

All Political Questions Are Ultimately Religious: The American Founding and the Tai Ji Men Case

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ABSTRACT: The relationship between centralization, personal rights, taxes, and religious liberty was an important aspect of the American Founding. The paper discusses the main historical events at the origins of the United States, and proposes a comparison with a case in contemporary Taiwan, where a spiritual movement, Tai Ji Men, was discriminated through ill-founded tax-bills. The Tai Ji Men case is not merely a tax issue, but a question of freedom of religion or belief. It shows what America's Founding Fathers knew, i.e., that the deepest political questions have ultimately a religious dimension. [A shorter version of this paper was presented at the session "New Religious and Spiritual Movements, Discrimination, and Democracy in Taiwan" of the European Academy of Religion 2022 Annual Meeting in Bologna, Italy].

KEYWORDS: American Founding, Tax Reform, Tax Justice, Tai Ji Men, Tai Ji Men Case, Freedom of Religion or Belief and Taxes.

“I have but one lamp by which my feet are guided,
and that is the lamp of experience.
I know of no way of judging of the future but by the past.”
Patrick Henry (1736–1799) (Henry 1775)

1. Federalists and Anti-Federalists: The Problem of Centralization I

The Second Continental Congress of the United States of America (May 10, 1775–March 1, 1781), which functioned as the provisional government of the country during most of the American War of Independence (April 19, 1775–September 3, 1783), proclaimed the separation of the British North American colonies from Great Britain in Philadelphia on July 4, 1776. On November 15,

1777, the thirteen former colonies, now thirteen sovereign states, bound in league, adopted the *Articles of Confederation and Perpetual Union (Articles of Confederation 1777)*.

In subsequent years, many Americans increasingly grew disillusioned with that document (and some were since the beginning), judging it a tool too weak for political administration. Wishing to revise it, a Constitutional Convention was summoned in Philadelphia on May 25, 1787. It lasted until September 17, 1787, and ended up producing a totally new document, the federal Constitution (*Constitution of the United States 1787*), effective from March 4, 1789, which still governs the United States today (Carey and Hyneman 1967).

The state-by-state ratification process of the federal Constitution, which took place throughout 1788, saw a serious debate among two main currents of thought and policy. One was supported by those in favor of a stronger central power, who constituted the backbone of what came to be known as the Federalist movement (McDonald 1958, 1985), and the other was advocated by those who, opposing this tendency, came to be known as Anti-Federalists.

The Anti-Federalists were different people coming from a variety of political inclinations, united solely by their opposition to centralization. One thing to be noted is that, to some extent counter-intuitively, since the institutional model proposed by the new Constitution was a federal union of sovereign states that should devolve some of their sovereignty to the central government, in this context “federal” means “central” and even “centralized,” while “Anti-Federalist” conveys the idea of a devolutionary and confederate structure where the central administration is weak or almost non-existent (Bradford 1993; McDonald and Shapiro McDonald 1968; McDonald 2000). Patrick Henry, first and sixth Governor of Virginia, was one of the most famous exponents of the Anti-Federalist camp, but—to underline the complexity of the topic and the confusing use of words at that time—he belonged to the Federalist Party.

The apologists of a strong central government produced 85 articles and essays, published in prominent journals, aimed at defending the project of a new Constitution. These texts were later collected under the title *The Federalist*, also known, since the 20th century, by the popular name *The Federalist Papers (Full Text of The Federalist Papers 1787–88; Hamilton, Jay, and Madison 2001; Rossiter 1961; Dietze 1960; Carey 1989)*. They were all signed with the

pseudonym “Publius,” conveying the idea of “public” in the sense of what is good for the general public and the care for the *res publica*, and were actually written by some of the most prominent public figures of the nation at that time: Alexander Hamilton (1755–1804), later the first US Secretary of Treasury; James Madison (1751–1836), then the fourth US president (elected by the party that opposed the Federalist Party—complexity again); and John Jay (1745–1829), who became Chief Justice of the US Supreme Court.

The Anti-Federalists, i.e., those skeptics towards a strong central government, produced specular works, underlining the dangers that centralization poses to the individual and common good. Out of analogy, the collection of these scattered texts became known by the popular name *The Anti-Federalist Papers* (Storing and Dry 1981; “Anti-Federalist Papers” 1787–88).

Both the products of Founding Fathers held in high esteem nation-wide, and similarly aimed at preserving liberty albeit through diverse, even opposite means (Bradford 1979), the two “Papers” are first-rate sources of a distinctive American political theory. *The Federalist Papers* hail the virtue of a federal Constitution. *The Anti-Federalist Papers* caution against it by highlighting the necessary limits of a centralized power. The latter eventually brought to the approval of the US *Bill of Rights* (*Bill of Rights* 1791).

