CHAPTER SIX

The Railroad Fund, 1842–1859

In 1842 the Prussian government established the Railroad Fund, a special account to aid private investment in railroad construction. This fund was the financial basis of Prussia's mixed system of railroad building: private businesses assumed ownership and administration of railways, while the government, in keeping with its tradition of state paternalism, fostered the infant industry with favorable legislation and financial assistance. After 1848, however, the role of the Railroad Fund changed under Trade Minister Heydt's administration. Heydt used the fund to bridge Prussia's transition from a privately owned railway network to a state-run system. The ministry's vision of a speedy transition to state ownership, however, was not shared by all, and opposition from other governmental ministries, parliamentary factions, and the liberal press contributed to the dissolution of the Railroad Fund in 1859, thus ending Heydt's bid for state ownership.

Uniting the financial power of the fund with other government monies, the trade ministry became the largest, most important investor in Prussia, building over 2,960 kilometers of railway by 1860. The fund reached sixteen of Prussia's twenty-three railway companies, underwrote 33,907,003 thalers in direct loans, and indirectly generated 140,590,000 thalers in share capital through interest guarantees. Private railways received 5.3 million thalers in direct construction funds and a further 2.4 million in dividend subsidies; 19.8 million were given to state construction and 2.5 million for dividends. Thus, the trade ministry's activities represented one-quarter of Prussia's entire railroad market. Hence, while recent historiography has taken great pains to redress earlier overstated claims about the state's role in industrialization, the importance of state involvement in the railroad boom of the 1850s should, at the same time, not be underestimated.¹

The debate over the Railroad Fund sheds light on a transitional period in Prussian history, when governing circles were uncertain as to what role the state should adopt in the new capitalist economy. The execution of a coherent economic policy from the executive branch of government was hindered
by the lack of harmony between Finance Minister Bodelschwingh and Heydt, the ministers jointly responsible for governing the state’s economic activities. Although this division was in part a personality conflict, the clashing attitudes of the finance and trade ministers embodied broader differences. They advocated two predominant economic policies of the 1850s.

Finance Minister Karl von Bodelschwingh advocated a minimal role for state paternalism in the private market economy that the government had promoted since 1806. By introducing liberal economic principles (abolition of serfdom, freedom of occupation and movement, free sale of noble estates, self-administration of cities) during the Reform Era, the Prussian state had taken a pathbreaking step in Central Europe in unleashing the energy and industry of individual initiative. This viewpoint found ideological buttresses in Immanuel Kant and Adam Smith, whose philosophies of individual freedom supported the tenets of economic liberalism. Bodelschwingh stood for continuing this policy and applying it to railroad building: private capital should assume leadership and the fund should nurture the growth of private railroads. Staunchly conservative, Bodelschwingh advocated not a laissez-faire economy but an economy that subordinated state involvement to private activity. His outlook was further shaped by a prevailing value of Prussia’s prerevolutionary bureaucratic caste that, since the near bankruptcy of the Prussian state in 1806, looked upon all large state expenditure as an anathema—unless absolutely necessary. The state’s willingness to allow private business to initiate economic modernization and avoid state expense accounts for the relative compatibility between liberal businessmen and Prussian state officials in the early nineteenth century.

Heydt, on the other hand, strongly believed in state control of the economy and had no compunctions about expanding the bureaucratic apparatus of the trade ministry to meet this end. As we have already seen, Heydt exercised strong state paternalism in the railroad industry and with other joint-stock enterprises and broadly interpreted the powers of his ministry to reconcile economic activity with the interests of the state. Although willing to concede that the coal industry would best serve Prussian state interest as part of the private sector (reinvigorated and expanded through private capital), Heydt averred that the state with its own system could profit from railroads while promoting the needs of commerce and industry. Thus, the fitful ambivalence that characterized Prussia’s economic policy in the 1850s can be traced largely to the shifting balance of power between Bodelschwingh and Heydt.

Heydt’s policy with the fund, however, had one chief problem: funding. By 1856, the Prussian government had invested over 65 million thalers in railroads, over one-quarter of Prussia’s state debt. The railroads’ prominent role in swelling the state debt from 150 million thalers in 1850 to 250 mil-
lion in 1856 drew the attention of the press and, eventually, both houses of the Landtag. Pressure from the parliament and the liberal press, which together produced a public discussion on state finance, constrained Heydt’s railroad policy and was partially responsible for dissolving Heydt’s fund in 1859. Prussia’s legislature (the Landtag) exercised a political influence that, if still weak, could nonetheless at times check and modify the policies of the king’s cabinet.

The original aims of the Railroad Fund were modest. The immediate goal in 1842 was to promote the construction of rudimentary east-west and north-south corridors that would unite Berlin with its provinces. The finance ministry (under the auspices of Christian von Rother and Ernst von Bodelschwingh) laid aside the one-time subsidy of six million thalers for direct investment of the railway companies’ start-up capital. It also created a running account to cover the payment of dividend subsidies (between 3 and 3.5 percent) that the government offered the fledgling railway companies to attract investors. The account received annual replenishment from the finance ministry (500,000 thalers), the state salt monopoly (an unfixed sum), and the interest off the fund’s investments. Equally important, this expense account had a limit: the law of 1842 stated that the Railroad Fund’s running account could not exceed an annual expenditure of two million thalers.

The fund stayed within these restrictions until Heydt’s trade ministry took over its administration from the finance ministry in 1848. Heydt’s first task was to remedy the fund’s chief shortcoming: the failure to attract entrepreneurs to build the Eastern Railway between Berlin and Königsberg. He used the newly constituted lower house to approve a loan that would enable the state to build the Eastern Railway itself. The loan would also be used to complete two other lines, the Westphalian Railway, which would connect the western provinces with the rest of Prussia, and the Saarbrückener Railway, which would integrate Prussia into the commercial corridor between England, France, Belgium, Switzerland, and Austria. The total building costs for these three lines was thirty-three million thalers. Heydt submitted a bill for a loan of twenty-one million thalers to the lower house in December 1849, with the promise that the fund would cover twelve million thalers of the building costs as well as underwrite subsidies on the preferred stock for the Westphalian and Saarbrücker lines. Both houses passed the bill and supported Heydt’s long-term aim to purchase all railways in Prussia.4

The Landtag’s compliance with Heydt’s loans and dividend subsidies in 1849–50 was criticized by the liberal press. Newspapers questioned the
houses' approval of the thirty-three million thaler loan in 1849 without instituting control mechanisms to check how the money was actually used: "Because we are not in the position to prevent any unlawful use, we will never recognize the legal validity of the houses' vote." Why, asked the editors of the National-Zeitung and the Ostsee-Zeitung, allot the loan in one lump sum instead of annual increments to maintain supervision of the finances? The Kölnische-Zeitung expressed their dissatisfaction in even blunter terms: "You so-called constitutionalists, are you so afflicted with blindness as not to see that the counter-revolution stands in our midst fully organized and builds a finely linked chain throughout all of Germany, and you put in the hands of these counter-revolutionaries the only thing they are lacking—money"? The rhetoric of such editorials smacked of the bitterness of liberal setbacks in 1848, but their mistrust of how the Prussian government would use the money was not far off the mark. One clear misuse of the Railroad Fund can be cited. When the threat of war loomed in the Lower Danube and the Crimea in November 1852, and the Prussian government prepared for the possibility of mobilization for war, the king's privy councilor Marcus Niebuhr drew up a mobilization loan for twenty-six million thalers, whose collateral was to be drawn from the unused funds of the 1849 railroad loan. The truism of liberal journalists that "the financial administration [of a government] goes hand in hand with the political system" indeed had validity.

Early criticism of state railroads also stemmed from the laissez-faire belief that the less intervention and expenditure by the state, the better. Echoing the doctrines of Jean Baptiste Say, Adam Smith, Christian von Schlozer, Wilhelm von Humboldt, and David Ricardo, such free-trade organs as the National-Zeitung criticized the burden of dividend guarantees on the taxpayer. The newspaper complained, for example, that the Prussian taxpayer would pay over one million thalers in 1850 for state railroad subsidies. The Vossische Zeitung, observing the parliamentary debate on dividend subsidies for two Rhenish railways, questioned whether the unnecessary expenditure was also destroying competition and creating unfair business practice. This criticism spilled over into the upper house's debate on whether to extend government support to the Aachen-Düссeldorfer and the Cologne-Crefelder railways. The motion passed with a slim majority of six votes (69 to 63).

