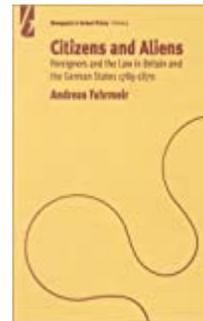




Andreas Fahrmeir. *Citizens and Aliens: Foreigners and the Law in Britain and the German States 1789-1870.* New York/Oxford: Berghahn Books, 2000. 258 S. EUR 47.00 (gebunden), ISBN 978-1-57181-717-4.



Reviewed by Eli Nathans (Department of History, Albion College)

Published on H-German (June, 2003)

Political Culture, Economic Circumstances, and National Interests: State Policies and Foreigners in Germany and Britain, 1789-1870

Political Culture, Economic Circumstances, and National Interests: State Policies and Foreigners in Germany and Britain, 1789-1870

Were early nineteenth-century German states “parochial, xenophobic [... and] despotic,” or did they share in significant ways the liberal aims of important parts of German society and of at least a few other European states (pp. 209- 10)? This is one way of phrasing the central question Andreas Fahrmeir attempts to answer in his detailed comparison of the British and German states’ treatment of foreigners.[1] Fahrmeir compares the practices of the German states to those of Britain primarily because, as he puts it, Britain “has been most convincingly described as a state with a very liberal immigration policy” (p. 6). Britain serves as a yardstick by which he judges Germany. On the other hand, Fahrmeir also takes into consideration the different circumstances of Britain and Germany. The policies adopted on either side of the channel can be understood and compared only if one also weighs the different “migration patterns and economic climate in both areas” (p. 53).

The study first examines how Britain and the German states determined which individuals should be considered citizens or subjects (or state members—in Germany especially the terminology varied) without any affirmative action on their part. The book then turns to naturalisation policies, that is, whether and how individuals who were not considered simply by the action of the law to be citizens might be granted citizenship on an individual basis. The next chapters examine the use of passports to control movement and the legal treatment of resident aliens. Given the complexity of the subject, simply explaining the policies of the different states in a coherent way is a significant accomplishment.

Fahrmeir concludes that British and German citizenship and naturalisation policies were often not as different as many have assumed (pp. 52-54, 210). And policies that were on the surface quite different often ended up having similar effects. Thus, Fahrmeir minimizes the significance of the fact that Britain granted citizenship to second generation immigrants upon birth in the country, while German states generally applied

no such rule. In both Britain and Germany “citizenship legislation had a tendency to turn immigrants into citizens relatively quickly. In Britain, everyone born in the country was a British subject. In German states, immigrants would probably be naturalised implicitly after an extended period of residence [...]. Even though technically the place of birth had no influence on citizenship in German states, it was still unlikely that two or more generations of an immigrant family would remain aliens” (pp. 52-53). Among the other similarities that Fahrmeir stresses are that both Britain and Germany assigned little significance, in the making of naturalisation decisions, to “membership [in] an ethnic community,” (p. 53) although it was true that in Germany members of “certain religious groups had little prospect of becoming naturalised [...] namely Jews [and] Mennonites” (p. 93). He suggests that it was more difficult for first-generation immigrants to be naturalised in Britain than in Germany (p. 53), although the significance of this claim is rather diminished by the fact that, as he also notes, Britain in general did not deport or in other ways significantly penalize resident aliens.

With respect to foreign visitors and resident aliens—i.e., individuals who did not become citizens—Fahrmeir concludes that there was no question that Britain was far more liberal than the German states. He first examines the laws that governed the rights of foreigners to enter and reside in each state. “The passport legislation of German states,” Fahrmeir writes, “rested on the assumption that foreigners had no right to enter any country other than their native one. Therefore, all travelers required permission to visit foreign states. This permission could be revoked by the police at any time” (p. 107). In Britain, by contrast, entrance to the country was virtually unimpeded between 1826 and 1905 (p. 130). Not even a visa was required. Fahrmeir suggests, however, that the need to pay for passage across the channel and the many strictures imposed by the Continental states served in practice to protect Britain from unwanted guests. “The prevention of the immigration of paupers and of politically suspicious persons was in effect handed over to Continental powers by the British government” (p. 131). German states generally provided no safe havens to draft-dodgers. Britain, which had no conscript army, did not repatriate such persons, although deserters from foreign ships might be surrendered (p. 183). German states deported unwanted foreigners on a massive scale. For example, Bavaria, with a resident alien population that Fahrmeir estimates amounted to no more than 100,000 persons, deported no fewer than 5,000 aliens every year

between 1836 and 1850 (pp. 76-77, 191). And these were only the deportations for vagrancy—statistics on deportations made on other grounds were not kept. Between 1824 and 1905 Britain deported no aliens, although Fahrmeir notes that it did deport tens of thousands of Irish to Ireland both before and after the potato famine (pp. 190-95, 212-13).[2]

