

Current Concerns

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English Edition of Zeit-Fragen

The decisive will to peace is a great force

An interview with Dr Daniele Ganser



Daniele Ganser
(picture
Kristin Herbig)

A few weeks ago, the French-language edition of the bestseller of the Swiss historian and peace researcher Daniele Ganser, published at the end of 2016 and now in its seventh edition, was published "Les Guerres illégales de l'OTAN. Une chronique de Cuba jusqu'à la Syrie" (Nato's illegal wars. A chronicle from Cuba to Syria). On the occasion of the publication of the French edition, "Horizons et débats" spoke with the author about his book and his positions.

Horizons et débats: Mr Ganser, you are a historian, specialist in contemporary history since 1945 and expert in international politics. Within the SIPER Institute that you have created and run, you are interested in many topics such as energy and geostrategy, conflicts over resources and economic policy, the implementation of secret wars. You are committed to peace. You are an irenol-

ogist (peace scientist). Your latest book has now been published in French. Are all wars illegal?

Daniele Ganser: In general, all wars are illegal. The UN Charter, signed in 1945, explicitly states that states must resolve their conflicts of interests without resorting to violence or arms. Wars are clearly illegal. However, there are two exceptions: First, self-defense; if a country is attacked, it has the right to defend itself militarily. Second, a war is legal if the UN Security Council has an explicit mandate to do so.

The example of the Soviet debacle in Afghanistan should have made the United States think in 2001; the fiasco of the so-called "export of democracy" in Iraq should have made the French and the British think twice before they intervene in Libya in 2011, or help the jihadists in Syria. Can't we learn anything from history?

I think we can indeed learn something from history. The bottom line is that we cannot solve our problems with violence. We tried many times. But really it all lead to more problems. So I stress in my book that we should stick to the UN principles, not bomb or invade other countries and

not secretly arm groups in other countries to overthrow the government. Of course we have large problems in the 21st century. But we can't solve them with violence.

And yet, from the official level politicians like Barack Obama and David Cameron are not criticised for their illegal actions, but on the contrary for not violating international law a little more, when, in 2013, they did not bomb Syria after the chemical attack of Ghouta!

True indeed, President Obama and Prime Minister Cameron have used violence against Libya in 2011, and as we see now the country is still being haunted by violence. Wars always lead to new problems. In Syria the US and the British together with other nations secretly armed the enemies of Assad, I explain that in my new book. Again, that was not a good idea as we see today. Many people died, many people suffered.

As a peace researcher you still seem to remain optimistic. Your book contains frightening facts but it is always fair, hu-

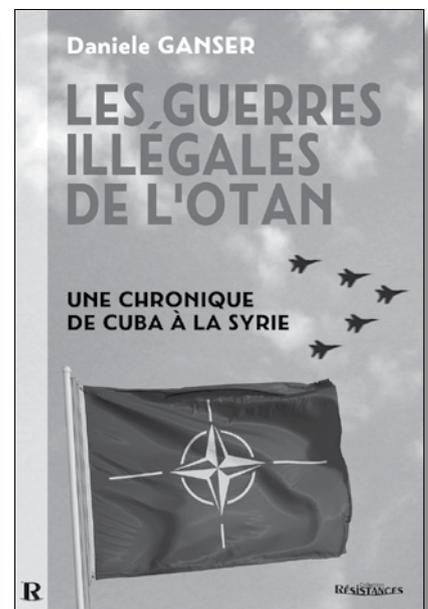
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The Swiss Institute for Peace and Energy Research (SIPER, www.siper.ch) was founded as an independent institute in Basel in 2011.

At SIPER, its founder and director Dr Daniele Ganser and his team analyse the global fight over oil from a geostrategic perspective and research the potential of renewable energies. SIPER publishes its findings and data to the interested public. SIPER is supported by committed business partners and values its scientific cooperation with partners in the research sector. SIPER's main output are public lectures. Further SIPER products are interviews, studies and books. Concerning peace research, SIPER envisions a world where conflicts are resolved with respect and through dialogue – without violence, torture, terror and war.



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manistic, powerful and sometimes very personal. What makes you optimistic?

Yes, I am strongly convinced that the desire for peace is an important force for the 21st century. We all have the choice either to kill or not to kill. I am convinced that the second choice is the better one. It is not true that *Milosevic* was a new *Hitler*. The historical truth is that *Hitler* bombed *Belgrade*. And it is a shame that in 1999 Germany together with other nations bombed *Belgrade* again. As the UN Charter says: no country should bomb another country. I know that in France some people protested when *Sarkozy* bombed *Libya* in 2011. And I want to support these protesters. They were right. Think of the opposite story: *Libya* bombed *Paris* in 2011. Some people in *Libya* protested against the war. Would it not have been right to support the protesters in *Libya* who insisted that it is wrong to bomb other countries?

In your book you mention several times Martin Luther King, Albert Einstein and Gandhi. What do these people mean to you?

Martin Luther King, Albert Einstein and Gandhi are true leaders. They show the way ahead. *Gandhi* rightly said: "Be the change you want to see!" We now live in a world where people search for true leadership. They often search these leaders among Presidents and Prime Ministers. But that is the wrong place to search for true leaders because Presidents and Prime Ministers have bombed a lot of other countries. Surely these are not the values we would teach our children or support in our schools: If there is a big problem, use violence! No, exactly the opposite is true: If there is a big problem first refrain from violence, search for dialogue and watch your own emotions and your own thoughts.

The French edition of your book presents it as "an indictment against NATO and a plea for the UN". Many people who are very critical or even opposed to NATO are also skeptical or even suspicious of the UN. Why is the UN important?

I clearly show in my book that the UN Charter is a wonderful document because it stresses that UN members, thus all 193 states on the globe, should not use violence in their international affairs. That is the good side of the UN. But of course I also see the deficits of the UN and understand the critics who distrust the UN. I show in my book that the UN Security Council does not work in the way many people hoped. Because if a permanent member of the UN Security Council bombs another country he receives

no punishment whatsoever. Because the five permanent members of the Security Council can avoid all punishment by issuing a veto. That clearly is not fair.

What role does the fact that the UN has no army of its own play for its weakness? How should the UN be transformed to become more effective?

No, I don't think the main problem of the UN is that it does not have a strong UN army. Because just imagine the UN had a strong army. Who would send it into a war, who would decide? It would be the Security Council. And there again my observation is that the last 70 years show that the permanent members of the UN Security Council, above all the United States of America and other NATO members, have waged too many illegal wars while they protected themselves from punishment by a veto.

The UN project was to establish the international law under which all countries are equal. However, the existence of the United Nations has been accepted by the great powers only because the latter retain a power of blockage (right of veto), which contradicts the equality between the States. What scenarios can be envisaged for the future of the United Nations in this paradoxical situation? How could the Organisation evolve towards more equality, justice and peace among its members?

Yes, we indeed have a paradox here. We have 193 nations that are UN members. But five – US, Russia, China, France, UK – are veto powers. This means that each of them has more power than the remaining 188 states combined. It really is a system with two classes, the upper class with privileges and the lower class with no such privileges. Of course reforms should change this. The veto should be abolished. But the veto powers will never accept this proposition. So the only practical option we have right now is to show how veto powers wage illegal wars.

How could a world without NATO look like? Would Europe then be threatened by Russia?

No, I don't think that Russia would occupy Europe if NATO was dissolved. We certainly could reduce military spending if NATO was dissolved. This is something many people in the peace movement hoped for when the Berlin Wall fell and the *Warsaw Pact* dissolved. But that peace dividend never came. Military spending increased. And thus we find ourselves today in a world with record military spending and highly sophisticated weapons. "The world is over-armed and peace is under-funded" UN Secretary General *Ban Ki-moon* once rightly said.

Reading your book, you really understand that the use of force is NEVER a solution; or rather it's always the worst. Without the military intervention of the US in Iraq, ISIS would not exist: the "war on terror" not only engenders violence ... but also more and more terrorism. An end to the spiral of violence is not yet in sight.

As long as the mass media are above all giving the voice to the warmongers, thus people who believe in violence and who appear regularly on TV and in newspapers, we will have more wars. However, if the pacifists receive more time on TV and in newspapers or on alternative news channels on the internet then more and more people will come to understand that we will not be able to solve the biggest problems in the 21st century with violence. So the media will play a crucial role, because they can silence voices or make them louder. It is an illusion that we can hear all the voices that are relevant. Very often we hear voices that ask for more war and more defense spending, and we hear them very loud and all the time. At the same time people who have studied war and violence profoundly and who say that war can not be the answer are often unknown. *Smedley Butler* (1881–1940) was a United States Marine Corps major general, the highest rank authorised at that time, and at the time of his death the most decorated Marine in US history. What he said is true also today, but you don't hear it on TV: "War is a racket. It always has been. It is possibly the oldest, easily the most profitable, surely the most vicious. It is the only one international in scope. It is the only one in which the profits are reckoned in dollars and the losses in lives."

While in general the population in any country simply aspires to live in peace, war propaganda always presents those who oppose conflicts as cowards or supporters of "authoritarian or dictatorial regimes".

Yes, that is the game at the home front. What is the home front? It is where the people live who pays for the warships and the guns and the warplanes with their taxes and where the mothers live who send their sons. So the home front has to be convinced that the war is necessary and just. How do you do that? With the mass media. There is no other way.

The fight at the home front is with text and pictures, not with bullets and bombs. The trick is that many people don't even know the term "home front" or are not aware that there is of course massive propaganda each time a country goes to war. We can always influence history as *Albert Camus* stressed: "Nothing is more unforgivable than war and the incitement of people

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Comments on the Nobel Peace Prize

Interview with Fredrik Heffermehl



Fredrik Heffermehl
(picture
world beyond war)

Fredrik Heffermehl, Norwegian lawyer and author of the book *"The Nobel Peace Prize: What Nobel really wanted"* has founded with friends the committee *"The Nobel Peace Prize Watch"* (NPPW). This year's award

of the Nobel Peace Prize to the International Campaign to Abolish Nuclear Weapons (ICAN) is a success of its ten years of work. The Geneva-based organ-

isation received the prestigious prize for its worldwide nuclear disarmament effort.

Current Concerns: How would you evaluate this year's award of the Nobel Peace Prize to ICAN?

Fredrik Heffermehl: Excellent, a great move signalling a new will to promote the great peace vision of Nobel – that the road to durable peace and preventing new wars is to liberate all nations from all weapons and all warriors. We have worked for this for over ten years and many credit us with having had an influence this year.

The peace by disarmament vision of Nobel may seem like an undoable dream, totally unrealistic, and it is – as long as we fail to realize it as mandatory necessity and essential to prosperity and security for humankind. Yes, unrealistic today, inside present thinking and the present system, but it requires just one essential leap in thinking. What is impossible as a step by step, piecemeal, approach becomes an easier task if you just decide that we have to liberate ourselves from this utterly dystopic system, see the gains and advantages, and start from there.

In 2013, you proposed the recently deceased Soviet Colonel Stanislav Petrov for the Nobel Peace Prize (see the obituary on this page).

Yes, after the awarding of the Dresden Peace Prize to Stanislav Petrov, I learned from the organisers that he wanted to visit Norway. Ideally, he should come to Norway to receive the Nobel Peace Prize. In 2013, the committee had not yet taken up my suggestion. In 2017, we were successful.

You have now demanded that the Norwegian Parliament comply with Swedish law. What do you associate with this requirement?

While Nobel, with his last invention, the five prizes for science, medicine, literature and "the champions of peace", raised a unique and dynamic gravestone that has served to improve the plight of the citizens of the world, his choice of committee for the peace prize was not fortunate. [Anm. der Redaktion] Norway was eager to play a role in the world and Parliament happily accepted to appoint the five-member Nobel commit-

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cc. Note: Against the tradition, the diplomatic missions of the US, UK and France have announced their non-appearance on the occasion of the Nobel Peace Prize 2017 being awarded to the International Organization for the Abolition of Nuclear Weapons ICAN. 122 UN states have signed the treaty to ban nuclear weapons – the five veto powers have not signed yet ...

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hatred. But once war has erupted it is futile and cowardly to do nothing under the pretext that one was not responsible for the war [...] Every person has a sphere of influence of varying size [...] It is individuals who send us to death today – why should it not be up to other individuals to create peace in the world? In the time between birth and death almost nothing is predetermined: one can change everything and even put an end to war and maintain peace if one's will is long-lasting and strong enough."¹

What role does technical progress play in the future of the war? Will machines in the future wage wars?

Now we have armed robots and they can shoot us. Was that really clever to build robots that can kill us? The drones flying over Afghanistan and Pakistan are robots and they kill people. So machines are killing human beings. That's a fact. We now have the digital revolution merging with the military industrial complex. Take another ten or twenty years and Science Fiction movies like "Terminator" from 1984 and "Robocop" from 1987 are becoming reality in the sense that robots will kill people.

So the question of violence is not solved, it is still getting more complicated. We must talk about it openly. And my job as a historian is to remind people that we have used war and violence a lot of times and that we were never able to end violence with violence. We must evolve and find other ways to deal with our issues, without violence.

In your book you write that "the five permanent members of the Security Council, who are also responsible for world peace, are the largest exporters in this field" stressing that "as soon as a new conflict erupts, these five members benefit because their arms exports increase". That is one of the great paradoxes of the UN Security Council. Its right to exist and responsibility is actually the promotion of peace. But at the same time these five members are selling a lot of arms and their defense spending is very high. So this is the problem of the military industrial complex. But every human being can always choose whether it wants to use violence or not. We must strengthen kindness and concern for others.

You write that in the light of human history, the prohibition of warfare in the UN Charter is only 72 years old. So this ban is

still very young. Is this one of the reasons why the progress it implies has not yet been achieved, not yet realised by mankind?

Yes, the UN Charter which made wars illegal was signed in 1945. So really this is a young document, only a bit more than 70 years old. That's a short period of time for me as a historian. But you can see that we have progress: In the centuries before we did not have such a document, which said wars are illegal. Now we have this document. The next step will be to respect it and to make the media report about illegal wars and explain to the home front how war propaganda works. I do think that we have a common interest in peace independent of our gender, religion, education and wealth. It is really because I want to strengthen the peace movement that I have written this book and I am very happy that it is now also available in French.

Mr Ganser, many thanks for the interview.

¹ Quoted: Albert Camus on World War Two and the role of the individual in a seemingly hopeless situation. Diary from 1939, quoted in Marin, L. (Ed.) (2013). *Albert Camus – Liberäre Schriften (1948–1960)*. Hamburg: Laika Verlag, pp. 268-273

(Translation of the french questions:
Current Concerns)

"Comments on the Nobel Peace Prize"

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tee for the peace prize. It is, however, not a natural situation for a national parliament to be in subordinate service to a private foundation. Even less one in a foreign country. This has been clarified through decisions by Swedish authorities in the last couple of years. Boards that have responsibility must also have authority over all its subordinate bodies. Norwegian politicians love to have the peace prize to play with, but there are some fundamental difficulties here that have to be addressed. Norway even hoped to get an exception from Swedish law that would place the final decision on the legitimacy of the peace prizes in Norway, but the view of Swedish authorities prevailed – there even was an appeal to the Swedish government, but it was dropped.

For the new Nobel Peace Prize Committee to be elected, you proposed five candidates. What criticism do you practice in previous selection practice and which criteria have you been guided by?

From the very beginning, over ten years ago, I have emphasised that the purpose Nobel had in mind is the starting point. Everything must start with an evaluation of the intention, his intention, not our guesses and wishes. Nobel's purpose must guide the selection of winners and the committee that appoints the winners. To find out what went on in the head of a man on the evening of 27 No-

Stanislav Petrov – an obituary

by Rainer Schopf

He was a great philanthropist and a quiet hero. Presumably he saved the life of all of us and prevented a nuclear catastrophe for the whole world. In the middle of the Cold War during the night of 26 November 1983 Petrov worked as head of the Soviet missile alarm system. Suddenly, all sirens and warning lights indicated that the US had launched a nuclear war and shot nuclear missiles towards the Soviet Union. Petrov kept a clear head and reported false alarms to the supreme commanders five times. It was fortunate that, as an engineer, he helped develop the warning system and wrote the satellite surveillance manual. While keeping his peace out of the way, his inner tension tore in the next 15 minutes of waiting. He felt as if he was being led to his "execution", he later said in interviews.

