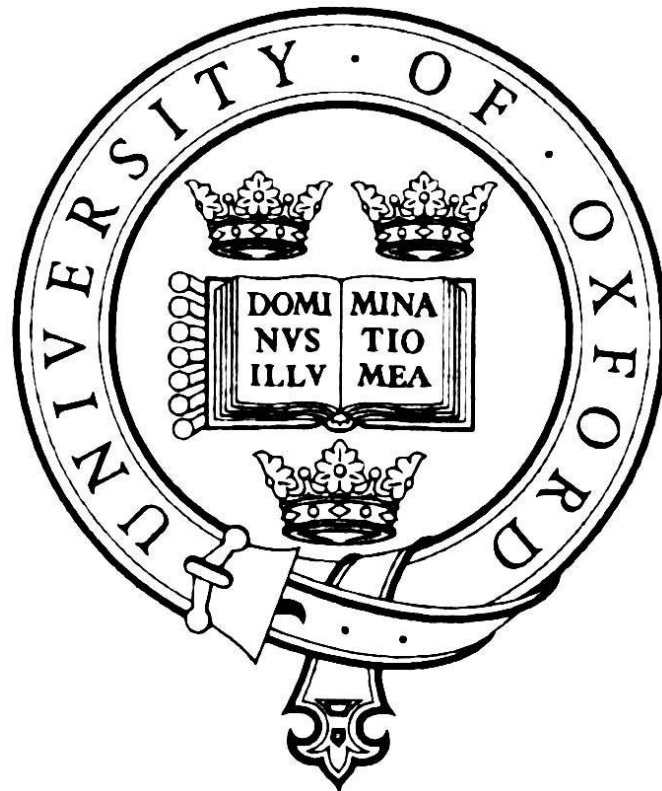


Associative political culture in the Holy Roman Empire:  
the Upper Rhine, *c.* 1350-1500

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A thesis submitted for the degree of DPhil in History

Trinity Term 2015



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### **Short abstract**

Historians have long struggled to conceptualise the Holy Roman Empire in the later middle ages. This thesis seeks to provide an interpretation of political life in the Empire which captures the structures and dynamics in evidence in the sources. It does so through a comparative study of the varied socio-political elites along the Upper Rhine between 1350 and 1500, with frequent reference to other regions of the Empire. The thesis is divided into three sections. Part I, consisting of four chapters, examines the shared and interconnective characteristics of several spheres of activity – the documentary, judicial, ritual, military, and administrative – in which various elites interacted through the same practices and conventions. Part II (five chapters) deals with the types of contractual association which emerged organically from these shared and interconnective structures and practices. It shows that these associations – leagues, alliances, judicial agreements, coinage unions, and others – were more common and more similar than typically assumed, that they regulated key judicial and military affairs, and that they reflected a shared ideology which emphasised peace-keeping and the common good within the Empire’s framework. Part III of the thesis shows how the structures and dynamics explored in Parts I and II played out in specific situations by reference to three case studies in the 1370s-‘80s, 1410s-‘30s, and 1460s-‘70s. All three demonstrate how the ‘associative political culture’ model can illuminate events which were previously

considered to be moments of crisis or chaos, or the products of 'territorial' or 'constitutional' processes. The thesis concludes by arguing that, in light of this evidence, the Holy Roman Empire is best understood as a community of interdependent elites who interacted within a shared 'associative political culture'. This conclusion highlights the need for a new paradigm beyond those of the 'territory', the 'constitution', or the centralising 'state'.

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### **Long Abstract**

Historians have long struggled to conceptualise the Holy Roman Empire in the later middle ages. This vast and fragmented political entity invited condemnation in the nineteenth and early twentieth centuries for its alleged failure to develop forms and institutions which could be accommodated within the abstract legal concepts of the state and the constitution (*Verfassung*). Since then, the Empire has defied easy categorisation according to the paradigm of nascent statehood which dominated scholarly thinking about the fourteenth and fifteenth centuries well into the late twentieth century, and arguably still determines much of the debate about later medieval and early modern politics. The recent Germanophone historiography of the Empire has cast it either as little more than an agglomeration of ‘territorial states’ or as an abstract ‘constitution’ (*Reichsverfassung*), within which powers were organised into distinct blocs and ‘estates’.

This thesis seeks to provide an interpretation of political life in the Empire which better captures the structures and dynamics in evidence in the sources. It does so through a comparative study of the varied socio-political elites along the Upper Rhine between 1350 and 1500, with frequent reference to other regions of the Empire, such as Lorraine, Franconia, and Swabia, and the activities of the kings and emperors of the Romans. Its analysis draws on a broad selection of documents (seal-authenticated *Urkunden*, correspondence, household and municipal records, court proceedings, council and

committee meeting summaries), narrative and polemical works (chronicles, treatises, and legal compilations), and visual sources. In the south-western Empire, at least, the evidence strongly suggests that the entire spectrum of political actors, from the most powerful princes to minor noblemen and small communes, made use of the same set of legal, financial, and military structures and practices. This commonality seems to have emerged out of constant negotiations between neighbouring, often overlapping power-wielders. Furthermore, many of these common activities took place within the framework of contractual associations which transcended the jurisdictional remit of any individual actor or 'territory', and which must be considered the products of lateral or 'horizontal' interactions across socio-political space, since the members of these associations lacked clear authority over one another. Through a comparative analysis of the sources, this thesis aims to demonstrate the existence of what might be termed, in light of this evidence, an 'associative political culture' amongst the interconnected political entities of this highly morcellated zone. In doing so, it tries to show the explanatory power of thinking about the Empire in terms of the interactions between its constituent members, and to draw attention to the hitherto under-articulated importance of the lateral plane of political activity in fourteenth- and fifteenth-century Europe.

In order to achieve this, the thesis begins with a discussion of the existing narratives of the later medieval period, and of the specific interpretations of the Holy Roman Empire and its constituent parts which have been formulated (almost exclusively by German historians) against this general backdrop. First of all there is the notion that the Empire consisted of a mosaic of disunited princely (and occasionally urban) territories. It is at the level of these territories, not under the aegis of the monarchy, that state formation (the creation the *Territorialstaat*), or at least a concentration of powers in given zones (dubbed *Landesherrschaft*) in the hands of princely administrations, is held

to have occurred. There is also the related path of political development posited by Peter Moraw, according to which the Empire evolved from a loose cluster of co-existing entities (the *offene Verfassung*) into a more consolidated, dualistic polity (*gestaltete Verdichtung*). In this scheme, the Empire is understood as a ‘constitutional’ entity divided between the monarchy and various distinct estates. The introduction emphasises the need for a model which complements and corrects these existing approaches by taking account of the commonalities and connections between political actors and units and of the associations and mutual dependencies generated by them. It proposes to provide this model through the study of one large area within the Empire, the Upper Rhine and its adjoining regions, and provides a brief overview of the legal and geopolitical situation of this south-western zone in the fourteenth and fifteenth centuries.

The main body of the thesis is divided into three sections. Part I, consisting of four chapters, examines the shared and interconnective characteristics of several spheres of activity. Chapter 1 surveys the uses and conventions of writing and documentary culture, and the ways in which the written word intersected with other modes of interaction and rituals, particularly that of oath-taking. Chapters 2 and 3 cover two ubiquitous and intertwined methods of negotiation shared by all political elites, namely arbitration and feuding. Chapter 4 examines the shared mechanisms and configurations of lordship in the south-western Empire. The evidence of lordship and administration in this area does not corroborate the neat ‘territorial’ interpretation of the Empire, and instead suggests that many different political actors were bound up in one another’s affairs through tenurial and financial networks. Overall, Part I demonstrates that, contrary to the assumptions inherent in most German historiography, elites of varying power and status shared in the same institutions, behaviours, languages, and assumptions. The existence of these commonalities was partly due to constant interaction between power-wielders at every

level, a product of the intertwined nature of negotiatory activities and political formations around the Upper Rhine, which perpetually reinforced conformity to certain mutually intelligible forms and practices. The kings and emperors of the Romans were not divorced from these processes, but underpinned them in fundamental ways, both conceptually and, at certain junctures, materially.

Part II deals with the various types of contractual association which emerged organically from these shared and interconnective structures and practices. It begins with an overview of the existing interpretations of associations in the Empire that have developed since the nineteenth century (Chapter 5). These interpretations include the idealisation of associations as egalitarian communities, the use of associations as expressions of social or estate-based solidarity, and the conceptualisation of associations as constitutional entities, or failed ‘alternatives’ to a predominantly monarchical and aristocratic *Reichsverfassung*. The remaining chapters of Part II argue that the evidence suggests a different picture from that proposed in these existing interpretations.

Associations were anchored in the underlying political structures and dynamics of the Holy Roman Empire, and they shaped this polity in turn by regulating the main pathways of interaction between its elite members. Chapter 6 is a wide-ranging comparative survey of the archetypical associations – short-term alliances and larger or longer-term leagues – encountered in the sources from the south-western Empire. It demonstrates that all kinds of associations, from bilateral alliances between princes or between lords and towns to large-scale and durable leagues like the Society of St George’s Shield and the Swiss Confederation, operated according to the same basic principles. Chapter 7 examines the military and judicial functions of leagues and alliances more closely, arguing that the contemporary obligations of assistance and adjudication were at the heart of associative political culture. Through these functions, associations acted as regulatory contracts that

framed the relationships between the various powers in the Holy Roman Empire. Chapter 8 surveys the discourses deployed in association treaties, which evoked combinations of concepts such as peace, the common good, and the honour or wellbeing of the surrounding land or the Empire as a whole. It shows that these discourses also appeared in this form in Imperial ordinances and discussions at Imperial Diets, suggesting that associations were understood as vital and central structures within the Holy Roman Empire. Finally, Chapter 9 provides evidence of associative activity beyond the spectrum of formal alliances and leagues. It shows that horizontal ties and contractual relationships were omnipresent in the political life of the Upper German lands, from local ‘castle-peaces’ (*Burgfrieden*) to the networks that constituted the ‘estates’ of the largest lands and principalities in the Empire.

Part III of the thesis shows how the structures and dynamics explored in Parts I and II played out in specific situations by reference to three case studies. These seek to elucidate events and developments in relation to common, interactive, and intertwined political structures, and the associative frameworks to which they gave rise, rather than through the existing narratives of territorialisation, conflict between different socio-political groups, and the divergence of the princes from the crown and the other Imperial estates. Chapter 10 deals with the so-called ‘Town War’ of the 1380s, a decade which saw the proliferation of supra-regional leagues and the intersection of some local conflicts and networks with princely and royal agendas. Chapter 11 takes as its subject the troubled 1410s to ‘30s, when the intervention of King Sigismund in regional affairs, most notably in the form of the deposition of Duke Friedrich IV of Austria-Tyrol, provoked a reconfiguration of the political landscape along the Upper Rhine. This process unfolded according to associative patterns, but was also decisively shaped by royal involvement. Chapter 12 explores the phase of Burgundian rule on the Upper Rhine (1469-74) and its

violent aftermath, in which local political actors deployed classic associative solutions vis-à-vis a hostile power, but only after substantial disentanglements and realignments had occurred within the networks of regional elites, who had simultaneous and conflicting ‘Burgundian’, ‘Austrian’, and ‘Swiss’ interests. All of this occurred against a background of emerging ‘regional’ and ‘national’ discourses and identifications. All three case studies aim to demonstrate how the ‘associative political culture’ model can illuminate day-to-day events. Their spacing across the whole period under consideration also provides the opportunity to chart some of the gradual developments which affected regional and Imperial politics, and to consider the relationship between these developments over time and the enduring common and associative dimensions of political life.

The thesis concludes by arguing that, in light of this evidence, the Holy Roman Empire is best understood as a sprawling community of interdependent elites who interacted within the framework of a shared ‘associative political culture’. The inhabitants of the Empire should be studied comparatively and collectively across social and geopolitical space, not separately as ontologically different ‘estates’ or within bounded ‘territorial states’. The political elites of the Empire thought about and presented their world in terms of lists of title-holding powers and their multi-layered relationships to one another. They justified their authority, and the ties which underpinned it, through discourses and imagery which invoked unity, peace, and the common good within the framework of the Holy Roman Empire. Modelling the Empire as an abstract constitution with evolving institutions and built-in separation of powers only partially captures this picture. Studying its political culture uncovers these dynamics in all their richness and complexity, and allows for the identification of long-term trends which had their basis in the localities as well as in the Empire’s shifting centre. It also points to the need for new narratives of pre-modern European history to nuance that of linear nation-state formation.

## Acknowledgements

I am very grateful for the funding I received from the Arts and Humanities Research Council (doctoral award, 2011-14) and the Institute of Historical Research (Scouloudi fellowship, 2014-15), which enabled me to undertake and complete this thesis. Valuable financial assistance was also provided by Jesus College, Oxford (notably via the T.E. Lawrence award) and the German History Society.

Over the past four years many people have helped me to think about and research this thesis. Without the friendly guidance of many archivists and librarians in Austria, France, Germany, and Switzerland, I would never have been able to amass the broad base of primary evidence on which the arguments of this thesis rest. In particular, the assistance and encouragement I received from the staff of the Generallandesarchiv Karlsruhe made for an exceptionally productive period of research in August-September 2012. Countless fellow medievalists and early modernists have challenged and inspired me at the seminars, workshops, and conferences that I have had the privilege of attending since starting my postgraduate career. I am especially grateful for the opportunities I had to present to and receive feedback from other historians of the German lands at the 'Deutsch-französisches Kolloquium zu laufenden Forschungen zum mittelalterlichen Elsass und Oberrhein' (Albert-Ludwigs-Universität Freiburg, November-December 2012) and the 'Medieval History Seminar 2013' (German Historical Institute London, October 2013). At Oxford I have benefited from the comments and support of many scholars, including Ian Forrest, Chris Wickham, and the informal workshop of early modernists which convenes a few times per term. Above all, I warmly thank my supervisor John Watts for all his encouragement and insight. My interest in the later middle ages was first awakened in his lectures and tutorials in 2008-9, and he has supported and shaped my research into this period with friendship and generosity ever since.

Finally, I owe a great deal to my family, especially my wife Alison, my parents, and my parents-in-law. They have kindly proof-read hundreds of drafts and applications over the years, and have always responded to my obsession with European history with patience, good humour, and constant support.



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## Note on usage

There are no widely-accepted conventions for writing about the later medieval history of German-speaking Europe in English, so the following decisions about style and usage have been made for the sake of consistency in this thesis. The adjectival and adverbial forms of ‘Holy Roman Empire’ are ‘Imperial’ and ‘Imperially’ (the equivalents of the German prefix *Reichs-*; thus, *Reichsstadt* becomes ‘Imperial City’, *Reichsunmittelbar* becomes ‘Imperially-immediate’, and so on). Place-names are given in the majority language of the country or region in which they are now located (so Strasbourg, not Straßburg; Sélestat, not Schlettstadt; Fribourg, not Freiburg im Üchtland). Widely-used English forms have been employed for those places that have them (so Constance, not Konstanz; Nuremberg, not Nürnberg; Lucerne, not Luzern; Zurich, not Zürich), but these have been avoided where they are disputed, antiquated, or unhelpful (so Bern, not Berne; Basel, not Basle; Regensburg, not Ratisbon). The most well-established versions of the names of the kings and emperors of the Romans in English are used, where these differ from the modern German forms (so Charles IV, not Karl IV; Wenceslas, not Wenzel; Rupert, not Ruprecht; Sigismund, not Sigmund; Frederick III, not Friedrich III). However, all other names of German-speakers have been given in their modern German form (to avoid the problem of deciding which later medieval spelling variant to use), or in the form used in the primary source(s) if there is no modern version of the name. Titles are given in their English form, and noble, knightly, or toponymic names preceded by a title consequently employ the English ‘of’ to remain consistent (Margrave Bernhard I of Baden, Bishop Wilhelm II of Strasbourg, Lord Smassmann I of Rappoltstein, Duke Sigmund of Austria-Tyrol). In the absence of a title, the names remain entirely in German (Smassmann von Rappoltstein, Eglolff von Wartemberg). Where a German (or Latin or French) word is used that is not being quoted directly from a source, it is rendered in italics. However, words or phrases that are quoted from a source – and hence all words presented in their *frühneuhochdeutsch* form, which can only derive from primary sources – are presented in quotation marks. Contractions and abbreviations in the sources are indicated with apostrophes, or expanded within square brackets. The letters ‘u’ and ‘v’, which are used interchangeably in the primary sources, have been employed according to modern German spelling in quotations and transcriptions. The abbreviation used for the various types of *Gulden* minted in the Empire is ‘fl.’ (florins), subdivided – depending on gold or silver content – into a varying number of ‘s.’ (shillings, *solidi*) and ‘d.’ (pence, *denarii*).

## List of abbreviations

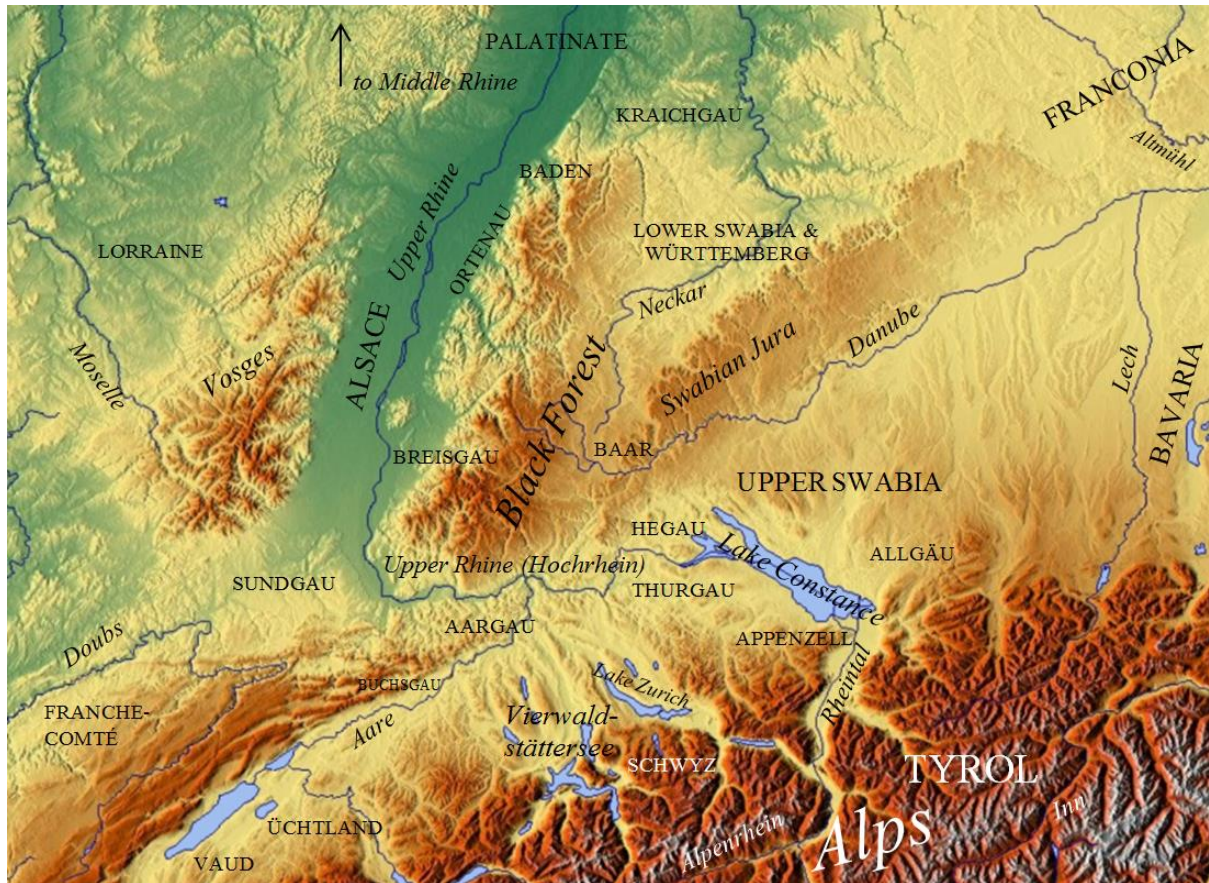
ADBR	Archives Départementales du Bas-Rhin
ADHR	Archives Départementales du Haut-Rhin
AEA	<i>Amtliche Sammlung der ältern eidgenössischen Abschiede</i> , ed. J. Vogel <i>et al.</i> (8 vols, Zurich, 1856-86)
AMC	Archives Municipales de Colmar
AMH	Archives Municipales de Haguenau
AMM	Archives Municipales de Mulhouse
AMS	Archives Municipales de Sélestat
AUWG	<i>Ausgewählte Urkunden zur württembergischen Geschichte</i> , ed. E. Schneider (Stuttgart, 1911)
AVCUS	Archives de la Ville et de la Communauté Urbaine de Strasbourg
BC	<i>Basler Chroniken</i> , ed. W. Vischer <i>et al.</i> (8 vols, Leipzig/Basel, 1872-1945)
BTBC	‘Bendicht Tschachtlans Berner Chronik’, in <i>Quellen zur Schweizer Geschichte</i> , ed. G. Stuber <i>et al.</i> (25 vols, Basel, 1877-1906), I, 188-298.
CDM	<i>Cartulaire de Mulhouse</i> , ed. X. Mossmann (4 vols, Strasbourg, 1883-90)
CDN	<i>Chartrier de Nidernai</i> , ed. C. Heider (2000) < <a href="http://www.region-alsace.eu/region-alsace/le-chartrier-de-niedernai">http://www.region-alsace.eu/region-alsace/le-chartrier-de-niedernai</a> >
CKK	<i>Chronik des Konstanzer Konzils 1414-1418 von Ulrich Richental</i> , ed. T.M. Buck (Stuttgart, 2010)
COS	<i>Die Chroniken der oberrheinischen Städte. Straßburg</i> , ed. C. Hegel (2 vols, Leipzig, 1870-1)
CSZ	<i>Chronik der Stadt Zürich. Mit Fortsetzungen</i> , ed. J. Dierauer (Basel, 1900)
DPIP	<i>Volumen rerum Germanicarum novum, sive de pace imperii publica libri V</i> , ed. J.P. Datt ([Stuttgart?], 1698)
DVG	<i>Deutsche Verwaltungsgeschichte. Band I. Vom Spätmittelalter bis zum Ende des Reiches</i> , ed. K.G.A. Jeserich <i>et al.</i> (Stuttgart, 1983)
FUB	<i>Fürstenbergisches Urkundenbuch</i> , ed. S. Riezler (7 vols, Tübingen, 1877-91)
GGRS	<i>Geschichte des großen rheinischen Städtebundes</i> , ed. K.A. Schaab (2 vols, Mainz, 1843-5)
GHW	<i>Geschichte des Herzogthums Württemberg unter der Regierung der Graven</i> , ed. C.F. Sattler (4 vols, Tübingen, 1767-8)
GLA	Generallandesarchiv Karlsruhe
HLS	<i>Historisches Lexikon der Schweiz</i> < <a href="http://www.hls-dhs-dss.ch/">http://www.hls-dhs-dss.ch/</a> >
HRG	<i>Handwörterbuch zur deutschen Rechtsgeschichte</i> , ed. W. Stammler <i>et al.</i> (5 vols, Berlin, 1964-98)
HSA	Hauptstaatsarchiv Stuttgart
HZB	<i>Historia Zaringo-Badensis</i> , ed. J.D. Schöpflin (7 vols, Karlsruhe, 1763-6)
KC	<i>Klingenberger Chronik</i> , ed. A. Henne (Gotha, 1861)
LDM	<i>Lexikon des Mittelalters</i> , ed. R. Auty <i>et al.</i> (10 vols, Munich/Zurich, 1977-99)
LUB	<i>Liechtensteinisches Urkundenbuch</i> , ed. B. Bilgeri (2 vols, Vaduz, 1948-65)
MGHCA	<i>Monumenta Germaniae Historica. Constitutiones et acta publica imperatorum et regum</i> , ed. L. Weiland <i>et al.</i> (11 vols, Weimar, 1893-2003)

- MGHFI *Monumenta Germaniae Historica. Fontes iuris Germanici antiquae, Nova series*, ed. K.A. Eckhardt *et al.* (8 vols, Weimar/Göttingen/Hannover, 1950-2006)
- MHAEB *Monuments de l'histoire de l'ancien évêché de Bâle*, ed. J. Trouillat (5 vols, Porrentruy, 1852-67)
- PCKAA *Politische Correspondenz des Kurfürsten Albrecht Achilles*, ed. F. Priebatsch (3 vols, Leipzig, 1894-8)
- QBL *Quellensammlung der badischen Landesgeschichte*, ed. F.J. Mone (4 vols, Karlsruhe, 1848-67)
- QGFDS *Quellen zur Geschichte Friedrich's des Siegreichen*, ed. C. Hofmann and K. Menzel (2 vols, Munich, 1862-3)
- RCDFIII *Regesta chronologico-diplomatica Friderici III. Romanorum Imperatoris. (Regis IV.). Auszug aus den... Reichsregistraturbüchern vom Jahre 1440-1493*, ed. J. Chmel (2 vols, Vienna, 1859)
- REC *Regesta episcoporum Constantiensium. Regesten zur Geschichte der Bischöfe von Konstanz*, ed. K.J. Rieder *et al.* (5 vols, Innsbruck, 1895-1931)
- RI *Regesta Imperii*, ed. J.F. Böhmer *et al.* (14 vols, Cologne/Vienna/Innsbruck, 1839-2012) <<http://www.regesta-imperii.de/>>
- RKS *Monumenta Germaniae Historica. Scriptorum. Staatschriften des späteren Mittelalters, VI: Reformation Kaiser Siegmunds*, ed. A. Hierseman (Stuttgart, 1964)
- RMBH *Regesten der Markgrafen von Baden und Hachberg*, ed. R. Fester *et al.* (4 vols, Innsbruck, 1892-1915)
- RTA *Deutsche Reichstagsakten. Ältere Reihe*, ed. J. Weizsäcker *et al.* (22 vols, Göttingen, 1867-2001)
- RTAMR *Deutsche Reichstagsakten. Mittlere Reihe. Deutsche Reichstagsakten unter Maximilian I.*, ed. H. Angermeier *et al.* (8 vols, Göttingen, 1972-2008)
- RTT *Des Heil. Römischen Reichs, Teutscher Nation/ ReichsTags Theatrum. wie selbiges/ unter Keyser Friedrichs V. allerhöchsten Regierung/ von Anno MCCCCXL. bis MCCCCXCIII. gestanden...*, ed. J.J. Müller (Jena, 1713)
- RUB *Rappoltsteinisches Urkundenbuch*, ed. K. Albrecht (5 vols, Colmar, 1891-99)
- SAC 'Strasburgische Archiv-Chronik', in *Code historique et diplomatique de la ville de Strasbourg. Tome premier. Deuxième Partie* (Strasbourg, 1843), pp. 131-220.
- SBE Staatsarchiv des Kantons Bern
- SBL Staatsarchiv des Kantons Basel-Landschaft
- SBS Staatsarchiv des Kantons Basel-Stadt
- SF Stadtarchiv Freiburg im Breisgau
- SLU Staatsarchiv des Kantons Luzern
- SZH Staatsarchiv des Kantons Zürich
- TLA Tiroler Landesarchiv Innsbruck
- UAODSB *Die Urkunden und Akten der oberdeutschen Städtebünde vom 13. Jahrhundert bis 1549*, ed. K. Ruser *et al.* (3 vols, Göttingen, 1979-2005)
- UBASG *Urkundenbuch der Abtei Sanct Gallen*, ed. H. Wartmann *et al.* (6 vols, Zurich, 1863-1955)
- UBB *Urkundenbuch der Stadt Basel*, ed. R. Wackernagel *et al.* (11 vols, Basel, 1890-1910)

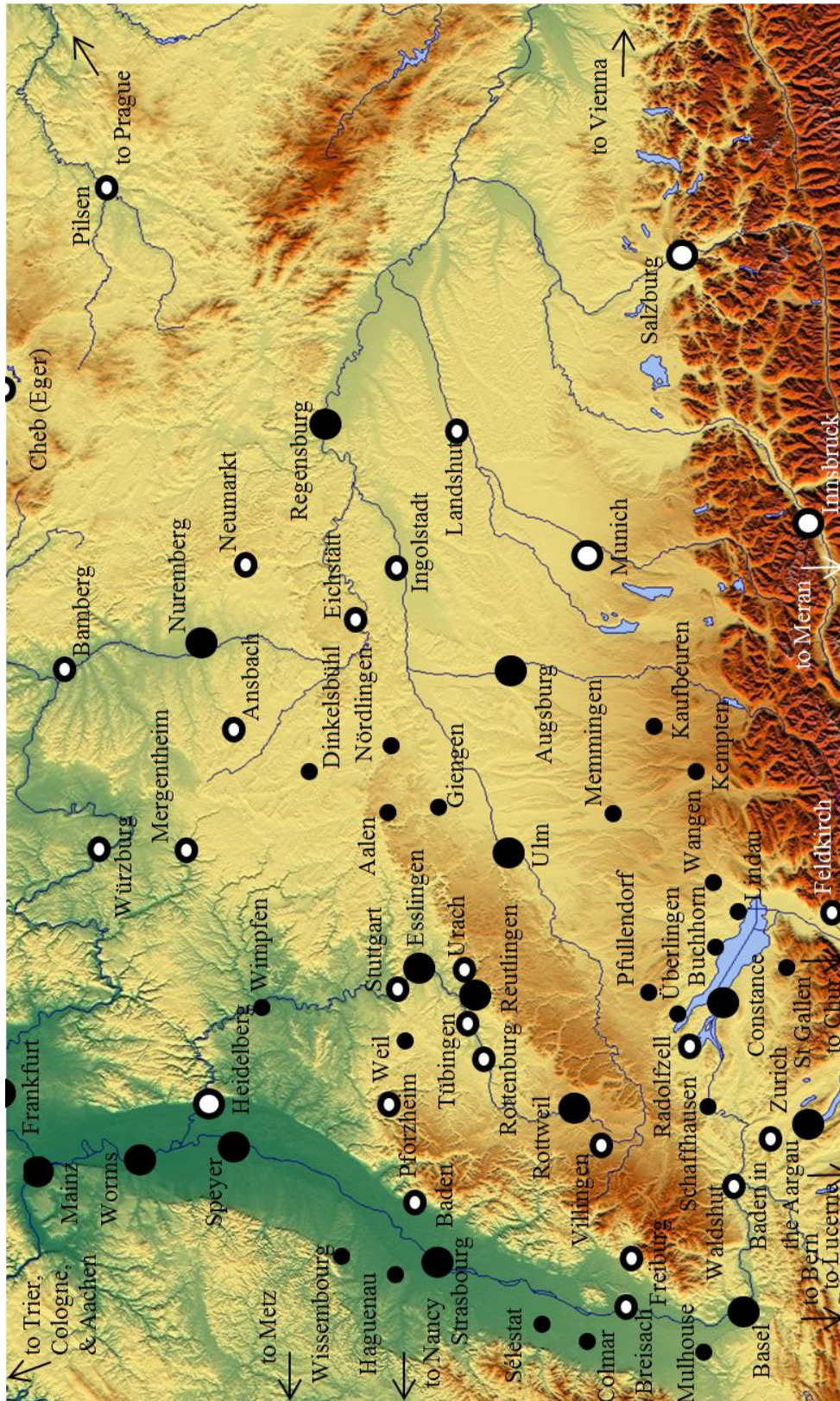
<i>UBE</i>	<i>Urkundenbuch der Stadt Esslingen</i> , ed. A. Diehl (2 vols, Stuttgart, 1899-1905)
<i>UBF</i>	<i>Urkundenbuch der Stadt Freiburg im Breisgau</i> , ed. H. Schreiber (2 vols, Freiburg, 1828-9)
<i>UBR</i>	<i>Urkundenbuch der Stadt Rottweil</i> , ed. H. Günther (Stuttgart, 1896)
<i>UBS</i>	<i>Urkundenbuch der Stadt Strassburg</i> , ed. J. Fritz <i>et al.</i> (7 vols, Strasbourg, 1879-1900)
<i>UGKF</i>	<i>Urkunden zur Geschichte des Kurfürsten Friedrichs des Ersten von der Pfalz</i> , ed. C.J. Kremer (Mannheim, 1766)
<i>UGSB</i>	<i>Urkunden zur Geschichte des schwäbischen Bundes (1488-1533)</i> , ed. K. Klüpfel (2 vols, Stuttgart, 1846-53)
<i>USAA</i>	<i>Die Urkunden des Stadtarchivs Aarau</i> , ed. G. Boner (Aarau, 1942)
<i>USGÖA</i>	<i>Urkunden zur Schweizer Geschichte aus österreichischen Archiven</i> , ed. R. Thommen (5 vols, Basel, 1899-1935)
<i>WLB</i>	Württembergische Landesbibliothek Stuttgart
<i>ZGO</i>	<i>Zeitschrift für die Geschichte des Oberrheins</i>
<i>ZWL</i>	<i>Zeitschrift für württembergische Landesgeschichte</i>

## Maps

1. Geographical features and customary regions of the Upper Rhine and Swabia, c. 1350-1500. Author's own work. Relief layer ©maps-for-free.com.



2. Notable urban centres in the southern Holy Roman Empire, c. 1350-1500. Free and Imperial Cities are represented by filled-in circles, while towns subject to any lord other than the kings and emperors of the Romans for at least some of the period between 1350 and 1500 are marked by circles with white centres. Author's own work. Relief layer ©maps-for-free.com.





## Introduction

### **The Holy Roman Empire: a historiographical enigma**

The Holy Roman Empire has long presented a challenge to historians who have sought to study and conceptualise it. Forged from the Central European fragments of the Carolingian Empire in the tenth to thirteenth centuries, this durable political entity rarely followed the conventional pathways of nation-state formation posited by modern scholars. Every period in the Empire's centuries-long existence, from the Ottonian age to the Napoleonic Wars, has been the subject of multiple fraught interpretations predicated on contested concepts, a situation generated in large part by the highly charged and politicised nature of historical enquiry and debate at various stages in the modern history of German-speaking Europe.<sup>1</sup>

This is especially true of the later middle ages, traditionally a chronological no-man's-land caught between the presumed achievements of the 'universal' Hohenstaufen monarchs (c. 1138-1254) and the confessional and geopolitical fractures of the sixteenth century. The relative neglect and unfavourable appraisal of the fourteenth- and fifteenth-century Empire stem in part from the same simplistic grand narratives that affect the historiography of Europe as a whole in the same period. The later medieval centuries are often perceived as a time of crisis, decline, and excessive violence compared to the preceding 'high middle ages' and the ensuing 'Renaissance', Reformation, and early modernity, or else as a mere 'age of transition' between these better-defined epochs.<sup>2</sup> The

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<sup>1</sup> See J. Whaley, *Germany and the Holy Roman Empire* (2 vols, Oxford, 2012), I, 1-14.

<sup>2</sup> These narratives are surveyed in F. Rexroth, *Deutsche Geschichte im Mittelalter*, 2nd edn (Munich, 2007), pp. 97-100; J. Watts, *The Making of Politics: Europe, 1300-1500* (Cambridge, 2009), pp. 13-23.

fifteenth century has been described with some justification as ‘a historiographical black hole that annihilates data in an interpretive vacuum’.<sup>3</sup>

The Empire also suffers from more specific scholarly prejudices, not least the enduring view that ‘Germany’ was beset by unparalleled problems and crises, particularly in the political and religious spheres. These narratives of convulsion relate to the perception that the Empire had a weak monarchy, that it was acutely fragmented and reduced to internecine feuding, and that it was the subject of idealistic but ultimately fruitless projects for political and ecclesiastical reform.<sup>4</sup> Above all, they are founded on the assumption of nineteenth- and twentieth-century German historians that their ‘nation’ followed a unique and problematic path (the *Sonderweg*) towards the nation-statehood that was held to be, in one form or another, the end of historical development – a scheme in which the medieval Empire is thought to have obstructed the coalescence of the state and the German nation.<sup>5</sup> In the late twentieth century it was still common for the study of the fifteenth-century Empire to be justified as an engagement with ‘the German state-problem [“Staatsproblematik”] at the transition between middle ages and modernity’.<sup>6</sup> In view of this complex and negative historiographical situation, historians have naturally struggled to articulate and explain the history of the Holy Roman Empire in the later medieval period, resulting in competing and overlapping models and narratives that defy neat synthesis.

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<sup>3</sup> T. Lange, *The First French Reformation: Church Reform and the Origins of the Old Regime* (Cambridge, 2014), p. 19.

<sup>4</sup> See e.g. D. Waley, *Later Medieval Europe 1250-1520*, 3rd edn (London, 2001), ch. 13: ‘German Disunity and the Origins of the Reformation’.

<sup>5</sup> See L. Scales, *The Shaping of German Identity: Authority and Crisis, 1245-1414* (Cambridge, 2012), pp. 1-97 and the German historiography discussed on pp. 12-16 below.

<sup>6</sup> ‘der deutschen Staatsproblematik im Übergang vom Mittelalter zur Neuzeit’. H. Angermeier, *Die Reichsreform 1410-1555: die Staatsproblematik in Deutschland zwischen Mittelalter und Gegenwart* (Munich, 1984), p. 7.

This thesis is an attempt to re-conceptualise the Holy Roman Empire between the mid-fourteenth and the early sixteenth centuries. As far as possible, it aims to build this interpretation directly on a close and comparative study of the abundant and sometimes virtually untapped evidence that survives from this period, and to avoid reading this evidence through the prism of the myriad preconceptions about the later medieval Empire noted above. Clearly, this does not (and cannot) mean a neutral interpretive agenda. While the present work seeks to circumvent or challenge many of the ideas and concerns of the existing scholarship of the German lands and the Empire, it is doubtless shaped, consciously or not, by another set of assumptions and emphases, most of which will inevitably derive from the author's formation in the Anglophone world of medieval studies. Furthermore, the attempt to re-conceptualise this topic should not be taken to suggest that valuable work has not already been undertaken: the historiography of the German lands in the fourteenth and fifteenth centuries is often meticulous and highly sophisticated, and this study will draw on many of its findings. However, it is hoped that a perspective that is removed from the internal discussions and traditions of German-speaking historiography can yield a model of the later medieval Empire that takes into account elements that have been neglected by existing narratives and schemes. It is the contention of this thesis that some of the fundamental concepts and frameworks which underpin much of this existing scholarship over-simplify or misrepresent the dynamics and developments in evidence in the primary sources. Through a comparative analysis of aspects of politics prominent in these sources, this thesis aims to produce a more plausible interpretation of the Empire. It draws on as wide a range of primary materials as possible in order to substantiate its interpretations. These include letters, seal-authenticated charters and contracts, the outcomes (*Abschiede*, *Schiedssprüche*) of political and arbitrational conferences (*Tage*), legal and financial records, chronicle accounts, law-

books, and manuscript illuminations. While analysing this evidence, the thesis will also attempt to borrow from the empirical discoveries and theoretical advances made in German historiography, especially in recent decades, while avoiding its anachronistic concerns (with the ‘state’, ‘transition’, and so on) and the unhelpful aspects of its narratives and concepts.