The terms of payment on the 1849 loan taxed the fund's resources considerably. Within one year of its management, Heydt had technically exhausted the fund's supply for the next six years. Amortizing the principal on twelve million thalers, covering the interest on twenty-one million thalers, and meeting the subsidy obligations on other lines fully absorbed the fund's assets until 1856. Heydt, however, sought to change the restrictions of the fund's spending limits and radically aggrandize its capacity as railway owner.

The best evidence of Heydt's changed policy was his proposed loan of
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thirty-four million thalers in 1852. The fund's financial outlook had changed enough, Heydt believed, to plan bolder investment for the mid-fifties. By 1852 the fund's running account had risen to 1,513,000 thalers and would stand at 1,800,000 after 1855. According to Heydt's calculations, railroads that once burdened the fund with heavy subsidies (the Stargard-Posen and the Lower Silesian-Mark railways) now demanded only 200,000 thalers, in contrast to the 1,137,000 thalers required in 1849–51. In conjunction with the fund's rising income, the relatively low dividend subsidies plus administration costs (70,000) left 1,530,000 thalers free. With this 1.5 million thalers, Heydt proposed on 16 June 1852 to float a loan that would build seven lines at the cost of twenty-eight million thalers: in the west, lines between the Sieg and Ruhr valleys, Rheine and Osnabrück, Münster and Rheine, Saarbrücken and Trier, and the Rhine bridge at Cologne; in the east, lines between Breslau and Posen, and Bromberg and Thorne. The fund's running account would act as the sinking fund to pay for the loan's interest and principal. This annual cost Heydt figured as 700,000 thalers, thus leaving over half of the running account for the original use of meeting subsidy payments. The loan, he insisted to the finance minister, was “not a matter of preference, but rather a political and financial necessity.” The state could not rely on private speculation to build its railroads when competitive neighbors threatened to outstrip Prussia. Two months later (23 August), Heydt asked for another 6,161,495 thalers for the further construction of the Eastern Railway (Creuz-Frankfurt/Oder via Landsberg and Cüstrin), bringing the loan's sum to thirty-four million thalers.

The loan proposal shows the trade ministry's new view of the Railway Fund. Heydt had ceased to see it as a discrete pool of money limited to two million thalers designated for subsidizing private railroads. Rather, he perceived the account as venture capital, a sum of money to be exploited to its greatest value by his ministry. The fund, he believed, should be put to work as collateral for large building loans and thus give the state the leading role in railroad construction. With clever management, Heydt noted to Bodelschwingh, the loan could be followed by an even greater loan that would allow the state to build ten other important lines.

Heydt's vision shifted the fund's function from state promotion of private railways to state ownership of Prussia's newest lines. In a memorandum to the finance minister, Heydt clearly stated his preference for state-owned railways. In reference to the seven railway lines in question, he admitted that the railways could indeed be built by private enterprises with state subsidies. But, he noted, “insofar as it is a choice between a dividend subsidy or state construction, I am decisively for the latter, because experience has not shown us that joint-stock companies build railways more inexpensively than the state, and under state administration railways are much more useful for the direct inter-

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ests of the state and the public.” Heydt further advocated state ownership for revenues: “After the state has taken over the administration of the Stargard-Posen, bought the Lower Silesian-Mark, and nears completion of the Eastern Railway, there can be no question that filling in the gaps in the provinces in which the state itself owns railways is not only in the interest of more efficient travel but also more profitable for the entire eastern state rail network.”

Although Heydt stressed efficient, profitable lines in the eastern provinces, his overall selection of proposed lines suggests a keener interest in establishing an equally large network in the west. Eleven of the seventeen projects proposed by Heydt in 1852 were in the Rhineland and Westphalia. Most connected with the older private lines of the Berg-Mark, Cologne-Minden, and Rhenish railways. The proposal of state construction and ownership for such lines as the Sieg-Ruhr, Dortmund-Soest, Münster-Rheine, and Deutz-Frankfurt indicated that Heydt wished to deny the older, private railways their logical points of expansion and growth. By establishing an integrated state network in the western provinces by the end of the decade, Heydt would have concentrated blocks of state railways in the most strategic provinces, thus making nationalization of all railways in Prussia a greater likelihood.

This strategy added up to a policy shift. Starting with the 1849 loan of twenty-one million thalers, Heydt sought to transform the Railroad Fund into an open-ended source for government loans to construct a state railway system. Under Heydt the fund ceased to promote only private railroad interests and, in fact, worked against private interests. The state network was intended to compete with private companies, deny them room for growth, and eventually take them over. The loan signified a radical break with Prussia’s mixed system.

Finance Minister Karl von Bodelschwingh opposed Heydt’s use of the Railway Fund and from 1852 on acted as the principal brake on state spending in railroads. As supervisor of the general treasury and the state budget, Bodelschwingh believed it was incumbent upon him to oversee the fund’s uses and challenge its independent status. He used his leverage as chief of finances to fight a policy he strongly opposed. The ministers’ conflict over the use of state revenues became a highly personal, decade-long feud that occasioned long cabinet disputes and a mutual unwillingness to compromise on this issue. The two ministers would lock horns over the Railroad Fund in 1851, 1852, 1855: 1856, and 1857–58. The patent incompatibility of the two ministers leads one to ask why the king did not dismiss one of them to effect a more consistent economic policy. A divisive cabinet is perhaps what the king sought. Friedrich Wilhelm IV, Bismarck noted in his memoirs, cultivated an antagonistic triangle between Minister-President Manteuffel, Heydt, and Bodelschwingh to help maintain a balance between royal and ministerial power.
Bodelschwingh’s reply to Heydt’s 1852 loan proposal argued against the loan and the idea of a state railway system. Earlier Bodelschwingh had opposed Heydt’s argument for state construction of two of the lines included in the loan proposal. In February, furthermore, he had participated in a protracted battle of principle to oppose the government’s takeover of the Lower Silesian-Mark Railway. In justifying the twenty-million thaler purchase of the railway to the legislature, the cabinet had stated that this was an isolated case and did not mark the beginning of a state system. The jump from proposals for individual lines to railway systems that encompassed entire provinces, however, alerted the finance minister to a new attitude: “If not explicitly stated, it must be factually recognized that this is the first time the proposal of state construction has arisen.” Bodelschwingh recognized Heydt’s intent and criticized both its budgetary oversights and its assumptions about the Railroad Fund.

Bodelschwingh dismissed the plan on both fiscal and philosophical grounds. He declared that the numbers Heydt presented to show that the fund had the money to finance the loan were misleading. Heydt’s proposal, furthermore, disregarded continuing obligations for the 1849 loan and considerably underestimated the reserve needed for dividend guarantees. When these obligations were added to the costs of the new loan, Bodelschwingh estimated that the fund exceeded its legal limit by nearly two million thalers.

Bodelschwingh attributed Heydt’s attempt to hide the Railway Fund’s financial obligations to the trade minister’s basic view of the fund. The trade ministry, he wrote to Heydt, claimed there was an essential difference between the fund and the general treasury. According to this viewpoint, the fund’s budget, however fraudulently balanced, was free from the scrutiny of the finance ministry’s bookkeeping principles. This claim to independence was wrong. Whether a loan was contracted by the fund or by government agencies, Bodelschwingh argued, the loan still represented an increase in state debt: “The revenues that make up the Railroad Fund flow from the same source and are subject to the same changes and conditions as other state revenues.” Ultimately, then, the proposed loan touched on the administrative sphere of the finance ministry, whose primary duty was to safeguard the fiscal health of the state.