Petrov should be right in his heroic deed. It was a false alarm. One

could not entrust such a decision about life and death on whole continents to a machine, was his message. Nevertheless, Petrov was reprimanded for an inaccuracy in the night shift's protocol. In the West his courage only became known 10 years later, after the fall of the Berlin Wall. He was awarded the *World Citizen Award* for services to mankind at the United Nations in New York in 2006, received the *German Media Prize* in 2012 and the *Dresden Peace Prize* in 2013 (see *Current Concerns* No 9/2013).

In his last years, Petrov lived in a small apartment building in Fryazino, 70 km from Moscow. His pension was 1,000 rubles. In Moskau you pay 100 rubles for a cup of coffee. His wife had died long since. As it is now known, Stanislav Petrov died on 19 May 2017 and was buried in a circle of his closest family. We have lost a wonderful person.

vember 1895, requires a lot of work. But neither Parliament nor the Nobel Committee ever did that job. – It did not help that I discovered the need and called for it in 2007. Nobody else picked it up and I wrote my first analysis in 2008. This is still not allayed (or rebutted) by anyone. Based on this interpretation I have this year asked Parliament to pick qualified members for the committee and also suggested names [see www.nobelwill.org]. These are from the NGO communities,

the people in today's world who pursue Nobel's ideas – seeking what will be best for humankind as a whole and working across all divisions, national boundaries, religion, race, political or economic system. By suggesting five concrete names I hoped to facilitate results.

We wish you every success in the project "What Nobel really wanted" and thank you for your perseverance and confidence. •

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winter session

Food security initiatives for the third time – let's give it a chance!

People's initiative "For food sovereignty. Farming affects all of us"

by Dr iur. Marianne Wüthrich

After the initiative of the Swiss Farmer's Union "For food security", which was withdrawn in favour of a completely different counter-proposal,¹ a second one was handed in by the Green Party, the Fair-Food Initiative (item of business number: 16.073 "For healthy, environmentally friendly and fairly produced food") and debated in the National Council in the autumn session. It rejected the initiative on 28 September with 125 to 37 votes and 23 abstentions; A counter-proposal did not find a majority either. The decision of the Council of States is still pending.

Now, the third popular initiative on food and farming in the winter session is on the agenda of the National Council, which will treat it as the first chamber on 5 and 7 December.

The initiative "For food sovereignty. Farming affects all of us" issued by *Uniterre*, a farmers trade union, (item of business No: 17.023) includes similar aims as the *Fair-Food Initiative*.² Both are much more detailed and to the point compared to the earlier withdrawn initiative of the *Farmers' Union*, but opponents are partly using the same arguments. However, the *Economic Affairs and Taxation Committee of the National Council (EATC-N)* was sympathetic to the cause in its press release on 15 November 2017, and expressed what the initiative involved. It cannot be acceptable that we endanger the existence of our farms by promoting the import of cheap food with agricultural agreements. Those products often do not comply with the strict legal requirements as given by the Swiss citizens concerning health, animal and environmental protection and are produced under conditions not even fulfilling the minimum requirements for decent humane working conditions.

The aim of the Committee of the Council of States to bring all three initiatives down at the ballot box, is to be revised

Looking back a year, the *Economic Affairs and Taxation Committee of the Council of States (EATC-S)* drafted a counter-proposal on the first initiative "For food security", with the declared aim of inducing the initiators to withdraw their popular initiative – which was successful. However, the EATC-S had something else in mind, too: "In addition, the

National Council on 7 December: Yes to the counter-proposal to the popular initiative "For food sovereignty"?

mw. Explanation: The counter-proposal of the commission minority fits very well to the critical appraisal of the initiative text through the Economic Affairs and Taxation Committee EATC-N (Press release from 15 November 2017):

- The aim of the initiative: "It seeks an alignment of the agricultural policy to a small-scale, on the regional supply oriented agriculture and for that wants to anchor numerous measures in the Federal Constitution."
- Positive points: "Different members of the committee regard some points addressed by the initiative quite important, for example the strengthening of local production, the concern for cultural land conservation and the promotion of a GMO (genetical unmodified)-free agriculture."
- Too far-reaching: "Other points, like for example, a state price and quantity control and the proposed import restrictions are too far-reaching from the view of the committee."
- Appreciation of the counter-proposal: "There was a request for a direct counter-proposal that renounced these strong restrictive elements and put measures to strengthen a local production at the centre." (Emphasis mw)

(See press release of the Economic Affairs and Taxation Committee of the National Council EATC-N from 15 November 2017)

mw. Despite this positive characterisation of the counter-proposal, on 7 December, the National Council unfortunately rejected it and recommended to reject the initiative, too. It is now up to the Council of States, to pick it up again.

Text of the committee's minority counter-proposal:

The Federal Constitution is amended as follows:

Art. 104 let. g - k food

- g. It ensures the rights of farmers on use, reproduction, exchange and marketing of seed.
- h. It can work towards strengthening the market power of the producers of agricultural raw materials against upstream and downstream market participants.
- i. It can strengthen the direct trade between the farmers and consumers as well as the regional and local processing, storage and marketing structures.
- j. It makes sure that local and industry-standard working conditions apply to agricultural employees.
- k. It outlaws trade and use of geneticaly modified plants and animals in the Swiss agriculture for commercial purposes.

(Translation *Current Concerns*)

counter-proposal [...] should, if possible, take over the majority of the scope of the Fair-Food Initiative and the people's initiative 'For food sovereignty' "in order to provide a better starting point for tackling these two initiatives." [emphasis by mw]³

However, the EATC-N and the National Council also appreciate significant positive arguments in favour of the two initiatives. The members of the Committee of the Council of States and the Council of States are invited to include them in their further debate.

Progression of parliamentary work until end of October 2017

- 17 May 2017: A majority of the Committee of the National Council recommends rejecting the Fair-Food initia-

tive (as before the Federal Council on 26 October 2016). However, the initiative will not be dealt with by the council in the next session as usual, in this case in the summer session, but only after the referendum on food security on 24 September.

- 17 May 2017: In the same session the EATC-N has also the third initiative on the agenda, the "people's initiative "For food sovereignty. Farming affects all of us." It has already carried out a hearing of various lobbying groups, but it also postpones further work until after the vote.
- Referendum of 24 September 2017: The counter-proposal on the food security initiative is clearly adopted by the sov-

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foreign because of an unprecedented deception campaign ("For domestic production" ...) whilst simultaneously downplaying the market opening as planned by the Federal Council for agricultural products.

- 26/28 September 2017: Two days later, the Green Party's Fair-Food initiative is on the tables of the National Council members and is rejected two days later – in this case quite rapidly! – Amongst others with a justification that after the "Yes" to food security, there is no need for adding a further constitutional article ...
- 18 October 2017: Press release of the Economic Affairs and Taxation Committee of the Council of States (EATC-S) on the Fair-Food Initiative: Firstly it wants to carry out various hearings and shifts the debate to the 1st quarter 2018. This means that the committee is awaiting the decision of the National Council on the third initiative "For food sovereignty. Farming affects all of us" which has happened on 7 December 2017.

**Time for reflection:
what kind of agriculture suits
small-scale Switzerland?**

On 1 November 2017, the Federal Council came in with its "synopsis on the further development of agricultural policy". With the AP 22 +, among other things, "the domestic and foreign agricultural markets should be better interlinked within a framework of trade agreements". In a "discussion paper", the Federal Department of Economic Affairs, Education and Research (EAER) will show "the cost-cutting effects of possible market opening in the framework of bilateral trade agreements"; in the autumn of 2018, the Federal Council intends to conduct a consultation on AP 22 +.

Although Federal Councillor *Schneider-Ammann* had already publicly declared the same intentions before the vote of 24 September⁴ (agricultural trade agreements with other states and in particular with the EU as well as lowering the direct support schemes for the Swiss farmers). But their reaffirmation in the midst of the parliamentary debate of the two other nutritional initiatives caused many National Council members to pause and reflect, which agricultural policy is sensible and needed for the small-scale

and quality oriented, sustainable agricultural production in Switzerland.

Two weeks later, on 15 November, the EATC of the National Council said, as planned, "no" to the third initiative "For food sovereignty. Farming affects all of us", among other things with the "justification", that after the "yes" to food security there is no need to add a further constitutional article... But: it was a most unusual "no", with only 7 no-votes versus 0 "yes" with 15 abstentions! "15 members of the committee deliberately abstained and wanted to express their disappointment concerning the synopsis on the further development of agricultural policy presented by the Federal Council on 1 November 2017." (Press release of the committee 15 November 2017) •

¹ The counter-proposal was adopted by the sovereign in the referendum of 24 September 2017; "Food security must be ensured. No to the counter-/contrary proposal "Food security". *Current Concerns* No 19 of 15 August 2017

² The rather comprehensive text of the initiative can be found (in addition to the fair-food initiative) in *Current Concerns* No 14 of 30 June 2016

³ Report of the EATC-S of 3 November 2016, p. 8/9; cf. "Popular initiative "For food security", cf. No "walls up policy", but a commandment of the hour – not only for Switzerland". *Current Concerns* No 28 of 13 December 2016

⁴ cf. *Current Concerns* No 19 of 15 August 2017

**Recommendation to the Council of States for 2018:
Counter-draft – Bridge to the Fair-Food Initiative**

Most of the speakers in the National Council on 26 and 28 September 2017 praised the various concerns expressed by the initiators, but many found the controls provided for in the initiative text to be too complex. "The initiative 'For healthy, environmentally friendly and fairly produced foods' aims to protect the high Swiss food standards and demands ecological and social standards for imported products. In this way, the initiators want to prevent products from industrial mass production from entering the Swiss market." (*sda* report on the National Council debate of 26 September 2017)

The main argument against the initiative was once again the prevention of trade agreements involving agricultural trade. It is certainly possible – and in the interests of ensuring the best possible self-sufficiency – to conclude agreements with the exclusion of agricultural products in the future as well.

To build a bridge that would also satisfy the initiators of the *Green Party*, a minority of the commission around *Beat Jans* (SP Basel-Stadt) also tried with a counter-draft that would reward the import of sustainably produced foodstuffs

with lower customs duties instead of imposing import bans. Unfortunately, this counter-proposal was also rejected by the National Council.

Wording of the counter-draft of the Committee's minority:

The Federal Constitution is amended as follows:

Art. 104a Food

- 1 The Confederation strengthens the supply of foodstuffs of good quality and safety which are produced in an environmentally friendly, resource-saving, animal-friendly manner and under fair working conditions.
- 2 It shall favour imported products which meet the requirements of paragraph 1 and originate from fair trade and agricultural land management holdings.
- 3 It shall ensure that the negative effects of transport and storage of food and feed on the environment, climate and animal welfare are reduced.

The Council of States and its Committee have the freedom to include this proposal in their discussions and decisions on the *Fair-Food Initiative*.

**"Uniterre" and "Alliance
for food sovereignty"
on agricultural policy**

„The overall view of the Federal Council shows the deep gap between words and deeds in agricultural policy. This overall view has strongly influenced the debate within the EATC-N, as 15 members of parliament (a majority) have decided to abstain from voting on the food sovereignty initiative as a result of *J. Schneider-Ammann's* recent proposals. [...]

More open borders and free trade agreements run counter to a domestic, multi-faceted and sustainable agricultural economy for which we are clearly committed. As the world's largest net importer of foodstuffs, it is essential to maintain flexible border protection. This aspect must also be reflected in *agricultural policy 22+*."

Press release of the "Uniterre" and "Alliance for food sovereignty" of 16 November 2017

(Translation *Current Concerns*)

Germany in autumn ... 2017

by Karl Müller

What can be said about Germany in late autumn 2017?

“When atrocity has reached a certain level, the question who committed it is irrelevant: It simply should stop.”

In February 1978, *Rainer Werner Fassbinder*, *Volker Schlöndorff*, *Alexander Kluge* and eight other directors of the so-called New German Cinema produced an episode film about the RAF and Germany in autumn 1977, called it “Germany in autumn”. The movie started and ended with this sentence.

Since the mid-60s there had been loud protests against the German state, against economy, society and politics. The “Red Army Faction” (RAF) emerged from this protest movement. In 1977 and in the previous years, the RAF had kidnapped or killed prominent personalities of public life. In September 1977, also the president of the Employer Association had been abducted in order to obtain the release of imprisoned leaders of the RAF. Even a “Luft-hansa” passenger plane was hijacked. The extortion attempts failed. RAF prison inmates died. The kidnapped president of the Employer Association was murdered.

The film was disputed. Even more disputed was Volker Schlöndorff’s statement: “After all this work with the movie, after all the experiences gained there, the question is no longer why there are so-called terrorists but why don’t we have many more of them? Why don’t all start flailing?”

What does opposition mean?

Forty years have passed since then. Much has changed. Though ... On 24 November 2017, several hundred people from all over Germany convened at a “conference” in Leipzig. The topic: “Opposition means resistance”. “All Germans shall have the right to resist any person seeking to abolish this constitutional order [of Article 20 of the Basic Law, that is principle of democracy, rule of law, social state principle, federalism and division of power], if no other remedy is available.” This is Article 20, paragraph 4.

There have been no calls for violence in Leipzig. There are hardly any similarities between the participants and the terrorists of the 60s and 70s. But we are getting some insight into the mood of many Germans. On 24 September, some five million Germans have voted for the AfD [Alternative for Germany]. The politicians of the AfD and their sphere talking in Leipzig on this Saturday are receiving standing ovations. The applause is directed towards politics and politicians positioning themselves against the mainstream,

also radically: against the mainstream in politics (the “cartel of old parties”), in the media (the “gap [or lie] press”) and otherwise. One of the participants is working as occupational consultant in Bavaria. He has gained experiences with young migrants. Bad, very bad experiences. In his narration he is factual, nuanced and precise. Before and after the speeches he also rises when there are “standing ovations”.

What is going on in the financial markets?

On Monday, 27 November 2017 we can read in the business section of the “*Neue Zürcher Zeitung*”: “There is a deceptive calm. Numerous red warning lights are announcing the coming storm.” The article reports on several relevant statements regarding the situation at the “international financial markets”. With its “highly excessive monetary policy”, the European Central Bank “had sedated the markets and put investors to sleep.” But “signs for a dangerous market development” were unmistakable. There were many “absurdities” at the financial markets. Then we can read: “It is certain that in future people will wonder ‘what did they think at the time?’”. And further: There is a number of “bad investments” which cannot yet be overseen. “Other than previous technical revolutions the digital revolution has not yet caused a wide increase in prosperity.” “The standards of living are stagnating or sinking – except in the uppermost income levels.”

Most likely not many participants of the Leipzig conference are reading the “*Neue Zürcher Zeitung*’s” business section. But they do perceive what is demonstrated here (only) by example: The whole direction is at fault. The world is dancing on a volcano. We have enough victims already.

Loss of reality in politics, finance and media

The loss of reality in politics, finance and media is substantial. This is obvious when talking to a veteran mainstream journalist. After all one only writes what the majority wants to read. Actually everything was fine. All was under control.

After the elections, Mrs *Merkel* does not see a reason to question her previous politics.

The participants of the Leipzig “conference” would join in calling “We are the people!” Of course, empirically they would be wrong. They are just a minority. The majority is drawing a line. It is always possible to rail against the AfD and its periphery. This is an occasion to prove being the “better” German. And this “criticism” does not need to be wrong all the time.

(Frage) In Berlin the “talks” regarding the formation of the government are going on. Like a rabbit caught in the headlights the Germans are supposed to wait for results. The news start with it early in the morning. Just like a king was to be elected. Of course Germans want to be governed – they say. The question is just by whom. No mention of the idea to consider governments as servants to the people, to the citizens. No mention of direct democracy. In the confusion of our time the country needed a “strong” government which in a difficult situation can rely on a majority in the parliament ... and so on and so forth.