Before the approach of this thesis can be presented, it is necessary to examine the main interpretive trends in the existing scholarship of the Holy Roman Empire. To make sense of these, it is important to take into account a tendency in German scholarship, derived in part from a strong tradition of legal history, to subsume multiple historical actors and processes within abstracted or reified wholes. To a greater extent than elsewhere, the study of history in German-speaking Europe has been undertaken through the lens of ideal-typical legalistic categories. This emphasis can be traced back to the most famous of the early academic historians in nineteenth-century Germany, Friedrich Carl von Savigny and his pupil Leopold von Ranke, who treated law as a real and self-contained phenomenon, and placed it at the heart of historical enquiry.<sup>7</sup> Abstract or essentialised notions (*Begriffe*) have been at the centre of the interpretive agenda in the study of the middle ages ever since. Otto von Gierke, taking a positive view of the medieval period, sought to explain the political development of the Empire in terms of the Germanic law of collectivities (*Genossenschaftsrecht*).<sup>8</sup> Gierke and his prolific intellectual rival Georg von Below, who saw the medieval Empire as a lengthy diversion from the predestined path towards German nation-statehood,<sup>9</sup> both took for granted the idea, borrowed from nineteenth-century German jurisprudence, that medieval polities

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<sup>7</sup> K. Kroeschell, *Deutsche Rechtsgeschichte*, 13th edn (3 vols, Cologne/Weimar/Vienna, 2008), I, 254-6.

<sup>8</sup> This thesis is presented in Gierke’s monumental *Das deutsche Genossenschaftsrecht* (4 vols, Berlin, 1868-1913). Gierke’s importance is discussed in detail in ch. 5, pp. 120-3.

<sup>9</sup> Below’s theories were summarised in *Der deutsche Staat des Mittelalters, ein Grundriss der deutschen Verfassungsgeschichte* (Leipzig, 1914; repr. 1925).

were fundamentally legal entities (*Rechtsstaaten*) – that is to say, that authority within these polities was enshrined in and regulated by a fixed legal system, and leaders within them could rule legitimately because they were assigned positions of authority within a constitution (*Verfassung*).<sup>10</sup>

The study of later medieval history through the legal-historical prism of *Verfassungsgeschichte* survived the upheavals of the mid-twentieth century and found a new lease of life in the hugely influential work of Otto Brunner.<sup>11</sup> Decrying the application of modern legal abstractions, above all that of the ‘state’, to the middle ages, Brunner offered what he thought was a ‘social’ explanation for the structures of later medieval politics. Focusing primarily on Austria, he depicted a localised *Verfassung* in which politics consisted of two main phenomena. The first was ancestral noble lordship (*Herrschaft*), preserved through rightful feuding and legitimised by a contractual paternalistic relationship with the lower orders. The second was the land-community (*Landgemeinschaft*), in which Germanic communal values ensured the equitable treatment of those who occupied their rightful place and the estates (*Landstände*) represented the interests of the locality. In fact, law remained at the heart of this new *Verfassungsgeschichte*. Brunner argued that both noble lordship and the land-community operated according to the principles of local customary law (*Landrecht*), which was founded on the sense of reciprocal obligation and justice (*Treue* and *Recht*) inherent in Germanic kin-based groups (*Sippen* and *Gefolgschaften*) since the early middle ages. Key to the nobility’s patrimonial way of life was its provision of protection (*Schutz* and *Schirm*) to its landed servants and its pursuit of claims to rights and property through sanctioned judicial means – which extended, in the later medieval mentality, to violent

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<sup>10</sup> Kroeschell, *Rechtsgeschichte*, I, 14.

<sup>11</sup> Brunner’s *magnum opus* is *Land und Herrschaft: Grundfragen der territorialen Verfassungsgeschichte Österreichs im Mittelalter*, 5th edn (Vienna, 1965). See also O. Brunner, *Neue Wege der Verfassungs- und Sozialgeschichte*, 2nd edn (Göttingen, 1968).

but legitimate feuding.<sup>12</sup> The Brunnerian version of the medieval *Verfassung* fast became a blueprint for medievalists writing in the latter half of the twentieth century. Its legal-political framework for local/regional history (*Landesgeschichte*) has been applied to many later medieval localities, while its insights into the nature and distribution of power have shaped thinking about the Empire as a whole.<sup>13</sup>

Though Brunner has not been without his critics, his work inaugurated a tacit post-war consensus in the study of the later medieval German lands. Whether at the level of a region or sub-polity or at that of the entire Holy Roman Empire, this period has been studied in terms of the legal constitution of political entities, even if this approach has been coupled with other methodologies, such as prosopography and literary criticism. In most historiography the *Verfassung* serves as a master category within which other social, political, and cultural phenomena are arranged and interpreted. Two related models and narratives of the Empire have developed since the emergence of this Brunnerian consensus, and they continue to influence most historiography of German-speaking Europe today. The first conceives of the Empire as a patchwork of atomised constitutional ‘territories’. Michel Parisse, summarising this view unquestioningly, puts it like this: ‘mapping the German Empire [*sic*] at the end of the middle ages has become an impossible task... Imperial Europe has become an illegible mosaic, a puzzle of differently sized pieces’.<sup>14</sup> Partly this desire to read the growth of ‘territories’ into the later medieval evidence stems from a traditional German interest in local history and regional studies, which was reinvigorated in the immediate post-war decades, as the study of the ‘German

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<sup>12</sup> Brunner, *Land und Herrschaft*, pp. 165-239. See the discussion of the historiography of feuding in ch. 3 below.

<sup>13</sup> A manifesto for this approach by one of Brunner’s admiring contemporaries is W. Schlesinger, ‘Verfassungsgeschichte und Landesgeschichte’, in W. Schlesinger (ed.), *Beiträge zur deutschen Verfassungsgeschichte des Mittelalters* (2 vols, Göttingen, 1963), II, 11-38.

<sup>14</sup> ‘Cartographier l’Empire allemand de la fin du Moyen Âge est devenu une gageure... l’Europe impériale est devenue une mosaïque illisible, un puzzle de morceaux de différentes tailles’. M. Parisse, *Allemagne et Empire au Moyen Âge* (Paris, 2002), pp. 216-17.

nation’ as a whole temporarily became taboo.<sup>15</sup> It also derives from the resumption of interest in the concept of the ‘state’ in German academic circles from the 1970s onwards, in the context of an increasingly comparative European historiography which took (and often still takes) the ‘genesis of the modern state’ to be a central and self-evident feature of the late medieval and early modern periods.<sup>16</sup> These ‘territories’, especially those ruled by princes, are viewed as the locus of state formation in the Empire. In the words of Karl-Friedrich Krieger, ‘the Romano-German Empire did not find the path to modern statehood... [and] that which was denied the Empire as a whole was substantially accomplished in the territories, so that in Germany it was rather the territorial lordships which laid the foundations of the modern institutional state’.<sup>17</sup> The concepts of territorial statehood and lordship (*Territorialstaatlichkeit*, *Landesherrschaft*) have been applied to most regions of the Empire, often with the explicit goal of understanding their *Verfassungen*.<sup>18</sup> The teleology of ‘territorialisation’, culminating in the attainment by the Imperial princes of so-called *territoria clausa* endowed with sovereignty (*Landeshoheit*) in the 1648 Peace of Westphalia, still underpins much of this work.<sup>19</sup>

The second model through which the Holy Roman Empire is conceptualised in current scholarship pertains to the polity in its entirety. It is presented as an ‘Imperial constitution’ (*Reichsverfassung*), a legal unit within which the various Imperial powers

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<sup>15</sup> See A. Gerlich, *Geschichtliche Landeskunde des Mittelalters: Genese und Probleme* (Darmstadt, 1986).

<sup>16</sup> The state-oriented narratives originated above all in France and the Low Countries. See e.g. B. Guenée, *L’Occident aux XIV<sup>e</sup> et XV<sup>e</sup> siècles: les États* (Paris, 1971; repr. 1995); W. Blockmans *et al.* (eds), *The Origins of the Modern State in Europe, 13<sup>th</sup> to 18<sup>th</sup> Century* (Lisbon, 1996).

<sup>17</sup> ‘... hat das römisch-deutsche Reich den Weg zur modernen Staatlichkeit nicht gefunden... in den Territorien weitgehend verwirklicht wurde, was dem Reich als Ganzen versagt bleibt, so daß es in Deutschland eher die Territorialherrschaften waren, die den Grundstock für die Ausbildung des modernen “Anstaltsstaates” gelegt haben’. K.-F. Krieger, *König, Reich und Reichsreform im Spätmittelalter*, 2nd edn (Munich, 2005), p. 1.

<sup>18</sup> E.g. H. Patze (ed.), *Der deutsche Territorialstaat im 14. Jahrhundert* (2 vols, Sigmaringen, 1970-1); K.S. Bader, *Der deutsche Südwesten in seiner territorialstaatlichen Entwicklung*, 2nd edn (Ostfildern, 1995). The concepts and narratives of *Territorialstaatlichkeit* and *Landesherrschaft* are considered in ch. 4, pp. 89-92.

<sup>19</sup> E.g. H. Boockmann and H. Dormeier, *Konzilien, Kirchen- und Reichsreform 1410-1495* (Stuttgart, 2005), pp. 155-6; K. Herbers and H. Neuhaus, *Das Heilige Römische Reich: Ein Überblick* (Cologne/Weimar/Vienna, 2010), p. 170.

were arranged schematically. The term ‘*Reichsverfassung*’ has existed since the seventeenth century, but in the context of the later middle ages it has become linked to a specific and highly influential interpretation developed by Peter Moraw in the 1980s-90s.<sup>20</sup> Moraw argued that in the thirteenth and fourteenth centuries the German core of the Empire consisted of co-existing entities with few obligations towards the crown or one another – this was the so-called *offene Verfassung*. By the fifteenth century, the trauma of external invasions and endless internal problems of law and order drew the political elites into closer and more intensive interaction with the crown and one another, in a consolidatory shift that Moraw called *gestaltete Verdichtung*.<sup>21</sup> A corollary to this *Verdichtung* was the growth of a sense of political community among those involved in Empire-wide discussions, usually in the context of Imperial Diets, such that the elites came to regard themselves as ‘estates’ or *Reichsstände* whose sphere of action was at the heart of Imperial politics as one of the poles of the dualistic late medieval *Reichsverfassung* – the other pole being the dynasticised monarchy. According to this narrative, the increasingly powerful ‘territorial princes’ were the dominant force within the Imperial estates that now opposed the monarchy, while other elites (towns, noblemen, prelates) were marginalised.<sup>22</sup> Furthermore, there is a latent tendency in this literature to depict these socio-political ‘estates’ – the nobility (*Adel*), the towns (*Städte*), the princes (*Fürsten*), and so on – as ontologically different groups with inherently opposed aims and ways of life.<sup>23</sup> The Moravian paradigm of the estate-based and dualistic ‘Imperial constitution’ is widely regarded today – sometimes with enthusiasm, sometimes by

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<sup>20</sup> P. Moraw, ‘Die Verwaltung des Königtums und des Reiches und ihre Rahmenbedingungen’, in *DVG*, pp. 22-65; P. Moraw, *Von offener Verfassung zu gestalteter Verdichtung: das Reich im späten Mittelalter, 1250 bis 1490* (Berlin, 1985); P. Moraw, ‘Die Funktion von Einungen und Bündeln im spätmittelalterlichen Reich’, in V. Press (ed.), *Alternativen zur Reichsverfassung in der Frühen Neuzeit?* (Munich, 1995), pp. 1-21.

<sup>21</sup> See esp. Moraw, *Verfassung*, pp. 21-22.

<sup>22</sup> See e.g. Herbers and Neuhaus, *Reich*, p. 192.

<sup>23</sup> E.g. Boockmann and Dormeier, *Reichsreform*, pp. 140-69. The use of reifying concepts like *das Städtewesen* – ‘town-ness’ – contributes to this disjunctive categorisation. See e.g. W. Janssen and M. Wensky (eds), *Mitteuropäisches Städtewesen in Mittelalter und Frühneuzeit* (Cologne, 1999).

default – as the orthodox scholarly interpretation of the Holy Roman Empire’s political development in the fourteenth and fifteenth centuries.<sup>24</sup>

Both of these models and narratives capture something of the long-term changes experienced by the Empire in the medieval and early modern periods, and this thesis will draw on some of the findings of historians deploying them. However, the thesis will also rectify some of their weaknesses by seeking to capture the patterns and dynamics detectable in the primary sources, rather than through a reading of the evidence that places it *a priori* within ‘territorial’ and ‘constitutional’ categories. What both of these models claim, explicitly or implicitly, is that politics in the Holy Roman Empire was discrete and compartmentalized. The emphasis is on political units, be they the individual ‘territories’ or ‘states’, the different Imperial estates, or the abstracted constitution of the Empire itself. This disjunctive perspective has obscured the many indications in the sources that later medieval actors in the Empire, especially political elites, were highly interconnected across both geographical and socio-political space. No group or entity was neatly sealed off from any other. Furthermore, all kinds of political actors in the Empire, regardless of their strength or status, seem to have shared in the same structures, conventions, and ideologies of power – the same ‘political culture’, to draw on a useful term that has been applied fruitfully to many other later medieval and early modern contexts in recent decades.<sup>25</sup> The evidence suggests that these common features extended into most spheres of political life, and that they enabled constant interaction between

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<sup>24</sup> See e.g. F. Fuchs, P.-J. Heinig, and J. Schwarz (eds), *König, Fürsten und Reich im 15. Jahrhundert* (Cologne, 2009), p. vii; B. Diestelkamp, *Vom einstufigen Gericht zur obersten Rechtsmittelinstanz: die deutsche Königsgerichtsbarkeit und die Verdichtung der Reichsverfassung im Spätmittelalter* (Cologne, 2014).

<sup>25</sup> See e.g. E. Powell, ‘After “After McFarlane”: The Poverty of Patronage and the Case for Constitutional History’, in D.J. Clayton *et al.* (eds), *Trade, Devotion and Governance: Papers in Later Medieval History* (Stroud, 1994), p. 13; J.C. Wolfart, *Religion, Government and Political Culture in Early Modern Germany: Lindau, 1520-1628* (Houndmills, 2002). The origins and utility of this term, as used in Anglophone scholarship, are considered in C. Carpenter, ‘Political Culture, Politics and Cultural History’, in L. Clark and C. Carpenter (eds), *Political Culture in Late Medieval Britain* (Woodbridge, 2004), pp. 1-20.

political elites, as princes, clerics, townspeople, and nobles alike became involved in one another's affairs within tenurial, financial, and dynastic networks. At the same time, these elite actors generally enjoyed substantial autonomy from one another, formally and/or in practice, such that their interactions cannot easily be viewed as the products of strict hierarchies between rulers and subjects or centralising processes led by unitary administrations. These quasi-horizontal connections gave rise to the regular and widespread creation of treaty-based associations which formalised and regulated the multilateral relationships between political actors.

The political culture of the Empire will be explored in the first two sections of this thesis, primarily by reference to evidence from its south-western regions. Part I examines the shared and interconnective characteristics of several spheres of political activity: the documentary, ritual, judicial, military, and administrative. It demonstrates that, contrary to the assumptions inherent in most German historiography, elites of varying power and status shared in the same institutions, behaviours, languages, and assumptions. The existence of these common features was partly due to constant interaction between power-wielders at every level, a product of the intertwined nature of negotiatory activities and political formations around the Upper Rhine, which perpetually reinforced conformity to certain mutually intelligible forms and practices. The kings and emperors of the Romans were not divorced from these processes, but underpinned them in fundamental ways, both conceptually and, at certain junctures, materially.

Part II deals with the various types of contractual association which emerged organically from these shared and interconnective structures and practices. These associations predominantly took the form of leagues and alliances, but there were many variants on this format. We shall see that they were especially prevalent in the southern and western lands of the Empire from which most of the evidence for this thesis is drawn:

the Upper Rhine and the Rhineland more generally, extending into the Alps and Swabia. Yet associations were not limited to these regions, and as such this thesis aspires to be more than just a regional case study. While there was obviously some variation between localities, its contention is that the evidence examined in Part II points to a new way of conceptualising the Empire, namely as a coherent polity which, though fragmented, was framed by a shared ‘associative political culture’. Central to the operation of this political culture was the way in which associations regulated key judicial and military affairs. They were also based on the same set of assumptions and deployed similar discourses in their foundational treaties, such that ‘associative political culture’ can be said to have consisted of conventions and ideologies as well as institutions and networks.

In Part III the structures and dynamics identified in the earlier chapters will be examined in detail in relation to three case studies, covering the 1370s-80s, 1410s-30s, and 1460s-70s. The chronological spacing of these case studies will shed some light on continuity and change in the Empire over the course of the timespan covered by this study. In view of the findings of Parts I and II, the case studies will also show that a comparative and holistic approach to the later medieval evidence makes the distinction between ‘territorial’ and ‘constitutional’/‘Imperial’ processes unnecessary. Hartmut Boockmann’s concern about the difficulty of deciding what was ‘Imperial history’ and what was ‘isolated regional and local history’ is resolved by the comparative and integrated perspective taken here, in that these supposedly separate categories are shown to be part of the same densely networked and culturally unified political sphere: the Upper German lands of the Holy Roman Empire.<sup>26</sup> The approach developed in this thesis aims to demonstrate that a holistic model of politics in the Empire that synthesises the patterns evident in the rich primary material is not only possible, but yields new and more

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<sup>26</sup> ‘Reichsgeschichte’ ‘isoliert regionaler und lokaler Geschichte’. Boockmann and Dormeier, *Reichsreform*, p. 22.

plausible ways of thinking about life in later medieval and early modern German-speaking Europe.

### **The Holy Roman Empire and its south-western regions between fragmentation and interconnection, c. 1350-1500**

Regardless of how it is conceptualised, the fourteenth- and fifteenth-century Holy Roman Empire had certain basic features which are undisputed, and which are worth surveying before proceeding to the analysis of Parts I and II. This will also allow for an introduction to the specific circumstances of the south-western lands around the Upper Rhine with which this thesis is primarily concerned. First and foremost, the Empire was a monarchical kingdom as well as a community of elites; it was, in other words, a medieval realm which matched Susan Reynolds's broad and useful definition of a 'regnal' polity.<sup>27</sup> There were, however, important differences between the monarchical government of the Empire and the experience of (gradual and intermittent) centralisation around a royal dynasty, which is generally agreed to have occurred in England, France, and Castile, among other later medieval kingdoms. For a start, the monarchs of the Empire theoretically had universal authority. As learned German clerics and political thinkers proudly asserted, the rank of the king or emperor of the Romans exceeded that of any other title in Christendom, a claim rooted in the Carolingian and Ottonian *translatio imperii*.<sup>28</sup> Moreover, the office of the king of the Romans (*rex Romanorum*, *römischer König*) was elective, while the Imperial title (*imperator*, *Kaiser*) was granted to an incumbent king if he was crowned by the pope. In the late thirteenth and early fourteenth centuries it became established custom for the so-called 'electors' (*Kurfürsten*) – the archbishops of Mainz, Cologne, and Trier, the margrave of Brandenburg, the duke of

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<sup>27</sup> S. Reynolds, *Kingdoms and Communities in Western Europe, 900-1300*, 2nd edn (Oxford, 1997), p. 254.

<sup>28</sup> See Scales, *Identity*, pp. 204-94.

Saxony, and the Count Palatine, and sometimes also the king of Bohemia – to choose a new monarch on the death of the previous one. There is little doubt that the kings and emperors of the fourteenth and fifteenth centuries, who stemmed from various Central European dynasties, were poorly equipped in material terms to govern the vast areas within the Empire, whence the constant agonising in German historiography about the Empire's weaknesses and peculiarities, and its alleged failure to coalesce into a state. Compared in absolute terms to their Western European counterparts, and especially considering the size of the areas under their notional rule, the kings and emperors of the Romans were under-resourced, and their administration was small, basic, and peripatetic.<sup>29</sup> When the king or emperor was not personally present in a region he had little direct connection to day-to-day events in political life, even in the Upper German zones identified as 'near-to-the king' (*königsnah*) by Peter Moraw.<sup>30</sup>

At the same time, as recent German scholarship has reiterated, the monarchy was the conceptual centre and pinnacle of the Imperial polity, from which the legitimacy of all other political actors – even the most powerful princes – derived.<sup>31</sup> It was the king or emperor and his representatives who received homage from princes, noblemen, and cities, granting privileges and confirmations of fiefs, revenues, and jurisdictions in return, sometimes through elaborate ceremonies. The Imperial chancery was in constant demand from all the princely, noble, episcopal, monastic, urban, and communal actors in the localities, and it was usually the local powers themselves who paid to have their sealed privilege-charters (*Siegelurkunden*) issued.<sup>32</sup> Periodically the kings and emperors issued legislative ordinances in consultation with other powers at Imperial Diets (*kaiserliche* or

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<sup>29</sup> Moraw, 'Verwaltung', pp. 26-8.

<sup>30</sup> *Ibid.*, p. 24.

<sup>31</sup> Krieger, *Reichsreform*, p. 76; K.-F. Krieger, *Die Lehnshoheit der deutschen Könige im Spätmittelalter (ca. 1200-1437)* (Regensburg, 1979).

<sup>32</sup> See e.g. the case study of Wenceslas's chancery in I. Hlaváček, *Das Urkunden- und Kanzleiwesen des böhmischen und römischen Königs Wenzel (IV.) 1379-1419* (Stuttgart, 1970).

*gemeine Tage*, or *Reichstage* from the 1480s); the ‘Golden Bull’ of 1356, the 1442 ‘Royal Reformation of Frankfurt’, and the 1471 ‘Emperor’s Peace of Regensburg’ are three prominent examples that we shall encounter in various contexts.<sup>33</sup> Some indication of the ideological and symbolic importance of the monarchy for elites in the localities is given by the ‘Saxon Mirror’ (*Sachsenspiegel*) and the ‘Swabian Mirror’ (*Schwabenspiegel*), the two most widely-used compilations of customary law in the German lands in the thirteenth to sixteenth centuries.<sup>34</sup> Both law-books presented the monarch as the fount of secular justice in the spheres of both customary law (*Landrecht*) and feudal law (*Lehenrecht*), even while acknowledging that the tools for its implementation lay in the hands of local powers.<sup>35</sup> They also posited a socio-political hierarchy based on who could grant fiefs to whom, the so-called *Heerschildordnung*, with the king or emperor at its head.<sup>36</sup> This conceptual centrality could not compensate for the insufficiency of the resources available to the kings and emperors of the fourteenth and fifteenth centuries, but shrewd and energetic monarchs like Sigismund could achieve a surprising amount by capitalising on the prestige of their office, and the connections and patronage that it could be used to acquire.<sup>37</sup> We shall see again and again that the political elites of the Upper German lands bought enthusiastically into the idea of the Holy Roman Empire and its peace- and justice-enforcing functions, and this involved vocally identifying any remnants of an Imperial legal-political order in the world they inhabited. Looking to the kings and emperors for symbolic leadership was a natural part of this process, even

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<sup>33</sup> *MGHCA*, XI, 582-740; *RTA*, XVI.2, 401-7; *ibid.*, XXII, 837-73.

<sup>34</sup> The most recent published version of the *Sachsenspiegel*, based on a fourteenth-century manuscript from Heidelberg with a modern German translation, is D. Munzel-Everling (ed./trans.), *Der Sachsenspiegel: die Heidelberger Bilderhandschrift; Faksimile, Transkription, Übersetzung, Bildbeschreibung* (Heidelberg, 2009). The edition used here is *MGHFI*, I.1-I.2. The latest published edition of the *Schwabenspiegel*, translated into modern German from a fifteenth-century manuscript, is H.R. Derschka, *Der Schwabenspiegel, übertragen in heutiges Deutsch mit Illustrationen aus alten Handschriften* (Munich, 2002). The edition used here is *MGHFI*, IV.1-2.

<sup>35</sup> *MGHFI*, IV.1-2, 43, 80-1 (*Schwabenspiegel*); cf. *ibid.*, I.1, 69-70 (*Sachsenspiegel*).

<sup>36</sup> *MGHFI*, I.1, 72-3 (*Sachsenspiegel*); *ibid.*, I.2, 19 (*Sachsenspiegel*); *ibid.*, IV.1-2, 47-9, 396-8 (*Schwabenspiegel*).

<sup>37</sup> See the case study of his reign in ch. 11.

though the monarchs had little involvement in the politics of most regions during many long phases in the period between 1350 and 1500.

The later medieval law-books also open onto the myriad ties and interactions of the powers below the crown, within the framework of what the jurists who compiled the mirrors freely admitted were varied and malleable customs.<sup>38</sup> While these compilations represent the theoretical *Heerschildordnung* as a ‘vertical’ socio-political order restricted to the nobility, they also enumerate a variety of ‘horizontal’ legal and judicial practices affecting freemen and women, which in the fourteenth and fifteenth centuries included a variety of urban, ecclesiastical, and knightly elites, as well as those belonging to the traditional princely and noble ranks of the central middle ages. Even ‘feudal law’ could apply to priests, merchants, villagers, and women in certain circumstances.<sup>39</sup> In practical terms, then, the elites with a stake in the exercise of power were varied and were not arranged in a clear and undisputed hierarchy, even if some were obviously much wealthier and more powerful than others. Indeed, in 1460 the Basler jurist Peter von Andlau noted in his *Libellus de Cesarea monarchia* that the hierarchy of the *Heerschildordnung* was difficult to uphold in reality because ‘many different titles are assigned to princes and nobles according to regional diversity’.<sup>40</sup> The surviving sources support this picture. They suggest that a surprising variety of people could be political actors in the Holy Roman Empire: princes; men and women of various noble and knightly strata; prelates, abbots, and other clerics with temporal assets or jurisdictions; townspeople, especially patricians, who might well be considered noble; and even village leaders. While not every sphere of activity was open to all of these groups, a variety of elites can be detected in the sources interacting in what might be called a ‘horizontal’

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<sup>38</sup> See e.g. *MGHFI*, I.1, 223 (*Sachsenspiegel*).

<sup>39</sup> *Ibid.*, IV.1-2, 398-400 (*Schwabenspiegel*).

<sup>40</sup> ‘Plurima tamen etiam sunt nomina principibus et nobilibus secundum diversas regiones assignata’. R.A. Müller (ed.), *Peter von Andlau: Kaiser und Reich* (Frankfurt/Leipzig, 1998), p. 259.

plane. We shall see in the chapters that follow that they all used the same technologies and modes of ritual, judicial, and military interaction, and that they were connected to one another through the use of a shared array of tenurial, financial, and jurisdictional formats. These common approaches and the interconnectedness that they engendered were significant, for in other respects the Empire was very fragmented. Many of these actors were ‘Imperially-immediate’ (*reichsunmittelbar*), such that they recognised no official overlord apart from the crown. Others were formally subject to another power, usually a prince, but enjoyed very substantial independence, and they might serve multiple lords while pursuing their own autonomous agendas. In this context, the associations examined in Part II of this thesis can be understood as both a means of facilitating collective action between atomised powers and a product of the shared ideas and practices through which these same powers interacted on a regular basis.

The later medieval Upper Rhine and the neighbouring Swabian and Alpine regions represent an ideal case for studying these structures and dynamics. The political powers in this area were even smaller and more fragmented than in other parts of the Empire, and their multidirectional and multi-layered interactions yielded an abundance of written evidence, much of which survives in archives, and some of which was published in a variety of nineteenth- and twentieth-century source editions. The shape and boundaries of the ‘Upper Rhine’ as a pre-modern region are much-debated.<sup>41</sup> In this thesis the area has deliberately been understood in the broadest possible sense, in order to keep the multitude of connections between actors in the south-west and the rest of the Empire in perspective throughout the analysis. Evidence has been analysed from areas along all of the upper stretches of the Rhine itself, from its source in the Rhaetian Alps, along the *Rheintal* flowing northwards into Lake Constance, then westwards along the *Hochrhein*

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<sup>41</sup> See e.g. B. Herrbach-Schmidt and H. Schwarzmaier (eds), *Räume und Grenzen am Oberrhein* (Ostfildern, 2012).

towards the *Rheinknie* at Basel, then northwards through Alsace, the Breisgau, and Baden, up to the edges of the Rhine Palatinate. Adjoining areas will also be examined. In the south of the zone under consideration were the Swiss communes around the *Vierwaldstättersee* and Bern and its hinterland. Towards the centre and north were the Rhenish cities of Speyer and Mainz, the lands ruled by the Counts Palatine, the growing agglomeration ruled by the counts of Württemberg, the Neckar valley, and the Black Forest up to its northern fringes. To the west, the Vosges and parts of Lorraine will feature occasionally. From both a comparative and a connective perspective, evidence from Swabia to the east will be considered frequently. Upper Swabia – the hilly triangular zone between Lake Constance, the Upper Danube, and the River Lech – was home to several noble dynasties which played an important role in the politics of this period, as well as the location of some key cities, including Ulm and Augsburg in its northern tip. Lower Swabia – the hills and woods of the Swabian Jura and the plain stretching north-eastwards towards Franconia – will be mentioned less often, but its princes, towns, and nobles will also appear from time to time in the discussion because of their ties to other parts of the south-western Empire. Today these regions are divided between eastern France, most of Switzerland, western Austria, and southern Germany. In the fourteenth and fifteenth centuries, however, they were linked by myriad networks, whose members used broadly the same written chancery vernacular, and they even had some residual historical unity, rooted in the expansive duchy of Swabia that had existed between the tenth and the thirteenth centuries, and extended from the Vosges and the Alps to the region between the Main and the Neckar and the edges of Franconia and Bavaria.<sup>42</sup> Just as importantly, these Upper German-speaking regions formed the majority of the core of

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<sup>42</sup> On the historical region(s) of Swabia and the Upper Rhine, and their conceptualisation in the later middle ages, see K. Graf, 'Aspekte zum Regionalismus in Schwaben und am Oberrhein im Spätmittelalter', in K. Andermann (ed.), *Historiographie am Oberrhein im späten Mittelalter und in der frühen Neuzeit* (Sigmaringen, 1988), pp. 165-92.

the Holy Roman Empire, and for this reason they can offer rich insights into the political structures and political culture of this much maligned yet poorly understood polity.

## **PART I – SHARED AND INTERCONNECTIVE STRUCTURES AND PRACTICES**

The first step towards gaining a comparative and integrated perspective on political life in the Holy Roman Empire is to examine those spheres of activity which were common to all political actors. Contrary to the assumptions contained in much of the literature surveyed in the Introduction, many discourses, technologies, and methods of government and political interaction were employed by all of the various groups of power-wielders in the Empire: princes, prelates, nobles, towns, and even small communes. Furthermore, most of these shared structures and practices were inherently interconnective; the way in which they worked required multiple powers to come into contact with one another. That contact might be co-operative or conflictual, but in any case it generated constant interaction, making the political elites of the Upper Rhine highly interdependent. The four chapters that follow explore the most important of these shared and interconnective structures and practices, from documentary conventions and ceremonies (chapter 1) to negotiation and mediation (chapter 2), pathways of conflict (chapter 3), and configurations of lordship (chapter 4).

## 1. Documentary culture and ritual

The use of writing and communicative and transactional rituals were two hallmarks of political life in the south-western Holy Roman Empire. By the mid-fourteenth century, the beginning of the period under consideration, the communication and recording of information pertaining to political activities and interactions, and indeed these activities and interactions themselves, involved the use of written data in a variety of documentary forms. Such documents were used by the entire spectrum of the political elite, including not only princely administrations, but also noblemen and women, episcopal and monastic lords, and urban patricians, merchants, and guild masters (either as individuals or as corporate bodies and governments). By 1500 the use of documents had expanded quantitatively and qualitatively, though the outward forms of some of the most common written instruments remained very similar to those surviving from the fourteenth century. That is not to say, however, that there was a linear growth in literacy among the regional elite and its administrators, nor that written words became the dominant medium for political activity. The evidence from the later medieval Upper Rhine corroborates the view formulated by modern scholarship that many uses of writing in this period were characterised by ‘pragmatic literacy’.<sup>1</sup> Research in Germany and elsewhere has stressed that ‘literacy’ must be situated alongside ‘orality’ and ‘rituality’, which were complementary to it (not antithetical, as was once thought).<sup>2</sup> Among the source material from the Imperial South-West, documents do indeed seem to have had a practical, performative function; writing was a means to an end as part of a wider array of tools and traditions of communication, preservation, and representation. This chapter will examine

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<sup>1</sup> See below, pp. 32-4.

<sup>2</sup> C. Meier, ‘Einführung’, in C. Meier (ed.), *Pragmatische Dimensionen mittelalterlicher Schriftkultur: (Akten des Internationalen Kolloquiums 26.-29. Mai 1999)* (Munich, 2002), p. xi.

this documentary culture as it pertained to political activity, with particular attention to its ritual contexts. It will then consider in more detail a particularly important type of ritual in the Upper German lands: the oath.

This instrumentalised nature of the documentary sources makes them a valuable witness to the character of politics as it was practised by their users. Because they contained claims about the possessions and activities of political actors, and were therefore a basis for action (claiming an inheritance, pursuing a lawsuit, calling on an ally, declaring war, and so on), many such documents were not simply a passive record, but an active and performative component of the transactions and interactions which constituted political life. Thus, although fourteenth and fifteenth-century documents do not offer straightforward narratives of events, and can be difficult to interpret in the absence of an awareness of the oral and ritual practices which accompanied their use, they are the most directly relevant written sources available for the study of typical day-to-day political processes. For this reason, and because of their sheer quantity, documentary sources provide the main empirical basis for the interpretations set out in the chapters that follow, although evidence from chronicles, law-books, and political or religious tracts will also be included as frequently as possible to provide a richer picture of the structures and conventions under consideration, and of the ways in which later medieval actors conceptualised them. It is therefore useful to begin with an examination of the most common forms of documentary sources and some of the questions they raise: who created them, who used them, and how they were used. Not only is most of this thesis based on the evidence of political life provided by these sources, but the sources were themselves an integral part of that political life.

The documentary culture of the fourteenth and fifteenth centuries in the south-western Empire was strongly oriented towards the task of laying claim to property and

governmental powers and privileges. Many of the documents pertaining to political life consequently fulfilled what we would view, from a modern perspective, as both public and private functions. Ownership of an item of property often entailed the exercise of fiscal and jurisdictional powers bundled together with the item in question, and the documents which legally ascribed property to an owner also listed these powers and detailed their scope. Any document relating to the ownership or exercise of land, titles, or powers was therefore potentially a constituent part of the political landscape in that it asserted the accompanying governmental functions to which its owner(s) laid claim. For this reason, legal documents and even records with no inherent legal force were not only observations about who owned and exercised what, but actual enactments intended to persuade a public of the validity of their owners' authority. In the absence of a monarchical administration capable of managing regional politics directly and verifying and enforcing claims on behalf of local actors, it was imperative for these powers to be able to advertise their claims for themselves, and for the whole political elite to employ documentary conventions which made this possible. From this imperative stemmed the need for the written word to have a public element (*Öffentlichkeit*) to it, a feature which German medievalists have stressed repeatedly in recent years.<sup>3</sup> This is of particular relevance to documents relating to politics, since, as this research into *öffentliche Kommunikation* has stressed, politics was not just about the accumulation of power, but

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<sup>3</sup> On the vast topic of *Öffentlichkeit* and communication see, among others, G. Melville and P. von Moos, *Das Öffentliche und Private in der Vormoderne* (Cologne, 1998); G. Althoff (ed.), *Formen und Funktionen öffentlicher Kommunikation im Mittelalter* (Stuttgart, 2001); P. von Moos, 'Öffentlich' und 'privat' im Mittelalter: zu einem Problem historischer Begriffsbildung (Heidelberg, 2004); A. Malz, 'Der Begriff "Öffentlichkeit" als historisches Analyseinstrument', in R. Günthart and M. Jucker (eds), *Kommunikation im Spätmittelalter: Spielarten – Wahrnehmungen – Deutungen* (Zurich, 2005), pp. 13-26; M. Kintzinger and B. Schneidmüller (eds), *Politische Öffentlichkeit im Spätmittelalter* (Ostfildern, 2011).

also about the communication of that power, for which writing was one important vehicle.<sup>4</sup>

It is certainly the case that the form and content of documents produced around the later medieval Upper Rhine broadcast messages which were implicitly or explicitly intended for an audience. They did so through formats and languages which were generally the preserve of only the most powerful monarchs and magnates in more centralised European polities. The introductory formula used in almost all documents with legal force, whatever their purpose and whoever issued them, makes this clear: ‘I/we [the individual(s) behind the ensuing enactment or transaction] recognise and make it known publicly and to the many with this letter’ (‘Ich/wir ... bekennen und tun kund öffentlich/offenbar maniglichem mit disem brief’). Variants of this formula can be found in a range of contexts from throughout the 1350-1500 period, including grants of privileges from the king/emperor,<sup>5</sup> feudal letters,<sup>6</sup> letters of arbitration,<sup>7</sup> transferences of authority over lands and castles,<sup>8</sup> pledge (*Pfandschaft*) contracts,<sup>9</sup> bilateral promises not to attack one another,<sup>10</sup> and treaties of alliance.<sup>11</sup> Similarly, such documents referred the audience to the seals which invariably accompanied and thereby legitimised them: ‘And to make this a true and firm document... [the signatory] has attached his seal to this letter’ (‘Und zu<sup>o</sup> einem waren und steten urkünde... so hat... sin ingesigel gehenket an disen brief’).<sup>12</sup> It can be inferred from the contexts in which such documents were typically deployed – to back up the owner’s/owners’ claims in a dispute – that the people at whom

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<sup>4</sup> P. Oelze, ‘Die Austreibung der Geselligkeit. Der Wandel städtischer Politik im spätmittelalterlichen Konstanz’, in Günthart and Jucker, *Kommunikation im Spätmittelalter*, p. 36.

<sup>5</sup> GLA D/537.

<sup>6</sup> ADHR E2378.

<sup>7</sup> *UBB*, VII, 136.

<sup>8</sup> *RUB*, III, 88.

<sup>9</sup> *CDM*, I, 486-8.

<sup>10</sup> *UBB*, VI, 12.

<sup>11</sup> *CDM*, I, 307.

<sup>12</sup> *Ibid.*, I, 312.

the content was ‘publicly’ aimed were primarily other members of the political elite or their legal assistants (usually noblemen, knights, and/or patricians, i.e. also members of the elite).

The limited level of learning and literacy among this group necessitated set formulae in a mutually comprehensible language, so it is no coincidence that an established legal-political vocabulary in the High German vernacular developed in the later middle ages. As a result, ‘pragmatic literacy’ provides a useful analytical lens through which to consider this documentary culture. The term has found widespread currency in the scholarship of high and late medieval Europe, having been popularised in two – apparently separate – contexts: a fourteen-year (1985-99) project at the University of Münster on the theme of *Träger, Felder, Formen pragmatischer Schriftlichkeit im Mittelalter* (‘Agents, Fields and Forms of Pragmatic Literacy in the Middle Ages’)<sup>13</sup> and the work of Malcolm Parkes, among others, in England.<sup>14</sup> The former’s conclusion that some engagement with instrumentalised literate processes was becoming unavoidable at the end of the middle ages<sup>15</sup> and the latter’s remark that ‘pragmatic literacy is implicit in the mass of documents that survives from all aspects of mediaeval administration’<sup>16</sup> are both borne out by the Upper Rhenish evidence. This is most clearly indicated by the language of the sources. In the thirteenth and early fourteenth centuries, as the number of documents produced by and for the lay elite expanded, the vernacular became the

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<sup>13</sup> See H. Keller, ‘Pragmatische Schriftlichkeit im Mittelalter. Erscheinungsformen und Entwicklungsstufen’, in K. Grubmüller *et al.* (eds), *Pragmatische Schriftlichkeit im Mittelalter: Erscheinungsformen und Entwicklungsstufen* (Munich, 1991), pp. 1-7; Meier, ‘Einführung’; C. Meier, ‘Fourteen Years of Research at Münster into Pragmatic Literacy in the Middle Ages. A Research Project by Collaborative Research Centre 231: Agents, Fields and Forms of Pragmatic Literacy in the Middle Ages’, in F.J. Arlinghaus *et al.* (eds), *Transforming the Medieval World: Uses of Pragmatic Literacy in the Middle Ages* (Turnhout, 2006), pp. 23-39.