Britain also granted long-term resident aliens far more rights than was the norm in Germany. “The general assumption in German states was that foreigners did not have rights, only privileges which could be withdrawn at any time. In Britain, the prevalent opinion in government and Parliament was that all persons had equal rights, unless there were explicit laws to the contrary” (p. 152). One of the few such laws, repealed in 1870, prohibited foreigners from owning real property (p. 179). “In Britain [...] very few occupations were closed to foreigners because of their nationality” (p. 163). British liberality even extended to those foreigners who became impoverished. “In all German states, foreigners were excluded from public poor relief. Applying for poor relief as a foreigner was tantamount to signing one’s deportation order[...]. In England, Scotland, and Ireland, by contrast, foreigners were considered ‘casual poor,’ and had a right to relief wherever they happened to be” (p. 171).[3] While in Britain aliens and citizens were taxed at the same rate, in the German states foreigners were subjected to a range of special taxes (pp. 174-75). Until 1870 British criminal law even granted foreign defendants a right to a jury composed of six aliens and six British subjects, to minimize the possibility of prejudice (p. 180).

Fahrmeir’s study responds in various places to questions raised in another comparative work on German citizenship policies, Rogers Brubaker’s *Citizenship and Nationhood in France and Germany* (1992). He claims that German citizenship and naturalisation policies were moderately liberal in the first two thirds of the nineteenth century challenges Brubaker’s assertion that the leitmotif of German citizenship policy, at least from the 1820s, was closure against outsiders. “The state response to the interstate mobility of the poor, like the communal response to their intercommunal mobility, involved closure against nonmembers and the restriction of access to membership.”[4] He does not deny that German states systematically deported unwanted—usually poor—aliens, but he does take issue with Brubaker’s suggestion that hard-hearted state policies led hundreds of thousands of Germans to lose their citizenship when they moved from one German state to another. However, Fahrmeir argues that while many state laws deprived subjects of citizen-

ship upon emigration, *de jure* or *de facto* emigrants either retained their previous citizenships or acquired new ones. Statelessness was not a significant problem for Germans.

Brubaker focused on the Prussian citizenship law of 1842 as the paradigmatic expression of pre-1870 German citizenship policies. The 1842 law made Prussian citizenship (or, more precisely, status as a subject) turn on descent, and excluded domicile as an independent factor. As Brubaker put it, “membership was no longer simply a reflex of residence. Defined independently of residence, state-membership could now serve as an instrument of closure against the migrant poor.”[5] Fahrmeir instead emphasizes the significance of the bilateral treaties governing deportations entered into by the different German states. These treaties provided that each contracting state could expel to another state only individuals who were state members, *Staatsangehörige*, of the other state. What kinds of attachment led to state membership were defined in the treaties: birth to a subject, birth in the state if otherwise stateless, long-term residence, and independent economic activity and marriage, were among the factors that established *Staatsangehörigkeit* in a state.[6] Fahrmeir claims that the deportation treaties, most of which dated to the late 1810s and early 1820s, remained until the 1850s the fundamental basis of German citizenship. And the treaties mandated a significant degree of openness to outsiders, he suggests, because they granted citizenship, or what Fahrmeir calls implicit naturalisation, to long-term residents who could not be expelled. “It was not true,” writes Fahrmeir, “that the existence of state legislation on citizenship [such as the Prussian law of 1842] necessarily introduced a split between citizenship and the right of residence” (p. 37).[7]

As this description indicates, Fahrmeir’s account also challenges Brubaker’s assertion that only the granting of citizenship automatically, by the operation of law, and not by naturalisation, is historically significant. In Brubaker’s words, “ascription constitutes and perpetually reconstitutes the citizenry; naturalisation reshapes it at the margins.”[8] Fahrmeir devotes a chapter to a comparison of British and German naturalisation policies. He shows that the rate of naturalisation in the German states was in fact almost certainly significantly higher, taken as a percentage of the resident foreigners, than in Britain (pp. 76-77). “From the immigrants’ perspective,” writes Fahrmeir, “the ease of access to naturalisation made a substantial difference” (p. 63). There can be no doubt that Fahrmeir’s work significantly undermines Brubaker’s overly general statements regarding the mod-

est significance of naturalisation policies.