How much land does a man need?

Forty years ago the large majority of the citizens stood against the few “terrorists”. Rightly so! These people had become obsessed, completely obsessed. The whole life on the wrong track. Some of them began as idealists, radicalised themselves, turned to crime, became violent and started to kill. In the end there was death, many years in prison and an agitated German society.

But did this point have to be reached? How would we comment what Volker Schlöndorff said in 1977? Why is it so difficult to arrange communal life such that all people experience justice and wish to live together in peace? Such that nobody with reason will want to flail?

Where are we now, forty years later? Looking at Germany in fall 2017 can give the impression of watching locomotives approaching each other head-on. And the speed is increasing. The consequences could be worse than in 1977. Many speak about “polarisation”. A few years ago there was a book titled “Beware of the civil war!”

Where are the voices of humanity? In everyday life, there are many, and again and again. Less voices, more acts, acts of humanity. But what about our practical politics, our public discourse? What about our “mainstream”? Should buzzwords and rudeness prevail?

Why is it so difficult to convey that “more of the same” cannot work, that strive for power and greed will eventually eat up itself? Why couldn’t the great Russian writer *Leo Tolstoy*’s wisdom be taken serious also in Germany. Over 130 years ago he wrote the parable “How much land does a man need?” The farmer *Pachom*’s greed became boundless. In the end it killed him.

Germany would have better things to offer ...

“Political thinkers in the early modern period” or: Against amnesia of the other German history

by Moritz Nestor

The history of the German people in the twentieth century is often alarmingly distorted, as if *Hitler* had been a spiritual descendant of Christianity, of modern natural sciences, *Frederick the Great* and so on. In the vortex of false images of history, which were spread after the Second World War, it was particularly the German political thinkers who in the early modern times created the crucial foundations of natural law and thereby paved the way to a democratic constitutional state.

The book “Staatsdenker in der frühen Neuzeit”, edited by *Michael Stolleis*, is a valuable contribution against the amnesia of this portion of German history and has lost none of its relevance even more than 20 years after publication. It contains fifteen essays on the life and work of mainly German natural rights activists and political thinkers of the early modern time and the 17th and 18th centuries who significantly wrote history and without whose contribution the emergence of the democratic constitutional state and the codification of human rights would be unthinkable.

For nearly two centuries, between 1600 and 1800 they were all deeply concerned Christians, who had racked their brain as to what a society was to look like where all people regardless of their beliefs, ideologies, or origins could live in just and secure peace and harmony. The political thinkers and founders of the state as well as the criminal law reformers of the 18th and 19th centuries drew from their thinking.

Those political theorists of the early modern period had witnessed the atrocities of the Spanish conquerors in the new lands of America, the 80 years of religious warfare of the Netherlands against the Spaniards, the Thirty Years War and the many other religious and civil wars with their infinite atrocities in the name of “true” faith, or the Caesarism of power-hungry nobles.

As Christians, they drew on the traditions of ancient and early modern natural law as well as the Roman Law thinking and emphasized that man is born free and equal in rights. That he is not to be respected because he is baptized, but that heathens and Christians, unbelievers and believers are to be respected and have the

same natural rights, because they have the same human nature. Out of this compassion for those unjustly treated and the resulting demand for liberation through law, they created the basic framework of our modern state and international law, some 200 years before the first constitutional states were created.

Although in science it is emphasized time and again that the basic concepts of the modern democratic state were developed not only in the 18th century, but already at the beginning of modern times, which includes the age of humanism, the “discovery” of America and the religious schism. This, however, has hardly led to significant research impulses, which would have come close to justifying the importance of the problem. In the public political debate, this very best tradition of German history seems to be scarce or absent. It seems indeed as if there had been no progressive German political thinking before the French Revolution, or before *Hegel* and *Marx*. The important role played by Brandenburg-Prussia for a second European-wide wave of enlightened natural law in the eighteenth century seems to be buried, for example, under the dogma that Prussia produced only militarism and evil spirit.

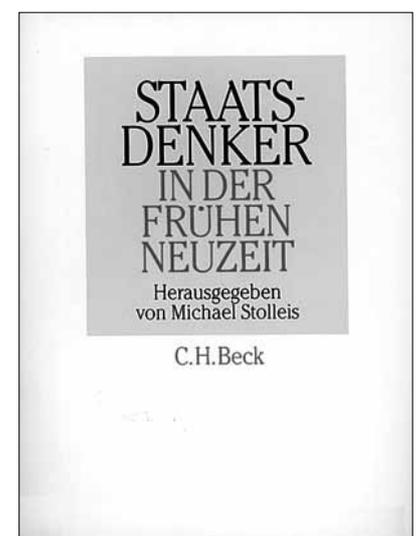
Michael Stolleis, publisher of this volume and professor of public law and director of the *Max Planck Institute for European Legal History* in Frankfurt/Main, was aware of the historical significance of these essays when he emphasizes that a broken relationship to the German past has led to massive repression. This book has succeeded excellently to at least reverse this a little bit. Each author of the volume works with his contribution to wrest the values worth preserving from the German past of politically motivated amnesia.

Among other things, it should be emphasized that the volume brings out and weights the independent tradition of modern natural law of *Grotius* over *Hobbes*, *Cumberland*, *Pufendorf*, *Leibniz*, *Thomasius* and *Wolff* more sharply than before – a line of tradition that is often neglected in traditional philosophical histories but historically was of the greatest importance for the emergence of the modern constitutional states. Each of the essays contains a

biographical sketch and a critical appraisal of the respective author. It is only too clear that many a traditional history of philosophy still have large blank spots, especially in regard of the processing of modern natural law.

Who is aware today, to name just one example, that it was a Prussian thinker, *Christian Wolff*, who in the first half of the eighteenth century worked out exactly that notion of the common good which was adopted by the Catholic social doctrine at the end of the 19th century? Or did they reinvent it? No author of modern times has worked out the concept of the common good as accurately and anthropologically as he did. As early as 1721 the Prussian Wolff insisted upon the “Freie Republik”, which was based on this concept of the common good, a state conception which corresponds to today’s democratic constitutional states. Page after page the book is full of such spiritual gems. It is a treasure trove not only for lawyers, politicians and philosophers. Especially for the human sciences, the volume liberates a wealth of unknown historical roots of anthropological thinking and the (left) ideological dogma of natural law which disproves the alleged “special Catholic doctrine”. The volume is warmly recommended to any intellectually active, who follows the happenings. •

Stolleis, Michael (Mr.). *Staatsdenker in der frühen Neuzeit*. Publisher C.H. Beck. Munich 1995



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Natural law and popular sovereignty – important elements of democracy in Switzerland (part 1)

Ignaz Paul Vital Troxlers conception of democracy

by Dr phil. René Roca, Research Institute Direct Democracy¹

The year 2016 was a year of commemoration for Troxler (Troxler-Gedenkjahr). 150 years ago, on 6 March 1866, Ignaz Paul Vital Troxler (born 1780) died. He was a doctor, philosopher, pedagogue, and politician, and made outstanding achievements in all these areas. Various events during the year of commemoration were dedicated to Troxler's work. Conference reports and other documents are available on the worthwhile website www.troxlergedenkjahr2016.ch. It is the great merit of the association "Troxler-Gedenkjahr", and especially of Franz Lohri, that a Swiss personality was honoured with the events of the commemoration year, who has been forgotten by many, but whose thoughts kept their relevance and depth. The research on Troxler's extensive work will continue.

In the following, the written presentation will be published, which the author has held during a symposium in the former St Urban Monastery about Troxler's work. The first part sheds light on Troxler's career and the training of his legal and political philosophy, which he founded on natural law. In a next version of *Current Concerns*, part 2 will follow, focusing specifically on Troxler's definition of popular sovereignty and his concept of democracy.

Introduction

Troxler was a true "citoyen" (citizen). In all the spheres in which he was active, be it as a doctor, philosopher, pedagogue or politician, he was concerned not only with theory, but tried to balance theory with practice, with activity. "Emotion without action [is] only half a life"², was the credo he followed throughout his life. He was deeply convinced that in the connection between a *vita contemplativa* and a *vita activa*, in the sense of the commitment to the *bonum commune*, man fulfils himself.

In accordance with this attitude Troxler was never merely a scholar, a man of books, but experienced together with his family flight and exile because of his political objections. Twice he lost promising positions. He could have kept quiet and continue on his academic career. However, he could not help it, bravely intervened in current political debates, and ventured everything. That he nevertheless found time and space for the necessary concentration to write a paper or

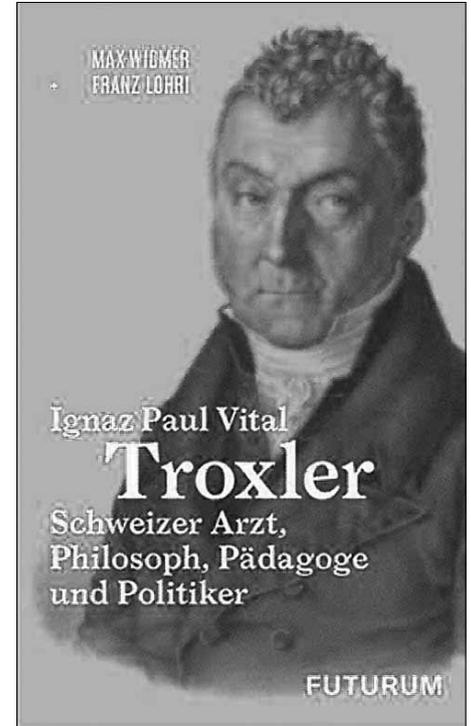
numerous articles is extraordinary. Troxler succeeded only thanks to the support of his wife and thanks to a broad network of contacts in Switzerland and Europe. He would certainly have wanted to write more and always dragged numerous book projects around with him. Each time, he put something on paper, the respective experts or the political authorities listened attentively and discussions and further investigations were encouraged. Seldom, Troxler could count on academic and collegial support, and yet he repeatedly managed to complete important book projects, such as "*Philosophische Rechtslehre*" (Philosophical Theory of Law), even if not to the extent desired. Therefore, accusing him of "superficiality" and "one-sidedness" misunderstands his unstable life situation and the contemporary-historical circumstances.³

Troxler was a devout Christian and Catholic and vehemently advocated democratic progress. He is difficult to classify politically. Some see him as the radical-democrat and misjudge or ignore his references to conservatism, while others denounce him as conservative and ignore his progressive features. Undoubtedly, Troxler was a personality who placed human freedom at the centre of his considerations, while at the same time sticking to Christian fundamentals and combining in his conception of man the Christian with the modern natural law of the Enlightenment. Teachers and companions shaped and influenced this conception.

The meaning of Reform Catholicism

Troxler enjoyed higher education at the Lyceum in Lucerne. There, two teachers influenced him, namely Franz *Regis Krauer* (1739–1806) and *Thaddäus Müller* (1763–1826), both of them were followers of the Catholic Enlightenment and advocated church reforms and emphasised the importance of a modern, contemporary education.

In 1756, Krauer joined the holy order of the Jesuits and was professor of rhetoric and poetry in Lucerne of the top two classes at the Jesuit College from 1769. Although the Jesuit Order was dissolved in 1773, Krauer continued to teach until short before his death on the now nationalised college. As a representative of the Reform Catholicism, he joined a contemporary school and renewed together with *Joseph Ignaz Zimmermann* the German



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and literature lessons. He was also in contact with his brother *Nivard Krauer*, who had made a name for himself as a pioneer in reforming the elementary school in the St Urban Monastery and became head of the first teacher training college in Switzerland.⁴ St. Urban's and its charismatic influence lead to an educational advantage of the Catholics⁵ in Switzerland – in contrast to common historical views.

From 1789 to 1796 Müller was teacher of rhetoric at the Gymnasium and Lyceum in Lucerne and from 1796 to 1826 parish priest and for some time episcopal commissioner. He was also a representative of the Catholic Enlightenment and was considered a staunch loyalist of the Helvetic Republic. Müller campaigned intensively for the implementation of the ecclesiastical reforms of Constance's vicar general *Ignaz Heinrich von Wessenberg*. He was held in high esteem beyond the Canton of Lucerne and in 1810 was the cofounder of the *Schweizerischen Gemeinnützigen Gesellschaft* (Swiss Society for the common good).⁶

In this stimulating environment, Troxler formed his conception of man and the world, a conception defining science with republican-democratic aims in the service

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of Christian humanity and in the spirit of freedom. Education and training, according to the example of Krauer and Müller, were given great importance. In the spirit of reform catholicism, Troxler repeatedly called for religious tolerance in his long life. Therefore, in 1841 he lamented during a constitutional struggle in Lucerne that the new constitution would exclude non-Catholics from cantonal citizenship. Such intolerance

*"catholically tears apart the bond that has been created by the Peace of Augsburg and by the two communities of Christian religion, and excludes the reformed confederates of other cantons, as one of the noblest Swiss put it, like plague-sufferers, from the catholicised cantonal and communal civil rights."*⁷

He considered this "fury of discord" as an "unchristian and inhumane destruction of the highest freedom of man, the freedom of belief and conscience".⁸

Troxler – the wary Helvetian

At a young age Ignaz Paul Vital Troxler enthusiastically absorbed the ideas of the French Revolution – conveyed to him by his teachers in Lucerne. He was convinced that these ideas would make their breakthrough in Switzerland even after the Helvetic upheaval in 1798. Therefore, he interrupted his education and commissioned himself as secretary of the vice-governor of a Lucerne district of the Helvetic state. But soon the young officials were sobered by the violence of the French army and their own powerlessness. Troxler quit his job and went to Jena for studying. This early political experience left its forma-

tive influence in him. On the one hand, he clung to the ideas of the French Revolution and his aroused sense of freedom, on the other hand, the volatility and duplicity in politics filled him with "horror and disgust".⁹

Over the following decades, Troxler developed his approach to a legal and political philosophy. The federal (pre-) democratic traditions were to be linked with the results of the French Revolution, that is, with modern natural law and the principle of popular sovereignty. Troxler's maxim was from there on, to put these theories into practice, a maxim he pursued uncompromisingly and combatively.