<sup>14</sup> M.B. Parkes, *Scribes, Scripts, and Readers: Studies in the Communication, Presentation, and Dissemination of Medieval Texts* (London, 1991). See also R.H. Britnell (ed.), *Pragmatic Literacy, East and West, 1200-1330* (Woodbridge, 1997).

<sup>15</sup> Meier, ‘Einführung’, p. xii.

<sup>16</sup> Parkes, *Scribes, Scripts, and Readers*, p. 278.

preferred written language in most of southern Germany, except for the royal/Imperial chancery and those of ecclesiastical lords. After 1350 even these chanceries were employing the vernacular in their dealings with lay powers. The bishop of Strasbourg, for example, used German in all treaties, transactions, and correspondence with neighbouring lords and towns from the mid-fourteenth century onwards.<sup>17</sup> A formulaic written version of late medieval High German (*Frühneuhochdeutsch*), with variations based on local dialects but uniformity in its central vocabulary, became the language of documentary culture because the users of the resulting documents found it convenient to understand and – where they were literate – read and write. Indeed, the impetus for the adoption of the vernacular came in the first instance from lay producers of documents, and the Imperial chancery reacted accordingly in order to correspond with the localities in their preferred language – not the other way round, as was once thought.<sup>18</sup> The formulae in documents also hint at a very pragmatic interaction between a partially-literate elite and documentary culture. Following the public opening discussed above, documents typically specified that they were addressed ‘to all who see it or hear it read out’ (‘allen den die In sehen oder horen lesen’). The reference to merely seeing the document, but not necessarily reading it, or hearing someone else read it out, shows that it was an entrenched assumption throughout this period that most users of documents would not be able to read them in person. Literacy rates among the elite are impossible to track, but there are isolated clues. For example, there is an interesting reference in an arbitral record to an encounter in Ribeauvillé in 1384 between Lord Bruno of Rappoltstein and his brother-in-law and rival Count Heinrich of Saarwerden, in the course of which the latter demanded of the former that he ‘hear read out a letter’, to which Bruno replied that

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<sup>17</sup> E.g. ADBR G97-9.

<sup>18</sup> P. von Polenz, *Geschichte der deutschen Sprache*, 10th edn (Berlin, 2009), p. 56.

‘if he wanted to have read out the letters we had pertaining to one another, I would happily hear them’.<sup>19</sup>

The possibility, suggested by such scenarios and by the formulae in the documents themselves, that many elites could not read fluently or at all is one indicator that there were limits to what documents alone could achieve in political life, and that they necessarily functioned alongside oral, ritual, and other practices and behaviours. The interplay between these last and the written word needs to be taken into account in order to make sense of political interactions in the Holy Roman Empire in this period. First, however, it is necessary briefly to consider the most important types and forms of document which played a role in these interactions. The archival evidence from the fourteenth, fifteenth, and early sixteenth centuries encompasses a range of these types, all of which were produced and used to a greater or lesser extent by actors from across the socio-political spectrum. They include correspondence (*Briefe, Akten*), usually closed with a small (or signet) seal; governmental records, formatted as rolls, books, or codices, listing or preserving rents and patrimonies (*Urbare*), fiefs (*Lehenbücher*), and charters and letters (*Kopialbücher* or *Briefbücher*), among other things; and even some notarial instruments.<sup>20</sup> All of these documentary types were important, but none had greater symbolic and legal significance than the sealed charter or contract (*Siegelurkunde*). This

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<sup>19</sup> ‘vorderte er [Heinrich von Saarwerden] an mich, daß ich einen brief... sollte hören lesen; da sprach ich: wolte er unßer briefe alle thun leßen, die wir gegen einander hettent, ich wolte sie gern hören’. *RUB*, II, 201.

<sup>20</sup> See, among others, C. Jörg, ‘Kommunikative Kontakte – Nachrichtenübermittlungen – Botenstafetten. Möglichkeiten zur Effektivierung des Botenverkehrs zwischen den Reichsstädten am Rhein an der Wende zum 15. Jahrhundert’, in Günthart and Jucker, *Kommunikation im Spätmittelalter*, pp. 79-89; M. Jucker, ‘Trust and Mistrust in Letters: Late Medieval Diplomacy and its Communication Practices’, in P. Schulte *et al.* (eds), *Strategies of Writing: Studies on Text and Trust in the Middle Ages: Papers from “Trust in Writing in the Middle Ages” (Utrecht 28-29 November 2002)* (Turnhout, 2008), pp. 213-36; R. Sablonier, ‘Verschriftlichung und Herrschaftspraxis: Urbariales Schriftgut im spätmittelalterliches Gebrauch’, in Meier, *Pragmatische Dimensionen mittelalterlicher Schriftkultur*, pp. 191-220; R. Köhn, ‘Regesten zu den beiden ältesten Registern Herzog Friedrichs IV. von Österreich’, *ZWL*, 53 (1994), 41-99; J. Wild, ‘Schriftlichkeit in der Verwaltung am Beispiel der Lehenbücher in Bayern’, in H. Keller *et al.* (eds), *Schriftlichkeit und Lebenspraxis im Mittelalter: Erfassen, Bewahren, Verändern* (Munich, 1999), pp. 69-77; J. Schüler, *Geschichte des südwestdeutschen Notariats. Von seinen Anfängen bis zur Reichsnotariatsordnung von 1512* (Bühl, 1976).

format was so widespread and so malleable that it warrants closer examination, especially since it was a central element in many of the practices considered in later chapters.

In the later middle ages, the German word *Urkunde* denoted a charter granting or supporting claims to rights and powers, or – more generally – a document with some sort of legal force. Because of their importance as evidence for the status and rights of political incumbents, whether they were princes, noblemen, members of a municipal government, or ecclesiastical lords, *Urkunden* were generally well preserved. They survive in large numbers in archives across modern-day Alsace, Baden-Württemberg, Switzerland, and Tyrol. *Urkunden* remained fairly static in their outward forms and formulae between the mid-fourteenth and early sixteenth centuries. Two things gave them legal force. The first was the use of authentic seals by the grantor of the rights or the initiator of the proceedings detailed in the content; where multiple parties were involved in a judgement, contract, alliance, or some other kind of multilateral deal or agreement, all would affix their seals. A second authorising element sometimes found in such documents is the mention of witnesses to a grant, transaction, or judgement. Sometimes they would affix their own seals to confirm that they had witnessed the enactment of or agreement about the content.

The importance of seals as a means of proving authorisation and authenticity is the reason why this type of document has been given the specific label of *Siegelurkunde* (‘seal-charter’) by German diplomatists.<sup>21</sup> Seals were the defining element of these documents in that they had no authority or binding power without them. The mandatory formula just before the date in all such documents reinforces this very clearly: ‘And to

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<sup>21</sup> Cf. H. Bresslau, *Handbuch der Urkundenlehre für Deutschland und Italien*, 4th edn (2 vols, Berlin, 1968-9), I, 40-50.

make this a true and firm *Urkunde*... [the signatory] has attached his seal to this letter'.<sup>22</sup> That seals were a *sine qua non* of the majority of legally-binding documents in the Imperial South-West explains why every type of political actor and entity – princes, noblemen, bishops, abbots, town councils, patricians, and even rural communes like Uri and Schwyz – had a seal of their own. By 1350, communal political units like towns had had their own seals for at least a century. In the course of the period under consideration a few associations, like the knightly Society of the Leopard, developed their own collective seals.<sup>23</sup> The proliferation of seals to all sectors of political society was recognised by the author of the 'Reformacion keyser Sigmunds', a polemic against contemporary politics and ecclesiology written by an anonymous cleric at the Council of Basel around 1439. As part of his argument that power ought to be restored to the king of the Romans and the independence of the principalities and towns reined in, he called for the use of seals to be restricted to the monarch alone. In his view, *Siegelurkunden* were a deviation from correct legal practice, which ought to rely solely on instruments drawn up by clerical notaries when written validation was required. He reserved particularly bitter criticism for bishops who used seals in their dealings.<sup>24</sup> It is a testament to the widespread employment of *Siegelurkunden* in all areas of political life that a proponent of Imperial centralisation should have targeted seals as a particularly malign symbol of legal-political autonomy in the localities.

If seals were universal on the later medieval Upper Rhine, it is because *Siegelurkunden* fulfilled so many functions in everyday political – and indeed legal and financial – life. Some form of charter, couched in widely accepted vernacular formulae and authenticated by the use of seals and (sometimes) witnesses, was the default format

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<sup>22</sup> 'Und zu<sup>o</sup> einem waren und steten urkünde... so hat... sin ingesigel gehenket an disen brief'. The formula used here, of which there are countless other examples with only minor variations, is from *CDM*, I, 312.

<sup>23</sup> See ch. 6, p. 151, below.

<sup>24</sup> *RKS*, pp. 300-4.

when a legally binding written contract, or evidence of a legally binding transaction having taken place, was required. The only alternative was the notarial instrument, which did not really take hold in the later middle ages, and certainly never displaced the more popular *Siegelurkunde*.<sup>25</sup> The latter's components were so basic and widely recognised that they could be configured to fit almost any conceivable purpose. The evidence cited in this thesis includes *Siegelurkunden* from a variety of contexts. Some were produced in the chancery of the king or emperor of the Romans, and granted or confirmed the assets, revenues, or jurisdictions of local actors. All the powers of the Upper German lands, whether they were princely, noble, urban, or ecclesiastical, relied upon the provision of charters from the monarchs to demonstrate the legitimacy of their authority. The depiction of a generic monarch handing out several charters with appended seals in a mid-fifteenth-century manuscript of the *Schwabenspiegel* (Figure 1) captures the imaginary importance of the crown as the purveyor of rights and of the *Siegelurkunde* as the vehicle and proof of those rights in the localities. Sealed charters and diplomas were put to similar use by local powers when they granted, pledged, or sold one or more components of lordship to their peers or subordinates; much of the analysis in chapter 4 will draw on these abundant transactional *Siegelurkunden*. Just as importantly, sealed documents with legal force underpinned the dizzying variety of multilateral decisions and commitments into which political actors in the south-western Empire entered in the 1350-1500 period. These ranged from letters of surety to the judgements and outcomes issued by panels of arbitrators (*Abschiede*, *Schiedssprüche*). Most significantly of all for the political landscape of the Holy Roman Empire, multilateral *Siegelurkunden* were the means by which associations, such as leagues, alliances, and knightly societies, were formalised. The resulting treaties are considered in detail in Part II of this thesis. For now it is enough

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<sup>25</sup> See Schüler, *Notariat*.

to note that, as illustrated by Figures 2 and 3, the affixing of the seals of all the participants was deemed essential to authenticate these treaties.

### **The interplay between literacy, orality, and ritual**

This chapter began by noting that ‘pragmatic literacy’ must be viewed alongside other practices and media of communication. It is important to finish this survey of documentary culture with some reflections on how the sources discussed so far fitted into a broader and highly complex world of political interactions. If it is true that most elite groups around the Upper Rhine shared the same basic palette of written tools and formats, it is also true that, for all of these groups, ‘documentary culture’ involved a lot more than just the written word. This is clear from the popularity and durability of the *Siegelurkunde* in the period under consideration. The dominance of a documentary type authenticated by a pictorial object, and the inability of more intricate written formats like the notarial instrument to displace it, is revealing. As we have seen, its vernacular language and its endlessly replicated formulaic components point to an elite which was by no means fully literate, and which was content to operate with a restricted toolbox of easily accessible and re-deployable written forms. What is more, even the seals themselves served only to authenticate the written record of whatever grant, transaction, or treaty the *Urkunde* legally evinced. Very often the actual deal itself was enacted and legitimised in person by the parties involved, using customary procedures and rituals, among which the taking of oaths was the most important. The swearing of oaths in the appropriate setting remained the most important method of binding people to a government, to one another, or to any kind of grant, transaction, or office. Even though *Siegelurkunden* had legal force as evidence of the rights, possessions, or relationships of their owners, they were ultimately only written and material witnesses to the occurrence of face-to-face ritualised encounters

in which oath swearing was the central legitimising act with the highest legal significance of all.

Indeed, the general attitude to the written word on its own among the majority of power-wielders in the later medieval Imperial South-West seems to have been characterised by suspicion. True authority and trustworthiness both lay in the spoken word, in the context of face-to-face encounters between the parties involved in the relationships of which all transactions and communications were a product.<sup>26</sup> The frustratingly limited detail in many rendered judgements and *Abschiede* (records or outcomes) of arbitrational committees and *Tage* implies that the substance of the discussions held in courts and councils was never committed to writing, and the source material relates only – at most – a laconic summary of the major decisions and issues. In feudal transactions, it was the ritual of homage and the pronouncement of reciprocal vows which legally enacted the enfeoffment, with charters merely enumerating the contents of the fief and recording the fact that the requisite homage had taken place. Even in the later fifteenth century, the production of *Lehensbriefe* and *Lehensrevers* (feudal letters and counter-letters) was by no means a mandatory part of this process, and seems to have been a matter for the discretion of the liege-lord and vassal(s) concerned. It is striking that *Lehenbücher* often note the absence of any letter or *Revers* for the enfeoffments listed within them.<sup>27</sup>

Even the expanding records and correspondence networks of the various later medieval governments of the region belonged to a multi-layered experience of the negotiation and maintenance of power, for which writing was still only one medium, and not necessarily the most important one. The temptation to interpret records and letters as

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<sup>26</sup> Wild, 'Schriftlichkeit in der Verwaltung', p. 69.

<sup>27</sup> *Ibid.*, p. 75.

manifestations of the march towards rationalised, bureaucratised statehood needs to be resisted. It has been shown that *Urbare*, for instance, were not only about accurately tracking (and thereby controlling) the patrimony of a government or institution, but also symbolic representations of power and wealth.<sup>28</sup> Records of council meetings within a single government, or at *Tage* (conferences, councils, or diets) held by members of an association, are not complete minutes, but rather short itemised references to an issue, often with no elaboration whatsoever. The same is true of the diplomatic reports of urban *Boten* (messengers), and the agendas for their meetings with outside powers; generally there is an order to discuss a topic, or a note that discussions were held about an issue, but the details are left to be related in person by the author(s) to the recipient(s).<sup>29</sup> Michael Jucker has demonstrated that even the records of the council meetings of the Swiss Confederates were about fulfilling targeted political agendas and circulating summaries among networks of allies, all of which included face-to-face ritualised interactions as well as the written sources which survive, and none of which fit into the simplistic paradigm of pragmatic literacy as the vehicle for the bureaucratisation of the late medieval state.<sup>30</sup>

The complex complementarity of documents and records with other customary methods of communication and encounter, many of them performative, reveals a great deal about political culture in the later medieval Imperial South-West. It will by now be clear that the elite, for all its diversity, relied on a selection of mutually intelligible and essentially similar documentary forms. In urban, noble, and ecclesiastical contexts alike, these forms only took on their full meaning and functions alongside other practices in the

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<sup>28</sup> Sablonier, 'Verschriftlichung und Herrschaftspraxis', p. 102.

<sup>29</sup> E.g. *RTA*, VI, 113.

<sup>30</sup> M. Jucker, 'Pragmatische Schriftlichkeit und Macht: methodische und inhaltliche Annäherungen an Herstellung und Gebrauch von Protokollen auf politischen Treffen im Spätmittelalter', in C. Dartmann *et al.* (eds), *Zwischen Pragmatik und Performanz: Dimensionen Mittelalterlicher Schriftkultur. Utrecht Studies in Medieval Literacy* (Turnhout, 2011), pp. 405-11.

manner that has just been discussed. Perhaps the most importance of these practices was the oath, which is worth examining in more detail.

### **Oaths in the political culture of the Holy Roman Empire**

The ritual practice of oath-taking was one of the most ubiquitous features of political life in the south-western Empire. The *frühneuhochdeutsch* noun ‘eid’ (‘oath’), as well as its alternative spellings (‘eyd’, ‘eit’, ‘aid’, and so on), is to be found in abundance in any cross-section of documents from this period and region, ranging from feudal contracts recording that liege-homage was performed to surety contracts noting that the guarantors of a debt swore oaths to uphold their obligations.<sup>31</sup> The same is true of the related verbs ‘schwören’ (‘to swear’ or ‘to take an oath’) and ‘geloben’ (‘to pledge’ or ‘to make a vow’) and their various semantic offshoots.<sup>32</sup> Based on the extreme frequency with which oaths are mentioned in a range of primary sources, it seems that oath-taking occurred in every context in which political elites interacted with one another. It was a mandatory component of many legal and judicial processes: in both ad hoc meetings of arbitrators and more institutionalised courts, litigants, mediators, and judges all had to swear oaths according to acceptable ceremonial protocols in order to validate their claims, testimonies, and decisions. More generally, oaths ritualistically cemented the whole range of transactions and relationships into which political actors entered with one another, including tenurial ones, such as the granting of fiefs, pledges, and offices, and associative ones, such as the creation of alliances and leagues. As we have already begun to see, and as will become even clearer in the rest of Part I, all kinds of actors – princes, prelates, nobles, and burghers – made use of this same set of legal, transactional, and relational forms, and so all of them necessarily took part in the accompanying oath-based rituals.

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<sup>31</sup> E.g. *RUB*, II, 613; *UBS*, VII, 349-50; *UBB*, VII, 446-7.

<sup>32</sup> E.g. *HZB*, VI, 13; *GLA* 46/389.

Of course, oaths were not unique to the Upper Rhine and its adjoining regions. The oath has often been noted as a very widespread custom which attended all kinds of social and political relationships in most medieval European societies.<sup>33</sup> However, the significance of oath-taking for the south-western Empire goes beyond its pervasiveness as a generic formality. This was a highly fragmented zone, in which the monarchy, while symbolically important, provided no reliable and universal administrative framework. In the absence of an overarching or external authority, it was imperative for local political actors to be able to rely on one another in their day-to-day interactions. Oath-taking, as a public trust-building performance, fulfilled this function, and it is impossible to make sense of the shared political culture of the Imperial South-West without taking this ritual into account.

There is an extensive and long-standing Germanophone historiography of oaths, and it is worth surveying the key findings of this scholarship. Unsurprisingly, in view of the apparently judicial nature of many oath-taking rituals, this scholarship has predominantly been written under the umbrella of legal history (*Rechtsgeschichte*). Within this framework, the oath has been viewed as a central component of the *Verfassungsgeschichte* of medieval German political units. This is especially true of those units which fit most easily into the Gierkian definition of late medieval *Genossenschaften*.<sup>34</sup> This principally means towns, as well as associations such as town leagues and, within an exceptionalist and nationalistic framework, the Swiss Confederation.<sup>35</sup> The oath has been said to have been part of these units' 'constitutional structure' (*Verfassungsstruktur*), and the legal procedure which enabled membership of a

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<sup>33</sup> See for example R.W. Southern, *The Making of the Middle Ages* (London, 1953), p. 110; R. Bartlett, *Trial by Fire and Water. The Medieval Judicial Ordeal* (Oxford, 1986), p. 30; R. Fossier, *The Axe and the Oath: Ordinary Life in the Middle Ages* (Princeton, 2010), pp. 55, 246, 263-4, 285.

<sup>34</sup> See Gierke, *Genossenschaftsrecht*, I.

<sup>35</sup> On the Confederation see for example P. Blicke, 'Befriedung des Raumes: Bündnisse ländlicher und städtischer Gemeinden in der Schweiz und das Entstehen der Schweizerischen Eidgenossenschaft', in F.J. Felten (ed.), *Städtebünde – Städtetage im Wandel der Geschichte* (Stuttgart, 2006), pp. 49-64.

town or association in the first instance.<sup>36</sup> In Wilhelm Ebel's influential scheme, the oath was the ritual of choice for establishing voluntary consent (*Willkür*) in any community, like the ideal-typical medieval town, that made its own statute law (*Satzung* – as opposed to *Recht* and *Gebot*, the timeless principles of divine justice and rules imposed from above).<sup>37</sup> Though the oath has been closely linked to these supposedly voluntary and quasi-egalitarian 'sworn communities' (*Schwurgemeinschaften*), legal historians have also noted that it occurred in other contexts, where the relationship between participants in the ritual was overtly hierarchical. An antithetical form of oath has therefore been posited, which Ebel called the 'subject-' or 'loyalty-oath' (*Untertan-/Treueid*). Lothar Kolmer developed Ebel's categories into a dichotomous typology: the 'vertical-hierarchical' (*vertikal-hierarchisch*) oath between lord and subject, master and servant, or employer and employee on the one hand; and the 'horizontal-equal' (*horizontal-paritätisch*) oaths of citizens, associates, and socio-political equals on the other.<sup>38</sup> More synthetically, Paolo Prodi has described the oath as a near-universal 'sacrament of power', the 'bedrock of the political contract' between either multiple rulers (in a horizontal direction) or between rulers and ruled (in a vertical direction).<sup>39</sup>

From a comparative perspective on political culture in the Empire, it is artificial and unhelpful to compartmentalise the oath in the manner of Ebel's or Kolmer's typologies. The political and judicial use of oaths was not confined to any one

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<sup>36</sup> See W. Ebel, *Der Bürgereid als Geltungsgrund und Gestaltungsprinzip des deutschen mittelalterlichen Stadtrechts* (Weimar, 1958); B. Koch, 'Integration von Neubürgern in die Städte des späten Mittelalters', in M. Beer et al. (eds), *Migration und Integration: Aufnahme und Eingliederung im historischen Wandel* (Stuttgart, 1997), p. 77; G. Dilcher, 'Bürgerrecht und Bürgereid als städtische Verfassungsstruktur', in R.C. Schwinges and R. Gerber (eds), *Neubürger im späten Mittelalter: Migration und Austausch in der Städtelandschaft des alten Reiches (1250-1550)* (Berlin, 2002), pp. 83-97.

<sup>37</sup> W. Ebel, *Geschichte der Gesetzgebung in Deutschland*, 2nd edn (Göttingen, 1958), pp. 15-26; W. Ebel, *Die Willkür: eine Studie zu den Denkformen des älteren deutschen Rechts* (Göttingen, 1953).

<sup>38</sup> L. Kolmer, *Promissorische Eide im Mittelalter* (Kallmünz, 1989), pp. 72, 168.

<sup>39</sup> P. Prodi, 'Der Eid in der europäischen Verfassungsgeschichte', in P. Prodi (ed.), *Glaube und Eid: Treuformeln, Glaubensbekenntnisse und Sozialdisziplinierung zwischen Mittelalter und Neuzeit* (Munich, 1993), p. vii; P. Prodi, *Das Sakrament der Herrschaft: der politische Eid in der Verfassungsgeschichte des Okzidents*, trans. J. Elze (Berlin, 1997).

community, group, or rank. Rather, it was a widespread practice that was universally valorised and served a central function in almost all relationships and transactions. That is not to say that the trappings of some oath-taking rituals did not seek to establish hierarchies between participants, or that other forms did not seek to emphasise a sense of parity and community. However, in reality most judicial, transactional, or bond-forming rituals contained multiple liturgical elements which might simultaneously emphasise equality and subjection, or partnership and servitude.

That most oath-taking rituals had common elements is hardly surprising, given that all oaths, regardless of their context and the status of the people taking them, shared the same basic function. As Kolmer himself recognised, the desired effect of swearing a promissory oath – ‘horizontal’ or ‘vertical’ – was to provide ‘security’ to a given relationship or commitment by obliging those involved in it to make a ritualised public promise to respect its parameters.<sup>40</sup> This reading of the application and purpose of oaths has been corroborated and expanded by more recent work on the subject influenced by anthropological methodologies. André Holenstein has dubbed the oath ‘a ritual of reassurance’ for two reasons.<sup>41</sup> On the one hand it forced the oath-takers to stake their conscience, with God as their witness and the threat of divine punishment as a deterrent, on fulfilling the commitment they were making, whatever that commitment might be – to tell the truth in a court, to be obedient to a lord or superior, to respect the terms of an alliance, and so on. On the other hand it ‘stabilised expectations’ by framing proceedings and engagements in a universally-known ritual associated with truthfulness and loyalty. It seems very plausible that security, reassurance, and stability were the desired outcomes of

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<sup>40</sup> Kolmer, *Eide*, p. 360.

<sup>41</sup> A. Holenstein, ‘Rituale der Vergewisserung: Der Eid als Mittel der Wahrheitsfindung und Erwartungsstabilisierung im Mittelalter und in der frühen Neuzeit’, in E. Bierende *et al.* (eds), *Riten, Gesten, Zeremonien. Gesellschaftliche Symbolik im Mittelalter und Früher Neuzeit* (Berlin, 2008), pp. 229-50.

oath-taking in all its late medieval Upper Rhenish manifestations. The political actors of this area were often capable of occupying multiple roles and offices. In a world in which a bishop could simultaneously be a count and a patrician's daughter could be the holder of a landed fief, it was clearly important that lords, partners, and subjects be confident that an actor was going to fulfil the requirements of a particular role.<sup>42</sup> The value of confidence and trust in the creation and maintenance of alliances and associations between sometimes quite diverse parties is even more obvious. This was a fragmented, polycentric, and overlapping political landscape, in which many autonomous political actors were constantly interacting. It was rare for these actors to have completely equal power bases and statuses, but it was equally rare for one actor to dominate or subjugate another completely. In these circumstances, it was vital for the whole spectrum of elites to share a mutually intelligible political culture. As a kind of ritual cement which undergirded many relationships and encounters, oaths were an important feature of this political culture.

The evidence from legal and political documents, law-books, and chronicles suggests that all types of oaths in the Holy Roman Empire were expected to have obligatory characteristics which underlined their confidence-inducing purpose. These characteristics seem to have been relatively consistent across all the governmental contexts in which oath-taking took place. A universal feature of the outward form of oath-taking for Christian men, for example, was what the vernacular documentation referred to as the 'ufgehebter hand': the raising of the right hand during the swearing procedure, which was in keeping with the practices used elsewhere in Europe.<sup>43</sup> This gesture is explicitly noted in formulae from a variety of documents witnessing to the formalisation

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<sup>42</sup> These examples being the bishop of Strasbourg as landgrave of Alsace and Ursula Ziboll as a fief-holder in Uttental, discussed on pp. 105-6 below.

<sup>43</sup> See H. Drüppel, 'Schwurhand', in *LDM*, VII, 1651.

of relationships, whether these relationships would be classified as ‘vertical’ or ‘horizontal’ in Kolmer’s scheme. For instance, the penultimate sentence in a 1398 contract employing one Hans Ensel von Gundolfesheim as a mounted soldier for the town of Haguenau contains the following formula:

I, the above-named Hans Ensel, have gladly sworn a spelled-out oath, with a raised hand and read-out words on holy relics, to hold truly and strongly to each and every one of these afore-written things, and not to do or have done anything against them in any way, all without any deception.<sup>44</sup>

Similarly, it was frequently recorded in alliance treaties that the parties involved swore oaths in this way. In the 1422 treaty by which Lady Verena of Tübingen-Lichteneck and her noble and knightly network formalised their alliance with the Imperial Cities of Alsace, it was declared on behalf of Verena’s affinity that they had ‘gladly done and sworn spelled-out oaths to God and the saints with raised hands and read-out words’.<sup>45</sup>

Illustrations of oath-taking produced in the late medieval Upper Rhenish space suggest that this posture had even more specific characteristics which the formulae do not mention, namely a raised thumb and index and middle fingers, in a symbol which is thought to have represented the Trinity.<sup>46</sup> All the visual representations of oaths in a copy of the *Schwabenspiegel* produced in the Haguenau workshop of the bookmaker Diebold Lauber *circa* 1425-45 show this distinctive pose.<sup>47</sup> The representation of the electors swearing an oath before choosing a new king has them all displaying this same symbol (Figure 4), and it is revealing that, in order to depict a prisoner making a pledge from a tower window, the artist felt that it was sufficient to show his face and a single hand in

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<sup>44</sup> ‘Dise vorgeschriben ding alle und besunder han ich der obg’n’ Hans Ensel globet und gesworn einen gestabeten eit mit ufgehebeter hant und mit gelerten worten liplichen zu den heiligen stete und fest zu halten und nit do wider zu tunde noch schaffen getan in deheinen weg ane alle argeliste’. AMH EE3.

<sup>45</sup> ‘liplich ze gott und den heiligen mit ufgehepten handen und gelerten worten gestabt eyde getan und gesworn’. *FUB*, III, 116.

<sup>46</sup> Drüppel, ‘Schwurhand’.

<sup>47</sup> On Diebold Lauber’s workshop and the dating of the manuscript see Derschka, *Schwabenspiegel*, pp. 309-17.

the characteristic Trinitarian posture (Figure 5). The voluminous references to oaths in the documentary sources, whatever their purpose (feudal letters, service contracts, alliance treaties, and so on), mention another distinguishing feature of oath-taking: the practice of swearing ‘on holy relics’ (‘uff den heiligen’).<sup>48</sup> It is unclear whether this formula always reflected what literally took place, or if it might refer more vaguely to oaths made to the saints (i.e. ‘den heiligen’) as well as to God. If relics were used, they would have needed to have been readily accessible in the diverse range of circumstances in which oaths were sworn. One clue as to how this may have worked is offered by a depiction in the Lauber workshop *Schwabenspiegel* of an oath as part of feudal liege-homage (‘manschaft’) (Figure 6). In addition to adopting the conventional posture with his right hand, the oath-taker is shown touching a small bag – presumably containing the ‘heilgen’ mentioned in the caption – with his left hand.

Even if relics were not always physically present when oaths were sworn, the prevalence of the formula referring to them and their holy qualities indicates a second widespread characteristic of oaths in the later medieval Imperial South-West: they were regarded as a religious, even quasi-sacred ritual. The *Schwabenspiegel* mandates certain restrictions on oath-taking which, regardless of whether they were respected or not, imply that the practice was viewed as a matter of conscience, to be taken very seriously. A male could only take an oath after the age of fourteen, presumably because minors were not deemed mature enough to understand the significance of the ritual and to take responsibility before God for the promises they made.<sup>49</sup> Oath-taking was theoretically proscribed on certain days, mostly prominent feasts in the liturgical calendar, except

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<sup>48</sup> Quotation from ADHR E617 (1476 *Urfehdebrief*). See also the phrasing ‘an den heiligen’, as in *UBS*, VI, 476 (1393 *Münzverordnung*).

<sup>49</sup> Derschka, *Schwabenspiegel*, p. 255.

where these oaths were part of a peace treaty or reconciliation between parties.<sup>50</sup> Such restrictions suggest a strong belief in the divinely-sanctioned character of oaths, which were therefore not to be taken lightly. The idea that the ultimate witness to oaths was God himself is supported by another illustration in the Hagenau *Schwabenspiegel*, which shows a multitude of oath-takers performing their ritual in the direct presence of the divine figure seated on a cloud to their left (Figure 7). The caption reads: ‘God allows just oaths and forbids unjust oaths’. Interestingly, a Jew (indicated by his conical hat and alternative posture) is included among the oath-takers, reinforcing the truly universal religious significance of this ritual, which was employed in so many socio-political situations.

Within this imaginary framework, perjury (‘meineid’) and failing to respect oath-bound promises carried with them not only the threat of earthly consequences (such as fines paid to the lord of the court), but also the threat of divine retribution.<sup>51</sup> Given that oaths were taken before human witnesses, there was also the risk of social stigma and revenge for anyone perceived to have contravened obligations sworn to through this venerated ritual. Accusations of oath-breaking are uncommon in the documentary sources, but those that exist carry with them recriminations of a negative intensity which is rare in the formulaic chancery language of the period. In the inheritance conflict between the brothers Counts Friedrich and Eitelfriedrich of Zollern, taken before mediators at Rottweil in 1421, the latter accused the former of being ‘an honourless, unjust, disinherited, and cursed perjurer and murderer... [who] no longer belongs among honourable and pious people, nor to any good thing’.<sup>52</sup> During Zurich’s conflict with the other Swiss Confederates in the 1430s and ‘40s over Toggenburg, the Imperial City was

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<sup>50</sup> Ibid., p. 87.

<sup>51</sup> See *ibid.*, p. 120.

<sup>52</sup> ‘ain ehrloser rechtloser erbloser vertailer mainaider morder... und nicht mere gehörest zû eren zû fromen lueten noch zû dehainen guoten dingen’. GLA 46/156.

treated by its former allies as an oath-breaker, feeding into the infamously savage propaganda produced by the Confederates against Zurich and its Austrian allies in this period.<sup>53</sup> Such reactions are not surprising when it is remembered that oaths, in addition to being rituals of religious and social significance, were also in and of themselves enactments of the agreements which political actors relied upon. In fourteenth- and fifteenth-century contracts in *Urkunde* form, it was not the written document or even the seal(s) which gave legal force to the transaction, but the verbal engagements made under oath to which the document bore witness. Oath-takers therefore had a responsibility to live up to their promises, not only for the sake of their own souls and reputations, but also for the sake of the stability of a socio-political order which relied on quasi-sacred oaths as a universal tool for instilling trust and confidence in the myriad interactions and commitments which constituted it.

The oath, then, was not confined to any one type of 'estate' of political actor, or to a particular kind of political formation (towns based on voluntary citizenship, or egalitarian corporations). Nor is it easy to distinguish 'vertical' oaths from 'horizontal' ones, as previous scholars of the Empire's legal culture have tried to do. The many autonomous political actors of the Upper Rhine and Swabia interacted through a spectrum of relationships and transactions which defy organisation into these neat categories. In all these interactions, oaths functioned as trust-generating, stabilising rituals with a symbolic and performative meaning which was widely understood. It is to these interactions themselves, in all their forms (judicial, military, and governmental), that the following chapters will turn.

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<sup>53</sup> See D. Hardy, 'The 1444-5 Expedition of the Dauphin Louis to the Upper Rhine in Geopolitical Perspective', *Journal of Medieval History*, 38.3 (2012), 366-7.

## 2. Arbitration and para-judicial mediation

Arbitration was one of the most conspicuous and pervasive features of political life on the Upper Rhine, and in Upper Germany more generally. It involved many of the documentary techniques and legal and judicial ideas and rituals examined so far. Based on the archival evidence, the use of designated parties to assist in the resolution of disputes was a convention which affected the entire socio-political spectrum. A substantial proportion of the surviving documents pertaining to litigation and conflict resolution in the broadest sense were created at the instigation of temporary councils of mediators assembled to deal with a specific dispute, rather than by established, institutionalised courts. For example, based on the documents preserved in the *Staatsarchiv* of Basel, one-and-a-half times as many of the disputes of the government and citizens of Basel with external parties were pursued through arbitral courts (*Schiedsgerichte*) in the 1350-1500 period as through customary or 'territorial' courts (*Landgerichte*).<sup>1</sup> This is a conservative ratio, since, as will be explored in due course, many of the cases pursued in more institutional court settings were also essentially arbitral proceedings. The surviving records of the margraves of Baden from this period are dominated to an even greater extent by *Urkunden* and correspondence produced in the course of mediatory negotiations, because these princes made regular use of arbitrators, and were themselves often to be found on arbitral committees.<sup>2</sup> Judgements from the *Hofgericht* at Rottweil, which, owing to its lack of any means of

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<sup>1</sup> Based on the approximate ratio of documents yielded by the search terms 'Schlichtung', 'Schiedsgericht', 'Schiedsverfahren', and 'Austragung' to those matching the term 'Landgericht' in the catalogue of the Staatsarchiv des Kantons Basel-Stadt.

<sup>2</sup> See the 'Bestand 46' catalogue in the Generallandesarchiv Karlsruhe, especially under 'Gerichtswesen'. See also, among many other examples, *RMBH*, III, nos. 5040, 5678, 7438, 7484.

enforcing its decisions, can be considered an arbitrational court of sorts, can be found in every archive in what was once the south-western Empire, and in several beyond it.<sup>3</sup>

Despite its conspicuousness in the sources, arbitrational activity has received relatively little attention in the scholarship of the late medieval Empire and its legal history, and the most complete analyses are now very old.<sup>4</sup> The standard works on *Rechtsgeschichte* have very little to say about arbitration. It is never treated as a topic in its own right, despite the fact that a lot of the justice-seeking (*Rechtsfindung*) and judgement-rendering (*Urteilsfällung*) which these works seek to characterise in the abstract took place in practice at arbitrational meetings (*Gerichte* or *Tage*).<sup>5</sup> Revealingly, the most thorough investigations into how arbitration worked in practice have been undertaken by historians of associations like *Landfrieden* and knightly societies.<sup>6</sup> Because these were multilateral formations, which transcended any individual power, these historians have had to examine the interactions between multiple political actors and entities, rather than focusing on an individual town or ‘territory’, and virtually all justice and conflict resolution at this multilateral level was arbitrative. Furthermore, fourteenth-

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<sup>3</sup> See pp. 66-7 below for some examples. For an example of the wider activity of the *Hofgericht*, see *RI*, XIII.7, no. 326 (from the Historisches Archiv der Stadt Köln).

<sup>4</sup> E. Usteri, *Das öffentlich-rechtliche Schiedsgericht in der schweizerischen Eidgenossenschaft des 13.-15. Jahrhunderts* (Zurich, 1925); K.S. Bader, ‘Das Schiedsverfahren in Schwaben vom 12. bis zum ausgehenden 16. Jahrhundert’ (doctoral thesis, Freiburg, 1929); H. Krause, *Die geschichtliche Entwicklung des Schiedsgerichtswesens in Deutschland* (Berlin, 1930); K.S. Bader, *Die Entwicklung und Verbreitung der mittelalterlichen Schiedsidee in Südwestdeutschland und in der Schweiz* (Basel, 1935); Brunner, *Land und Herrschaft*, pp. 425-35.

<sup>5</sup> See K.S. Bader and G. Dilcher, *Deutsche Rechtsgeschichte: Land und Stadt – Bürger und Bauer im Alten Europa* (Berlin/Heidelberg, 1999); Kroeschell, *Rechtsgeschichte*, II; U. Eisenhardt, *Deutsche Rechtsgeschichte*, 5th edn (Munich, 2008).

<sup>6</sup> I. Most, ‘Schiedsgericht, rechtlicheres Rechtgebot, ordentliches Gericht, Kammergericht. Zur Technik fürstlicher Politik im 15. Jahrhundert’, in *Aus Reichstagen des 15. und 16. Jahrhunderts* (Göttingen, 1958), pp. 116-53; H. Obenaus, *Recht und Verfassung der Gesellschaften mit St. Jörgenschild in Schwaben. Untersuchungen über Adel, Einung, Schiedsgericht und Fehde im fünfzehnten Jahrhundert* (Göttingen, 1961); C. Proksch, ‘Die Auseinandersetzung um den Austrag des Rechts zwischen Fürsten und Ritterschaft in Franken vom Ende des 14. bis in die Mitte des 16. Jahrhunderts’, in D. Rödel and J. Schneider (eds), *Strukturen der Gesellschaft im Mittelalter: Interdisziplinäre Mediävistik in Würzburg* (Wiesbaden, 1996), pp. 168-95; H. Carl, *Der Schwäbische Bund, 1488-1534: Landfrieden und Genossenschaft im Übergang vom Spätmittelalter zur Reformation* (Leinfelden-Echterdingen, 2000), chs 4, 7; E.-M. Distler, *Städtebünde im deutschen Spätmittelalter: eine rechtshistorische Untersuchung zu Begriff, Verfassung und Funktion* (Frankfurt, 2006), pp. 142-52.

and fifteenth-century treaties of association often stipulated mediatory methods of resolving disputes.<sup>7</sup> The prevalence of arbitration and other mediatory forms of justice is obvious from the perspective of the sources. That such a ubiquitous phenomenon has largely been neglected in the scholarship is a testament to how little the level of political activity above that of the ‘territory’ or region, but below that of the Empire-wide *Reichsverfassung*, has been studied. As we shall see in more detail in chapter 4, the dominance of the ‘territorial’ paradigm in German historiography has distorted our understanding of political life in the localities of the Empire in a number of respects.