Fahrmeir’s critique of overly simple claims regarding German xenophobia and authoritarianism does not stand alone. And one need not look back twenty years or more, to the classic works of the Sonderweg debate, to find original and thought-provoking books on this subject. One thinks, for example, of Alexander Schmidt’s *Reisen in die Moderne*, which found that the reactions of German visitors to the United States did not conform to stereotypical views of the German *Bürger* as illiberal. The travel reports, Schmidt found, “run decidedly in a different direction” (“liegt ... eindeutig quer”) to negative generalizations which suggest that the German *Bürger* was authoritarian and closed-minded.[9] Another example is Till van Rahden’s study of relations between Jews and non-Jews in Breslau. Van Rahden emphasizes the ways in which Jews were included in the confessionally mixed society of Breslau in the period he studies. He concludes that most social organizations accepted them as members, that there was no “structural discrimination” in schools, and that intermarriage rates showed that contacts in the private sphere of life were frequent. He also asserts that Breslau officials usually supported the naturalisation of Jewish aliens who did not pose a threat to the local poor chest.[10]

Fahrmeir’s work extends the general argument Schmidt, van Rahden, and other critics of the Sonderweg thesis make back from the Kaiserreich to the first half of the nineteenth century, and from German society to the German states. Despite their participation in Metternich’s system of reaction, Fahrmeir argues, German states were influenced by the prevailing liberal climate of elite opinion and also, as he notes, continued traditions of absolutism that could be characterized as liberal (p. 17). This claim clearly has a great deal of merit. It was one of the premises of Reinhart Koselleck’s classic study of pre-1848 Prussia, *Preussen zwischen Reform und Revolution*. Mack Walker’s *German Home Towns* makes claims of the same type with respect to the South German states, although the South German states were generally less liberal, in the Hegelian sense, than Prussia.

Fahrmeir’s work must also be set in the context of other books, published after his study appeared, that focus or touch on German citizenship policies. Dieter Gosewinkel’s *Einbürgern und Ausschließen* (2001) and Patrick Weil’s *Qu’est-ce qu’un Français?* (2002) are both significant contributions to the larger field. Gosewinkel and Weil are also critical of Brubaker’s claims regarding the especially xenophobic character of German cit-

izenship policy, but both emphasize far more than does Fahrmeir the significance of the Prussian citizenship law of 1842. Weil attacks Brubaker's claim that the principle of descent was somehow especially German by showing that the French Civil Code contained the same principle. He claims that Prussian lawmakers in fact simply copied the French legislation. Gosewinkel sees the significance of the 1842 Prussian citizenship law largely in its contribution to the development of a modern state, an institution that replaced the arbitrariness, legal fragmentation, and status based policies of the early modern era with clear, predictable, uniform legal rules. In Gosewinkel's telling the 1842 law became from the date of its enactment "the dominant standard for all questions relating to the acquisition and loss of citizenship."^[11]

Undoubtedly there was a tendency, as Fahrmeir claims, for German states to give full citizenship, over time, to immigrants they could not deport. They had an interest in seeing that immigrants became economically self-supporting, and, if male, were subject to conscription. There probably also was a tendency to consider the deportation treaties as a kind of general citizenship code. As stated in an internal memorandum of the Prussian Interior Ministry and Foreign Office from 1833, regarding the general subject of a new citizenship law for Prussia, "if the [deportation] treaties slowly become accepted by an ever greater number of states, in this way a general law [governing citizenship] will be created for the entire German Bund."^[12]

Nonetheless, it is very much to be doubted that the treaty network led, as Fahrmeir claims, to the "automatic acquisition of citizenship which took place according to fixed rules" (p. 63), in the sense that it led to anywhere near the kind of legal security for aliens that existed in Britain. After all, the purpose of the treaties was not in the first instance to ascribe state membership, but to facilitate deportations, the forceable removal of individuals from their places of residence. If someone could not be deported from country A to country B, he or she still might be deported to country C, especially if countries A and C did not have a deportation treaty. Many resident aliens in Germany, including those who could not be deported, remained at the mercy of local and state authorities for much of their lives. And this authority was often wielded in a way that was oppressive. Gosewinkel suggests that the deportation treaties may have led to an increase in deportations, for at least some states sought to deport foreigners before the terms of the treaties made such expulsions difficult or impossible.