Moreover, the state could never replace private enterprise as Prussia’s railroad financier. Not only did the state not possess the capital to undertake such immense investments and meet the demands of every region, but the contingencies of state finance also militated against tying up large sums for six years at a time. The development of a political crisis “would necessarily postpone execution of the whole plan.” Echoing his earlier stance on the state takeover of the Lower Silesian-Mark Railway, Bodelschwingh concluded that this loan had no proper place in the budget.
The crux of Bodelschwingh's critique, however, lay not in the accuracy of numbers or the realities of state debt but rather in the basic policy of railroad construction in Prussia. The proposed loan radically deviated from the original purpose of the Railway Fund, which was designed to aid, not supplant, private investment. State support, he reminded Heydt, was intended only for exceptional cases and could only be implemented through dividend guarantees. The fund, Bodelschwingh wrote, was intended to awaken and stimulate investment and should never intervene in such a way as to paralyze it. "Fundamentally, railway construction can and must be left to private enterprise." 

The function of the fund's annual account as a supplementary stimulant for private investment explained its low ceiling of two million thalers. Bodelschwingh lectured Heydt on the philosophy that underpinned the fund's design: "Private speculation forms the wide foundation upon which the Railroad Fund can build. The Fund's administration and application presumes that this base should not be weakened, shaken, or removed. Thus the state should intervene only where general interest justifies it and when the particular conditions of the enterprise demand it." 

The danger of Heydt's loan was dual: it undermined the investing power of the private market and presupposed a state role in finance that it could never fulfill. Bodelschwingh further inveighed against the centralization of finance that encouraged people to look to the state and not to local initiative. He pointed to the unfortunate pattern of investment in contemporary Prussia, a time when "a surfeit of disposable capital is thrown into state paper and railroad securities, while local interests have become accustomed to expect everything from the state." Earlier Bodelschwingh had rebuked Heydt for allowing two railway companies to hoodwink the state into subsidizing the Rhine bridge's construction. It was a task, he opined, that the companies and the city government of Cologne could have easily accomplished themselves. Similarly, Bodelschwingh asked why the state should intervene and build the Sieg-Ruhr line without first tapping local capital that would directly benefit from the railway.

Local enterprises, Bodelschwingh asserted, could attract this capital themselves if they were called upon or forced to do so. Such newspapers as the National Zeitung agreed with Bodelschwingh: "In recent times the receptivity toward new railroad projects has been ambitious... in most cases private investment is fully sufficient and would assert itself even stronger if it was not hindered by so many legislative obstacles." Heydt, however, claimed to see
no relationship between state expenditure and diminished local investment. In a memorandum to Manteuffel, he pointed to the great number of petitions requesting charters to start new railways as evidence of private initiative, yet defended the need for state lines with the assertion that his specific lines did not attract private investment. This defense, however, shows a disingenuous argument. All of Heydt’s lines in his 1852 proposals had private bidders save two. It also contradicted his earlier argument with Bodelschwingh that the state was the preferred, not the necessary, builder. Indeed, Heydt failed to note to Manteuffel that although many new companies actively sought charters, few received them. In the 1850s, the trade ministry granted only two charters to establish new railway companies. By denying new companies the initiative to build, Heydt created a need for state construction.

Bodelschwingh’s opposition defeated Heydt’s proposal. Heydt succeeded in bringing the issue to cabinet meetings (3 and 6 November 1852) by convincing Manteuffel to put it on the agenda. The king, Minister of Interior von Westphalen, and Minister of War von Bonin reacted favorably to Heydt’s idea, but the finance minister’s strong resistance was enough to stop it. Although Heydt’s position on state ownership of railways actually carried a majority in the cabinet, the king and minister-president were reluctant to act against the finance minister’s wishes in budgetary matters. Heydt later protested to Manteuffel about the unreasonableness of the finance minister’s opposition, but Bodelschwingh persevered. In a final memorandum to Manteuffel, Bodelschwingh demonstrated that the fund lacked the assets to float a thirty-four million thaler loan. Heydt’s bid to transform the fund into a protonationalization program failed.

Nevertheless, Heydt’s energy in keeping the state a leading promoter in railways did not diminish. The failed 1852 loan made clear, to be sure, that Heydt would have to tolerate and work with Prussia’s private railways and thus continue the mixed system. Heydt, however, did not abandon his hope of using the fund to float large loans. The trade ministry’s administrative report for 1852–54 explicitly included this option. Nor did it stop Heydt from finding other ways to generate new sources of capital to enlarge the fund’s sphere of influence. The Railroad Tax is one example.

In 1853 Heydt submitted a bill to the Landtag to activate the Railroad Tax (Eisenbahnabgabe), a provision of the 1838 Railroad Law that empowered the government to tax the net profits of railways. The law freed railway companies from the normal commercial tax (Gewerbesteuer) but included a possible levy on net profits as just recompense for the losses to the state from lower highway tolls and diminished mail-coach revenue. The law stipulated that the tax revenues be used to replace monies lent to railway companies and thereafter to purchase their stocks.
The Railroad Tax, however, had never been levied. The fragile first years of railway construction and the money crisis of the 1840s dissuaded the government from ever imposing it. But with the financial crisis over and with many companies earning good profits, 1853 appeared to Heydt a propitious time to introduce the tax. For Heydt, the crucial aspect of the tax was that it did not flow to the general treasury but, rather, to a stock-acquisition program, now administered by the Railroad Fund. "The tax," Ludwig von Gellach stated two years later in the lower house, "is actually no tax at all: it is the price tag for a monopoly." For this reason Heydt emphasized that the tax revenues be called "extra-dividends" to emphasize their status as an accelerator of state railway ownership.

The Railroad Tax of 1853 became a prominent public issue. In the Landtag the debate for its legislation stretched from February to April and extended the legislative period past the Whitsuntide recess. Eleven versions of the bill were debated in the lower house; the discussion in the upper house was equally long. Ludwig Kühne, an old-liberal in the lower house, introduced an amendment that would have siphoned the tax into general treasury funds. The lower house voted down Kühne's amendment but narrowly approved the tax. The upper house also approved the tax but not without questioning the future debts of the state, the putative advantage of shareholders with state involvement, and whether the state could match the progress of private railways. The Landtag thus continued to support Heydt's aim of state ownership, albeit with more restraint and qualification than in 1849.

The debate on the bill's passage centered on the legality of taxing the railway companies progressively and the rates at which they should be taxed. A petition from five railway companies to the lower house protesting the tax's progressivity found support among many deputies, resulting in a long, "rather strong" debate. The petition asked that one fixed tax percentage be agreed upon for all profits and that legal procedures be instituted to ensure the government's proper execution of stock acquisition. The first point revealed the railway directors' self-interest in not paying new "socialistic" taxes; the second manifested a distrust of Heydt. The request for stock-purchase controls was a response to a motion by Marcus Niebuhr, who was also the financial adviser in the king's privy council. He proposed to strike the passage in the original law that required the government to reinvest stock in the same proportion in the company that it taxed. Redacting this provision gave the trade ministry greater freedom in shaping its stock portfolio and prevented delay in "acquiring all railroad equities." The houses passed Niebuhr's amendment and, of the eleven versions, passed the one that least modified the executive branch's bill. The lower house succeeded in removing the highest tax rate from the law (30 percent from net profits exceeding 70 percent) and, contrary
to Heydt's wishes, the legislature's final version recommended that the general treasury supervise the stock-acquisition program.\textsuperscript{56}

While the Landtag quibbled mostly over the tax's form, newspapers questioned its substantive legality. The \textit{Spenerische Zeitung} attacked the injustice of taxing stockholders twice, once with the stamp tax upon purchase (\textit{Stempelsteuer}) and then again on annual net profits. It also called progressive taxation a "dangerous thing," a product of "socialistic, national economic theories," and a "central doctrine of Proudhon."\textsuperscript{57} The \textit{National-Zeitung} argued that the tax was a dead letter of the 1838 law. To revive the law's original intention—that the state should be the sole owner of railways—ran counter to the principles of railroad economy. We should not blame the legislators in 1838 who could not have known better, wrote the editors, but rather the politics of 1853:

\begin{quote}
Where the finance minister is at a loss to find a need to justify a new tax, the trade minister enters and declares, "I must buy the railways." And where the trade minister is at a loss to find the means to undertake such an immense undertaking, the finance minister enters and declares, "I must find an equivalent of a commercial tax for the railways and thus introduce a long-promised tax." Out of this conundrum of reasons arises a law that robs from stockholders a portion of their legal profits and purchases their property with this money. That is nothing more than the gradual expropriation of stockholders without compensation.\textsuperscript{58}
\end{quote}

The tax's intent to divest the private market of railroads provoked the newspaper to liken the tax to the work of "naked communism" and to the French socialist utopians of the day, "Cabet and the Icarians." Taxing property at all was linked to radical socialism: "What one calls here ground rent, Proudhon regards as theft."\textsuperscript{59} This hyperbole that denounced progressive taxation and sanctified private property illustrates well the extreme dogma of free traders in the 1850s.