Even where arbitration has been acknowledged as an important and widespread practice, it has been interpreted in a narrow way which does not fully apprehend its true extent. Traditionally, a *Schiedsgericht* (arbitrational court) is seen as the opposite of an *ordentliches Gericht* (the institutional court with competence in a given jurisdiction), such that the former was only used when the latter was not available.<sup>8</sup> This is too neat a view of how jurisdiction worked: the notion that there was a ‘correct’ court for each case was a constructed one, rather than a timeless truth that could be demonstrated. The jurisdictional map of the south-western Empire existed only in the competing claims and ongoing negotiations of the various powers which populated it. There were, of course, more institutionalised courts with fixed locations, staff, and sessions: the *Hofgericht* of Rottweil mentioned above, for example, or customary, feudal, and urban courts (*Landgerichte*, *Lehngerichte*, and *Stadtgerichte*), which were run by the more powerful princes, upper nobility, and towns. People who were direct subjects (*Untertanen*) of these powers and were under their criminal jurisdiction typically had little resort to other judicial options because they had little or no political agency and autonomy. However, this was not the position of the political elites with which we are concerned. Princes,

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<sup>7</sup> On the link between arbitration and association see chapter 7, pp. 184-96.

<sup>8</sup> E.g. Carl, *Schwäbischer Bund*, p. 372.

prelates, patricians, members of the various layers of the nobility, and even leaders of the more independent communes could expect to have at least some say in which court or mediatory committee oversaw the resolution of their disputes. For these elites, arbitration or arbitration-like activity could take place anywhere within a spectrum of judicial and para-judicial settings, which ranged from truly improvised meetings with selected third parties to the more institutionalised and static courts just mentioned. Princes, it is true, had too high a notional status to appear before a customary or feudal court; the main judicial options for them were designated mediatory committees of peers or, occasionally, arbitration by the king or emperor. For the other elites, however, permanent courts might be an option alongside ad hoc meetings, and in these cases these courts functioned as third-party arbitrators – the cases brought before them were ‘civil’ in nature, the litigants were not ordinarily subject to the jurisdiction of the court, and the staff of the court had no way of forcing the litigants to appear or to accept their verdicts. In each of these pathways of mediation – established courts and temporary gatherings of peers – the outcome was decided via compromise (‘minne’) or a supposedly binding judgement (‘recht’); the latter, borrowed from the vocabulary of the vernacular jurists, could just as legitimately be delivered by a transient assembly of mediators as by a judge in a permanent judicial institution.<sup>9</sup> We will encounter examples of all of these scenarios in the course of this chapter, and they invite a wide definition of arbitration and para-judicial mediation as a major – probably *the* major – means of working out disputes in late medieval Upper Germany.<sup>10</sup>

Another problematic aspect of the legal-historical scholarship is the strong theoretical division that it posits between the ‘public’ jurisdiction of established courts and the ‘private’ jurisdiction of arbitrational resorts. Thus, the *Lexikon des Mittelalters*

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<sup>9</sup> On ‘minne’ and ‘recht’ see pp. 62-3 below.

<sup>10</sup> See also further examples of arbitration in chs 7 and 10-12.

defines a *Schiedsgericht* as ‘a court arranged by contract, which should resolve disputes in the place of the courts based on public jurisdictional authorities’.<sup>11</sup> While it is true that some princes (notably the Counts Palatine and the dukes of Austria) were seeking by the late fifteenth century to establish their own courts as the only legitimate judicial institutions in the regions under their notional rule, arbitrational activity should not be seen as less official or ‘public’ than litigation in established courts. The whole reason for which elite actors resorted to temporarily arranged judicial committees was that there was no widely recognised institution to which they would all willingly submit. The ‘correct’, ‘public’ court was therefore whatever resort the concerned parties decided to use in a given case, and these courts (really committees of other political actors encased in the forms and vocabulary of local legal convention) were every bit as ‘official’ in their reputation, procedures, and outcomes as more static and established judicial bodies. Arguments would be made, verbal and written evidence (potentially including witnesses) would be produced, and judgements would be rendered; and all of this would take place before political peers, as described in more detail below.

A final problematic claim made by the existing scholarship is that arbitrational courts were inferior and undesirable because the process of defining the source of the dispute and choosing arbitrators gave ample opportunity for the ‘infiltration of justice by politics’.<sup>12</sup> Leaving aside the dubious assumption that the staff of institutionalised, ‘*ordentlich*’ courts (usually noblemen or patricians) were in some way detached from surrounding political agendas, a large part of the attraction and effectiveness of arbitration was surely that it allowed the parties involved to influence the outcome of a dispute by appointing people sympathetic to their interests as mediators. The prevarication and

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<sup>11</sup> ‘ein durch Vertrag vereinbartes Gericht, das Streitigkeiten anstelle der auf öffentlichen Jurisdiktionsgewalt beruhenden Gerichte entscheiden soll’. J. Weitzel, ‘Schiedsgericht’, in *LDM*, VII, 1454-5.

<sup>12</sup> ‘Eindringen der “Politik ins Recht”’. Most, ‘Schiedsgericht’, p. 153; Carl, *Schwäbischer Bund*, p. 371.

compromise involved in setting the terms, dates, and composition of a series of court meetings was certainly a political process as much as a judicial one, but that was surely the whole point: arbitration was a channel for negotiating disputes between powers about matters which were often the very stuff of politics, such as land ownership, jurisdictional boundaries, office-holding, and the release or ransom of valuable prisoners. Here it is helpful to note Susan Reynolds's reminder that 'our understanding of law at this time may be enhanced if we recognize how indistinct was the boundary between it and politics or administration in general'.<sup>13</sup>

So arbitration should be understood in its broadest possible sense as a form of organised multilateral negotiation, and in this form it constituted a key mechanism by which the political landscape under study operated. The huge variety of actors involved in the mediatory committees and litigating parties mentioned in the sources is in itself an indicator of this role of arbitration as a universal vehicle of political interaction. We have already seen that Basel's citizens and the margraves of Baden and their affiliates were regular providers and users of arbitration, and much the same can be said of other towns, nobles, and princes. Free and Imperial cities from Strasbourg to Bern and from Haguenuau to Rottweil were all involved in arbitration in the same ways as Basel.<sup>14</sup> It is also worth noting that arbitration was at times provided by the councillors of 'subject' towns like Aarau (under Bern) and Freiburg (under the Austrian dukes), which illustrates the autonomy and political agency enjoyed even by powers which were not Imperially-immediate.<sup>15</sup> Similarly, noble families from the Rappoltsteiner in Alsace to the Klingenberg in the Thurgau can be observed engaging in exactly the same sort of arbitrational structures, often in cases involving both urban and noble actors, insofar as

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<sup>13</sup> Reynolds, *Kingdoms and Communities*, p. 27.

<sup>14</sup> E.g. AVCUS AA129; SBE D Spezialarchiv FA von Erlach I 360; AMH FF10; *UBR*, no. 1506.

<sup>15</sup> E.g. *USAA*, nos. 323-5; *UBF*, II, 211.

these categories can be disentangled from one another.<sup>16</sup> The evidence for princely involvement in arbitration is stronger still in terms of the sheer number of sources in which princes can be seen mediating or using mediators. A prince like Margrave Bernhard of Baden (1364-1431) can be found using arbitration as a means of resolving disputes involving both stronger powers (principally the Counts Palatine and the dukes of Austria)<sup>17</sup> and comparable or weaker ones (for example, the counts of Württemberg and Hohenberg and the city of Strasbourg).<sup>18</sup> Perhaps because of their superior prestige and resources, the Counts Palatine seem to have been the arbitrators of choice in many high-profile disputes, such as the last phase of the nexus of conflicts called the ‘Old Zurich War’, the settlement of which was overseen by Ludwig IV in 1450.<sup>19</sup> Naturally, the attractiveness of the Counts Palatine as arbitrators was at its height during Rupert III’s tenure of the crown of the Romans (1400-10). It was in this capacity that he oversaw the negotiations that ended the war prosecuted by the Appenzeller and their allies against the bishop of St Gallen, the duke of Austria-Tyrol, and the society of St George’s Shield.<sup>20</sup> Although the choice of Rupert in this case was surely due in part to his regional influence and the fact that his daughter was married to Friedrich IV of Austria-Tyrol, it is also a reminder that even royal justice in this period was often arbitrational.

In addition to these conventional members of the elite, the sources attest to the involvement of more unexpected actors in arbitration. Even small rural communes made use of this negotiatory route, usually by means of urban mediators. Evidence for this includes the outcome of a 1466 dispute between the village of Nüwiler and the lesser noble Peter von Eptingen, mediated by the municipal council of Lucerne, and a 1484 case

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<sup>16</sup> E.g. *RUB*, IV, 302; SLU URK 46/981.

<sup>17</sup> E.g. GLA 46/262.

<sup>18</sup> GLA 46/193, 248.

<sup>19</sup> *AEA*, II, 841; see also e.g. AMH FF2.

<sup>20</sup> *USGÖA*, II, 454-6.

in which two villages south of the *Hochrhein*, Giebelflüh and Ottenhusen, called upon third parties in a disagreement over woodland and pasturage rights.<sup>21</sup> Prelates were also not averse to employing other powers, including towns and noblemen, as mediators, or to acting in concert with them in arbitrational committees. The bishops of Strasbourg, Basel, and Constance were regularly drawn into disputes over properties, rights, and jurisdictions with their neighbours, which were then negotiated through the customary arbitrational means used by laymen. Vernacular *Schiedssprüche* (arbitrational judgements) involving episcopal parties were already being created in the 1350s.<sup>22</sup> Moreover, the bishops themselves were in high demand as arbitrators for nearby towns and nobles. The (mostly episcopal) prelates of the Council of Basel (1431-49) played an instrumental role in arbitrating between participants in the conflicts that took place on the Upper Rhine in the 1440s, not least the ‘Old Zurich War’.<sup>23</sup> Abbots appear in the records of arbitrational proceedings with similar frequency. A substantial proportion of surviving *Urkunden* pertaining to the abbey of St Blasien in this period are the outcomes of disputes with – among others – certain citizens of Esslingen, some communes in the Thurgau, and the *Landvogt* in the Aargau, mediated by neighbours like Baden in the Aargau, Zurich, and the count of Lupfen.<sup>24</sup> Other documents record occasions when the abbot of St Blasien acted as a mediator for such parties as the towns of the Swabian League, the count of Württemberg, the abbey of Alpirsbach, and the villages of Wasingen and Gosheim.<sup>25</sup> Pairis Abbey in south-western Alsace had a long-standing series of conflicts from 1345 into the sixteenth century with the town of Orbey over forestry rights, which saw the intervention of arbitrational committees consisting of nearby nobles like the lords

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<sup>21</sup> SLU URK 579/31; SLU URK 699/14213.

<sup>22</sup> E.g. *UBB*, VII, nos. 211-16; *AEA*, II, 239-40; ADHR E2502; ADBR G126/5.

<sup>23</sup> See Hardy, ‘The 1444-5 Expedition’, pp. 373-5.

<sup>24</sup> GLA 11/5249, 5367; and two microfilmed documents from 1401 and 1450, formerly in GLA 11, now SZH C V 6.1/28; SZH C V 6.2/54.

<sup>25</sup> GLA 11/5512, 5382.

of Rappoltstein, of Rischach, and of Hunigesbach.<sup>26</sup> When disputes on the Upper Rhine acquired trans-regional dimensions, more distant powers might be invited to assist in arbitrational processes. In June 1410 the Venetian senate considered sending a representative to assist in setting aside the enmities then extant between the margrave of Baden and the duke of Austria-Tyrol, while in the aftermath of the Swabian War, in October 1499, Duke Ludovico Sforza of Milan acted as one of the mediators in the negotiations between the Swiss Confederates, the bishop of Constance, and others over jurisdictions in the Thurgau.<sup>27</sup> This total ubiquity of mediation as a vehicle for negotiation and conflict resolution at every level of political society and throughout the Upper German space reinforces the need to regard arbitrational activity as one of the main pathways of political interaction in this period. It also highlights the need to define arbitration broadly, so that the multilateral, interactive, and connective dimensions of judicial and negotiatory activity, including the activity that took place in more static courts, are not overlooked for the sake of unitary and territorial conceptions of late medieval political processes.

The organisation of arbitrational activities confirms the value of treating them as a broad spectrum of essentially similar methods of judicially-framed negotiation. The way in which arbitrational proceedings were planned, initiated, and set into motion can be understood in part through agreements – sometimes called *Anlaßbriefe* (‘cause-letters’) or *Tädigungen* (which translates literally as ‘negotiations’ or ‘counsels’)<sup>28</sup> – between two opposing parties which made provision for the choice of arbitrators and sometimes for the location at which the parties and their arbitrators should meet. For example, in 1368 the government of Bern and the bishop of Basel drew up a contract according to which their

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<sup>26</sup> ADHR E1545.

<sup>27</sup> GLA 46/195; AEA, III.1, 762.

<sup>28</sup> See ‘Teiding’, in *Deutsches Wörterbuch von Jacob Grimm und Wilhelm Grimm* (32 vols, Leipzig, 1854-1966), XXI, Sp. 233-7.

ongoing disputes would be arbitrated by three knights, namely Henmann von Ramstein, Jakob von Schönau, and Walter von Bebenheim.<sup>29</sup> In 1408 Margrave Bernhard of Baden and Duke Friedrich IV of Austria-Tyrol contractually agreed to submit their competing claims in the Breisgau to the majority decision of three arbitrators (or their delegates), namely King Rupert of the Romans, Archbishop Johann of Mainz, and Count Eberhard of Württemberg, and it was stipulated that the decision would be made at a session in the town of Freiburg.<sup>30</sup> Bernhard also reached an agreement with King Rupert around the same time (1407-8) that they would both use Archbishop Friedrich of Cologne as an arbitrator in their conflict over several castles and monasteries on the banks of the Rhine.<sup>31</sup> Sometimes such agreements could be very detailed indeed, specifying time limits as well as people and locations. Thus, an *Anlaßbrief* from 1466 states that two opposing parties – the town of Basel and Hans Bernhard von Eptingen – had agreed to continue their dispute over the rights to certain village courts and the incomes of an infirmary under specific mediatory conditions. An arbitrational committee would be formed under the bishop of Basel at his court (*Hof*), with two representatives from each party joining him to form a total of five decision-makers, though the bishop would make the final judgement if a majority could not be reached. A one-month period was granted for the delivery of evidence (documents or witnesses) to the committee, a further month for formulating arguments against the other party's evidence, and a final month for coming up with responses to those arguments; two weeks later the bishop would gather together all the presented evidence and arguments, open the final 'arbitration meeting' (*Schlichtungstag*), and the committee would deliver a judgement on the matter.<sup>32</sup>

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<sup>29</sup> *Fontes rerum Bernensium: Bern's Geschichtsquellen* (10 vols, Bern, 1877-1956), IX, 112, 212.

<sup>30</sup> GLA 46/194.

<sup>31</sup> GLA 46/208-12.

<sup>32</sup> SBL AA 1001/0536-7, 0557.

In addition to these very formal documents setting out the terms of present or future arbitrations, some correspondence from this period has survived which gives some insight into the negotiations which led various parties to settle on the location and composition of their arbitral committees. For example, on 27 June 1444 Ludwig von Blumeneck wrote a letter to Smassmann von Rappoltstein on account of their dispute over the castle of Kastelberg, in which he demanded that, ‘for the sake of honour and of justice’, Smassmann consent to them taking their disagreements before either the bishop of Strasbourg, the Count Palatine, or the margrave of Baden, ‘whichever of these three princes is most agreeable to you’.<sup>33</sup> Three days later Smassmann wrote a reply to Ludwig in which he asserted that, because of the wars currently affecting his possessions, he was not able to ride any distance away, but that he would be happy to see their dispute taken before the *Landvogt* of the lordship of Austria in a nearby town such as Freiburg, Breisach, Neuenburg, or Colmar. Smassmann added that ‘no-one could arbitrate more justly in this matter’ than the *Landvogt*, since Kastelberg was ultimately an Austrian possession, but that if this was a really disagreeable option for Ludwig then he would also consider seeking mediation ‘before my gracious lord of Bussnach, or before the earnest and trustworthy Lord Burckhart Münch, knight, [and] Lord Hans of Múnstraul, or before Hans Knüttel or Heinrich von Núwenfelß’.<sup>34</sup> By the end of the following month, after further letters in which the tone became progressively less courteous (customary forms of address notwithstanding) and threats of violence in defence of honour were deployed, the two disputants seem to have settled on arbitration by one of the towns in the Breisgau.<sup>35</sup> Such exchanges, which in many cases must have occurred orally, either in person or via messengers, demonstrate the extent to which establishing the terms of arbitration was in

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<sup>33</sup> ‘zû eren vnd reht’ ‘für welhen fürsten vnder den drien dir eben sige’. *RUB*, IV, 23-4.

<sup>34</sup> ‘das es nienen billicher uß ze tragenn ist denn vor miner gnádigen herschaft von Österrich land vogt’. *Ibid.*, IV, 24.

<sup>35</sup> *Ibid.*, IV, 26-7.

itself an exercise in negotiation, in which parties tried to manoeuvre their opponents into submitting to the public decision of a committee likely to provide a desirable outcome, or at least a relatively advantageous compromise. We shall see in Part II that associations often specified mandatory pathways of arbitration in their treaties in an attempt to streamline and delimit this unavoidable facet of everyday political life in the southwestern Empire. The common impression that emerges from all this evidence is that arbitration was organised so as to construct a public, consensual forum for resolving disputes. The employment of arbitral methods signalled that the involved parties were members of the stratum of quasi-autonomous elites within which there was no obvious supreme authority below the Imperial monarch, so that these parties had no choice but to rely on their *de facto* peers to resolve their endless proprietary, jurisdictional, and financial conflicts. That is not to say that arbitration was truly equal, fair, or devoid of coercion, just as there were great variations in power and status within the broad spectrum of political elites in the Empire. Rather, given the structural realities of this political space, it formed one of the most viable channels for the dense interactions – conflictual and co-operative – which brought the actors of the region into constant contact with one another. Furthermore, because of their public nature, arbitration and para-judicial formats of mediation continuously advertised their own legitimacy and normativity, encouraging other actors to resort to the same repertoire of forms.

The interactive, negotiatory character of arbitration is also suggested by what we can glean from the outcomes of the mediatory meetings themselves. Revealingly, these were called *Tage* – the same generic word which late medieval German-speakers applied to any kind of assembly or governmental committee at which multiple parties might negotiate, from a local encounter between two urban representatives up to the meetings of the Imperial estates which came, by the end of the fifteenth century, to be known as

*Reichstage*.<sup>36</sup> That the concept of a *Tag* had quite general connotations of consultation and negotiation between authorities is evinced by a Zurich chronicler's attempt to articulate what the ecclesiastical Council of Constance (1414-18) was: 'a "tag" and "rat" [council], which is called the "concilio"'.<sup>37</sup> From this perspective, the processes followed at the thousands of arbitrational *Tage* held between 1350 and 1500 cannot be reduced to a set of rigid legal categories and procedures. They are best understood as fairly open-ended, general patterns of discussion and persuasion by any possible oral or written means, structured conceptually only by a very generic judicial discourse. Certainly, this discourse was important, and it placed limits on what could happen in that it invoked certain shared ideas, such as those found in texts like the *Schwabenspiegel*, about how customary legal and arbitrational proceedings should occur.<sup>38</sup> Arbitrational documents commonly assert that the matter was to be decided 'nach minne und recht', a vernacular importation of the canonical formulae *per amorem et justiciam* and *consilio vel iudicio*. This indicates that there were generally understood to be two acceptable, legal paths to an outcome of a dispute submitted to mediators: a negotiated compromise to which all parties consented, or a judgement (*Urteil*) imposed on them by the mediatory committee, who might well be referred to as judges (*Richter*).<sup>39</sup>

Furthermore, it is common to find vocabularies and formulae in written arbitrational outcomes from ad hoc sessions which mimic those of a more institutionalised court: '[the litigants] on both sides, unanimously and intentionally, submitted the same disagreements and disputes to me [the arbitrator], so that I may have full authority in the case [to enjoin] compromise ["minne"] and justice ["rechtes"], and to that end I have heard the claims, responses, and counter-arguments, and took all this into

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<sup>36</sup> S. Dusil, 'Jahr und Tag', in *HRG*, II, 1348-50.

<sup>37</sup> 'ainen tag und rat, genant das concilio'. *CSZ*, p. 176.

<sup>38</sup> E.g. Derschka, *Schwabenspiegel*, pp. 72-6.

<sup>39</sup> E.g. GLA 46/248. See Obenaus, *St Jörgenschild*, p. 106.

account... and I issue this verdict...'.<sup>40</sup> The language of this 1388 *Schlichtung* (mediation) is in many respects comparable to that of a 1424 judgement from the *Lehngericht* (feudal court) in Baden, in which it is said that the judge 'sat over the case', which he wished 'to resolve and judge amicably', to which end 'claims, letters, discussions, the showing of evidence, demands, and counter-arguments took place', and the outcome was to be recognised 'in the form of a compromise ["minne"]' or 'in accordance with justice ["recht"]'.<sup>41</sup> Insofar as this orderly image is a reflection of what really took place at either arbitral *Tage* or feudal courts, it is a reminder that the discourses of institutionalised courts (*Landgerichte, Hofgerichte, Schultheissgerichte*, and others) were also those of ad hoc mediatory meetings. This in turn suggests that 'ordentlich' courts were not all that different from arbitral committees. It should also act as a warning against imposing overly rigid and legalistic meanings to such contemporary categories as 'judge', 'court', 'case', and 'claim', which had to describe a wide variety of more or less formal activities and institutions.<sup>42</sup>

Equally, attention should be paid to some of the more informal language present in these same sources. In contrast to the impression of rigid legal procedures given by some phrases in arbitral documents, the presence of informal language suggests a flexible and negotiatory aspect to what went on in arbitral meetings which is more consistent with the kind of ad hoc, advantage-seeking bargaining observed in the organisational exchanges noted above. One striking usage is the word 'counselled' or 'discussed' ('beredt') to describe the action whereby arbitrators and disputants reached

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<sup>40</sup> 'die selben ir misseheller und sto<sup>e</sup>ssse sù zù beiden siten einhelleclliche und mûtwillicliche uf mich komen sint, also das ich minne und rechtes in den sachen gewaltig sol sin, und habe och dar uf verho<sup>e</sup>ret ir beider teil vorderunge, antwurte und wider rede und habe och das wol in genomen... und dis spriche ich...'. *RUB*, II, 260-1.

<sup>41</sup> 'uber die sache gesessen' 'fruntlich abgetragen und gerichtten mochten' 'ansprochen briefe rede kuntschaft vorderung und widerrede verstanden habent' 'yn der mynne' 'zùm rechten'. *GLA* 21/273.

<sup>42</sup> For more examples of arbitral and 'ordentlich' court records with overlapping judicial vocabularies cf. e.g. *UBS*, VII, 815-16, 827; *UBR*, pp. 494-9 (esp. p. 498); *GLA* 21/44.

and submitted their decisions (e.g. ‘we have discussed among ourselves, that we should and want to hold to the following...’).<sup>43</sup> It implies a collective, consultative activity which did not necessarily follow a prescribed path, but emerged organically out of the kind of negotiations that might be expected to occur at meetings between acquaintances about a dispute in the presence of other known members of the same socio-political stratum. Comparable terms to ‘beredt’ in the arbitrational sources include ‘uberainkomen’ (‘bargained’, or ‘came to an understanding’) and ‘zu gemain man gekommen sind’ (‘reached a common position’).<sup>44</sup> Sometimes the statement that a conflict was ‘arbitrated’ or ‘decided’ (‘usgetragen’) was preceded by the assertion that it was quite literally ‘negotiated’ (‘gehandelt’) by the present parties.<sup>45</sup> Less harmoniously, but equally informally, disputes submitted to arbitration can be found described not as procedurally legitimate ‘cases’, but instead as vague ‘tensions’ (‘spenne’), ‘strife’ (‘zwitracht’), or ‘dissensions’ (‘mishel’) between parties.<sup>46</sup> Against the possibility that a party might seek to continue the negotiatory process after a disadvantageous arbitrational decision, some sources rhetorically exhort all those present at a meeting to respect its outcome ‘without any prevarication or counter-argument’.<sup>47</sup>

Unfortunately the sources do not provide much insight into what all this negotiation would have looked like in action, nor do they give the details of the contexts in which the *Tage* took place, though it is noteworthy that they almost always occurred in towns, even when no urban officials or patricians were involved in the dispute. Often the chosen towns were mid-sized or large centres of commerce and administration at the crossroads of major travel routes, like Basel, Zurich, Colmar, and Breisach, which

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<sup>43</sup> ‘zwuschend uns beretd habend in der masse als hie vorbegriffen ist, das wir das stete und veste halten sollend und wollend’. GLA 46/101.

<sup>44</sup> E.g. GLA 46/261.

<sup>45</sup> E.g. GLA 21/2506.

<sup>46</sup> E.g. GLA 45/262.

<sup>47</sup> ‘on eynicherley Inträge oder widerrede’. ADHR E2557.

suggests that the attraction of urban locations was in part due to their role as local hubs known to all nearby elites, many of whom might have been citizens and owned property there.<sup>48</sup> As nodal points at which many members of local networks of political actors met on a regular basis, it is not surprising that such towns were popular sites of arbitration – one of the main activities which took place within the very networks to which these towns regularly played host. If the parties in a dispute were all removed from such relatively large centres, smaller towns like Rouffach in Alsace might be used to house arbitrational *Tage*.<sup>49</sup> This indicates that an urban location, however small, was desirable as a physical and social space conducive to the negotiations and rituals which constituted arbitration. A 1378 *Anlaßbrief* between Margraves Hans and Hesso of Hachberg and some citizens of Constance with whom they had a dispute offers a rare glimpse of the more specific spaces which might be used. In it, the margraves suggest having a meeting for preliminary negotiations ‘in public guest houses/taverns’ in Schaffhausen (which, presumably not by coincidence, lay roughly halfway between the margraves’ possessions in the Breisgau and Constance).<sup>50</sup> The public dimensions and infrastructural advantages of urban buildings such as hostels, courthouses, and town halls, as well as the convenience of towns as social and geographical mid-points for local elites, must have made for ideal circumstances in which Upper Rhenish powers could seek binding negotiatory solutions to their disputes in the presence of socio-political peers.

This evidence for the contexts in which arbitration took place raises the question of the extent to which more institutionalised and permanent courts, particularly the hugely popular *Hofgericht* at Rottweil, can be considered a part of this shared mediatory and

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<sup>48</sup> See e.g. GLA 46/1552-3.

<sup>49</sup> *RUB*, II, 583-4.

<sup>50</sup> ‘in offen[en] wirte hûser’. GLA 46/1538.

consultative culture of conflict negotiation and resolution.<sup>51</sup> A court like the *Hofgericht* at Rottweil was certainly more established than any ad hoc mediatory committee, and it had its own written *Ordnung* of customary practices from 1435 onwards.<sup>52</sup> It also enjoyed a more static composition than such committees, and derived a veneer of legitimacy from its link to the king of the Romans, in whose name its judgements were issued. The *Hofgericht*'s royal prerogatives also gave it some ancillary powers, such as the ability to place people in the Imperial Ban (*Acht*), though, judging by the letters sent by the court to various recipients repeatedly requesting that they actually enforce the Ban, this does not always seem to have been a particularly effective mechanism.<sup>53</sup> However, in its primary jurisdiction and competence – i.e. in its ability to render judgements in the matters of the inhabitants of the Empire – the court at Rottweil differed little from more short-term arbitrational committees assembled for the duration of one dispute. Like these committees, the court at Rottweil could only become involved in a dispute if it was first solicited by at least one of the parties involved, and it would then examine the evidence presented to it and come to a decision, with the difference that, while arbitrational committees only acted when all parties were present, the *Hofgericht* often rendered judgements in the absence of the defendant (though such judgements *in absentia* were not always very effective).<sup>54</sup> The 1435 *Ordnung* of the court made provision for all kinds of situations, from two parties willingly submitting themselves to its arbitration to neither party being able to turn up because of a feud, so that the case rested entirely on the plaintiff's proxy and the evidence he or she brought with him or her.<sup>55</sup> What all these situations had in common was the total dependence of the court on the initiative of the

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<sup>51</sup> On the *Hofgericht* see R. Scheyhing, 'Das kaiserliche Landgericht auf dem Hofe zu Rottweil', *ZWL*, 20 (1961), 83-95.

<sup>52</sup> WLB, HB VI 110.

<sup>53</sup> E.g. *CDM*, II, 387.

<sup>54</sup> E.g. in the case of the Zollern brothers in 1421: GLA 46/156.

<sup>55</sup> E.g. WLB, HB VI 110, fol. 25v-27r.

litigants, who were ultimately paying customers using the *Hofgericht* as a channel for obtaining the redress they were seeking, just as they might call on important acquaintances to act as a panel of mediators for the same purpose. It is also worth remembering that the staff of the *Hofgericht* at Rottweil did not exist in an objective vacuum, but were themselves members of the regional political elite. The *Hofrichter* were the counts of Sulz – an important local noble family with interests and connections from Alsace to Lake Constance – and the *Unterrichter* and *Urteilsprecher* who staffed the court on a day-to-day basis were to be ‘associates’ (‘genoss[en]’) of the count (noblemen and knights like Eglolff von Warttemberg)<sup>56</sup> and patricians of the town of Rottweil, whose participation was mandated by the first article of the court’s *Ordnung*.<sup>57</sup> The official impression given by the court should not disguise the probability that it also functioned as a public forum which facilitated the collective negotiation of disputes, and occasional glimpses of what this less procedurally rigid negotiation might have resembled are interspersed among the more formulaic phrases found in the *Hofgericht*’s decisions (‘At this point Jörg Rän interjected that...’).<sup>58</sup> The fact that judgements from the court stress its physical location ‘in the town of Rottweil’s courthouse, on the public, free, Imperial road’ is also significant for its role as a well-networked site of negotiation for the regional elite in view of the above-mentioned advantages of such public, urban contexts.<sup>59</sup> Of course, the legitimacy bestowed upon the court’s image and actions by its link to the Empire and its monarch can only have enhanced its popularity as an arbitral and negotiatory forum, and there is no reason to see the court’s Imperial rhetoric and its flexible, consultative functions as mutually exclusive. The *imaginaire* of the Empire as a living political entity was animated and sustained by the normal interactions, including

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<sup>56</sup> E.g. SF A1 Ik; GLA 46/1555.

<sup>57</sup> WLB, HB VI 110, fol. 21v.

<sup>58</sup> ‘Jörg Rän ließ dartzú reden...’. ADHR E2539.

<sup>59</sup> ‘uff dem hofe zú Rotwil an der offenn fryen kaiserlichen stras’. Ibid.

the arbitrational activities, of the sub-monarchical elite, and the *Hofgericht* of Rottweil was one of the sites at which customary practices and Imperial identifications met in a powerful way.

The ubiquitous and interactive character of arbitration has important implications for how the political structures of the south-western Empire should be envisioned. It shows that this area lacked an overarching authority capable of organising and presiding over an administrative and judicial hierarchy, to which all political actors would willingly submit. Instead, it consisted of a multiplicity of competing and overlapping jurisdictional claims, none of which was universally regarded as supreme or authoritative, and these features made it necessary for local powers to consult multiple parties in order to reach compromises in times of disagreement. On the one hand, this corroborates the picture of political and jurisdictional multiplicity and fragmentation generally attributed to Upper Germany in the fourteenth and fifteenth centuries. However, it also suggests the existence of a common framework of legal and judicial norms and assumptions shared by all those who managed these multiple, fragmented jurisdictions (identified here as ‘political elites’: towns, prelates, nobles, princes, and some rural communes). The existence of such a common framework attests to a functional parity, or at least compatibility, among these elites in certain everyday spheres of political life, even if they were otherwise highly variegated in terms of their wealth, power bases, social status, and vocations. Examining the voluminous evidence for arbitration shows that this common framework was not just theoretical: in the everyday conflicts caused by overlapping and competing claims to property, rights, and incomes, power-wielders of any status could resort to mediation of one sort or another, often with a reasonable expectation of having some say in the composition of the mediating court or committee. Furthermore, the constant need to resort to third parties in even the most mundane disputes meant that, at the judicial and

jurisdictional level, as at many other levels, the political elites of the south-western Empire were mutually interdependent. This interdependence was not confined to a narrow set of legal procedures; the sources for arbitration offer a window into a world of perpetual multilateral consultation and negotiation, which happened to be framed by a judicial vocabulary. With urban hostels and courthouses as their meeting-points, the political actors of the Upper Rhine were engaged in constant advantage-seeking and consensus-forming discussions, occasioned by the disputes which arose between them with predictable regularity. The *Tag*e which acted as fora for this negotiatory culture were so crucial that contemporaries made ‘to negotiate at a *Tag*’ into a verb – thus we are informed by Colmar’s account-book for 1438 that their representative ‘meister Andres von Westhusz’ was despatched to advise Mulhouse as they ‘tagetent’ (i.e. were engaged in discussions at a *Tag*) with the Austrian *Landvogt* at Ensisheim.<sup>60</sup> Against the backdrop of these intensive connective and consultative structures, the associations discussed in Part II can largely be understood as quasi-institutional frameworks intended to regulate pre-existing relationships and practices, rather than as experimental political societies which brought these relationships and practices into existence. Before these frameworks can be explored in more detail, however, another facet of the interactive and negotiatory political structures of the Imperial South-West will need to be considered: violence and enmity in the context of feuding and warfare.

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<sup>60</sup> *CDM*, II, 82.

### 3. Feuding and warfare

Armed conflict was a constant reality for the political elite of the south-western Holy Roman Empire. Famously, this area was engulfed by several large-scale military operations in the course of the fourteenth and fifteenth centuries, which affected many of the powers of the region: the Sempach War and the ‘Town War’ of the 1380s; the Appenzell War of the 1400s; the ‘Old Zurich War’ of 1436-50; the so-called ‘Second Town War’ of the 1440s-50s; the Burgundian Wars of the 1470s; and the Swiss/Swabian War of 1499. More significantly, smaller-scale wars and feuds, which might occasionally escalate into major regional conflagrations, were a fact of everyday political life for actors with any kind of governmental, jurisdictional, or financial interests and entanglements. Almost all armed conflict in this period, from minor raids to set-piece battles involving thousands of troops, was rooted in disputes over rights, possessions, or incomes between two or more parties. Like arbitrational activity, feuding and warfare were a function of the matrix of claims, debts, and other ties which pushed political actors into regular interaction with one another. Furthermore, there was a generalised acceptance among noble, ecclesiastical, and urban power-wielders that recourse to certain channels of armed conflict as a means of resolving disputes was legitimate, just as the para-judicial activities examined so far in Part I were framed by a shared set of customary assumptions and forms. Although some interest groups in the Empire found it advantageous to seek to constrain violence rhetorically and legislatively, feuds and wars were widely used and accepted on the Upper Rhine in the years between 1350 and 1500. That is not to say that violence can be explained in purely functionalist and rationalist terms, or that armed conflicts never exceeded the parameters of what was deemed acceptable, or indeed that these parameters themselves were stable and universally approved. However, the shared,

interactive, and mutually intelligible political structures of the Imperial South-West only make sense if it is recognised that certain predictable manifestations of feuding and warfare were a regular occurrence, since many of the assumptions and practices which characterised the political culture of the region were constructed in a way which accommodated and dealt with these configurations of violent conflict.

It is not clear from the traditional historiographical verdicts on late medieval feuding and warfare that armed conflict was a plausible option at all levels of the political elite, or that it was part of a package of negotiatory strategies used in disputes over properties, incomes, and jurisdictions. The grand narrative which links endemic warfare to the growth of the militarised and fiscal nation-state and its acquisition of the monopoly of the legitimate use of violence – commonly associated with France and England, but often presumed to be of general relevance – distorts the political significance of the armed conflicts of sub-monarchical, sub-princely actors.<sup>1</sup> At best, their clashes are said to have been ‘downgraded to private quarrels’ in the course of the later centuries of the middle ages.<sup>2</sup> Such ‘private quarrels’ have classically constituted ‘feuds’ in Western European historiography (versus ‘public’ wars). Although the yields of mid-twentieth-century structural anthropology encouraged some scholars to abandon the pejorative view of feuds as anarchic, atavistic outbursts, ‘private’ conflicts were still until recently understood in terms of a dichotomy between ‘feudal’, uncontrolled autonomy and the civilised, institutionalised state which gradually replaced it.<sup>3</sup>

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<sup>1</sup> E.g. P. Contamine, *Guerre, État et société à la fin du Moyen Âge* (Paris, 1972); B. Guenée, *States and Rulers in Later Medieval Europe*, trans. J. Vale (Oxford, 1985), pp. 137-44; M.L. Kekewich and S. Rose, *Britain, France and the Empire, 1350-1500* (Basingstoke, 2005), p. 161; M. North, *The Expansion of Europe, 1250-1500* (Manchester, 2012), pp. 355-9. Cf. M. Weber, *Wirtschaft und Gesellschaft*, 5th edn (2 vols, Tübingen, 1972 [1921]), I, 29-31.

<sup>2</sup> W. Blockmans, *A History of Power in Europe: Peoples, Markets, States* (Antwerp, 1997), p. 170.

<sup>3</sup> See summary and references in J.B. Netterstrøm, ‘Introduction. The Study of the Feud in Medieval and Early Modern History’, in B. Poulsen and J.B. Netterstrøm (eds), *Feud in Medieval and Early Modern*

In post-war German historiography, late medieval warfare and particularly feuding have been treated in entirely the opposite way. In his influential attempt to rearticulate the ‘medieval constitution’, Otto Brunner placed the feud at the very heart of politics. Far from being proof of the lawlessness of the pre-modern Empire, Brunner argued that the feud (*Fehde*) was its law. In a world in which one’s (aristocratic, quasi-sacred) ‘right’ (*Recht*) was the basis of the entire political system, including the components anachronistically described (in Brunner’s view) as ‘public’ and ‘private’ by modern scholars, the defence and enforcement of that right became the supreme imperative for any politician. As the customary and almost immutable form of legitimate *Recht*-enforcement, the feud was a central mechanism of politics and law for Brunner: ‘only with the feud as a starting point can the inner coherence of politics and the state, of power [*Macht*] and right [*Recht*] in the middle ages be apprehended’.<sup>4</sup> Since this powerful endorsement of the significance of the feud in the pre-modern German-speaking lands, a veritable scholarly industry has developed around its study. This scholarship has essentially confirmed Brunner’s view of the feud’s importance and his typology of the late medieval practice of feuding and warfare, while nuancing his ideas about the status and objectives of feuding actors.<sup>5</sup> The challenge to the legality of the feud, on the grounds that it was a cover for the activities of ‘robber knights’ seeking to assert their control over peasants and supplement their incomes at a time of supposed demographic and agrarian crisis,<sup>6</sup> has been largely rebuffed.<sup>7</sup>

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*Europe* (Aarhus, 2007), pp. 9-15. Cf. N. Elias, *The Civilizing Process*, trans. E. Jephcott (2 vols, Oxford, 1978-82).