But there are a range of reasons one might doubt that the treaty network worked as smoothly as Fahrmeir suggests, even before 1842. Fahrmeir writes that "by the 1820's, the web of deportation treaties, which amounted to citizenship codes for German states, covered the entire German Confederation" (pp. 31-32). Yet the most that current literature permits one to say is that deportation treaties existed between many German states. Prussia entered into deportation treaties with half a dozen other states for the first time in the late 1830s.^[13] The fact that Prussia—one of the most energetic and powerful German states—had failed to establish a complete set of such agreements suggests that many other states probably were in a similar or even less clear position. Second, those treaties that did exist often did not operate smoothly. During debates on what became the Prussian citizenship law of 1842, one Prussian official commented that "the question, whether someone is a Prussian subject, arises in the administration on a daily basis, and leads to the most difficult debates, because there are no authoritative guidelines that determine how the relevant qualities are to be recognized."^[14] Had controversies not arisen with some frequency, the Prussian foreign office would likely not have invested the time and energy required to revise its existing treaties in 1839 to, as the revisions explicitly put it, deal with unresolved issues, and also to provide for binding arbitration in the event that the states could not agree on a resolution.^[15] Third, there is the evidence of particular cases where the treaty network failed to identify a home for an individual (or where, perhaps, there was no treaty). It simply is not the case, as Fahrmeir claims, that in the period between the early 1820s and the early 1840s there was only one case that "could not be resolved within the framework of the existing treaty system" (p. 33). The Diet of the German Bund heard half a dozen appeals by stateless individuals in search of a home—any home—because the states could not agree among themselves about their citizenship. That the facts behind some of the appeals reaching the Federal Diet must have been quite common (an 1839 case, for example, involving a servant who had lived for eighteen years in Frankfurt and lost her previous citizenship) suggests that they were not exceptional.^[16]

It is also far from clear that the deportation treaties really did amount to citizenship codes, in the sense that they served to give non-deportable individuals the rights and sense of security of the other citizens of the countries in which they were living, at any rate without a very extended delay. Fahrmeir suggests that "any citizen of a German state who lost his or her citizenship by

emigration gained another citizenship by implicit naturalisation elsewhere” (p. 29). “The provisions of the deportation treaties assigned full citizenship to those persons who could not be deported, and did not merely turn them into aliens with a permanent residence permit, who remained subject to other legislation affecting aliens” (p. 28). And, again, “persons who emigrated to states where processes of implicit naturalisation were not in place remained citizens of their original states until they were naturalised abroad” (p. 29). Undoubtedly, as noted above, states tended over time to treat as citizens individuals whom they could not deport. But the treaties themselves did not provide for this. For example, Fahrmeir does not show that individuals who gained the right to remain in Prussia by virtue of the deportation treaties had the right, granted to Prussian citizens by laws adopted in 1842, to live and work where they wished within Prussia and to local poor relief, or to be given the rights accorded native, but not foreign, artisans after 1849 (pp. 157, 171). He does not show that such aliens were, after 1841, generally permitted to marry, for Prussian law required from that date the approval of the foreign man’s hometown authorities.[17] Many aliens in Prussia sought naturalisation precisely to get around this legal requirement, for home towns were reluctant to grant permission to marry to emigrants. Prohibiting marriage was often an effective way of promoting “voluntary” emigration. The precise issue Fahrmeir raises was discussed during the debates on the Prussian citizenship law of 1842, and the official commentaries stated explicitly that foreigners the state was forced to accept by the deportation treaties would not necessarily be treated as Prussian subjects.[18] Fahrmeir also does not demonstrate that the foreigners who were permitted to remain in South German states by virtue of the deportation treaties enjoyed the rights to much reduced capital requirements and entrance fees for local citizenship granted state citizens, but not foreigners (p. 66). Perhaps in some places merely being permitted to remain in a state under the terms of a deportation treaty was sufficient to make one a full citizen, but Fahrmeir’s study has not demonstrated that this practice was general. The terminology the different German states employed for citizenship provides further evidence that the deportation treaties did not “automatically” ensure non-deported individuals “full citizenship.” The term “Staatsangehoeriger,” or state member, which the treaties employed, was not, in the 1820s and 1830s, the most precise term for “full citizen.” The South German constitutions sometimes employed the term Staatsbuerger. The Prussian citizenship law of 1842 employed the term subject, or “Untertan.”[19] The 1842 Prussian law that granted