On 24 April 1853 the Landtag approved the Railroad Tax, which the king signed into law on 30 May.\textsuperscript{60} The law fixed progressive tax rates for these so-called extra-dividends, since they had never been set in the original law. Accordingly, net profits of 4 percent or less of the company's nominal capitalization yielded 2.5 percent of that profit to the government; 5 percent, 5; 6 percent, 10; and 7 or more percent profit, 20 percent.\textsuperscript{61} By today's standards, the tax's progressivity was not harsh: 100 thalers profit from 10,000 yielded 2.5 thalers to the state leaving the company with 97.5 thalers; 800 thalers net profit yielded 65 thalers to the state leaving 735 thalers.\textsuperscript{62} Large, prosperous railways thus paid taxes ranging from 63,750 thalers, as did the Berlin-Anhalt Railway in 1857, to 129,333 thalers, which the Cologne-Minden Railway paid.
in 1856. In 1859 the Berliner Börsen-Zeitung cited 150,000 thalers as an annual representative figure for large railways. In spite of the tax's relative mildness, investor's dividends for Cologne-Minden Railway common stock diminished by 1 percent, the Upper Silesian by 2 percent, and the Magdeburg-Leipziger by 4.5 percent in the mid-fifties. Heydt admitted that skimming this premium off investors' returns was a "considerable burden" for profitable lines. If Rainer Fremdling's average of railroad stock dividends in the 1850s of 5.8 percent is correct, investors most likely agreed. Certainly railroad directors found the tax steep. By 1857, for example, the state collected a profit of 600,000 thalers from the Cologne-Minden and the Upper Silesian railways through the new tax and stock dividends. Heydt reported that this sum represented an 87.3 and 28.2 percent return, respectively, on the government's investment—a lucrative deal. With such prospects in mind, he reported to the lower house in 1855 that the more profitable lines would fall into the state's hands within fifteen to twenty years.

The tax gave new significance to the fund's assets, for it meant the creation of a sizable stock portfolio. Heretofore, the government only possessed stock from its 1842 investments, which by 1859—the year of the fund's dissolution—earned 1,452,328 thalers in dividends. The extra-dividends, however, accumulated approximately four million thalers by 1859, giving the Railway Fund a total of five and a half million thalers in dividend earnings for further stock purchases. For railroad finance, this sum was not especially formidable. Yet by 1866 these earnings would have increased to fifteen million thalers, thus approaching the dimension Heydt desired for the fund's stock-acquisition program. If the fund had not been dissolved in 1859, the tax would have achieved its purpose: private companies would have gradually financed their own demise.

\[\text{The Guarantee Fund, created in 1854, is another example of Heydt's attempts to expand the power of the Railroad Fund. With the fund's running account fully committed, Heydt turned to the new possibilities created by the extra-dividends. Using the extra-dividends of the Cologne-Minden and the Upper Silesian railways, Heydt created a sinking fund to enable these private railways to raise share-capital to build lines that were originally part of his rejected building schemes in 1852: the Oberhausen-Arnheim, the Sieg-Ruhr line, the Breslau-Posen-Glogau line, the Deutz-Giessen-Frankfurt a.M., and the Rhine bridge at Cologne. In addition to acting as collateral for stock issue, the Guarantee Fund also functioned as the subsidy fund that backed minimum dividend rates on the stock.}\]
By agreeing to the terms of Heydt's Guarantee Fund, the Cologne-Minden Railway received the charters to build the bridge and three lines in the Rhine-land and Westphalia. The company agreed to channel to the Guarantee Fund an annual sum of 50,000 thalers from its net profits, including a portion of its own stock dividends from 1854. In addition, the company contributed the one-time sum of 100,000 thalers, while the city of Cologne and the Rhenish Railway—two clear beneficiaries of the bridge—donated a combined sum of 500,000 thalers. This money was collected in one interest-bearing account, a money pool that enabled the company to issue new series of stock worth over thirty million thalers. The government administered this account, assuring investors their dividends and guaranteeing the Cologne-Minden Railway that the government could always raise a minimum of 300,000 thalers for such needs. It further promised to suspend its reinvestment of Cologne-Minden stock and channel its dividends into building the bridge (the state owned one-seventh of the company's original common stock purchased in 1842). The account, according to the contract, would last until the lines were constructed and the capital for the bridge was amortized. The account could be dismantled after five successive years of profits fully covered the annual interest payments. The same conditions were applied to the Upper Silesian Railway for the building of the Breslau-Posen-Glogau line, which in turn supported 12,250,000 thalers in stock issue.

The Guarantee Fund typified Heydt's administrative and financial talents. Even before the Landtag had approved the Railroad Tax, Heydt had devised a shrewd scheme to put those tax revenues to immediate action under his auspices. Hardly a minor account, the Guarantee Fund summoned to life fifty-one million thalers of railroad securities over the course of the 1850s. Heydt's resolve to use private companies so readily, and not to persevere with a state program, bespoke a change in attitude, yet his strategy with the assets belied the spirit of cooperation. He secured from the Cologne-Minden Railway, for example, the right to purchase the Oberhausen-Arnheim branch line at any time. In 1857-58 Heydt also sought to revise the contractual agreement with the railway companies to aid state ownership. He proposed to dissolve the independent status of the Guarantee Fund and transfer its assets—mostly in the form of company stock—to the state treasury, while keeping the subsidy pledge intact. The "increasing demands of the general treasury" justified the move, Heydt wrote to the governor of the Rhenish province. The same memorandum, however, revealed that Heydt also planned to use its assets to acquire greater blocks of stock: "The additional purchase of Cologne-Minden stock for the Guarantee Fund . . . would accelerate the means of transferring the property of the railway over to the state." In addition to an increased stock portfolio, Heydt wrote to Bodelschwingh, the transfer would also give the Railroad Fund's new revenues between 550,000 and 900,000 thalers.
The Upper Silesian Railway’s management, which had just been replaced by the government in a controversial takeover in 1857, agreed to this proposal. As Heydt predicted, the Cologne-Minden directors rejected it.80

The Legacy Fund (Legatenfonds) also demonstrates the lengths to which Heydt went to find money for the Railroad Fund’s projects. Although the use of this fund spanned three decades, its story in connection with the Railroad Tax and Guarantee Fund underscores Heydt’s resolve to accumulate capital for his railroad projects. The fund derived from the private estate of Friedrich Wilhelm III. In 1840, he bequeathed one million thalers on his deathbed to a special account to finance the building of a railway from Halle to Cassel to the western provinces.81 Although initially hostile to railroads, the Hohenzollers had finally recognized the military importance of a railroad connecting Berlin, Halle, and the western provinces via Cassel. The hilly terrain around Cassel and the lack of investors prevented the construction of a direct Halle-Cassel line. Consequently, in the mid-forties, the fund’s executor, Baron von Alvensleben, in cooperation with the state ministry, had invested the money in two railways: 810,000 thalers in the Thuringian Railway, a line that approached Cassel through a circuitous southern route (Halle, Merseburg, Leipzig, Erfurt, Gotha); and 190,000 thalers in the Cologne-Minden-Thuringian Railway, whose rails extended from Hamm to the eastern border of Westphalia in Paderborn. This last line, burdened with outstanding debts and not yet turning a profit, was bought by the state in 1849 and renamed the Westphalian Railway. It immediately saddled the Railroad Fund with its losses.