<sup>4</sup> Brunner, *Land und Herrschaft*, pp. 1-111 (quotation on p. 108).

<sup>5</sup> For an up-to-date survey of this literature, of which the following references are a representative selection, see C. Reinle, ‘Einführung’, in J. Eulenstein *et al.* (eds), *Fehdeführung im spätmittelalterlichen Reich. Zwischen adeliger Handlungslogik und territorialer Verdichtung* (Affalterbach, 2013), pp. 9-24.

<sup>6</sup> W. Rösener, ‘Zur Problematik des spätmittelalterlichen Raubrittertums’, in H. Maurer and H. Patze (eds), *Festschrift für Berent Schwineköper* (Sigmaringen, 1982), pp. 469-88; G. Algazi, *Herrengewalt und Gewalt der Herren im späten Mittelalter* (Frankfurt, 1996).

If the widespread acceptance of the feud is firmly established, it is now also acknowledged that it was a contested and instrumentalised phenomenon, which might function as a strategy for noble self-assertion and in-group social differentiation,<sup>8</sup> as a vehicle for the expansion and consolidation of princely power-bases,<sup>9</sup> or as a means for lesser nobles to resist those very same expansionary trends.<sup>10</sup> Another important development has been the recognition that the feud was not solely a component of noble governance. Princely and urban interest groups might at times challenge the legitimacy of the feud,<sup>11</sup> while at other times they might engage in feuding themselves.<sup>12</sup> The discovery that even peasants feuded has reinforced the impression that the values and functions of violent conflict were at least sometimes accepted and exploited throughout the social spectrum.<sup>13</sup> At the same time, the variety of purposes for which feuding was used, and closer attention to both its ritual and functional contexts,<sup>14</sup> have pointed away from Brunner's vision of the feud as an immanent *legal* quality of a deep-rooted Germano-Christian medieval culture and towards its primarily *socially* constructed and deployed

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<sup>7</sup> K. Andermann (ed.), *'Raubritter' oder 'Rechtsschaffende vom Adel'? Aspekte von Politik, Friede und Recht im späten Mittelalter* (Sigmaringen, 1997); C. Reinle, 'Bauerngewalt und Macht der Herren: Bauernfehden zwischen Gewohnheitsrecht und Verbot', in M. Braun (ed.), *Gewalt im Mittelalter: Realitäten-Imaginationen* (Munich, 2005), pp. 105-22.

<sup>8</sup> J. Morsel, "Das sy sich mitt der besstenn gewarsamig schicken, das sy durch die widerwertigenn Franckenn nitt nidergeworffen werdenn." Überlegungen zum sozialen Sinn der Fehdepraxis am Beispiel des spätmittelalterlichen Franken', in Rödel and Schneider, *Strukturen der Gesellschaft*, pp. 140-67; H. Zmora, *The Feud in Early Modern Germany* (Cambridge, 2011).

<sup>9</sup> H. Zmora, *State and Nobility in Early Modern Germany: The Knightly Feud in Franconia, 1440-1567* (Cambridge, 1997).

<sup>10</sup> N. Konzen, *Aller Welt Feind: Fehdenetzwerke um Hans von Rechberg und adelige Selbstbehauptung im Kontext der südwestdeutschen Territorienbildung* (Stuttgart, 2013).

<sup>11</sup> See E. Isenmann, 'Weshalb wurde die Fehde im römisch-deutschen Reich seit 1467 reichsgesetzlich verboten? Der Diskurs über Fehde, Friede und Gewaltmonopol im 15. Jahrhundert', in Eulenstein *et al.*, *Fehdeführung*, pp. 335-474, and the extensive references therein.

<sup>12</sup> T. Vogel, *Fehderecht und Fehdepraxis im Spätmittelalter am Beispiel der Reichsstadt Nürnberg (1404-1438)* (Frankfurt, 1998); S. Krieb, 'Fehden in der Politik Markgraf Bernhards I. von Baden', in Eulenstein *et al.*, *Fehdeführung*, pp. 57-74.

<sup>13</sup> C. Reinle, *Bauernfehden: Studien zur Fehdeführung Nichtadliger im spätmittelalterlichen römisch-deutschen Reich, besonders in den bayerischen Herzogtümern* (Stuttgart, 2003).

<sup>14</sup> Structural analyses of similar phenomena in the early/high middle ages – e.g. G. Althoff, *Spielregeln der Politik im Mittelalter: Kommunikation in Frieden und Fehde* (Darmstadt, 1997) – have influenced late medieval scholarship, though Philippe Buc's warning against an overly functionalist reading of the sources – P. Buc, *The Dangers of Ritual: Between Early Medieval Texts and Social Scientific Theory* (Princeton, 2001) – has kept the potentially mysterious and destabilising effects of notions such as honour in the analytical equation.

uses and meanings.<sup>15</sup> Much of this German feud scholarship treats conflict as an isolated topic, or else as a subsidiary of nobility studies or the history of a ‘territory’, which means that its place within the wider shared structures of political life as set out above has not been fully explored. However, the shift in the last two decades from an abstract legal-political understanding of the feud to a sophisticated socio-political one has tentatively indicated its connection to other channels and techniques of conflict and negotiation within and across the variegated groups in the Empire.<sup>16</sup> It is notable that scholars of other parts of late medieval Europe have highlighted similar connections and dynamics in their respective areas.<sup>17</sup>

The evidence from both the Upper Rhine and the newest scholarship from other regions of the Empire thus underlines the integral place of certain forms of armed conflict in political life. To make sense of these forms and how they related to other arbitrational and judicial means of negotiation, it is important to understand the open-ended and related nature of the terminology and concepts which contemporaries used to label activities which we would recognise as feuds or wars. Fourteenth- and fifteenth-century chronicles, contracts, correspondence, ordinances, and treaties all used a group of terms which referred broadly to ‘war’ (‘krieg’), ‘feud’ (‘fede’), ‘enmity’ (‘vientschafft’ or ‘vigentschafft’), ‘damage’ (‘schaden’), and ‘division’ (‘sto<sup>e</sup>sse und missehelle’ or ‘zweyung’) interchangeably or jointly to indicate an essentially similar state of open, potentially violent conflict between two or more parties.<sup>18</sup> These various texts were neither exclusively produced nor exclusively read by ‘nobles’, and of course many nobles were simultaneously citizens, retainers, or allies of nearby towns, bishoprics, and

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<sup>15</sup> Reinle, ‘Einführung’, p. 12.

<sup>16</sup> See esp. A. Jendorff and S. Krieb, ‘Adel im Konflikt. Beobachtungen zu den Austragungsformen der Fehde im Spätmittelalter’, *Zeitschrift für historische Forschung*, 30 (2003), 179-206.

<sup>17</sup> See e.g. J. Firnhaber-Baker, *Violence and the State in Languedoc, 1250-1400* (New York, 2014).

<sup>18</sup> Examples from *RTA*, III, 53; *CDM*, II, 101; *UBS*, VI, 46.

monasteries.<sup>19</sup> The language of feuding and warfare was shared by all groups with a stake in property-holding and the exercise of jurisdiction and government in the Empire, because they might all at one time or another be called upon to engage in some form of armed conflict in order to pursue or defend their proprietary and jurisdictional claims. Since the pursuit or defence of contested claims, rights, and possessions was an important part of everyday political life for all the powers in the south-western Empire, almost all armed conflicts – regardless of their magnitude – had similar objectives and were justified in the same terms, hence the broad applicability and interchangeability of this shared vocabulary.

Only in this light does it make sense that military struggles of vastly different proportions were understood and articulated through the same cluster of concepts. For example, the words ‘stözz’, ‘krieg’, and ‘veintschaft’ were used in a 1420 arbitration between Freiburg and the *Edelknecht* Conrad Louppen to describe the small-scale hostilities which had erupted between them, and which seem to have consisted of minor acts of arson and theft.<sup>20</sup> These same terms – in the formula ‘vehde, kryeg, und vigentschafft’ – were used in a 1460 peace treaty to label the multi-party conflict between Count Palatine Friedrich I on one side and the bishop of Mainz and the count of Leiningen on the other,<sup>21</sup> in which both sides are said to have fielded ‘enormous armies’, with the cavalry alone numbering 4000, at a pitched battle at Pfeddersheim.<sup>22</sup> Conflicts of a magnitude which fell between these two extremes, such as Strasbourg’s struggle for jurisdictions and possessions against its bishop in the 1410s-20s and against the clients of the margrave of Baden in 1430-31, were similarly described (in this case in official correspondence) as ‘kryeg, stözz und unwillen’, ‘vientschaft, unwillen und bedrang’, and

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<sup>19</sup> See e.g. ch. 6, pp. 152-5.

<sup>20</sup> *UBF*, II, 295-6.

<sup>21</sup> *UGKF*, no. LXXII.

<sup>22</sup> ‘reisigen gezogen’. *QGFDS*, II, 34.

‘vigentschaft und kriege’.<sup>23</sup> In the mid-fourteenth century, when feud declarations, truces, and reconciliations were still sometimes recorded in Latin, the conflicts were described in analogous terms. Thus, a 1351 truce-letter between Mulhouse and one ‘Heinricus, dominus de Bevar’ declares that it was created because of ‘controuersie et discordie’ – the equivalent of ‘sto<sup>e</sup>sse und missehelle’.<sup>24</sup> Feuding and warfare were evidently widely understood as a spectrum of essentially similar armed conflicts, the purpose of which remained the same regardless of their magnitude. Brunner’s notion of an inherently aristocratic belief in and propensity for the feud is not convincing, since this shared vocabulary of hostility was used by non-noble actors too. It seems that involvement in the political life of the south-western Empire – through the ownership of properties and lordships, or claims to such units of jurisdiction, revenue, and government – necessarily entailed certain forms of conflict, which therefore came to be seen as a related group by the entire political elite.

The commonly acknowledged organising principle which signalled the legitimacy and shared purpose of this spectrum of conflicts was the notion of ‘enmity’ – ‘vientschafft’, or *inimicitia*. This word was not only clustered together with other terms for conflict (‘vehde’, ‘krieg’, and so on), but was deployed in a precise way to signal a state of legitimate, potentially violent dispute over claims and in defence of honour. Raiding, feuding, and warring could easily be denounced as unlawful if it was not understood by the involved parties and their peers that these activities were being undertaken within the framework of a state of justified enmity. In a sense, enmity was both the master concept for and the gateway into all forms of armed and violent conflict, and it was in terms of enmity that the German-speaking inhabitants of the Empire articulated all political conflicts fought by warlike means. For example, the Strasbourg

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<sup>23</sup> *UBF*, II, 298; *RTA*, IX, 465-6, 508.

<sup>24</sup> *CDM*, I, 232.

chronicler Jakob Twinger described Edward III's war of 1341 against Philip VI in this way: 'the king of England declared the king of France his enemy, and moved into France with a large army'.<sup>25</sup> In the 1470s Charles the Bold's opponents referred to him in their correspondence as 'the enemy ["feind"] of the German nation'.<sup>26</sup>

This situation of open 'vientschafft' was conventionally initiated through seal-authenticated declarations of enmity, called *Absagebriefe*, *diffidationes*, or even simply 'vintsbriefe' ('enmity-letters').<sup>27</sup> Such letters, which survive in large numbers in urban and princely archives, typically accomplished two things. Firstly, they enumerated the grievances held by the sender against the recipient, or else explained the opening of hostilities on the grounds of an alliance, contract, or some other tie with an existing enemy of the addressee. Often this enumeration was accompanied by a survey of the attempts by the enmity-declaring party to seek satisfaction or redress for their proprietary, financial, or jurisdictional claims or injuries by means of arbitration and negotiation. The rhetorical strategy of enmity-letters tended to be to present the resort to rightful violence as a result of the obstinate and unjust refusal of the recipient to accept a negotiated solution in a court or at a *Tag*. The second component of most *Absagebriefe* was an appeal to the honour of the enmity-declaring party, with the suggestion that this could only be preserved through the opening of hostilities to achieve redress. For instance, in 1449 Count Ulrich V of Württemberg began hostilities against the town of Esslingen through a letter which refers to the municipal government's decision to levy a new toll in their town, their refusal to negotiate over this toll despite the intercession of Ulm, the Count Palatine, and other parties at successive 'gutlichen tagen', and their alleged

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<sup>25</sup> 'hiemitte widerseite der künig von Engenlant dem künige von Frangrich und zogete in Frangrich mit eime grossen volke'. *COS*, I, 474.

<sup>26</sup> *FUB*, VI, 87. See ch. 12, p. 315.

<sup>27</sup> K. Andermann, "'umb ansprache, die ich zu uch han". Spätmittelalterliche Fehde im Spiegel der Absagen an Bischof Reinhard von Speyer', in Eulenstein *et al.*, *Fehdeführung*, 25-57. On *diffidationes* in Anglo-French contexts see R. Kaeuper, *War, Justice, and Public Order: England and France in the Later Middle Ages* (Oxford, 1988), pp. 226-9.

complicity in the killing of a retainer and a bondsman of the count over what the letter calls ‘a blameless matter’.<sup>28</sup> The letter concludes that, in view of these outstanding matters, ‘we [Count Ulrich] wish to be your and your supporters’ enemy, and in this way we have safeguarded our honour against you and your supporters with this, our public letter’.<sup>29</sup>

Such declarations of enmity and their justification by reference to negotiations, alliances, and honour were widely practised and understood by all the major and minor political actors of the south-western Empire. While it is true that the majority of surviving enmity-letters were written by lesser nobles, enough survive from other sources to indicate that the conventions of feuding and warfare were shared more widely. Quasi-princely figures like the counts of Württemberg and the margraves of Baden were prolific enmity-declarers for much of the 1350-1500 period.<sup>30</sup> Towns and rural communes also issued more *Absagebriefe* than the historiography would suggest. There is firm evidence that this occurred several times between the fourteenth and early sixteenth centuries, the most active declarers being Bern, Zurich, and Schwyz.<sup>31</sup> However, these Confederate communes were not alone in sending enmity-letters – Basel and Colmar did the same to some Alsatian noblemen in 1462.<sup>32</sup> In 1415 King Sigismund’s placement of Duke Friedrich IV of Austria-Tyrol under the Imperial Ban led to hundreds of declarations of enmity vis-à-vis the Habsburg prince by former Austrian subjects and associates, including dozens of towns and even monasteries.<sup>33</sup> Though no direct *Absagebriefe*

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<sup>28</sup> ‘unverschulter ding’. *AUWG*, p. 47.

<sup>29</sup> ‘so wollen wir uwer und den uwern vind sin und des unser ere gen uch und den uwern mit disem unserm offem brief gewart han’. *Ibid.*, p. 47.

<sup>30</sup> E.g. *RMBH*, I, nos. 1773, 2247, 2347-8, 2367, 2371-2; *GHW*, II, Beilage 70-1; *ibid.*, III, 78.

<sup>31</sup> E.g. Burgerbibliothek, Bern, Mss.h.h.XLI.7 (32); Carl, *Schwäbischer Bund*, pp. 480-1; SBS SLL/St-Urk Bundbuch fol. 162v.

<sup>32</sup> *RUB*, IV, 292-3.

<sup>33</sup> See H. Schuler-Alder, *Reichsprivilegien und Reichsdienste der eidgenössischen Orte unter König Sigismund, 1410-1437* (Bern, 1985), p. 47, referencing the repository of these *Absagebriefe* in Vienna. See ch. 11, p. 284.

survive from bishops, they often became formal enemies of those who threatened their allies and possessions. The bishops of Strasbourg are the most obvious example. They were embroiled in near-constant feuds and wars from the 1330s onwards,<sup>34</sup> with enemies ranging from the counts of Zweibrücken-Bitsch (1350s and '80s) and the margrave of Hachberg (1385)<sup>35</sup> to the town of Strasbourg (1410s-20s, in the so-called 'guerre de Dachstein')<sup>36</sup> and the duke of Austria (1497).<sup>37</sup> The involvement of monastic lords in wars can also be attested. The abbot of Murbach was drawn into enmities and military alliances in the 1390s, 1410s, and 1460s.<sup>38</sup> It may be revealing of just how intimately such men might become entangled in armed conflict that the mid-fifteenth-century Benedictine reformer Johannes Schlitpacher felt the need to admonish abbots who carried swords and wore armour.<sup>39</sup> Given that a major premise of enmity-based conflict was the defence or pursuit of rights, possessions, or governmental functions, even ecclesiastical actors who held or exercised these could not escape the conventions and the practice of 'vientschafft'.

Even kings pursued their wars within the Empire according to these practices and discourses, which supplemented and channelled the more official mechanisms theoretically at their disposal. In March 1403 intractable disputes over the ownership of certain castles led King Rupert to declare that Margrave Bernhard of Baden was both his enemy and an enemy of the Empire, which forced the latter to the negotiating table two months later.<sup>40</sup> The bloody 1499 war between King Maximilian and the Swiss Confederates began as a dispute over advocatial jurisdiction over Münstertal Abbey

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<sup>34</sup> ADBR G121.

<sup>35</sup> GLA 46/1562.

<sup>36</sup> P. Dollinger, 'La Ville libre à la fin du Moyen Age (1350-1482)', in G. Livet and F. Rapp (eds), *Histoire de Strasbourg des origines à nos jours* (4 vols, Strasbourg, 1980-2), II, 128.

<sup>37</sup> *UBF*, II, 625.

<sup>38</sup> *RUB*, II, 342; *ibid.*, IV, 297.

<sup>39</sup> See his 'Interrogatorium' in Bayerische Staatsbibliothek clm 19638, fol. 54-102.

<sup>40</sup> GLA 46/206-7, 479a, 607.

which escalated into localised violence. At a conference in Constance in January, the Swabian League's leading members recognised this conflict as a formal enmity, and intervened – according to a record of the meeting – as allies of Maximilian ‘in his capacity as archduke of Austria’.<sup>41</sup> Though Maximilian declared a *Reichskrieg* against the Confederates in April 1499, the bulk of the fighting was done by his Swabian League allies, who were offering what they articulated as ‘hilff und bystand’ – the traditional terms for assistance in a feud.<sup>42</sup>

The rhetorical, ritual, and social implications of honour – that second component of enmity-declarations – evidently applied to all political actors too, for princes and towns also insist in their *Absagebriefe* that, in initiating a state of enmity, they were defending their ‘ere’ against their opponents.<sup>43</sup> Just as noblemen had to appear to be worthy and capable stewards of their rights and possessions, and were prepared to resort to expensive feuds in order to maintain their reputation among their peers,<sup>44</sup> so too did the towns, bishops, and other actors with a stake in the proprietary, financial, and jurisdictional structures which constituted the shared political world of the Imperial elite. If municipal governments did not deploy exactly the same discourses as the aristocratic groups living alongside and among them, they at least overlapped when it came to the language of honour. The formulaic terms of address for the governments of Free, Imperial, and subject towns referred to ‘the honourable and wise mayor and council’ of the recipient, while urban representatives at *Tage* were similarly described as ‘honourable’ (‘erbern’).<sup>45</sup> When noblemen swore citizenship-alliances with Imperial Cities, their contracts included

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<sup>41</sup> ‘als ertzherzogen zu Oesterreich’. *UGSB*, I, 273.

<sup>42</sup> *Ibid.*, I, 354. See the discussion of these terms in ch. 7, pp. 176-7.

<sup>43</sup> E.g. *RUB*, IV, 293.

<sup>44</sup> See esp. Zmora, *Feud in Early Modern Germany*.

<sup>45</sup> ‘Den ersamen wisen Meister und Ratt’. E.g. AMC AA53; *UBF*, II, 295.

a promise ‘to promote the town’s honour and renown’.<sup>46</sup> The honourable and noble status of bishops was equally important in their formulae of address. The bishop of Constance can be found described as ‘honour-worthy’ (‘erwirdig’), while the bishop of Strasbourg’s name was often preceded by a catalogue of honorific adjectives: ‘the highly-worthy, illustrious, high-born prince and lord bishop’.<sup>47</sup> The ubiquity of the language of honour and reputation can partly be explained by the intimate connection of many ecclesiastical and urban actors to nearby noble families. However, it also suggests a widely shared conceptual relationship between honour-worthiness and worthiness to possess properties and rights and rule over subjects – a worthiness that might need to be defended by force in order to be maintained in the eyes of the many other members of the south-western Empire’s sprawling political society. If, as Hillay Zmora has rightly emphasised, violent conflict should not be divorced from the ritualistic value systems and dynamic hierarchising processes encoded in the notion of honour,<sup>48</sup> neither should honour be decoupled from claims to properties, revenues, and jurisdictions, which were the institutional building-blocks of political authority, and which always played some part in justifying the feuds and wars of nobles, ecclesiastics, and towns alike.

None of this is to say that princes, clerics, and burghers unanimously and consistently accepted the necessity and legitimacy of violence. The activities inherent in feuding and warfare – looting, arson, abduction, and killing – were the subject of growing criticism in public correspondence and political tracts, often by reference to discourses of Christian morality, the common weal, and orderly government, and this criticism became

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<sup>46</sup> ‘ire [the town’s] ere und gefu’re zu’ werdende’. F.J. Mone (ed.), ‘Die Fehde der von Lichtenberg und Straßburg gegen Hagenau. 1359’, *ZGO*, 5 (1854), 176.

<sup>47</sup> *RCDFIII*, I, no. 323. ‘dem hochwirdigen durchluchtigen hochgebornen fursten und h[er]ren Bischoffen’.

<sup>48</sup> Zmora, *Feud in Early Modern Germany*, *passim*.

the focus of reformist agendas at the Imperial assemblies.<sup>49</sup> Sometimes the concept of honour was appropriated by actors on the receiving end of enmity declarations and turned against the declarer to delegitimise his feud. For example, in 1451-2 the government of Colmar bombarded its contacts in Alsace with complaints that Walther von Thann had become its ‘vigende’ without any good reason, which was ‘against God, honour, and justice’.<sup>50</sup> However, this apparent opposition to feuding has to be set against the voluminous evidence of widespread participation in violent conflict noted above. In that light, complaints and polemics against feuding and warfare are best understood as discursive strategies through which princely, clerical, or urban actors sought military assistance or advantageous legislative and institutional change, rather than as authentic manifestations of alternative political worldviews formulated in opposition to a monolithic, inherently violent ‘noble’ culture.

The conventions and practices of certain forms of feuding and warfare were widely shared across the political spectrum because these forms were embedded in and intertwined with other structures of negotiation and association. Violent enmities typically ran their course alongside and in connection with mediated contestations in ad hoc or institutional court-like settings, and both the armed and the judicial parts of such conflicts were undertaken with the assistance of associates, peers, and other political actors to whom the disputing parties were connected. In the first instance, enmity was a tool to be deployed after negotiations had failed to yield a desired result, especially if a party’s honour or credibility might be perceived to have been slighted by the decisions taken by courts or the opinions voiced in mediatory *Tage*. For example, the 1395 enmity-declaration of Wolf von Wunnenstein (‘known as the glistening wolf’)<sup>51</sup> against

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<sup>49</sup> Isenmann, ‘Der Diskurs über Fehde, Friede und Gewaltmonopol’.

<sup>50</sup> ‘wider Gott, ere und recht’. *RUB*, IV, 130-1, 165.

<sup>51</sup> ‘genannt der “glissende Wolff”’. *UBS*, VI, 560.

Strasbourg asserted that he had sought his 'reht' through mediators, and that he would happily have ridden to appointed 'tagen' to discuss the restitution of what he felt he was owed by the town for damage inflicted to a *Pfandschaft* of his, but that since Strasbourg had ignored him he had no choice but to become its enemy.<sup>52</sup> The justification of enmity on the basis of the recipient's obstinate refusal to take part in fair negotiations is so common in the sources that it could almost be described as a *topos* of *Absagebriefe*.<sup>53</sup>

The initiation of enmity did not signal the end of negotiations, however. On the contrary, it was an alternative means of pushing for a favourable negotiated outcome – now backed by the imminent threat of disruptive and potentially deadly violence, and the involvement of any groups allied to the enmity-declarer. Whether they ended quickly because of asymmetries in the military power of the competing sides, or dragged on because both parties and their allies were determined and able to attempt to end the contest by force, feuds and wars were always ultimately resolved by negotiated means. Peace or reconciliation treaties (*Sühneverträge*) not only brought an end to the legitimate use of violence, but also contained a list of agreed terms which all parties had to respect, resulting from deliberations between their representatives and generally favouring the side(s) which had emerged in the more dominant position from the raiding, fighting, and diplomatic manoeuvring. Margrave Bernhard of Baden, for example, was adept at using the conflicts in which he prevailed to ensure that he negotiated access rights (*Öffnungsrechte*) to dozens of castles in and around his core possessions.<sup>54</sup> Sometimes peace treaties were brokered by one or more third parties, whose mediation helped to facilitate proceedings and enhance the legitimacy of the outcome, but naturally they also introduced the interests and agendas of yet more actors into the negotiatory process. For

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<sup>52</sup> Ibid., VI, 560.

<sup>53</sup> E.g. *CDM*, II, 313; see pp. 77-8 above.

<sup>54</sup> Krieb, 'Fehden', pp. 59-62.

example, the 1420 feud between Freiburg and Conrad Louppen was ended through the arbitration of Anna of Brunswick, dowager duchess of Austria, with the additional counsel of the abbot of Murbach, the margrave of Hachberg, the count of Thierstein, and several lesser nobles.<sup>55</sup> A detailed settlement was negotiated, whereby damages were compensated on both sides and Louppen's paternal inheritance was restored to him, and all of this was articulated in the same vocabularies and frames of reference as the arbitral *Schiedssprüche* discussed in chapter 2. If a key figure on one side in a conflict had the misfortune of being captured, he could bargain for his release by swearing an oath (*Urfehde*) to end his feud and keep the peace on his captors' terms. Such arrangements were given documentary authentication in treaties, and these reveal that third parties were often involved as intercessors and guarantors. For example, in 1413 four enemies of the lordship of Austria and its then-subject town Freiburg, the brothers Dietrich and Hanman Eppli, Jakob Bnyder, and Merckli Winstein, had their release negotiated by a group of lesser nobles and patricians, who confirmed through oaths and seals that they would supply hostages to Freiburg in order to guarantee that the four perpetrators would respect the terms of the treaty.<sup>56</sup> In 1420 Counts Friedrich and Ostertag of Zollern entered into extensive correspondence with Rottweil in order to secure the release of their cousin Hans Ott and his retainer. The town asserted its right to hold them, since they were captured in the field during a feud against it and its ally the count of Fürstenberg, and in due course the matter was referred to an arbitral *Tag* overseen by the count of Hohenberg.<sup>57</sup> The resolution of feuds and wars thus resembled arbitration in a number of respects, and indeed relied on the very same mediatory conventions and institutions – the designation of courts or *Tage* for deliberation, the involvement of interested third parties, and the negotiation of terms which aimed to

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<sup>55</sup> *UBF*, II, 295-8. For other similar examples see *RMBH*, I, no. 2385; *RUB*, III, 446-8.

<sup>56</sup> SF A1 IIe.

<sup>57</sup> *UBR*, nos. 668a-8n.

resolve the issues of contention. If enmity-based violence stemmed from a temporary failure of arbitrational processes, and had potentially destabilising effects in the short term, it was those same processes which brought phases of violence to an end in due course. Furthermore, the declaration, management, and resolution of feuds and wars were carried out using the same widely accepted mechanisms of contractual interaction and decision-making which we have already seen in relation to judicial, arbitrational, and oath-based procedures. Violent conflict and para-judicial proceedings are therefore best understood as two interlocked strategies of negotiation deployed almost in tandem to channel and work out the constant frictions produced by everyday interactions concerning government, property, finance, and jurisdiction among the variegated Upper German political elite.

It will be evident by now that the princes, prelates, nobles, and communes of the south-western Empire did not develop and maintain approaches to conflict and negotiation in isolation. Rather, common approaches arose because these actors were in perpetual interaction with one another. In this politically fragmented yet deeply interconnected world, which lacked a dominant power capable of formulating and imposing clear, vertically integrated hierarchies and institutional frameworks, it was necessary for elites to relate through widely accepted and intelligible languages, practices, and assumptions. The multi-directional relationships which existed within and between elite groups meant that no single claim or contest could ever be negotiated by the two immediately concerned parties alone. Counsellors and arbitrators – often political powers in their own right – would soon be involved on behalf of both sides in any para-judicial affairs, while allies (*Verbündete*), helpers (*Helfer*), and backers (*Gönner*) would

inevitably be drawn into any phases of violent enmity.<sup>58</sup> Any given dispute was therefore encased in a web of relationships, each of which connected it to any number of other ongoing conflicts and interactions. This is clear from a famous feud that took place in central Alsace in the early 1460s, which culminated in the destruction of the castle of Hohkönigsburg by a Basel-led coalition in 1462. In the light of the mechanisms of feuding explored in this chapter, such events appear more complex, but ultimately also more comprehensible, than traditional accounts of inevitable conflict between discrete, reified groups (in this case, the mercantile burghers of the Alsatian plain and the robber barons nestled in the fortified crags of the Vosges) would allow.<sup>59</sup> The sources pertaining to the key actors involved in this event point to a nexus of related claims, enmities, arbitrational proceedings, and contractual and dynastic relationships and associations spanning the 1450s and '60s. These extended beyond the immediately concerned parties of Basel's government and its feud-enemy, Reinhard Mey von Lambsheim, to include, among others: Reinhard's brother Heinrich and one Anthonige von Hohenstein, both co-tenants of the castle, which was a royal *Pfandschaft*; Dietrich von Ratsamhausen, Reinhard's brother-in-law; the bishop of Strasbourg, a member of Basel's coalition, but also a key arbitrator in the litigious fallout that followed the castle's siege; and Smassmann von Rappoltstein, who became involved both because of his feuds against the Ratsamhausen-Hohenstein affinity and because of his service contract with Count Palatine Friedrich, who also joined Basel's coalition.<sup>60</sup> It is easy to see how common structures for the initiation, pursuit, and resolution of conflicts, and for the communication of the interests at stake in these conflicts to wider audiences, were needed for so many actors to be capable of pursuing overlapping disputes and agendas in a way

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<sup>58</sup> See R. Schärfer, 'Fehdeführer und ihre Helfer. Versuch zur sozialen Schichtung von Fehdenden', in Eulenstein *et al.*, *Fehdeführung*, pp. 203-20.

<sup>59</sup> H. Haug, *Le château de Haut-Kœnigsbourg* (Paris, 1979), pp. 12-13.

<sup>60</sup> These sources include *RUB*, IV, 288-301; *UBB*, VIII, 56-62, 87, 101-3, 133-7; *UGKF*, no. XXXIV; SBS SLL/St-Urk hintere Canzlei DW. 138\_1; SBS SLL/St-Urk geh. Reg. P I. H\_1-7; SBS HA/St-Urk/1816.

which made sense to all the parties involved in a complex scenario like this one. It is also not difficult to see how these structures were endlessly replicated and sustained as long as the Upper Rhenish political landscape retained the fragmented, polycentric character which gave rise to such scenarios. The associative political culture which grew out of these structures and framed the interactions of the actors who shared in them will be discussed in Part II. First, however, a final component of the shared set of practices, discourses, and values of the south-western Imperial elite needs to be considered: structures of lordship and administration.

#### 4. Lordship and administration

The Upper Rhine's commonly noted 'landscape of political and territorial fragmentation'<sup>1</sup> was rooted first and foremost in its structures of lordship and administration. The building-blocks of governmental authority in the fourteenth and fifteenth centuries – lands, properties, or other assets, and the various forms of jurisdiction associated with them – were divided up among many autonomous elites. Few areas of the south-western Holy Roman Empire were integrated within anything resembling closed political units, and even the more coherent lordships were managed by local agents with power-bases, titles, and connections of their own. The forms of land and income tenure, office-holding, and governmental delegation in these regions all fostered the lateral distribution of lordship and administration across sprawling networks of elite actors, whose affiliations and competences involved them in multiple overlapping social and political spheres. The whole spectrum of elites, from electors like the Counts Palatine to minor knightly and burgher families like the von Stein of the southern Black Forest and the Offenburger of Basel, were involved in these dispersed, network-dependent structures.<sup>2</sup>

Rights, possessions, jurisdictions, and revenues were not distributed evenly among the elites of the south-western Empire – some actors, notably princes, were far more powerful than others. The complexes of lordship ruled by the most prominent of these princes might become linked to abstract identifications, such as 'of the lordship of Austria'<sup>3</sup> and 'of the Rhine Palatinate'.<sup>4</sup> By the latter half of the fifteenth century these princes were also becoming the foci of an upper layer of regional institutions which

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<sup>1</sup> T. Scott, *Regional Identity and Economic Change: The Upper Rhine, 1450-1600* (Oxford, 1997), p. 12.

<sup>2</sup> E.g. *FUB*, II, 369, 462; E. Gilomen-Schenkel, *Henman Offenburg 1379-1459, ein Basler Diplomat im Dienste der Stadt, des Konzils und des Reichs* (Basel, 1975).

<sup>3</sup> 'der herschaft von Österrich'. *UBB*, V, 128.

<sup>4</sup> 'der Pfalzgraveschafft by Ryne'. *UGKF*, no. VI.

exercised an organising effect on the smaller, scattered fragments of property, revenue, and jurisdiction. However, these centripetal factors should not be overstated in view of the evidence to be examined in this chapter, which shows that the basic components of lordship (assets, revenues, and local jurisdictions) were highly mobile, overlapping, and divided between multiple interest groups. The evidence does not suggest that princes were somehow different from other political actors, even if they generally held greater concentrations of powers and lordships, and princes were certainly not the rulers of discrete states. This chapter is devoted to analysing this evidence of fragmentary yet connective lordship. This is partly necessary because it underpinned the other structures examined so far, and the associations which emanated from them. It is also necessary because the features of lordship and administration emphasised here have received minimal attention from historians working within the paradigm of *Landesherrschaft* and the rise of the princely ‘territories’.

In most post-war scholarship of the Empire the study of lordship and administration in the German-speaking localities has been dominated by a focus on principalities and so-called ‘territories’. This emphasis stems directly from the ‘territorial’ conception of the Empire itself, noted in the Introduction to this thesis, according to which the political landscape of Central Europe was constituted by a patchwork of consolidated units, most of which were ruled by members of the so-called ‘princely estate’ (*Fürstenstand* or *Fürstentum*) that emerged in the high middle ages.<sup>5</sup> The supposed end point of this ‘territorialisation’ (*Territorialisierung*) of the Empire was the group of princely *territoria clausa*, endowed with sovereignty (*superioritas territorialis*,

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<sup>5</sup> Patze, *Territorialstaat*; B. Arnold, *Princes and Territories in Medieval Germany* (Cambridge, 1991); see Introduction, pp. 14-15.

*Landeshoheit*), established in the Peace of Westphalia.<sup>6</sup> The later middle ages form a key phase in this legal-political trajectory, for it was in the fourteenth and fifteenth centuries that the princes allegedly ‘came to stand for a new reality: that of the emerging territorial state [*Flächenstaat*]’.<sup>7</sup> In this scholarly context, the use of *Landesherrschaft* as a catch-all term for the characteristics and processes of later medieval lordship and administration neatly expresses the assumption that these characteristics and processes were all tied to increasingly centralised, institutionalised, and territorialised conceptions and configurations of political power, from which the modern territorial state eventually emerged.<sup>8</sup> The *Landesherrschaft* paradigm has led to a great deal of work on princes and their central institutions, and to a lesser extent on other ‘territories’ comparable to those of princes, such as those of certain Imperial Cities.<sup>9</sup> The focus of scholarship on lordship and administration has therefore been disproportionately oriented towards an upper layer of ‘princely’ institutions, such as the court, the chancery, and the *Landgericht*, and the (in practice very gradual and incomplete) expansion of the control exercised by these institutions over the lower levels of administration in the localities.<sup>10</sup>

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<sup>6</sup> E. Riedenauer (ed.), *Landeshoheit: Beiträge zur Entstehung, Ausformung und Typologie eines Verfassungselements des Römisch-Deutschen Reiches* (Munich, 1994).

<sup>7</sup> ‘standen... für eine neue Wirklichkeit: die des werdenden Flächenstaates’. Kroeschell, *Rechtsgeschichte*, II, 181.

<sup>8</sup> E.g. D. Willoweit, ‘Die Entwicklung und Verwaltung der spätmittelalterlichen Landesherrschaft’, in *DVG*, p. 66; E. Leisering, *Die Wettiner und ihre Herrschaftsgebiete 1349-1382 : Landesherrschaft zwischen Vormundschaft, gemeinschaftlicher Herrschaft und Teilung* (Halle, 2006), p. 26. N.B. in this connection the influence of Brunner, *Land und Herrschaft*, pp. 357-440.

<sup>9</sup> E.g. H.J. Cohn, *The Government of the Rhine Palatinate in the Fifteenth Century* (Oxford, 1965); P. Blickle, ‘Zur Territorialpolitik der oberschwäbischen Reichsstädte’, in E. Maschke and J. Sydow (eds), *Stadt und Umland* (Stuttgart, 1974), pp. 54-71; K. Krimm, *Baden und Habsburg um die Mitte des 15. Jahrhunderts: fürstlicher Dienst und Reichsgewalt im späten Mittelalter* (Stuttgart, 1976); Bader, *Territorialstaatliche Entwicklung*; W. Reichert, *Landesherrschaft zwischen Reich und Frankreich. Verfassung, Wirtschaft und Territorialpolitik in der Grafschaft Luxemburg von der Mitte des 13. bis zur Mitte des 14. Jahrhunderts* (2 vols, Trier, 1993).

<sup>10</sup> E.g. G. Droege, ‘Die Ausbildung der mittelalterlichen territorialen Finanzverwaltung’, in Patze, *Territorialstaat*, II, 325-46; A. Schlunk, ‘Landeshoheit und Landgericht: Das sogenannte Kaiserliche Landgericht Bamberg als Instrument fürstbischöflicher und kurbayerischer Territorialpolitik’, in H. Bielmeier and K. Rupprecht (eds), *Festgabe Gerd Zimmermann zum 65. Geburtstag* (Bamberg, 1989), pp. 53-77; F. Quarthal, ‘Residenz, Verwaltung und Territorialbildung in den westlichen Herrschaftsgebieten der Habsburger während des Spätmittelalters’, in P. Rück (ed.), *Die Eidgenossen und ihre Nachbarn im*

It is not wrong to examine these ‘territorial’ institutions and developments, which were key drivers of the long-term changes experienced by the Holy Roman Empire. However, an important corollary of this emphasis has been the tendency to view more basic and widespread components of lordship and administration, such as fief and pledge tenure and local office-holding, solely through the distorting lens of *Territorialpolitik*, even though – as we shall see – these institutions and practices were by no means the sole preserve of princes.<sup>11</sup> The *Landesherrschaft* approach to political history has not been without its critics, notably Ernst Schubert, who has rightly pointed out that modern German medievalists have anachronistically employed a politicised ‘territorial’ vocabulary which did not exist in the middle ages, because it was fashioned by seventeenth-century jurists.<sup>12</sup> The supposed solution to this anachronism – Brunner’s autogenic, custom-derived *Land* – has also been found wanting, since this word only had ‘territorial’ resonances in sources from Upper Austria and Bavaria.<sup>13</sup> However, Schubert’s proposed alternative to *Landesherrschaft* – *fürstliche Herrschaft* (‘princely lordship’)<sup>14</sup> – is not much more useful in the Upper Rhenish context, since this concept is confined to government as it was exercised by princes. The sources from the southwestern regions of the Empire are replete with examples of nobles, clerics, and burghers acting as lords and administrators with at least some degree of autonomy from princely figures. These sources also attest to the constant, often quasi-horizontal interaction involved in the exercise of lordship by all these actors. A broad and comparative approach which encompasses the basic components of lordship and administration is thus

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*Deutschen Reich des Spätmittelalters* (Marburg, 1991), pp. 61-86; W. Paravicini, J. Hirschbiegel, and J. Wettlaufer (eds), *Höfe und Residenzen im spätmittelalterlichen Reich* (7 vols, Ostfildern, 2003-12).

