government into transactions, large and small, throughout the nation. Government official would scrutinize all sales, thus extending its reach into the economic process, a “goal” of the Republicans, according to Arthur M. Lee.¹³² The incidence of a national sales tax, Otto van Mering noted, “is widely distributed,” but then “rights itself over time.” Prices increase, especially on goods with high, inelastic demand.¹³³

The Boards of Trade in both Boston and Philadelphia called upon Congress to pass this legislation.¹³⁴ On March 27, 1862, William P. Sheffield (R. RI) offered an amendment to HR 312, seeking a one percent tax on the sales of “goods, wares, merchandise, property, and estates.” Although his initial amendment excluded “sales to jobbers or middlemen” he later stated that he wanted “all sales” to fall under this tax. Sheffield said that he offered the amendment to place both the receipts of “the poor woman who sells a pig” which could pay a tax if the profit rose over the income tax exemption, and the “man who receives \$1 million in profits” on the tax roll.¹³⁵ However, he soon dropped this populist pretext. “I [want] my constituents to be relieved from an undue proportion of [war taxes],” he proclaimed. “As (HR 312) now stands, it makes the workshops of New England pay one fourth of the tax. That sir, is unjust.” Rather than a concern about the poor woman and her pig, he offered the sales tax as a relief for the manufacturing duty.¹³⁶

A brief, but telling debate ensued. New England representatives, James E. English, Samuel Hooper, and Alexander H. Rice, spoke in favor of the tax. “Instead of singling out manufacturing interests of the country,” Rice complained, “it would be equally just and equally wise,” to spread the tax more fairly, especially on “articles

¹³² Arthur M. Lee, *The Development of an Economic Policy in the Early Republican Party*. Unpublished Dissertation, Syracuse University, 1953. One of Lee’s main theses.

¹³³ Otto van Mering, *The Shifting and Incidence of Taxation* (Philadelphia: Blakiston Co, 1942), 173-178.

¹³⁴ Harry E. Smith, *The United States Federal Internal Tax History from 1861 to 1871* (Boston: Houghton-Mifflin Co., 1914), 257-258.

¹³⁵ *Congressional Globe*, 37th Cong., 2nd sess., March 27, 1862, 1403.

¹³⁶ *Ibid*, 1404.

furnished by nature.” Hooper suggested that the tax on manufacturers would act as “a duty on consumers,” so the sales tax would not represent a significant change from the current bill. Valentine B. Horton objected because the sales tax represented a measure that required “a new principle” and “new machinery.” William Kellogg (R. IL) added, “There ought to be some justice and some far distribution,” of the tax burden, “so that it shall reach the capital of the country as well as individuals.” He protested replacing the sales tax with one that the “consumer” would bear through the “actual necessities of life.” Sheffield then withdrew his amendment, stating, “My object has been accomplished.”¹³⁷ Although HR 312 did not incorporate a general sales tax, Congress did adopt taxes on selected sales including, auctions, real estate, and securities (stocks and bonds) sales.

The idea of a national sales tax did not surface again until 1865. When the Finance Report of 1864 projected a \$35 million shortfall between receipts and expenditures, Commissioner of Internal Revenue, Joseph L. Lewis, advocated implementing a general sales tax. Lewis stated in his report that,

I can find [no other tax] which promises such a large yield of revenue, with so little disturbance to trade, and so slight a pressure on the tax payer ... I am clearly of the opinion that the tax on sales ... is greatly preferable to a supplementary duty on incomes [or] a direct tax.¹³⁸

The Ways and Means Committee instead suggested raising the tax on manufacturers again, to reach an average duty of five percent. George Boutwell (R. MA) countered by reviving the idea for a general sales tax. William P. Sheffield (U. RI) first introduced the sales tax as a means for taxing rich and poor alike. Boutwell, on the other hand, made no effort to hide his intentions with the tax. On the evening of February 17, 1865, he proposed adding a one and a half percent sales tax in place of an increase in the manufacturers duty. The debate on the amendment began the next day. “When you analyze this system of taxation, whether on incomes, manufacturers, or

¹³⁷ *Ibid*, 1404-1406.

¹³⁸ *Finance Report for 1864*, 38th Congress, 2nd session, House Ex. Doc. 3, ser. set 1222, December 6, 1864, 60-61.

sales, the producers and consumers of the country pay the tax.” Since the consumers represent “a larger class,” Boutwell continued, “the tax should fall on them.”¹³⁹ Whereas manufacturing interests advocated the sales tax in 1862, representatives wishing to relieve their constituents from the income tax became part of the debate in 1865.

As with the debate in 1862, this became a contest between eastern and western interests, as well as urban against rural representatives. Sixty-seven percent of the western representatives opposed this tax. California representatives William Higby and Thomas B. Shannon favored it, in hopes of relieving the tax on domestically produced wine. “A tax on sales,” James A. Garfield (R. OH) protested, “is a tax on all necessities of life.” Garfield also showed concern for enlarging the government’s reach into the economy through this tax. “[The sales tax] would put property in a place where government can lay hands upon it in bulk.”¹⁴⁰ Although recognized in the 1862 deliberations that this measure would increase the role of the federal government in the economy, representatives showed far more concern about this issue in 1865. William A. Allison (R. IA) also worried about augmenting federal power through this tax. “It would be a radical change in our system of raising revenue and would require the presence of the tax gatherer and collector in every district and hamlet in the country,” to secure the revenue from a sales tax.¹⁴¹

Rather than a sectional split, the interests in this legislation fell more towards rural against urban representatives. Fernando Wood (D. NY) former mayor of New York city, whom Joel H. Silbey described as one of the Democrats who feared “the impact the war was having on the country,” and “the centralization of power” incumbent in the war legislation, nevertheless did not see this augmentation of national taxing power as a part of this feared revolution.¹⁴² Wood supported this measure. “If you tax sales it does not necessarily follow that the tax imposed runs into the consumption of the articles and the

¹³⁹ *Congressional Globe*, 38th Cong., 2nd sess., February 17, 1865, 874.

¹⁴⁰ *Ibid*, 874.

¹⁴¹ *Ibid*, 875.

¹⁴² Joel H. Silbey, *A Respectable Minority: The Democratic Party in the Civil War Era, 1860-1868* (New York: W. W. Norton, Co, 1977), 100.

consumer finally pays it,” he offered.¹⁴³ Rufus P. Spalding (R. OH) said he supported the sales tax because “the shoddy contractors” and “men who buy houses ... would feel the tax.”¹⁴⁴ John A. Griswold (R. NY), hoping to relieve his state from the disproportionate national share of the income tax, supported the sales tax, while complaining that “no mode of taxation is more unjust and unequal” than the income tax.¹⁴⁵

Robert D. “Pig Iron” Kelley, the outspoken defender of Pennsylvania iron also favored replacing the taxes on iron and iron products with a sales tax. Protectionists general eliminating or reducing other taxes to increase the dependence on tariff revenue. All the Massachusetts representatives, except Samuel Hooper (R. MA), who had a change of heart on this issue, voted for the tax, hoping to relieve the textile concerns in their state. Hooper noted that it hurt those in rural area who “have to pay the tax many times over on flour and groceries.”¹⁴⁶ William Allison (R. IA) noted that another special interest would benefit from the sales tax. “I am not surprised that gentlemen representing constituencies in New England” and other great cities in eastern states are in favor of this tax upon sales ... the tax will consolidate trade in those large cities and break down the smaller traders throughout the country.”¹⁴⁷ The amendment failed on February 18, 1865.

Justin S. Morrill emerged as the primary opponent to incorporating a national sales tax into the revenue bills, both in 1862 and 1865. As a former merchant and storeowner in a small Vermont town, Morrill, more than any other participant in the sales tax debate, understood the mechanisms needed to collect the tax, and the effect it would have on small businesses. He did not wish to see the augmentation of federal power inherent in this tax. “Inspectors and collectors,” Morrill warned, “would have to

¹⁴³ Congressional Globe, 38th Cong., 2nd sess, 875.

¹⁴⁴ *Ibid*, 876.

¹⁴⁵ *Ibid*, 873.

¹⁴⁶ *Ibid*, February 17, 1865, 877.

¹⁴⁷ *Ibid*, 875.

run down every transaction in the country.”¹⁴⁸ Small-scale retailers, who would have to pay the tax to acquire items, than charge it again upon the sale, would face price competition, and eventually elimination, from larger distributors with national reach. Manufacturers and importers would undercut these merchants, and replace their businesses. Merchants did not keep detailed books that would allow the efficient collection of this tax. Finally, many “sales” still occurred without money, as a form of barter.¹⁴⁹ How would a revenue officer determine the appropriate tax in these situations, Morrill wondered.

Applying some of the lessons of brief debate for an unsuccessful tax, we find that congressmen represented the interests of their constituents. Republicans from manufacturing districts favored the legislation. Both Republicans and Democrats from rural areas opposed the legislation. Although Democrats voted overwhelmingly against this measure, urban Democrats favored it. New Yorkers in particular, supported the measure as a substitute for the income and other progressive taxes that hit their constituents disproportionately. Thus constituent interests, some of whom were also strong economic interests in the district, played a key role in this vote. The sales tax would have facilitated the Republicans supposed goal of “bolster[ing] a new national system,”¹⁵⁰ both by concentrating the power within the economy, and extending the governments reach into the daily transactions. While acknowledged and understood that this would eventuate with the introduction of the sales tax, the proposal did not pass. The broader contention that “industrial capitalism was now in control of the state” cannot be supported by this episode.¹⁵¹ The sales tax clearly would have shifted the burden of taxation from the “steam giants” and “capitalists” and spread it on the citizenry. This did not happen. Also the generalization that the Union tax system constructed the “most coercive civilian agency in the national government” needs

¹⁴⁸ *Congressional Globe*, 38th Cong., 2nd session, February 17, 1865, 878.

¹⁴⁹ *Ibid*, 1457.

¹⁵⁰ Richardson, *Greatest Nation*, 137; also, Arthur M. Lee,

¹⁵¹ Louis M. Hacker, *The Triumph of American Capitalism* (New York: Columbia University Press, 1940), 340.

moderation. Implementing the sales tax would have necessitated a larger, more coercive force of collectors, a fact recognized then rejected during the debates.¹⁵² Morrill had the final word on this issue:

The vast amount of sales of the country are purely and simply on the necessaries of life; you are therefore proposing to tax the poor man with a large family ... the very men that we have exempted from license [fees], the very men that we have exempted from the income tax, will not escape this tax.¹⁵³

The effort to shield the “poor man with a large family” defeated the corporate interests on this measure.

Conclusion

The economic legislation drafted during the war represents a series of capitulations, rather than a drive to create a new hegemony Justin S. Morrill voted against the first issue of Greenbacks in February, 1862, but acquiesced eleven months later, acknowledging that, “I am constrained to give my vote for this measure now because I know . . . the Treasury demands instant relief . . . it is not my will that consents but the poverty of the Treasury that compels me to follow the only path left open.”¹⁵⁴

As James G. Blaine noted in his memoirs:

We are so familiar with the vast sums which the war against the Rebellion caused the National Government to disburse, that it is difficult to appreciate the spirit with which the legislators of 1861 approached the impending burdens. They knew that their task was great. They were in imminent peril, not only from open hostility, but also from doubt and fear. The resources of the Republic had not been measured . . . The needs of each crisis were supplied as each arose. Congress did not try to look far into the future. It exerted itself to give daily bread to the armies of the Union, to provide munitions of war, to build and equip the navy.¹⁵⁵

¹⁵² Bensel, *Yankee Leviathan*, 169.

¹⁵³ *Congressional Globe*, 38th Cong., 2nd sess., February 17, 1865, 878.

¹⁵⁴ William Belmont Parker, *The Life and Public Services of Justin Smith Morrill* (Boston, 1924): 144.

¹⁵⁵ Blaine, *Twenty Years*,” 398-9.

In the early months of the American Civil War, when the need to establish a system of internal taxation became apparent, lawmakers looked to the English precedent. First, taxes were not levied to “pay for the war,” rather they were enacted to guarantee payments on the interest rates for war loans. Only after lawmakers realized that the war would continue longer and costs more than anyone predicted did they construct this new system. Steady tax revenues assured lenders that the interest on the bonds they purchased would be paid regularly, allowing officials to negotiate lower interest rates. “[In England] tax revenue was used to reinforce the system of public credit. Tax revenue ensured that government had a secure and regular flow of income which it could use to maintain its credit and meet its interest payments,” explained H. V. Bowen.¹⁵⁶ Salmon P. Chase chose this approach for financing the American Civil War. “Public credit can only be supported by public faith, and public faith can only be maintained by an economical, energetic, and prudent administration and by prompt and punctual fulfillment of every public obligation,” he stated in his first report to Congress.¹⁵⁷ The per capita expense of the Civil War actually continued to increase after the surrender at Appomattox, as the debt accumulated and lawmakers used tax revenue to continue interest payments and retire the principal.

¹⁵⁶ H. V. Bowen, *War and British Society, 1688-1815* (Cambridge, UK: Cambridge University Press, 1998), 23.

¹⁵⁷ *Report of the Secretary of the Treasury*, July 4, 1861, 6.

CHAPTER VI

THE “MOST BURDENED OF THEM ALL”

The fate of the war, and the Republican administration that guided the Union’s strategy, remained uncertain through the summer of 1863. The Confederate Army had managed to defend itself well and repelled or outmaneuvered Union advances. President Lincoln appointed one general after another to lead the military effort and each floundered. The war cost more than anyone’s most extravagant estimates. The Treasury struggled to keep pace with the mounting expenses. “McClellan is a dear luxury,” Chase complained in his diaries during the winter of 1862. “Fifty days, fifty miles, fifty millions of dollars – easy arithmetic, but not satisfactory.”¹

Congress had passed the first Legal Tenders bill in February 1862, creating, for the first time, a national fiat currency. Introducing the “greenbacks” had further widened the economic fissures within the Republican Party. Close colleagues and good friends, such as Thaddeus Stevens and Justin S. Morrill, differed forcefully on this legislation. Stevens supported printing the greenbacks, while Morrill remained convinced they augured financial chaos for the country.²

These differences continued through the post-war period. Although a divisive issue throughout Reconstruction, during the war the greenbacks gave the Treasury what it needed most, “purchasing power.”³ Congress declared that the greenbacks represented “lawful money and a legal tender in payment of all debts, public and private.” The Treasury still needed gold, so importers paid their tariffs in coin, not paper. As the *London Economist* noted, the Treasury still needed a steady source of specie to pay

¹ *Inside Lincoln’s Cabinet: The Civil War Diaries of Salmon P. Chase*, David Donald, ed. (New York: Longmans, Green Co., 1954), 14.

² Robert P. Sharkey, *Money, Class and Party: An Economic Study of Civil War and Reconstruction* (Baltimore, MD: Johns Hopkins University Press, 1959), 280-285.

³ Term used by Fritz Redlich, *The Molding of American Banking: Men and Ideas*. 2 vols. (New York: Johnson Reprint Co, 1968), II: 95.

interest to investors. Customs revenue provided “the only source, by the way, on which it [the US] relied for gold to pay the interest of the gold-interest-bearing loan.”⁴

Investors watched these policies with care and caution. This infusion of freshly printed cash permitted Chase to pay some of his bills, which he could not do otherwise. Thus by July 1, 1862, “Not a single requisition from any department upon the Treasury remained unanswered. Every audited and settled claim and every quartermaster’s check for supplies ... had been met, he reported with relief.”⁵

The balance Chase achieved in the Treasury quickly ran red again. The expenses of the war had reached over \$1 million per day, and receipts from customs and the five-twenty bond sales amounted to only \$380,000 daily.⁶ By the end of July 1862, only weeks after meeting his obligations, the government owed Union soldiers and defense contractors over \$36 million in back pay.⁷ At Chase’s urging the government printed a second batch of greenbacks bringing the total circulation to \$300 million before the end of the summer. Prices began to rise, although wages did not, and the sale of bonds, a barometer of faith in the nation’s future, flagged. “It was on the passage of arms that the confidence of the people in their government actually depended,” Robert Sharkey noted. “The greenbacks were issued on the credit of the nation, and it was victory or defeat that determined the standing of that credit.”⁸ Not until the summer of 1863, after the victory at Gettysburg, did the Union army inspire much faith.

This volatility in the state of the nation’s finances explains, in part, the haphazard manner in which Congress addressed the challenge of raising revenue. HR 312 became the single largest, and most novel, revenue measure passed by Congress. The government had never laid such a broad duty upon industry, taxing every step of the

⁴ *London Economist*, March 25, 1865, 341.

⁵ *Report of the Secretary of the Treasury*, 1862, quoted in Wesley C. Mitchell, *History of the Greenbacks* (Chicago: University of Chicago Press, 1903), 91-92.

⁶ *Ibid*, 91-92.

⁷ John Niven, *Salmon P. Chase: A Biography* (New York: Oxford University Press, 1995), 293.

⁸ Robert P. Sharkey, *Money, Class and Party: An Economic Study of Civil War and Reconstruction* (Baltimore, MD: Johns Hopkins University Press, 1959), 52.

manufacturing process. Originally, legislators had hoped this bill would suffice, but the continued demands of the war necessitated an even more comprehensive tax net thrown upon the nation. Although Chase and Morrill held high expectations for HR 312, the returns disappointed. The first year in effect, the measure generated only \$41 million in revenue, less than half what the lawmakers had hoped. Not until fiscal year 1864 did the revenue laws begin meeting the needs and expectations of the Republican leaders.⁹

The lawmakers feared that the fiscal demands of the war would overburden, and eventually collapse, the effort to reunite the nation. The relief Chase felt that July after paying his bills quickly dissipated. “Expenses are enormous, increasing instead of diminishing,” wrote an anguished Secretary Chase in September 1862. “It is a bad state of things; but neither the President, his counselors, nor his commanding generals seem to care. They rush on from expense to expense and from defeat to defeat, heedless of the abyss of bankruptcy and ruin which yawns before us.”¹⁰ Soon after Chase penned these concerns in his diary, the *London Economist* predicted in October 1862 that, “the independence of the southern states was as certain as any future event could be.”¹¹

Studies of the Civil War finances have overlooked two key elements that drove the Republican decisions. First, the vulnerability of the nation continued as a persistent concern. Would the Union actually win the Civil War? Although patriotism ran high, and the war rhetoric continued to call for defeat of the South, the expanding debt, and devices implemented during the war to keep pace of the expenses worried legislators. “Everyday’s delay in the passage of this bill (HR 405), Morrill fretted on June 16, 1864, “costs the government at least half a million dollars.”¹² As the war continued, it became clear that the Union could not afford the expense.

Second, because the Republicans held such a commanding political position in the government throughout the Civil War, and early years of Reconstruction, the

⁹ Frederic C. Howe, *Taxation and Taxes in the United States under the Internal Revenue System, 1791-1895* (Boston: Thomas Y. Crowell, 1896), 61 and Appendix V.

¹⁰ *The Salmon P. Chase Papers*, 5 vols. John Niven, ed. (Kent, OH: Kent State University Press, 1997): I, 381.

¹¹ *London Economist*, 20 (October, 1862), 1149-1150.

¹² *Congressional Globe*, 38th Cong., 1st sess., June 16, 1864, 3019.

political uncertainty of the party remains an unnoted factor in their decisions. In the congressional elections of 1862, the Republican Party suffered losses nationally. Democrats gained 35 congressional seats, and many gubernatorial victories. Republicans lost support in New York, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Wisconsin, Connecticut, and Maine.¹³ *Harper's Weekly* attributed the "recent Democratic victories" to "general dissatisfaction with the results of the war."¹⁴ Although the Republicans controlled the Executive and Legislative branches, they remained a party that continually looked over its shoulder, checking the political winds.

The blood drawn from the nation left the citizenry wary and impatient. John Sherman recorded another source of public discontent. During the summer of 1862, President Abraham Lincoln had prepared the initial draft of the Emancipation Proclamation, "without consultation with, or knowledge of the cabinet." His advisers urged him to wait until after the election to affect the policy, which he did. However the public greeted the news of the pending action "with coldness and silence," according to Sherman. "The effect of this proclamation upon the pending elections in Ohio was very injurious," he related.¹⁵

In retrospect, the defeat of the Confederacy in 1865 seems inevitable, but the men directing the effort worried not only about the fate of the nation, but for their political fortunes as well. James Bryce, another astute European observer who marveled at the American political system noted that, "the essential feature of the [party] system," in the United States, "is that it is from bottom to top strictly representative. This is because it has power, and power can flow only from the people."¹⁶ Throughout the course of the war, the people remained restless.

¹³ Philip S. Paludan, *A People's Contest: The Union and the Civil War* (Lawrence: University Press of Kansas, 1996), 100.

¹⁴ *Harper's Weekly*, November 22, 1862, 738.

¹⁵ John Sherman, *Recollections of Forty Years in the House, Senate, and Cabinet*. 2 vols. (Chicago: Werner Co., 1895): I, 329-330.

¹⁶ James Bryce, *The American Commonwealth*, 2 volumes. (London: Macmillan and Co., 1889), II: 48.