2. *The Principle of Subsidiarity: The Problem of Centralization II*

While a first review of the concept of an “American political theory” can profitably begin through the understanding of that notion elaborated by American political scientists George W. Carey (1933–2013) and Willmore Kendall (1909–1967) in *The Basic Symbols of the American Political Tradition* (Carey and Kendall 1970), and through Carey’s long-time activity as editor of *The Political Science Reviewer* (*The Political Science Reviewer* 1971–2022), the *Bill of Rights*, which became effective on December 15, 1791, contains the first ten amendments to the US Constitution, and its importance can hardly be overestimated.

Being the pivotal single fount of the American concept of a “limited government,” it leaves to the states of the American federal union all the powers that are not explicitly entrusted in the hands of the central government. And not

only to the states, but also to all levels of political and administrative power, down all the way to the US citizens and their institutions, starting with their families.

Called “principle of subsidiarity” (if an inferior entity is capable of carrying out a task well, the superior entity must not intervene), this model was outlined, with specific reference to the United States, by French political theorist Alexis Charles Henri Clérel, Earl of Tocqueville (1805–1859), in his seminal *Democracy in America* (Tocqueville 1835–1840). More recently it was revisited by American sociologist Robert A. Nisbet (1913–1996: Nisbet 1953, 1966, 1968, 1970, 1973) and others who discussed the communitarian tradition in the United States (Carey and Frohnen 1998; Shain 1994; Respinti 2002).

Of this general framework, provided by the *Bill of Rights*, the *First Amendment* is particularly notable since it founds all American liberties upon religious liberty. The struggle between power and freedom, or, better, between different visions on how to secure liberties in America, made religious liberty the foundation, paramount, and parameter of all American liberties and of the very concept of an American citizenship.

The *First Amendment* of the *Bill of Rights* reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Roman Catholic theologian John Courtney Murray S.J. (1904–1967), an authority on religious liberty, in his seminal book *We Hold These Truths: Catholic Reflections on the American Proposition*, notes:

The American Bill of Rights is not a piece of eighteenth-century rationalist theory; it is far more the product of Christian history. Behind it one can see, not the philosophy of the Enlightenment but the older philosophy that had been the matrix of the common law. The “man” whose rights are guaranteed in the face of law and government is, whether he knows it or not, the Christian man, who had learned to know his own personal dignity in the school of Christian faith (Murray 1960, 39).

3. “A Government of Laws and Not of Men”: The Problem of Centralization III

Let us return to the source of the religious and political liberties enshrined in the US *Bill of Rights*. The anonymous author of the “Anti-Federalist Paper” Number 17, using the pen-name “Brutus,” writes:

It is proper here to remark, that the authority to lay and collect taxes is the most important of any power that can be granted; it connects with it almost all other powers, or at least will in process of time draw all others after it; it is the great mean of protection, security, and defense, in a good government, and the great engine of oppression and tyranny in a bad one (“Antifederalist No. 17” 1788).

Anti-Federalist thought emphasized an idea deeply rooted in the American spirit. If taxes can grant the maximum protection that a state should give to every citizen, they can be as well the instrument of an open despotic rule, the difference lying in the moral nature of political power. For this reason, American political thought is based on the idea of “a government of laws and not of men,” to use the words uttered by John Adams (1735–1826) for the Massachusetts Constitution of 1780. Adams was then an attorney and later became the second President of the United States (*The Report of a Constitution or Form of Government for the Commonwealth of Massachusetts, 28–31 October 1779, Chapter II* 1779). Probably Adams’ concept was to some extent influenced by *De l’esprit des lois*, published in 1748 by French judge and man of letters Charles-Louis de Secondat, baron de La Brède et de Montesquieu (1689–1755) (Montesquieu 1989). It was aimed at securing good government through the rule of law against arbitrariness.

This reflection on state and taxes, power and liberty, extends the very idea that originated the United States to the whole American experience. The slogan epitomizing the so-called “spirit of 1776” (Murray 1960; D’Elia 1983), or the protest of the British colonists of North America against their motherland in Europe, was, famously, “Taxation without representation is tyranny.” It means that at least taxation should buy citizens substantial political rights.