<sup>11</sup> E.g. G. Landwehr, ‘Die Bedeutung der Reichs- und Territorialpfandschaften für den Aufbau des Kurpfälzischen Territoriums’, *Mitteilungen des historischen Vereins der Pfalz*, 66 (1968), 155-96; Willoweit, ‘Landesherrschaft’, pp. 71-9, 83-6.

<sup>12</sup> E. Schubert, *Fürstliche Herrschaft und Territorium im späten Mittelalter*, 2nd edn (Munich, 2006), pp. 51-2.

<sup>13</sup> *Ibid.*, pp. 60-1.

<sup>14</sup> *Ibid.*, pp. 106-7.

needed in order to shed light on the common ways in which all kinds of elites operated in this political landscape, which was less hierarchical and more interconnected and dynamic than existing models allow.

At the most fundamental level, much lordship in the south-western Empire is said to have rested on what German-speaking scholars call *Grundherrschaft*: seigneurial forms of authority over, and revenue extraction from, lands and properties and their inhabitants. It is difficult to estimate the relative importance of *Grundherrschaft* as a basis for political power, and the extent to which different kinds of elites participated in it, because there is debate about the types and patterns of lordship encompassed by this concept, and because the configurations of landed governance and the vocabularies used to describe it in the later medieval Upper German regions exhibit considerable diversity.<sup>15</sup> Some scholars have argued for a division between lowly *Grundherrschaft*, deriving from smaller properties and authority over peasant tenants, and ‘higher’ jurisdictions and powers which are thought to have constituted a different category of lordship: *Gerichtsherrschaft*.<sup>16</sup> This category comprises those forms of authority traditionally associated with princes, such as the right of safe-conduct (*Geleit*) and capital jurisdiction. From this perspective, the *Grund-/Gerichtsherrschaft* distinction is in many respects comparable to that made between *la seigneurie foncière* and *la seigneurie banale* in French scholarship.<sup>17</sup> In any event, what is clear is that by the twelfth century, local ‘public’ judicial and fiscal powers had become a function of ‘private’ property. Units like villages, small towns, and castles became heritable, and land and property owners acquired jurisdictional authority and

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<sup>15</sup> G. Droege, ‘Gemeindliche Selbstverwaltung und Grundherrschaft’, in *DVG*, pp. 209-13; H. Pohl, ‘Die ständische Gesellschaft’, in *DVG*, p. 254; T. Scott, *Society and Economy in Germany, 1300-1600* (Basingstoke, 2002), ch. 6; A. Zangger, ‘Grundherrschaft/Seigneurie foncière’, in *HLS*.

<sup>16</sup> Schubert, *Fürstliche Herrschaft*, pp. 64-7.

<sup>17</sup> See e.g. D. Barthélemy, *L’ordre seigneurial: XIe-XIIIe siècle* (Paris, 1990).

other rights over many of the free and unfree residents of their lands and properties.<sup>18</sup> It therefore seems that the high middle ages were a time of classic manorialism: the authority-conferring units were fairly stable and coherent, and they were ruled directly by lords or their representatives.<sup>19</sup> These men presided over income collections and judicial proceedings at designated buildings within each unit, often called the *Hof* (with many more specialised variations: *Dinghof*, *Zehnthof*, etc.).

In order to understand lordship in the period 1350-1500, it is important to take account of the way in which many of these units became increasingly disaggregated in the course of the thirteenth and fourteenth centuries. Combinations of properties, revenues, and governmental powers were in many cases dispersed among multiple lords.<sup>20</sup> Through contractual exchanges such as inheritance, purchase, pledging, or enfeoffment, the formerly united components of manorialism could be divided up among any number of owners and exercisers. These components included houses and gardens; fields; mills; rents and tithes (*Zinse*, *Zehnten*) paid in cash or in kind via quarts of cereals, barrels of wine, or heads of livestock; village courts; lower and occasionally higher jurisdictions; the benefit of *corvées* and other services owed by locals; and various seigneurial prerogatives such as forestry, hunting, and fishing rights.<sup>21</sup> At the local level, some of these components were acquired by villagers with modest means. In 1401, for example, the bondswoman Adelheid ‘the dairywoman’ and her daughter owned the ‘upper half’ of the *Hof* of the village of Dunningen in the Black Forest, from which they paid a 2 fl. rent to the Holy Cross Chapel in Rottweil.<sup>22</sup> More significant clusters of assets and jurisdiction were typically divided up among wealthier and more powerful owners, making for very

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<sup>18</sup> See H. Kaminsky, ‘Citizenship vs the Pursuit of Happiness, Bonum Commune vs Private Property: A Modern Contradiction and its Medieval Root’, *The Medieval History Journal*, 6 (2003), 117-18.

<sup>19</sup> Droege, ‘Grundherrschaft’, pp. 209-13.

<sup>20</sup> W. Rösener, *Grundherrschaft im Wandel: Untersuchungen zur Entwicklung geistlicher Grundherrschaften im südwestdeutschen Raum vom 9. bis 14. Jahrhundert* (Göttingen, 1991), *passim*.

<sup>21</sup> See Tables 1-2 for examples of all these components.

<sup>22</sup> ‘die Mairin’ ‘oberen Halbteil’. *UBR*, p. 259.

diverse arrangements of lordship in any given zone. A good example is provided by Mireille Othenin-Girard's meticulous study of the area notionally under the authority of the *Vogt* of Farnsburg, a castle in the Aargau which was in the hands of the lords of Thierstein-Farnsburg until 1461, when it passed into the lordship portfolio of the municipal government of Basel. Othenin-Girard has shown that no fewer than eleven prominent lords of one sort or another owned assets, revenues, and rights within this *Vogtei* (an area consisting of a few dozen acres of hills and fields) in the fourteenth and fifteenth centuries. These lords included the canons of St Martin in Rheinfelden, who from the 1360s onwards enjoyed an expanding catalogue of rents in several villages and controlled the *Hof* of Kilchberg. They also included the noble lords of Kienberg, whose already minor possessions at the edge of the *Vogtei* in the mid-fourteenth century – a quarter of the *Hof* in the village of Buus and a few acres of land in Kilchberg and Tecknau – had all but disappeared by the end of fifteenth.<sup>23</sup> This landscape of diverse lordship, in which most villages, castles, small towns, and agricultural lands consisted of clusters of assets and powers divided up among various lords, was made possible through widely accepted methods of exchange. The archives of the Upper Rhenish area are replete with oath-bound and seal-authenticated transactions from the period 1350-1500 in which properties, lands, rents, and rights and jurisdictions changed hands in some way, either directly or through some sort of broker (often town courts).<sup>24</sup> In the later middle ages, what historians call *Grundherrschaft* was thus really a vast array of endlessly fragmenting and combining assets which could be exchanged, wholly or in part, through contracts between anybody with the means to become involved in such transactions. Assets of any kind are often generically called 'guot' (*Gut/Güter* – i.e. 'goods', 'assets') in the sources – an indication that diverse properties, revenues, and jurisdictions, handled by a variety of

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<sup>23</sup> E.g. M. Othenin-Girard, *Ländliche Lebensweise und Lebensformen im Spätmittelalter* (Liestal, 1994), pp. 185-223.

<sup>24</sup> See Tables 1-2 for examples relating to Lower Alsace and Guémar.

different owners and lords, were understood to belong to the same common set of tenurial, commercial, and governmental conventions.<sup>25</sup>

In that *Grundherrschaft* involved the ownership or exercise of agglomerations of properties, revenues, and jurisdictions, it was not so different from other forms of lordship and administration in the south-western Empire. The use of transactions via conventional *Urkunden* and the conception of lordship as a list of assembled rights and possessions were also characteristic among wealthier and more powerful princes, towns, bishops, and lords who owned large tracts of land, exercised multiple levels of jurisdiction in several places, and presided over large networks of vassals, pledgees, and officers. This can easily be appreciated by comparing the language used in localised transactions which would traditionally be understood as manifestations of *Grundherrschaft* with the terms found in enumerations of ‘higher’ lords’ possessions and spheres of governmental competence. When in 1481 the bishop of Metz sub-ensfeoffed one ‘Cladeß, lord of Warammont’ with the two castles of Geroldseck and the small town of Masmünster, the document specified that the fief came with ‘the higher court of the same, with the people and jurisdictions, higher and lower, the rights of ban, the hillside and pasturage rights, the forestry rights, waterways, fruits and meadows, and all other seigneurial powers, rights, and appurtenances which belong to the above-named castles, town, and villages, whatever they are named and wherever they are situated’.<sup>26</sup> When, forty-four years earlier, the margrave of Hachberg was granted the office of *Landvogt* in the western possessions of Duke Friedrich IV of Austria-Tyrol, and thereby became the representative of the most powerful prince in the south-western Empire, his sphere of competence was similarly

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<sup>25</sup> E.g. Othenin-Girard, *Ländliche Lebensweise*, p. 469.

<sup>26</sup> ‘das hohe gericht doselbst mit den luten und gerichtten, hohe und nider, twingen, bennen, almenden, gebirgen, welden, wassern, wunnen und weiden und allen andern herlichkeiten, rechten und zugehorungen, so zu denn vorgenanten vesten, statt und dorffern gehorent, wie die genant und wo su gelegen sint’. *RUB*, V, 244.

expressed as an abridged list of assets and powers: ‘Furthermore, he [Hachberg] should defend and administer as best as he can all our lands and people and all our ecclesiastical houses and the advocatial jurisdictions pertaining to them, and all [other] things in the same lands of ours which belong to them’.<sup>27</sup> Likewise, a 1415 *Lehensbrief* issued by King Sigismund’s chancery to the margrave of Baden articulated the grants made to this prince by the crown as a list of scattered items: ‘[Margrave] Bernhard... has humbly requested of us, that we enfeoff him according to feudal law with towns, castles, markets, villages, tolls, mints, and all other utilities and appurtenances, liberties, hunting and safe-conduct rights, customary courts, and Jews, together with all the other fiefs, vassalships, and feudal items of the margraviate of Baden and his other lordships’.<sup>28</sup> Even the relationship between the dukes of Austria and their elite subjects was expressed in terms of itemised prerogatives and incomes on both sides, in a manner reminiscent of the above lists of components of manorial lordship, rather than as abstractly and neatly defined vertical authority. For example, the 1491 charter of liberties issued by King Maximilian in his capacity as archduke of Austria to the citizens of Freiburg promised to respect their accumulated ‘favours, freedoms, privileges, letters [detailing the town’s properties, jurisdictions etc.], customs, and good traditions’, while reserving for the archduke his access to ‘all our rights and jurisdictions, rents, and revenues, which belong to us by right or by custom’.<sup>29</sup>

The widespread expression of lordship and administration as varied catalogues of possessions, powers, and immunities suggests they were understood to belong to a

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<sup>27</sup> ‘Sunderlich so sol er die selb’n unser lannde un’ leute auch uns’ gotzhuser unser vogty daselbs geleg’ vor allem gewalt und unrecht hanthab’n und schiermen und all sachen nach der besten, In denselben unsern land die darczu<sup>o</sup> geho<sup>o</sup>ren’. GLA 46/1702.

<sup>28</sup> ‘Bernhard... hat uns diemietlich gebeten, daz wir Im sovil d<sup>e</sup> marggraffschafft zu Baden und ande<sup>r</sup> siner herschafft mit steten slossen marck’en dorffen zollen muntzen und allen iren nützen und tzugehörungen friheite wiltbenne geleite lantgericht Juden und alle andere sine lehene mannschafft und lehenschafft... tzu lehen Rechten tzuverlehen’. GLA 36/2091.

<sup>29</sup> ‘gnad, freyheit, priuilegia, briefff, altherkomen und guet gewonhait’ ‘alle unnsern rechten, zynnssen und gülten, die uns durch recht oder gewonheit gehören’. *UBF*, II, 582.

spectrum, regardless of the specific components, such that a prince or ‘territorial lord’ did not have a different conception of the nature of property and government from more modest actors. Indeed, it would not have made sense to distinguish some forms of lordship and administration from others. In the fragmented political landscape of the later medieval Upper Rhine, it is hard to discern powers which were clearly the preserve of one category of political actor. Capital jurisdiction, for instance, was exercised by towns as well as by bishops and princes, and could sometimes be wielded at a very lowly, localised level. In 1450 the knight Berchtold von Schellenberg was invested with higher jurisdiction over the small Black Forest town of Hüfingen – ‘both the stocks within it and the gallows in front of it’ – as part of a fief granted by Count Heinrich of Fürstenberg.<sup>30</sup> An even more extreme case is represented by the leaders of the village of Gersau by Lake Lucerne, who claimed to have received the privilege of higher jurisdiction within their commune from King Sigismund in 1418 and 1433.<sup>31</sup> Higher jurisdiction and so-called *Gerichtsherrschaft* more generally was not therefore a separate category of authority wielded solely by princes in possession of *Landgerichte*, but was just another right which could be collected by, and confer lordship upon, any political actor or community. Even *Geleit* – the right of safe-conduct – occasionally found its way into the hands of non-princely powers. In 1399 the municipal government of Strasbourg purchased various offices on the right bank of the Rhine as pledges from the counts of Hanau-Lichtenberg, attached to which were powers of safe-conduct in the districts within the offices’ remit. The pledged offices were redeemed by the counts in the fifteenth century, but the redemption contract made no mention of the *Geleit* rights, so Strasbourg continued to maintain that it held these into the mid-sixteenth century.<sup>32</sup> The relatively weak upper nobleman Count Rudolf of Sulz received the regalian rights of *Geleit* and control of the

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<sup>30</sup> ‘Stock darin und Galgen davor’. *FUB*, III, 297.

<sup>31</sup> *RI*, XI, nos. 3470, 9724.

<sup>32</sup> M. Schaab, ‘Geleit und Territorium in Südwestdeutschland’, *ZWL*, 40 (1981), 406.

mints and tolls at Laufenburg and Rheinau as a fief from King Sigismund in 1430.<sup>33</sup> Rights over ecclesiastical institutions were similarly widely held. Advowson was common in Alsace and Swabia, where many noblemen counted the status of ‘kilcherr’ (ecclesiastical patron) for local parish and collegiate churches among their accumulated rights.<sup>34</sup> More substantial advocatial jurisdictions over the possessions of abbeys and other foundations were also common among the middling and higher nobility, for whom monastic *Vogtei* rights had become heritable assets.<sup>35</sup> Such powers were as mobile as any other, and could change hands over time. The abbey of Pfäfers, on the uppermost stretches of the Rhine in the diocese of Chur, was under the advocacy of the counts of Werdenberg-Sargans for most of the fourteenth century. The abbot bought back the *Vogtei* in 1397, and his ownership of this right was confirmed by King Rupert in 1408. However, when the Swiss Confederates acquired the former assembled rights of the counts of Sargans in 1483 the abbey recognised their prerogative to exercise the *Vogtei* powers jointly over it.<sup>36</sup>

Clearly, then, all possessions, incomes, and rights – whether we classify them as manorial, jurisdictional, regalian, advocatial, or in some other way – were part of a spectrum of contractually defined lordship-conferring assets which could be owned, enjoyed, and exchanged by and among any elite actor, regardless of his or her precise status. These common features suggest that elites articulated and treated the concrete elements of lordship in the same way: as accumulations of comparable items – even as combinable commodities of sorts. To borrow a useful but forgotten analogy from Georg Wilhelm Sante, configurations of later medieval lordship can be imagined like chemical

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<sup>33</sup> GLA D/664.

<sup>34</sup> E.g. *RUB*, V, 125.

<sup>35</sup> H.-O. Mühleisen (ed.), *Das Kloster St. Peter auf dem Schwarzwald* (Waldkirch, 2001); GLA D/678, 21/6593.

<sup>36</sup> F.X. Bischof, ‘Pfäfers (Kloster)’, in *HLS*.

molecules. Both are composed of a discernible subset of elements. Though these might bond together in a variety of different forms and sizes in different circumstances, producing different outcomes, the constituent elements remain essentially the same.<sup>37</sup>

Even the strongest Upper Rhenish actors did not govern well-defined territorial units of an ontologically different nature to the power bases of their weaker neighbours; rather, they possessed amalgamations and concentrations of properties and rights, mediated through tenorial and office-holding relationships with locally-based elites.

Both the shared system of itemised lordship in the south-western Empire and the interpersonal ties between those who exercised this lordship were enabled by advanced financial practices. If some forms of tenure and lordship delegation, like fiefs, could operate somewhat independently of financial exchanges, many others – rents, sales, pledges, salaried offices, and service contracts – were underpinned by them. Furthermore, many possessions and fiefs actually consisted of rents paid in cash and raised on fields, mints, mills, and other assets.<sup>38</sup> In addition to fixed incomes, rapid and adaptable means of raising or conveying funds, usually via credit, gained widespread popularity among the political elite in the course of the fourteenth and fifteenth centuries, spurred on in places by the depressed value of crops and the inflation caused by the devaluation of coinage.<sup>39</sup> ‘High’ finance as it was conducted by princes and merchants in urban capital markets has a long research tradition.<sup>40</sup> However, it is only in the last couple of decades that other actors, especially the middling and upper nobility, have been acknowledged as key

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<sup>37</sup> G.W. Sante (ed.), *Geschichte der deutschen Länder* (2 vols, Würzburg, 1964-71), I, 28.

<sup>38</sup> See Table 1 for many examples enjoyed by the Bock family.

<sup>39</sup> H.-J. Gilomen, ‘Rezension: Markus Bittmann, Kreditwirtschaft und Finanzierungsmethoden’, *Deutsches Archiv für Erforschung des Mittelalters*, 49 (1993), 751-2.

<sup>40</sup> E.g. A. Schulte, *Geschichte der grossen Ravensburger Handelsgesellschaft, 1380-1530* (3 vols, Stuttgart, 1923); W. von Stromer, *Oberdeutsche Hochfinanz, 1350-1450* (3 vols, Wiesbaden, 1970); G. Fouquet and H.-J. Gilomen (eds), *Netzwerke im europäischen Handel des Mittelalters* (Ostfildern, 2010).

players in the dense financial networks of Upper Germany.<sup>41</sup> Political elites with lands or jurisdictions could at times be in a good position to raise and lend money, since they had access to rents and assets that could be sold or used as collateral. At other times they might be in acute need of credit, since they had expenses unique to their station: larger-scale feuds and wars, the provision of sizeable dowries and jointures, and the day-to-day ostentatious demonstration of wealth and honour. This was especially true of the most powerful lords like the Counts Palatine, the bishops of Constance, and the counts of Württemberg, whose escalating courtly and military expenses saw their borrowing and indebtedness rise dramatically throughout the fifteenth century and into the mid-sixteenth.<sup>42</sup> In lending money to or purchasing assets from one another, political elites became tied to one another through shared financial engagements. Often these ties extended beyond the two main parties in a given transaction to include others which stepped in as guarantors (*Bürger*). A large number of surety contracts (*Schadlosbriefe*) involving burghers and nobles alike have survived from the 1350-1500 period.<sup>43</sup> Typically they obliged a group of guarantors to uphold the (re)payment due by the purchaser in a given contract. In 1365, for example, Lord Hesso Snewlin, a citizen of Freiburg, had his 140 fl. payment for a rent from Count Haug of Fürstenberg backed up by five knightly and noble guarantors, including the *Schultheiss* (chief magistrate) of Schaffhausen.<sup>44</sup> The financial transaction behind this exchange of an item of lordship thereby drew Haug and Hesso into a wider network of interested parties. On a larger scale, in February 1448 Margrave Wilhelm of Hachberg became a co-guarantor, along with two lesser nobles, Hans von Gießen and Jakob von Goldenberg, of a 4000 fl. debt

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<sup>41</sup> E.g. M. Bittmann, *Kreditwirtschaft und Finanzierungsmethoden: Studien zu den wirtschaftlichen Verhältnissen des Adels im westlichen Bodenseeraum 1300-1500* (Stuttgart, 1991); F. Burgard *et al.* (eds), *Hochfinanz im Westen des Reichs 1150-1500* (Trier, 1996); B. Fuhrmann, 'Adeliges Wirtschaft im Spätmittelalter. Das Beispiel Konrad von Weinsberg', *ZWL*, 68 (2009), 73-101.

<sup>42</sup> Zmora, *State and Nobility*, pp. 42-4.

<sup>43</sup> For a classic example of a *Schadlosbrief* see *REC*, IV, 145.

<sup>44</sup> *FUB*, II, 260.

owed by the administration of the dukes of Austria-Tyrol (Albrecht VI and Sigmund) to the municipal government of Zurich, and the three men agreed to pay interest on the dukes' behalf until August of the same year.<sup>45</sup> We have already seen that Hachberg was an independent upper nobleman who acted as an officer for the Austrian princes; *Bürgerschaft*-contracts like this one indicate that these sorts of ties between autonomous powers might also acquire financial layers, and draw in lesser actors (like von Gießen and von Goldenberg) in the process.

Still more important in drawing assets and rights, financial stakeholders, and interpersonal ties together into matrices of lordship and administration was the practice of pledging or pawning.<sup>46</sup> Pledging allowed possessions, revenues, offices, and jurisdictions to change hands, as a whole or in part, in exchange for financial commitments.

Sometimes pledging took the form of a distinct category of tenure, called a *Pfandschaft* in the secondary literature, in which an item was granted in return for a payment, or as a fulfilment of existing or future financial obligations, under conditions which allowed the grantor to redeem the item in question after a certain period of time for an agreed price.

For example, in 1424 Margrave Bernhard of Baden granted the castle of Grafentheim and the enjoyment of all its appurtenances to Friedrich von Cham 'in the manner of a "pfand"' in return for a 950 fl. loan.<sup>47</sup> The contract specified that Bernhard would not attempt to redeem the *Pfandschaft* for the duration of his life, and that his heirs would have to give a quarter-year's notice if they wished to do so. Any redemption payment was to include the original loan plus the cost of maintaining and improving the castle; this sum could only change hands at an appointed location in the town of Wissembourg. Until

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<sup>45</sup> GLA 21/166.

<sup>46</sup> Two key survey articles on this topic are H.-G. Krause, 'Pfandherrschaft als Verfassungsgeschichtliches Problem', *Der Staat*, 9 (1970), 387-404, 515-32; H. Zmora, 'Princely State-Making and the "Crisis of the Aristocracy" in Late Medieval Germany', *Past and Present*, 153 (1996), 37-63.

<sup>47</sup> 'In pfandwise'. GLA 46/389.

that time, Bernhard was to be allowed to garrison men in the castle, but also had to provide Friedrich with assistance in defending it in times of war. Entire towns could also be leased out in this way. In June 1384 Bishop Imer of Basel pledged the town of Porrentruy to the municipal government of Basel for 4000 fl., and simultaneously pledged half of the town's citadel, with its higher and lower jurisdictions, to Hans-Ulrich von Hasenburg in lieu of repayment of a debt of 1000 fl. that he owed to this lord.<sup>48</sup> A more modest example of a pledge being used to pay outstanding liabilities is provided by a 1393 transaction between a citizen of Rottweil, Conrad 'the ram', and his son Johann. He had purchased several assets and the office of *Vogt* over the town of Villingen from Lord Eglolff of Warttemberg, who in turn held them as a fief from the abbot of Gengenbach. In order to help cover the costs of his purchase, Conrad pledged these possessions and rights to Johann for 40 fl., with the condition that he could not attempt to redeem them until almost a year had elapsed.<sup>49</sup>

Alongside *Pfand(schaft)*-contracts were transactions in which the proprietarial, financial, or jurisdictional items changing hands were described as 're-purchasable' ('widerko<sup>e</sup>ffig').<sup>50</sup> Older German scholarship agonised over the legal distinction between these labels, as well as other types of pledge-contracts, but Hans-Georg Krause has convincingly argued that the differences between them were unimportant, a point made by the Freiburger jurist Ulrich Zasius (1461-1536) in the early sixteenth century.<sup>51</sup> Taking a broad, synthesising view of the different forms of redeemable exchanges reveals their enormous importance to all configurations of lordship and inter-elite relationships in the south-western Empire. Absolutely any item of lordship could be involved in such transactions, from a 9 fl. rent in the village of Baldingen, co-owned by the count of

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<sup>48</sup> *MHAEB*, IV, 443-6.

<sup>49</sup> *UBR*, p. 226.

<sup>50</sup> E.g. *FUB*, III, 462.

<sup>51</sup> Krause, 'Pfandherrschaft', pp. 529-32.

Fürstenberg and two local judicial officers and pawned to a citizen of Rottweil for 180 fl. in 1467, to the office of *Reichslandvogt* in Alsace, which was pledged by King Sigismund to Count Palatine Ludwig III for the astronomical sum of 50,000 fl. in 1423.<sup>52</sup> The latter was only the largest of a huge number of pledges issued by Sigismund in the Upper Rhenish area – among others – during his reign, mostly to repay a large variety of supporters for rendered services and extended loans.<sup>53</sup> Sigismund's father Charles IV had also had extensive recourse to pledging as a financial instrument, especially in the earlier years of his reign.<sup>54</sup> Until around 1440, therefore, pledging was not only an important mechanism in shaping the financial and lordship-based relationships of local elites to one another, but also in linking their interests and resources to the crown. The conditions surrounding pledges and the objectives of the pledge-givers and receivers might have varied considerably across space and time in the later medieval Holy Roman Empire, but the principles and conventions underpinning the pledge remained the same. These were in-keeping with the itemised, commoditised conception and practice of lordship and administration we have already encountered in relation to actors from across the socio-political spectrum

The mobile, interconnective, and compatible characteristics of pledging applied equally to other forms of tenure and the relationships they entailed. Indeed, there were sometimes few qualitative differences between pledges, fiefs, and offices. The German vocabulary surrounding *Lehen* (fiefs), for instance, though subject to considerable terminological variation and a notional hierarchy (the *Heerschildordnung*), seems to have described a framework for the tenure of a particular item or group of items, without necessarily having any wider implications for the relationship between the grantor and

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<sup>52</sup> *FUB*, III, 387; *RI*, XI, no. 5447.

<sup>53</sup> E.g. GLA D/646, 649, 657; *CDM*, II, 7, 10-11.

<sup>54</sup> Krause, 'Pfandherrschaft', pp. 399-403.

recipient.<sup>55</sup> *Lehensbriefe* – the sealed contracts which confirmed the grant of a fief – were similar to the contracts used to document the granting of pledges, with the difference being that the grant was made ‘in fief’ (‘zu lehen’) rather than ‘in the manner of a pledge’.<sup>56</sup> While the language in feudal contracts formulaically declared the loyalty and service of the recipient (the vassal, or ‘man’) vis-à-vis the fief-granting lord (‘herr’), specific obligations were rarely stipulated.<sup>57</sup> The key difference between pledges and fiefs was that the latter did not have to entail a payment. However, it is worth noting that, as with *Pfandschaften*, a *Lehen* could consist of rents and other incomes as well as or instead of lands, or other properties and rights.<sup>58</sup> Sometimes the granting of a fief entailed a payment on the part of the recipient, and sometimes the items granted in fief could be turned into a pledge. In 1481, for example, Johann von Perroy sold incomes and jurisdictions in Sigolsheim in Lower Alsace which he held in fief from the lord of Rappoltstein to one Wilhelm Boeckell for 600 fl. ‘in re-purchasable manner’.<sup>59</sup> Such contracts were, in practical terms, no different from *Pfandschaften*. Fiefs could also be just as mobile as pledged and freely sold items of lordship and administration. For example, it was possible to transfer the tenure of a fief from one tenant to another. Thus, a contract from 1401 declares that ‘I, Claus Ulrich, steward of Hasenburg, assign to the sound and pious knight Lord Werner of Rosenvelt, *Landvogt* of Montbéliard, my fief: a quarter of the wine and corn tithe-rents at Illfurt, which my father... held and enjoyed as a fief from the See of Basel’.<sup>60</sup> The flexibility of feudal contracts meant that they were by no means restricted to the landed nobility. It has been calculated that, from the mid-

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<sup>55</sup> S. Patzold, *Das Lehnswesen* (Munich, 2012), p. 107.

<sup>56</sup> ADHR E2378.

<sup>57</sup> As spelled in *ibid.*

<sup>58</sup> See the fief-rent examples in Table 1.

<sup>59</sup> ‘in widderkouffswiße’. *RUB*, V, 256-7.

<sup>60</sup> ‘Dem frommen vesten ritter Her Werner von Rosenuelt lantvogt ze Munpelgart, gib ich Claus Vlrich truchsesse von Hasenburg min lehen verschriben: Den viertel des zehenden ze Illfurt an win und korn, den min vatter... gehebet und genossen hant, in lehens wis, von der stift ze Basel’. *MHAEB*, V, 178.

fourteenth century onwards, the largest group of recipients of royal fiefs after the princes was burghers, including not only patricians, but also guildsmen and families ineligible for entry into municipal councils.<sup>61</sup> Prominent clans like the Snewlin of Freiburg and the Ziboll of Basel also received numerous fiefs from lords other than the crown, like the dukes of Austria.<sup>62</sup> Even the daughter of the late Burkart Ziboll, Ursula, can be found in 1437 receiving a fief (in fact a *Pfandlehen* – ‘fief in pledge form’) from the Austrian *Landvogt* consisting of a *Dinghof* and an advocatial office in Uttental and a part of the toll and safe-conduct rights at Frick.<sup>63</sup>

The large number of pledges and fiefs that included offices and jurisdictions among the items they conferred is an indication that the dividing line between forms of tenure and office-holding was also blurred. The titles of ‘amptleute’ (officials),<sup>64</sup> namely *Vogt* (*advocatus* or *ballivum* in Latin),<sup>65</sup> *Schultheiss*, or *Pfleger*, all developed from high medieval judicial offices which had once been held on the basis of service to a lord (primarily by *ministeriales*) but had become commercialised, mobile, and heritable items by the mid-fourteenth century.<sup>66</sup> This is not surprising considering the copious evidence we have seen that revenues and jurisdictions in general, such as those linked to manorial lordship, underwent this shift. The principle extended to offices themselves. Pledges granted ‘in the manner of an officer’, for example, were effectively pawned offices, which conferred the functions and competences of the position on the recipient of the pledge.<sup>67</sup> We have already seen that Sigismund issued large numbers of Imperial offices as pledges during his reign.<sup>68</sup> Regional actors also exchanged offices among themselves

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<sup>61</sup> Patzold, *Lehnswesen*, p. 109.

<sup>62</sup> E.g. *UBF*, II, 135; *GLA* 21/8370, 8434.

<sup>63</sup> *GLA* 21/8375.

<sup>64</sup> As spelled in *MHAEB*, IV, 602.

<sup>65</sup> E.g. *RUB*, II, 547.

<sup>66</sup> Willoweit, ‘Landesherrschaft’, pp. 81-2.

<sup>67</sup> ‘in Amtmannsweise’. Krause, ‘Pfandherrschaft’, p. 396.

<sup>68</sup> See above, p. 103.

in this manner. For example, in 1453 Margrave Karl of Baden purchased half of the jurisdictions pertaining to the position of *Landvogt* in the Ortenau from the bishop and cathedral chapter of Strasbourg.<sup>69</sup> Offices could also be given in fief, another type of grant that was often expressed as being ‘in the manner of an officer’.<sup>70</sup> In 1434 Lord Smassmann of Rappoltstein acknowledged that one of his officials, a low-born man called ‘Loder’, was allowed to collect all revenues under his purview ‘for as long as he holds this office in fief from me’.<sup>71</sup> Indeed, the distinction between offices and fiefs could be so unclear as to provoke confusion. In 1356 the abbot of Murbach requested that the recipient of the position of *Schultheiss* of Merxheim, a knight called Krafft von Ungersheim, clarify that he had received it ‘not as a fief, but as an office’.<sup>72</sup> What this shows is that officer-holders were not so much the delegated administrators of districts as the managers of defined agglomerations of assets and rights which were, whether on a temporary or permanent basis, a part of their *mouvance*. An office did not define a political actor, who might well have several other titles and roles; rather, it became another item in his or her patrimony. Only this conception of offices could allow someone like the bishop of Strasbourg to purchase the temporal office of landgrave of Alsace and its appurtenant *Landgericht* from the counts of Oettingen, as occurred in 1359, or prompt an institution like a municipal council to hold fiefs and offices, as the municipal government of Strasbourg did in the town of Wasselnheim for much of this period.<sup>73</sup> The position of *Landvogt* for the dukes of Austria in Alsace, the Sundgau, and the Breisgau was always held by autonomous, Imperially-immediate actors like the lords of Rappoltstein, the counts of Lupfen, and the margraves of Hachberg.<sup>74</sup> For important and

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<sup>69</sup> *HZB*, VI, 335-6.

<sup>70</sup> ‘in amptswise’. Willoweit, ‘Landesherrschaft’, p. 89.

<sup>71</sup> ‘alle die wyle er semlich ampt von mir zu lehen hat’. *RUB*, III, 386.

<sup>72</sup> ‘nicht als ein mannehen sonderen als ein ambacht’. ADHR 9 G Lad. 85 N°1.

<sup>73</sup> ADBR G97; G. Wunder, *Das Straßburger Gebiet* (Berlin, 1965), p. 57.

<sup>74</sup> *RUB*, II, 595; *RI*, XI, no. 2519; GLA 46/1702.

minor offices alike, it was by no means mandatory for the recipient to be a vertically subservient subject of the grantor.

This is not to say that there were no responsibilities at all for office-holders vis-à-vis the lords they represented, though it is worth remembering that many positions were ultimately held from the Empire, and entailed only notional obligations to the usually distant king. It is clear that, by the late fifteenth century, officials in the core lands of powerful princes like the Counts Palatine and the dukes of Austria were subject to more intensive expectations, both in terms of the administrative functions they performed and the extent to which local resources were supervised by and funnelled towards the embryonic central organs of princely government.<sup>75</sup> By this time pledged offices were usually subject to more restrictive conditions, which shortened the periods of tenure and facilitated the grantor's ability to redeem pawned items.<sup>76</sup> The financial and social rewards of princely service were also sufficient to entice local noblemen to enter into more restrictive service contracts (*Dienstverträge*) as part of, or alongside, office tenure.<sup>77</sup> However, since the teleology of the nascent territorial state has dominated the way in which office-holding has been understood so far, this relatively late consolidation of the relationship between princes and officers must be set against the much more diverse and decentralised impression given by the more general evidence of how *Amtleute* treated their offices.<sup>78</sup> Ties between the grantor and recipient of an office created one strand in the relationship between two actors whose interactions might otherwise have been far more complex – and less clearly hierarchical – than those of an overlord and a subject. In this sense offices did not herald a new era of centralised territorial power, but formed part of a spectrum overlapping with pledges, fiefs, and the many other seal-authenticated,

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<sup>75</sup> Cohn, *Government*, pp. 235-42.

<sup>76</sup> Krause, 'Pfandherrschaft', p. 391.

<sup>77</sup> Zmora, *State and Nobility*, p. 61.

<sup>78</sup> For a 'territorial' conception of office-holding, see e.g. Willoweit, 'Landesherrschaft', pp. 81-104.

oath-bound contracts that framed relationships between elites in the south-western Empire. Just as items of lordship themselves were conceived of as a continuum of comparable assets, incomes, and rights, so too the tenurial relationships which bound the grantors and recipients of these items to one another were part of a spectrum of customary ties, into which any elite actor – urban, noble, or ecclesiastical – might enter.

One of the most significant features of this spectrum of ties was that, like the system of finance and exchange which facilitated it, it generated a great deal of interdependence among political actors. The recipients of possessions, revenues, or rights inevitably had to forge relationships with other power-wielders in the area where those items were located, particularly – as we have seen in several cases so far – when only a part of a *Hof*, a town, a rent, or a cluster of jurisdictions was received by an actor. Furthermore, even a single item of lordship might be granted to more than one tenant. It was very common for fiefs to be granted communally (‘in gemeinschaft’) to multiple members of a family. For example, in 1483 Richart von Altnach and his cousin Rudi von Brunikoffen were jointly invested by the bishop of Basel with a fief consisting of shared ecclesiastical patronage (‘kilchensatz’) in Altnach, the shared enjoyment of half of its tithe, and the shared use of nearby woodland. Throughout the contract they were called ‘fief-comrades’ (‘lehensgenoss[en]’).<sup>79</sup> This same principle could be extended to offices; in the 1350s the brothers Counts Conrad, Johann, and Heinrich of Fürstenberg all shared the functions of the office of landgrave of Baar, and several later generations of the dynasty saw the same position shared between two siblings.<sup>80</sup> Such joint configurations are significant, because members of the same family were by no means guaranteed to cooperate, and the custom of partible inheritance often gave them each a power base of their own. Lords Smassmann I and his brother Ulrich VIII of Rappoltstein were constantly

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<sup>79</sup> *MHAEB*, V, 591-3.

<sup>80</sup> *FUB*, II, 192.

fighting one another, to the detriment of the many settlements in central Alsace in which they had mutual entanglements.<sup>81</sup> Occasionally such shared lordship might extend beyond the confines of a dynasty. In 1427 the municipal governments of Bern and Solothurn jointly purchased the landgraviate of the Buchsgau from their citizen-ally Lord Johann of Falkenstein. Their purchase contract asserted that thereafter the office and its appurtenances ‘should belong communally to both towns, Bern and Solothurn, with half going to each’.<sup>82</sup> From these sorts of contracts it was only a short step to the ‘collective lordships’ of the Swiss Confederates, a cluster of *Vogteien* which were administered jointly in the Aargau after 1415, and which are often cited as a constitutional peculiarity in late medieval Europe.<sup>83</sup>

In order to appreciate the full extent of the mobility and dispersal of items of lordship and administration and the financial, proprietorial, and jurisdictional interdependence that these configurations generated, it may be helpful to end this chapter with some more sustained case studies. Two representative cases for which data is available from the period between 1350 and 1500 will be considered here: that of a line of actors within a family, and their fluctuating powers and possessions; and that of a single location, and the various interconnected lords who owned property, collected revenues, and exercised jurisdiction there. The former case is one branch of the noble Bock dynasty of Strasbourg (see Table 1). All living representatives of this family can be found in the membership lists of the city’s *Constofler* – the exclusive patrician guild – from the 1390s, and many sat on the large and small municipal councils.<sup>84</sup> The line traced here survived the purge of the majority of the *Constofler* which followed the war against the bishop of

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<sup>81</sup> L. Sittler, *Un seigneur alsacien de la fin du Moyen Age. Maximin ou Smassmann 1er de Ribaupierre 1398-1451* (Strasbourg, 1933), pp. 83-91.