The Republican Party's governance during the Civil War remained a true anomaly. Elected in 1860 as a minority party that won only 39 percent of the national vote, they nevertheless entered office with complete control. The departure of the representatives and senators from the seceded states gave this fragile coalition party unprecedented authority over the national government. Only in the Judiciary, where career Democrat Roger B. Taney still presided as Chief Justice, did the opposition retain influence in a branch of government. Muted by the public outcry against the 1857 *Dred Scott* decision, this one voice of official opposition did not resonate. President Lincoln's effort to forge a coalition government extended beyond his party, when he selected Democrat Andrew Johnson as his running mate in 1864. Not only did this signal his desire for a rapid end to partisan and political strife after the war, but gave, he hoped, a stronger political base to his party for the election. Choosing a War Democrat for Vice President would help convince other northern Democrats to vote Republican (or Union, a label the party created during the campaign.)¹⁷

Despite the Republican Party's continued weakness in the polls, the war compelled them to act against the public weal. Emancipation did not have broad public support, yet President Lincoln released the Emancipation Proclamation in January 1863. Issuing the greenbacks provided another example of governing against public opinion. After the war, when greenbacks became inculcated into the economy, the new currency achieved great popularity, and became the "money of the people."¹⁸ However, during the war, greenbacks exacerbated some of the financial difficulties of ordinary Americans because they produced rapid inflation, and the flight of specie.

¹⁷ Hans L. Trefousse, *Andrew Johnson, A Biography* (New York: W.W. Norton, 1989), 176-178. Many questions remain as to how Johnson became the 1864 Republican Vice Presidential candidate, and what role Lincoln did or did not play in this scheme. Lincoln worried that dropping Hannibal Hamlin from the ticket too soon would agitate New Englanders, so kept his cards close to his chest. After Johnson's failed presidency, biographers sympathetic to Lincoln stressed that he had little to do with Johnson's ascension.

¹⁸ Sharkey, *Money, Class, and Party*, 106.

The tax measures passed during the war also worried the lawmakers' and raised fears about the public compliance. The United States government had not levied taxes since the War of 1812, and the political leaders feared inciting public outrage by imposing a heavy tax burden. They remained uneasy about enacting taxes throughout the course of the war. After the first disastrous defeat at Bull Run, in August 1861, Chase opined in a letter to John C. Fremont that, "there is great danger that, after a month or two the people in view of the magnitude of the burdens it [the war] is likely to entail, will refuse their support."¹⁹ As late as April, 1864 Gideon Welles recorded in his diary that, "Congress is laboring on the tax bill. The members fear to do their duty because taxation is so unpopular. An old infirmity. Chase has not pressed for it heretofore for the same reason."²⁰

We know now that the public willingly accepted this new burden, but the lawmakers had no way of knowing if how far they could reach into the pockets of the loyal citizens. Taxes roused public discontent in the past, and the amounts levied during the Civil War far exceeded any amount requested by a Congress. Senator William Pitt Fessenden warned in 1862 that the "general opinion of the people in all sections of the country," would find the tax bill "odious" and "offensive." Citizens will not like "this going into people's houses to know whether they had pianos, or going in their yards to find whether they had a carriage."²¹

Popular unrest did occur during the Civil War. Riots broke out in Wisconsin, Detroit, Chicago, and Rutland, Vermont between the summers of 1862-1863, precisely when the first revenue measure took effect. The most violent demonstration of public frustration occurred in New York in July 1863, when a four day Draft Riot broke out, leaving 105 people dead. The periodic outbursts of violence "can be viewed as a direct consequence of specific wartime tensions." Thus, officials never knew when they might

¹⁹ Chase to John C. Fremont, August 16, 1861, *Chase Papers*, Niven, ed., III: 85-86.

²⁰ *Diary of Gideon Welles*, vol. 2, April 22, 1864, 16.

²¹ *Congressional Globe*, 37th Cong., 2nd sess., May 24, 1862, 2330.

go too far in taxing citizens, and set up the next riot.²² Anger against the Conscription Laws, passed in 1862 and 1863, which imposed the draft for the first time in United States, provoked these outbursts of popular anger. But Republicans also feared that exorbitant taxes could further exacerbate the public fury. Chase noted in his 1863 *Annual Report*, written the fall after the New York draft riots, “I can see clearly that we go no further without heavy taxation” and “heavy taxes will excite discontent.”²³

Few “tax riots” have occurred in American history. The “major categories of collective violence” that convulsed civic society before the Civil War, include “anti-immigrant, religious, anti-abolitionist, and anti-black” or other race riots.²⁴ The Whiskey and Fries Rebellion remain notable, in part because they represent anomalies. The “theme” that “resistance to new or rising taxes ... has punctuated American history from the very beginning,” continues as a great American myth, Anthony Joseph argued.²⁵ Because tax collection, and the expenditure of public revenue, remained a function of state and local governments, “the criterion of representative consent seemed largely satisfied.” Indeed, Joseph found that Americans most often described themselves as “cheerful taxpayers” throughout the Early Republic and Antebellum eras.²⁶

Yet, the Civil War revenue measures broke this “cheerful” system of fiscal federalism. The need to meet the expanding costs of the war forced the Republicans to develop tax programs that, according to Revenue Commissioner David A. Wells, resembled an “Irishman on his visit to the Donnybrook fair; ‘Whenever you see a head, hit it.’ Whenever you find an article, a product, a trade, a profession or a source of

²² J. Matthew Gallman, *The North Fights the Civil War: The Homefront* (Chicago: Ivan R. Dee, 1994), 149.

²³ Chase in Albert B. Hart, *Salmon Portland Chase* (Boston: Houghton Mifflin, 1899), 237.

²⁴ Michael Feldberg, *The Turbulent Era: Riot and Disorder in Jacksonian America* (New York: Oxford University Press, 1980), 6.

²⁵ David O. Sears and Jack Citrin, *Tax Revolt: Something for Nothing in California* (Cambridge, MA: Harvard University Press, 1982), 1.

²⁶ Anthony M. Joseph, *The Cheerful Taxpayer: An Early Modern Political Idiom in the Early American Republic*, paper delivered at the SHEAR Conference, July, 2000. Numerous references to paying taxes “cheerfully” appear in the Civil War era newspapers and political debates.

income, tax it!”²⁷ The national government joined the state and local governments as an agent for collecting the multitudinous taxes. They feared they would face an adverse public reaction if they pushed too hard for revenue. “You must remember,” Senator William Pitt Fessenden (R, ME) wrote to his friend James S. Pike (R. NH) in 1864, “that it takes time to find out how much a people can bear, and in what way best to impose the burden.”²⁸

“Asserting nationalism became [the] most distinguishing feature” of the “economic policy developed by Republican leaders,” Arthur Lee suggested.²⁹ Yet, the Republican lawmakers approached this leap into national taxation cautiously, and with little enthusiasm. “The unwillingness to create friction and opposition,” James G. Blaine noted, “entered into the considerations which determined the [revenue] recommendations of the Secretary.”³⁰ Historians too often overlook this reluctance to impose national taxes because of the many calls that arose across the country for a systematic revenue system that would alleviate the long-term expenses of the conflict.

The public understood that they would have to pay the war costs, either during the conflict through taxes, or as a heavier toll later through long-term interest payments. The *New York Tribune* predicted in December 1861 that loyal citizens will “cheerfully submit” to a system of taxation to prosecute the war.³¹ “The tax gatherer will be received by every loyal man,” the *Chicago Tribune* predicted in March 1862.³² Thaddeus Stevens (R. PA), as Chair of the Ways and Means Committee, received many letters from citizens supporting taxation. “My life and the little property I have is at the disposal of the government for the suppression of the rebellion,” wrote Unak Bruner of

²⁷ Herbert A. Ferleger, *David A. Wells and the Revenue System, 1865-1870* (Ann Arbor, MI: Edward Brothers, 1942), 44.

²⁸ Quoted in Charles A. Jellison, *Fessenden of Maine: Civil War Senator* (Syracuse, NY: Syracuse University Press, 1962), 176.

²⁹ Arthur M. Lee, *The Development of an Economic Policy in the Early Republican Party*, Unpublished Dissertation, Syracuse University, 1953, 302.

³⁰ James G. Blaine, *Twenty Years of Congress, 1861-1881*. 2 volumes. (Norwich, CT: Henry Hill Publishing Co., 1884), 402.

³¹ *New York Tribune*, December 26, 1861, 4.

³² *Chicago Tribune*, March 7, 1862, 1.

Nebraska in February 8, 1862.³³

Although conscription riots rocked the Union, no tax revolt occurred during the course of the war, despite the heavy taxes levied upon Americans. Revenue Commissioner Joseph J. Lewis noted in his first report to Congress that, “The present tax laws, on the whole, have been not merely endured, but welcomed by the people in a manner ... elsewhere unparalleled.”³⁴ Imposing indirect taxes, instead of relying on the direct taxes, also helps explain the public’s readiness to accept the new revenue program. “Indirect taxes are an indistinguishable part of the price of commodities and [the taxpayer] is not always sure that he is paying any tax,” commented Richard T. Ely.³⁵ The reliance on indirect taxes made the new tax regime more palpable to the public. The public accepted indirect taxes more readily than direct taxes, which helps explain the reliance on excises and tariffs after the Civil War.

Even with these expressions of popular support for a vital revenue program, the Republicans remained hesitant to disrupt the structure of fiscal federalism to enact a national program of taxation. Contrary to the idea that they eagerly embraced opportunities to “nationalize” the economy, the Republicans looked upon this as less of an opportunity than a challenge and a burden. Aside from the concerns about public opinion, other complications emerged in forced development of a unified fiscal system. The first related to the currencies of the nation. Despite the introduction of the greenbacks, notes of various types continued to trade as currency. Silver coins disappeared from circulation, creating great difficulties in managing small day-to-day transactions. Forced to produce some type of medium for these exchanges, the Treasury authorized the use of postage stamps as a currency on July 17, 1862. This expedient proved less helpful than anticipated, since the stamps had a “propensity for sticking

³³ Thaddeus Stevens Papers, *Library of Congress*, February 8, 1862; see also Milo A. Holcomb to Thaddeus Stevens, January 28, 1864.

³⁴ *Report of the Commissioner of Internal Revenue*, in Annual Report of the Secretary of the Treasury, 38th Cong., 1st sess., December 6, 1863, Ser. Set 1186, 1.

³⁵ Richard T. Ely, *Taxation in American States and Cities* (New York: Thomas Crowell, 1888), 87.

together and getting crumpled.”³⁶ People took to cutting small denomination bank notes into quarters or tenths, to replace quarters and dimes.

Shinplasters, private notes issued by “hotels and transportation companies, but also barber shops and drug stores,” circulated widely, although the state governments declared them illegal.³⁷ Banks still printed their own notes, responding to the need for fractional currency. The Treasury began circulating copper coins and fractional bills by late 1863, but the currency situation continued to create “disorder and much inconvenience to public business,” throughout the course of the war. Thus, when first introduced, the greenbacks neither stabilized the economy nor nationalized the currency.³⁸

The National Banking Act of 1863 allowed the banks that received a national charter to print notes. State banks continued to produce their own notes, since the demand for them continued. Western states did not have a supply of either greenbacks or national banks, so they continued to handle their money affairs as they had always, with a jumble of local currencies. The internal revenue laws taxed the state bank notes, but not until 1865, when Congress imposed the “death tax” of 10 percent these renegade notes, did they begin to disappear.³⁹ Approximately \$179.2 million in state bank notes circulated in 1864, but only \$20 million by 1866.⁴⁰ As the supply dwindled, the remaining notes became “dirty, greasy, and repulsive to use.”⁴¹ However, state banks remained an important part of the local economies, particularly in the western states. State banks still outnumbered national banks as late as 1892.⁴²

Paying for the prosecution of the war, rather than nationalizing the financial structure of the country, remained the primary objective of the Republican

³⁶ Mitchell, *History of the Greenbacks*, 162.

³⁷ Arthur Nussbaum, *A History of the Dollar* (New York: Columbia University Press, 1957), 113.

³⁸ Mitchell, *History of the Greenbacks*, 181.

³⁹ Nussbaum, *History of the Dollar*, 109-110.

⁴⁰ Mitchell, *History of the Greenbacks*, 179.

⁴¹ *Internal Revenue Record*, July 29, 1865, 25.

⁴² Both quotes in Bray Hammond, *Sovereignty and an Empty Purse: Banks and Politics in the Civil War* (Princeton NJ: Princeton University Press, 1970), 347.

administration. The “confused state of monetary circulation” impeded the bond drives initiated by Jay Cooke.⁴³ Cooke and his agents sold \$361 million of the five-twenties in communities across the country. As one of the first national financial campaigns of any kind, he came across the same difficulties with the various currencies in use. “The most serious problem, when sales were large, was that of securing the proper means for making payments to the government.” Required to make payments “in lawful money,” Cooke often had trouble finding enough acceptable currency to transfer to the Subtreasury in New York or Treasury in Washington. In the fall of 1863, the sales of bonds outpaced the Treasury’s ability to print greenbacks, and Cooke’s agents often had to hold these various local currencies until shipments of fresh greenbacks arrived. In smaller towns where suspect currencies circulated, Cooke’s agent had to absorb the cost of exchanging these moneys into greenbacks or Treasury notes.⁴⁴

The Treasury depended on the domestic sales of bonds. Chase and members of Congress knew they could not rely on foreign capital to invest in U. S. securities, and thus needed the support and cooperation of American citizens. “It is vain to look abroad” for funds, Chase noted in an October 13, 1861 letter to General William T. Sherman.⁴⁵ Wedded to borrowing at home, the government needed to provide some consistent means for customers to pay for their bond purchases.

The difficulty in establishing a national revenue system while thousands of different legal currencies circulation also troubled the internal revenue process. Collecting taxes for the national government under the disparate monetary system proved a challenge. Local assessors and collectors were required to accept “all lawful money” for taxes. They assumed responsibility for verifying the validity of the notes they received. The Treasury established depositories in each state for the collected funds and kept separate accounts for “all moneys” received from the internal duties or taxes

⁴³ Mitchell, *History of the Greenbacks*, 178.

⁴⁴ Henrietta M. Larson, *Jay Cooke: Private Banker* (Cambridge, MA: Harvard University Press, 1936), 143-151.

⁴⁵ Chase to W. T. Sherman, October 13, 1861 in John Niven, ed. *The Salmon P. Chase Papers*, 5 volumes. (Kent, OH: Kent State University Press, 1997): III, 101-102,

from each state. Officials would then convert the funds into greenbacks, or national bank notes.⁴⁶

Setting standard pay for tax officials working in different parts of the country also proved a challenge. How do you equalize pay across the country, where the value of money, and the cost of living changed dramatically? Lott Morrill (R. ME) complained in the early days of the debates over HR 312, that granting the same pay to collectors in the “rural, poor districts” of the country with those in the more urban areas over compensated those working in the former.⁴⁷ Timothy Phelps (R. CA) countered that the costs of collecting revenue in his state would remain high. Assessors and collectors did not receive reimbursement for travel, or any daily expenses (such as stationery), which would make the costs in his state quite high for each revenue officer.⁴⁸ To ease this debate, revenue officers instead received a fixed per diem (\$3 per day for assessors) for each day engaged in duty, plus an extra \$1 for each 100 names they placed on the tax list. Collectors worked entirely on commission, 4 percent up to \$100,000 tallied, then 2 percent for the amounts over that plateau.⁴⁹ Rationalizing terms across the country also challenged officials. A debate erupted on May 23, 1862 over the difference between a horse dealer and a horse trader, since the proposed tax rate differed. Although they performed the same tasks, dealer generally dealt in urban areas while the term trader was used more often in rural areas.⁵⁰

Meeting the war costs, through loans and revenue, helped push the Treasury to initiate the programs that posed the greatest threat to the localized economic structure of the antebellum era. To gather enough money to fund the Civil War, the Treasury needed some consistent medium of exchange, collected anywhere in the country and recognizable in Washington. Introducing the greenbacks gave the Treasury the ability to pay its bills, and Americans a consistent method for paying their taxes. The greenbacks

⁴⁶ Act of July 1, 1862, 12 *Statutes at Large*, 442-445.

⁴⁷ *Congressional Globe*, 37th Cong., 2nd sess., March 19, 1862, 1228.

⁴⁸ *Ibid*, 1291.

⁴⁹ Act of July 1, 1862, 12 *U.S. Statutes at Large*, 438-445.

⁵⁰ *Congressional Globe*, 37th Cong., 2nd sess., May 23, 1862, 2310-2311.

emerged as part of the effort to save the nation rather than nationalize it. The mixed currencies of the country greatly impaired the effort to draw in the revenue needed for the war.

“The most lightly taxed Nation on the Earth”

Once established, the Republicans followed the same principle for the subsequent tax measures passed after HR 312. They created a “diffuse” tax program that attempted to place “no burden on those with small means.”⁵¹ The general duty on manufacturers provided the most revenue during the war, but lawmakers never agreed on who actually paid this tax. Justin S. Morrill insisted throughout the conflict that this duty did not fall on “consumers,” but instead draws from “the profits made by manufacturers.”⁵² However, Fernando Wood (D. NY) disagreed. “Some gentlemen appear under the impression that the manufacturers are to bear the burden [of this tax.] That is not so. It is the consumer, and not the manufacturer.”⁵³

Incidence, or where the burden of taxation falls, has always provided a compelling field of inquiry for economists. Historians assume that a “beer tax” hits “beer drinkers.” However, Professor McCloskey has argued that, “The question of incidence cannot be answered by inspecting the tax law or its revenue.”⁵⁴ The legislators crafting the Civil War revenue laws struggled with the same question. “There are and always whom it is levied and from whom it is collect, or whether it is somebody to whom he sells his goods and manufactures,” lamented Senator King in 1862. “We shall never know.”⁵⁵

Determining who would pay a tax on cotton became a central question in the debates over levying this duty. New England “Radical” Republicans, such as Charles Sumner, Benjamin Butler, and James Simmons, all associated with policies to punish the

⁵¹ Thaddeus Stevens, *Congressional Globe*, 37th Cong., 2nd sess., April 8, 1862, 1577.

⁵² *Congressional Globe*, 38th Cong., 2nd sess., Feb. 17, 1865, 878.

⁵³ *Congressional Goble*, 38th Cong., 2nd sess., Jan. 14, 1864, 218.

⁵⁴ Donald N. McCloskey, “The Incidence in Taxation in England and France: A Reply to Mathias and O’Brien,” *Journal of European Economic History*, 7 (Spring, 1978,) 210.

⁵⁵ Senator King, *Congressional Globe*, 37th Cong., 2nd Session, May 27, 1862, 2375.

South for instigating the conflict, nevertheless consistently thundered against the tax on cotton in order to spare the textile mills in New England from paying this cost. The Ways and Means committee originally proposed a tax of three cents per pound on cotton, but accepted in HR 312 a tax of only a half-cent per pound.⁵⁶

The tax on cotton rose after the war, one of the few to do so, to three cents per pound, paid by the producer. In determining the post war cotton tax, representatives expressed their concern over the incidence of such a vital product. Justin S. Morrill fought for a lower cotton tax in 1862, expressing his hope that the tax code would not be used for “grinding the South.”⁵⁷ However by the end of the war, Morrill favored a higher cotton tax, with limited exemptions, to ensure that, “every piccaninny in the South” would not try to skirt the tax through these exemptions.⁵⁸ John Lynch (R. ME) argued that if the cotton producer paid the tax, then the bill should allow for high exemption to spare the “small producers, black and white” from the burden. He suggested instead, that Congress override the constitutional directive against levying duties against exports, and “letting England pay” this tax.⁵⁹ Reminded that the Constitution banned a tax on exports, Lynch retreated. A brief discussion ensued about whether Congress could ignore this provision, since an export duty on cotton would provide tremendous revenue, with little pain to the taxpayers. This discussion proved more theoretical than substantive. Here Congress adhered to the Constitution with regard to taxation, whereas they stretched the meaning of an indirect tax in order to implement the income tax.

Abner Harding (R. IL), who served in the war with the Eighty-third Illinois Infantry, wanted the tax removed completely to spare “the toiling millions” of this country, who would pay the tax through their clothes purchases. Samuel S. Marshall (D. IL) agreed, claiming the tax on cotton would “shift the burdens of government from the

⁵⁶ Harry E. Smith, *The United States Federal Internal Tax History from 1861 to 1871* (Boston: Houghton, Mifflin Co., 1914), 226; *U.S. Statutes at Large*, 465.

⁵⁷ *Congressional Globe*, 37th Cong., 2nd sess., March 27, 1862, 1412.

⁵⁸ *Congressional Globe*, 39th Cong., 1st sess., May 8, 1866, 2473.

⁵⁹ *Ibid*, May 8, 1866, 2473-2477,

rich to the poor.”⁶⁰ This agitation against the cotton tax became less a divide between parties. Senator Cowan also noted that taxing cotton would place also tax the consumer goods made with cotton. “It is true that the poor people of the North are as willing to pay their tax on their shirt as on their tea and coffee; they are willing to pay their taxes, and perhaps more so than the rich people; but I say it is unjust to impose on them now all the heavy burdens of the nation it is unjust to make they the great source of revenue.”⁶¹

The repeal of the general duty on manufactured goods made the tax on cotton more acceptable to the representatives of the textile interests. Eventually Congress adopted a tax of two and a half cents on cotton, but, the next year, Congress stopped taxing cotton altogether.⁶²

“Until a few years ago, we were the most lightly taxed nation on the earth,” remarked Congressman Henry J. Raymond (R. NY) in 1865. “Now we are amongst the most heavily burdened of them all.”⁶³ Despite this burden, Congress marveled that the public bore the taxes without any severe complaint. “The present tax laws, on the whole, have been not merely endured, but welcomed by the people in a manner, it is believed, elsewhere unparalleled,” noted the 1863 *Annual Report* from the Internal Revenue Commissioner.⁶⁴ But not all saw the taxes as a “welcomed” addition to the civic life. Samuel S. Cox (D. OH) wondered in 1862 why Congress “commenced this tax business at the wrong end.” First they levied a tax on “tea, coffee, sugar, and other necessities of life,” then later they turned to the luxuries, like “circuses,” which had to pay a tax on their ticket sales beginning with HR 312. The definition of what constitutes a necessity played a significant role determining which items to “hit” with taxes. “We must recollect that we have taxed the poorer classes of our people almost out of the

⁶⁰ *Ibid*, 2478-2479.