Prussians the right to settle where they wished within the state of Prussia referred to “Untertanen,” and not to “Staatsangehoerige.” Of course, as Fahrmeir points out in his introduction, one should never seek to deduce how German laws (or treaties) from this period were put into practice simply by how they were drafted. But until there is a closer examination of administrative practices one must be skeptical of this part of Fahrmeir’s thesis.

Fahrmeir writes that in Germany “state citizenship and municipal citizenship remained intimately linked, and usually the one continued to imply the other. However, of the two, state citizenship now became by far the most important” (p. 29). While Fahrmeir’s statement is true with respect to Prussia by the 1830s, at the latest, it is not true with respect to most of the other German states before the 1860s.[20] In Baden, for example, before 1848 (and perhaps thereafter as well) the state deferred in almost all cases to local wishes when it came to naturalisation decisions, and outsiders generally, even often those from Baden, found it difficult to settle in towns that did not want them. Liberal state citizenship laws were almost meaningless as long as local citizenship was what really mattered.

Fahrmeir’s claim that “British and German concepts of citizenship shared a disregard for cultural factors” also requires some modification (p. 238). His argument is for the most part convincing with respect to Britain, but it is too generally stated when applied to the German states. It is true that German states showed little preference for ethnic German immigrants before the start of the twentieth century. But Fahrmeir’s general statement elides the continuous discrimination against Jewish applicants for citizenship practiced by the German states. Fahrmeir describes this discrimination on various occasions, but concludes that “the refusal of the governments of German states to grant naturalisation to most Jewish applicants appears to have been motivated by religious, not ‘racial,’ concerns” (p. 238). This is a fairly thin slicing of hairs. Was “race” the only alternative to “religion” as a foundation for anti-Jewish attitudes? Was religion distinct from culture?

One might also wonder about Fahrmeir’s claims regarding the difficulty of naturalisation in Britain. He makes much of the fact that, as he puts it, “the naturalisation figures for the liberal United Kingdom are smaller in proportion to population than those of otherwise far more interventionist and restrictive German states, even if one only takes into account [...] naturalisations of persons outside the German confederation” (p. 91). He

notes a number of factors that made it difficult to obtain naturalisation in Britain, including a three year residence requirement and a requirement for “respectability” (pp. 73-74). But was it really “quite restrictive” of the British government to require “all applicants [...] to have the intention of residing permanently in the United Kingdom” (p. 73)? Was it the case that British naturalisation laws “effectively denied freedom of movement to naturalised citizens” (p. 92)? The basis of this last claim was a rule, after 1854, that voided naturalisations if “the beneficiary was absent from the United Kingdom for more than six months without a licence” (p. 74). But Fahrmeir never returns to the question of the ease with which licences might be obtained. One has the sense—and here I speculate—that Britain, and perhaps British merchants, were concerned that foreign merchants might seek British citizenship simply to obtain the protection of British consulates in disputes overseas. In the light of such possible considerations, did the limitation of naturalisation to individuals who intended to reside permanently in Britain really make British naturalisation policies “quite restrictive”? One is left wondering whether the most important reason for the low number of foreigners naturalised by the British government was that “there was some reluctance to integrate foreigners fully” (p. 210), as Fahrmeir suggests in his summing up, or rather, as he put it earlier, that “British law hardly discriminated against foreigners” (p. 92), i.e., that there was so little reluctance to integrate foreigners that foreigners did not even feel a need to apply for naturalisation to protect themselves.

Even if one concedes, as Fahrmeir on many occasions does, that German states’ treatment of foreigners was less generous, more arbitrary, and less liberal than British policies, one might still ask whether the liberal British political culture was primarily responsible for the contrast, or whether the different economic and demographic conditions of the different states played the decisive role. It is not entirely clear how much weight Fahrmeir gives to the different causal factors. For example, he writes that “British immigration policy was not only an expression of a liberal political culture, but also perceived to be in the national interest” (p. 222). But his clear focus is on debunking those who emphasize the critical role of the British liberal political tradition. He even goes so far as to suggest that his conclusions were “similar” to those of a historian who found that “British liberalism was only ‘superficially generous,’ while being in fact ‘profoundly chauvinistic’” (p. 222). One wishes to know exactly how “similar.”