Because the terms of the Legacy Fund never explicitly stated the destination of its investment dividends from the Thuringian Railway, Heydt claimed them for the Railroad Fund. In 1850 the trade minister squeezed 31,310 thalers of back interest payments from the very reluctant, financially troubled directors of the Thuringian Railway.82 The money went directly to the Westphalian Railway. After 1852, the Legacy Fund’s administration was transferred from the finance ministry to the trade ministry, thus allowing Heydt greater flexibility in supervising the properties of the Railroad Fund. The dividends from 1852 (39,200 thalers), for example, were invested in Aachen-Düsseldorfer bonds, a railway administered and subsidized by the state.83 By 1857, the trade ministry had channeled over 215,000 thalers of Legacy Fund earnings into stock acquisitions.84

Several parties contested the Legacy Fund’s jurisdiction and use. In December 1849 the directors of the Thuringian Railway lodged a protest with the Hohenzollern house—the king and his three brothers, Princes Wilhelm, Carl,
and Albrecht. The directors claimed that the entire fund should be invested in their railway. The Hohenzollern princes rejected this demand (21 January 1850), but they complicated matters by upholding the company's ancillary claim that the interest from the 810,000 thalers of Thuringian stock should be reinvested in the railway.

Heydt disregarded the Hohenzollern decision and continued to use the interest as he saw fit. When prevailed upon to defend his recalcitrance to the king in March 1853, Heydt maintained that the Legacy Fund should hold to its "original intention" and finance the quickest route from Halle to the western provinces. For this reason, he wrote, the Railroad Fund was entitled to the interest from the Legacy Fund. The best route, he believed, was one north of Cassel that could connect with the Westphalian Railway. Such a line would give greater economic importance to the state railway and cancel the Thuringian Railway's future claims for remuneration. Satisfied with Heydt's arguments, the king issued a decree (4 April 1853) denying the company's claim to the interest. The railway consequently paid 40,000 thalers to the state treasury, with which the Railroad Fund acquired securities.

Heydt's victory over the Legacy Fund's management was short-lived. Two years later (June 1856), the Hohenzollern princes submitted a long protest to King Friedrich Wilhelm IV about the use of the fund. They demanded that the comptroller of the Hohenzollern entailed estate (Fideikommiss) manage the account and its income. The king asked his ministers to review the matter. Because the question was a financial and legal matter, the key opinions were those of Finance Minister Bodelschwingh and Justice Minister Ludwig Simons, and both rejected the princes' claim. Caught between his cabinet and his family, the king turned to the crown's lawyer, whose recommendation favored the princes. On 25 March 1857 the king, after a long delay, decreed in favor of his brothers: the interest earned from the 810,000 thalers was to be supervised by the family comptroller. The cabinet, not accustomed to the king's independence, petitioned Friedrich Wilhelm to repeal the decision two months later, but the king refused. On 14 July 1857, the funds were transferred.

Heydt, however, was not ready to acquiesce in this royal decision. After Prince-Regent Wilhelm assumed governing responsibilities from Friedrich Wilhelm in 1858, Heydt resubmitted his claim to the money. Simons backed the trade minister in another written opinion (Votum), but Robert von Patow, who had replaced Bodelshwingh as finance minister in the New Era cabinet, decided he had nothing against the standing agreement. The staunchest opposition came from Ludwig von Massow, minister of Hohenzollern house affairs, who told Heydt that it was futile to seek a cabinet vote. Although the cabinet did not deliberate on the issue, the prince-regent nonetheless agreed in November to review the matter. As he was one of the original parties in the
royal protest, Wilhelm's opinion was not surprising: he supported the standing decision. A second edict (11 November 1859) defeated Heydt's plan.88

With characteristic tenacity, Heydt persisted. He had earmarked this money to help fund preliminary work on a line between Halle and Cassel via Nordhausen, which offered a drastic shortcut over other options. He hoped, furthermore, this line would be state-owned.89 In January 1860 he presented an obscure interpretation to the king: the royal rescript, he said, had established the "material settlement," but it could not be considered a "final, legal settlement." Moreover, Heydt conferred with Patow about negotiating a cash settlement with the princes' comptroller. If the Hohenzollerns were set on controlling the interest, he wrote, they should be prepared to pay a fixed sum to the state treasury as a kind of tax.90 This proposal fell on deaf ears, as did Heydt's idea of funding a state line. The new executor of the fund, von Uhden (Alvensleben died in 1858), told Heydt that a state rail built with Legacy Fund money "could not be allowed," for Friedrich Wilhelm III had only envisioned a private enterprise.91

Heydt haggled with the royal house until the end of his tenure as trade minister (March 1862), at which time no decision had been reached. Eventually, in 1863, a private railway (Magdeburg-Leipzig) received the concession to build the line and, with Heydt gone, the Hohenzollern house minister suggested that the finance ministry take over the administration of the stock and interest. Ironically, Bodelschwingh, who returned as finance minister in September 1862, had to refuse. The test of constitutional principle between the parliament and the crown over the army bill had produced a budgetless government, and the treasury did not have the authority to effect the transfer of funds.92

The dispute over the control of the Legacy Fund was not, comparatively, a major financial issue. Nonetheless, Heydt's struggle with the Prussian royal house sheds light on his determination throughout the 1850s to find capital wherever possible to maintain the state's role as promoter and owner of railroads. Not content with the fund's limits, Heydt elasticized its legal, budgetary parameters through the creation of discrete accounts within the fund. The Railroad Tax, the Guarantee Fund, and the Legacy Fund all served the function of accelerating the fund's acquisition of private railroads.

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It was clear by 1854 that Heydt needed supplementary income to maintain the state's bid for leadership. By 1853, the Railroad Fund's debts exceeded the legal limit of its expenditure. Rather than trim back state railway construction, Heydt disregarded the law limiting the Railroad Fund's annual expenditure to
two million thalers. In the four years from 1853 through 1856, Bodelschwingh, in one of a series of critical memoranda, estimated that the fund's budgetary limit was exceeded by the cumulative sum of 1,366,000 thalers. This figure did not include other debts that Heydt should have stated in his budget. The 952,950 thalers earned by the Lower Silesian–Mark Railway between 1853 and 1857, for example, were never included in the formal budget, although they made up part of the fund.

Heydt further violated budgetary agreements by failing to transfer all profits of state-administered and state-owned railways to the general treasury. Although the 1849 loan allowed him to use profits (temporarily) from the three lines it funded (the Eastern, Westphalian, and Saarbrückener railways), Heydt also used profits from others. In 1856 he authorized the sale of one million thalers of Berg-Mark Railway stock and appropriated the money for the fund's payment schedule in 1857. Similarly, the finance ministry challenged the legality of the trade ministry's use of state railroad profits to cover the additional construction costs of the Münster-Rheine-Osnabrück line, which had swelled to 1,226,755 thalers. A 45,000 thaler discrepancy in Eastern Railway profits that failed to reach the treasury also aroused the attention of the finance ministry. During the mid-1850s, Heydt's budget was easily double the permissible limit. The finance ministry's concern over such sums was understandable: it was in dire need of budget-balancing revenues. Whereas the state budget ballooned over one hundred million marks between 1848 and 1856, the tax yield rose 10.5 million thalers in the corresponding time span to net fifty-seven million thalers. Heydt, however, had his own ambitions and thus his own debts.

Heydt's problem with debt perhaps explains his attempt in 1854 to stretch the fund's spending power with unorthodox financial maneuvers. In an attempt to liquefy assets to attain the greatest amount of capital to cover burgeoning railroad construction costs, Heydt made inquiries in March 1854 with the Frankfurt bankers M. Bethmann and M. A. Rothschild and the Amsterdam banker W. Bischoffsheim regarding a Depotgeschäft, a personally tailored stock-based loan. He wished to sell one of these banks two million thalers of railroad securities at a quote above the market price, which he would repurchase by the end of the year for an agreed upon premium. All three banks declined the offer. The negotiations failed because Heydt wanted until the end of the year to repurchase the stocks (eight months), whereas these banks only allowed three to six months for such deposits. Heydt also wanted to discount the securities at a quote of 107.5, which (although under the market price) these bankers found too high for the sum of money in question. The other crucial question for the Frankfurt bankers was the exchange rate between gulden and thalers; curiously, Heydt refused to cite a specific rate.

The trade ministry's usual banks of business, the Prussian Bank and the
Seehandlung, were not asked, and Heydt requested from the private bankers complete confidentiality. Clearly, Heydt was undertaking a risky and unconventional deal without the knowledge of other ministers. Bodelschwingh would most likely never have approved the undertaking, owing to both the uncertainty in financial markets caused by the Crimean War and the unconventional nature of Heydt's wheeling and dealing.