⁶¹ Senator Cowan, *Congressional Globe*, 37th Cong., 2nd sess., May 23, 1862, 2320.

⁶² Smith, *Tax History*, 241-242.

⁶³ *Congressional Globe*, 39th Cong., 1st sess., May 7, 1865, 2438.

⁶⁴ *Report of the Commissioner for Internal Revenue*, 1863, 38th Cong., 1st sess., House Ex. Doc. 3, Serial Set 1186, 1.

power of social enjoyment [through the liquor/beer taxes,] stated Benjamin G. Brown (U. MO) in 1865.⁶⁵

Even the income tax, clearly the most “just” tax enacted during the war, fell hard on the “middle class.” The *Internal Revenue Recorder* reported in 1867 that the income tax in 1866 (its most productive year) brought in \$61 million, of which \$26 million paid by those with less than \$5,000 in income. Over 300,000 people paid the \$26 million, whereas only 50,000 individuals paid the remainder of the tax. “It is unjust, unproductive, inequitable. It falls with crushing effect on salaried men.”⁶⁶ Adopting the method of collecting the income tax “at the source” had made salaried individuals more susceptible to the tax than the “honest” citizens who had to report their income. This policy hurt government employees in particular. Private companies did not always cooperate in reporting their charges’ salaries.⁶⁷ The tax on interest from stocks and bonds issued by banks, railroad companies, insurance companies, and other private corporations proved the most productive means of counting the “hidden” income of the wealthy.⁶⁸

Worries about tax incidence did not fall strictly on party lines; as Linden suggested, a geographic divide, depending on the tax and how it affected the constituency of the representative or senator most influenced the lawmaker’s concerns about where the tax fell. Nor did the same ideal of tax equity that we have now extend back to the Civil War era. “In our age,” Webber and Wildavsky observed, “conceptions of equity comprise the central core of fiscal theory. Equity of incidence manifested as one measure of the goodness of a tax.” However, in an earlier time, “fiscal equity meant, without exception, all men should pay taxes.”⁶⁹

The Civil War represented the first “modern” war in American history, but the fiscal policy used to fund that war retained elements of the archaic. The tax on

⁶⁵ *Congressional Globe*, 38th Congress, 2nd sess., February 11, 1865, 757.

⁶⁶ *Internal Revenue Recorder*, February 16, 1867, 50.

⁶⁷ *Report of the Assessors and Collectors Convention*, 14.

⁶⁸ Smith, *Tax History*, 54-55.

⁶⁹ Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (New York: Simon and Schuster, 1986), 273.

manufacturers and the income tax augured future tax policies that would attempt to shift the incidence towards a more progressive policy. However, immediately after the war, Congress retained the ideal of taxing “luxuries” or “superfluities” as a fair form of taxation. This concept, borrowed from the past, wedded the United States to a more regressive tax program in the late nineteenth century.

“Obvious as the Sun’s Pathway through the Heavens”

The Thirty-ninth Congress opened on December 4, 1865. When Congress had last assembled, the war still smoldered. Not until the Union victory at Gettysburg in July 1863, and the subsequent surrender at Vicksburg, did the North’s military effort gain any traction. By the close of the Thirty-eighth Congress, members spoke confidently of the future “success in the great contest,” but soldiers in the field still needed food, clothes, and arms. The final revenue measure of the war became law on the last day of the session. This bill raised the rates on alcohol, increased the income tax to a new high of ten percent on all incomes above \$5,000. “It will be time enough when the rebellion shall be ended to speculate upon a system of taxation by which our public debt shall be extinguished and by which more rigid forms of equity shall be carried out,” Morrill promised the members.⁷⁰

Re-elected to office the previous November, President Abraham Lincoln launched another great battle, this time against political allies instead of rebellious Confederates. The last session of the war Congress featured the beginning of a great power struggle between the Executive and Legislative branches of government that would last until 1877. Radicals in Congress began a campaign to stretch the earlier bounds of the federal government’s power in order to secure the emancipation of all slaves, then bestow full political and civil rights upon the freedmen. They achieved limited success on January 31, 1865, by amending the Constitution for the thirteenth time, thereby ending the most hideous epoch of American history.

⁷⁰ *Congressional Globe*, 38th Cong., 2nd sess., February 9, 1865, 696; Act of March 3, 1865, 13 *U.S. Statutes at Large*, 1865.

Despite this achievement, Congress and the President Lincoln could not agree on a measure to guarantee suffrage for the freedmen. The president wished to limit the franchise to black soldiers, or possibly civilians if they could read, and of course, were men. The Radicals pressed for conferring the franchise to all adult male blacks. Both sides retreated, and agreed to resume their contest during the Thirty-ninth Congress. However, before adjourning, Congress did establish the Bureau of Refugees, Freedmen, and Abandoned Lands. The Freedmen's Bureau would provide relief and temporary subsistence for the freed slaves, clothing, and other basic needs. However, Congress allocated no funds or staff for the task. "Despite its unprecedented responsibilities and powers, the Bureau was clearly envisioned a temporary expedient ... for only a year."⁷¹ Although temporary, the establishment of the Freedmen's Bureau set a new course for the federal government. Restricted from reaching citizens "individually" before the war, the government now touched Americans and freedmen, through both financial and social legislation. Tragically though, the government retreated on social legislation, allowing states to resume control over their constituents, while continuing to invoke the power of internal taxation.

By the time Congress met again, the political landscape had changed. Felled by John Wilkes Booth, President Lincoln died on April 15, 1865. Only the week before, General Ulysses S. Grant had accepted General Robert E. Lee's surrender at the Appomattox courthouse. The benevolent terms General Grant allowed, letting the Confederate soldiers keep their horses, and the officers keep their sidearms, reflected the policy of the president. Before his death, Lincoln clearly intimated that he hoped to reunite the nation, and restore the South to full participation in American civic society as soon as possible. This vision now fell to Andrew Johnson, his Democratic, intemperate Vice President. Yet before the Congress assembled, Johnson's policies showed signs of failure. By the opening of Congress, seven and a half months after Johnson became president, southern states began working towards the enactment of "Black codes,"

⁷¹ Eric Foner, *Reconstruction: America's Unfinished Revolution* (New York: Harper, Row, 1989), 69.

repressive laws that would evolve into a systemic repression of black Americans throughout the nation, for the next 100 years.

Schuyler Colfax (R. IN), the new Speaker of the House, opened the session stating that Congress's duties appeared as "obvious as the sun's pathway in the heavens."⁷² However, splits within the Republican Party emerged over just how far the government could move towards granting individual rights and economic independence for individuals. Then, President Johnson and Congress began a fervent battle over the Reconstruction policies of the South. Congress passed sweeping Civil Rights legislation, only to see it vetoed by the President. The Freedmen's Bureau soon became emasculated. Johnson, who initially proclaimed his desire to reshape the political and economic power structure of the former Confederacy, issued over 7,000 pardons during the Thirty-ninth to former Confederate elites, who soon regained their political stranglehold over southern politics. As Foner noted, the Republicans held a majority in Congress that could overwhelm any of Johnson's vetoes. If they had shared a unified vision on the future course of Reconstruction, they would have reshaped the South, and enabled the new found, and fully funded, might of the national government to secure the social, political, and economic future of the freedmen. However, the divisiveness within the party, ineptness of the president, malaise and war fatigue of northerners, and intransigence of the southern white population, led to the resumption of state-based power in the South, and a beginning of a second tragic period of history for black Americans.⁷³

Debt or Taxes

Salmon P. Chase served as Treasury Secretary until June 1864. His weariness from the trials of the job caught up with him. The economy of government he sought when he took charge of the Treasury died on in the trenches of war and profiteering. His strain with Cabinet members continued. Rather than contenting himself with the

⁷² William H. Barnes, *History of the Thirty-Ninth Congress of the United States*. Reprint. 1868. (New York: Negro Universities Press, 1969), 20.

⁷³ Foner, *Reconstruction*, 176-238.

challenges in the Treasury, Chase also felt compelled to give his advice to the War Department. In early 1864, he made the terrible mistake of mounting a surreptitious campaign to wrest from Lincoln the Republican nomination for the presidency. Chase's efforts failed, shattered any hope of reconciliation with the president's loyalists, who retaliated by calling for an investigation of corruption in the Treasury department. Chase's close ties with Jay Cooke, whose success in selling war bond made him a wealthy man, drew increasing criticism from Congress. Finally Chase began to push for a more aggressive tax program, but by then, Congress had taken control of tax policy. When Chase offered his resignation to the president in June 1864 (a device Chase had used before to confirm Lincoln's confidence in his stewardship); surprising Chase, Lincoln accepted it.

Lincoln's leadership during the war did not inspire confidence in Union citizens. In August 1864, Lincoln told his cabinet that, "it seems exceedingly probable that the Administration will not be re-elected."⁷⁴ However, General William T. Sherman's capture of Atlanta and successes in Georgia, inspired voters, who re-elected Lincoln. However, this affirmation did not give the president greater sway within his party. Radicals who pushed the president to take a more decisive stand on abolition and Civil Rights for the southern blacks. Republican leaders differed greatly not only over these social and political questions, but also over fiscal policy. The fate of the greenbacks emerged as a divisive party issue. The Republican Party split over the question of how soon America should return to a policy of "sound finance," and withdraw the greenbacks from circulation. McCulloch replaced William Pitt Fessenden, who followed Chase at the helm, when Chase resigned during the summer of 1864. President Lincoln appointed Fessenden to signal "a measure of continuity" in fiscal policy and help "promote harmony" within the increasingly bitter factions of the party. Fessenden did "cast his

⁷⁴ Quoted in Gallman, *The Homefront*, 162.

lot” with most of Chase’s financial schemes, then happily returned to his seat in the Senate after one year.⁷⁵ Hugh McCulloch became the Treasury’s new secretary.

In his capacity as the president of the State Bank of Indiana, McCulloch traveled to Washington in 1863 to protest the Secretary Chase’s new National Bank system. Soon thereafter, Chase asked him to assume responsibility for implementing this new organization, a responsibility he accepted reluctantly. His knowledge of the workings of state banks, plus his contacts with the leaders of the banks helped smooth the inauguration of Chase’s bank policy. McCulloch became Comptroller of the Currency overseeing the admittance and circulation of the greenbacks. Ironically, McCulloch assumed responsibility for two programs he initially distained, another example of how the exigencies of war finance held more sway than pre-conceived fiscal principles. Further, like Chase, McCulloch remained an avowed free trader. Thus, two of the first three Treasury secretaries in a Republican administration advocated free trade, not protectionism.⁷⁶

McCulloch became Treasury secretary on March 9, 1865 and stayed in that office until the beginning of the Grant administration. During his tenure, he forcefully advocated two policies. First, he advocated a return to “sound money” by contracting as many of the greenbacks in circulation as quickly as possible and returning to the gold standard. Second, he wanted to reduce the federal debt. Both policies aimed to thwart the expansion of the wartime inflation. When McCulloch took office in 1865, \$100 in greenbacks purchased \$51 in gold, the highest inflation rate in the country since the War of 1812.⁷⁷ Although McCulloch launched an energetic contraction policy in 1866, the intense political reaction against this program led to a quick retreat two years later. This action opened the fissures within the Republican party, and again demonstrated how deeply divided the party remained with regard to economic matters. The question

⁷⁵ Quotes from Robert Cook, “The Grave of all My Comforts: William Pitt Fessenden as Secretary of the Treasury, 1864-1865,” *Civil War History*, 61 (Fall, 1983), 208-226.

⁷⁶ Hugh McCulloch, *Men and Measures of Half a Century: Sketches and Comments* (New York: C. Scribner’s Sons, 1888).

⁷⁷ Mitchell, *History of the Greenbacks*, 202.

expanding or contracting the greenback supply, and whether greenback could be used to pay the principal of the federal debt, opened a divisive political issue that rocked northern politics for the next 30 years.⁷⁸

Although all agreed that the government could cut taxes, differences emerged on how aggressively the government should reduce the debt. In our post-Keynesian world, we often overlook what the congressional leaders saw as one of the most formidable challenges they faced. By February, 1866, the nation had accumulated a debt of \$2.7 billion. Not only did it comprise the largest debt in the nation's history, but the magnitude of the debt dwarfed any of the previous encumbrances taken on by the government. Only five years before this time, members of Congress, many of whom still served, fretted over a \$70 million debt. They worried over the financial toll this would take on the nation. Servicing the wartime debt, Robert Yearly observed, "unquestionably posed a staggering task to men raised on the lackluster fiscal diet of pinchpenny government unaccustomed to taxing massively, spending lavishly, or borrowing feverishly."⁷⁹ Thus in evaluating future tax policy, Congress also considered a central question: should the United States stay with high, war-level taxes, using the surplus to shrink the debt, or should Congress reduce taxes, allowing the money to "fructify in the pockets of the people?"⁸⁰

Secretary McCulloch never equivocated. Inflation "corrupts the public morals," declared the secretary. "Men are getting rich while morality languishes and the productive industry of the country is being diminished." He did not want drastic cuts in

⁷⁸ Chronicled fully in Robert P. Sharkey, Robert P. *Money, Class, and Party: An Economic Study of Civil War and Reconstruction* (Baltimore, MA: Johns Hopkins University Press, 1959); Irwin Unger, *The Greenback Era: A Social and Political History of American Finance, 1865-1879* (Princeton, NJ: Princeton University Press, 1964).

⁷⁹ Clifton K. Yearly, *The Money Machines: The Breakdown and Reform of Governmental and Party Finance in the North, 1860-1920* (Albany: State University of New York Press, 1970), 13.

⁸⁰ *Commercial and Financial Chronicle*, XIII, quoted in Robert T. Patterson, *Federal Debt Management Policies, 1865-1879* (Durham, NC: Duke University Press, 1954), 117.

internal revenue, instead urged that the tax policy “should be stable.” He noted the frequent changes in the tax and tariff laws shows “the readiness of the people of the United States to adapt their business to the policy of the government, whatever it may be.” He wanted to use the accumulated revenue to pay down the debt. McCulloch also believed the high tariffs impeded trade, and urged Congress to lower the tariff duties.⁸¹ Regarding the debt, McCulloch declared his intentions in his first *Annual Report* as Treasury secretary:

The debt is large; but if kept at home, as it is desirable it should be, with a judicious system of taxation, it need not be oppressive. It is, however, a debt. ... Neither its advantages nor its burdens are or can be shared or borne equally by the people. Its influences are anti-republican. It adds to the power of the executive by increasing federal patronage. It must be distasteful to the people because it fills the country with informers and tax-gatherers. It is dangerous to the public virtue, because it involves the collection and disbursement of vast sums of money, and renders rigid national economy almost impracticable. It is, in a word, a national burden, and the work of removing it, no matter how desirable it may be for individual investment, should not be long postponed. ... Various plans have been suggested for the payment of the debt; but the secretary sees no way of accomplishing it but by an increase of the national income beyond the national expenditures. In a matter of so great importance as this, experiments are out of place. The plain, beaten path of experience is the only safe one to tread.⁸²

The American tradition of government carrying a low debt also played a role in this discussion. “Those favoring a permanent debt or slow repayment [of the debt] remained in the minority.” Robert Patterson noted that tax revision did not become an “important political objective” until the Panic of 1873 rocked the financial stability of the nation.⁸³ Justin S. Morrill suggested on May 7, 1866 that Congress reduce taxes by \$75 million.⁸⁴ But “arguments for the reduction of the debt” persisted. Since Albert

⁸¹ Hugh McCulloch, *Men and Measures of Half a Century: Sketches and Comments* (New York: Charles Scribner’s Sons, 1888), 202

⁸² *Report of the Secretary of the Treasury*, 1865, December 5, 1865, 39th Cong., 1st sess., House Ex. Doc. 3, ser set 1254, 16.

⁸³ Patterson, *Federal Debt Management*, 118 (both quotes).

⁸⁴ *Congressional Globe*, 39th Cong., 1st sess., May 7, 1866, 2436.

Gallatin's tenure in the Treasury, "the American people have manifested a strong dislike to the perpetuation of a funded debt," Henry C. Adams noted. As long as "conditions remained prosperous" and "industry had become adjusted to high taxes" there seemed little reason to reduce taxes, and great historical precedent to reduce the debt.⁸⁵

The war compelled the movement from this "pinchpenny," antebellum system of finances to the "modern" fiscal state of debt and taxation. How best to reduce the debt, relieve the country from the "shackles which the internal taxes have thrown around it,"⁸⁶ and help nurture the future prosperity of the country, tested the Republican leaders. While most advocated reducing taxes as quickly as possible, some moved to keep taxes high in order to provide revenue to extinguish the debt. "I believe that if there is anything the people desire more than [any other]," proclaimed John B. Alley (R. MA), "the wealthiest shoe manufacturer" in Lynn, on February 11, 1865, "is that our taxes should be increased to such a degree that the credit of the country should be preserved and protected."⁸⁷ To solve the conundrum of debt or taxes, the administration decided to enlist the help of an "expert."

David A. Wells

Although a frequent occurrence now, turning to a group of laymen to help resolve thorny financial or political issues represented "a novelty in American experience" at the time of the Civil War. But the size of the debt, and complexity of the internal revenue system convinced the administration and congressional members they needed to seek advice. On March 3, 1865 Congress authorized the Secretary McCulloch to appoint a commission to "inquire and report, at the earliest practical moment, upon the subject of raising such taxation as may be necessary in order to supply the wants of

⁸⁵ Robert T. Patterson, *Federal Debt Management Policies, 1865-1879* (Durham, NC: Duke University Press, 1954), 123.

⁸⁶ Jon Sturges to John Sherman, Dec. 29, 1866, in Sharkey, *Money, Class and Party*, 172-173.

⁸⁷ Foner, *Reconstruction*, 233; *Congressional Globe*, 38th Cong., 2nd sess., Feb. 11, 1865, 761.

government.”⁸⁸ Congress asked the commission to propose the best means for increasing taxes, rather than devising a way to make them more effective. Since the war ended before the commission began work, their purpose changed to a review and report of the revenue system. Associated with the Progressive Era, using “experts” to facilitate “scientific management” of business and other large-scale processes became a regular feature of bureaucracies. However, this commission represents a nascent hint of the coming of movement.⁸⁹ McCulloch asked David A. Wells to serve as the chair.

Born in 1828 from “good New England stock,” Wells’s family came to America during the early Puritan migrations. Thomas Welles, his forebearer, served as the governor of the Connecticut colony from 1655-1658.⁹⁰ His father James married Rebecca Ames, the daughter of a prominent and wealthy paper manufacturer. Despite this pedigree, and fortuitous union, James Wells suffered financial ruin when his dry goods store went bankrupt during the Depression of 1837. He abandoned his family. Rebecca moved David and his two siblings into her father’s home in Springfield, MA, where David lived until his adulthood.⁹¹ Like Andrew Carnegie’s mother, Rebecca Ames Wells, “burned with shame at her husband’s failure.” Tapping her father’s resources, she made sure her sons received the best education possible, and pushed them to succeed.⁹²

Wells attended Williams College and graduated in 1847, then accepted a position as a reporter in Springfield for two years. There he honed his skills as a writer, and earned his first small fortune. While working in the paper’s pressroom, Wells invented a machine that folded newspapers. He obtained a patent for the device, which he quickly sold for a handsome profit. He decided to resume his schooling, and enrolled at Harvard

⁸⁸ Herbert R. Ferleger, , *David A. Wells and the American Revenue System, 1865-1870* (Philadelphia: Porcupine Press, 1977), 19.

⁸⁹ Robert Kanigel, *The One Best Way: Frederick Winslow Taylor and the Enigma of Efficiency* (New York: Viking Press, 1997).

⁹⁰ Fred B. Joyner, *David Ames Wells: Champion of Free Trade* (Cedar Rapids, IA: Torch Press, 1939), 3.

⁹¹ Ferleger, *David A. Wells*, 1-8.

⁹² Harold C. Livesay, *Andrew Carnegie and the Rise of Big Business*. Second ed. (New York: Longman Publishers, 2000), 14.

to further his “scientific education.” He graduated in 1851, and then accepted a teaching position at Groton Academy. Anxious to secure good income for himself, Wells began his writing career. He launched a successful series of annual almanacs, cataloguing “scientific discoveries,” and current literature on agricultural progress. The series became a hit, and Wells subsequently published a new volume each year until 1866. He earned enough to quit his teaching position, and soon devoted himself entirely to his career as a “scientific writer,” concentrating on texts for schools and colleges. He married the heiress of a mercantile fortune in 1860, allowing him to concentrate on his writing career while enjoying an affluent lifestyle. He became the editor of an agricultural journal, and soon a partner in the Putnam publishing house. Wells developed a national reputation through his authorship of many magazine articles on agriculture.⁹³

Like many wealthy northerners, Wells invested heavily in Union bonds during the Civil War. As the conflict dragged on, and the debt of the government rose, unease seeped into the bond market. Two loan measures passed in 1864 that allowed the Treasury secretary to borrow \$600 million, and receive “any lawful money or treasury notes, certificates of indebtedness or certificates of deposit,” in payment for these bonds. This arrangement exacerbated this disquiet, because of the many different forms of “lawful money” floating about. During the War of 1812, the government used similar legislation to sell bonds, and then lost tremendously when much of the “lawful money” collected turned out to have little value. Employing such a drastic payment devise, John Sherman noted, would only pass under the “extremity of the measures deemed necessary at this period of the war.” Secretary Chase worried publicly that the debt could rise as high as \$3 billion, an insurmountable amount.⁹⁴ Both greenbacks and bonds declined in value. Concerned for the fortunes of the nation, as well as his own ledger, Wells decided

⁹³ Information culled from Joyner and Ferleger.