In 1814, he supported the opposition to the reintroduction of aristocratic conditions in Lucerne. He developed a political concept, a concept constantly being refined and justified in theory. Therefore, he wrote a petition, launched a popular petition, and thus promoted popular resistance. It was important to Troxler to involve the population to a large extent. In later years, he followed a similar course and repeatedly supported the organisation of a rural popular assembly in order to make the political initiative more concrete. Troxler was one of the first in Switzerland to call for the election of a constitutional council, that is, a constituent assembly, within the framework of a political upheaval. By no means should the incumbent legislative power (in Lucerne, the Grand Council), which in many cantons of the restoration was determined, partly indirectly and partly by means of an unequal election procedure (census), draft a new constitution. New political forces should have the opportunity to be elected to the Constitutional Council in a direct election without a census in order to initiate a cantonal relaunch. The aim was to put pressure on the respective cantonal government and parliament in this way. The elected constitutional council was not allowed to sit behind closed doors, but had to give the population the necessary insight in order to incorporate suggestions and wishes into the constitutional process by means of petitions. In several cantons, it was possible to handle this political process and thus to gain important experience for future democratic disputes.¹⁰

Troxler thus made an important contribution to a political culture that consciously followed the traditions of the Swiss Confederation, such as the principles of cooperations and the "Landsgemeinde" (cantonal assembly). In this regard, he spoke of the "meaning of the eternal covenants, as expressed by the true Confederates themselves"¹¹ thereby laying intellectual and practical foundations for the later development of direct democracy. In parallel, he campaigned vehemently for the freedom of the press, which should guar-

antee to support the political struggle in public. He wrote – partly anonymous – almost non-stop contributions to Swiss daily and weekly papers, wrote leaflets and scientifically well-designed articles for magazines.¹²

Troxler's political involvement was responsible for having to go into exile in liberal Aarau several times. In 1823, in addition to his doctor's surgery, he was engaged on a voluntary basis in the "Bürgerlicher Lehrverein" (civil teaching association). He taught pupils and students, the "Lehrgenossen" (learning companions), theoretical knowledge with the necessary foundation in reality. When he received an appointment to the chair of philosophy at the University of Basel in 1830, the fruits of his pedagogical and political activity became more and more apparent. Some of the more than two hundred "Lehrgenossen" played a central role in the period of upheaval in 1830 and beyond. They laid a republican foundation for Switzerland and consolidated the democratic structures. In Basel, following his political maxim, Troxler supported what he considered the legitimate claims of Basel-Landschaft (the countryside) towards Basel-Stadt (the city). One of his former learning comrades had initiated the debate in Basel-Landschaft. Again, his advocacy of freedom and democracy lost him his teaching position. Back in exile in Aarau, he continued to commit himself to the revolutionary changes in various cantons, including Lucerne. There, following his political concept and "inspired by the sense of freedom and communal spirit, which are innate in every Swiss heart"¹³ he supported the organisation of public meetings and the writing of petitions and demanded a freely elected constitutional council in newspaper articles and leaflets.¹⁴

However, Troxler did not want to limit the will to change to the cantonal level and advocated early on for a revision of the federal treaty and the creation of a federal state. The basis for this was his concept of democracy (see below), which he further developed in the course of the 1830s. It was important to him to develop the rights of the people in order to promote, as he said, "pure" democracy and "true people's sovereignty".¹⁵

After his appointment to the University of Berne in 1839, Troxler represented a no longer current, that is anti-Hegelian philosophy, was ignored more and more in colleagues' circles and expressed himself publicly less and less. At the federal renewal of 1848, however, he once again decisively intervened in the discussions. For some time now, Troxler had promoted a state conception with a bicameral system modelled after the USA. His pam-



Ignaz Paul Vital Troxler (picture ma)

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phlet "Die Verfassung der Vereinigten Staaten von Nordamerika als Musterbild der schweizerischen Bundesreform" (The Constitution of the United States of America as a Model of the Swiss Federal Reform)¹⁶ was sent to the crucial Swiss Federal Commission by one of his former students. Troxler was concerned with a solution based on the Helvetic model, a solution balancing cantonal sovereignty and central government, that is, balancing the Confederation and a unified state: One has to aim "at a Confederation conciliating both extremes, a federal state with an organically structured relationship of cantonal independence and federal dependence"¹⁷. This idea became reality, and therewith Troxler put its stamp on the Swiss federal state.

Natural law as the basis

Conceptually, Troxler built his philosophy of law and of the state on natural law. In 1816, he published a new journal, "The Swiss Museum", in Aarau. The lifespan of this magazine was only around two years, but it was very central to Troxler's work on the Helvetic period. In it, he himself published leading legal and political treatises on topics such as "The Idea of the State and the Essential Character of Representation by the People", "On the Freedom of the Press in General and in Special Relation to Switzerland" and "On the Fundamentals of the Representation System"¹⁸.

These texts, which centre on the idea of freedom, were considered important manifestos of early liberalism. For Troxler, unconditional intellectual freedom, from which everything is derived, represented the greatest "primordial right", and corresponding importance was attributed to a free press. At the time he wrote in a letter: "For the time being, press freedom is the most important thing, as you will also find. If we achieve this, we will have won everything"¹⁹. Troxler's writings in the "Swiss Museum" were in many respects the basis for one of his major works. This treatise, the "Philosophical Theory of Nature and Law, in Consideration of the Heresies of Liberty and Legitimacy"²⁰ combines natural Law with the ethical values of Christianity.

In his introduction Troxler describes his motives for writing this document: "For years I was attracted by the development of human evolution in the state – not the state merely as an existing form."²¹ He defined his philosophical position, according to his subtitle, by way of principles that "are just as far from those which appear in the Contrat Social of our Rousseau, as from those which appear in the contract-

ed condition of our Haller"²². Thus Troxler wants to draw "a kind of central line", and has no objections, "to stand beside those mentioned, in independence and impartiality, with patriotism and an enthusiasm for freedom"²³.

In his introduction, Troxler clarifies that he interprets the natural law anthropologically:

*"A Philosophical doctrine of the law demands with the greatest justice, according to its nature, the existence of an inner law which determines and fixes what is right and wrong from within itself, absolutely, without any preceding conditions, and without limiting relations."*²⁴

And further:

*"This law must be a law of nature, but since, in the task we have set ourselves, man is his own object, it can be nothing other than a law of nature arising from human nature and relating back to itself. This law must be inherent in every human being (equal to the moral law)."*²⁵

In this context, Troxler speaks of the "legal state of the nature of man" and of an inherent human law which he equates with the human conscience. For him, the philosophy of law is "synonymous with a law of reason or natural law"²⁶.

The law of right does not appear in the state as a mere idea or only as an ideal, but as an actual law of nature, which is to judge and refine all positive legislation everywhere and at all times. Positive law thus requires a natural law basis. This relationship was central to Troxler, and he resisted an absolutisation of natural law (Rousseau) as well as of positive law (Haller). He also emphasised that the law of nature, as he defines it, is a "divine law of nature."²⁷ Thus he combined Christian and modern natural law and joined a tradition founded by the School of Salamanca as early as in the 16th century.

The *School of Salamanca* decisively shaped the epoch of Late Spanish Scholasticism and laid the foundation for combining *Christian and modern natural law*. The school became a bulwark against the so-called "Divine Grace", i.e. the legitimist position that Karl Ludwig von Haller again took up and propagated at the beginning of the 19th century, and against which Troxler defended his ideas with his "jurisprudence". Already the School of Salamanca had taken the step from natural law to the doctrine of human rights, and the enlighteners of the 18th century were able to continue on this basis.²⁸

Almost simultaneously with *Jean Bodin* (1529/30–1596), who at that time developed his Concept of Sovereignty, the School of Salamanca promoted debates on

natural and international law. Bodin saw Christian natural law as a clear boundary, and this was now expanded by the representatives of the School of Salamanca. In this, they derived their natural-law argumentation from a very free and partly novel approach to the theological tradition.²⁹

The historical background of that time were the discovery and conquest of Central and South America by the Spaniards and the Portuguese, the economic processes of change in the transition from the European Middle Ages to modern times, as well as humanism and the Reformation. As a result, the traditional concepts of the Roman Catholic Church came under increasing pressure at the beginning of the 16th century, and genuine colonial ethics as well as a new business ethic was called for. This meant that at that time there was a renewal of medieval ideas about man and community and their relationships.³⁰

The Spanish lawyer and humanist *Fernando Vázquez de Menchaca* (1512–1569) referred to the Christian-natural law tradition influenced by *Thomas Aquinas*. In this tradition it was assumed that there were divine, eternally valid laws positioned above positive legislation. The *lex aeterna*, by which God acted, was seen to rank at the top; second place was accorded to the *lex divina*, which God had directly communicated to man in his writings. Finally, there was the *lex naturalis*, which God had implanted in man, in order for men to be able to recognise his divine plan. This is exactly what Troxler meant when he spoke of the "inner law" and stated that in human nature everything is already there and must be developed through conscience formation.

Vázquez explained that Christian-natural law already contains the idea of the rational nature of man.³¹ This idea was the decisive starting point for later developing a secular, modern natural law.

With reference to *Thomas Aquinas*, it was possible for Vázquez and other representatives of the Salamanca School to address urgent problems of their time and theoretically combine them with Christian natural law. Although Vázquez firmly stood in the scholastic tradition and argued – as the other representatives of the school – in the context of his basic Christian understanding, he made this tradition fruitful for modern natural law, which was based on the original freedom and equality of all men.³² Troxler later took this up, without referring explicitly to the representatives of the School of Salamanca.

Francisco de Vitoria (about 1483–1546), another representative of that school, also emphasised the community-building social nature of man, which led

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men to voluntarily associate with others in communities. The state is that form of life that can best do justice to man’s nature. In this kind of community, men can perfect their skills, interact with others and support each other. Troxler noted in this context that “politics is the reconciliation of man with the world”³³.

Only in this way, Vitoria continued, could a decent life be led, in line with man’s positive and negative characteristics. As a citizen of a state, a man remains a free being, but in the event of conflict he must subordinate his individual wellbeing to the common good of the community – the *bonum commune*. This principle was also incorporated into the notion of the international community as *totus orbis* – as coexistence and community of equal and sovereign states, independent of religion and culture. Individual members of the international community should not only pursue their own interests, but should also be responsible for promoting the global common good, the *bonum totius orbis*.³⁴

The Jesuit *Francisco Suárez* (1548–1617), who taught mainly at the University of Coimbra in Portugal, also influenced the School of Salamanca and anticipated the idea of “popular sovereignty”. Suárez wrote in 1612 in his *Treatise on the Laws and God the Legislator*, that God is the origin of all state power (sovereignty), and that the “community entire,” i.e. the people, was the recipient and then the bearer of this power, according to natural law. Contrary to the concept of divine law, Suárez argued that God had never chosen a single person or group of people to be the carriers of state power. After receiving state power, the people could exercise this power themselves or surrender it voluntarily to a single person or to an authority. Suárez’s derivation of the state from divine law and natural law thus saw the people as the organising and shaping force of the state. According to Suárez, the people would, in this context, also have a right to resist.³⁵

The fact that both Catholic and Reformed scholars (Lutherans and Calvinists) dealt intensively with natural law, was illuminating in view of the discussion about democracy. *Hugo Grotius* (1583–1645) was an important bridge builder between the Christian denominations in this context. He knew the writings of important representatives of the School of Salamanca. With his writings, Grotius himself laid important foundations for the definition of modern natural law and international law. The writings of Grotius and those of *Samuel Pufendorf* (1632–1694) were translated by *Jean Barbeyrac* (1674–1744), who thereby laid the foundation stone for the

French School of natural law (*École romande du droit naturel*). For Switzerland and the conflicts surrounding its form of democracy, this process was very significant, as the “École romande” was central to the discussion of modern natural law in Switzerland. Thus Rousseau, while trying to clarify his idea of popular sovereignty, referred to the natural law doctrine of one of Barbeyrac’s followers, *Jean-Jacques Burlamaqui* (1694–1748).³⁶ Central concerns of Christian-rational natural law were thus incorporated into positive constitutional law, in line with the first American constitutions since 1776. Troxler built his natural law-based concept of democracy on this foundation.

In Troxler’s “*Philosophical Theory of Law*” there is no reference to the French-speaking Natural-Law school, but he does point to Grotius and Pufendorf, among others, in a brief outline of the history of natural law.³⁷

¹ www.fidd.ch

² Troxler, Ignaz Paul Vital. *Volkssouveränität die ächte und die falsche oder Luzerner! was ist revolutionär?*, in: Rohr, Adolf (Hg.). *Ignaz Paul Vital Troxler (1780–1866), Politische Schriften in Auswahl*. Vol. 2, Berne 1989, p. 502–516, quote from p. 506

³ Gschwend, Lukas. *Kommentierende Einleitung*, in: Troxler, Ignaz Paul Vital, *Philosophische Rechtslehre der Natur und des Gesetzes, mit Rücksicht auf die Irrlehren der Liberalität und Legitimität*. Würzburg 2006, p. 11–56, quote from p. 15

⁴ Wicki, Hans. *Staat, Kirche, Religiosität. Der Kanton Luzern zwischen barocker Tradition und Aufklärung*. Luzern 1990, 497f.; also Marti-Weissenbach, Karin. Art. Franz Regis Krauer, in: *Historisches Lexikon der Schweiz* (HLS), Vol. 7. Basel 2008, pp. 429

⁵ Schmidt, Heinrich Richard. *Bildungsvorsprung des Schweizer Katholizismus um 1800?*, in: Roca, René. (Hg.), *Katholizismus und moderne Schweiz, Beiträge zur Erforschung der Demokratie*. Vol. 1, Basel 2016, p. 81–94, quote from p. 89–91

⁶ Roca, René. *Bernhard Meyer und der liberale Katholizismus der Sonderbundszeit. Religion und Politik in Luzern (1830–1848)*. Berne 2002, p. 41–44; also Bischof, Franz Xaver. Art. Thaddäus Müller, in: *Historisches Lexikon der Schweiz* (HLS), Vol. 8, Basel 2009, p. 835

⁷ Troxler, Ignaz Paul Vital. *Volkssouveränität*, S. 512

⁸ Ibid.

⁹ Troxler, Ignaz Paul Vital. *Einige Hauptmomente aus meinem Leben*, in: Rohr, Adolf (Ed.). *Ignaz Paul Vital Troxler (1780–1866), Politische Schriften in Auswahl*, First Volume, Berne 1989, p. 383–393, quote from p. 390

¹⁰ Roca, René. *Wenn die Volkssouveränität wirklich eine Wahrheit werden soll ... Die schweizerische direkte Demokratie in Theorie und Praxis – Das Beispiel des Kantons Luzern*, Zurich/Basel/Geneva 2012, p. 91–93

¹¹ Troxler, Ignaz Paul Vital. *Was verloren ist, was zu gewinnen. Rede in der Versammlung der Helvetischen Gesellschaft*, in: Rohr, Alfred, *Troxler*, Vol. 2, p. 39–67, quote from p. 60

¹² Roca, René. *Ignaz Paul Vital Troxler und seine Auseinandersetzung mit der Helvetik – Von der repräsentativen zur direkten Demokratie*, in: Zurbuchen, Simone et al. (Ed.). *Menschenechte*

und moderne Verfassung. Die Schweiz im Übergang vom 18. zum 19. Jahrhundert, Geneva 2012, p. 97–106, quote from pp. 100.

¹³ Troxler, Ignaz Paul Vital. *Ehrrerbietige Vorstellungsschrift an den Grossen Rath des Kantons Luzern. Eingereicht durch achtzehn Abgeordnete des Volks am 22. November 1830*, in: Rohr, Adolf. *Troxler*, Vol. 2, p. 177–187, quote from p. 179

¹⁴ Roca, René. *Ignaz Paul Vital Troxler und der Aarauer Lehrverein. Wie eine private Bildungsanstalt die Demokratieentwicklung in der Schweiz entscheidend förderte*. In: *Argovia 2014, Jahresschrift der Historischen Gesellschaft des Kantons Aargau*, Vol. 126, Baden 2014, p. 140–154, quote from p. 150–153

¹⁵ Troxler, Ignaz Paul Vital. *Volkssouveränität*, p. 505

¹⁶ Troxler, Ignaz Paul Vital. *Die Verfassung der Vereinigten Staaten Nordamerika’s als Musterbild der Schweizerischen Bundesreform (1848)*, in: Rohr, Adolf. *Troxler*, Vol. 1, p. 529–553

¹⁷ Troxler, Ignaz Paul Vital. *Bemerkungen über den Entwurf des Grundgesetzes für den eidgenössischen Stand Luzern von dem Ausschuss des Verfassungsraths im Jahre 1841*, in: Rohr. *Troxler*. Vol. 2, p. 477–496, quote from p. 486

¹⁸ Troxler, Ignaz Paul Vital, contribution in “Schweizerisches Museum”, in: Rohr, Adolf. *Troxler*, Vol. 1, p. 445–568

¹⁹ Troxler to Karl August Varnhagen von Ense, 12 May 1816, quoted after Rohr, Adolf. *Einleitung zu Troxlers politischem Schrifttum* (introduction to Troxler’s political literature), Vol. 1, Berne 1989, p. 9–293, quote from p. 39

²⁰ Troxler, Ignaz Paul Vital. *Philosophische Rechtslehre der Natur und des Gesetzes mit Rücksicht auf die Irrlehren der Liberalität und Legitimität* (Philosophical Theory of Law and Nature of Law considering the Heresies of Liberty and Legitimacy, First Edition: 1820), edited by Gschwend, Lukas. Würzburg 2006

²¹ Ibid. p. 57

²² Ibid.; the Bernese aristocrat *Karl Ludwig von Haller* (1768–1854) is meant here, who with his corpus *Restauration der Staatswissenschaft* (Restoration of the Political Science, 1816–34) gave this era its name. Thereby, Haller tried to legitimate the Ancien Régime rationally and created a fundamental programme of a counter-revolution by his declaration of war to the modern age.