To the finance ministry's principal accusation of exceeding the budget by over a million thalers, Heydt answered with silence. Previous rebukes had shown that Heydt was not shy in justifying his position vigorously—when defensible. Most likely Heydt knew that Bodelschwingh was right, but he also knew that neither the lower nor the upper house had yet exerted any strict controls on his administration and that he had greater support in the cabinet than did Bodelschwingh. His decision to ignore the law limiting the size and function of the Railroad Fund for four straight years is telling of his willingness to overlook any legal control impeding what he believed to be the best interests of the trade ministry. How serious was such an action? By the standards of his peers in the cabinet (who saw the constitution on which they took oaths as an elastic entity), Heydt's disregard of the law was probably not perceived as criminal or worthy of dismissal. Yet deputies and liberal journalists, in view of wanton neglect of budgetary constraints, acquired an increasingly critical view.

After 1855, the question of the Railway Fund became bound up with the larger issue of parliamentary control of the budget. The conflation of the two issues was partly by design. Bodelschwingh, frustrated with his lack of power to control Heydt, encouraged a more critical posture on the budget from the lower house. In January 1855, he engineered enough votes on the right to put two critical liberals on the budget committee: Robert von Patow, the former trade minister of 1848, and Ludwig Kühne, the tax specialist. In the same month, Bodelschwingh also proposed to Heydt to dissolve the fund and transfer its assets to the finance ministry—in vain. That the finance minister resorted to parliamentary stratagems to influence cabinet policy suggests his relative isolation in the cabinet and inability to rouse his colleagues to act. (It further shows the growing role of parliament in Prussian policy making, even for conservative ministers such as Bodelschwingh.) He had long been concerned with the trade ministry's railroad debts and its liberal spirit with dividend subsidies, a financial obligation that he believed was crushing the state. The finance minister pointed up the Eastern Railway's confused budgets, late payments, and inefficient administration but received no support to rein in Heydt. Heydt did not deny that the general treasury paid the fund's overdrafts annually but avoided substantive debate by interpreting the finance ministry's memoranda as an affront to his person and authority. Heydt seemed to
brush aside Bodelschwingh’s persistent criticisms easily, taking months to re-
ply, which perhaps explains why Bodelschwingh appealed to parliamentary
factions.

Bodelschwingh’s move had its desired effect. In April 1855 the budget
committee of the lower house presented revisions to a government bill re-
garding an additional loan to complete the Eastern Railway and construct
the Münster-Rheine-Emshafen line. The trade ministry asked for 4,309,000
thalers. Heydt promised the budget committee that the Railroad Fund’s means
were “fully sufficient” to meet the payments on a new loan, which, against
the backdrop of the fund’s deficits since 1853, was a bald-faced lie.104 The
committee recommended that the sum be reduced to 3,976,000. Although a
minor monetary reduction, the intervention itself was significant. The com-
mittee changed the route of the Münster-Emshafen line favored by the minis-
try, shaving off a Prussian mile (7.4 km) to cut costs, and made other minor re-
visions with the Eastern Railway. It rejected Heydt’s plan to amortize the debt
at an unfixed rate, insisting instead that the loan should be repaid in 1 percent
installments like all other railroad loans.105 It further advised that “if the gov-
ernment’s proposal is accepted, then the ongoing state construction and sub-
idization of railroads must be postponed entirely for a number of years.” 106 The
committee recognized that the fiscal limits of the fund were saturated and
announced the lower house’s unwillingness to approve future loans.

This new regulatory role galled Heydt. “I mind very much,” Heydt wrote
the king two days later, “that the houses have intervened for the first time in
questions of bookkeeping.” It was indeed questionable whether the Landtag
had the jurisdiction to concern itself with cabinet decisions, “but with a rail-
way over fifty miles long [370 km] one could hardly contest the right. Where
that right begins and where it ends is difficult to determine.” 107 Unwillingly
Heydt conceded that confusion existed between the executive and legislative
branches regarding the control over government spending.

In the same session of the lower house, Ludwig Kühne, modifying his
1853 proposal, submitted an additional motion to suspend temporarily the
fund’s stock-acquisition program (funded by the Railroad Tax) and channel
its profits into paying this new debt.108 Kühne, a gifted speaker who knew the
value of wit and anecdote, offered compelling reasons to abandon the plan for
a state monopoly of railways. Why, he asked, should the government under-
take the financially impossible task of purchasing all of Prussia’s railways—
priced at 180 million thalers—when other pressing debts were at hand and
when private railways continued to reduce rates and expand Prussia’s lines?
To adhere reverently to the letter of the 1838 law, he argued, was foolish.
Kühne reminded the lower house that he had chaired the state commission in
1838 that had written the Railroad Law. He was well aware of the law’s prem-
ises but noted that in 1838 there was only one mile of steam-driven railway on the European continent. Subsequent experience showed that state intervention was unnecessary.\textsuperscript{109} The lower house rejected Kühne’s amendment but accepted the committee’s proposals to alter the terms of the loan.\textsuperscript{110}

Thus, in spite of the overwhelming victory of government parties in the election of 1855 (which installed the so-called Landratskammer),\textsuperscript{111} liberals kept the budget question alive as a political issue. Since 1849, industrial and commercial interests had objected to the disproportionate tax burden placed on the Rhine and Westphalian provinces, the continued tax exemptions of the landed nobility in the east, and the increasing size of the budget. According to Patow in 1857, it was the liberals alone who consistently motioned for greater control of taxes and the budget.\textsuperscript{112} After 1855, however, the liberals found unexpected support on this issue from conservatives.

Ludwig von Gerlach, the clarion of the right, called upon the Landtag to unite the Prussian virtue of thrift with the constitutional regime in a forceful speech in the lower house on 22 February 1856.\textsuperscript{113} He introduced a new finance doctrine designed to curb the government’s appetite for centralization and bureaucratization by refusing all new proposals for taxes. The move, he wrote to his brother Leopold, “was the only practical way to make the houses an instrument of the estates.”\textsuperscript{114} Exercising budgetary control was one element in Gerlach’s larger political strategy, which planned that conservatives should not let the constitution perish through inactivity and rejection but, rather, through constant use and practical application transform it into a conservative tool.\textsuperscript{115} Meeting with Gerlach days afterward (27 February), Bodelschwingh supported the new tactic. Only the king’s civil cabinet or the houses, he told Gerlach, could begin to monitor the budget and dissolve the trade ministry.\textsuperscript{116}

By February 1856 the array of Heydt’s critics and opponents had reached formidable proportions. They included liberals and conservatives in both houses of the Landtag who were concerned about the condition of the Prussian budget, the financial manipulations of the minister of trade, and his continued efforts to nationalize the Prussian railway system. But they were not alone in their concerns. The Prussian cabinet was itself divided in its support of Heydt’s activities; the collegial system worked poorly when confronted by a man of his temperament. Bodelschwingh would even have dissolved the ministry of trade in order to be rid of him and his schemes. But Heydt had one advantage; his opponents were too varied in social station, economic views, and political purposes to unite against him.

Gerlach’s initial tactic was to oppose the extension of a tax surcharge presented in the government’s 1856 budget. In May 1854 the houses had approved a 25 percent surcharge on the income and meal and slaughter taxes and extended it to the fiscal year of 1855. In spite of Gerlach’s threat, this exten-
sion was eventually passed, but both the upper and lower houses warned the executive not to consider the surcharge again. The lower advised a thorough reform of state finance to streamline expenditure. The upper, more concretely, announced that only revenues already approved by law would be accepted in the next budget; all new forms of revenue would have to be approved separately by special legislation. The resolutions of both houses pressured the cabinet to come to a definite settlement on finances. If the cabinet was to avoid a greater conflict with parliament, it had to secure state revenues already approved and, furthermore, maximize their profitability.