⁹⁴ John Sherman, *Recollections of Forty Years in the House, Senate, and Cabinet*. 2 vols. (Chicago: Werner Co, 1895), I: 334-336.

to write a patriotic brochure to rally support for the government securities. *Our Burden and Our Strength* resulted.⁹⁵

This pamphlet argued that the future population growth and prosperity of the nation would enable the government to continue steady interest payments, and retire the debt without forfeiture or any repudiation. Although a great “burden” strained the nation, Wells predicted that the country’s many “strengths” would enable Americans to carry the debt without inhibiting future prosperity. “With a virgin soil, enormous emigration, a system of land tenure which conduces to the highest prosperity of the greatest number, and a condition of society in which individual enterprise is encouraged and fostered,” the United States will bear and retire the debt without impeding future prosperity.⁹⁶ Per capita wealth would continue to grow, as it had throughout the antebellum era, through the increase in population, opening of new agricultural lands, continued industrial expansion, revival of the cotton trade, and release of slaves from bondage into more productive labor. His command of the current agricultural and industrial conditions gave his argument great weight.

Wells used “scientific” reasoning in studying the nation’s productivity to demonstrate that the United States would carry its debt far better than the British had managed theirs. Wells provided statistical analysis that showed if rapid population growth continued the per capita interest payments would fall from \$5.35 in 1865 to \$2.00 by 1900, roughly half what the British paid on their debt.⁹⁷ The British debt and funding system became the template from which Wells based his comments, just as Congress had followed British precedent in developing the tax system.

Wells’s “perky little book” reassured his friends. George Putnam, his former partner in publishing, saw great potential, and set his presses to work. Subsequently, over 200,000 copies circulated both domestically and abroad. Wells received accolades

⁹⁵ David A. Wells, “Our Burden and Our Strength,” in *Union Pamphlets of the Civil War, 1861-1865*, Frank Freidel, ed. 2 vols. (Cambridge, MA: Harvard University Press, 1967), II: 940-975.

⁹⁶ *Ibid*, 974.

⁹⁷ *Ibid*, 943.

for restoring faith in the bond market.⁹⁸ President Lincoln requested a private interview with Wells to ask his advice about post-war finances. During the meeting, Wells observed that the tax structure needed revision based on the “resources of the nation.” He then suggested that the president establish a commission to study the matter, and make formal recommendations. “That’s a pretty good idea,” Lincoln replied. Three months later, in March 1865, Wells received the appointment as chair of the U. S. Revenue Commission.⁹⁹

Secretary McCulloch wanted the different members of the Revenue Commission to represent the primary economic forces and sections of the country. Wells, a native New Englander, former paper manufacturer, and resident of New York at the time the commission formed, spoke for the commercial interests of the Northeast. Stephen Colwell, an iron manufacturer from Pennsylvania, joined the commission and became its most outspoken proponent of protective tariffs. McCulloch, in his autobiography, stated that “congressional representatives” had recommended Colwell to him. However, with his usual humility, Henry C. Carey claimed credit for securing his friend Colwell’s appointment. “Advanced in years and feeble in thought,” Colwell contributed little of the work of the Commission. Samuel S. Hayes, Chicago’s comptroller, represented the agricultural interests. McCulloch wished to have a “western man” who would add more diverse political views to the committee. Hayes joined the commission as a Democrat and a “copperhead,” although “amiable” and helpful in “arriving at facts.”¹⁰⁰ *Harper’s Weekly* exuded that, “we may be sure that there will be neither jobbery, nor ignorance, nor political prejudice,” in the deliberations of the commission.¹⁰¹

⁹⁸ Ferleger, *David A. Wells*, 12-13.

⁹⁹ Wells recounts these events in David A. Wells, *The Theory and Practice of Taxation*, Worthington C. Ford, ed. (New York: D. Appleton Co., 1900), 19-20. Although this account suggests that Wells first thought of the commission, the idea of soliciting help to “legislate wisely on the subject of taxation,” had been raised in Congress before the Lincoln-Wells meeting.

¹⁰⁰ Ferleger, *David A. Wells*, 25-26.

¹⁰¹ *Harper’s Weekly*, August 12, 1865, 499.

Wells and his commission subsequently produced one comprehensive report on the internal revenue system, plus thirteen “Special Reports” focusing taxation on specific articles. Remarkably, the commissioners produced these lengthy reports between March 1865 and January 1866. Credited with writing most of these reports, Wells unabashedly accepted the praise the Commission received. “The diffuseness of the present revenue system is doubtless one of its greatest imperfections,” the report noted.¹⁰² Instead of a tax scheme that would “hit every head,” they urged Congress to abolish or pass a “speedy reduction of all taxes which tend to check development, and the retention of all those which, like the income tax, falls chiefly upon realized wealth.”¹⁰³ Excise taxes on specific articles of “indulgence” would generate large revenue without harming the “industriousness” of the people. “Securing large revenue from distilled spirits ... is absolutely necessary to insure the successful carrying out of any plan for simplifying the internal revenue system,” they reported.¹⁰⁴ By placing a light duty on “articles of necessary and large consumption,” such as tea and coffee, Congress could collect great revenue without disrupting public consumption. They recommended retaining the tax on cotton. Preserving the income tax, “although an obnoxious tax” would not hurt future economic growth because it “falls mainly on accumulation” and would prove the least “detrimental to the country than any other form of taxation.”¹⁰⁵

With this tax “edifice” in place, Congress could grant “entire exemption of the manufacturing industry” from all taxation; this would help to “equalize” the tariff and internal revenue. Wells worried about the “continued assaults” and “deprived elements of stability” that the high war tariffs created. By canceling the tax on manufacturers Congress would not have to raise tariff rates. Wells urged caution in fixing any new rates, but indicated that Congress could lower them in the future. The manufacturing duties accounted for most of the internal revenue during the war, but these well-selected

¹⁰² *Revenue System of the United States*, 39th Congress, 1st session, House Ex. Doc 34, January 29, 1866, 13. Hence, *Revenue Commission Report*.

¹⁰³ *Ibid*, 17.

¹⁰⁴ *Ibid*, 24.

¹⁰⁵ *Ibid*, 27.

excise taxes, plus the stamp duties and license taxes, could provide enough revenue to avoid the “duplication” in the existing revenue system, and eventually lead to lower tariff rates.¹⁰⁶

The report aimed to remove the “diffuse” taxes and replace them with more “concrete” ones that “can be easily, cheaply, and surely collected, and distributed themselves with a satisfying equality. Wells elaborated on this theme:

We must draw our revenue from few sources, and avoid the error of many and useless perforations. [We must attain] freedom from multitudinous taxes, espionage, and vexations . . . freedom from needless official inquisitions and intrusions; freedom for industry, circulation, competition everywhere. Deprive the people of freedom in industry and there will be disappointing revenues, discontent, embarrassment, and demoralization everywhere – cheerfulness and prosperity nowhere.¹⁰⁷

The commissioners recommended limiting taxes to a few select, but productive items, cutting the manufacturing tax, and advised caution in making any changes in the tariff schedule. Indeed the report suggested that in looking for a model to follow for a balance of taxation and debt reduction, “the British statesmen for at least the last quarter of a century,” have best shown “what ought to be the future revenue policy of the United States.”¹⁰⁸ Although all three men signed the commission’s report, “a difference of opinion exist[ed]” among the Commissioners.¹⁰⁹ Colwell and Hayes soon issued dissenting addendums. Colwell agreed with Wells’s recommendation to remove the taxes on manufacturers, however he issued a strong appeal for protective tariffs. The revenue policy of the nation needed to “uphold and cherish that industry” which provides “nearly all that meets the wants of civilized life,” Colwell argued. He advocated limiting the influx of foreign trade, in order to boost industry and free “domestic laborers” from the “destructive” competition in Europe. This recommendation “completely contradicted” Wells recommendations in the first report, to make few, if

¹⁰⁶ *Ibid*, 16-18.

¹⁰⁷ *Ibid*, 36-37.

¹⁰⁸ *Ibid*, 12.

¹⁰⁹ *Ibid*, 51.

any changes, in the tariff schedule.¹¹⁰ Samuel Hayes wanted to base the new revenue system on taxes on “wealth,” specifically the income and the inheritance taxes.

Wells, through the commission, launched a criticism of the revenue agents, suggesting they were not “competent men.” By adopting a system based on limited taxes, the Internal Revenue Bureau could reduce the number its employees. These thoughts also signaled a future development in American government. Wells emerged as a “nineteenth-century American liberal.”¹¹¹ He became a leader of the “Mugwumps,” a group of Republican politicians who left the party in protest during the 1880’s to support Grover Cleveland, and subsequent Democratic candidates. These dissenters, predominantly prosperous men from the Northeast, believed it their duty to direct American “virtue, civilization, and progress.”¹¹² Appalled by the corruption that had infiltrated both political parties, they advocated Civil Service reform and the re-establishment of a “sound” currency by returning to the gold standard. By the 1890’s, the Mugwumps became outspoken anti-imperialists. Wells emerged as their chief critic of the high protectionist tariffs that gripped the American fiscal system by the late nineteenth century. He abhorred the growing influence of special interests in directing American fiscal policy, a distaste that began during his early years as the Special Commissioner. By the time of his death, in 1898, the Democratic Party had incorporated Wells’s tariff position into their party platform.

While Congress accepted the general ideas espoused by Wells and the commission report, they differed on a few key provisions. Wells had recommended lowering the tax on whiskey from \$2.00 per gallon to \$1.00. Congress explicitly rejected this idea. “Experience in England has shown that as the duty was raised on spirits ... it never seriously affected the consumption. In other words, men will drink, no

¹¹⁰ Report quoted in Ferleger, *David A. Wells*, 135.

¹¹¹ Tom E. Terrill, “David A. Wells, the Democracy, and Tariff Reduction, 1877-1894,” *Journal of American History*, 56 (December, 1969), 546.

¹¹² David M. Tucker, *Mugwumps: Public Moralists of the Gilded Age* (Columbia: University of Missouri Press, 1998), 14. For a more comprehensive, but less sympathetic examination of these politicians, Gerald W. McFarland, *Mugwumps, Morals, and Politics, 1884-1920* (Amherst: University of Massachusetts Press, 1975).

matter what it costs,” stated Thaddeus Stevens in the session before the release of the report.¹¹³ More explicitly, Justin S. Morrill suggested after reading the report that Congress retain the liquor tax at \$2.00 per gallon as a way of testing “its real value for revenue purposes, and incidentally... as a mode of repression in consumption of intoxicating beverages.”¹¹⁴

Wells argued in *Our Burden and Our Strength* that the United States would grow out of its debt, without any direct fiscal intervention. On the question of debt or taxes, Wells urged lowering taxes as rapidly as possible. “The rapid reduction of taxation, rather than a rapid reduction of the principal of the public debt” should become the “true policy of the government,” Wells stated.¹¹⁵ Future growth and prosperity would enable the United States to carry a debt, without stifling production. Securing lower taxes, Wells believed, would provide the first step in that direction.

Members of Congress did not completely accept this optimistic outcome. Henry J. Raymond (R. NY), founder of the *New York Times*, insisted that taxes cover not only the interest, but start attacking the principal on the debt as well. “When erecting the tax system we followed the example of the nation which has had more experience of internal taxation than any other, Great Britain.” Congress must follow Britain’s lead in reducing the debt as well.¹¹⁶ Yet cutting taxes had popular support. Voters experienced tax breaks directly, where debt reduction was less tangible. While lawmakers accepted the idea that some taxes needed to stay in place to cut the deficit, they wanted to provide as much tax relief as possible for their constituents. As with enacting taxes, the lawmakers now vied to reduce the burden as much as possible for their voters.

Between 1866 and 1870 internal revenue receipts fell from \$309.2 to \$184 million. After 1875, of the taxes that remained, just under 60 percent came from liquor, tobacco, and stamp duties. All accepted the premise that Wells suggested: making the system less “diffuse” and settling instead on a few objects that would produce the

¹¹³ *Congressional Globe*, 38th Cong., 1st sess., January 14, 1864, 216.

¹¹⁴ *Congressional Globe*, 39th Cong., 1st sess., May 7, 1866, 2436.

¹¹⁵ *Ibid*, 32.

¹¹⁶ *Ibid*, 2439.

greatest revenue. William Lawrence (R. OH) summarized the goals of the Thirty-ninth Congress in winnowing the revenue system: “The theory upon which [the revenue system] proceeds is that it is not our policy to tax sources of productive industry, except so far as they produce luxuries.”¹¹⁷ Liquor and tobacco fit these requirements. Years later, John Sherman explained how the tax system came to rely so heavily on so few object:

As the necessity for excessive taxation diminished after the war was over, taxes on various articles were gradually repealed ... by 1894, they consisted of practically four items: spirits, tobacco, fermented liquors, and oleomargarine. The oleomargarine tax was not intended as a material revenue tax. The purpose was especially to prevent the fraudulent imitation of butter by using an extract of beef. None of these is an article of necessity, but all are used purely to gratify an appetite, in many cases indulged to excess. All civilized nations have come to regard these articles of the best subjects of taxation. To the extent that whiskey is used a beverage it is hurtful in its influence upon the individual and upon society at large. The tax on tobacco and cigars is a moderate one, but the consumption of them is far less dangerous than of spirits in their influence upon society. No complaint is made of it. Its consumption is so general that the tax is fairly distributed and falls mainly upon the richer classes, as the tax is increased in proportion to the value of the tobacco.¹¹⁸

Liquor and tobacco, objects “injurious” to the person, as well as society, became the primary targets of the future revenue acts. Both Congress and Wells based the immediate tax system on revenue collected from indirect taxes on liquor, tobacco, cotton, and income, with the understanding that a reduction in tariffs would follow. Lawmakers soon abated the cotton tax, hoping that soon the South would be “decorated and enlivened by factories.”¹¹⁹ As Hugh McCulloch would later explain, “liberal legislation” would help the South regain its standing economically and help promote

¹¹⁷ *Congressional Globe*, 39th Cong., 1st sess., May 21, 1866, 2729.

¹¹⁸ John Sherman, *Recollections of Forty Years in the House, Senate and Cabinet: An Autobiography*. 2 vols. (Chicago: Werner Co, 1895), I: 305-306.

¹¹⁹ *Congressional Globe*, 39th Cong., 1st sess., May 21, 1866, 2728.

“harmony” in the country.¹²⁰ Congress did not wish to wring the expenses of the war out of the southern “rebels.”

Congress embraced most of these suggestions, but with a “difference.” Wells suggested implicitly at first, and more aggressively as time went on, that his proposed tax system would allow for a reduction in the tariffs enacted during the war. On this, Congress balked. Adjusting the tariff proved difficult. The members could not reach agreement on the direction of tariff policy. No new tariff legislation, either increasing or decreasing duties, could pass the Thirty-ninth Congress. Congressmen could not reconcile the differences between those who wished to protect manufactured goods and those who wanted to guard against cheap raw materials coming into the country. Congress remained incapable of finding consensus on tariff strategy until the Forty-first Congress. By then, the Treasury began accumulating surpluses well beyond the ordinary expenses and interest payments. Aggressive debt reduction became policy, more through an impasse than through an aggressive embrace of protectionism. Between 1866 and 1873, the government reduced the debt by \$604 million.¹²¹

The Tariff of 1870 produced the first comprehensive change in tariff rates. This bill focused on reducing “revenue articles” such as tea, coffee, sugar, molasses, and spices and expanding the free list. Congress lowered the duty on pig iron from \$9.00 a ton to \$7.00. But the duties on some manufactured articles increased, particularly steel. Awash in the “comfortable feeling of prosperity,” and providing ample funds for the reduction of the onerous debt, modifying the tariff became less urgent to the elected officials.

One member did get what he hoped. Justin S. Morrill achieved his goal of providing a shield for the woolen industry in Vermont. The Woolen Act of 1867 nearly doubled the import duty on the main commodity of his state. Morrill assembled a coalition of Ohio representatives (another wool state) and anti-protectionist Western representatives who saw this as a means of thwarting the manufacturers’ efforts to

¹²⁰ *Internal Revenue Recorder*, Dec. 30, 1865, 208.

¹²¹ Patterson, *Federal Debt Management*, 114.

increase the tariffs on manufactured goods. Subsequently, representatives succeeded in raising revenues on specific raw materials, copper in 1869, or manufactured goods steel rails and marble in 1870.¹²²

Wells's ideal of making the tax system less "diffuse," and limiting taxes to a few "indulgences" worked half way. Congress accepted his suggestion of keeping taxes focused on liquor and tobacco, and supplemented by taxes (such as stamp duties) that took little effort to collect and provided abundant revenue. He recommended keeping the income tax (they no longer bothered referring to it as a "duty") that struck at accumulated wealth. Wells proposed this system as a means to meet the interest payments while not curtailing American "industriousness," and with the understanding that Congress would slowly reduce the tariff rates.

On this second half of the tax equation, lawmakers could not reach agreement. Although Congress bequeathed to Americans a "free breakfast" by reducing import duties on coffee and tea, and moving other goods to the free list in 1870, the bulk of the Civil War tariff rates remained in place. No longer needed to offset the duties on manufacturers, the primary source of revenue during the war, these high tariffs shifted the burden of taxation completely to indirect taxes, the best hidden means of gaining public revenue. Ironically, the post-war reliance on the regressive alcohol and tobacco taxes sprang from the ideal of establishing justice and fostering American productiveness. Many believed these items hurt the health and well being of the individual, as well as undermined moral basis of society. In an effort to spare the "necessaries of life" taxes fell on its small pleasures.

Lawmakers readily whittled the internal revenue measures to give their voters a tax break, in a manner that they could see and feel readily. Removing the taxes on everyday goods they purchased, food they ate, and clothes they wore, gave the public concrete break, and allowing lawmakers to claim credit for their actions. Professor O'Brien, in discussing the British reliance on these same taxes noted that, "[Lawmakers]

¹²² F. W. Taussig, *Tariff History of the United States*. Reprint. (New York, Augustus M. Kelley, Publishers, 1967), 171-190; Edward Stanwood, *American Tariff Controversies in the Nineteenth Century*. 2 volumes. (New York: Russell and Russell, 1903), 173-174.

considered each tax in isolation, and simply assumed that the ‘poor’ needed to consume certain things and that if they chose to buy other highly taxed commodities they did so voluntarily and accepted the consequences.”¹²³

The tariff continued as a result of congressional gridlock, and the rationalization that high duties helped contribute to debt reduction. “High duties permitted debt reduction [and] the existence of the debt was itself an excuse for maintaining the high tariff.”¹²⁴ Hugh McCulloch, who considered protective tariffs as “insidious” and “unequal taxes,” nevertheless, when writing his memoirs, effused that the tariff policy after the war helped reduce the debt. “By the high duties, and taxes on whiskey and tobacco, more than one-half of the debt has been paid.”¹²⁵ Tied to debt reduction, as well as the post-war prosperity, congressmen did not feel the pressure they would later to enact tariff reform. “The protective system, which had been at the first a temporary expedient for aiding in the struggle for the Union, gradually became accepted as a permanent institution.”¹²⁶ While Congress felt pressure to reduce the internal revenue laws, they received many memorials and letters requesting that the tariff policy remain the same.

A second irony emerged. The continued policy of taxation after the war created surpluses well beyond the needs of prudent debt management. While Congress retreated from giving “individual” assistance to the freedmen, they used new found of accumulating cash to inaugurate the first national social welfare program in the form of veteran’s benefits. By 1888, the Republican platform declared, “Congress should be so enlarged and extended as to provide against the possibility that any man who honorably wore the Federal uniform shall become the inmate of an almshouse, or dependent upon private charity.” The revenue generated from this tax legislation gave Congress the impetus to touch citizens “individually,” and launch what Theda Skocpol called the “first

¹²³ O’Brien, “Political Economy of British Taxation,” 12.

¹²⁴ Patterson, *Federal Debt Management*, 127.

¹²⁵ McCulloch, *Men and Measures*, 473.

¹²⁶ Taussig, *Tariff History*, 174.

phase of modern social provision in the United States.”¹²⁷ By 1890, the federal government spent 35 percent of its budget on direct benefits for pensioners and their widows.¹²⁸ The Civil War revenue measures laid the base for this future policy.

What became of the two “just” taxes enacted during the war?

The Direct Tax

No revenue measure failed as miserably as the first. The Direct Tax (HR 71) enacted during the emergency session in July 1861, did not fulfill its purpose. “The government received nothing from the direct tax during the war which it would not have received otherwise.” The legislation followed the precedent established in the 1813 direct tax by allowing allowed states to “assume, assess, collect, and pay” the portion allocated to their citizens and receive a 15 percent discount on the entire quota. All the states that remained in the Union, except Delaware, took advantage of this incentive. Thus, the feared invasion of the “army” of federal revenue collectors did not occur in most of the Union states.¹²⁹

What the states paid to the government emerged as one problem with the direct tax. Instead of sending money, the states fulfilled their commitments through their military obligations, including the support for the regiments originating from the states. These “payments” toward the direct taxes resembled the requisition system under the Articles of Confederation. States counted the supplies and provisions for the troops they sent to the war as part of their payment. Dispatching these materials over the course of the war meant that their quotas trickled into the Treasury, just as they had under the War

¹²⁷Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA: Harvard University Press, 1992), xx and 525.

¹²⁸ Davis R. Dewey, *Financial History of the United States*, 12th ed. (New York: Longman’s, Green and Co., 1939), 428.