<sup>82</sup> ‘beden Stetten Bern und Solothurn in gemein, iettweder zum halben theyl zugehoren soll’. *MHAEB*, V, 270.

<sup>83</sup> A. Holenstein, ‘Gemeine Herrschaften’, in *HLS*.

<sup>84</sup> *UBS*, VI, 381; *ibid.*, VII, 907-53.

Strasbourg in the 1410s-20s,<sup>85</sup> and one member even became mayor in 1481.<sup>86</sup> Across eight generations, this line of the Bock family enjoyed an extensive portfolio of properties, revenues, and jurisdictions throughout Lower Alsace, in addition to its assets and influence within Strasbourg's city walls. Its members at times exercised offices – notably that of *Vogt* of Strasbourg itself – and appointed minor officers of their own to manage their scattered possessions.<sup>87</sup> The importance of joint fiefs, mostly within the dynasty but occasionally also outside of it, as in the case of the half of Obenheim held jointly in fief by Ulrich III and Georg Bock and Eberhard von Mullenheim, is clear from the surviving records of feudal investitures concerning the Bock family. So too is the prevalence of sub-infeudation, notably courtesy of the counts of Lichtenberg, a practice which also cemented mutual connections and dependencies by introducing an interested intermediary party into the management and distribution of items of lordship. The diversity of lords from whom the Bocks held or acquired assets and rights is striking, ranging from the dukes of Lorraine in the west to the dukes of Austria in the east. In their capacity as tenants of portions of the Imperial fief of Blaesheim, they were also technically Imperially-immediate. Wider still was the range of actors, from princes to peasants via lesser nobles and cathedral canons, with whom the Bocks undertook sales, pledges, and other exchanges. Ulrich Bock IV was an advisor to the margrave of Baden, and he and other family members may have carried out similar services for other nearby powers for which the evidence has been lost.<sup>88</sup> The many roles and ties of this line of nobles-cum-patricians attests to the importance of conceiving of lordship first and foremost as an accumulation of items mediated and managed through interpersonal relationships, entailing constant interaction with neighbouring (and overlapping) powers

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<sup>85</sup> *Ibid.*, VI, no. 188.

<sup>86</sup> *CDM*, IV, 281.

<sup>87</sup> E.g. the *Schultheiss* at Meistratzheim mentioned in *CDN*, no. 197.

<sup>88</sup> *RUB*, III, 509.

at every level. For the Upper Rhine, at least, our existing conceptions of lordship as mappable territories and vertical hierarchies are wholly inadequate.

This impression is only reinforced by considering lordship and administration from the perspective of a single given zone. The fate of the small town and castle of Guémar in central Alsace between 1350 and 1500 offers an instructive example (see Table 2). Though Guémar was theoretically a possession of the bishopric of Strasbourg held in fief by the lords of Rappoltstein for the entire period, it experienced government by and exchange among a variety of other powers and temporary occupation on a number of occasions, and was rarely a single unit under the sole authority of a local lord. The most critical moment came in 1403 when, having recently been pledged twice in quick succession to the duke of Austria and Rudolf von Hohenstein, Guémar was divided in two, and one half pledged to Margrave Bernhard of Baden. The Rappoltstein half was divided again, and one half granted as a communal fief to a seemingly unlikely pair of joint tenants: King Rupert and the lesser nobleman Eberhard von Ramberg. The margraves' half was sub-pledged two further times, first to Duke Reinold of Urslingen (in 1421), who then pledged it onwards to Duke Charles II of Lorraine (in 1423). At this point a four-part chain extended from Charles to the notional overlord of the locality, the bishop of Strasbourg, via Reinold, Bernhard, and Smassmann I von Rappoltstein. In this way, a network of interests involving multiple prominent political actors was generated around a portion of a minor settlement. This half of Guémar was eventually pledged again by the margraves of Baden to one Heinrich Beger von Geispolsheim in 1461, though the dukes of Lorraine claimed that they were the rightful tenants until the 1490s. Tensions arose between Heinrich and the brothers Wilhelm I and Smassmann II von Rappoltstein over access to and exercise of the incomes and jurisdictions of Guémar, and the arbitral proceedings that followed in 1471, overseen by the *Hofgericht* of Rottweil,

ordered both parties to treat the town and castle's appurtenances as a united entity and to rule and enjoy them jointly.

The dispute over the minutiae of the exercise of lordship in Guémar in the 1460s-70s provides some insight into the extent to which political actors depended on one another, or at least were forced into interaction with one another, in this world of highly fragmented and dispersed power. Almost all settlements and the areas surrounding them were constituted, in terms of lordship and administration, by a nexus of fragmented yet overlapping properties, revenues, and jurisdictions, owned and exercised by a variety of jostling, interconnected political elites. Rarely was there a single channel of power, flowing from a 'territorial lord' downwards, in a given zone. Instead, the political landscape was populated by networks of elites with multiple roles and multiple connections and affiliations, whose relationships to one another were often more horizontal than vertical. A *modus vivendi* between these elites, and between their local officers and representatives, was essential if lordship was to be exercised and incomes were to be collected effectively. Inevitably, the tangled claims which emerged within these governing networks regularly produced frictions, and, where compromises could not be found, disputes and conflicts arose. The frequency with which political actors in the south-western Empire made use of the para-judicial conventions examined in chapters 2 and 3 is a clear indication that the configurations of lordship and administration in this area were rarely conducive to prolonged periods of tension-free co-existence. The conflict generated by the common forms of lordship found in the south-western Empire was not limited to disputes between the more powerful elites. As Peter Blickle has convincingly shown, the communal leaders of subject villages and towns were adept negotiators, and

could provide a focal point for opposition to and rebellion against overly exacting lords.<sup>89</sup> The fact that in every settlement multiple channels of authority flowed from and between the political elites with assets and rights in that area allowed communes to play their myriad lords and their officers off against one another.<sup>90</sup> These conflicts, which were the stuff of political life in the south-western Empire, arose from the dispersed and overlapping configurations of items of lordship and the networks of relationships through which elites held and exercised these items. This is why it is so important to apprehend the extent to which an array of similar structures of lordship and administration affected the whole spectrum of socio-political elites and those they purported to rule: the other facets of political life are only fully explicable by reference to these interaction- and interdependence-generating components.

This is not to say that politics on the late medieval Upper Rhine amounted to no more than the sum of the components of lordship and administration and the interpersonal ties that connected the holders of these components to one another. Discursive frameworks and collective solidarities sometimes developed around the combinations of assets, incomes, and jurisdictions operated by a given network, imbuing these combinations with some social and imaginary coherence. As was noted at the beginning of this chapter, some of these frameworks and solidarities coalesced around a princely dynasty or the related notion of the *Land* from which such dynasties took their names. It is these processes that the ‘territorial’ perspective on German history, and the related search for a taxonomy of power-wielders, has rightly tried to articulate. If the result has been a scholarly paradigm that overestimates the extent to which late medieval

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<sup>89</sup> P. Blickle, *From the Communal Reformation to the Revolution of the Common Man* (Leiden, 1998); P. Blickle, *Kommunalismus: Skizzen einer gesellschaftlichen Organisationsform* (2 vols, Munich, 2000).

<sup>90</sup> S. Teuscher, *Lords’ Rights and Peasant Stories: Writing and the Formation of Tradition in the Later Middle Ages*, trans. P. Grace (Philadelphia, 2012).

configurations of power were centralised and hierarchical, that paradigm nonetheless rests on firm evidence that regional and dynastic identifications did emerge in this period.

However, the complex realities of the power-bases and relationships of the political elite do not need to be squeezed uncomfortably into a narrative about ever more coherent and vertically integrated territories, or made to conform to a scheme in which the political actors in the Empire are corralled into distinct categories and spheres (princely, noble, urban, clerical, and so on). For a start, the comparative examination of structures of lordship and administration undertaken here has revealed a world of elite networks so thoroughly intertwined as to render any profound legal-political distinctions between princes, burghers, nobles, and ecclesiastics nonsensical and impracticable. This situation was rooted in the ways in which the items of lordship possessed by elites were treated. They were highly mobile: items fragmented, recombined, and changed hands frequently. They were also profoundly interconnective: the processes of entering into contracts, financing purchases, and owning and exercising lordship over assets all involved interaction with multiple other elite parties. By necessity, lordship was also expressed in broadly compatible forms – different types of actor all enjoyed the same kinds of assets and engaged in the same contractual ties. Furthermore, those groups that advertised their activities as relating to a particular ‘territory’, such as the regional estates (*Landstände*) of the scattered Outer Austrian lands in Alsace, the Breisgau, and the Black Forest, often had lateral rather than obviously hierarchical internal relationships; this is a possibility that is considered in chapter 9. Finally, and most significantly, the catalogue of fourteenth- and fifteenth-century practices and structures covered in this chapter often had trans-‘territorial’ dimensions, and the only imaginary political framework which fully encompassed these structures was that of the Holy Roman Empire as a whole. Since the important conceptual and juridical ideas and discourses about the Empire were not backed

up by a stable and administratively consolidated monarchy, Upper Rhenish elites took the initiative in conducting political life through the widespread, customary, and interconnective practices and institutions which worked for and made sense to them. Part II is an attempt to capture the neglected horizontal and associative characteristics of these practices and institutions, and the ways in which these formed a framework – or ‘political culture’ – which naturally arose from and dealt with the common features of political life examined so far.



## **PART II – ASSOCIATIONS AND ASSOCIATIVE POLITICAL CULTURE**

### **5. Associations in the Holy Roman Empire: problems and definitions**

The first four chapters of this thesis have examined the structures, practices, conventions, and technologies which constituted the political life of the south-western regions of the Holy Roman Empire. The comparative analysis undertaken so far has suggested that the configurations of power in this area did not correspond to discrete self-contained territories, or to a segregated world of opposing socio-political ‘estates’ with different identities and ways of life, as the dominant interpretations of this period of German history would have it. On the contrary, a large number of autonomous parties were involved in exercising governmental functions, even at the most local level, in ways which forced them into connection to and dependence on one another. These connections manifested themselves in cycles of co-operation, negotiation, and conflict engendered by and articulated through customary documentary, discursive, and performative means of asserting and defending claims to power. Because political life consisted of this dense interaction, elites with very different statuses and power bases all made use of a common ‘toolkit’ of practices and ideologies which allowed these constant negotiations with other political actors to unfold in ways that were comprehensible and acceptable to all involved.

From these networks of interdependent power-wielders emerged associations of various kinds. The majority of these were called *Bünde*, *Bündnisse*, and *Einungen* (and their cognates), words which are best translated into English as ‘leagues’ and ‘alliances’. Princes, prelates, nobles, and towns all became involved in such leagues and alliances. These associations were grounded in treaties which founded, renewed, or expanded them. These periodic contracts added formal parameters to the relationships of those who

entered into them, thereby safeguarding and regulating certain shared spheres of interest and activity. The stipulations of association treaties remained broadly the same between the fourteenth and the sixteenth centuries. These were, first, the commitment to maintain peaceful relations and to defend one another against third parties; and, second, the establishment of methods for conflict resolution by mutual consent, typically through agreed mediators. Besides this spectrum of *Bünd(niss)e* and *(Ver)einungen*, a number of other forms of association involved various Upper Rhenish political actors in this period. Most, like *(Ritter)gesellschaften* (knightly societies) and *Burgrechte* (citizenship-alliances), had very similar stipulations, covering military and/or mediatory imperatives, which were simply couched in more particularistic terms. Others, while using the same norms and discourses as more mainstream associations, had more specialised aims; these include jurisdictional treaties and coinage leagues. All of these formal associations will be examined in the following chapters.

Both the comparative study of associations and the acknowledgement that these were anchored in deeper structures are surprisingly novel approaches to the political history of the Empire. What little comparative work that has been done has been limited to suggestive survey articles, or else has engaged only with associations allegedly involving a single ‘estate’ (usually towns).<sup>1</sup> There has also been no substantive consideration of how associations related to the wider networks and political culture in which their members were embedded. That is not to say that the prevalence of associations in the Holy Roman Empire has gone unnoticed. Already by the late fifteenth century Franco-Burgundian commentators like Philippe de Commynes and Jean Molinet were regularly noting the ubiquity of ‘those leagues of Germany’ and ‘certain leagues and

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<sup>1</sup> See below, pp. 126-7.

alliances of armed people' in the Empire's southern regions.<sup>2</sup> In recent decades it has been customary even for textbook literature on late medieval Europe to acknowledge the prominence of alliances (*Städtebünde* or 'town leagues' in particular) in the fourteenth- and fifteenth-century history of 'Germany'/the Empire.<sup>3</sup> Clearly, associations have long been recognised as noteworthy features of the political landscape of German-speaking Europe in this period. However, they have also for the most part been treated in an abstract and segmented way which has impaired the comparative and socio-politically integrated analysis to which this thesis aspires. Before this analysis can continue, it is necessary to consider these ways in which associations have been approached in more detail. The rest of this chapter surveys the three main existing views on associations, the assumptions underpinning those views, and the extent to which those views reflect the evidence in the primary sources. Insofar as the historiography of the Empire has not provided interpretations which make sense of the evidence from a comparative and holistic perspective, the analysis that follows will try to rectify those deficiencies by reference to the 'associative political culture' model.

### **Associations as idealised communities or proto-democratic institutions**

All three of the broad approaches to associations outlined in this chapter are rooted in the German legal-historical tradition, and as a result they overlap substantially. However, it is possible to distinguish one of them as the most influential strand of this tradition, as it pertains to associations within the Empire and indeed beyond it. This approach might be

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<sup>2</sup> 'ces ligues d'Almaigne' 'aulcunes ligues ou alliances de peuples en armes'. J. Dufournet (ed.), *Philippe de Comynnes. Mémoires (Livres IV-VI)* (Paris, 2007), p. 144; J.-A. Buchon (ed.), *Chroniques de Jean Molinet* (5 vols, Paris, 1847-8), IV, 30.

<sup>3</sup> E.g. D. Hay, *Europe in the Fourteenth and Fifteenth Centuries* (London, 1966), p. 202; Guenée, *États*, p. 236; E. Isenmann, *Die deutsche Stadt im Spätmittelalter, 1250–1500* (Stuttgart, 1988), pp. 121-7; E. Schubert, *Einführung in die deutsche Geschichte im Spätmittelalter*, 2nd edn (Darmstadt, 1998), pp. 146-8; Scott, *Society and Economy*, p. 20; C. Briggs, *The Body Broken: Medieval Europe 1300-1520* (London, 2011), p. 150.

summarised as the impulse to portray pre-modern associations (*Genossenschaften*) as manifestations of a typically Germanic communitarian spirit, which prefigured and fed into concepts of popular sovereignty and representative, even proto-democratic institutions. It should be noted that, in this tradition, *Genossenschaften* include a whole range of corporations endowed with legal personality (*Rechtssubjektivität*), such as village communes, towns, and guilds, and larger bodies like the Empire, the Church, and other states, as well as the spectrum of regional and trans-regional associations specific to the later medieval Empire. At its broadest, the concept of the *Genossenschaft* extends to include, or at least to influence, all collective or horizontal social relations (*Gemeinschaften, Verbände*, etc.), especially where they were in some sense imbued with the collectivist Germanic legal spirit.<sup>4</sup>

As a legal-historical category, *Genossenschaft* was coined by the mid-nineteenth-century jurist Georg Beseler,<sup>5</sup> but it was his student Otto von Gierke who articulated this concept most fully and famously in his four-volume *magnum opus*, *Das deutsche Genossenschaftsrecht*.<sup>6</sup> Though it was intended as a survey of Germanic legal concepts, the project grappled from the very first volume with large-scale questions of social and political structure throughout the pre-modern period, and by the third volume it had grown to encompass the legal history of Christendom as a whole. In volume one, Gierke posited a dialectic between vertical, typically ‘feudal’ authority (*Herrschaft*) and horizontal, typically ‘communal’ consensus (*Genossenschaft*). Though they have often

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<sup>4</sup> G. Dilcher, ‘Zur Geschichte und Aufgabe des Begriffs Genossenschaft’, in G. Dilcher and B. Diestelkamp (eds), *Recht, Gericht, Genossenschaft und Policey: Studien zu Grundbegriffen der germanistischen Rechtshistorie* (Berlin, 1986), pp. 114-23.

<sup>5</sup> J. Schröder, ‘Zur älteren Genossenschaftstheorie. Die Begründung des modernen Körperschaftsbegriffs durch Georg Beseler’, *Quaderni Fiorentini per la storia del pensiero giuridico moderno*, 11-12 (1982-3), 399-459.

<sup>6</sup> Gierke, *Genossenschaftsrecht*. For what follows on Gierke’s life and ideas see K.S. Bader, ‘Gierke, Otto Friedrich von’, in *Neue Deutsche Biographie* (25 vols, Berlin, 1953-2013), VI, 374-5; O.G. Oexle, ‘Otto von Gierkes “Rechtsgeschichte der deutschen Genossenschaft”: ein Versuch wissenschaftlicher Rekapitulation’, in N. Hammerstein (ed.), *Deutsche Geschichtswissenschaft um 1900* (Stuttgart, 1988), pp. 193-217; Reynolds, *Kingdoms and Communities*, pp. xxvi-xxxii.

been caricatured as such, these were not totally abstract categories which crudely defined every society one way or the other in Gierke's scheme, but were instead inflected by attendant social, political, and ideological attributes and circumstances (patrimonial concerns in medieval noble dynasties, the defence of specific kinds of liberty in late medieval Imperial Cities, and so on). The dialectic between period- and context-specific manifestations of *Herrschaft* and *Genossenschaft* unfolded over five chronological stages, spanning the history of the Germanic peoples of Europe from the *Völkerwanderung* period to what Gierke perceived as the 'reborn associative-ness' of his day.<sup>7</sup> For our purposes the most interesting phase in Gierke's unfolding dialectic is the third period, covering the years between 1200 and 1525. By the thirteenth century, Gierke argued, 'the idea of loyal subservience... had lost its power over the German spirit', giving way to 'three centuries in which everything [in Germany] developed from below and from within'.<sup>8</sup> At the heart of this self-conscious assertion of Germanic freedoms and popular *genossenschaftlich* ideals was the efflorescence of *das Einungswesen* – 'free association in its medieval guise' – which replaced feudalism as the dominant epochal principle.<sup>9</sup> What made the ubiquitous associations which Gierke categorised as *Einungen* so significant was, on the one hand, their voluntary and egalitarian nature, manifested through reciprocal oath-swearing, and, on the other hand, their potential to take on political functions and attributes (or to become 'states within the state' – *Staaten im Staat*).<sup>10</sup> The town and its internal corporations, as the home of 'modern' and 'forward-looking' ideas, was the ideal-typical site of the *Einung*, for it was here that citizens and guildsmen first freely banded together and mutually submitted to voluntary law

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<sup>7</sup> 'wiedergeborenen Genossenschaftswesen'. Gierke, *Genossenschaftsrecht*, I, x.

<sup>8</sup> 'Der Gedanke des Treudienstes... hatte seine Macht über den... deutschen Geist verloren' 'drei Jahrhunderten, in denen Alles von unten und innen kam'. Ibid., I, 296-7.

<sup>9</sup> 'die freie Association in ihrem mittelalterlichen Gewande'. Ibid., I, 297.

<sup>10</sup> Ibid., I, 298.

(*verwillkürte Satzung*) of their own making.<sup>11</sup> From this starting point, the model spread to all sections of German society, leading to the category of *politische Einungen*, in which Gierke included most of the kinds of associations with which we are concerned – leagues, alliances, *Landfrieden*, jurisdictional treaties, knightly societies, and so on.<sup>12</sup> However, Gierke also suggested that, as this period wore on, political associations became increasingly formalised as essentialised ‘estates’ (noble, urban, ecclesiastical), and were ultimately subsumed within territorial states – which deployed Roman law to break the communitarian bonds of Germanic tradition – as well as within a fractious, federalised Imperial constitution.

Overall, the Gierkian scheme has been remarkably influential in determining the categories and assumptions underpinning subsequent work on later medieval associations. While relatively few scholars have applied his ideas wholesale to their work, different elements from Gierke’s work and the wider legal-historical and idealist tradition have resurfaced repeatedly at different points in the twentieth and early twenty-first centuries. Insofar as these relate to an ‘estate’-based conceptualisation of socio-political structures and activities and to an abstract ‘constitutional’ approach to the Holy Roman Empire and its constituent units, they are discussed in the next two sections of this chapter. What should be noted at this point is that Gierke’s belief that political associations should be classified as inherently voluntary and egalitarian *Einungen*, and that in some sense they prefigured modern conceptions of popular sovereignty and democracy, has enjoyed a long afterlife. The work of Peter Blickle has been the broadest and most influential application of this strand of Gierkian thought. Blickle argues for the development of popular participation and representation in European politics out of the communal tradition of Swiss and South German villages, towns, and leagues, which – true to the Gierkian

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<sup>11</sup> *Ibid.*, I, 220-2, 299-300.

<sup>12</sup> *Ibid.*, I, 457-60.

paradigm – are said to have consisted of horizontal, egalitarian, oath-bound ties which were antithetical to the vertical, aristocratic, ‘feudal’ authorities which surrounded them.<sup>13</sup> The great merit of Blickle’s work is the attention it draws to smaller political units and the role of subaltern groups in political processes such as the growth of representative institutions (sometimes referred to as ‘state-building from below’). Blickle and his intellectual successors provide a valuable corrective to the tendency of historians of pre-modern Europe, especially those who take the kingdom of France as a normative template, to emphasise only vertical authority and centralising processes.<sup>14</sup>

More narrowly, Gierke’s assumptions about the egalitarian, voluntary, and law-making characteristics of *Einungen* have been maintained uncritically and indeed expanded by German legal historians in the twentieth and twenty-first centuries. The notion that members of associations submitted of their own volition (*Willkür*) to the judicial authority of a solid body with its own legal personality and legal nature (*Rechtsnatur*), consisting of individuals who made collective oaths on an equal footing, has been enthusiastically expounded by legal historians such as Wilhelm Ebel and Gerhard Dilcher.<sup>15</sup> Eva-Marie Distler’s 2006 study of town leagues pursues Ebel’s ideas about associations, and especially towns, as ‘sworn communities’ (*conjuraciones/Schwurgemeinschaften*), and argues that urban leagues and alliances fit this ‘corporative thought-model’ (*körperschaftliche Denkmodell*).<sup>16</sup> Distler tries to deduce abstract legal principles from the foundation treaties of town leagues, and the result is largely a reconfirmation of Gierkian ideas about associations as communitarian

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<sup>13</sup> Blickle, *Kommunalismus*, e.g. I, 123; P. Blickle, *Das Alte Europa. Vom Hochmittelalter bis zur Moderne* (Munich, 2008); P. Blickle, *Unruhen in der ständischen Gesellschaft 1300-1800*, 3rd edn (Munich, 2012).

<sup>14</sup> See e.g. W.P. Blockmans *et al.* (eds), *Empowering Interactions: Political Cultures and the Emergence of the State in Europe, 1300-1900* (Burlington, VT, 2009); B. Kümin, *The Communal Age in Europe, c.1100-1800* (Basingstoke, 2013).

<sup>15</sup> Ebel, *Der Bürgereid*; Ebel, *Gesetzgebung*, pp. 21-5; Ebel, *Die Willkür*; Kolmer, *Eide*; Dilcher, ‘Bürgerrecht und Bürgereid’; see ch. 1, pp. 42-3.

<sup>16</sup> Distler, *Städtebünde*, pp. 77-82, 161-76.

enterprises which aimed to subsume individual members within a legally and judicially functional whole.<sup>17</sup> This enduring emphasis in the German legal historiography of the later middle ages has successfully preserved the image of towns and associations (especially urban ones) as structures which were powerfully shaped by collective forces, and it has thereby challenged the excessive focus on vertical authority and centralisation at the expense of other formats of power in pre-modern Europe.

These idealised notions of the association as *Einung*, coined by Gierke and developed by his intellectual successors, entail problems as well as the advantages mentioned so far. The suggestion that individual members of associations voluntarily surrendered their interests and resources to the will of the collective, and that *Einungen* therefore in some way prefigured modern states with full and equal citizen participation, is naïve and idealistic. It ignores the large disparities that existed among the actors involved in common endeavours like leagues and alliances, and it overlooks the power dynamics and tensions which were inevitably at work within such formations. Even if equal and voluntary participation in associations with their own *Satzung*-type of law reflects the mentalities found in all German-speaking towns – which seems doubtful – it certainly does not apply to the *politische Einungen* with which we are concerned, which were largely ad hoc and lacking in legal power, relying as they did on negotiation, mediation, and/or the judicial apparatus of individual members.<sup>18</sup> Ultimately, the dichotomy of ‘feudal’, vertical lordship and ‘free’, horizontal association is unhelpful if these ideal types are applied in their abstract form to the evidence, and not synthesised in a way that allows for hierarchy, conflict, and domination in towns and leagues, and for co-operation and a sense of community among princes, nobles, and other aristocratic groups (who, as we shall see, were just as involved in associative processes).

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<sup>17</sup> Ibid., e.g. pp. 98-99, 115-20, 129-52.

<sup>18</sup> See ch. 7 on associations as frameworks for arbitration and negotiation.

Furthermore, the readiness with which all kinds of actors in the Holy Roman Empire entered into associations does not need to be understood as a manifestation of an egalitarian disposition inherited from an idealised Germanic past. Viewed in the context of the wider and deeper structures and conventions discussed in chapters 1-4, it is clear that associations emerged synchronically from the conditions which surrounded them, in order to deal with the problems and dynamics raised by precisely those conditions. In reality, associations were quite unlike the solid and exclusive judicial communities imagined by Ebel and others. We shall see that the later medieval evidence clearly shows that members of one association were typically involved in several others at the same time, and that their commitment to any one alliance or league was temporary and conditional. Gierke's *Einungswesen* was really a spectrum of shifting and contingent political formations which emanated from comparable configurations of power in the south-western Empire in context-specific ways. The chapters that follow will engage with these formations with this perspective in mind, rather than from the starting-point of ideal-types.

### **Associations as instruments of social and *ständisch* defence and assertion**

As we have already seen, there is a powerful and often unconscious tendency in the historiography of the later medieval Holy Roman Empire to divide political society into essentialised and impermeable categories (princely, noble, urban, communal, clerical, and so on), often called 'estates' (*Stände*).<sup>19</sup> The way in which political associations have been studied has been heavily influenced by this tendency. Against the backdrop of Gierke's communitarian understanding of associations, it has been common to assume that leagues, alliances, and similar formats were the sole preserve of urban and communal

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<sup>19</sup> See Introduction, pp. 16-17.

actors, even though Gierke himself sought to include some aristocratic and ecclesiastical collectivities in his late medieval *Einungswesen*. The particular attention afforded to town leagues has been reinforced by the prominence of urban life (*das Städtewesen*) in the research agendas of German late medievalists.<sup>20</sup> This urban-centred impulse is so strong that political associations in general and ‘town leagues’ (*Städtebünde*) have often been treated as virtually synonymous.<sup>21</sup> Guided by the presumption that associations were an essentially urban phenomenon, studies of leagues and alliances in the Empire have been disproportionately focused on towns.<sup>22</sup>

This focus is not entirely without basis in the sources. In many leagues, especially those which played a prominent role in the politics of the monarchs in the fourteenth and fifteenth centuries, the core members were town councils. City scribes drew up most treaties of association, and introduced into them discourses which reflected the self-image and concerns of municipal councils. The problem is that most historians who have read these treaties involving towns have taken the rhetoric contained within them as a collection of global and authentic statements of intent, and as a result many explanations for the existence of later medieval associations assert that these were instruments for the defence of the interests of the urban ‘estate’ within the Empire. More targeted or temporary goals, such as avoiding being pledged by the kings of the Romans to third parties, or resisting specific violations of the privileges claimed by town councils, have

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<sup>20</sup> See e.g. E. Isenmann, *Die deutsche Stadt im Mittelalter, 1150–1550* (Cologne/Vienna, 2012), pp. 315–26.

<sup>21</sup> For a critique of the limitations of the *Städtebünde* concept and the urban focus of association studies, see D. Hardy, ‘Reichsstädtische Bündnisse im Elsass als Beweise für eine “verbündende” politische Kultur am spätmittelalterlichen Oberrhein (ca. 1350–1500)’, *ZGO*, 162 (2014), 95–128.

<sup>22</sup> E.g. H. Bleizinger, *Der Schwäbische Städtebund in den Jahren 1438–1445, mit einem Überblick über seine Entwicklung seit 1389* (Stuttgart, 1954); L. Sittler, *La Décapole alsacienne des origines à la fin du Moyen Âge* (Strasbourg, 1955); J. Füchtner, *Die Bündnisse der Bodenseestädte bis zum Jahre 1390* (Göttingen, 1970); B. Berthold, ‘Überregionale Städtebundprojekte in der ersten Hälfte des 15. Jahrhunderts’, *Jahrbuch für Geschichte des Feudalismus*, 3 (1979), 141–79; B. Vogler (ed.), *La Décapole: dix villes d’Alsace alliées pour leurs libertés, 1354–1679* (Strasbourg, 2009).

been subsumed within this narrative.<sup>23</sup> Between the 1960s and '80s, under the influence of the Marxian concepts then prevalent in the European academy, town leagues were even understood as a tool of class struggle between the emerging bourgeois estate and the surrounding aristocratic forces. For example, Brigitte Berthold reckoned that 'the causes of urban alliance politics until the mid-fifteenth century lay in the sharpening of the opposition between the urban bourgeoisie and the feudal territorial powers in almost all parts of the German Empire'.<sup>24</sup> The notion that associations had an exclusively urban character has also been reinforced by the idea that town leagues were a unique constitutional form in the middle ages, grounded in the *civitas* of antiquity and prefiguring the rise of states with politically engaged citizenries to replace the feudal structures of European societies. This form supposedly first rose to prominence in northern Italy in the guise of the Lombard League, and it is said to have migrated to German soil a mere century later with the creation of the Rhenish League of 1254.<sup>25</sup> The presumed urban nature of associations has led to the coinage of the word '*Städtebund*' ('town league'), a term that does not appear in the primary sources, and there is a subconscious assumption in much of the scholarship that this word encompasses almost all associations.<sup>26</sup> Associations which were not predominantly urban in composition have either been neglected or categorised unconvincingly as 'mixed' types of *Städtebund*.<sup>27</sup>

Thus, much less scholarly attention has been devoted to noble associations than to 'town leagues'. What work has been done has been shaped by a parallel set of ideas about the inherent and self-conscious separateness of the noble 'estate' and its values and goals

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<sup>23</sup> E.g. Vogler, *Décapole*, pp. 15-16.

<sup>24</sup> 'die städtische Bündnispolitik bis zur Mitte des 15. Jh. ihre Ursache in der Verschärfung der Widersprüche zwischen dem Städtebürgertum und den feudalen Territorialgewalten in nahezu alle Teilen des deutschen Reiches hatte'. Berthold, 'Überregionale Städtebundprojekte', p. 175.

<sup>25</sup> H. Maurer (ed.), *Kommunale Bündnisse Oberitaliens und Oberdeutschlands im Vergleich* (Sigmaringen, 1987); E. Ennen, 'Rheinischer Bund von 1254', in *HRG*, IV, 1017-18. Although see some reservations about this comparison in Dilcher's contribution in Maurer's volume.

<sup>26</sup> E.g. Distler, *Städtebünde*, *passim*.

<sup>27</sup> *Ibid.*, pp. 120-2.

from other sections of society in the Holy Roman Empire. Though the alliance treaties of knightly societies are more laconic than those of mostly urban or mixed leagues, it is sometimes assumed that unions of counts, lords, and/or knights were intended to assert the status, honour, and privileges of the nobility, often in contradistinction to the towns or the princes.<sup>28</sup> More convincing is the work on the wider socio-political activities of the nobility, which has explained knightly societies and other formalised aristocratic associations as arising from multi-layered familial and financial relationships among regional noble networks.<sup>29</sup> However, even this more sophisticated research is concerned solely with certain groups among lower, middling, or upper noble dynasties, and therefore lacks the comparative dimension which might establish whether or not the kinds of leagues and alliances formed by noblemen were in fact unique to this group. It is revealing that the editors of a 1991 index of late medieval German knightly and noble societies noted the difficulty of separating these groups from other associations: ‘Very quickly during our work we noticed that the crossover between the heraldic group, chivalric order, noble society, defensive brotherhood, and urban-patrician drinking society on the one hand, and the *Einung*, alliance, *Landfriede*, representative estate, and territorial or Imperial *Ritterschaft* on the other hand, was fluid, even for contemporaries’.<sup>30</sup> As we shall see, it is clear from the sources that associations of nobles displayed the same structures and conventions as found in other formalised quasi-horizontal relationships.

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<sup>28</sup> H. Mau, *Die Rittergesellschaften mit St. Jörgenschild in Schwaben, Ein Beitrag zur Geschichte der deutschen Einungsbewegung im 15. Jahrhundert* (Stuttgart, 1941); Obenaus, *St. Jörgenschild*; K. Ruser, ‘Zur Geschichte der Gesellschaften von Herren, Rittern und Knechten in Süddeutschland während des 14. Jahrhunderts’, *ZWL*, 34-5 (1975-6), 12-25; C. Kutter, ‘Zur Geschichte einiger schwäbischer Rittergesellschaften des 14. Jahrhunderts’, *ZWL*, 50 (1991), 87-104.

<sup>29</sup> A. Ranft, *Adelsgesellschaften. Gruppenbildung und Genossenschaften im spätmittelalterlichen Reich* (Sigmaringen, 1994); J. Schneider, *Spätmittelalterlicher deutscher Niederadel* (Göttingen, 2003).

<sup>30</sup> ‘Sehr schnell hatten wir bei unserer Arbeit bemerkt, daß die Übergänge zwischen Devise, Ritterorden, Adelsgesellschaft, Schützbruderschaft und städtischer Patrizierstube auf der einen Seite, Einung, Bündnis, Landfrieden, ständischer Vertretung, territorialer oder Reichs-Ritterschaft auf der anderen fließend waren – auch schon für die Zeitgenossen’. H. Kruse *et al.* (eds), *Ritterorden und Adelsgesellschaften im spätmittelalterlichen Deutschland. Ein systematisches Verzeichnis* (Frankfurt, 1991), p. 14.

The deep-seated tendency to attribute *ständisch* identities and strivings to ‘urban’ or ‘noble’ associations encounters difficulties when it comes to the *Landfrieden*, the regional leagues and alliances made in the fourteenth and fifteenth centuries with the aim of keeping the peace in certain targeted ways. Given that, in the southern half of the Empire, these almost always consisted of mixtures of secular and ecclesiastical princes, nobles of some kind, and Free and Imperial Cities, their existence cannot be explained by reference to the fears or aspirations of one socio-political group. German historians have turned to what they term the ‘constitution’ of the Empire as a way of accounting for the *Landfrieden*, and that is the third approach to associations, set out below. It is worth noting at this point, however, that the apparently group- or ‘estate’-based particularism of certain associations can be explained as context-specific rhetoric or composition, which is not a good reason to divorce them artificially from one another, or from mixed formations like the *Landfrieden*. The fact that some associations consisted mostly of towns, others mostly of nobles, and others of a mixture of various kinds of actor, does not mean that these different forms were not comparable and should not be studied side-by-side. Yet, because of the presupposition that leagues and alliances were distinguished along socio-political lines, truly comparative analysis of associations in the Empire has never been undertaken. The closest any German scholar has come to such an analysis is a brief and purely suggestive 1995 survey article by Peter Moraw, which discusses in turn what he viewed as the different kinds of *Einungen* and *Bünde* (leagues) in the late medieval German-speaking lands, including *Landfrieden*, princely unions, ‘town leagues’, and knightly societies.<sup>31</sup> It is an interesting and useful exercise, but Moraw’s conclusion is conservative, and does not acknowledge that associations were all comparable and part of a shared, interconnected way of doing things in the Empire. He concludes that

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<sup>31</sup> Moraw, ‘Funktion’, pp. 1-21.

associations arose from the unique circumstances of different groups in very different regions, and that the *Bund* and the *Einung* were ultimately transient ideal-typical forms with a limited impact on and relationship to the wider dynamics of politics in the Holy Roman Empire. The contention of this thesis, conversely, is that a meaningful generalisation can be made, at least for the Empire's south-western regions, which goes beyond this view. The following chapters aim to demonstrate, through a comparative examination of the sources, that associations were arranged along a spectrum of essentially similar forms, arising from the same fragmented and interconnective conventions and configurations of power. Different political actors obviously had different aims, and sometimes deployed divergent rhetorical devices in the sources they produced, but social and political realities prompted or forced all elites to share in a relatively unified and mutually compatible political culture of associative activity, emanating from the structural entanglements which brought them into regular interaction.

### **Associations as constitutional forms**

Constitutional history (*Verfassungsgeschichte*) has long been the dominant lens through which German historians apprehend the Holy Roman Empire and the entities within it.<sup>32</sup> Associations are no exception. They have been articulated through the concept of the *Verfassung* as units in themselves and as parts of the Empire as a whole. Where historians have tried to analyse the 'constitution' of a specific association, or type of association, for example by seeking to articulate the *Verfassung* of the Society of St George's Shield or of fourteenth-century town leagues, the result has sometimes been an abstracted and overly institutionalised view of how such structures worked.<sup>33</sup> In reality, associations were temporary and ever-shifting matrices of formalised relationships. As the following

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<sup>32</sup> See Introduction, pp. 13-17.

<sup>33</sup> E.g. Obenaus, *St. Jörgenschild*, pp. 155-203; Distler, *Städtebünde*, pp. 103-79.

chapters will demonstrate, they were built upon customary ideas and practices, and had certain quasi-governmental functions in that they aimed to restrict or channel conflicts in some way. However, despite the Gierkian obsession with the ‘legal personality’ of corporations, associations were not ‘state-like’ structures in their own right, but were embedded in broader and more durable structures and conventions. There is little indication in the sources that contemporaries treated associations as if they were of equal legal-political status to their constituent members, beyond the occasional grouping of regular associates into a single entry in the records of Imperial assemblies.<sup>34</sup> Given that – as we saw in chapter 4 – even individual political units were open, fragmentary, constantly shifting, and dependent on networks of other powers, associations made up of such units were far too fragile and scattered to warrant a ‘constitutional’ analysis, with its connotations of political definition, institutionalisation, and uniformity.

This is true even of the Swiss Confederation for much of this period. Until very recently, Swiss historians studied the Confederation’s medieval history within a nationalistic paradigm which was fashioned as early as the first half of the sixteenth century. This framework presupposes *a priori* the existence of a consolidated, particularistic, brotherly association with its own unique institutions and a discernible, if multi-layered, *Verfassung* from at least the early fourteenth century.<sup>35</sup> In the past twenty years this assumption has been replaced by a growing recognition that it was only in the last decades of the fifteenth century that the Confederation developed a political culture and integrity which was self-consciously different from that of the associations which surrounded it.<sup>36</sup> For this reason, the alliances of the Swiss Confederates will be analysed

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<sup>34</sup> E.g. *RTA*, XVII, 440-1.

<sup>35</sup> E.g. H.C. Peyer, *Verfassungsgeschichte der alten Schweiz* (Zurich, 1978).