²³ Ibid.

²⁴ Ibid., p. 60 (emphasis mine)

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid., p. 61

²⁸ Roca, René. *Einleitung Katholizismus* (Introduction Catholicism), p. 38–41

²⁹ Roca, René. *Volkssouveränität* (Popular Sovereignty), p. 32–34

³⁰ Seelmann, Kurt. “Die iberische Spätscholastik als historischer Wendeprozess” (The Iberian Late Scholasticism, in: Müller, Klaus E. (Ed.). *Historische Wendeprozesse. Ideen, die Geschichte machten* (Historical Turning Processes. Ideas that made History), Freiburg im Breisgau 2003, p. 114–127, quotation from pp. 115

³¹ Glockengiesser, Iris. *Mensch – Staat – Völkergemeinschaft. Eine rechtsphilosophische Untersuchung zur Schule von Salamanca* (Man – State – Community of the Peoples. A Jurisprudential Study to the School of Salamanca). Berne 2011, p. 11–13

³² Seelmann, Kurt. *Theologische Wurzeln des säkularen Naturrechts. Das Beispiel Salamanca*

Physicians in Reverence for Life

Statement on the European Region Meeting of the World Medical Association (WMA)
16th and 17th November 2017 in the Vatican

Despite the unfavourable experiences in neighbouring countries, despite the fatal experiences from German history and despite the warnings from suicide research, euthanasia is promoted under the titles “Assisted Suicide” and “Death on Demand”.

The public debate about whether a doctor may assist in suicide causes great harm to people’s minds. By this debate fundamental ethic principles of our social coexistence are challenged. If it is given “to the attending physicians in the hand to meet a killing desire, the doctor-patient relationship is deeply shaken.”¹

It is high time we, as doctors, position ourselves:

The moral state of a civilised society is measured by how it deals with the weakest. The protection of life is enshrined in the *European Convention on Human Rights* and in the *Universal Declaration of Human Rights from 1948*.

The top priority of medical practice is not to harm the patient. The doctor is the protector of life he must not be a danger to the lives of his patients. It deeply contradicts the medical ethos of 2400 years and the humanity of everyone to execute assisted suicide on a suffering person.

Every mentally or physically ill person needs expert medical help and genuine compassionate care, as well as the assurance that the doctor will do everything possible to heal his illness or, if this is not possible, relieve his suffering.

The desire for assisted suicide is not primarily the result of fear of unquenchable pain, but of worrying about being a burden on others, being at the mercy of others, of losing control, or being alone.

Patients who express a desire to suicide usually do not expect their death to be caused. Mostly, the desire for assisted suicide is a cry for help and of temporary nature.

Proceeding from the actual medical-psychiatric understanding suicidality is by far the greatest part symptom of a psychiatric disorder or closely related to a psycho-social crisis.

Therefore, the will of the suicidal person is not “free” in the positive sense of the word; on the contrary, the person concerned must be protected against a short act as well as against the actions of third parties, namely those of people who perform assisted suicide.

There is no justification for the medical assistance to suicide for a patient. Due to medical advances and social ties, today we are able to care for seriously ill and dying people in such a way that they do not suffer unbearably, but feel safe and cared for.

It is human nature that even at the end of life we are reliant on our fellow human beings. A limitation of our autonomy or of our self-determination does not result from this.

The assisted suicide presupposes that a human life is judged by a third party, namely a person who performs assisted suicide, as unworthy to live. But this is already the limit to euthanasia exceeded. The escalation of killing with and without demand of the patient in the Netherlands since the 1990s must be a warning to us.

If the doctor does not want to unnecessarily prolong the suffering of a seriously ill, dying person and therefore refrains, reduces or terminates a medical

measure, he does not make himself liable to prosecution. He is also allowed to apply an indicated palliative treatment even then if thereby not willingly the life of the patient may possibly be shortened.

Given these alternatives, there is no need to worry that in case of a serious, incurable, and fatal disease, the patient’s suffering would be unnecessarily prolonged. Moreover, a good palliative care can have a suicide-preventive effect.

We physicians in Germany due to our history have a special obligation to stand up for the protection of our patient’s lives.

We join the valid position of the World Medical Association (WMA), “[...] that euthanasia and physician assisted suicide are unethical and we say they must be condemned by the medical profession. We strongly encourage physicians to refrain from participating in euthanasia, even if national law allows it or decriminalises it under certain conditions”. (Dr Ardis Hoven, Chair WMA-Council. www.wma.net/news-post/major-end-of-life-conferences-organised-by-world-medical-association/.)

Physicians in Reverence for Life
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¹ Professor Dr med.h.c. Peters, Uwe Henrik. Preface. In: Arbeitsbündnis “Kein assistierter Suizid in Deutschland!” (Ed.) Eine Auswahl der Publikationen. Edited on occasion of the World Congress on Psychiatry in Berlin, October 2017, Cologne, p.3

(Translation *Current Concerns*)

“Natural law and popular sovereignty –...”
continued from page 12

(Theological Roots of the Secular natural law), in: Willoweit, Dietmar (Ed.). *Die Begründung des Rechts als historisches Problem* (The Foundation of Law as an Historical Issue), Munich 2000, p. 215–227, quote from p. 215–218

³³ Troxler, Ignaz Paul Vital. *Rechtslehre* (Theory of Law), p. 64

³⁴ Glockengiesser, *Mensch* (Man), p. 103–110

³⁵ Brieskorn, Norbert; Suárez, Francisco. “Francisco – Leben und Werk” (Francisco – Life and Achievement), in: Suárez, Francisco. *Abhandlung über die Gesetze und Gott den Gesetzgeber* (Treatise on the Laws and God the Legis-

lator, 1612) translated into German, edited and attached with an annex by Norbert Brieskorn. Freiburg im Breisgau 2002, p. 635–657, quotation from p. 653–656

³⁶ Roca, René. *Volkssouveränität* (Popular Sovereignty), p. 51–53

³⁷ Troxler, Ignaz Paul Vital. *Rechtslehre*, (Theory of Law), p. 68

Old? – Of course, why not

Poems by Franz Hohler – not only for older generations

by Dr phil. Winfried Pogorzelski

*Is that really you
From whom the Department of
Motor Vehicles
demands a medical certificate
that you are still able to drive a car?*

Yes, I am – one is tempted to confess – depending on the age, of course – one tries to admit: Self-perception regarding one's own aging process is misleading – while others perceive this more or less clearly. However, this is no reason for the now 74-year-old Franz Hohler – a cabaret artist, narrator, novelist, lyric poet and last but not least a cellist – to just tolerate or even ignore aging. Rather, it is about consciously living and shaping this phase of life, of realising the beauty of life, but also of facing the less enjoyable aspects – it is specific to old age that life in some ways becomes more difficult and that the end is getting closer and closer.

Reflected in these 87 short texts the process of aging, the transience of life, the act of wistful retrospect but also those with great satisfaction – observe everything that is happening around us. The themes, form, tone, style and type of these texts are surprisingly diverse.

For example, *Ciao, maestro!*, the swan song to the constantly smoking shoemaker behind the *Sternen Oerlikon*, who mended Franz Hohler's shoes for years. He died unexpectedly – as posted on the shop door – leaving the perplexed author with the feeling that he has been told for the first time that death will eventually come after life. Equally, he misses his poet colleague Urs Widmer deceased in 2014, when he writes:

*Urs is not dead
he just embarked on
a great journey to the end of the uni-
verse
full of curiosity and wanderlust.*

(Urs Widmer)

He also hardly understands the death of the unforgettable *Clown Dimitri*, (*Dimitri dead?*) who acted on stage until the end – he died at the age of eighty in 2016 – who founded his *Scuola Teatro Dimitri* (now affiliated to SUPSI) in the Tessin village Verscio in 1975, today known all over the world. The subject is treated poetically when a butterfly, the epitome of delicate, beautiful, but also fragile life, becomes ambassador of the irrevocable transience of life (*Visit, Who are you?*), as well as the leaves, falling from the trees in autumn dancing in the wind (*Fall of the leaves*).

On another point, Hohler surprises the reader when translating classic authors

into Swiss German, such as the poem *Die Zeit* by Heinrich Heine, written during his eight years of suffering – described by himself as *mattress grave* – caused by an incurable neuropathy that ultimately led to Heine's death. *William Shakespeare's Sonnet 66*, which outlines the aging process to the death ending with the words:

*"Tired with all these,
From these would I be gone,
Save that to die, I leave my love
alone.*

*Or in Swiss German:
Das macht mi müed, i gient am lieb-
ste hei
Nur, wär i tot, denn wär mi Schatz
elei.*

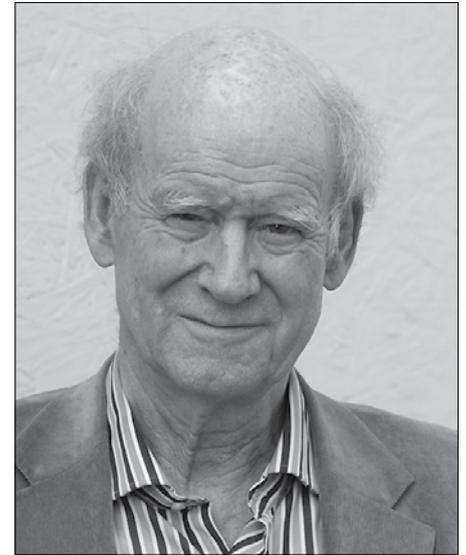
Thus Hohler arrived slightly sad to the topic of love. The poems *Private World History 1968–2016* (*Private Weltgeschichte*) and *Spook* (*Spuk*) are more about the deep relationship of two lovers. In simple words they tell about the value of love or rather how a couple can stay together for over forty years, *without stagnating* – almost a fossil phenomenon in our fast-paced world especially in matters of love – and how much security can be the result of true love. Then Hohler also speaks as a cellist, in a moving acceptance speech to the soprano *Anna Magdalena Bach* (1701–1760), *Johann Sebastian Bach's* second wife, who copied his six suites for violoncello solo and thus preserved them for posterity: Bach's writing was lost, Hohler thanks the singer for this good deed. She bore many children, lost some and raised many, including stepchildren:

[...]
*and I thank you for that
a bit late
I admit
but the more intimately.*

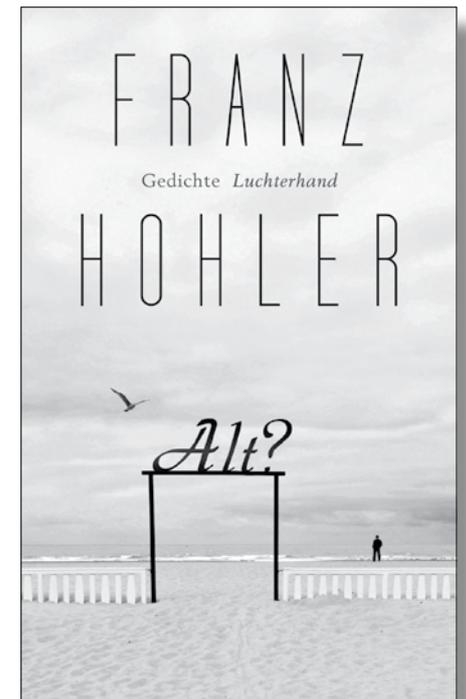
(Thank you to ...)

Everyday topics such as aircraft noise (*Southern approach*), construction boom (*Allotment gardens*), disinformation in the media age (*Experts*) and economisation of the world by capitalism (*Rumor*) are critically dealt with in a laconic style. The poet is nobody's fool, but he looks behind the scenes, trying to get to the bottom of things. And that is why this appropriately designed booklet is worth reading for everyone, not only for older generations.

At first glance some works seem puzzling and demand a repeated and closer



Franz Hohler (picture Christian Altorfer)



ISBN 978-3-630-87544-6

look. Or do you realise straight away what the "lyrical Self" wants to do with the following sentences?

Native fauna

A bear in Switzerland?

*There are animals
that are more familiar to us
like the sharks.*

Another example of this kind:

21 March

continued on page 15

Dunant must not be forgotten

sv. The life and work of *Henry Dunant* deserve the utmost respect and appreciation even 107 years after his death. As the founder of the “Comité international de secours aux blessés”, he made an indispensable contribution to the formation of the International Red Cross and Red Crescent Movement.

In 1901, Henry Dunant received the first Nobel Peace Prize together with *Frédéric Passy*, founder of the “French Peace Union”. At that time, he had lived already for nine years as a pensioner in the *Bezirksspital* (County Hospital) Heiden in the canton of Appenzell. The Nobel Peace Prize meant for him his rehabilitation, as he had been ostracised for years because of financial problems in Calvinist Geneva and had even been excluded from the *Red Cross Society*.

Exhibition “Strong women around Henry Dunant”

In 1998, the world-wide only museum for the founder of the *Red Cross* was inaugurated in the former district hospital

of Heiden, in which the topicality of his commitment to a world without war and social need is represented. Proactive, outstanding women of the 19th century had a significant effect on Henry Dunant as innovators and companions. First and foremost there is his mother, *Anne-Antoinette Dunant-Colladon*, who already early on trained his understanding for poor and needy people. She is introduced together with other women such as *Harriet Beecher Stowe*, author of the bestseller “*Uncle Tom’s Cabin*”, *Florence Nightingale*, founder of modern Western nursing, the Austrian pacifist *Bertha von Suttner* among others in the exhibition “Strong Women around Henry Dunant” until 22 April 2018 at the Henry Dunant Museum (Asylstrasse 2, CH-9410 Heiden, www.dunant-museum.ch).

A picture and reading book for every age

The richly illustrated book “Who is Henry Dunant?”, published by Verlag *Zeit-Fra-*

gen, dedicated to the parents of author *Lisette Bors* and the children of the world, keeps alive the memory of Henry Dunant’s life and work. It is invaluable for peace education and teaching the importance of mutual help among people and countries. •

The book is available in five languages. It costs 26.- CHF or 20.- Euro. It can be ordered directly from the publisher or in any good bookstore.

German: Bors, Lisette, *Wer ist Henry Dunant?* Zurich, 2010, ISBN 978-3-909234-08-0

French: Bors, Lisette, *Qui est Henry Dunant?* Zurich, 2010, ISBN 978-3-909234-09-7

Italian: Bors, Lisette, *Chi è Henry Dunant?* Zurich, 2010, ISBN 978-3-909234-11-0

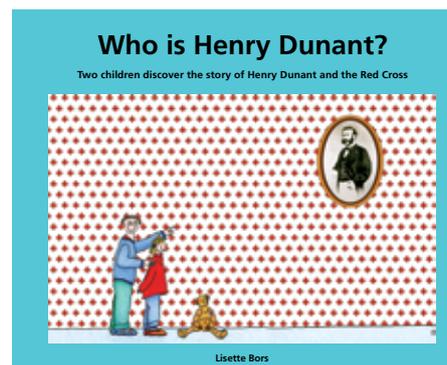
English: Bors, Lisette, *Who is Henry Dunant?* Zurich, 2010, ISBN 978-3-909234-10-3

Spanish: Bors, Lisette, *Quien es Henry Dunant?* Zurich, 2010, ISBN 978-3-909234-12-7

“This richly illustrated book contains colourful drawings and photos, and has been created with great care. It explains *Henry Dunant’s* life and work and can be read at any age. It provides interesting knowledge for both children and adults.

The first part allows children to discover the meaning of Henry Dunant. The narrative, accompanied by full-page illustrations, offers parents, grandparents, teachers, educators an excellent opportunity to teach children important values of our civilisation.

The second part reports in detail about the different stages of the formation and development of the Red Cross in Switzerland and other coun-



tries. This book is perfect as a gift and will enrich families for a long time.