¹²⁹ Charles Dunbar, “The Direct Tax of 1861,” *The Quarterly Journal of Economics*, 3 (July, 1889), 447.

of 1812 direct tax. By 1865 states had paid only 32 percent of the total amount allocated to the loyal states and territories.¹³⁰

Congress remained chary of the direct tax. Passed into law to assure bond investors that their principle remained secure, and their interest payments would arrive as promised, the direct tax represented an expedient that lawmakers soon abandoned. Unlike indirect taxes, which remain hidden in the cost of the article purchased, the taxpayer knows what he pays under a direct tax, and must produce his payment in one large sum, instead of incrementally through his purchases. Congressmen feared “that their constituents would notice a direct tax more than an indirect tax,” Smith noted.¹³¹ Joseph A. Wright (U. IN) articulated the concerns of rousing the public with the direct tax when he stated in 1862 that, “This is not the time to press upon the country this question of direct taxation, which, of all others, should be avoided if it can.”¹³² Congress accepted the direct tax originally because, unlike other revenue laws, the statute existed. Lawmakers only had to reapportion the tax based on the current population. In contrast, it took members of Congress six months to write and agree upon the provisions of HR 312.

Written in 1813, the direct tax law applied to a much smaller country with a more even distribution of land in the states. Because the addition of extensive land holdings in western and southern states, the burden of the direct tax would fall more unevenly on these sparsely populated areas. When dispersed evenly, through apportionment, legislators considered the direct tax the most fair, because it taxed the value of real and personal property. However, the change in the country’s demographics rendered the tax unfair than in an earlier era. The eastern states, with their greater concentrations of wealth, would dodge the brunt of the tax, leaving owners of large tracts of land to carry the weight of the tax. For these reasons, the Civil War direct tax floundered.

¹³⁰ *Ibid*, 448.

¹³¹ Smith, *Tax History*, 20.

¹³² Quoted in “Liability of the States for the Direct Tax,” 46th Congress, 1st session, Senate Ex. Doc. 24, May 24, 1879, Ser. Set 1869, 41.

Congress repeatedly voted to delay collection of the direct tax, even as the states responded slowly to meet their obligations. In enacting HR 312 in 1862, Congress suspended the collection of the direct tax until 1865. In June 1864, they again deferred the tax, and in 1868, suspended the collection indefinitely since “neither the legislative nor executive departments of the government have done anything regarding the collection of said tax.”¹³³ The laxness in enforcing this tax demonstrates, in part, the reluctance of the government to invoke its powers during the course of the war. They did not wish to rouse adverse public opinion, so delayed in collecting the tax most tangible to the citizens.

The direct tax levy applied to all states, even those “in rebellion.” As the Confederate states fell under federal control, the provisions of the direct tax applied. The landowner had sixty days to pay the tax after receiving notice from the assessor. Non-compliance resulted first in a heavy fine, then forfeiture. James G. Randall described this portion of the direct tax statute as “odious” and a form of “virtual confiscation.” He claimed the direct tax law seemed more severe in terms of land seizures than the Confiscation Acts.¹³⁴ Congress passed two confiscation laws during the war, both with the provision that land could return to the owner’s estate once he died. Attorney General Edward Bates did not strictly enforce these laws, and consequently seizures occurred on only a small portion of the former plantations. President Andrew Johnson restored most of this land to the original owners as he pardoned former Confederate leaders during the summer and fall of 1865.¹³⁵

Like the Confiscation Acts, the direct tax did not inflict as much harm on the southern states as the legislation permitted. Only half the receipts from the lands confiscated for non-compliance returned to the Treasury. According to the 1862 legislation on collecting the direct tax in the southern states, one quarter of any receipts

¹³³ *Ibid*, 14.

¹³⁴ James G. Randall, *Constitutional Problems Under Lincoln*. Reprint. (Gloucester, MA: Peter Smith, Publisher, 1963), 317-319.

¹³⁵ Leonard P. Curry, *Blueprint for Modern America: Nonmilitary Legislation of the First Civil War* (Nashville, TN: Vanderbilt University Press, 1968), 96-97.

from seized lands remained in the state to support “suppression of the rebellion;” the other quarter went to a fund for the “promotion of colonization [of freedmen] from the state.” Once northerners abandoned the idea of colonization, these fund were supposedly dedicated to education and support of the freed slaves. The Treasury only collected \$2.3 million from the direct tax in the southern states. Forfeitures totaled approximately \$2.4 million.¹³⁶ Robert E. Lee’s estate in Arlington became the most famous of these forfeitures.

As soon as the war ended, the Treasury, now under the direction of Hugh McCullough, “indefinitely postponed” the collection of the direct tax, and “all internal taxes accrued before the establishment of revenue districts.” This exempted southerners from the back taxes accumulated during the war. Sales from forfeited land stopped. In an effort to “promote harmony between the government” and citizens in the former Confederate states, the Treasury developed a lenient tax collection policy in the South.¹³⁷ This provides a clear indication of the reconciliatory attitude that the government extended to the former Confederate states, a remarkable turn, considering the blood and treasure that the war consumed. Indeed, throughout McCulloch’s tenure, he adopted the policy of leniency in collecting taxes in the former Confederate states. Despite the rhetoric of the Radicals in Congress, the power of the victorious North did not descend on the former Confederate states in a vindictive manner.

Legal complications with the direct tax continued until 1900. Some states, Georgia for example, never paid their quota, or paid only a small portion of their share. As the Treasury accumulated large surpluses, all recognized the impracticality of trying to collect this tax in the delinquent states. Absolving these truants from their obligation angered some citizens in the states where the tax had been paid in full. Thus Congress decided to refund the full amount collected to all the states, and forgive the outstanding balances from the delinquent states. Though this met with approval in Congress, in 1889 President Grover Cleveland vetoed this legislation. The Constitution does not have a

¹³⁶ “Liability of the States for the Direct Tax,” 1-9.

¹³⁷ *Internal Revenue Recorder*, December 16, 1865, 191.

provision allowing the federal government to give states money, he reasoned. The 1836 surplus distribution represented a loan, not a gift. These constitutional scruples did not trouble Cleveland's successor. President Benjamin Harrison signed the legislation into law soon after he became president. By 1896, Congress redistributed \$15.2 million back to the states as a refund for the direct tax contribution. This legislation also permitted the Treasury to reimburse anyone who could prove he had owned land seized and sold for non-payment of taxes. The government settled the last of these claims in 1900.¹³⁸

Now a curious relic of United States tax history, the direct tax demonstrates how the American economy matured; the provision could work in a uniformly rural, agricultural country but not in a large democracy with mixed economy and rural-urban population. The direct tax also provides an extended lesson in American fiscal pragmatism. Added to the Constitution to provide a "bridge over a gulph" between slave and non-slave holding states, the direct tax provided one of the compromises necessary for ratification of the Constitution. Invoked only four times, the federal government used this power of the purse only in times of war, and in a manner that allowed states to maintain their sovereignty. Rather than enforcing the tax with a heavy hand, the national authorities allowed states to collect the tax, and in turn accepted lower than apportioned receipts. Rather than an "odious" tax that afflicted the southern states after the war, the direct tax demonstrated the government's desire to reunite the nation, and heal the war wounds.

The Income Tax

With regard to the income tax, David A. Wells wrote that, "Although in many respects an obnoxious tax, falling as it does mainly on accumulation, it will probably be sustained with less detriment to the country than any other form of taxation – the excise on liquor and tobacco excepted."¹³⁹ Wells and the Revenue Commission recommended keeping the income tax as part of the future revenue system. In 1864, Congress enacted

¹³⁸ Smith, *Tax History*, 42-43; "Liability of the States for the Direct Tax," 13-14.

¹³⁹ *Revenue Commission Report*, 1866, 27.

an income tax that placed a 5 percent duty on incomes over \$600 but less than \$5,000; 7.5 percent on incomes between \$5,000-\$10,000; and 10 percent on incomes over \$10,000. Companies withheld five percent from their stock dividend and bond interest payments for the Treasury. Government payroll clerks would withhold five percent from the salaries of all officials making more than \$600 a year. The tax would continue through 1870.¹⁴⁰

As promoters of the income tax predicted, the measure proved fecund. The income tax generated \$20.2 million in 1864, \$60.9 in 1865, and \$73.4 million in 1866. The special income tax passed in October 1864, to pay bounties to recruit new soldiers, and retain those serving, proved especially effective. The statute required an extra 3 percent tax on incomes up to \$10,000 and 5 percent on those over \$10,000. This one-time tax raised \$29.8 million, and provided enough to enlist 200,000 men.¹⁴¹ As its opponents feared, the revenue generated from the income tax came primarily from a small geographic area. In 1864, citizens in New York, Massachusetts, and Pennsylvania alone contributed 61.3 percent of all income tax revenue; 75 percent of the total income tax revenue came from all the northeastern states.¹⁴²

When introduced, the 1864 income tax bill stirred debate because it graduated rates. Morrill in particular, feared that levying a higher tax on the wealthy would encourage fraud and evasion. “The income tax, intrinsically the most just of all taxes,” he stated, “will always be difficult in ascertaining the actual income of reluctant taxpayers, and these will be sufficient in number to form a respectable company of growlers.” Morrill recommended instead taxing that all income above \$3,000 at 10 percent. Fessenden, in his sole report as Treasury secretary, recommended removing all

¹⁴⁰ 13 *United States Statutes at Large*, June 30, 1864, 480-482.

¹⁴¹ *Congressional Globe*, 38th Cong., 1st sess., July 2, 1864, 3528; Frederic Howe, *Taxation in the United States Under the Internal Revenue System* (New York: Thomas Y. Crowell and Co., 1896), 93.

¹⁴² Robert Stanley, *Dimensions of Law in the Service of Order: Origins of the Federal Income Tax, 1861-1913* (New York: Oxford University Press, 1993), 40-41.

exemptions, and making the income tax universal. “All participate alike in the blessings of good government,” so all should contribute towards its “necessity,” he suggested.¹⁴³ When Congress considered how best to trim the tax burden, Morrill, now Chair of the House Ways and Means Committee, recommended “The abolition or speedy reduction of all taxes which tend to check development, and the retention of all those which like the income tax fall chiefly on realized wealth,”¹⁴⁴ a view that echoed Wells’s recommendations.

The income tax had proven so productive, the costs of collection minimal, and while falling on one group on individuals, maintained broad appeal with the general population. The concern regarding the constitutionality of the tax disappeared. Although still referring to it as the “income duty,” legislators no longer worried whether it constituted a direct or indirect tax. Supreme Court Justice Roger B. Taney denounced it as unconstitutional because it “diminished” the salary he received during his time in office, but this complaint fell on unsympathetic ears.¹⁴⁵

Instead of debating whether or not to retain the tax, Congress considered the ways to improve it. They moved to flatten the tax, and raise the exemptions. By 1867, they raised the exemption to \$1000, and fixed 5 percent rate. Profits from real estate transactions, and the value of sales from livestock were added to the definitions of income. They also exempted the salaries from mechanics or laborers employed on public works. “In a republican form of government the true theory is to make no distinctions as the persons in the rates of taxation,” stated Morrill in favoring a uniform rate for the income tax.¹⁴⁶

The income tax received less attention in the immediate post-war discussion than other measures, another irony given the focus it received in the late nineteenth century.

¹⁴³ *Report of the Secretary of the Treasury*, 38th Cong., 2nd sess., House Ex. Doc., 3, December 6, 1864, 15.

¹⁴⁴ Quoted in, William H. Barnes, *History of the Thirty-Ninth Congress of the United States*. 1868. Reprint (New York: Negro Universities Press, 1969), 555.

¹⁴⁵ Carl Brent Swisher, *American Constitutional Development* (Boston: Houghton Mifflin, Co., 1943), 437.

¹⁴⁶ *Congressional Globe*, 39th Cong., 1st sess., April 25, 1866, 2437.

In his opening remarks on the readjustment of the tax legislation, Morrill suggested leaving it place. The healthy returns from the tax, Morrill stated, provided evidence of the “strict integrity of character” of the wealthy citizens who paid the tax. “The law left it almost to the conscience of each man as to how much he should pay, and all seemed to vie with each other as to who should pay the most.”¹⁴⁷ While recognizing the “inquisitorial” nature of the tax, Morrill also believed that the large revenue it drew “from a free people, imposed upon themselves,” favored retaining, rather than terminating the tax. Few disagreed. Whether or not to continue graduating the rates instead became the focus of the discussion. While favoring the retention of the income tax, Wells argued that the “discrimination” in the tax, in the form of graduated rates, seemed “unjust.” The income tax fell on the “results of successful industry and business enterprise,” thus should the rates be set to “equalize” the burden at five percent.¹⁴⁸

Set to expire in 1870, the real contest over the income tax began that year. On June 1, 1870, the Ways and Means Committee released its latest proposal on winnowing the tax receipts, they advocated renewing the income tax, but abolishing the tax on inheritances, gas, and other selected articles. The coalition opposed to continuing the income tax centered geographically on the three states that contributed most of the revenue, rather than politically on the divide between Republicans and Democrats. Because the citizens in New York, Pennsylvania, and Massachusetts paid over 60 percent of the income tax, the opposition to it came from congressional leaders from those states. Beginning in 1870, Dennis McCarthy (R. NY), Benjamin Butler (R. MA), William D. Kelley (R. PA), and Roscoe Conkling (R. NY), spoke forcefully for the removing the income tax.¹⁴⁹ Kelley, who emerged as a fervent protectionist after the war, consistently advocated removing most of the internal revenue measures, in order to reassert the dependence of the federal government on tariff revenue. McCarthy declared, “It has no moral force. This tax is unequal, perjury provoking and crime

¹⁴⁷ *Congressional Globe*, 39th Cong., 1st sess., May 7, 1866, 2437.

¹⁴⁸ *1866 Report of the Special Commission*, 27.

¹⁴⁹ For these debates, see *Congressional Globe*, 41st Cong., 2nd session, 3993-3995, 4023.

encouraging because it is at war with the right of a person to keep private and regulate his business affairs and financial matters. It makes the tax-gatherer a spy.”¹⁵⁰

John Sherman emerged as the most ardent defender of the income tax in Congress. In England, Sherman noted, the income tax provided the only means for reducing the taxes on consumption thus:

The “only discrimination in our tax laws that will reach wealthy men as against the poorer classes ... If I had my way, I would retain the income tax at five percent on all incomes above \$1,000 ... then throw off these taxes upon consumption that oppress the poor and take coppers out of the dollars of the people who earn them by their daily work ... We tax the tea, the coffee, the sugar, the spices the poor man uses. We tax every little thing that is imported from abroad together with the whiskey that makes him drunk and the beer that cheers him and the tobacco that consoles him. Everything that he consumes we call a luxury and tax it; yet we are afraid to touch the income of Mr. Astor. Is there any justice in that?”¹⁵¹

Robert Stanley suggested cynically that Sherman’s supported the income tax “certainly not to challenge the protective and regressive system” which he had helped to build by replacing it with income taxation. Rather the object was to avoid placing the “entire tax load upon consumption.”¹⁵² The indirect taxes on liquor and imports affected Sherman’s constituents more than an income tax. Trying to keep the burden of taxation off his constituents played a more significant role.

Columbus Delano, the Commissioner of Internal Revenue advocated retaining the tax in his *Annual Report*. “My opinion is that, so long as a large internal revenue is required by the financial necessities of the government, a portion of that revenue should be collected from incomes ... After all, it is but a tax upon the increased wealth of the nation; and when it is understood that government securities are exempted from taxation,

¹⁵⁰ *Congressional Globe*, 41st Cong., 2nd sess., 1870 quoted in Seligman, *The Income Tax*, 458.

¹⁵¹ *Congressional Globe*, 41st Cong., 2nd sess., May 23, 1870, 4715. Sherman’s speeches on the income tax are also reprinted in Sherman, *Selected Speeches*, op. cit. Also, Appendix, 707-714.

¹⁵² Robert Stanley, *Dimensions of Law in the Service of Order: Origins of the Federal Income tax, 1861-1913* (New York: Oxford University Press, 1993), 21.

and that the interest on these securities produces a large amount of the income of taxpayers.”¹⁵³ David A. Wells, who now held the position of Special Commissioner of Internal Revenue, assigned to continue reporting on the revenue system, expressed his support for the tax, noting that only “about a million of the population are interested in having the tax removed,” while the remaining 38.5 millions are interest in having it maintained.¹⁵⁴ Ironically, Wells would come forth in the 1890’s as a leading opponent of the income tax, equating it with socialism.¹⁵⁵

The Forty-first Congress kept the income tax, but raised the exemption to \$2,000 and limited its duration to two more years. When considered again in 1872, the tax failed to win even support, but the votes were close in both the House and Senate.¹⁵⁶ Although all his subordinates favored retaining the income tax, President Ulysses S. Grant opposed continuing it beyond 1872. Fearing that his prospects in the upcoming election, Grant determined that he needed the support of the great moneyed interests, according to Allan Nevins. In an example of these moneyed interests, John C. Hamilton, one of the “wealthier men of New York,” wrote Grant’s Secretary of State, Hamilton Fish prior to the 1872 election, explaining that “I wish the income tax could yet be repealed. Our Union League has denounced it unanimously.” Grant’s Treasury secretary George Boutwell “warmly denounce[d] the repeal of the income tax,” fearing “the substitution or continuance of the other taxes which affect a larger number of persons will be unpopular.” However, Boutwell’s diffident and difficult personality gave him little credence.¹⁵⁷

¹⁵³ *Report of the Commissioner of Internal Revenue*, 41st Cong., 2nd sess., House Ex. Doc. 4, December 6, 1869, 14. Later in his career, Wells would denounce the income tax.

¹⁵⁴ *Report of the Special Commissioner of Revenue*, 41st Cong., 2nd sess., House Ex. Doc 27, December 20, 1869, 68-70.

¹⁵⁵ David A. Wells, “An Income Tax: Is It Desirable?” *The Forum* (March, 1894), 12-13.

¹⁵⁶ Seligman, *The Income Tax*, 467. The vote in the House was 105 to 104 to , while the vote in the Senate was 26 to 25.

¹⁵⁷ Allan Nevins, *Hamilton Fish: The Inner History of the Grant Administration*. 2 vols. (New York: Frederick Ungar Publishing Co., 1957), II: 600, 606.

Ironically, as southern delegates, who began participating in Congress again in 1868, remained “ambivalent” about the income tax. Seip noted that “members from more heavily agricultural districts tended to favor retaining the income tax,” but their support for the bill held little of the passionate that would surface 20 years later.¹⁵⁸ Southerners as a whole paid little in the income tax, although, I suspect, southern congressmen as a group paid. Although no study has been conducted correlating the votes of congressmen with their income tax returns, this might explain the lack of interest shown by southern leaders.

“The chief reason the income tax did not continue,” Seligman explained, “is not because of objections raised by its opponents as the simple fact that it was not necessary for revenue purposes.”¹⁵⁹ The prosperity of the country continued apace. Government surpluses had reached \$101 million by 1870. Opponents of the income tax waged a more serious and prolonged attack against it than the defenders for retaining it. The income tax died a natural death, rather than get shot down. The House allowed it to expire. Only after the downturn in 1873 did levying an income tax become the central goal of tax reformers.

Conclusion

After a visit to England in 1870, Hugh McCulloch, in language reminiscent of that used by delegates to the Constitutional Conventions and subsequent ratification conventions, described the tax structure developed after the war:

The national taxes are indirect, and although heavy, they are not complained of and do not seem to be felt, because they are taxes upon consumption, and are paid by the consumers in the increased prices of the taxed articles which are consumed ... Taxes upon imports are easily and cheaply collected, and always have been, and probably always will be, the most popular taxes; but they are, nevertheless, the most unequal and

¹⁵⁸ Terry L. Seip, *The South Returns to Congress: Men, Economic Measures, and Intersectional Relationships, 1868-1879* (Baton Rouge: Louisiana State University Press, 1983), 158-159.

¹⁵⁹ Seligman, *The Income Tax*, 468.

consequently the most unjust of all, because the very rich people rarely pay more than those in moderate circumstances.¹⁶⁰

When faced with the decision to reduce the debt or the government revenues, Congress followed precedent: they compromised. The Republican leaders in both Congress and the Treasury managed to reduce both taxes and the debt, slowly, but steadily. This system became the pragmatic juncture between two different, and conflicting directions in policy. Fiscal leaders believed that winnowing the tax system to garner revenue almost exclusively from excise taxes on liquor and tobacco represented a success in taxation, and not a failure. These articles provided substantial and consistent revenue. Further, the public accepted this program. “From the storm of Civil War the North moved into the sunshine of an unrestrained economic boom.”¹⁶¹ While basking in this sunshine, the tax system did not seem too bad. Americans accepted this post-war adjustment, if not as “cheerfully” as in the early Republic, but certainly before the Panic of 1873, without protest. “The majority of American would appear disposed to endure any amount of sacrifice rather than bequeath a portion of their debt to future generations,” noted economist Francis A. Walker in 1869 in a popular magazine article.¹⁶²

Wells remained disappointed throughout his public career that Congress could not move on his recommendations regarding the tariff. Fat and happy, with coffers bulging, the debt going down, and memorials flooding Congress in support of the tariff policy, the leaders did not see any reason to act on lowering import duties. Only after the prosperity slowed, and the country plunged into depression did tariff revision become a hot political issue.

¹⁶⁰ Hugh McCulloch, *Men and Measures of Half a Century: Sketches and Comments* (New York: Charles Scribner’s Sons, 1888), 462-463.

¹⁶¹ Allan Nevins, *Hamilton Fish: The Inner History of the Grant Administration*, 2 vols. (New York: Frederick Unger Publishing Co., 1957), I: ix.

¹⁶² Francis A. Walker in *Lippincott’s Monthly Magazine*, Sept., 1869 quoted in Patterson, *Federal Debt Management*, 56.