Fahrmeir describes a range of circumstances that permitted Britain to treat foreigners liberally. Britain was far wealthier than the German states and, therefore, had less to fear both from foreigners’ demands for alms and economic competition (p. 210). On the other hand, the British government sought to avoid expenditures, and an extensive police network was expensive (pp. 237, 241, 242). There were far fewer aliens in Britain, as a percentage of the population, than in the German states, and this meant that they posed fewer dangers and were less noticed (pp. 213, 214-20). In Britain the group of outsiders that was most feared in the mid-nineteenth century was the Irish, who were citizens of the United Kingdom (pp. 211-13). The dimensions of the threat from Ireland diverted fears about the dangers of other kinds of immigration. Finally, “foreigners were held to be economically successful, and therefore an asset” (pp. 214, 217). When conceptions of the national interest changed, as they did during the first decade of the twentieth century and especially during the First World War, Britain was quite capable of imposing far more restrictive rules on aliens (pp. 214, 223-24). “As soon as the number of [...] refugees rose with the rising influx of [Jewish] refugees from Russia, who appeared to be competing with native workmen without bringing extra skills to the country, merely the willingness to work for starvation wages, the policy of free immigration as the best solution in the interest of the economy was reconsidered” (p. 242). As Fahrmeir also notes, however, the reconsideration that took place resulted in a law on immigration that was for the most part toothless, the Aliens Act of 1905 (pp. 222, 224).

Fahrmeir’s book convinces this reader that the different migration patterns and economic climates of Britain and the German states played a fundamental role in explaining the differences in their policies. Britain was able to have open borders because there was no danger, until late in the nineteenth century, that a significant numbers of foreigners would seek to live there. He also convincingly argues that after 1914, but not before, Britain’s immigration policies became far more restrictive.^[21] His marshalling of the evidence does not permit a final judgment, however, on the larger question of the relative significance of economic interests and political ideals in the formulation of British policies in the period before 1870.

In responding to Brubaker’s simplified account of the development of German citizenship policies, Fahrmeir runs the risk of paying too little attention to differences within “Germany.” There are a great many references in this book to the policies of “the German states.” These generalizations are based in part on examinations of the

policies of the different states, and in part on the basis of the terms of the (admittedly similar) deportation treaties. But the policies of the different German states were quite varied. Prussia, in particular, was, except for the 1850s, in many respects a force for liberalization, in the Hegelian sense of the term. This may not be apparent in a comparison between Prussia and Britain, but if one takes Baden or Bavaria as the basis for comparative analysis this becomes clearer. Differences among the German states, and changes in their policies over time, tend to receive somewhat short shrift in this book.

There is no doubt that citizenship and immigration policies are important, in the sense that they have the capacity to transform the lives of individual migrants and also, although not always as dramatically, the nature of the societies that make decisions to accept or reject outsiders. Fahrmeir's study makes clear that in the nineteenth century European societies responded to the challenge posed by immigration in dramatically different ways. His pathbreaking book reflects a significant amount of original scholarly research, and clarifies a large number of previously poorly illuminated questions and relationships, although this review has some reservations about its larger conclusions. It can profitably be read by historians of Europe and more generally of the modern world.

Notes:

[1]. Since Fahrmeir refers throughout to Britain or Great Britain, and only rarely to the United Kingdom (despite an occasional reference to policies adopted in Ireland), I shall follow suit. As Fahrmeir notes, almost all his evidence relating to Britain comes from England. Although it is in many respects a misnomer to refer to "Germany" before 1870, as opposed to "the German states," I shall occasionally do so in the interests of producing a more readable review.