The slogan was widely used against the Parliament of London’s imposition of the 1765 Stamp Act (*Great Britain: Parliament—The Stamp Act; March 22, 1765* 1765) to the colonists, an imposition which urged a tax on paper, legal documents, and various commodities. Repealed the following year (*Great Britain: Parliament—An Act Repealing the Stamp Act; March 18, 1766* 1766), the Stamp

Act was replaced by the “The American Colonies Act 1766,” commonly known as the “Declaratory Act” (*Great Britain: Parliament—The Declaratory Act; March 18, 1766* 1766), which essentially stated that the British Parliament had absolute legislative power over the colonies. It was this tyrannical fiscal policy of the British “Crown in Parliament,” the very symbol of a broader political oppression, that ignited the protest of the North American colonists and then led to war.

The idea “Taxation without representation is tyranny” is probably rooted in a 1754 letter that American patriot and scientist Benjamin Franklin (1706–1790) of Philadelphia, Pennsylvania, sent to William Shirley (1694–1771), Governor of the Massachusetts Bay Colony, writing:

excluding the People of the Colonies from all Share in the Choice of the Grand Council would probably give extreme Dissatisfaction, as well as the Taxing them by Act of Parliament where they have no Representative (Franklin 1754).

In fact,

[...] it is suppos'd an undoubted Right of Englishmen not to be taxed but by their own Consent given thro' their Representatives (Franklin 1754).

It should be emphasized that originally the North American colonists did not want to sever ties with England, nor to establish a new government through a revolution. When that happened, it was not on purpose. The colonists wished in fact to continue enjoying the chartered rights of the Englishmen, the “unwritten” English Constitution that for centuries granted the benefit of a good government established “forever” by the *Magna Carta* in 1215 (*Magna Carta* 1215) to all the subjects of the Crown.

But the North American colonists judged that those traditional rights were now being betrayed by Great Britain, and that it was their moral duty to compel the “Crown in Parliament” to submit again to the rule of law, granting the colonists back their full rights as Englishmen.

Sensing the approach of some turbulent events (Franklin 1775), Franklin said clearly to Irish philosopher and statesman Edmund Burke (1729–1797)—who was a staunch critic of the French Revolution (1789–1799) (Burke 1790, 1998) and a supporter of the rights of the American colonists (although not of their independence: Burke 1775)—that “America [...] would never again see such

happy days as she had passed under the protection of England,” if independence were actually to happen (Burke 1791, 37).

This attitude to conserve rather than to destroy had more to do than we may believe with the power of a state to tax. “Anti-Federalist Paper” Number 17 is in fact lucid in using the power of a state to tax to distinguish “a good government” from “a bad one.”

4. Taxes and Religion: The Tai Ji Men Case I

The Founding Fathers of both persuasions, federalist and anti-federalist, were confronted with a decisive question: what makes a government good or bad? In fact—they reasoned—, if a state recognizes no authority, thus limit, above itself, and claims to be the source of all that is good and just, thus the authority to define in turn what is bad and unjust, then the criterion and measurement of what is good is only a matter of power. The power of the state is absolute, i.e., “might is right.”

For the American patriots and Founding Fathers, the question of taxation was directly connected with the nature of political power, its boundaries, and its source. Conversely, the nature of political power, its boundaries, and its source manifested themselves in the key element of taxation, “the great mean of protection, security, and defense, in a good government, and the great engine of oppression and tyranny, in a bad one,” according to the “Anti-Federalist Paper” Number 17.

Burke, in supporting the right of the North American colonists as Englishmen angered by unjust taxation, made it clear that a good government is a government that rules respecting a superior law, natural thus divine (Stanlis 1958, 1991; Kirk 1967).

The question of taxes becomes then directly religious, and the relation between taxes and justice in the American Founding, or taxes and the moral, even divine, foundation of just laws in a righteous state, proves Spanish political theorist Juan Donoso Cortés, Marquis of Valdegamas (1809–1853), to be right when he pointed out that all political questions are ultimately, at their core, theological questions (Donoso Cortés 1851, 2014; Herrera 1995, 2007).

The case of the Taiwanese spiritual movement Tai Ji Men (see the texts available in “Tai Ji Men Case” 2023), unjustly persecuted in its motherland with false accusations of tax evasion (and even black magic) by rogue bureaucrats, finds an important reference in the work of American philosopher Ellis Sandoz.

Sandoz did not know about the Tai Ji Men case but, by insisting on the relation between the power (to tax) and religion in the American Founding, he offered textual proofs of the double value, political and religious, of the American public rhetoric at the birth of the nation (Sandoz 1991; Bradford 1991), thus allowing for a first important theoretical conclusion. That is, fiscal reform and tax justice are connected with freedom of religion and the right to live according to our beliefs (Respinti 2002, 2022). It is here that old American precedents become relevant to discuss also the Tai Ji Men case.