CHAPTER VII

CONCLUSION

After James Bryce toured the United States in 1887, he described the persistence of James Madison's vision of federalism. The central government, he wrote, directed the "national common purpose," including "foreign relations, internal commerce, weights and measures, and the post office." Bryce continued, "State governments" assumed responsibility for the "maintenance of [local] law and order, the creation of local institutions, the provision of education, and the relief of the poor."¹ The states continued in their responsibility for all the functions of government that touched citizens "individually."

Federalism persisted through the nineteenth century as law as well as tradition. Not until 1941, in the Supreme Court case of *Edwards v. California*, did the Court declare the "Elizabethan poor laws" asserting that "relief is solely the responsibility of local government" no longer applied in the United States. In overturning California's "Okie law" forbidding residents from aiding "paupers" from entering the state, the Court declared, "the duty to share the burden, if not wholly to assume it, has been recognized ... by the federal government."² In lamenting the forsaken aspirations for racial and economic justice in the years after the Civil War, historians have rarely considered the continuity of federalism as a strong impediment to fulfilling the ideals espoused by the Radical Republicans.

Immediately after the Civil War, surpluses accumulated in the Treasury that gave the government more financial flexibility than at any time in its history. Rather than using these funds to assist the freedmen, the Treasury, under Hugh McCulloch, initiated an aggressive debt reduction plan. However, the government did launch a politically popular Civil War veteran's pension system that, by 1890, expended \$109 million a

¹ James Bryce, *The American Commonwealth*, 2 vols. (New York: Macmillan Co., 1904): I: 316.

² *Edwards v. California*, 314 US 160 (1941).

year. Instead of assisting indigent freedmen, these funds were “lavished on a selected subset of the working and middle-class people of both races, who by their own choices and efforts as young men had *earned aid* ... [by] participat[ing] victoriously in the morally fundamental moment of national preservation.”³

Americans had provided pensions to veterans since the American Revolution. These payments not only rewarded valor, but also served as a practical means of overcoming the problem of how to pay soldiers. Granting land, bonds, or long-term payments over time compensated for delivering pay inconsistently during the conflict, a constant problem for the early military. Throughout the American Civil War, soldiers received their pay in a variety of dubious paper “heresies:” Treasury bills, bonds that did not sell on the market, and greenbacks. Thus the pensions awarded to soldiers, and eventually their widows, seemed appropriate, and hardly inconsistent with the past. However, the increase in federal receipts, and new fiscal power of the government facilitated the expansion of this traditional program into the proto-type of the twentieth century welfare system.

Despite the growth in the federal budget, and largesse to veterans and their families, giving assistance to the indigent remained a local, not a national concern. We now interpret the use of the financial power attained during the war as woefully inadequate, however those applying that power thought they had done well. When James Blaine reviewed the “progress” of the United States from 1861 to 1881, he exulted that, “No period of history has been more marked by generous expenditure for worthy ends. The provision made for those who suffered in the Civil War has perhaps no parallel at home or abroad.”⁴ This reticence to use national funds for “individual” relief, coupled with persistent racial prejudice, the desire for national reconciliation, frustrations with the continued violence in the South, impatience with the freedmen’s “inability” to

³ Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA: Harvard University Press, 1992), 151. Emphasis in original text.

⁴ James G. Blaine, *Twenty Years of Congress From Lincoln to Garfield*. 2 vols. (Norwich, CT: Henry Bill Publishing, 1886), II: 674.

become self-supporting free laborers, and the salve of economic prosperity, makes the failure to direct more social spending to the emancipated slaves seem inevitable. When the Panic of 1873 struck the nation, John Sherman noted with some disgust that, “the wildest schemes for relief to the people were proposed.” Most of these “wild schemes” involved manipulating the currency supply, not providing assistance to those impoverished by the downturn.⁵ However, individual concerns became national concerns after the Civil War. During the Forty-Third Congress, Margaret Thompson related, 441 of the 833 bills enacted gave private relief to petitioning individuals and organizations, including “reparations to businesses, churches and schools, and other properties sustaining military damage during the war.”⁶

The increase in the national budgets did not result in a corresponding concern for spending public funds with care. Authorities could not sustain the antebellum ideal of keeping an “unsleeping watchfulness” over national expenditures. Mark W. Summers explained that corruption seeped into the federal system because, “the government had more work to do, more responsibilities to oversee, and more money to spend.”⁷ Douglas Bowers noted that in the antebellum era, lobbying and political influence peddling occurred primarily at the state level since that’s where most public funds were expended.⁸

However, the expense of the war permanently altered the role of the national government in the public and private economy. Per capita receipts rose from \$1.78 in 1860 to \$8.00 in 1873, then steadying at \$5.75 by 1886.⁹ George Boutwell related that when first appointed commissioner of internal revenue, he and three clerks tabulated the early returns. However, by March 1863, the Bureau of Internal Revenue “exceeded in

⁵ Sherman, *Recollections*, I: 490.

⁶ Margaret Susan Thompson, *The Spider Web: Congress and Lobbying in the Age of Grant* (Ithaca, NY: Cornell University Press, 1985), 42.

⁷ Mark Wahlgren Summers, *The Era of Good Stealings* (New York: Oxford University Press, 1993), 108.

⁸ Douglas E. Bowers, “From Logrolling to Corruption: The Development of Lobbying in Pennsylvania, 1815-1861,” *Journal of the Early Republic*, 3 (Winter, 1983), 439-474.

⁹ *Annual Report of the Secretary of the Treasury*, 1886, 242.

magnitude the entire Treasury Department. It was in fact the largest government department ever organized in historical times. By its machinery, it became so vast that \$350 million were assessed and collected in a single year.”¹⁰

The ideal of trying to keep public revenue close to the scrutiny of “the people” continued, however the size of the organization defied this commitment. “It is well to keep the power over public funds and public expenses as close to the people as possible,” Supreme Court Justice David J. Brewer recommended to law school students in 1897. He lamented the “growing tendency in government” towards “extravagance” in the late nineteenth century. He expressed this worthy sentiment in a speech he delivered defending his participation in striking down the constitutionality of the income tax. In declaring the tax a “direct” rather than an indirect tax, the Court attempted to reassert the antebellum mores of fiscal federalism in an era where all such restraints had disappeared.¹¹

Before the war, citizens paid their taxes primarily as tariffs fixed to “luxuries” entering the country. After the war, American citizens paid taxes on all types of articles and transactions. Besides the excise taxes on liquor and tobacco that became the staples of the new internal revenue system, the government continued to collect duties on matches, patent medicines, licenses, and most bank transactions. In order to cure a malady, warm or illuminate your house, legally open a shop or provide a service, or complete any type of financial transaction besides local barter, the citizen interacted with the national government. Tax collectors during the antebellum era stayed confined to distant ports, but during the post war era, over 3500 revenue officers dotted the country. Erected hastily as a wartime expedient, it became clear after the war that the structure would not be dismantled. The government will continue to collect internal taxes, Sherman noted in 1895, “as a part of the organized machinery of the government ... as

¹⁰ George Boutwell, *Reminiscences of Sixty Years in Public Affairs*. 2 vols. 1902. Reprint. (New York: Greenwood Press, 1968), I: 313.

¹¹ David J. Brewer, *The Income Tax Cases: An Address at the University of Iowa* (Iowa City: University of Iowa Press, 1898), 19-20.

long as our public debt remains, and until the list of pensioners will be obliterated by the hand of time.”¹²

No longer stationed only at distant ports, Treasury officials now roamed the land, assessing, collecting, and punishing when they detected fraud. Federal tax officials in the “mountain South” chased down small-scale “moonshiners” to collect the whiskey excise, the single largest source of internal revenue. Wilbur Miller related that in enforcing this system, “the government presented itself as both powerful and conciliatory;” arresting offenders, then issuing only small fines rather than jail time.¹³ The whiskey excise taxes resulted in the grandest scandal that beset the Treasury in the post-war era. Although unveiled during the Grant administration, the corruption in collecting the whiskey excise began early. Fernando Wood (D, NY) speculated on the House floor in 1864 that some members took too vigorous a stand against applying increased excise rates to manufactured whiskey, and insisted that any new tax should apply solely to future production.¹⁴

Distillers paid tax officials to miscount the number of gallons they produced, thus lowering their tax payments. The revenue officers reaped enormous profits. The supervisor of revenue in upstate New York would habitually collect \$500,000 annually in graft. Orville E. Babcock, President Grant’s “confidential advisor” kept a close watch over the executive branch to alert his co-conspirators in the “Whiskey Ring” of any pending investigations. The opportunity to profit from skimming the distilled liquor excise collections became pervasive. New Orleans officials alone skimmed well over \$1.5 million from the tax system. Although corruption occurred in the antebellum customhouses, the degree increased in the post war era because the size of the system had grown, both in terms of employees and the amount of money circulating through the machine.¹⁵

¹² Sherman, *Recollections*, I: 309.

¹³ Wilbur K. Miller, “The Revenue: Federal Enforcement in the Mountain South, 1870-1900,” *Journal of Southern History*, 55 (May, 1989), 213.

¹⁴ *Congressional Globe*, 38th Cong., 1st sess., Jan. 14, 1864, 216-218.

¹⁵ Summers, *Era of Good Stealings*, 91-92; 184-185.

Congress did not become officially involved in regulating business until the establishment of the Interstate Commerce Commission in 1887. However, lawmakers had experience in manipulating consumer preferences through taxation. Protective tariffs purposefully raised prices on imported goods in order to make American products more competitive. Congress passed the ten percent tax on state bank notes in 1865 specifically to make their use prohibitively expensive so they would fall out of circulation. Excise taxes on liquor and tobacco, the backbone of the new internal revenue system, taxed “superfluities” that all could avoid, if desired. Government power could now be used to modify individual behavior. Congressmen Lott Morrill (R, ME) spoke often of taxing liquor into “extinction.” He hoped that by raising the tax high enough, those without moral fiber could no longer afford to indulge.¹⁶ The excise on margarine by 1895 became the fifth largest source of internal revenue by 1895. Enacted solely for the purpose of discouraging the use of this product at the behest of dairy farmers, this tax did not produce needed revenue, but simply raised the price on this product to make butter the preferred commodity.

The character of government changed during the postwar era, not only because of the swell of revenue within, but also the new opportunities in the private sector. Over 1500 members served in the House between 1861 and 1881. “Rapidity of change in elective officers” characterized the post war chamber. Each succeeding session in those ten Congresses contained a majority of new members. Only William D. Kelley kept his seat during this entire period. Many members, such as Justin S. Morrill, John Sherman, and Roscoe Conkling advanced to the Senate, but the House during this period remained singularly inexperienced.¹⁷ Thompson described the House during the “Gilded Age” as having “high turnover, no formal leadership, largely inexperienced membership, and little or no professional staff.”¹⁸ “The House of Representatives [in December 1873] is best understood as one suffering acutely from time-lag. The House was a fundamentally antebellum institution endeavoring with limited success to cope with the enlarged federal

¹⁶ *Congressional Globe*, 37th Cong., 2nd sess., March 14, 1862, 1346.

¹⁷ Blaine, *Twenty Years*, II: 675-676.

¹⁸ Thompson, *Spider Web*, 19.

purview of postwar America.”¹⁹ Yet, this inexperience body now controlled far more “power of the purse” than the early congresses. This, in part explains why Congress during the Gilded Age “subsidized but did not supervise.”²⁰ Government now had the “power to choose favorites and alter the market,” yet most of the members of the body did not have the experience to do this wisely.²¹ “Teaching the American people that government could legitimately spend on a grand scale – in the billion dollar range for the first time,” proved decisive in redefining government power after the Civil War.²² Justin S. Morrill gave an explanation of these new powers during the tax debates in 1862:

The government of the United States – the most parental and benign of all earthly governments – in its hour of need has the right to *demand* whatever may be the measure of its necessities to sustain the public credit ... That the government is the property of the people is not more true than that the property of the people for public use belongs to the Government. If the power of taxation gives the right to take three percent, it gives to the extent of ninety-nine percent, just as much; but it would be an abuse of power justifying a revolution if it exacted *anything* beyond its reasonable and urgent necessities.²³

Yet, the war changed the character of what constituted “reasonable and urgent necessities.” In trying to redefine these new parameters, the only restraint became that of the democratic forces, garnering their strength, and “justifying a revolution” against the newly perceived powers of government.

¹⁹ Thompson, *The Spider Web*, 73.

²⁰ Harold M. Hyman, *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution* (New York: Knopf, 1973), 382.

²¹ Hurst, *Law and the Conditions of Freedom*, 79.

²² Elazar, *American Partnership*, 105.

²³ *Congressional Globe*, 37th Cong., 2nd sess., March 12, 1862, 1194. This quote is often taken out of context by citing only Morrill’s statement that the government has the right to demand the property of the people.

REFERENCES

Primary Sources

Edited Collections of Documents

- Belz, Herman, ed. *The Webster-Hayne Debate on the Nature of the Union: Selected Documents*. Indianapolis, IN: Liberty Fund, 2000.
- Benton, Wilbourn E., ed. *1787: Drafting the Constitution*. 2 vols. College Station: Texas A&M University Press, 1986.
- Bland, A. E., P. A. Brown, and R. H. Tawney, comps. *English Economic History: Selected Documents*. London: G. Bell and Sons, 1914.
- Elliot, Jonathan, ed. *Debates on the Adoption of the Federal Constitution*. 5 vols. 1888. Reprint. Salem: Ayer Publishers, 1987.
- Gunter, Gerald, ed. *John Marshall's Defense of McCulloch v. Maryland*. Stanford, CA: Stanford University Press, 1966.
- Jensen, Merrill, ed. *Documentary History of the Ratification of the Constitution*. 20 vols. Madison: University of Wisconsin Press, 1976.
- Madison, James. *Notes of the Debates on the Federal Convention of 1787*. Edited by Adrienne Koch. Athens, OH: Ohio University Press, 1960.
- Porter, Kirk H. and Johnson Donald B., eds. *National Party Platforms, 1840-1956*. Urbana: University of Illinois Press, 1956.

Edited Collections of Papers and Pamphlets

- Brewer, David J. *The Income Tax Cases: An Address at the University of Iowa*. Iowa City: University of Iowa Press, 1898.
- Crall, Richard K., ed. *Works of John C. Calhoun*, 6 vols. New York: D. Appleton, 1860.
- Gallatin, Albert. "Expenses of the War," in *Pamphlets in American History*. New York: John T. Towers, 1848.
- Hamilton, Alexander. *Papers on Public Credit, Commerce, and Finance*. Edited by Samuel McKee. New York: Liberal Arts Press, 1957.

_____. *Writings*. Edited by Joanne B. Freeman. New York: Penguin Books, 2001.

_____, Madison, James, Jay, John. *The Federalist*. Edited by Paul L. Ford.
New York: Henry Holt, Co., 1898.

Hunt, Gaillard, ed. *The Writings of James Madison*. 9 vols.
New York: G. P. Putnam Sons, 1901.

Locke, John. *The Works of John Locke*. 10 vols. London: Thomas Tegg, 1823.

Moore, John Bassett, ed. *The Works of James Buchanan*. 12 vols.
New York: Antiquarian Press, 1960.

Niven, John, ed. *Salmon P. Chase Papers*. 5 vols. Kent, OH:
Kent State University Press, 1994.

Richardson, James D., ed. *A Compilation of the Messages and Papers of the
Presidents*. 11 vols. New York: Bureau of National Literature and Art, 1897-
1908.

Syrett, Harold C., ed. *The Papers of Alexander Hamilton*. 18 vols. New York:
Columbia University Press, 1972.

Reminiscences, Diaries, and Autobiographies

Benton, Thomas Hart. *Thirty Years, or the History of the Working of the
American Government for Thirty Years, from 1820-1850*. New York:
D. Appleton and Co., 1856.

Blaine, James G. *Twenty Years of Congress from Lincoln to Garfield*. 2 vols.
Norwich, CT: Henry Bill Publishing Co., 1884.

Boutwell, George S. *Reminiscences of Sixty Years in Public Affairs*. 2 vols. 1902.
Reprint. New York: Greenwood Press, 1968.

Chittenden, Lucius E. *Personal Reminiscences, 1840-1890*. New York:
Richmond, Croscup and Co., 1893.

Dix, Morgan, comp. *Memoirs of John A. Dix*. 2 vols. New York: Harper Brothers, 1883.

Donald, David, ed. *Inside Lincoln's Cabinet: The Civil War Diaries of Salmon P. Chase*.
New York: Longman's Green and Co., 1954.

McCulloch, Hugh. *Men and Measures of Half a Century: Sketches and Comments*.
New York: Charles Scribner's Sons, 1888.

Sherman, John. *Recollections of Forty Years in the House, Senate, and Cabinet*.
An Autobiography. 2 vols. Chicago: Werner, Co., 1895.

Tocqueville, Alexis de. *Democracy in America*. 2 vols. Rev. ed. New York:
Vintage Books, 1954.

Welles, Gideon. *Diary of Gideon Welles*. 3 vols. Boston: Houghton Mifflin, Co., 1911.

Manuscript Collections

Brunswick, ME. Bowdoin College Library. Special Collections. William Pitt Fessenden
Papers, Fessenden Family Papers.

Ithaca, NY. Cornell University Libraries. Justin S. Morrill Papers, #1146.
Division of Rare and Manuscript Collections.

Philadelphia, PA. Historical Society of Pennsylvania. Henry C. Carey Papers,
Edwin Carey Gardiner papers.

Washington, DC. Library of Congress. Papers of Salmon P. Chase.
Manuscript Reading Room.

Washington, DC. Library of Congress. Papers of Abraham Lincoln. Manuscript
Reading Room.

Washington, DC. Library of Congress. Papers of Justin S. Morrill. Manuscript
Reading Room.

Washington, DC. Library of Congress. Papers of Thaddeus Stevens. Manuscript
Reading Room.

Government Documents

Bayley, Rafael. *Report on Public Indebtedness*. 10th Census, vol. 7.
Washington, DC: GPO, 1884.

Cochran, Thomas C., ed. *The New American State Papers. Finance*. 32 vols.
Wilmington, DE: Scholarly Resources, Inc., 1973.

Dix, John A. "Condition of the Treasury," *Congressional Globe*, 36th Cong., 2nd sess. H. Doc., 20, Serial Set 1103.

U. S. Congress. House. *Annual Report of the Secretary of the Treasury, 1857*. Report prepared by Howell Cobb. 35th Cong, 2nd session, H. ExDoc. 4, serial set 996.

_____. *Annual Report of the Secretary of Treasury, 1860*. Report prepared by Howell Cobb. 36th Cong., 2nd session, H. ExDoc. 2, serial set 996.

_____. *Annual Report of the Secretary of Treasury, 1863*. Report prepared by Salmon P. Chase. 38th Cong., 1st, sess., H. ExDoc. 3, serial set 1186.

_____. *Annual Report of the Secretary of Treasury, 1864*. Report prepared by William Pitt Fessenden. 38th Cong., 2nd sess., H. ExDoc. 3, Serial Set 1222.

_____. *Annual Report of the Secretary of Treasury, 1865*. Report prepared by Hugh McCulloch. 39th Cong., 1st, sess., H. ExDoc. 3, Serial Set 1254.

_____. *Annual Report of the Secretary of Treasury, 1866*. Report prepared by Hugh McCulloch. 39th Cong., 2nd sess., H. ExDoc. 12, Serial Set 1288.

_____. "Collection of Duties in the Seceding States." Report prepared by John A. Dix. 36th Cong., 2nd sess., H. ExDoc. 4, Serial Set 1100.

_____. *Commerce and Navigation Report, 1857*. Report prepared by the Department of Treasury. 35th Cong., 1st sess., H. ExDoc. 145, Serial Set 960.

_____. *Commerce and Navigation Report, 1858*. Report prepared by the Department of Treasury. 35th Cong., 2nd sess., H. ExDoc. 120. Serial Set 1015.

_____. *Revenue System of the United States*. Report prepared by David A. Wells. 39th Cong., 1st sess., H. ExDoc 34, Serial Set 1255.

U. S. Congress. Senate. *Annual Report of the Secretary of Treasury, 1861*. Report prepared by Salmon P. Chase. 37th Cong., 2nd sess., S. Exec.Doc. 2, Serial Set 1121.

_____. *Annual Report of the Secretary of Treasury, 1862*. Report prepared by Salmon P. Chase. 37th Cong., 3rd sess., S. Exec.Doc. 1, Serial Set 1149.

_____. *Report on the Constitutional Treasury System*, Report prepared by William M. Gouge. 34th Cong., 1st sess., S. ExDoc. 2, Serial Set 814.

U.S. Department of Commerce. Bureau of the Census. *Statistics of the United States in 1860, compiled from the Eighth Census*. Washington, DC: GPO, 1866.

Newspapers and Magazines

Congressional Globe

Debow's Review

Harper's Weekly

Merchant's Magazine and Commercial Review (Hunt's Merchant Magazine)

Internal Revenue Recorder

Times (London)

New York Times

New York Herald Tribune

North American Review

United States Democratic Review

Secondary Sources

Books

Adams, Henry. *History of the United States During the Administration of Thomas Jefferson*. 2 vols. New York: Albert and Charles Boni Publishers, 1930.

_____. *The Life of Albert Gallatin*. 1879. Reprint. New York: Peter Smith, 1943.

_____. *The Great Secession Winter and Other Essays*. Edited by George Hatfield. New York: Sagamore Press, 1958.

Albion, Robert G. *The Rise of New York Port*. New York: Charles Scribner's Sons, 1939.

Andreano, Ralph, ed. *The Economic Impact of the American Civil War*. Cambridge, MA: Schenkmen Publishing Co., 1962.