Due to the high quality of both the content and the production, this book is appreciated by paediatricians and dentists as an enrichment for the waiting room. Also community and school libraries like to present this book in their exhibition.

The message of Henry Dunant has remained up to date: ‘Civilization means mutual help from person to person, from country to country.’

By dealing with the contents of this book it becomes also clear why Henry Dunant was awarded in 1901 the very first Nobel Peace Prize.”

*Nicole Duprat,
Primary teacher from France*

“Old? – Of course, why not”

continued from page 14

*When I awoke
at half past five in the night
the moon shone
on the construction site
in front of our house.*

*There was still a container
hanging in the air
on the crane*

*and right in front of it
a blackbird was sitting
on the boom
singing and singing
so loud and long
until I understood.*

With his little booklet of poems Franz Hohler invites to unravel the world, to linger, to enjoy, to reflect and to assert that human life is a present to be discovered,

enjoyed, to be lived without suppressing the fact that it will eventually come to an end for each one of us:

*And why
does the dark suit
in the wardrobe
not want to move back?*

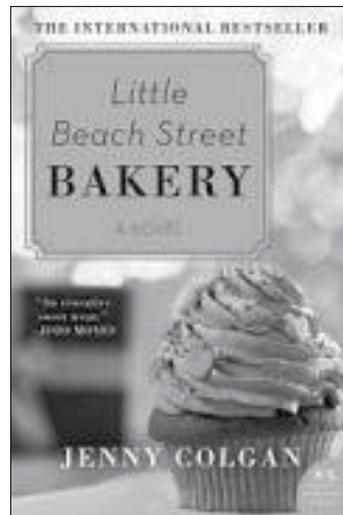
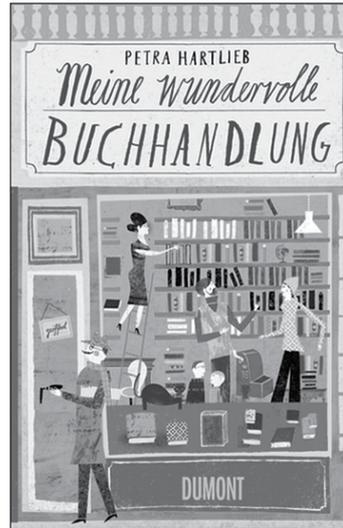
(Old?) •

Hohler, Franz. *Alt? Poems*. Munich 2017
(Translation *Current Concerns*)

Two lovable books – recommended for reading

dk. *Petra Hartlieb* was born in Munich in 1967 and grew up in Austria. She has written a delightful little novel called “*Meine wundervolle Buchhandlung*” (My wonderful bookstore). In it, she describes her own story to a certain extent. The first-person narrator and her husband *Oliver* both give up their well-paid jobs in Hamburg and take over a small traditional bookstore in the Old Town of Vienna. There are many difficulties in running the business and building a customer base, including the need to fight competition from the Internet. It takes a long time for the bookshop to become financially viable to some extent. With a great deal of dedication, they look after customers, fulfil even the most unusual book requests, hold readings, run book stands, employ apprentices who they introduce to the world of books, and much more. They sometimes work to exhaustion and earn almost nothing. In spite of everything, the two do not give up because their love for books and friendship with their customers become their elixir of life. Many neighbours and friends help out, and as time goes by the bookshop becomes a meeting place for young and old, so that the two of them don’t want to give up at any price. The book is highly recommended as an enjoyable holiday reading.

Another recommendable book was written by the Englishwoman *Jenny Colgan*, which can be read in the English original or in German translation. It is entitled: “*Die kleine Bäckerei am Strandweg*” (*Little Beach Street Bakery*). Together with her husband, Polly runs a successful graphic design company in Plymouth. But in 2008, in the aftermath of the banking crisis, the company goes bankrupt and at the same time the marriage broke up. Polly was faced with the ruins. Where and how can she start afresh? By chance she discovers an ad that a small house by the sea in the tranquil Cornwall is for rent. Although her girlfriend thinks she’s crazy, she rents this house and moves to Mount Polbearne in the countryside. She tries to build a new existence there. This succeeds despite initial



concerns, namely, she discovers that her home-baked bread tastes very good to the villagers. Polly learns about the hard life of the fishermen and how difficult it is for the people of Cornwall to find a job and survive financially. They often lead a depriving life. Although her city friends rather pity her, Polly likes this life in the unmistakable nature and makes many new friends. These are the fisherman *Tarnie* and his crew, the beekeeper *Huckle* or *Muriel* from the village shop. A small puffin, which she finds injured and cares for, also

grows close to her heart. It becomes exciting and also dramatic when an accident at sea occurs, and in love there are manifold entanglements. The reader can be told that the story has a happy ending and he can look forward to reading it. •

Hardlieb, Petra. *Meine wundervolle Buchhandlung*. DuMont Buchverlag Cologne, 2014

Colgan, Jenny. *Die kleine Bäckerei am Strandweg*. Berlin Verlag 2016 or The Little Beach Street Bakery, Sphere Books UK, 2014

Current Concerns

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Taxes and finances in Switzerland – determined by the people

State political background and its history

by Dr rer publ. Werner Wüthrich

Switzerland is one of the few countries in the world which has a tolerable grip on its finances and, although without being a member, it has no problems meeting the EU's Maastricht criteria – total debt must not exceed 60 percent and new debt must not exceed 3 percent of GDP. What are the reasons for this? If you were to conduct a poll on the street, you would most likely get the answer: “We have the “debt brake” in our constitution. We voted for it.” That is certainly true. But it is only part of the answer. The Swiss have always voted, on all political levels, not just on the debt brake but on all taxes. Such unique political rights form part of the Swiss democracy. At the federal level, tax issues have been decided on the urn for about a hundred years. In the municipalities and cantons, this was the case much earlier.

In recent years, there were again several votes on taxes, such as the Corporate Tax Reform III, the introduction of a federal tax for larger inheritances, or the partial financing of old age provision via VAT. These are demanding topics, but the Swiss population is equal to them. – If you really want to understand Switzerland, you must know the relevant part of its history.

It began almost exactly one hundred years ago, when a proposal was submitted in Switzerland on 6 June 1915, in the middle of World War I, to introduce an income and wealth tax at the federal level – the very first federal tax of all. This was the beginning of a long series of federal financial votes – still continued today. Before the war, the federal government had been financed to 95 percent from tariffs. Income and wealth taxes were reserved for the municipalities and cantons. So at that time this was an extraordinary event well worth remembering.

Litmus test of direct democracy in the First World War

War times are difficult times. In addition to human suffering, economic concerns are at the forefront – both in families and in the state. In World War I, Switzerland was fortunate in not being involved in hostilities. However, there was always the danger that a major foreign power might occupy the Swiss Mittelland region or the Jura in order to be able to bypass their opponents or otherwise achieve a war-important advantage – as happened in Belgium or the Netherlands.



The 2015 federal vote on inheritance tax. Poster (picture keystone)

The Swiss army therefore remained mobilised till the end of the war and was prepared to ward off foreign troops. The Federal Council was soon faced with the question of how they were to finance all this. Customs and taxes collapsed during the war, because in May 1915 Switzerland was completely surrounded by warring major powers. So customs and taxes fetched nowhere near enough revenue to finance mobilisation as well as the rapidly rising cost of defence spending, and the expense of alleviating the plight of the civilian population.

The federal revenue in 1913 amounted to only 100 million francs. As a result of the mobilisation, the Federal Council expected an additional expenditure of 300 million. Already in 1914, the federal government had issued a first war loan of 30 million – with interest at five percent. Eight more bonds followed. The federal government also received money from the National Bank – that is, via the printing press. In addition, the Federal Council proposed a one-off, progressively designed federal tax on income and assets for the duration of the war as an urgent measure. Because of its wartime authority as the Swiss government, the Federal Council could simply have introduced the war tax without asking the people. But because of their deeply democratic convictions, government and parliament decided to follow the orderly way, working out a constitutional article and presenting it to the people, which was not a matter

of course in a war situation at that time. In June 1915, it came to the vote.

High level of political maturity

The surprise was great. There was no question of a defeat, which, up to today the authorities have always had to allow for, especially with regard to taxes. On the contrary: In spite of difficult living conditions, 93 percent of the voters said yes to the war tax – as a one-time tax on income and assets. It was the highest approval rate that has ever been achieved by a federal bill. The vote was also important because German-speaking Switzerland rather sympathised with the German Empire and French-speaking Switzerland with France. The clear result across the country was a clear signal of the desire to stand up together for independence. Cleverly, the army command used soldiers from German-speaking Switzerland at the French frontier and soldiers from the French-speaking part of the country at the border to Germany. Two years later, another vote followed, this time on a stamp duty charged on transactions in securities. In May 1917, the sovereign agreed to this too – if only with a majority of 53 percent. These two popular referendums in the middle of the war were the prelude to a large number of federal tax referendums worth looking at in more detail. No one likes to pay taxes, but the Swiss have shown themselves to be responsible citi-

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zens also in financial dealings; they do not just keep their own wallets in view but are willing to make sacrifices when they realise that these are needed by their country.

First popular initiatives and votes on the introduction of federal taxes

Encouraged by the voting result of 1915, the Social Democrats launched a popular initiative in 1916. The one-off, heavily progressive federal income and wealth tax was to be kept up permanently beyond the war, because the state would then be in great need of money. In June 1918, 54 percent of voters and most cantons refused. Then, after the war, the question of repaying the "war debt" amounting to about 1 billion francs (according to the value at that time) arose. The Federal Council proposed to continue the one-off tax passed in 1915 for the period of the war, in order to repay the debt at least partly. On 4 May 1919, the people agreed and accepted the plan with a high percentage of 63 years. The amortisation tax was to be renewed periodically every 4 years. It was not cancelled until 11 years later. – Then as well as later, it was shown time and again: If citizens are convinced that taxes are really necessary, they agree even with unpopular measures – even at the federal level, as they had learned to do in the communities and cantons.

However, there was also opposition ...

The Social Democrats disapproved of this tax. As an alternative to official policy, they launched a popular initiative in 1921 "for the levying of a one-off tax on wealth" to be paid by the rich. The revenue generated by this tax – said the SP – was not only to be used to pay off the war debts, but also for social purposes. Workers were hit the hardest by the hardships, deprivations and problems of the war. Many Swiss would also have benefited from the war (the so-called "war profiteers"), and it would be more than justified that especially the rich and the profiteers would have to answer for the war debt. The rate for the planned levy was high. Specifically, rich people with assets worth about 10 million Swiss francs would have had to cede 20 percent thereof; and even richer people would have had to pay significantly more. Companies would have had to pay 10 percent of their business assets. (*Kölz* 2004, *Quellenbuch*, p. 221, *Linder et al.*, 2010, p. 143) It was clear that this would not be easy. The SP proposed that companies should increase their capital stock and pay the tax in the form of share capital. In this way, the state would have become a co-owner of private companies. The opponents of the proposal

protested violently that this would lead to the "nationalisation of the means of production" and – via some detours – to communism as practiced in Russia by *Lenin*.

At that time there were not that many "rich people". A small minority composed of just six per thousand taxpayers would have been affected by this tax, but of course these had reason to fear that the overwhelming majority would vote against them. The voting Sunday of 3 December 1922 was to go down in the history of direct democracy. Almost all voters – 89 percent – went to the polls! This record-high voter turnout has never been achieved again. A massive majority of almost 90 percent of the voters rejected the popular initiative. Large sections of the workers voted No. At that time, the SP had a vote share of about 30 percent. The social problems after the war were indeed great. However, this vote showed that most workers were still unwilling to engage in radical "class struggle" by means of referendums.

Making debts – little popular in Switzerland

The 1919 People's Repayment Tax on War Debts was cancelled in 1931, when the great global economic depression began. The Federal Council and parliament endeavoured, despite the crisis, to continue handling their finances like a "good householder" and to balance their budgets without any debts. They almost always succeeded in doing this. Before the First World War, the federation had not been in debt, by 1939 debt had grown to 1.5 billion francs (for comparison: today's debt is more than 100 billion, but at today's monetary value). Therefore this debt mountain was of a relatively modest size, and it was still being criticised – but in a way different from today. At that time, the famous economist *John Maynard Keynes* recommended that governments act counter-cyclically: in bad times – as they were then – they should cut taxes, spend more, pay debts and invest in infrastructure, and also use the printing press to this effect. This would boost demand and create jobs. In good times, on the other hand, the state would have to spend less, raise taxes, repay debts and, if possible, build up reserves (which could then be used in a later crisis). This counter-cyclical theory was inherently logical and reasonable, popular in professional circles and responded favourably to in politics. Keynes became the most influential economist of the 20th century. In practice, however, his theory proved to be problematic, because politicians usually take seriously only the first part of the theory and understand it as a guide and justification for accumulating debts. So today, debts have reached a record high and continue to rise, so that re-

payments are no longer even being envisaged – notably in the US. In addition, state financing via the printing press is commonplace today. – Keynes would probably turn over in his grave if he knew in what way his anti cyclical theory is often applied today.

In the 1930s, Parliament and the Federal Council followed the recommendations of Keynes only to a limited extent. When federal revenue collapsed, they discussed wage cuts for federal personnel. Understandably, the staff associations did not accept this and called for a referendum against this federal decree. On 28 May 1933, 55 percent of voters said no. Almost simultaneously, the unions collected 240,000 signatures – almost five times more than required – within just four months, for the popular initiative "For an extraordinary federal crisis tax". The "war tax" from the time of the First World War was to be reactivated and continued as a "crisis tax" for four years. The "holes" in the state budget were to be plugged with it. The Federal Council and Parliament gratefully accepted the concerns of the staff associations and responded with a federal decree in 1934, which was, however, problematic. They decided to introduce the crisis tax as an income and wealth tax – according to the demands of the trade unions –, but with reference to the difficult economic situation they implemented it immediately for four years by emergency law. This allowed the unions to withdraw their popular initiative, which they did. Opposition to this policy rightly came immediately – and for democratic reasons.

Against the elimination of democracy!

The Federal Council and Parliament had for the first time introduced a tax without a referendum! For this they received a lot of criticism – not only by constitutional lawyers such as *Zaccaria Giacometti*, but also by many other democratically minded citizens. A Geneva committee quickly collected signatures for the referendum "Conserving People's Rights in Tax Issues" and at the end of 1934 submitted them with more than twice as many signatures than required. (*Hofer* 2012) The initiators rightly criticised the fact that the Federal Council and Parliament had ignored the people and violated a good democratic tradition. The Federal Council was uncomfortable with the matter. But instead of quickly organising a referendum, they played for time. They let the popular initiative disappear in a bottom drawer for many years, which was, again, problematic, but at that time still legally possible. Today there are deadlines. After all, the people's representatives know more about these things a few years later. When the

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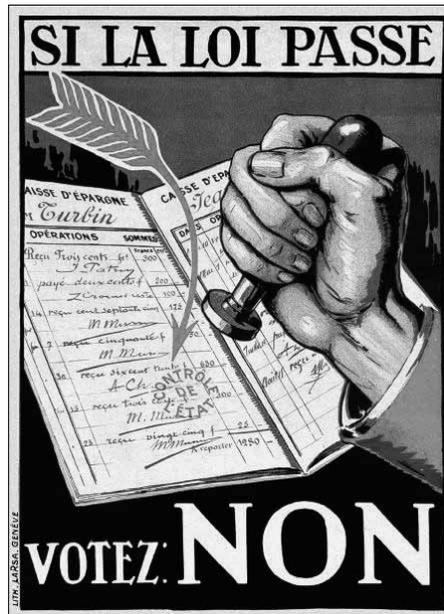
Federal Council and parliament wanted to extend the crisis levy for another two years in 1938, they no longer relied on emergency law, but called for a referendum. By doing this, they in fact admitted that the "Conserving People's Rights in Tax Issues" initiators had been right. The tax accounted for about one third of the federal income. Their trust in the people was justified. The sovereign strengthened the federal government shortly before the beginning of World War II and agreed to the crisis tax with a majority of 72 %.