[2]. German states also engaged in internal deportations of citizens whom they considered vagrants. Fahrmeir shows that in Bavaria, for example, in the period between 1836 and 1850 no fewer than 50,000 Bavarians were forceably removed from one part of Bavaria to their locality of origin each year. The annual total amounted to more than 1 percent of the population of the country, since Bavaria had between 4.3 and 4.6 million inhabitants in this period (pp. 76, 191). Bavaria was undoubtedly among the more restrictive of German states, but the figures at least give some sense of the order of magnitude of German states' deportation programs in this period. Unfortunately, comparable figures

simply are not available for most of the other German states. Recent work by David Feldman on British immigration policies in the nineteenth century has emphasized the role played by private charitable organizations in repatriating aliens in Britain. But repatriation based on private initiatives and state mandated deportation are two very levels of compulsion. See David Feldman, "Was the Nineteenth Century a Golden Age for Immigrants? The Changing Articulation of National, Local and Voluntary Controls," in *Migration Control in the North Atlantic World: The Evolution of State Practices in Europe and the United States from the French Revolution to the Inter-War Period*, ed. Andreas Fahrmeir, Oliver Faron, Patrick Weil (New York: Berghahn Books, 2003), pp. 167-77.

[3]. Although the level of relief generally provided foreigners was modest. See Feldman, "Was the Nineteenth Century a Golden Age for Immigrants?", p. 174.

[4]. Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge: Cambridge University Press, 1992). p. 66.

[5]. *Ibid.*, p. 71.

[6]. It goes beyond the purview of a book review to undertake a thorough examination of the terms of the deportation treaties into which the different German states entered. Interested readers are referred to the Prussian treaty with Bavaria "regarding the mutual acceptance of vagabonds and expellees" of 9 May 1818. This treaty served, as a Prussian high official later put it, looking back, as a model for subsequent Prussian treaties with other states. (See comments of von and zur Muehlen in "Vortrag ueber das Gesetz wegen Entstehung und Aufloesung des preussischen Unterthanenverhaeltnisses" of 26 March 1840, Geheimes Staatsarchiv Preussischer Kulturbesitz (henceforth, GStA PK) Berlin, I HA, Rep. 80 (Drucksachen), Nr. 286, Anlage V, 4.) The terms of the treaties varied somewhat from state to state.

[7]. Fahrmeir writes that the multilateral deportation treaty signed at Gotha in 1851, which replaced the old treaty network, and was eventually accepted by all the German states, "suggested that implicit naturalisation [by domicile], became easier [than under the previous treaties]." (p. 37) He continues, however, by stating that the Gotha Agreement "indicated a shift toward a principle of descent rather than domicile" (p. 38).

[8]. Brubaker, p. 81.

[9]. Alexander Schmidt, *Reisen in die Moderne: Der Amerika-Diskurs des deutschen Buergerturns vor*

dem Ersten Weltkrieg im europaischen Vergleich (Berlin: Akademie Verlag, 1997), p. 184.

[10]. Till van Rahden *Juden und andere Breslauer: Die Beziehungen zwischen Juden, Protestanten und Katholiken in einer deutschen Grosstadt von 1860 bis 1925* (Goettingen: Vandenhoeck & Ruprecht, 2000), pp. 34-36, 173, 299.

[11]. Dieter Gosewinkel, *Einbuergern und AusschlieÅen: Die Nationalisierung der Staatsangehoerigkeit vom Deutschen Bund bis zur Bundesrepublik Deutschland* (Goettingen: Vandenhoeck & Ruprecht, 2001), p. 32.

[12]. Memorandum of the Prussian Interior Ministry and Foreign Office of July 1833, GStA PK Berlin, I. HA, Rep. 77 (Innenministerium), Titel 227, Nr. 4, Bd. 1, p. 234 (back side).

[13]. Prussia sought in the late 1830s to revise the deportation treaties into which it had already entered to incorporate a right of arbitration in the case of irresolvable disputes. At the same time it negotiated treaties with states with which it previously had not entered into agreements. Revisions of existing treaties took the form of addendums that referenced the original treaties. Treaties with states not already having a deportation agreement with Prussia combined the contents of the old agreements with the new language Prussia wanted to see generally applicable. Among the states that entered into agreements with Prussia for the first time in the late 1830s were: Schaumburg-Lippe (30 May 1839); Lippe-Detmold (22 May 1839); Anhalt-Dessau (21 June 1839); Hannover (20 August 1839); Saxon-Meiningen (27 September 1839); Braunschweig (4 October 1839); Anhalt-Bernburg (11 October 1839). The treaties can be found in the *Gesetz-Sammlung fÅ¼r die Koeniglichen Preussischen Staaten* published in 1839.