The new conservative position posed greater problems in the legislative session of 1856/57, for the government sought new revenues of 4,080,000 thalers for an army reform, which proposed to extend military service from 2.5 to 3 years. In addition, the revenues would raise the salaries of civil servants. The debate on the budget went on for months and marked the “highpoint and turning point of the [reactionary] era.” The protracted debate caused Ludwig Gerlach to speculate on cabinet changes and bemoan the “power and popularity the leftists—Auerswald, Patow, etc.—possess with their edifying principles of government and the chance they have to take the helm.” The “edifying principles” Gerlach feared were the left’s attempt to transform the budget debate into a constitutional reform providing for a more precise definition of the lower house’s role in the budget. A similar campaign had failed by a narrow margin in 1850/51. It was the same issue that eventually turned the army reform of Wilhelm I into a constitutional crisis in 1862.

Both houses rejected the raise in government officials’ salaries. There was little objection to reforming the army, but the question of who and what to tax was problematic. Fiercely protecting its own material interests, the upper house advised raising the levy that pressed against the poor the most: the salt tax. The second house, however, proposed using the Railroad Tax to finance the army reform. The latter’s motion was worked out by its finance committee, a twenty-one member body controlled by liberals but chaired by Ludwig von Gerlach. For the liberal faction, Kühne stated: “If the house recognizes the necessity of three-year service and salary raises, then I do not doubt that the trade minister and the government will be willing to suspend the stock acquisition and apply the tax to more urgent needs.” Clearly Kühne strove to use the Railroad Tax as a bargaining chip to negotiate control over the budget between the executives and the legislature. “The commission,” reported a member who supported the government, “has declared war.”

The plenum debate on modifying the Railroad Tax to alleviate the budget deficit focused on whether such a move was legal. Some argued that suspension of the stock-acquisition program would transform it into a commercial tax, because the revenues would flow to the state treasury like any other levy.
but the 1838 law forbade commercial tax on railways. Others proclaimed their freedom from stockholders and commercial companies and their right to change the tax. The debate ended in stalemate. The lower house watered down the amendment by introducing a new motion that proposed to suspend the stock-acquisition program temporarily—until finances were put in order. This proposition was voted down by the committee itself and also defeated in the plenum, 168 to 130. The upper house, however, approved the bill, 62 to 17. The proposal’s mixed support allowed the cabinet to disregard it, but the debate nonetheless registered changing views on the fund’s status. Thus, when Bodelschwingh renewed his complaints to Heydt in April 1857, he told the trade minister that he should not count on next year’s funds for railroads. The debate on taxes in the Landtag and its calls for reductions could “not ensure with full certainty that the fund will remain in its present form.”

Parliamentary criticism of government spending, administrative inefficiency, and new taxes prompted Bodelschwingh in the summer of 1857 to draft a memorial that exhorted the king to reform state finances. Bodelschwingh’s report, which received the influential backing of Privy Councilor Marcus Niebuhr, prompted the king to appoint an advisory committee to consider such a reform. This “State-Council Commission” was composed of eight men drawn from the privy council and parliament. Among them were Ludwig von Gerlach, the new critic of state budgets, and Kühne, the longtime opponent of state railways. The king asked the council to address three specific questions with regard to the railroad industry: whether enlargement of the state’s railroad network was politically advisable; whether Prussia’s state and private railroads could maintain interest payments; and whether the advantages of further railroad acquisition outweighed the burden of additional railroad bonds. In addition, the commission should address organizational improvements in the postal and mining administrations, both of which belonged to Heydt’s sphere of administration. The initial report and proposed agenda placed the blame for the state’s financial problems at Heydt’s door. "When one reads Bodelschwingh’s very interesting and thorough finance report," wrote General Leopold von Gerlach, close adviser to the king, "it is clear that Heydt’s actions are very destructive."

The king’s call for an advisory council produced a written protest from the cabinet, stating that the move undermined its authority. “Certainly it does not harm you,” Friedrich Wilhelm replied, “when I want to listen to other men over an important matter.” In a sharper tone the king reminded his ministers, “This concerns something that stands higher than the authority of the cabinet: my responsibility as the king of this land.” The king’s independent course of action underscores the historic concern for state debt that weighed on the Hohenzoller, the disregard for correct governmental procedure that
characterized his whole reign, and the degree to which the parliament and public discussion had influenced the court. But it further confirmed the king’s strategy of encouraging actions that weakened the governing strength of the cabinet. For this reason, Bismarck noted, the king enjoyed seeing the houses reject the government’s tax bill.\(^{130}\)

Before the commission convened to discuss the printed agenda, Heydt offered his resignation to the king on 8 September 1857.\(^{131}\) The creation of the commission and its formal agenda insulted Heydt; he believed the king no longer trusted him.\(^{132}\) Heydt probably tendered his resignation to force the king to choose between the commission and himself. As was so often the case with ministerial resignations, the king rebuffed it, telling Heydt that he had “indefinitely postponed” the convening of the commission. This was a political victory for Heydt but nonetheless a qualified one. The incident revealed the uncertainty of the king and his advisers over Heydt’s railroad policies. Because the commission was suspended, not dissolved, it could be reconvened at any time and thus be used as a mechanism to rein in Heydt’s activities.

While the court reassessed the desirability of state railways, the liberal press also questioned the putative advantages of state ownership. The growing burden of railways on the government budget was a frequent complaint. “The Prussian debt has nearly doubled since 1848,” wrote one critic of the debt in 1856, “and it is mainly because of the cost of the state railways.”\(^{133}\) Equally newsworthy was the government’s claim that the state could offer cheaper prices and freight rates than private railways. The \textit{National-Zeitung} reminded its readers that Heydt was responsible for making the Westphalian Railway cost prohibitive for the working class by abolishing the fourth class.\(^{134}\) The newspaper also asked why the state raised the coal tariffs on the Upper Silesian Railway and the Wilhelmsbahn after taking them over. Earlier the trade ministry had imposed the “one penny tariff” on private railways but now did not adhere to its own rule. Long editorials strove to demonstrate that, although Prussia’s state system could offer fair rates, it could not offer better rates.\(^{135}\) Practice showed that only the most efficient state railways (i.e., former private railways such as the Upper and Lower Silesian railways) matched the low costs and cheap rates of private railways. But even in these cases, it was questionable whether state railways were cheaper or more advantageous; such performance was based on borrowed money, whose interest burdened the taxpayer.\(^{136}\) Equally important, free-trade publicists exposed the fallacy of state railroad “profits.” Indeed, state commissioners boasted millions of thalers in gross profits, but, when tallying the costs of construction, administration, and finance charges, they never ceased to use red ink.\(^{137}\)

The development of public criticism against state railway management grew with the bankruptcy of the Wilhelmsbahn railroad in 1857. As already
seen in Chapter 3, the business community blamed company directors, but the state railroad commission also received condemnation. The state's regulatory role and its overall inability to supervise the industry were severely criticized. Such grievances left the minister and his quest for a state monopoly open to further criticisms.

Not surprisingly, the question of the Railroad Tax was once again raised in the Landtag in 1858. The issue of legality, which had preoccupied the houses a year earlier, was pushed aside to discuss the primary question of state ownership of railroads. The lower house's new budget committee voted 14 to 13 to suspend the stock-acquisition program. The plenum voted the measure down, but the upper house again approved the suspension. The bill also included a warning to the cabinet that the upper house opposed the raising of the maximum two million thaler limit on the Railroad Fund.138 The budget committees of both upper and lower houses submitted stronger recommendations to the cabinet than they had in the previous session. Although this bill, too, was unsuccessful, a sea change was evident. As one newspaper remarked in March 1858, "We believe it is safe to say that, when similar conditions arise, that is, when the government demands new revenues, the result will be different." 139

Following the two legislative sessions that debated the Railroad Fund so thoroughly, the cabinet met in April 1858 to review its position, and on 1 May summarized its deliberation to the king. The cabinet noted the waning interest in the state ownership of railways, though it believed the Landtag's proposal to suspend further state ownership was only a temporary measure until the financial situation improved. In recounting the Landtag's position, the cabinet stated that the two houses could not justify expending funds on a project deemed dispensable when money was lacking to settle pressing, urgent needs of the state. Because tariffs were low and industry and commerce prospering, the Landtag reasoned, there was no great need for further state ownership. Hence, "whether it is desirable for the state to take over all railways and, with it, their attending problems is still very dubious." 140 The last two legislative sessions had questioned the logic and rationale behind state ownership. The conjunction of a prosperous economy with the rising popularity of laissez-faire capitalism among Landtag members prompted the cabinet to reconsider its position on railroad acquisition and ownership.