Thus in the thirties, Switzerland's economic policy – essentially determined by the people – differed significantly from the strongly Keynesian policy of countries such as the United States.

Although the Federal Council supported individual industries such as the watch industry, the banks and even the farmers, and although the Swiss franc was devalued – as were other currencies – by 30 percent, the unions' crisis initiative (submitted with 350,000 signatures) called for far more interventions in economic activities, for the "planned fight against crisis and distress". This initiative was rejected in the referendum of 1935. With a debt of only about 1.5 billion francs (at the then monetary value), Switzerland was almost debt-free in 1939. Unemployment never rose above 8 percent in the 1930s. While in Germany the rolling commandos of the SA made the streets unsafe, signatures were still being collected in Switzerland – even more so than today. Democracy was an "unarguable matter of course" for the vast majority of its inhabitants. (*Guggenbühl* 1936).

Taxes during World War II

During the Second World War, the threat situation for Switzerland was more serious and acute than during WWI. *Hitler* had annexed Austria. In the early stages of the war, the German "Wehrmacht" rushed from victory to victory and conquered countries like Denmark and Norway almost at a single stroke. Belgium, the Netherlands and France followed. The danger was great that *Hitler* would also annex the small Switzerland – especially because the north-south connection through the Gotthard was important to the German war effort. Therefore there were no objections to the Federal Council's introducing new taxes quickly and without referendum in 1940 and 1941, on the basis of its powers of war: above all, the military tax – a progressive income and wealth tax – and the turnover tax as an excise duty. Both taxes were limited to the time of war. But this also included a wage replacement for the soldiers (which had been missing in the First World War).



Popular initiative of the SP 1922 for the collection of a one-time wealth tax: "If the law is accepted ... [state control] Vote no." (picture Historical Dictionary of Switzerland)

In 1944, the military tax and the turnover tax were extended until 1949 – as a temporary solution. This was followed by a federal financial reform with the aim of a permanent tax system. This was to become one of the major tasks of domestic politics – involving much direct democracy. In the following years, eight popular initiatives were submitted – on almost all issues and concerns related to tax and finance.

The struggle for the federal finance reform begins

In 1949, the Federal Council and parliament made a first attempt at developing a permanent federal tax and financial system. As usual, the Federal Council first conducted a consultation to find out how the cantons, the associations, parties and interested citizens envisioned the planned financial regulations for the federal government. It was known that the bourgeois parties favoured excise duties such as the turnover tax and customs duties. The Left, on the other hand, favoured progressive income and wealth taxes, which put a greater burden on the well-earning and wealthy. It was controversial whether a special repayment tax would have to be set up again to pay off the huge debt mountain piled up during the war years. – All in all, a compromise would have to be found, which would take into account the diversity of interests and which a majority of the people would consent to. That would not be easy.

No to the federal tax and financial regulations of 1950

Federally-minded forces – including the Catholic-conservative People's Party – presented a first project for a regulation

in which a direct federal tax did not even feature. They were not concerned primarily with taxes, but with "real democracy". The focus was on federalist considerations: during the crisis and the war, a shift of power to Berne had taken place, they said, and this power-shift was to be prevented from going any further. On the contrary, centralism would have to be partly dismantled, in order to preserve the traditional decentralised structure of Switzerland and to dissolve the power accumulation in Berne. For this reason, the direct federal tax on income and assets might be dispensed with. This type of tax should be reserved exclusively for the municipalities and cantons. Each canton could undertake to repay its share of the war debt. Other ways would have to be sought – for example, the rates of the excise duty ("Warenumsatzsteuer" WUST) or those of the capital gains tax might be increased. If need be, corporate profits might be moderately taxed. (*Schweizer Monatshefte* Bd. 27, 1947/48) – The idea found support especially in central Switzerland, in the French-speaking parts of Switzerland, and also among bourgeois parties. Parliament prepared a bill. The left was against it and demanded progressive income and wealth taxes to be introduced also in the federation. In 1950, this was put to the vote. Almost 65 percent voted no. Almost all the cantons of the French-speaking part of Switzerland and part of the central Swiss cantons voted yes. In the debate it became clear that this was not just about the money or the fair distribution of tax burdens, but also about federalism. It would be difficult to find a compromise.

Immediately after this vote, the Federal Council and parliament drafted a bill extending the transitional arrangement from the time of the war for another 4 years, until 1954. The people approved this with a clear majority. So time was gained for new proposals by the people. These followed quickly, and in no case did it take very long to collect the necessary signatures:

The PdA (Communists) came forth with a popular initiative which, for social reasons, aimed at a completely different direction. It contained the following key sentence: "The Confederation is not authorised to levy turnover taxes." The initiative received only 19 percent of ayes in the vote.

"Peace tax" – like this ...

In 1950, there was a war in Korea that threatened to escalate into nuclear war. Fears increased that tensions between East and West might get worse. The councils (Federal Council, National Council, and Council of States) decided on an ar-

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maments programme, and military spending doubled in the course of a few years. In addition, civil protection was to be massively expanded. The questions of financing remained open. The parties and the two chambers of parliament were not able to come to a mutual agreement. The Social Democrats spoke of a "peace tax" and meant a special tax on larger assets. As early as in 1941 and 1942, the Federal Council had charged large assets with a special tax in addition to the military tax – the "Wehropfer" ("military tax"). The bourgeois parties, on the other hand, proposed a surcharge on the turnover tax. The starting position was similar to that of the 1950 tax and finance bill: the Left stood for redistributive direct taxes, while the right went for indirect taxes.

In 1951, the SP launched the popular initiative "for the finance of armaments and the protection of social achievements". It demanded a one-off tax on assets for three years and a surcharge on the military tax. In Parliament, a counter-proposal prevailed that put more emphasis on the turnover tax. Therefore the people had to decide.

Noteworthy from this debate is the following episode: *Max Weber* (SP) was a member of the initiative committee and was later elected to the Federal Council.

As head of the Federal Department of Finance he had to represent the counterproposal of the Parliament in public. Everyone knew that his heart beat for the popular initiative and he was not a friend of massive rearmament. Weber had become a pacifist through the influence of *Leonhard Ragaz* and was strongly beholden to religious socialism. He had been sentenced to prison when he had refused military service. Nevertheless Parliament had elected him into the federal government. Weber campaigned for moderation in his own political party and emphasised time and again that the initiative "Peace Tax" has nothing to do with the SP initiative "For a one-time tax on wealth" from the year 1922 (which had been rejected with 90 percent of nays). And he was successful: The popular initiative was rejected, but with 44 percent of ayes. It received more votes than the parliament's counterproposal, which was also rejected.

... or differently

Shortly after this, a committee submitted another popular initiative in the form of a general suggestion. The Chevalier initiative also proposed a "peace tax": military spending was to be cut in half in the year 1955 and half of the money saved this way was to be spent on youth welfare services and cheap housing, and the other half on the reconstruction of war-devastated areas in the neighbouring countries. It was

one of the very rare cases in which parliament declared an initiative void because they argued that it violated the principle of "unity of matter" and was not practicable. (Hofer 2012)

At almost the same time, another initiative committee also launched a popular initiative in the form of a general suggestion: As public companies of municipalities and cantons such as the Cantonal Banks and the drinking water, electricity and gas supply companies did not have to pay taxes, they were to make a contribution to armaments financing. This would put them on equal term with private companies in regard to taxes. – The voters rejected this initiative as well.

No to the federal financial and tax regulations of 1953

In 1953, Federal Councillor Max Weber presented the second bill for a federal financial reform, which parliament had in the meanwhile elaborated. It had the following cornerstones: The financial system would be permanently anchored in the constitution. The maximum income tax rate for the Swiss direct federal tax would be raised from 9.65 to 15 percent. In return, the taxation of assets for natural persons was omitted. Furthermore, the turnover tax was included as an excise tax with a free list for essential goods. (Kölz 2004, Quellenbuch, p. 339) – It was a compromise, and all the major state parties issued the "aye" slogan. The bill was fought, especially by business committees, which still favoured indirect taxes. In their eyes, the bill went too far, and Max Weber had given it a socialist character. – With a high voter turnout of 60 percent, the bill was rejected by 58 percent of voters and by most cantons. Federal Councillor Max Weber was very disappointed and resigned on the voting day, which is unusual in Switzerland, because defeats in the vote are not uncommon and the federal councillor concerned is not blamed, since the Federal Council is a collegiate body. Six years followed without any Social Democrats in the government.

Instead of what had been proposed, the people immediately thereafter extended the transitional regime for federal taxes until 1958. So time was gained again for new proposals. There were indeed proposals, but these did not target tax revenue, but expenses of the federal government.

Federal financial referendum – Yes or no?

As early as 1953, two popular initiatives had demanded that it was not enough for the people to determine federal taxes, but that they should also keep an eye on the ever-increasing expenditure of parliament

Proven financial referendum in the cantons

Although this topic is discussed time and again in the two chambers of parliament, and there are even motions submitted, the federal government has until today known no actual general financial referendum. In 1987, the sovereign rejected a referendum aimed at putting arms expenditure under the optional referendum in general. Nevertheless, there were individual federal votes – as was the case twice when it was about the purchase of combat aircraft (FA 18 and Gripen). This was not just about national defense issues but also about money. If parliament agrees, there will soon be another financial vote, because the Federal Council wants to spend nearly a billion francs on the "Sion 2026" (Winter Olympics) project. Today, the debt brake commits parliament to make sure that federal spending does not get out of hand. By contrast, all cantons and many communities have known the direct control of expenditure by the people for a long time and have been practising it – combined with a debt brake provision – successfully till this day. The large canton of Zurich, for example, introduced the compulsory finan-

cial referendum into its constitution as early as 1869. One-off expenses of more than 250,000 francs and recurrent payments of more than 20,000 francs were automatically voted on. (Kölz 2004, Quellenbuch, p. 68) This procedure proved itself in practice. A large number of financial votes followed. Sixty years later – in 1929 – the amounts (which trigger a vote) were increased because expenditure had risen sharply: Now it was 500,000 francs for one-off and 50,000 francs for recurring expenditure. During this long period the canton was largely debt-free, except for the time of the World War. (Guggenbühl 1936) Today, the canton of Zurich has 1.4 million inhabitants, and only the optional financial referendum is left. One-off expenses of more than 6 million and recurrent payments of more than 600,000 francs will be voted on, if 3,000 voters demand that this be done. (Cantonal constitution of 2005) The city of Zurich with its 400,000 inhabitants still has the obligatory financial referendum: one-off expenditure of over 20 million and recurring expenditure over 1 million is voted on automatically.

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and administration – in order to be able to intervene if necessary. A majority in the federal councils took a positive attitude to the proposal but worked out a counter-proposal. This provided for submitting a one-time expenditure of more than 10 million francs or a recurrent expenditure of more than 2 million francs to the optional referendum, so that the signature of 30,000 citizens would then lead to a vote.

The two initiatives committees mentioned above were satisfied with this proposal and withdrew their initiatives. – Therefore, only the counterproposal was submitted to the vote in 1956. The sovereign surprisingly said no to the optional federal financial referendum.

A first résumé

Nobody likes to pay taxes. But if the people are really convinced that a tax is reasonable, they will consent. This became clear in 1915, when the people agreed to the "war tax" with a record of more than 90 percent of ayes, or with the over 80 percent of ayes for the 1938 "crisis levy". But in peacetime, the people are critical of providing politicians with even more money than before.

In no other area of law the sovereignty of the people is writ as large as when it comes to taxes. It is true that in the 1950s popular initiatives were – in contrast to today – mostly rejected in the referendum, or they were previously withdrawn in favour of a counter-proposal drawn up by parliament. But they always had an influence on politics, and the eagerness to collect signatures never flagged. This was only possible because the post-war generation was able to build on their experiences made in the difficult times before and during the Second World War.

When it came to demanding tax issues in the years following the Second World War, the cooperation between people and authorities was so lively and worked so well, that one can speak of a real boom of direct democracy, even at the federal level. This would not have been possible without the willingness of parliament and government to listen to the signals sent out by the people and to draw up mediating counterproposals. Unfortunately, signals from Brussels often cause discordance today.

It is true that direct democracy takes time, but the legal system thus decided is many times more legitimate and rooted in the population than if only representatives of the people in parliament pass a law. And it helps to overcome antagonism in the population, because the citizens are involved in considering questions and in taking over responsibility for their political system at all its levels. This helps to

maintain cohesion and social peace – especially when it comes to issues as pivotal as are taxes and finance.

Yes to the 1958 federal financial reform – yes to today's regulation

In the third attempt, the voters approved the new federal tax and financial regulations, which are basically still valid today. Previously, two other popular initiatives had been submitted: the Lucerne Initiative launched by circles from the FDP (Free Democratic Party) and another SP initiative. These clarified the respective, already known, points of view. (Hofer 2012) The Federal Council and parliament once again faced the difficult task of drawing up a counter-proposal that would address the concerns of the people and, as a compromise, have a good chance in the vote. As was often the case during these years, the people's representatives in parliament succeeded in bringing it off. Both popular initiatives were withdrawn, and only the counterproposal drawn up by parliament was put to the vote. On 11 May 1958, the people gave it a clear aye, and most of the cantons also agreed.

Key points

The long-term provisional regulation was over, and in the constitution, the federal government was given the power to levy taxes. These were primarily the goods turnover tax WUST, with a free list of essential goods – as of 1995 the MWSt (VAT) –, and the military tax (which was renamed the direct federal tax in 1982), and which is collected for the federation by the cantons. This is composed of a highly progressive income tax with a high tax deduction for low-income earners and of a profit and capital tax for companies. But there was then – as still is today – no wealth tax for natural persons. Private assets are taxed exclusively by the cantons and by the municipalities. Other important sources of revenue for the federal government were and are customs duties, the capital gains tax, the stamp duty, alcohol and tobacco taxes, and taxes on crude oil and its products. The new federal financial regulation entailed the obligation to debt reduction and a fiscal equalisation scheme between the cantons. And it comprised two peculiarities that strengthened the position of the people and of direct democracy.

Maximum rates and time limitation in the constitution

The upper limits for goods turnover tax/VAT and for the military tax/direct federal tax are written directly into the constitution. In the financial regulation of 1958 this was put down as follows: "[...] the tax on the income of natural persons is calculated according to a progressive tar-

iff and may not exceed 8 per cent of the total taxable income"; and for the turnover tax: "[...] in case of detailed deliveries the tax may not exceed 3.6 per cent, and for wholesale deliveries 5.4 per cent." (Kölz 2004, Quellenbuch, p. 352)

This regulation accords the sovereign a strong position. If the Federal Council and Parliament want to raise taxes, they must change the Federal Constitution, and therefore that kind of vote will be obligatory in which not only the popular majority but also the majority of the cantons is required. Federalism is protected because the majority of today's 26 cantons must agree, and in this way, populous cantons cannot overrule the small ones. This still applies today.

Furthermore, the federal financial regulations of 1958 were limited to 5 years. The basis for levying taxes would change constantly and would therefore also have to be checked periodically, so that every few years a new vote would be needed. – That is also still true today, although the periods of time between the votes have been extended. They were initially 5 years, then 10, later 12 and today 14 years. The last vote on today's federal financial system as a whole was in 2006, so the next one will follow in 2020.

These obstacles to the federal government's raising taxes will continue. But Parliament feels uncomfortable with them and therefore attempted several times to reduce or abolish them (in 1970, 1977, 1979 and 1991). Without success – the sovereign rejected what would have entailed its own disempowerment. For example, it would have been possible to anchor the maximum rates not in the constitution but in a federal law. In that case, Parliament would have been able to raise taxes, and a vote would not automatically have followed; it would only have been made necessary by the request of 50,000 voters.

The interaction with the people works well

A whole series of tax referendums followed from the seventies onwards. The financial needs of the federal government had risen for various reasons. The boom was nearing its end and tax revenues declined. In 1972, more than 70 percent of the people approved the Free Trade Agreement between the EFTA States and the EC, which still applies today. This caused import tariffs to drop sharply, so that it became imperative to levy new taxes to compensate for these losses.