Ashworth, John. *Agrarians and Aristocrats: Party Political Ideology in the United States, 1837-1846*. New Jersey: Humanities Press, 1983.

Atton, Henry and Henry Hurst Holland, *The King's Custom: An Account of Maritime Revenue and Contraband Traffic in England, Scotland and Ireland, From the Earliest Times to the Year 1800*. 1908. Reprint. New York: August M. Kelley, 1967.

- Auchampaugh, Philip G. *James Buchanan and His Cabinet on the Eve of Secession*. Lancaster, PA: Lancaster Press, 1926.
- Bailyn, Bernard. *The Ideological Origins of the Americans Revolution*. Cambridge, MA: Harvard University Press, 1967.
- Baker, Jean H. *Affairs of the Party: The Political Culture of Northern Democrats in the Mid-Nineteenth Century*. Ithaca: Cornell University Press, 1983.
- _____. *James Buchanan*. New York: Henry Holt, 2004.
- Banner, James M. *To the Hartford Convention: The Federalists and the Origins of Party Politics in Massachusetts, 1789-1815*. New York: Knopf, 1970.
- Banning, Lance. *The Jeffersonian Persuasion: Evolution of a Party Ideology*. Ithaca, NY: Cornell University Press, 1978.
- Barnes, William H. *History of the Thirty-Ninth Congress of the United States*. 1868. Reprint. New York: Negro Universities Press, 1969.
- Barrow, Thomas. *Trade and Empire: The British Customs Service in Colonial America, 1660-1775*. Cambridge, MA: Harvard University Press, 1967.
- Beard, Charles A. and Mary R. Beard. *The Rise of American Civilization*. 4 vols. New York: Macmillan, Co, 1927.
- Beckett, J.V. *Local Taxation: National Legislation and the Problems of Enforcement*. London: Bedford Square Press, 1980.
- Becker, Robert A. *Revolution, Reform, and the Politics of American Taxation, 1763-1783*. Baton Rouge: Louisiana State University Press, 1980.
- Bensel, Richard F. *Yankee Leviathan: The Origins of Central State Authority in America, 1859-1877*. New York: Cambridge University Press, 1990.
- Binney, J. E. D. *British Public Finance and Administration*. Oxford: Clarendon Press, 1958.
- Blue, Federick J. *Salmon P. Chase: A Life in Politics*. Kent, OH: Kent State University Press, 1987.
- Bogue, Allan G. *The Earnest Men: Republicans of the Civil War Senate*. Ithaca, NY: Cornell University Press, 1981.

- Bolles, Albert S. *The Financial History of the United States from 1861-1885*. New York: A. M. Kelley, 1969.
- Borritt, Gabor. *Lincoln and the Economics of the American Dream*. Memphis, TN: Memphis State University Press, 1978.
- Bowen, H. V. *War and British Society, 1688-1815*. Cambridge, UK: Cambridge University Press, 1998.
- Braddick, Michael J. *The Nerves of State: Taxation and the Financing of the English State, 1558-1714*. Manchester, UK: Manchester University Press, 1996.
- Brewer, John. *The Sinews of Power: War, Money, and the English State*. New York: Alfred A. Knopf, 1988.
- Brown, Roger H. *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution*. Baltimore, MD: Johns Hopkins University Press, 1993.
- Brownlee, W. Elliot. *Federal Taxation in America, A Short History*. New York: Cambridge University Press, 2004.
- Browning, Edgar K and Browning, Jacqueline M. *Public Finance and the Price System*. 4th ed. Englewood Cliffs, NJ: Prentice Hall, Inc., 1994.
- Bruchey, Stuart. *The Roots of American Economic Growth, 1607-1861*. New York: Harper Row, 1965.
- _____. *The Wealth of the Nation: An Economic History of the United States*. New York: Harper Row, 1988.
- Bryce, James. *The American Commonwealth*. 2 vols. New York: Macmillan Co., 1904.
- Carey, Henry C. *Principles of Political Economy*. 1837. Reprint. New York: A. M. Kelley, 1965.
- _____. *Harmony of Interests: Agricultural, Manufacturing, and Commercial*. Philadelphia: J. S. Skinner, 1851.
- Carson, Edward. *The Ancient and Rightful Customs: A History of the English Customs Service*. Hamden, CT: Archon Books, 1972.
- Chandaman, C. D. *The English Public Revenue, 1660-1668*. Oxford: Oxford University Press, 1975.

- Chernow, Ron. *Alexander Hamilton*. New York: Penguin Press, 2004.
- Clarkson, L. A. *The Pre-Industrial Economy in England, 1500-1750*. New York: Schocken Books, 1972.
- Clawson, Marion. *The Land System of the United States: An Introduction to the History and Practice of Lane Use and Land Tenure*. Lincoln: University of Nebraska Press, 1968.
- Clay, C. G. A. *Economic Expansion and Social Change: England 1500-1700*. 2 vols. New York: Cambridge University Press, 1984.
- Cooley, Thomas J. *The Law of Taxation*, 4 vols. Chicago: Callahan Publisher, 1924.
- Coward, Barry. *The Stuart Age: England: 1603-1714*. 2nd ed. New York: Longman Press, 1994.
- Curry, Leonard P. *Blueprint for Modern America: Non-Military Legislation for the First Civil War Congress*. Nashville, TN: Vanderbilt University Press, 1968.
- Curtis, George T. *Life of James Buchanan*. 2 vols. New York: Harper & Bros, 1883.
- Daunton, M. J. *Progress and Poverty: An Economic and Social History of Britain, 1700-1850*. Oxford: Oxford University Press, 1995.
- Davis, William. *The Fries Rebellion, 1798-1799*. New York: Arno Press, 1969.
- Dewey, Davis R. *Financial History of the United States*, 12th ed. New York: Longmans, Green and Co., 1939.
- Dickson, P. G. M. *The Financial Revolution in England*. London: Melbourne Publishers, 1967.
- Donald, David H. *Lincoln*. New York: Simon and Schuster, 1995.
- Dorfman, Joseph. *The Economic Mind in American Civilization, 1606-1865*. New York: Viking Press, 1966.
- Doti, Lynne Pierson and Larry Schweikart. *Banking in the American West: From Gold Rush to Deregulation*. Norman: University of Oklahoma Press, 1991.
- Dowell, Stephen. *A History of Taxation and Taxes in England, from Earliest Times to the Present Day*. 4 vols. London: Longman, Green and Co., 1884.

- Edling, Max. *A Revolution in Favor of Government: Origins of the United States Constitution and the Making of the American State*. New York: Oxford University Press, 2003.
- Elazar, Daniel. *The American Partnership: Intergovernmental Cooperation in Nineteenth Century United States*. Chicago: University of Chicago Press, 1962.
- _____. *American Federalism: A View from the States*. New York: Crowell Press, 1966.
- Ely, Richard T. *Taxation in American States and Cities*. New York: Thomas Crowell, 1888.
- Ezell, John S. *Fortune's Merry Wheel: The Lottery in America*. Cambridge, MA: Harvard University Press, 1960.
- Faulkner, Harold U. *American Economic History*. New York: Harper Brothers, 1924.
- Fehrenbacher, Donald. *Slavery, Law, Politics: The Dred Scott Case in Historical Perspective*. New York: Oxford University Press, 1981.
- Feldberg, Michael. *The Turbulent Era: Riot and Disorder in Jacksonian America*. New York: Oxford University Press, 1980.
- Ferguson, E. James. *The Power of the Purse: A History of American Public Finance, 1776-1790*. Chapel Hill: University of North Carolina Press, 1961.
- Ferleger, Herbert R. *David A. Wells and the American Revenue System, 1865-1870*. Philadelphia: Porcupine Press, 1977.
- Fine, Sidney. *Laissez-Faire and the General Welfare States: A Study of Conflict in American Thought, 1865-1901*. Ann Arbor: University of Michigan Press, 1956.
- Fiske, John. *The Critical Period of American History: 1783-1789*. Boston: Houghton Mifflin, 1888.
- Fite, Emerson D. *Social and Industrial Conditions in the North During the Civil War*. New York: Peter Smith, 1930.
- Fogel, Robert W. *The Union Pacific Railroad: A Case in Premature Enterprise*. Baltimore: Johns Hopkins University Press, 1960.

Foner, Eric. *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War*. New York: Oxford University Press, 1970.

_____. *Reconstruction: America's Unfinished Revolution, 1863-1877*. New York: Harper Row, 1988.

Foner, Philip. *Business and Slavery: The New York Merchants and the Irrepressible Conflict*. Chapel Hill: University of North Carolina Press, 1941.

Forsythe, Dall. *Taxation and Political Change in the Young Nation, 1781-1883*. New York: Columbia University Press, 1977.

Fox-Genovese, Elizabeth. *The Origins of Physiocracy: Economic Revolution and Social Order in Eighteenth Century France*. Ithaca, NY: Cornell University Press, 1976.

Freehling, William H. *Prelude to Civil War: The Nullification Controversy in South Carolina, 1816-1836*. New York: Harper Row, 1965.

Galbraith, John Kenneth. *Economics in Perspective: A Critical History*. Boston: Houghton-Mifflin, 1987.

Gallman, J. Matthew. *The North Fights the Civil War: The Homefront*. Chicago: I.R. Dee Publishers, 1994.

Gates, Paul W. *Frontier Landlords and Pioneer Tenants*. Ithaca, NY: Cornell University Press, 1945.

Gilchrist, David T. and W. David Lewis, eds. *Economic Change in the Civil War Era: Proceedings of a Conference on American Institutional Change, 1850-1873 and the Impact of the Civil War*. Greenville, DE: Eleutherian Mills-Hagley Foundation, 1965.

Gienapp, William E. *The Origins of the Republican Party, 1852-1856*. New York: Oxford University Press, 1987.

Goodrich, Carter. *Government Promotion of American Canals and Railroads, 1800-1890*. New York: Columbia University Press, 1960.

_____. *Government and the Economy, 1783-1861*. Indianapolis: Bobbs-Merrill, 1967.

Goodrich, Charles B. *The Science of Government as Exhibited in the Institutions of the United States*. Boston: Little, Brown and Co., 1853.

- Gouge, William M. *The Curse of Paper-Money and Banking or A Short History of Banking in the United States of America*. 1833. Reprint. New York: Greenwood Press, 1968.
- Gras, Norman S. B. *The Early English Customs System: A Documentary Study of the Institutional and Economic History of the Customs from the Thirteenth to the Sixteenth Century*. Cambridge, MA: Harvard University Press, 1918.
- Green, Michael. *Freedom, Union, and Power: Lincoln and His Party during the Civil War*. New York: Fordham University Press, 2004.
- Gross, Robert A. *The Minutemen and Their World*. New York: Hill and Wang, 2001.
- Hacker, Louis M. *The Triumph of American Capitalism: The Development of Forces in American History to the End of the Nineteenth Century*. New York: Simon and Schuster, 1940.
- Hall, Hubert. *A History of the Custom-Revenue in England from the Earliest Times to the Year 1827*. 2 vols. 1885. Reprint. New York: Burt Franklin, 1970.
- Hamilton, Christopher and Donald T. Wells. *Federalism, Power, and Political Economy: A New Theory on Federalism's Impact on American Life*. Englewood Cliffs, NJ: Prentice Hall, 1990.
- Hammond, Bray. *Banks and Politics in America: From the Revolution to the Civil War*. Princeton, NJ: Princeton University Press, 1957.
- _____. *Sovereignty and the Empty Purse: Banks and Politics in the Civil War*. Princeton, NJ: Princeton University Press, 1970.
- Handlin, Oscar and Mary. *Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861*. New York: New York University Press, 1947.
- Harriss, G. L. *King, Parliament, and Public Finance in Medieval England to 1369*. Oxford, UK: Clarendon Press, 1975.
- Hartz, Louis. *Economic Policy and Democratic Thought: Pennsylvania, 1776-1860*. Cambridge, MA: Harvard University Press, 1948.
- Heath, Milton S. *Constructive Liberalism: The Role of the State in Economic Development in Georgia to 1860*. Cambridge, MA: Harvard University Press, 1954.

- Hepburn, A. Barton. *A History of Currency in the United States*. New York: Macmillan Co., 1924.
- Hibbard, Benjamin H. *A History of Public Land Policies*. Lincoln: University of Nebraska Press, 1968.
- Hofstadter, Richard. *American Political Tradition and the Men Who Made It*. New York: Oxford University Press, 1999.
- Holt, Michael F. *Political Parties and American Political Development for the Age of Jackson to the Age of Lincoln*. Baton Rouge: Louisiana State University Press, 1992.
- _____. *The Rise and Fall of the American Whig Party: Jacksonian Politics and the Onset of the Civil War*. New York: Oxford University Press, 1999.
- _____. *The Fate of the Country: Politicians, Slavery Extension, and the Coming of the Civil War*. New York: Hill and Wang, 2004.
- Homer, Sidney and Richard Sylla. *A History of Interest Rates*. 3rd ed. New Brunswick, NJ: Rutgers University Press, 1991.
- Hope-Jones, Arthur. *Income Tax in the Napoleonic Wars*. Cambridge, UK: Cambridge University Press, 1939.
- Howe, Frederic C. *Taxation and Taxes in the United States Under the Internal Revenue System, 1791-1895*. New York: Thomas Y. Crowell, Co., 1896.
- Hoyt, Robert S. *The Royal Demesne in English Constitutional History: 1066-1272*. Ithaca, NY: Cornell University Press, 1950.
- Hughes, Edward. *Studies in Administration and Finance, 1558-1825*. Manchester: Manchester University Press, 1934.
- Hurst, J. Willard. *Law and the Conditions of Freedom in Nineteenth Century United States*. Madison: University of Wisconsin Press, 1967.
- Huston, James L. *The Panic of 1857 and the Coming of the Civil War*. Baton Rouge, LA: Louisiana State University Press, 1987.
- _____. *Securing the Fruits of Labor: The American Concept of Wealth Distribution, 1765-1900*. Baton Rouge: Louisiana State University Press, 1998.

- Hyman, Harold M. *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution*. New York: Knopf, 1973.
- Iceland, John. *Poverty in America: A Handbook*. Berkeley: University of California Press, 2003.
- Jellison, Charles A. *Fessenden of Maine: Civil War Senator*. Syracuse, NY: Syracuse University Press, 1962.
- Jensen, Merrill. *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781*. Madison: University of Wisconsin Press, 1940.
- Johnson, David R. *Illegal Tender: Counterfeiting and the Secret Service in Nineteenth Century America*. Washington: Smithsonian Institution, 1995.
- Josephson, Matthew. *The Robber Barons: The Great American Capitalists, 1861-1901*. New York: Harcourt, Brace, Co., 1934.
- Kanigel, Robert. *The One Best Way: Frederick Winslow Taylor and the Enigma of Efficiency*. New York: Viking, 1997.
- Katz, Michael B. *Poverty and Policy in American History*. New York: Academic Press, 1983.
- Kennedy, William. *English Taxation, 1640-1799: An Essay on Policy and Opinion*. London: G. Bellard and Sons, 1913.
- Kenyon, Cecilia, ed. *The Anti-Federalists*. New York: Bobbs-Merrill, Co., 1966.
- Kinley, David. *The History, Organization and Influence of the Independent Treasury of the United States*. 1893. Reprint. New York: Greenwood Press, 1968.
- Kirk, Russell. *John Randolph of Roanoke*. Chicago: University of Chicago Press, 1951.
- Klein, Philip S. *President James Buchanan: A Biography*. University Park, PA: Pennsylvania State University Press, 1978.
- Knox, John Jay. *United States Notes: A History of the Various Issues of Paper Money by the Government of the United States*. 3rd ed. New York: Charles Scribner's Sons, 1888.
- _____. *History of Banking*. 1900. Reprint. New York: A.M. Kelley, 1969.

- Kohl, Lawrence F. *The Politics of Individualism: Parties and the American Character in Jacksonian Era*. Englewood Cliffs, NJ: Prentice Hall, 1961.
- Larson, Henrietta M. *Jay Cooke, Private Banker*. Cambridge, MA: Harvard University Press, 1936.
- Leonard, E. M. *The Early History of English Poor Relief*. 1900. Reprint. London: Frank Cass & Co, 1965.
- Lyon, Bruce D. and A. E. Verhulst, *Medieval Finance: A Comparison of Financial Institutions in Northwestern Europe*. Providence, RI: Brown University Press, 1967.
- Main, Jackson Turner. *The Anti-Federalists: Critics of the Constitution, 1781-1788*. Chapel Hill: University of North Carolina Press, 1961.
- Martis, Kenneth C. *The Historical Atlas of Political Parties in the United States Congress, 1789-1989*. New York: Macmillan Co., 1989.
- Marx, Karl and Engels, Frederick. *The Civil War in the United States*. 3rd ed. Edited by Richard Enmale. New York: International Publishers, 1937.
- McCoy, Drew. *The Elusive Republic: Political Economy in Jeffersonian America*. 2nd ed. New York: Oxford University Press, 1982.
- McCusker, John J. and Russell R. Menard. *The Economy of British America, 1607-1789*. Chapel Hill: University of North Carolina Press, 1985.
- McFaul, John M. *The Politics of Jacksonian Finance*. Ithaca, NY: Cornell University Press, 1972.
- McGrane, Reginald C. *Foreign Bondholders and American State Debts*. New York: Macmillan Co., 1935.
- McMaster, John Bach. *History of the People of the United States*. 9 vols. New York: D. Appleton, Co., 1916.
- McPherson, James M. *The Battlecry of Freedom*. New York: Oxford University Press, 1988.
- _____. *What They Fought For, 1861-1865*. Baton Rouge: Louisiana State University Press, 1994.

- Meek, Ronald L. *The Economics of Physiocracy: Essays and Translations*. Cambridge, MA: Harvard University Press, 1963.
- Mitchell, Wesley C. *A History of the Greenbacks, with Special Reference to the Economic Consequences of Their Issue*. Chicago: University of Chicago Press, 1903.
- Morgan, Shepard A. *The History of Parliamentary Taxation in England*. New York: Moffat, Bard and Co., 1911.
- Morison, Samuel Eliot and Henry Steele Commager. *The Growth of the American Republic*. 2 vols. New York: Oxford University Press, 1950.
- Morriss, Thomas D. *Free Men All: The Personal Liberty Laws of the North, 1780-1861*. Baltimore: Johns Hopkins University Press, 1974.
- Myers, Margaret G. *A Financial History of the United States*. New York: Columbia University Press, 1970.
- Nettels, Curtis P. *The Emergence of a National Economy*. New York: Holt, Rinehart, and Winston, 1962.
- Nevins, Allan. *The Emergence of Lincoln*. 2 vols. New York: Charles Scribner's Sons, 1950.
- _____. *Hamilton Fish: The Inner History of the Grant Administration*, 2 vols. New York: Frederick Unger Publishing Co., 1957
- Newman, Paul Douglas. *Fries Rebellion: The Enduring Struggle for the American Revolution*. Philadelphia: University of Pennsylvania, 2004.
- Nichols, Roy F. *The Disruption of American Democracy*. New York: Macmillan Co., 1948.
- Niven, John. *Salmon P. Chase: A Biography*. New York: Oxford University Press, 1995.
- North, Douglass C. *The Economic Growth of the United States, 1790-1860*. New York: W. W. Norton, 1966.
- Novak, William J. *The People's Welfare: Law and Regulation in Nineteenth Century America*. Chapel Hill: University of North Carolina Press, 1996.

- Nussbaum, Arthur. *A History of the Dollar*. New York: Columbia University Press, 1957.
- Oberholtzer, Ellis P. *Jay Cooke: Financier of the Civil War*. 2 vols. Philadelphia: George W. Jacobs, Co., 1907.
- O'Brien, Patrick. *The Economic Effects of the American Civil War*. Atlantic Highlands, NJ: Humanities Press International, 1988.
- Ostrum, Vincent. *The Meaning of American Federalism: Constitution a Self-Governing Society*. San Francisco: Institute of Contemporary Studies, 1991.
- Palliser, D. M. *The Age of Elizabeth: England Under the Later Tudors: 1547-1603*. New York: Longman Group, 1983.
- Paludan, Phillip S. *A People's Contest: The Union and Civil War, 1861-1865*. Lawrence: University Press of Kansas, 1996.
- Parker, William Belmont. *The Life and Public Services of Justin Smith Morrill*. Boston: Houghton Mifflin, 1924.
- Patterson, Robert T. *Federal Debt Management Policies*. Durham, NC: Duke University Press, 1954.
- Perkins, Edwin J. *The Economy of Colonial America*. New York: Columbia University Press, 1988.
- _____. *American Public Finance and Financial Services, 1700-1815*. Columbus: Ohio State University Press, 1994.
- Porter, P. Glenn and Harold C. Livesay. *Merchants and Manufacturers*. Baltimore, MD: Johns Hopkins University Press, 1971.
- Potter, David. *People of Plenty*. Chicago: University of Chicago Press, 1954.
- _____. *The Impending Crisis, 1848-1861*. New York: Harper Row, 1976.
- Rakove, Jack N. *The Beginnings of National Politics: An Interpretative History of the Continental Congress*. New York: Alfred Knopf, 1979.
- _____. *James Madison and the Creation of the American Republic*. New York: Longman Press, 2002.