Heydts dodged this central issue and defended the acquisition program as a legal obligation: it must be pursued out of fairness to railways, which benefited from the stability provided by state stock holdings, and to the stockholder, who was guaranteed stocks over par. Only the directors opposed state ownership. Heydt claimed, for it was in their personal interest to keep the lucrative business for themselves. Further, if the stock-acquisition program was suspended, the Railroad Tax would act as a commercial tax, and the state would
be obliged to compensate all stockholders for the tax revenues. Exhibiting a new sensitivity to legal commitments, Heydt maintained that a commercial tax was unjustified, if not illegal.  

Ministers Simons and Bodelschwingh dissented from this opinion. The state, they claimed, had the right to change laws, and specific passages in the 1838 law (paragraphs 6, 39, and 49) gave the government the right to alter the law to suit the times. Stockholders were aware that conditions can change and, therefore, such narrow legal objections ought to be overruled.

Bodelschwingh offered a fuller critique of state ownership. Competition kept down rates more than a state monopoly ever could. Full state ownership, furthermore, would only make sense if profits exceeded the costs of interest and amortization payments—"how seldom is this the case." Moreover, Bodelschwingh argued, the process of acquiring railroads in this manner was bad business. The state had artificially propped up stock prices since 1842, and when it came time to acquire the remaining railways (and indemnify stockholders) the government would pay extremely inflated prices. It was also unwise for the state to be the sole owner of railways; if destroyed in war, they would have to be replaced entirely at state expense. Bodelschwingh also noted that most had neglected to factor the increased number of civil-servant salaries into the price that would accompany state ownership. And although others were sanguine about the "improved" budget of 1858, the state would still run a deficit of over eleven million thalers.

Bodelschwingh's opinion was the sole vote against sustaining the acquisition program. Although Simons backed Bodelschwingh on the legal right of the state to change the law, he sided with Heydt's philosophy of a state monopoly. The remaining members of the cabinet believed the advantages of state railroads were greater. Their theses were derived from earlier statements and tended to stray from concrete argumentation. The military importance of railroads remained incontestable. Although freight rates were low, they could still be lower. Prussia should also not deny itself the advantage of this lucrative source of income, especially when bordering states enjoyed this privilege: "How hopeful Prussia's future appears, if the present system is consistently and uninterruptedly carried out. For Prussia will end up in possession of its railways much earlier than its neighbors." Finally, the majority opinion noted that it was chimerical to accept the Landtag's suggestion for a temporary measure—such remedies always remain permanent.

Bodelschwingh's written opinion against the Railroad Fund was his last as finance minister. In October 1858 the New Era cabinet took over, and Robert von Patow assumed control of the finance ministry. As a former minister in the liberal cabinet of 1848, an opposition leader against Manteuffel in the lower house, a critical voice on the budget committee in 1856/57, and a
confirmed free-trade advocate, Patow opposed Heydt's policy with even more verve than his predecessor. The views he shared with Rhenish liberals in the lower house and with Kühne on allocating the Railroad Tax to the general treasury ensured private railroad interests a voice in the cabinet.

Heydt, undaunted by either the new appointment or the near-dissolution of the fund, continued to maneuver for greater spending power. Seeking immediate control over the new minister, Heydt submitted to Patow a plan to appropriate all railroad profits for the fund in addition to the annual two million thalers. Aggrandizing the fund's revenues, he claimed, was legal. His tactical move turned on the pivotal phrase in the 1838 law that stated the fund must "not be allowed to exceed" two million thalers. Whereas in the past the phrase had always been interpreted as the ceiling for the fund's activities, Heydt now proposed that the phrase referred only to the finance ministry's contribution, not the fund's budget. The conventional reading set a fixed, concrete limit on the Railway Fund; Heydt's interpretation left room for additional spending power. Patow's response was complete rejection. The fund's aims, he wrote to Heydt, no longer fitted financial conditions: "It seems to be the right time to dissolve the Fund . . . the Railroad Fund is no longer reconcilable within the principles of an ordered budget." Patow rejected Heydt's claim that the king allowed him to manage the fund alone and announced his intention to wrest railroad profits from Heydt's accounts for the treasury. The New Era cabinet thus continued the struggle over the fund between the trade and finance ministries. The debate, however, had one marked difference: Patow, unlike Bodelschwingh, had more support than Heydt in the New Era cabinet.

The continuing tendency of the government toward budget deficits magnified the Landtag's scrutiny of the fund. Recognizing the houses' reluctance to approve new taxes and the government's need to reappropriate revenues already approved in the annual budget, Heydt agreed to surrender the extra-dividends of one railway—the Upper Silesian—to the general treasury in February 1859. The piecemeal reform was not enough, however. In March, the lower house reviewed the government's railroad budget, discussed the principles of state involvement in railroads, and debated the dissolution of the fund. Kühne, Leonor Reichenheim, and Karl Milde, all liberals, led the attack against the government role in railroad ownership. Again Kühne proposed his amendment to disband the stock-acquisition program. The "stultifying state omnipotence" with its "overweening bureaucratic influence," the Berliner Börsen-Zeitung reported, was the liberals' salient reason for abolishing the stock-acquisition program. Lorenz Stein, a national economist, and Karl Overweg, a Westphalian protectionist with iron interests, defended the state, and Heydt fended off Kühne by declaring to the house that the cabinet was unanimously behind its preservation. Indeed, commented the news-
paper, as long as there was no outstanding need in the budget to justify sus­pending the fund, the cabinet had the freedom to ignore both public opinion, which for a long time opposed state railways, and the houses' proposals to suspend it. But when the need arose to raise money from either a tax or from the fund, the newspaper predicted, the fund would go.153

The occasion for its dissolution arose two months later in May 1859. In response to the war between Austria and the coalition of France and Sardinia, Prussia prepared for mobilization and armed mediation. Money was needed and, not surprisingly, the first source Finance Minister Patow turned to was the Railroad Tax. On 5 May 1859, Patow, with patriotic flourishes, asked the lower house to change the Railroad Tax of 1853, dissolve the Railroad Fund, and channel its revenues into paying for mobilization.154 Significantly, the bill was not presented as a temporary expedient but as a permanent statute. Both houses overwhelmingly approved the bill, which was enacted into law.

The imperatives of foreign policy thus settled the fate of the Railroad Fund. The exigencies of the 1859 mobilization, however, should not deflect our attention from the longer history behind the fund's dissolution and the debate over its utility.155 By March 1859, opposition to the fund had developed so strongly that, even without the Prussian mobilization, the fund would eventually have perished. The growing belief that the "natural laws" of capitalism were a far better regulator of prosperity than state intervention enabled both journalists and liberal politicians to criticize the logic of state railways. Since 1855 the Railroad Tax and the special status of the fund had become a central issue for liberals in the effort of parliament to enforce parliamentary budget rights. The liberal election victory of 1858 combined with the ministerial appointment of Patow, the laissez-faire advocate, enabled the protracted agitation for private railways to attain its goal.

Parliamentary procedure in Prussia had some worth for business interests. The attack on the proposal for a state railway monopoly by the liberal press and the opposition to it in both houses did eventually affect government policy. Parliament, press, and cabinet combined to form one integrated discussion that forced resistant ministers to acquiesce.156

The policy reversal was an important victory for economic liberals. Saving Germany's largest capitalist market from state ownership augured a new era of free-trade legislation and economic prosperity. Other legislation was to follow in 1861 and 1862: the property tax on landed estates, the creation of the commercial law book, the final abolition of the direction principle in
coal mining, and the commercial treaty with France in 1862. Such legislation addressed the new, growing needs of Prussia’s business class and indicated that the Prussian establishment was undergoing change. Old and new elites searched for suitable terms on which to accommodate one another in the new society. But, as we have seen with the failed bid for a state monopoly in railroads, the process of reconciling the interests of a conservative government and the emerging elite of commerce and industry was anything but quick and easy. The Railroad Fund is one indication that the balance struck between old and new forces in the 1860s was a series of actions constituting a political process with a longer history.