In 1974, the Federal Council requested higher rates for both the turnover tax (from 4.4 to 6 per cent) and the military tax. The maximum rates on income for natural persons were to be increased from

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9.5% to 12% and the profit tax for legal persons from 8.8% to 10%. However, the Federal Council and Parliament largely refrained from compensating for the cold progression, as had been demanded by many parties. That was a mistake.

Cold progression may be explained as follows: At that time there was an inflation of about 10 percent. Many taxpayers were therefore given an annual cost-of-living-related salary increase by their employers. Their income therefore rose by 10 percent, without their having any more real purchasing power. Yet the tax authorities put them at a higher stage of progression, and they paid more taxes even though their financial situation had not actually improved. That was unfair. And because of this the sovereign said a clear Nay to the Parliament's tax bill on 8 December 1974.

Federal Council and Parliament responded quickly, because additional revenue was urgently needed. They corrected the bill, offset the cold progression better and increased tax rates more moderately than before – and in 1975 the sovereign agreed.

Introduction of the VAT – a difficult struggle

Things became more difficult when it came to the introduction of the VAT. In 1968, the EC countries switched to a VAT, and standardised it in 1977. The EU has a minimum rate of 15 percent. Most countries have a rate around 20 percent today.

In 1977, the Federal Council and Parliament made a first attempt to convert to VAT at a standard rate of 10 percent – coupled with a list of essential goods that would be wholly or partially exempted from this tax. They expected additional revenue of several billions, because the new tax covered not only the consumption of goods, but also services and investments. – But the people said a clear Nay to the submitted bill. Especially the SMEs were afraid of the additional bureaucracy to be expected. In addition, the 10 percent demanded were clearly too much (today's rate is 8 percent). The majority of those in favour were export-oriented companies, because they would have been allowed to deduct the VAT on investment as an input tax.

Just two years later, the second attempt followed – this time with a lower standard rate of 8 percent. In addition, Parliament proposed that the direct federal tax should no longer be limited to a certain time but instead be introduced permanently, and that its maximum rates, which were fixed in the constitution, should be increased. The ballot showed a very clear result with 65 percent of Nays, and also almost all

cantons voted against. The goods turnover tax WUST was to remain in force for another 15 years.

In 1981, Parliament once again extended the federal financial regulations by 10 years, increased the standard rate of the goods turnover tax from 5.6% to 6.2% (the Federal Council had requested 6.4%) and lowered the direct federal tax slightly. The sovereign agreed significantly with 69 percent. All cantons were in favour. Here, everything was simply right.

The VAT is rejected a third time

In 1991, ten years later, Parliament renewed the federal financial regulations (which were to expire in 1994) and made a third attempt to introduce a value added tax, with a standard rate of 6.2 percent, as with the turnover tax. In connection with this, the time limit for both federal taxes was to be lifted, plus parliament was to have the competence to raise the VAT rate by 1.3 percent, if needed in order to secure the AHV. – The people's Nay was no surprise. This happens time and again when too many different questions are put together in one referendum draft (as in the recent vote on the pension reform).

Three more votes lead to a Yes for today's VAT

In 1993, the Federal Council and Parliament had obviously learned, and adopted a different course of action. They prepared a referendum with 4 separate proposals:

1. The VAT will be introduced at the standard rate of 6.2 percent, and the time limit for the VAT and the direct federal tax will be extended until 2006.
2. If the first bill is accepted, the standard rate will be increased by a maximum of 0.3 percent – as a contribution to the "recovery of federal finances".
3. Parliament has the competence to increase the rate of VAT by 1 per cent if necessary to secure the old age and survivors' insurance AHV, subject to the optional referendum.
4. The mineral oil duties are converted into excise duties (taxes on fuel and heating oil).

This time the questions were clear and well founded. The people would be able to accept or reject any of the individual parts. It clearly agreed with all four proposals – with three of them even by over sixty percent. (Kölz 2004, Quellenbuch)

Recent tax referendums

In 2006 the people once again confirmed the Swiss financial legislation in its entirety and prolonged its validity until 2020. As a new amendment the competence to use value-added tax (VAT) money to reduce insurance rates of health care providers was included. In 2009 the people approved an initiative which allowed to



*Vote in 1979 on VAT introduction.
(picture Historical Dictionary
of Switzerland)*

increase the VAT by 0,3% to 8% for up to 7 years for the specific reason to consolidate the insurance of the handicapped ("Invalidenversicherung") called IV. The most recent referendum concerning the VAT took place on 24 September 2017. The people rejected the proposed reformation of the pension scheme which would have meant to divert the 0,3% from the IV to the AHV. Another 0,3% increase would have brought the VAT to 8,3%. The proposed initiative also entailed an increase in the retirement age from 64 to 65 years for women, an increase of new pensions by 70 Swiss francs, an increase of AHV insurance rates and a change regarding pension schemes. In this situation the negative result should not come as a surprise. There is always a risk that people vote No against complicated initiatives like that if they don't endorse just one of the proposed changes.

Tax federalism versus "one-size-fits-all"

Swiss tax legislation is highly heterogeneous, reflecting federalism. Both autonomous municipalities and the 26 cantons compete with each other in a tax rate contest. This competition reflects heterogeneity in a federalist system but has also been challenged in many discussions over the years. Unequal preconditions are alleviated by a financial redistribution mechanism between the cantons and within each one of them. In the 1970ies several proposals were made with the aim to standardize the system.

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In 1973 the political party LdU (*"Landesring der Unabhängigen"*, founded by *Gottlieb Duttweiler*, the Patron of *Migros*) launched the people's initiative "For a just taxation and abolition of tax privileges" as a so-called common suggestion. The aim was to introduce a standardized taxation system throughout Switzerland. The cantonal tax was to be replaced by a federal tax on income and fortune of natural persons as well as a tax on profit and capital of enterprises, thereby reforming the entire Swiss taxation system. Cantons and municipalities would have received their shares from this federal tax. The initiative had proposed a financial compensation mechanism which would have been easy to incorporate into this system. The initiators wanted to standardise the inheritance tax as well. However, numerous opponents of the initiative accused the proponents to ignore the federalist structure of the Swiss state and plot to introduce a centralistic system. A strong majority of the electorate and almost all cantons rejected the initiative. (Kölz 2004, Quellenbuch, p. 423)

Preserving the federal character of taxes had been more important for the citizens than "more justice". This didn't solve the question of tax harmonisation for good, though. Parliament came forward with a proposal to render taxation formally more compatible (by introducing a standardised tax period of one year in all cantons, for instance) in 1977 – one year later. That way the cantons became more similar in their taxation systems without abolishing all differences, which would have been the end of tax competition. This proposal convinced the people, and the sovereign approved it with a clear margin of 60%.

Freedom beats "Justice"

For more than 100 years the question of tax equality has come under scrutiny time and again. Progressive taxation, affecting big fortunes of the wealthy with a higher percentage, is an important tool for social justice. However, in 1977 the electorate rejected a peoples' initiative put forward by the social democrats under the title "Tax the Rich (Für eine Reichtumsteuer)", which had proposed interference with cantonal tax sovereignty. It contained the following crucial sentence: "The federal government provides for all incomes above 100,000 francs to be subject to a standardized minimal tax throughout Switzerland." (Kölz 2004, Quellenbuch, p. 462) This was neither the first nor the last time that a tax against the wealthy was rejected. Almost 40 years later, in 2014, the peoples' initiative of the SP "Stop tax privileges for millionaires (Abolition of

tax without progression throughout Switzerland)" was rejected by 59%. (Shortly prior to that the people of the canton Zurich had abolished this tax which leaves income and wealth of wealthy foreigners, who move to a Swiss municipality to spend their old age there, without a normal taxation.)

In 2015 the initiative for a new federal tax, proposed to tax "millionaire inheritances" both uniformly and retrospectively was rejected by more than 70%. Over recent years most cantons have abolished inheritance taxes for direct successors and spouses because the inherited income and wealth had already been taxed before within the family.

Today the SP collects signatures for a people's initiative proposing to tax incomes from work and capital differently. Interest and dividends above a certain exemption amount would be subject to a tax increase by 50%. This tax would apply to the "super rich" (1 percent) only. This initiative is problematic, since again it would interfere with cantonal tax sovereignty. A majority of the electorate regard progression as it exists now in municipal and cantonal taxes as sufficient for social equalization, therefore this initiative will presumably end in the same way as similar ones in previous years.

Financially autonomous municipalities – a jewel of direct democracy

Tax burdens do differ a lot between some of the numerous communities and between the cantons, too. The manifold debates have shown, however, that the people don't perceive this fact as a grave problem but rather accept it as part and parcel of federalism, even more so since it is alleviated by the financial transfer. In particular the autonomy of municipalities is something special: autonomy means that citizens decide about what kind of tax they need to pay and with which tax rate, then pay the tax, decide on how to spend the money and benefit from the investments all in one person. They themselves are also responsible for debts since nobody would be there to bail them out – not even the canton. Leukerbad, for example, was one of the few communities who had spent more than they could have afforded, and their debts amounted to about 300 million which they had used to transform themselves into a more mundane spa. Soon enough they could no longer pay their bills. The canton Wallis did not bail them out and the banks lost a big proportion of their loans. This made them a bit more cautious in their lending policies. (The EU could learn a thing or two from this case.) People's initiatives demanding material tax harmonization and questioning the traditional principle of autonomy and self-responsibility for the sake of

"more justice" have always been rejected to this day.

How the debt brake came into being

Looking at the numerous people's referendums concerning federal taxes and the fact that many of them were rejected by the sovereign in the second half of the 20th century one might be drawn to the conclusion that direct democracy cannot work that way and the federal government inevitably will amount debts in order to keep functioning. This was not the case. On the contrary – towards the end of the 1980ies the federation was basically free of debt. While the federal debt had been about 100% of gross domestic product (GDP) after the war it had fallen to 30% by 1990. The federation had surplus incomes often enough to repay their debts.

It didn't stay like that. The last decade of the 20th century saw a massive increase of federal spending, deficits in unheard-of figures accumulated – up to 10 billion francs per year. Older citizens may have regretfully looked back at the year 1956 when they had rejected the financial referendum on the federal level which would have secured them direct control of federal spending. Federal debt had been 30 billion in 1990, in just 10 years this had grown to more than 100 billion. While that was still relatively low by international standards, the population was not used to it and found it disturbing.

There were several reasons for this explosion in spending. The economy was in stagnation. More importantly, however, spending discipline of the parliamentarians had deteriorated over these years. Again there were several reasons for that: the atmosphere in Berne, the federal capital, may be described as a EU euphoria in those times – in both parliament and government. The federal government had applied in Brussels to join the EU and confirmed their long-term ambition to lead Switzerland into the EU even after the people had voted No regarding the European economic area on 6 December 1992. Brussels had been upgraded massively as the European power center in these years. Debts of most EU member states were considerably higher than those of Switzerland, with rising tendency. Presumably federal Bern was infected by this mindset to a certain extent. Moreover, administrative bubbles were groomed – in the cantons, too – and the parliaments did too little to stop it. Since 1990 the number of state employees has actually doubled. This new trend was bound to contribute to financial problems.

While all state debts amounted to 30,9% GDP in 1990, this number had risen to 53,8 % already in 2002. This was driven mainly by federal debt which had

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increased by 153% in this period. Debts of the cantons had risen by 92% and those of the communities by only 11%. This put the federation into the focus of scrutiny (Kirchgässner 2004, data of federal administration and the Swiss statistical annual report)

Alliance with the people

Bundesrat Kaspar Villiger, who was in charge of the department of finance then, didn't like this development at all, but in the first half of the 1990ies his position was challenged in parliament. He blew the whistle and turned to the people for support. In Villiger's view the main problem was the discrepancy between federal spending being issued by parliament while the people decided on how much tax money would be there to be spent. That way situations could arise, Villiger argued, when the electorate cut down on the tax money flowing to federal Bern but parliament kept spending as happily as before. For the national exhibition *Expo.02*, for instance, 100 million francs of tax money had been planned and agreed upon in the budget, but the government ended up spending 1,6 billion for it. Therefore, Kaspar Villiger emphasised, institutional "crash barriers" and automatic saving mechanisms were required to solve this problem. Villiger acted as follows:

In a first step he drafted a saving program, rooted in the provisional amendments of the constitution: government ("Bundesrat") and parliament ("Nationalrat") were to reduce annual new debt to 4 billion francs by 1999 and achieve a debt free budget by 2001. He succeeded in convincing a majority of the MP's so that parliament not only approved his draft but even issued it as urgent legislation. That meant that a peoples' referendum had to follow, because whenever parliament issues an emergency amendment to the constitution, this becomes law immediately, but has to be confirmed by the electorate within 12 months. Especially the Left opposed this move and referred to it as "saving hysteria". They accused Villiger of plans to starve the state to death. A majority of the people as well as all cantons had a different view and approved the saving plans with 71% in 1998.

Federal budget within firm crash barriers

In his second move Kaspar Villiger planned to have rules for a balanced federal budget not only written into provi-

sional legislation but to make them constitutional for good. The so-called "debt brake" would make it legally binding for the federal government to have their budget in balance between spending and tax money – a mechanism similar to what was already practiced in most cantons. This time the approval rate in the peoples' referendum was 85 percent.

Thanks to the debt brake Switzerland has successfully stabilized her federal debt at the same level to this day, and in some years even reduced it. The debt rate decreased again from 50 to about 40 percent GDP. EU legislation requires membership candidates to have 60% in their Maastricht criteria, a figure which only very few countries actually achieve. We don't have lower debts because we are a wealthy country, more likely it is the other way around.

Retrospective and outlook

It has been analyzed very well on all levels of the state how direct democracy influences tax and financial issues and the experiences are doubtlessly positive – including economic growth (Kirchgässner 1999 and 2004, a. o.).

Critics of direct democracy like to claim that especially financial and economic decisions were far too sophisticated and complicated for lay persons to understand, let alone decide upon them. Sure enough, they are quite often complicated. However, even in the area of federal finances this direct-democratic or half-direct-democratic system has been working quite well for more than 100 years now, and the federal government has never run out of money. The claim that this principle will function only in small entities like villages or small cantons has been proven wrong. Time and again peoples' referendums have produced surprisingly sustainable results – perhaps this is the case precisely because the citizens are no experts in economy.

Just to mention the tax burden in Switzerland in comparison to other countries: throughout the second half of the 20th century the so-called fiscal rate, a denominator of the overall tax burden of the population, has been consistently below OECD average by 5–10%. It is also noteworthy that maximal rates of income and wealth taxes, if fixed in a direct-democratic process, are much lower than those of neighbouring countries such as France, which leads to tax evasion in some instances.

In a freedom-loving democracy which deserves the name financial debates are

not just about money but most of all about definition of the state. This becomes apparent in the recent debates about secrecy for bank customers. After a lot of political pressure from the USA, the OECD and the EU it has been abolished in Switzerland for foreign customers. A peoples' referendum currently in preparation wants to strengthen this right for Swiss citizens and make it constitutional. There had been an initiative forwarded by the social democrats who wanted to get rid of this very bank secrecy in 1984 but failed in the referendum. Somebody not accustomed to Switzerland might conclude that the Swiss prefer to hide their money in the banks to avoid taxes. Again, this is obviously not true. Bank secrecy, which is limited by the relatively high tax of 35% for interest and dividends at present, is just one aspect of the relationship between the Swiss tax payer and his or her community, canton and country. The Swiss are no subjects of their state, who require surveillance, but citizens sharing responsibility on equal footing, who decide on tax rates, pay the taxes and benefit from public services such as schools, hospitals, health insurance and pension schemes all in personal union.

One concluding remark on the EU: were Switzerland to join them the VAT would have to almost be doubled in order to fulfil the criterion of 15% minimum. Apart from all other disadvantages this would screw up the finely adjusted financial and tax system completely, toppling the achievements of countless referendums on all political levels. – This would certainly be negligent. •

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