- Ransom, Roger L. *Conflict and Compromise: The Political Economy of Slavery, Emancipation, and the American Civil War*. New York: Cambridge University Press, 1989.
- Ratchford, B. U. *American State Debts*. Durham: Duke University Press, 1941.
- Ratner, Sidney. *American Taxation: It's History as a Social Force in Democracy*. New York: W. W. Norton, 1942.
- Redlich, Fritz. *The Molding of American Banking: Men and Ideas*. 2 vols. 1947. Reprint. New York: Johnson Reprint Co, 1951.
- Rhodes, James F. *History of the United States from the Compromise of 1850 to the Final Restoration of Home Rule at the South in 1877*. 9 vols. New York: Macmillan Co., 1919.
- Richardson, Heather Cox. *The Greatest Nation of the Earth: Republican Economic Policies during the Civil War*. Cambridge, MA: Harvard University Press, 1997.
- Rockoff, Hugh. *Free Banking Era: A Re-examination*. New York: Arno Press, 1975.
- Say, Jean Baptiste. *Treatise on Political Economy, or the Production, Distribution and Consumption of Wealth*. Philadelphia: Grigg and Elliot, 1842.
- Scheele, Carl H. *A Short History of the Mail Service*. Washington, DC: Smithsonian Institution Press, 1970.
- Scheiber, Harry. *American Law and Constitutional Order: Historical Perspectives*. Cambridge, MA: Harvard University Press, 1978.
- Schuckers, Jacob W. *The Life and Public Services of Salmon Portland Chase*. New York: D. Appleton Co., 1874.
- Schultz William J. *Financial Development of the United States*. New York: Prentice-Hall, 1937.
- Schwartz, Bernard. *Confederation to Nation: The American Constitution, 1835-1877*. Baltimore: Johns Hopkins University Press, 1973.
- Schwoerer, Lois G. *The Declaration of Rights, 1689*. Baltimore, MD: Johns Hopkins University Press, 1981.
- Scott, William A. *The Repudiation of State Debts*. New York: Greenwood Press, 1969.

- Sears, David O. and Jack Citrin. *Tax Revolt: Something for Nothing in California*. Cambridge, MA: Harvard University Press, 1982.
- Seip, Terry L. *The South Returns to Congress: Men, Economic Measures, and Intersectional Relationships, 1868-1879*. Baton Rouge: Louisiana State University Press, 1983
- Seligman, Edwin R. *Essays in Taxation*. 8th ed. New York: Macmillan Co., 1913.
- _____. *The Income Tax: A Study of the History, Theory, and Practice of Income Taxation at Home and Abroad*. New York: Macmillan, Co., 1914.
- _____. *Shifting and Incidence of Taxation*. 5th ed. New York: Columbia University Press, 1927
- Sharkey, Robert P. *Money, Class, and Party: An Economic Study of Civil War and Reconstruction*. Baltimore, MA: Johns Hopkins University Press, 1959.
- Shultz, William J. and M. R. Caine. *Financial Development of the United States*. New York: Prentice Hall, Inc., 1937.
- Skocpol, Theda. *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Cambridge, MA: Harvard University Press, 1992.
- Slaughter, Thomas P. *The Whiskey Rebellion: Frontier Epilogue to the American Revolution*. New York: Oxford University Press, 1986.
- Smith, Adam. *An Inquiry into the Nature and Causes of the Wealth of Nations*. 5th ed. New York: Modern Library, 1937.
- Smith, George Winston. *Henry C. Carey and the American Sectional Conflict*. Albuquerque: University of New Mexico Press, 1951.
- Stabile, Donald R. and Jeffrey A. Cantor. *The Public Debt of the United States: An Historical Perspective, 1775-1990*. New York: Praeger, 1991.
- Stanley, Robert. *Dimensions of Law in the Service of Order: Origins of the Federal Income Tax, 1861-1913*. New York: Oxford University Press, 1993.
- Stanwood, Edward. *American Tariff Controversies in the Nineteenth Century*, 2 vols. New York: Russell and Russell, 1967.

- Story, Joseph. *Commentaries on the Constitution*. 1833. Reprint. Durham: Carolina Academic Press, 1987.
- Studenski, Paul and Herman Krooss, *Financial History of the Untied States: Fiscal, Monetary, Banking, and Tariff including Financial Administration and State and Local Finances*. 1952. 2nd ed. (New York, 1963).
- Summers, Mark W. *The Plundering Generation: Corruption and the Crisis of the Union, 1849-1861*. New York: Oxford University Press, 1987.
- _____. *The Era of Good Stealings*. New York: Oxford University Press, 1993.
- Swisher, Carl B. *American Constitutional Development*. Boston: Houghton Mifflin, Co., 1943.
- Taylor, William. *The History of the Taxation of England*. London: Hope and Co., 1853.
- Temin, Peter. *The Jacksonian Economy*. New York: W.W. Norton, 1969.
- Thomas, Benjamin P. and Harold M. Hyman. *Stanton: The Life and Times of Lincoln's Secretary of War*. New York: Alfred A Knopf, 1962.
- Thompson, Margaret Susan. *The Spider Web: Congress and Lobbying in the Age of Grant*. Ithaca, NY: Cornell University Press, 1985.
- Trefousse, Hans L. *Andrew Jackson, A Biography*. New York: W.W. Norton, 1989.
- Trescott, Paul. *Financing American Enterprise: The Story of Commercial Banking*. New York: Harper Row, 1963.
- Unger, Irwin. *The Greenback Era: A Social and Political History of American Finance, 1865-1879*. Princeton, NJ: Princeton University Press, 1964.
- Wallenstein, Peter. *From Slave South to New South: Public Policy in Nineteenth Century Georgia*. Chapel Hill: University of North Carolina Press, 1987.
- Watson, Harry L. *Liberty and Power: The Politics of Jacksonian America*. New York: Hill and Wang, 1990.
- Wayland, Francis. *The Elements of Political Economy*. New York: Leavitt, Lord, and Co., 1837.

- Webber, Carolyn and Aaron Wildavsky. *A History of Taxation and Expenditure in the Western World*. New York: Simon and Schuster, 1986.
- Weigley, Russell F. *History of the United States Army*. New York: Macmillan Co., 1967.
- Wells, David A. *Theory and Practice of Taxation*. New York: D. Appleton, 1900.
- White, Leonard D. *The Jacksonians: A Study in Administrative History, 1829-1861*. New York: MacMillan Co., 1954.
- Wilhite, Virgle G. *Founders of American Economic Thought and Policy*. New York: Bookman Associated, 1958.
- Winters, John D. *The Civil War in Louisiana*. Baton Rouge: Louisiana State University Press, 1963.
- Wright, Gavin. *The Political Economy of the Cotton South: Households, Markets, and Wealth in the Nineteenth Century*. New York: W.W. Norton, 1978.
- Wood, Gordon S. *The Creation of the American Republic, 1776-1787*. Chapel Hill, University of North Carolina Press, 1969.
- Yearley, Clifton K. *The Money Machines: The Breakdown and Reform of Governmental and Party Finance in the North, 1860-1920*. Albany: State University of New York Press, 1970.

Articles and Book Chapters

- Ackerman, Bruce. "Taxation and the Constitution," *Columbia Law Review*, 99 (January, 1999): 1-58.
- Adams, Henry C. "Taxation in the United States," *Johns Hopkins University Studies in Historical and Political Science*, 2nd series, (May/June, 1884): 1-79.
- Atherton, Lewis E. "The Services of the Frontier Merchant," *Mississippi Valley Historical Review*, 24 (September, 1937): 153-170.
- Barber, William D. "Among the Most Techy Articles of Civil Police: Federal Taxation and the Adoption of the Whiskey Excise," *William and Mary Quarterly*, 3rd ser., (January, 1968): 58-84.

- Beckett, J. V. "Land Tax or Excise: The Levying of Taxation in Seventeenth- and Eighteenth-Century England," *English Historical Review*, 395 (April, 1985): 285-308.
- Benson, Summer, "A History of the General Property Tax," in *American Property Tax: Its History, Administration, and Economic Impact*. Claremont, CA: Claremont Men's College Press, 1965
- Blakely, G. Robert. "State Conducted Lotteries: History, Problems, and Promises," *Journal of Social Issues*, 35 (September, 1979): 62-86.
- Bowers, Douglas E. "From Logrolling to Corruption: The Development of Lobbying in Pennsylvania, 1815-1861," *Journal of the Early Republic*, 3 (Winter, 1983): 439-474.
- Boyer, Paul S. "Borrowed Rhetoric: The Massachusetts Excise Controversy of 1754," *William and Mary Quarterly*, 3rd series, 21 (July, 1964): 328-351.
- Brooks, Colin. "Public Finance and Political Stability: The Administration of the Land Tax, 1688-1720," *The Historical Journal*, 17 (June, 1974): 281-300.
- Brough, Charles H. "Taxation in Mississippi," in *Studies in State Taxation with Particular Reference to the Southern States*. (Baltimore, MD: Johns Hopkins University Press, 1900): 177-215.
- Bullock, Charles J. "Direct and Indirect Taxes in Economic Literature," *Political Science Quarterly*, 12 (September, 1898): 442-476.
- _____. "The Origin, Purpose, and Effect of the Direct Tax Clause of the Constitution," *Political Science Quarterly*, 15 (September, 1900): 217-239.
- Callender, Guy S. "The Early Transportation and Banking Enterprises of the States in Relation to the Growth of Corporations," *Quarterly Journal of Economics*, 17 (November, 1902): 111-162.
- Cochran, Thomas. "Did the Civil War Retard Industrialization?," *Mississippi Valley Historical Review*, 48 (September, 1961): 197-210.
- Cook, Robert. "The Grave of All My Comforts: William Pitt Fessenden as Secretary of the Treasury, 1864-1865," *Civil War History*, 61 (Fall, 1995): 208-226.
- Cooper, Richard, "William Pitt, Taxation, and the Needs of War," *Journal of British Studies*, 22 (Autumn, 1982): 94-103.

- Current, Richard N. "God and the Strongest Battalions," in *Why the North Won the Civil War*. Edited by David Donald. New York: Collier Books, 1962: 52-64.
- Dawson, Joseph G. "The First of the Modern Wars," in *The American Civil War: Explorations and Reconsiderations*. Edited by Susan Mary Grant and Brian Holden Reid. New York: Longman, Green, Co., 2000: 126-137.
- Dunbar, Charles, "The Direct Tax of 1861," *Quarterly Journal of Economics*, 3 (July, 1889): 436-461.
- Egnal, Marc. "The Beards were Right: Parties in the North, 1840-1860," *Civil War History*, 47 (March, 2001): 30-56.
- Einhorn, Robin L. "Slavery and the Politics of Taxation in the Early United States," *Studies in American Political Development*, 14 (Fall, 2000), 156-183.
- _____. "Species of Property: The American Property Tax Uniformity Clauses Reconsidered," *Journal of Economic History*, 61 (December, 2001): 974-1008.
- Ellis, Elmer, "Public Opinion and the Income Tax, 1860-1890," *Mississippi Valley Historical Review*, 27 (September, 1940): 225-242.
- Elton, G. R. "Taxation for War and Peace in Early Tudor England," in *War and Economic Development: Essays in Memory of David Coslin*. Edited by J. M. Winter. Cambridge University Press, 1975: 76-103.
- Eyal, Yontan. "Trade and Improvements: Young America and the Transformation of the Democratic Party," *Civil War History*, 51 (September, 2005): 245-268.
- Farnham, Wallace D. "The Weakened Spring of Government: A Study in Nineteenth Century American History," *American Historical Review*, 68 (April, 1963): 662-680.
- Ferguson, E. James. "Currency Financing: An Interpretation of Colonial Monetary Practices," *William and Mary Quarterly*, 3rd series, 10 (April, 1853), 153-180.
- Flaherty, Jane. "Incidental Protection: An Examination of the Morrill Tariff," *Essays in Economic and Business History*, 19 (2001): 103-118.
- Friedman, Milton. "Price, Income, and Monetary Changes in Three Wartime Periods," *American Economic Review*, 42 (May, 1985): 612-625.

- Gates, Paul W. "Charts of Public Land Sales and Entries,"
Journal of Economic History, 24 (March, 1964): 22-38.
- Gjerde, Jon. "Roots of Maladjustment in Land: Paul Wallace Gates,"
Reviews in American History, 19 (March, 1991): 142-153.
- Goodrich, Carter. "The Revulsion Against Internal Improvements,"
Journal of Economic History, 10 (November, 1950): 145-169.
- Grampp, William D. "Adam Smith and the American Revolutionists,"
History of Political Economy, 11 (Summer, 1979): 179-191.
- Greene, Jack P. "Political Mimesis: A Consideration of the Historical and Cultural
Roots of Legislative Behavior in the British Colonies in the Eighteenth
Century," *American Historical Review*, 75 (December, 1969): 337-360.
- Grimsley, Mark. "Conciliation and Its Failure, 1861-1862," *Civil War History*,
39 (December, 1993): 317-335.
- Gutzman, Kevin R. "James Madison and the Principles of '98,"
Journal of the Early Republic, 15 (Winter, 1995): 569-589.
- Hammond, Bray. "The North's Empty Purse, 1861-1862,"
American Historical Review, 67 (October, 1961): 1-18.
- Hofstadter, Richard, "The Tariff Issue on the Eve of the Civil War,"
American Historical Review, 44 (October, 1938): 50-55.
- Hoyle, R. W. "Crown, Parliament and Taxation in Sixteenth Century England,"
The English Historical Review, 109 (Nov. 1994): 1174-1196.
- Huston, James L., "The American Revolutionaries, the Political Economy of
Aristocracy, and the American Concept of the Distribution of Wealth,
1765-1900," *American Historical Review*, 90 (October, 1993): 1079-1105.
- Jones, Alice Hanson. "Wealth Estimates for American Middle Colonies,
1774," *Economic Development and Cultural Change*, 18 (1970), 1-172.
- Larson, John L. "Bind the Republic Together: The National Union and the Struggle
for a System of Internal Improvements," *Journal of American History*, 74
(September, 1987): 363-387.
- Lenner, Andrew, "A Tale of Two Constitutions: Nationalism in the Federalist Era,"
American Journal of Legal History, 40 (January, 1996): 72-105.

- _____. "Separate Spheres: Republican Constitutionalism in the Federalist Era," *American Journal of Legal History*, 41 (April, 1997): 250-281.
- Linden, Glenn M. "Radicals and Economic Policies: The Senate, 1861-1873," *Journal of Southern History*, 32 (May, 1966): 188-199.
- _____. "Radicals and Economic Policies: The House of Representatives, 1861-1873," *Civil War History*, 13 (March, 1967): 51-65.
- Lively, Robert A. "The American System: A Review Article," *Business History Review*, 29 (March, 1955): 81-96.
- Luthin, Reinhard H. "Salmon P. Chase's Political Career Before the Civil War," *Mississippi Valley Historical Review*, 29 (March, 1943): 517-540.
- _____. "Abraham Lincoln and the Tariff," *American Historical Review*, 49 (July, 1944): 609-629
- Majewski, John. "The Political Impact of Great Commercial Cities: State Investment in Antebellum Pennsylvania and Virginia," *Journal of Interdisciplinary History*, 28 (Summer, 1997), 1-26.
- Marshall, Lydia M., "The Levying of the Hearth Tax," *English Historical Review*, 51 (October, 1936): 628-646.
- Maltz, Earl M. "The Idea of the Proslavery Constitution," *Journal of the Early Republic*, 17 (Spring, 1997): 37-59.
- Mathias, P and P. K. O'Brien. "Taxation in England and France, 1715-1810," *Journal of European Economic History*, 5 (1976): 601-50.
- Miller, Wilbur. "The Revenue: Federal Law Enforcement in the Mountain South, 1870-1900," *Journal of Southern History*, 55 (May, 1989): 195-216.
- Morris Richard B. "The Confederation Period and the American Historian," *William and Mary Quarterly*, 3rd series, 13 (April, 1956): 139-156.
- Nichols, Roy F. "Federalism versus Democracy," in *Federalism as a Democratic Process* (New Brunswick, NJ: Rutgers University Press, 1942): 49-75.
- O'Brien, P. K., "The Political Economy of British Taxation, 1660-1815," *Economic History Review*, 2nd ser, 41 (February, 1988): 1-32.

- O'Brien P. K. and P. A. Hart, "The Rise of the Fiscal State in England, 1485-1815," *Historical Research: The Bulletin of the Institute of Historical Research*, 66 (June, 1993): 129-176.
- Ohline, Howard A. "Republicanism and Slavery: Origins of the Three-fifths Clause in the United States Constitution," *William and Mary Quarterly*, 3rd series, 28 (October, 1971): 563-584.
- Patterson, Robert T. "Government Finance on the Eve of the Civil War," *Journal of Economic History*, 12 (Winter 1952): 35-44.
- Pessen, Edward. "Wealth in America before 1865," in *Wealth and the Wealthy in the Modern World*. Edited by W. D. Rubinstein. London: Croom Helm, 1980: 167-188.
- Phillips, John Burton. "Methods of Keeping the Public Money of the United States," *Publications of the Michigan Political Science Association*, IV (1900-1902): 1-159.
- Pincus, J. J. "Pressure Groups and the Pattern of Tariffs," *Journal of Political Economy*, 83 (August, 1975): 757-778.
- Poll, Richard A and Ralph W. Hansen, "Buchanan's Blunder: The Utah War, 1857-1858," *Military Affairs*, 25 (Autumn, 1961): 121-131.
- Rakove, Jack. "The Articles of Confederation," in *The Blackwell Encyclopedia of the American Revolution*. Edited by Jack P. Greene and J. R. Pole. Cambridge, MA: Basil Blackwell, Inc., 1991: 289-295.
- _____. "The Origins of Judicial Review: A Place for New Contexts," *Stanford Law Review*, 49 (May, 1997): 1031-1064.
- Ransom, Roger. "Fact and Counterfact: the Second American Revolution Revisited," *Civil War History*, 45 (March, 1999): 28-60.
- Rezneck, Samuel. "The Social History of an American Depression, 1837-1843," *American Historical Review*, 40 (July, 1935): 662-687.
- Rezneck, Samuel. "The Social History of an American Depression, 1837-1843," *American Historical Review* 40 (July, 1935): 662-687.
- _____. "The Influence of the Depression upon American Opinion, 1857-1859," *Journal of Economic History* 11 (May, 1942): 1-23.

- Robertson, David Brian. "The Return to History and the New Institutionalism in American Political Science," *Social Science History*, 17 (Spring, 1993): 1-36.
- Rolnick, Arthur J. and Warren E. Weber, "The Causes of Free Bank Failures: A Detailed Examination," *Journal of Monetary Economics*, 14 (1984): 267-291.
- Scheiber, Harry N. "The Pet Banks in Jacksonian Politics and Finance, 1833-1841," *Journal of Economic History*, 23 (June, 1963): 196-214.
- _____. "Federalism and Legal Process: Historical and Contemporary Analysis of the American System," *Law and Society Review*, 14 (Spring, 1980), 663-722.
- Seligman, Edwin R. A. "Remarks on the General Problem of Tax Reform," *Publications of the Michigan Political Science Association*, IV (1900-1902): 279-284.
- Skeen, C. Edward. "Vox Populi, Voc Dei: The Compensation Act of 1816 and the Rise of Popular Politics," *Journal of the Early Republic*, 6 (Autumn, 1986): 253-274.
- Slaughter, Thomas P. "The Tax Man Cometh: Ideological Opposition to Internal Taxes, 1760-1790," *William and Mary Quarterly*, 3rd series, 41 (October, 1984): 566-591.
- Smith, Donnal V. "Chase and Civil War Politics," *Ohio Archaeological and Historical Quarterly*, 3 (July/October, 1930), 51-63.
- Stegmaier, Mark J. "Intensifying the Sectional Conflict," *Civil War History*, 31 (September, 1985): 197-221.
- Stevens, Edward J., "Composition of the Money Stock Prior to the Civil War," *Journal of Money, Credit, and Banking*, 3 (February, 1971): 84-101.
- Sylla, Richard. "The United States, 1863-1913," in *Banking and Economic Development: Some Lessons of History*. New York: Oxford University Press, 1972: 232-262.
- Sylla, Richard, John B. Legler, and John J. Wallis, "Banks and State Finance in the New Republic: The United States, 1790-1860," *Journal of Economic History*, 47 (June, 1987): 391-403.
- Terrill, Tom E. "David A. Wells, the Democracy, and Tariff Reduction, 1877-1894," *Journal of American History*, 56 (December, 1969): 540-555.

Van Riper, Paul P. and Keith A. Sutherland, "The Northern Civil Service: 1861-1865," *Civil War History*, 11 (December, 1965): 351-369.

Venable, Richard M. "Partition of Powers Between the Federal and State Governments," *Report of the Annual Meeting of the American Bar Association*, 8 (August, 1885): 235-259.

Wallis, John J. "Constitutions, Corporations, and Corruption: American States and Constitutional Change, 1842-1852," *Journal of Economic History*, 65 (March, 2005): 211-256.

Wells, David A. "An Income Tax: Is It Desirable?" *The Forum*, (March, 1894): 1-13.

Unpublished Material

Cooper, Richard A. *British Government Finance, 1793-1807: The Development of a Policy Based on War Taxes*. Ph.D. dissertation, University of North Carolina, Chapel Hill, 1976.

Flaherty, Jane. *The Revenue Imperative*. Master's thesis, Texas A&M University, August, 2001.

Joseph, Anthony M. *The Cheerful Taxpayer: An Early Modern Political Idiom in the Early American Republic*, Paper read at SHEAR Annual Conference, October, 2000, Buffalo, NY.

Lee, Arthur M. *The Development of an Economic Policy in the Early Republican Party*. Ph.D. dissertation. Syracuse University, 1953.

Noll, Franklin. *The Start of a Government Monopoly: Civil War Finance, the Rise of the Bureau of Engraving and Printing, and the Decline of Bank Note Companies, 1863*. Paper read at the 2004 Economic and Business Historical Society Conference, April, 2005, Anaheim, CA.

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