[14]. "Die Frage: ob jemand Preussischer Untertan sei? komme in der Verwaltung taeglich vor und fuehre zu den schwierigsten Eroertungen, weil es an Bestimmungen fehle: woran die gedachte Eigenschaft zu erkennen sei." Staatsrat session of 2 February 1842. GStA PK, Berlin, I. HA, Rep. 80, I gen Nr. 4a (Staatsrat protocolls), Bd. 26, p. 62.

[15]. See footnote 13.

[16]. For instances, see Protokolle der Deutschen Bundesversammlung (1831), 176; (1838), 91; (1839), 522; (1842), 233-236; (1846), 91. The fact that some states might ultimately have agreed to accept the individuals who had appealed to the German Bund does not mean that the system "worked." After all, the individuals in

question must have spent years in legal limbo, fearing and perhaps also suffering expulsion and imprisonment. Fahrmeir describes a few such cases from the early 1850s (p. 193).

[17]. "Verordnung wegen der in den Koeniglich Preussischen Staaten erfolgenden Trauungen von Auslaendern mit Inlaenderinnen" of 28 April 1841. Gesetz-Sammlung fÅ¼r die KÅ¶niglich Preussischen Staaten (1841), p. 121.

[18]. The ministerial commentary on the law explicitly envisioned the development of a class of state residents lying between true subjects and foreigners. This group would be subject to the duties of Prussian subjects, but would not enjoy all their rights. "Motive zu dem Gesetz ueber den Erwerb und Verlust des Preussischen Untertanenverhaeltnisses," GStA PK Berlin, I. HA, Rep. 80 (Drucksachen), Nr. 286a, p. 37. See also the comments of von and zur Muehlen, a senior Prussian official, regarding the proposed citizenship law: "Der gedachte Gegensatz [between the terms of the proposed law and the deportation treaties] verbunden mit dem Umstande, dass das Unterthanenrecht nach dem gegenwaertig vorliegenden, oben schon in seinen Umrissen angegebenen Gesetzvorschlage, nur durch gewisse bestimmt erkennbare Merkmale erworben werden soll, fuehrt indess von selbst darauf, dass die Absicht dahin geht, das Unterthanenverhaeltniss als etwas Besonderes, Ausgezeichnetes darzustellen, welches man nicht allen sich im Staate Aufhaltenden, und selbst nicht allen denen zugestehen will, die man auswaertigen Staaten gegenueber als Einheimische betrachtet, indem man sie sogar nach bestehenden Vertraegen, als ob sie Staatsangehoerige waeren, von andern Staaten uebernehmen muss." "Vortrag ueber das Gesetz wegen Entstehung und Aufloesung des preussischen Unterthanenverhaeltnisses" of 26 March 1840, GStA PK Berlin, I. HA, Rep. 80 (Drucksachen), Nr. 286, Anlage V, pp. 5-6.

[19]. See also the discussion on this point in Rolf Grawert, *Staat und Staatsangehoerigkeit: Verfassungsgeschichtliche Untersuchung zur Entstehung der Staatsangehoerigkeit* (Berlin: Duncker & Humblot, 1973), p. 142.

[20]. See generally Mack Walker, *German Home Towns: Community, State, and General Estate 1648-1871* (Ithaca: Cornell University Press, 1971).

[21]. The change in British immigration policies, and their relationship to changes in the immigration of Jews, are described and analyzed in detail in David Feld-

man, *Englishmen and Jews: Social Relations and Political Culture 1840-1914* (New Haven: Yale University Press, 1994). For a highly critical view of Britain's post-1945 citizenship and naturalization policies, see Kathleen Paul, *Whitewashing Britain: Race and Citizenship in the Post-war Era* (Ithaca: Cornell University Press, 1997).

Copyright (c) 2003 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For other uses contact the Reviews editorial staff: hbooks@mail.h-net.msu.edu.

If there is additional discussion of this review, you may access it through the network, at:

<https://networks.h-net.org/h-german>

Citation: Eli Nathans. Review of Fahrmeir, Andreas, *Citizens and Aliens: Foreigners and the Law in Britain and the German States 1789-1870*. H-German, H-Net Reviews. June, 2003.

URL: <http://www.h-net.org/reviews/showrev.php?id=7742>

Copyright © 2003 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For any other proposed use, contact the Reviews editorial staff at hbooks@mail.h-net.org.