5. From Legitimate to Illegitimate: The Tai Ji Men Case II

The reflection on state power, as limited by a higher law, cuts through all American political theory and history. American political scientist Edward S. Corwin (1878–1963) classically addressed the topic in his *The “Higher Law” Background of American Constitutional Law* (Corwin 1928–29) and, before him, Chief Justice John Marshall (1755–1835) made it clear that the abuse of state power in taxing may result not only in damaging citizens but also in demolishing the state.

In his ruling in the 1819 US Supreme Court case *James McCulloch v. The State of Maryland, John James*, commonly known as *McCulloch v. Maryland*, Marshall wrote:

[t]hat the power of taxing by the States may be exercised so as to destroy it, is too obvious to be denied. But taxation is said to be an absolute power, which acknowledges no other limits than those expressly prescribed in the constitution, and like sovereign power of every other description, is trusted to the discretion of those who use it. But the very terms of this argument admit that the sovereignty of the State, in the article of taxation itself, is subordinate to, and may be controlled by, the constitution of the United States. How far it has been controlled by that instrument must be a question of construction. In making this construction, no principle not declared, can be admissible, which would defeat the legitimate operations of a supreme government. It is of the very essence of supremacy to remove all obstacles to its action within its own sphere, and so to modify every power vested in subordinate governments, as to exempt its own operations from

their own influence. This effect need not be stated in terms. It is so involved in the declaration of supremacy, so necessarily implied in it, that the expression of it could not make it more certain. We must, therefore, keep it in view while construing the constitution (*McCulloch v. Maryland* 1819).

First, the matter of taxes evokes a central moral question. Being intimately related to the very nature of the state power and its limits, it brings then that moral question to its religious roots. In the American Founding this is particularly evident, but it is not an American issue only.

The burden imposed by an abusive state power over citizens is a global problem: it is in fact a human problem throughout all history. The case of Tai Ji Men in Taiwan is just one instance of this universal question. As others have demonstrated (Jacobsen 2020), the power of the state to tax citizens was transformed into a weapon to prevent some taxpayers from enjoying their fundamental right to freedom of religion or belief.

Even more seriously, in the Tai Ji Men case the abuse of the power of taxation became more than an instance of a legitimate power gone astray (Respinti 2021). What happened was the transformation of the exercise of a state power from legitimate to illegitimate through fraud and lies.

Tai Ji Men was falsely accused of tax evasion. It was cleared of all accusations, but the administrative consequences of the accusations are still damaging the movement, also in term of property rights. This abuse of state power goes even beyond the abuse itself. It replicates and multiplies the abuse's misdeeds like the echo of a loud cry in a void, deep cavern resonating on and on, making it possible for those misdeeds to survive the abusive acts themselves.

After Tai Ji Men has been repeatedly declared not guilty of tax evasions by several courts of law (Jacobsen 2020), the echo of false accusations against its Grand Master (*Shifu*) and disciples (*dizi*) continues to curtail their rights to religious liberty and to fundamental political and economic rights.

6. *Religious Liberty as Good Politics: The Tai Ji Men Case III*

In fact, that echo forbids Tai Ji Men in Taiwan to fully use its properties for its moral, spiritual, and religious aims. It damages its image as a peaceful spiritual organization in the eyes of many, seeding the calumny of dishonesty and waving

even the phantom of black magic. It compels Tai Ji Men to invest part of its time and energy in redressing, against a much more powerful adversary, the consequences of false accusations, instead of entirely dedicating itself to its spiritual goals. And, gravely, it tries to force it to understand and live religious liberty just as a private feature, instead of enjoying it in its fullness, which is both freedom of belief and freedom to publicly live according to that belief, operating and contributing to the welfare of society and the common good following a spiritual inspiration.

The religious liberty enshrined in the *First Amendment* to the US Constitution as the primary human and political right of the American citizens and the foundation of the American *res publica* is what the consequences of the false accusations against Tai Ji Men, surviving their legal collapse, have denied for more than a quarter of a century to the leader and disciples of the movement.

Both in the American Founding and in the Tai Ji Men case the abuse of the state power of taxation turns into a preeminent case of religious liberty. At its core, the American Founding, and indeed the “American question,” as defined by the “spirit of 1776,” is deeply connected with religious liberty. It acknowledges that freedom of religion is threatened by the abuse of the state power to tax, and answers that threat by affirming a notion of religious liberty that also affects politics (and taxes).

The Tai Ji Men case requires the same acknowledgment. It is not a mere case of (false) tax evasion or exaggerated taxation, but is ultimately a case of freedom of religion or belief, making it clear that truly all political questions are ultimately, at their core, religious questions.

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