<sup>36</sup> R. Sablonier, ‘Schweizergeschichte: ein Sonderfall?’, *Traverse. Zeitschrift für Geschichte – Revue d’histoire*, 32 (2004), 23-40; R. Schmid, ‘Die schweizerische Eidgenossenschaft – ein Sonderfall gelungener politischer Integration?’, in W. Maleczek (ed.), *Fragen der politischen Integration im*

within the same comparative framework as other forms of association elsewhere in the south-western Empire in the following chapters. Associations are best understood as a spectrum of interpersonal forms, brought into being through combinations of widely shared political conventions and discourses. There was no rigid set of rules about the internal ‘constitution’ of any ideal-typical form of association (such as a ‘town league’ or knightly society), only a general set of expectations and traditions to which all the treaty-based networks discussed in this thesis conformed to some extent.

At the level of the Empire in its entirety, meanwhile, associations have typically been viewed in a more negative or dismissive light. In the crudest sense, this has resulted from an old, and now largely surpassed, view of the ‘late middle ages’ as a time of unmitigated crisis and disorder, when the fleeting promise of Imperial unity and glory under the Hohenstaufen gave way to the fragmentation of the German space into petty territorial states led by selfish princes, and the unravelling of the rule of law.<sup>37</sup> While this narrative is no longer stated in such stark terms, a despairing undertone still pervades many overviews of this period, and the role of associations in the Empire is judged accordingly. Leagues and alliances are cast as subversive projects which destabilised royal control of the Empire, or else – when it came to the *Landfrieden* – as weak attempts to create some semblance of order in the localities in the absence of effective monarchical authority.<sup>38</sup>

Heinz Angermeier and Peter Moraw, the two most prolific historians working within the late twentieth-century *Reichsverfassung* paradigm, have generally adopted this

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*mittelalterlichen Europa* (Ostfildern, 2007), pp. 413-48; R. Sablonier, *Gründungszeit ohne Eidgenossen: Politik und Gesellschaft in der Innerschweiz um 1300* (Baden, 2008).

<sup>37</sup> See Introduction, pp. 9-10. This narrative was attacked as early as 1938 by Hermann Heimpel, albeit on the dubious basis that German ‘Volk-awareness’ shone through even in these ‘dark centuries’. H. Heimpel, ‘Das deutsche Spätmittelalter. Charakter einer Zeit’, *Historische Zeitschrift*, 158 (1938), 229-48.

<sup>38</sup> E.g. J. Hoensch, *Die Luxemburger. Eine spätmittelalterliche Dynastie gesamteuropäischer Bedeutung 1308-1437* (Stuttgart, 2000), p. 235; M. Prietzel, *Das Heilige Römische Reich im Spätmittelalter*, 2nd edn (Darmstadt, 2010), pp. 16, 73-5, 82.

view, but have also integrated associations within a more fully articulated Imperial political system. As we have seen, both scholars frame the Empire's constitution as a *Sonderfall* – a unique case, owing to its size, its elective monarchy, its independent territories, and its dualistic institutions.<sup>39</sup> Within this framework, associations played a role in alleviating the many specific problems of authority and order which beset the Empire because of its inability to follow the conventional path of European state formation. While they arose for essentially negative reasons, they are thought to have fulfilled their functions successfully. For Angermeier, the *Landfriede* was a category of royal supremacy in matters of peace-enforcement (*Friedenshoheit*), but in the absence of a working central executive it was delegated to regional *Einungen* for the whole of the fourteenth century, before, from the mid-fifteenth century onwards, slowly becoming a legislative tool of the crown and the estates.<sup>40</sup> Moraw views *Einungen* and *Bünde* as specifically late medieval phenomena, which reflected a prolonged moment of constitutional openness (*offene Verfassung*) conducive to local initiatives, lasting from the mid-thirteenth to the mid-fifteenth century.<sup>41</sup> From around 1470, Moraw argues, such associations dissolved because of a two-pronged process of centralisation – ‘state formation’ (*Staatswerdung*) in the territories, and the consolidation of the Imperial constitution through a dualistic interplay between the crown and the princely estates at increasingly regular *Reichstage*.<sup>42</sup> At this point, only diplomatic alliances between proto-sovereign principalities, which Moraw labels *Bündnisse* (in contrast to *Bünde* and *Einungen*), continued to function as horizontal ties in an increasingly unitary, authoritarian world. For Moraw, associations were ultimately a regional peculiarity

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<sup>39</sup> See Introduction, pp. 16-17.

<sup>40</sup> H. Angermeier, *Königtum und Landfriede im deutschen Spätmittelalter* (Munich, 1966), *passim*; cf. A. Buschmann, ‘Landfriede und Landfriedensordnung im Hoch- und Spätmittelalter. Zur Struktur des mittelalterlichen Landfriedensrecht’, in A. Buschmann and E. Wadle (eds), *Landfrieden. Anspruch und Wirklichkeit* (Paderborn/Munich/Vienna/Zurich, 2002), pp. 95-121.

<sup>41</sup> Moraw, *Verfassung*, *passim*.; Moraw, ‘Funktion’, pp. 1-2.

<sup>42</sup> *Ibid.*, pp. 19-21.

caused by a power vacuum at the centre of his imagined constitution; they never formed ‘a real alternative to the traditional and long-lasting monarchical-aristocratic way of life of the Empire’.<sup>43</sup>

The *Reichsverfassung* paradigm has the benefit of drawing attention to the place of associations within the framework of the wider polity and a series of ongoing processes. Viewed on a large scale, the evidence does indeed suggest that associations were linked to ideas about, and functions of, Imperial government; and it is clear that the late fifteenth century saw a rapid increase in the density and frequency of interaction between ever larger proportions of the political elite in the Empire.<sup>44</sup> However, the concept of the *Reichsverfassung* can be more of a hindrance than a help. It is a reification which articulates the Empire in terms of subsidiary abstractions – estates, orders, territories, *Einungen*, *Bünde*, *Bündnisse* – that are treated as rigid categories into which the evidence is organised. It thereby sets up false dichotomies and distinctions, such as between ‘monarchical-aristocratic’ and associative mentalities and formations, or between royal law and regional practice. From a comparative perspective that applies more open-ended analytical concepts to the evidence, it seems clear that these binaries were always simultaneously at work at both regional and Empire-wide scales, and that most legal-political categories have highly permeable boundaries and common features. In this way, it becomes evident that, for example, associations called *Einungen* and *Bünde* were functionally similar to *Bündnisse*, and that it therefore makes both pragmatic and historical sense to group these three labels within a single continuum of practices and customs. Moreover, investigating a wide sweep of evidence reveals that, in fact, the word *Bündnis* can be attested from at least the late fourteenth century – one hundred years before Moraw’s 1470 watershed – while recent work has shown that leagues and

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<sup>43</sup> Ibid., pp. 20-1.

<sup>44</sup> See ch. 8, esp. pp. 218-19.

alliances, often clad in the discursive trappings of *Landfrieden*, remained widespread in the Empire well into the sixteenth century.<sup>45</sup> To assert that *Landfrieden* and other associations were somehow ontologically different from an otherwise vertically constituted Empire with a ‘monarchical-aristocratic’ destiny, and that they never presented an ‘alternative’ to that form of *Reichsverfassung*, is to allow overly-determined reifications to set the interpretive agenda. It is more helpful to synthesise horizontal and vertical, local and Imperial forces into an integrated picture of a political landscape and political culture which allows for many variations and configurations within it, without occluding the interrelationship and basic comparability and compatibility of these structures. That is how this thesis aims to depict the Holy Roman Empire: as a set of integrated structures, framed by a political culture which emphasised the legitimacy of both aristocratic/oligarchic power, as exercised by princes, prelates, nobles, and patricians alike, and of negotiatory, associative formations and activities.

### **A new approach: associative political culture**

It will be clear by now that the aim here is to achieve a holistic and comparative picture of associations in the south-western Holy Roman Empire. As mentioned above, this thesis will try to accomplish this in the chapters that follow by analysing all kinds of associations through the lens of ‘political culture’.<sup>46</sup> This means referencing the structural, intellectual, and discursive context in which associative politics played out, in-keeping with the view of political culture – articulated by Christine Carpenter, among others – as the study of the political within ‘the “complex whole” of social organisation –

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<sup>45</sup> See e.g. the 1374 alliance called a ‘buntnusse’, discussed in ch. 6, p. 141. On the sixteenth century see G. Komatsu, *Landfriedensbünde im 16. Jahrhundert. Ein typologischer Vergleich* (doctoral thesis, University of Göttingen, 2001); G. Haug-Moritz, ‘Zwischen Spätmittelalter und Reformation – politischer Föderalismus im Reich der Reformationszeit’, in C. Ocker *et al.* (eds), *Politics and Reformations: Communities, Polities, Nations, and Empires* (Leiden, 2007), pp. 513-38.

<sup>46</sup> See pp. 118-19 above.

spiritual belief, political institution, traditional practice, ethical value, psychological custom, popular entertainment, gender roles, material artefacts, and myriad other concerns'.<sup>47</sup> In Part I of this thesis the most pertinent elements of the 'social organisation' of the elite of the Upper Rhine and its adjoining regions in the period c. 1350-1500 were examined. The analysis of associations that follows will seek to demonstrate the ways in which formalised, quasi-horizontal ties were embedded within the wider and deeper structures, practices, and conventions discussed in chapters 1-4. The potential yields of this 'embedded' approach, which produces comparative, fully textured, and empirically plausible analyses of widespread or universal phenomena from a regional data sample, has been hinted at by very recent work on leagues and space,<sup>48</sup> and on various aspects of early modern German cities.<sup>49</sup> It is only from this starting point of full contextual awareness that the nature and importance of associations can accurately be assessed. Once the comparative analysis of associations has been undertaken in this integrated way in the chapters that follow, it will then be possible to consider the value of 'associative political culture' as a conceptual tool for illuminating the complex and multi-layered structures and dynamics of the Holy Roman Empire itself between the mid-fourteenth and early sixteenth centuries.

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<sup>47</sup> Carpenter, 'Political Culture', p. 2.

<sup>48</sup> L. Buchholzer and O. Richard (eds), *Ligues Urbaines et Espace à la fin du Moyen Âge – Städtebünde und Raum im Spätmittelalter* (Strasbourg, 2012).

<sup>49</sup> C.W. Close, 'Regional History and the Comparative Turn in the Study of Early Modern German Cities', *German History*, 32.1 (2014), 112-29.

## 6. Alliances and leagues in comparative perspective

The most common types of association in the Holy Roman Empire between the fourteenth and sixteenth centuries were alliances and leagues. The words ‘alliance’ and ‘league’ are the closest English equivalents of the terms *Einung/Vereinung*, *Bund*, and *Bündnis*, which were used to denote formal associations in most of the evidence that survives from this period. There does not seem to have been any obvious difference in the meaning of these three words, and all of them can be found in treaties and correspondence pertaining to associations of various sizes and durations. In this thesis, therefore, ‘alliance’ and ‘league’ will be used interchangeably as labels for treaty-based associations. The latter word will mainly be employed to refer to longer-term associations consisting of several powers, but this is not to imply any sharp distinction between leagues and alliances. Both terms should be understood as approximate translations of the three medieval German concepts noted above.

It is on alliances and leagues and their comparable variants that most of Part II will focus. This chapter will analyse the entire range of alliances and leagues, providing the first truly comparative examination of Upper Rhenish associations in the later fourteenth and fifteenth centuries. We shall see that alliances and leagues had a number of important characteristics which shed light on the political culture of the Upper Rhine and Swabia – characteristics that have been neglected or contradicted by the scholarly verdicts on associations surveyed in the previous chapter. Firstly, they were extremely widespread. Far from being the preserve of one socio-political group, they involved every kind of political actor noted so far in this thesis: princes, prelates, nobles, and towns. Secondly, the various alliances and leagues created in the period between around 1350 and 1500 shared the same basic features, and can be understood as part of a continuum of

comparable formats. Once this survey has been undertaken, it will be possible to examine the regulatory functions of these associations and the discourses and ideologies which were deployed in alliance and league treaties in chapters 7 and 8. Chapter 9 will then explore other forms of association, and consider the full extent of the ‘associative political culture’ in evidence in the later medieval and early modern sources.

Before the basis and features of the most common types of associations are explored in more detail, it is important to note just how overwhelmingly prevalent the practice of entering into alliances and leagues was for the entire political elite of the south-western Empire. Associative political culture was truly universal, in the sense that all the powers in these regions were ceaselessly creating or joining new alliances of one sort or another. The documentary record is replete with treaties of association involving two or more political actors, to the extent that these must be considered a defining element of political life. In the year 1451 alone, Count Palatine Friedrich I sealed alliance treaties with the count of Veldenz, the dukes of Bavaria-Munich and Bavaria-Landshut, the bishop of Würzburg, the towns of Speyer and Wimpfen (individually), and the towns of Ulm, Reutlingen, Weil, Kempten, Giengen, and Aalen (collectively).<sup>1</sup> In the following year he contracted a further four alliances with the duke of Austria-Tyrol, the bishop of Speyer, the archbishop of Trier, and a group of towns including Nuremberg, Nördlingen, and Dinkelsbühl.<sup>2</sup> Larger alliances consisting of three or more powers were also common, and support this picture of constant alliance formation; Count Palatine Friedrich himself was involved in several during his lifetime.<sup>3</sup> Multilateral associations which lasted for several decades or more, such as the Alsatian Imperial Cities, the Swabian League, or the

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<sup>1</sup> *QGFDS*, II, 221-31.

<sup>2</sup> *Ibid.*, II, 231-4.

<sup>3</sup> E.g. *UGKF*, nos. LXVI-VII.

Swiss Confederation, were less common, but they also underwent frequent treaty-based renewals, extensions, modifications, and expansions.

The ubiquity of formal associations has not always been appreciated, or else, as we have seen, alliances and leagues have been considered a predominantly urban phenomenon. The elevated literacy of town councillors, the disproportionate survival of urban archives, and the particular reliance in published source collections on the records of the Imperial Cities have surely contributed to this distorted picture. Much of the secondary literature surveyed in chapter 5 draws heavily on a small number of well-known source books published mostly in the late nineteenth and early twentieth centuries.<sup>4</sup> There is a much larger range and quantity of sources pertaining to leagues and alliances in archives and less commonly used editions than this literature would suggest. In the course of this chapter, a significant number of formal associations will be considered which are representative of this range. The process of considering these associations comparatively will provide examples of all the different kinds of political actors discussed so far in this thesis participating in leagues and alliances. Significant variations within the continuum of formal associations will be noted, as will the fundamentally similar stipulations and discursive, material, and behavioural conventions which all leagues and alliances shared. The sample of evidence used for this analysis can only aspire to be representative, and not exhaustive; in the south-western Empire alone, the number of alliances, leagues, and similar formations is simply too high for all the extant examples from the 1350-1500 period to be considered.

What follows in this chapter is a typological survey which establishes the major variations among those formal associations which were labelled *Bünd(niss)e* and

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<sup>4</sup> For example, Angermeier, *Königtum und Landfriede*, and Distler, *Städtebünde*, both rely extensively on the *Monumenta Germaniae Historica*, the early volumes of the *Deutsche Reichstagsakten*, and various urban *Urkundenbücher*. Neither monograph employs any archival evidence.

(*Ver*)*einungen*, or else were functionally and rhetorically extremely similar to the archetypal league/alliance format. The survey is roughly divided between the more typical short-lived examples of alliances, including the peculiar but related phenomena of knightly societies and citizen-alliances (*Burgrechte*), and the larger and more durable leagues which played significant roles in the political history of the south-western German-speaking lands of the Empire. The chapter will conclude with some reflections on the shared conventional, linguistic, and functional features of all of these types of formal associations.

### **Shorter-term alliances**

The majority of treaties featuring the words *Einung*, *Bund*, *Bündnis*, or their cognates can be categorised within a broad and generic group of short-term alliances. This group furnishes a helpful point of comparison with the more specific or longer-term association formats discussed below, provided that it is recognised that all of these formats blurred into one another conceptually and functionally, and that none of the varieties of leagues and alliances in this chapter can be understood as an impermeable category. At its simplest and most common, the generic alliance was a treaty-based union between two parties. It usually safeguarded their respective interests through two regulatory pathways: the promise of mutual assistance against enemies in feuds, and the stipulation that disputes between the allies would be resolved by specified methods, which tended to mean the use of agreed arbitrators or courts. These regulatory pathways will be discussed in more detail in chapter 7, but it is important to be aware of them in this comparative survey, since they were recurrent features of alliances and many other forms of association. As we saw in the case of the Count Palatine in 1451-2, a single actor could be involved in many such alliances at once.

The format of this customary bond remained fairly constant throughout the period 1350-1500. Two bilateral alliances between the lords of Rappoltstein and their neighbours illustrate this nicely. In 1374 Ulrich von Rappoltstein entered into a three-year ‘bundnisse’ with the municipal council of Munster in Alsace, which set out the courses of action to be taken in the case of disputes and felonies committed by their subjects, and contained mutual promises, backed by oaths, to undertake military action against the enemies of either party in a defined area (the valleys between Munster and the Rappoltsteiner castle of Hohenack). It was specified that existing alliances should not be affected by the stipulations of this particular treaty, and a list of parties to whom its contents did not apply was provided by both signatories.<sup>5</sup> Almost a century later, in 1456, the brothers Caspar and Wilhelm von Rappoltstein swore to and sealed a similar treaty with the town of Sélestat. In this case it was binding for thirty years, and the areas subject to shared defence extended to ‘all of our towns, castles, and villages’.<sup>6</sup> However, its stipulations about mutual assistance, agreed methods of arbitration, and the exemption of existing alliances and named actors from the treaty’s terms were essentially the same as those in the 1374 alliance.<sup>7</sup>

These features constituted a universal template for the political actors of the south-western Empire in the fourteenth and fifteenth centuries. That is not to say that alliances did not have specific goals. Obviously, these contractual bonds were drawn up to meet the contingent needs of the actors involved – or at least, the needs of the most powerful actors, who might then put pressure on their weaker neighbours to participate, though such power dynamics are difficult to detect in the formulaic treaties. The customary blueprint was simply adapted, in endless similar permutations, to the particular

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<sup>5</sup> *RUB*, II, 99-101.

<sup>6</sup> ‘allen unsern stetten, slossen und do<sup>r</sup>ffern’. *Ibid.*, IV, 197.

<sup>7</sup> *Ibid.*, IV, 197-8.

circumstances of the signatories. Here some alliances of the bishops of Strasbourg provide an instructive example. In 1359 Bishop Johann sealed an alliance with the city of Strasbourg against the backdrop of a feud he and his brother the count of Lichtenberg were waging against Colmar, Haguenau, and their allies, in which the support of the independent metropolis at the heart of his lands was essential.<sup>8</sup> Bishop Ruprecht's 1444 alliance with Count Ludwig of Württemberg-Urach came two years after the latter had acquired some lands in Alsace, which made him a neighbour.<sup>9</sup> In both cases, the duration of the alliance and the precise details of how conflicts would be avoided and resolved, including the identity of arbitrators and those exempt from the treaty's terms, reflected the contingencies of the two situations. The 1359 alliance, for example, was to last 'until the aforesaid war [against Haguenau] has been fully resolved'.<sup>10</sup> Fundamentally, however, both cases drew on the conventional framework of the Upper German bilateral alliance, defined by oath-backed promises of mutual aid, agreed paths of negotiation, and the preservation of existing rights and relationships. This same exercise could be carried out in relation to other alliances of the counts of Württemberg – those with the margraves of Baden in 1392 and 1477, for example,<sup>11</sup> or with Duke Sigmund of Austria-Tyrol in 1458 and 1485<sup>12</sup> – with similar results; these cases also shared these traditional features while fulfilling context-specific aims for both parties. Even alliances within the framework of the Swiss Confederation conformed to this pattern, albeit with the key difference that they were ostensibly eternal, and therefore lacked a fixed duration. Alliances among the Swiss Confederates, including bilateral alliances such as that of Bern and Zurich in 1423,<sup>13</sup> boiled down to comparable promises of mutual military assistance and agreed regulations

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<sup>8</sup> ADBR G127; cf. ADBR G128; AMC AA54/5b; *CDM*, I, 251-4.

<sup>9</sup> ADBR G140/1; cf. *AUWG*, pp. 38-46.

<sup>10</sup> 'an die stunde da der vorgegen<sup>7</sup> krieg gantzliche gesünet... wirt'. ADBR G127.

<sup>11</sup> GLA 46/261; GLA 36/2377-8.

<sup>12</sup> TLA Sigm./13.519; ADHR E9.

<sup>13</sup> *AEA*, II, 723-7.

for dispute resolution in existing or ad hoc courts, all couched in the customary language linked with associations.<sup>14</sup>

The employment of a universal template, adapted to specific conditions, was also a feature of multilateral alliances. Treaties involving multiple political actors also stipulated mutual aid in times of war and pathways of adjudication, along with making provision for the existing allegiances and entanglements of their signatories. Naturally, they were also designed to meet the demands imposed by particular circumstances, and so their specificities – duration, choice of arbitrators in times of dispute, and so on – varied, just as those of bilateral alliances did. If there is a point of moderate difference between two-way alliances and larger ones, it is merely that the latter, while also usually of fixed duration, tended to be established for longer periods, or else to undergo multiple renewals. The various multilateral alliances of Freiburg im Breisgau from the mid-fourteenth to late fifteenth century illustrate this clearly. In the 1340s and '50s, Freiburg was involved in a series of repeatedly-renewed alliances (1348, 1349, 1350, and 1356) with the towns of Breisach, Strasbourg, and Basel, which extended to embrace the duke of Austria (via his officers in Alsace) in a five-year 'verbuntnisse' from 1350.<sup>15</sup> As in any bilateral treaty, the allies promised to defend one another's possessions, in the 1350 case using the wording 'as if it [an enemy attack] was against our own lordships'.<sup>16</sup> They also included some stipulations for the management of potential disputes among themselves, and a lengthy list of parties against whom the treaty could not be invoked.<sup>17</sup> The context of tensions between Austrian clients plus the Free and Imperial Cities of Alsace and the Breisgau, on the one hand, and Zurich and its Alpine allies, on the other, explains this

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<sup>14</sup> On this customary language see ch. 8.

<sup>15</sup> *UADOSB*, II, 292-5, 301-6; *UBF*, I, 397-407.

<sup>16</sup> 'als ob es unser herschaft selber angienge'. *Ibid.*, I, 398.

<sup>17</sup> E.g. *ibid.*, I, 404-7.

particular use of the alliance format.<sup>18</sup> From 1368 onwards Freiburg's freedom of action was curtailed by its subjection to the lordship of the dukes of Austria. However, the same format was redeployed by the town in new alliances created in transformed geopolitical circumstances in 1422-4, during an interlude as an Imperial City, and again in 1475.<sup>19</sup> The latter alliance, a ten-year union with the Breisgau towns of Breisach, Neuenburg, and Endingen which was renewed in 1485 and again in 1499, is especially interesting, because at this point Freiburg and its three allies were all once again subjects of the lordship of Austria, and had been for some decades.<sup>20</sup> The treaty barely gives any indication that this was the case,<sup>21</sup> and matches in all respects the kind of common military and adjudicatory conventions which were invoked in Freiburg's earlier alliances. Being subject to a prince was not necessarily an obstacle to participation in associative political culture.

The remarkable popularity of the customary alliance was not limited to wholly or predominantly urban alliances. For example, the bishops of Strasbourg had extensive recourse to large-scale alliances with neighbouring nobles and other powers in addition to the many bilateral treaties we have already seen. In 1447, for instance, Bishop Ruprecht, the counts of Lützelstein, Eberstein, Mörs-Saarwerden, Helfenstein, and Lupfen, and the lords of Sulz-Geroldseck and Rechberg drew up a treaty which declared that 'we have banded together, allied, and leagued ourselves' for three years.<sup>22</sup> This large trans-Rhenish treaty conformed to the traditional alliance template, containing detailed instructions about procedures in times of joint military activity and para-judicial negotiation, with an unusual amount of detail about forms of arbitration within the alliance. Between the

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<sup>18</sup> See the reference to Zurich in *ibid.*, I, 402.

<sup>19</sup> *CDM*, II, 17-26; *UBF*, II, 553-7. On Freiburg in the 1420s see ch. 11, pp. 286-7, 291-2.

<sup>20</sup> T. Scott, *Freiburg and the Breisgau* (Oxford, 1986), p. 34.

<sup>21</sup> It is referenced only briefly: 'because we desire henceforth to be and remain... in our gracious lordship [of Austria]' ('umb das wir... baß an unnsere gnedigen herrschafft beston und beliben mögen'). *UBF*, II, 554.

<sup>22</sup> 'uns... zü sam'en getan v' einiget und verbunden habent'. ADBR G140/4.

1470s and the 1490s Bishop Ruprecht and his successor were key participants in the league of urban, episcopal, and princely powers known as the ‘Lower Union’, which will be examined in detail in chapter 12.

The fourteenth and fifteenth centuries also saw the creation of almost exclusively ‘princely’ alliances. Though these encompassed some of the most powerful political actors in the Holy Roman Empire, they nonetheless drew on the same format as that used by other elites. The 1393 three-way alliance of the duke of Austria-Tyrol, the margrave of Baden, and the count of Württemberg demonstrates this clearly, in that its treaty contained detailed stipulations which addressed both military and judicial regulations.<sup>23</sup> So, too, does a more famous example: the ten-year princely ‘League of Mergentheim’. It was sealed in 1445 by the archbishop of Mainz, the dukes of Bavaria-Ingolstadt, the duke of Austria, the margraves of Brandenburg and Baden, and the count of Württemberg-Stuttgart. It was part of a series of shifting coalitions formed in Upper Germany against the backdrop of the Armagnac incursion and the growing animosity between the towns of Swabia and Franconia and Margrave Albrecht Achilles of Brandenburg-Ansbach.<sup>24</sup> The treaty’s stipulations were comparable to those of any other alliance or league, beginning with lengthy instructions about how disputes between members should be resolved via mediators, and continuing with directions regarding the channelling of certain cases through appropriate courts and the lending of ‘faithful assistance’ in times of war.<sup>25</sup> Princely alliances like that of 1445 should not be taken to imply a timeless and inherent animosity between princes and towns. In the very same year, two fellow princes, Count Palatine Ludwig IV and Count Ludwig of Württemberg-Urach, allied with a coalition of

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<sup>23</sup> GLA 46/192.

<sup>24</sup> *RTA*, XVII, 683-9.

<sup>25</sup> ‘getruwelich hulfe’. *Ibid.*, XVII, 686.

Swabian towns, in opposition to which the League of Mergentheim had been formed.<sup>26</sup> Instead, what they demonstrate is that the format of the *Bündnis/Bund/(Ver)einung* was an all-encompassing phenomenon. This phenomenon, which lay at the heart of the associative political culture of the elite of the Holy Roman Empire, was a single type with multiple minor variations, and did not consist of two divergent configurations (the medieval, urban *Einung* versus the early modern, princely *Bündnis*), as Peter Moraw suggested.<sup>27</sup>

A closely related type of formal association to these generic alliances was the *Landfriede* (literally, ‘land-peace’). It is difficult to define, because the term ‘*Landfriede*’ was connected to the legislation of the kings and emperors of the Romans in the late middle ages – hence, as we saw in chapter 5, its association in the historiography with monarchical supremacy. Under Charles IV it was common for association treaties in the Empire to contain an explanation for their own existence in light of recent ordinances called *Landfrieden*; for instance, the scribe of a Swabian alliance document mentioned ‘the “Landfrid” which our gracious lord Emperor Charles of Rome issued’ in 1356.<sup>28</sup> In contexts like this, *Landfriede* referred to a decree or peace treaty issued by the monarch at an assembly, such as the 1353 ‘general[is] in Alemannia tota pa[x]’ issued by Charles at Ulm.<sup>29</sup> The word *Landfriede* could also be used as a label for associations. The monarchical administrations of Charles, his son Wenceslas, and Wenceslas’s rival Rupert were involved in overseeing the creation of many alliances in the years between 1346 and 1410, whether by ordering that they be founded, or by endorsing existing formations. An association established under such monarchical supervision would be referred to as a

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<sup>26</sup> Ibid., XVII, 760-2.

<sup>27</sup> See ch. 5, pp. 133-4.

<sup>28</sup> ‘der Landfrid, den unser gnediger Herre Kaiser Carol von Rome... gebot und sazt’. *DPIP*, p. 32.

<sup>29</sup> Ibid., p. 32.

‘gemeinen frid’ (collective/common peace) or ‘lantfride’.<sup>30</sup> This suggests that during the reigns of these three monarchs the word *Landfriede* and its cognates could refer both to Imperial ordinances and to short-term regional alliances, and that these two meanings were elided because of the close involvement of these monarchs in setting up these associations. During Sigismund’s reign, with a few exceptions,<sup>31</sup> the monarchical administration ceased to be directly involved in the establishment of alliances. Thereafter, the actual word ‘lantfride’ (and variants) mostly disappeared from the sources, while the related lexicon of peace, necessity, and the common good gained ever wider currency in both alliance treaties and in the context of negotiations over legislation at the Imperial assemblies.<sup>32</sup> During the reigns of Frederick III and Maximilian, the specific word ‘peace’ was reserved for Imperial ordinances, such as the 1471 ‘gemeinen beständigen frieden’ of Regensburg and the 1486 ‘gemeinen, christlichen friden’ of Frankfurt.<sup>33</sup> These peace-ordinances were in turn invoked in some alliance treaties, whether these were created in close collaboration with the monarchy, as in the case of the Swabian League, discussed below, or on the initiative of actors in the localities.

This is roughly the trend that Heinz Angermeier noted in his account of the different forms taken by monarchical *Friedenshoheit* as it manifested itself in the *Landfriede*.<sup>34</sup> It is not, however, the whole story. Ultimately, the *Landfriede* cannot be seen as an institution in its own right which evolved into different forms (regional alliances, Imperial ordinances, or an interplay between the two). It needs to be understood as part of a widespread discourse about peace-enforcement because of urgent necessity (*Notdurft*) and for the sake of the common good (*gemeiner Nutz*). This discourse

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<sup>30</sup> E.g. *RTA*, I, 206; *ibid.*, II, 156; *ibid.*, VI, 624.

<sup>31</sup> E.g. *Ibid.*, VII, 207-10.

<sup>32</sup> See ch. 8, *passim*.

<sup>33</sup> *RTA*, XXII, 870; *RTAMR*, I, 384.

<sup>34</sup> Angermeier, *Königtum und Landfriede*.

pervaded the sources produced in connection with both formal associations and regional or Imperial assemblies, two types of institution which were often related. As early as 1254, members of the Rhenish League had invoked the 1235 *Reichslandfriede* of Mainz (‘pacem generalem [Moguntinam] juravimus firmiter observare’),<sup>35</sup> and the connection remained throughout the three ensuing centuries. This discursive link between associations and peace in the Empire will be analysed in more detail in chapter 8. What is worth noting at this point is that virtually all alliance treaties drew to some extent on this discourse of peace-enforcement. This makes it very difficult to separate so-called *Landfrieden* from leagues and alliances in general. Some formal associations can be singled out on the basis that they were created on the orders of monarchs, or that they fulfilled a specific peace-keeping need, as was the case for some of the pan-Alsatian alliances created in the fourteenth and fifteenth centuries. However, it is clear from a close reading of these sources that they were modelled on the customary alliance format that we have seen in all the ‘non-*Landfriede*’ examples cited so far. They contain the same sorts of stipulations about pathways of mutual assistance in times of feuding and about adjudication among members of the association. One Alsatian chronicle noted that a 1353 three-year ‘league of peace’ (‘liga pacis ad triennium’) instituted by Charles IV was characterised by the mutual support and arbitrators (‘judices’) supplied by each member: the bishops and cities of Strasbourg and Basel, the Imperial Cities (presumably Haguenau, Colmar, and their smaller counterparts), the abbot of Murbach, and the lords of Lichtenberg, Ochsenstein, Geroldseck, Rappoltstein, and Usenberg.<sup>36</sup> A ‘friendly, faithful alliance’ created in 1395 in Alsace ‘at the behest and recommendation of the most resplendent prince and lord, Lord Wenceslas, king of the Romans’, presents the same

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<sup>35</sup> *GGRS*, II, 16.

<sup>36</sup> *MHAEB*, III, 73-4.

picture.<sup>37</sup> The signatories – the Imperial *Landvogt*, the bishop and city of Strasbourg, and the ten Imperial Cities – agreed to detailed means of mediating disputes that arose among them, and promised to provide troops against collective threats. Insofar as it is possible to separate these ‘*Landfriede*-alliances’ from the other examples examined so far, it is clear that they displayed the same features, and belonged to the same continuum of formal associations.

Another slight variant within this continuum was the knightly society. The main difference between these formalised affinities and other alliances was that they were primarily limited to the middling and lower nobility – knights, lords, and, occasionally, counts. Even so, there were plenty of exceptions to that rule, which suggests that this social exclusivity was more rhetorical than real. In 1380, for example, the municipal council of Basel joined the Society of the Lion (*Löwen*),<sup>38</sup> while in the 1390s the urban governments of Worms and Speyer were members of the Society of the Mallet (*Schlegel*).<sup>39</sup> Yet it is clear from the language of the documentation drawn up on behalf of these associations that they fashioned themselves as a defined social group, primarily for the sake of an audience consisting of others within that group, namely ‘all lords, knights, and squires/retainers’.<sup>40</sup> Beyond this social and discursive point of contrast, knightly societies seem to have merged seamlessly into the wider modes of operation of leagues and alliances in general. Relatively few treaties creating knightly societies survive, and for the most part we learn of their existence through other sources. It is quite likely that such groups first came into being through informal networks of knights bound together by dynastic and lordship-based ties, not least the sort of financial and tenurial relationships

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<sup>37</sup> ‘früntliche, getruwe eynigunge’ ‘von geheisze und empfelhenisze wegen des allerdurchluhtigesten fürsten und herren Wentzeslawes von gotz gnaden ro<sup>e</sup>mischen kúniges’. *UBS*, VI, 575-81.

<sup>38</sup> *UBB*, IV, 438-9.

<sup>39</sup> Kutter, ‘Rittergesellschaften’, p. 104.

<sup>40</sup> ‘allen herren, rittern und knechten’. *UOADS*, III, 1430.

which we saw in chapter 4. Those treaties that are still extant seem to be modelled on the short-term alliance format. The 1372 treaty of the Society of the Crown (*Krone*), for example, stipulated oath-bound mutual assistance and joint submission to an internal arbitrator throughout its two-year duration, as well as containing clauses specific to the circumstances of its signatories, such as a promise not to provide military service to a lord without the consent of the other members of the society.<sup>41</sup> Similar but more detailed stipulations were made in the 1379 treaties of the society of the Claw (*Greifen*), which was founded in the region between Mainz and Heidelberg, and of the society of the Lion, which encompassed members from Nassau in the north to Basel in the south.<sup>42</sup> By far the most developed example was the Society of St George's Shield (*St. Jörgen-/Georgenschild*), which came into existence in the early fifteenth century as an alliance of middling and lesser nobles bound together by a commitment to mutual defence in feuds and to collective conflict resolution, and which lasted into the sixteenth century. As Herbert Obenaus's detailed study showed, these classic associative features remained the hallmark of the society throughout its long existence.<sup>43</sup> The Society of St George's Shield's unique size and longevity mean that it is best analysed alongside other long-term leagues in the section that follows.<sup>44</sup>

The fact that knightly societies drew on the widespread format of the short-term alliance is particularly significant because such societies were quite common – certainly more so than the sparse existing scholarship devoted to them would suggest. The emphasis of the literature so far has been on the large associations of the late fourteenth century and the highly organised Society of St George's Shield. The 'systematic index' of chivalric and noble societies edited in 1991 by Holger Kruse and others does not list any

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<sup>41</sup> Beilage 5 in Ruser, 'Gesellschaften', pp. 51-2.

<sup>42</sup> Beilagen 11-12 in *ibid.*, pp. 54-60.

<sup>43</sup> Obenaus, *St. Jörgenschild*.

<sup>44</sup> See pp. 162-5 below.

examples besides these for the south-western lands of the Empire in the fourteenth and fifteenth centuries.<sup>45</sup> Yet there is plenty of evidence, particularly in Alsace, which suggests that many more such societies existed, albeit on a smaller scale and for shorter periods of time. One example is the ‘Society of the Leopard’ (‘Gesellschafft vom Lechbart’), which seems to have formed in 1420. The date is suggested by a treaty from that year which bound its members, several Alsatian nobles, by oath in a situation of mutual obligation with Bishop Wilhelm of Strasbourg.<sup>46</sup> It mentioned their recent coming together in a ‘society, alliance, and league’, a formula which suggests that these three associative concepts were almost indistinguishable.<sup>47</sup> Intriguingly, the treaty mentions that it was sealed with ‘our society’s collective seal’ in addition to the seals of the individual members.<sup>48</sup> The first incision in the lower fold of the document is indeed labelled ‘society’ (‘Gesellschafft’), but unfortunately the seal itself has not survived (Figure 8). The society, and its alliance with the bishop of Strasbourg, may have been created because of the feud these parties were waging against the municipal government of Strasbourg at this time, for the signatories of the 1420 treaty were leading members of some of the noble dynasties involved in that war.<sup>49</sup> However, the society must have extended beyond the Lower Alsatian sphere of the bishop of Strasbourg, because in 1423 a knight from Colmar called Dietschen von Hungerstein invoked his membership of ‘die gesellschafft von Lechtbart’ in a dispute settlement with Smassmann von Rappoltstein.<sup>50</sup>

Another hitherto unknown knightly society, which was contemporaneous with that of the Leopard, was the ‘Society of the Griffon’ (‘gesellschaft des Griffen’).<sup>51</sup> This group

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<sup>45</sup> Kruse *et al.*, *Adelsgesellschaften*.

<sup>46</sup> ADBR G136/2.

<sup>47</sup> ‘Als wir einer Gesellschaft, Buntnisse und vereynunge’ Ingan’gn sind, als wir uns des, gegegenander, verscriben, verphlichtet, und verbund’n haben’. Ibid.

<sup>48</sup> ‘unß’r Gesellschaft Gemeinem Insigel’. Ibid.

<sup>49</sup> Cf. AVCUS AA140.

<sup>50</sup> RUB, III, 160.

<sup>51</sup> GLA 21/44.

appears solely in records of arbitrations in the years 1425-6, one involving Catherine of Burgundy, dowager duchess of Austria-Tyrol, another involving Smassmann von Rappoltstein and his brother Ulrich, and another involving Duke Reinold of Urslingen and the towns of Colmar, Sélestat, and Kaysersberg.<sup>52</sup> Though no record of its foundation or alliance-based activities survive (to the author's knowledge), it is significant that its existence is attested by sources produced in the course of the kind of mediatory processes which formed a key *raison d'être* of all the alliance forms examined so far. Some sources point suggestively to the existence of knightly societies without even providing their name. For example, in 1462 the lesser nobleman Heinrich von Landsberg resolved a dispute over a warhorse by inviting one Eberhard von Andlau, whom he specified was 'the leader of our alliance and society', to step in as mediator.<sup>53</sup> Such tantalising references indicate that there were many more knightly societies than those of which we are currently aware, perhaps awaiting discovery among the abundant archival evidence stemming from the south-western Empire.

The final short-term formal association in this continuum of forms, specific to the densely urbanised Upper Rhine, was the citizen-alliance (*Burgrecht*, or sometimes *Bürgerrecht*).<sup>54</sup> Such treaties provided a means for the powerful cities of the region to regulate their close ties with somewhat less powerful neighbours who were nonetheless autonomous political actors. In return, the latter became citizens of the city in question. Beyond the fact that they pertained specifically to urban relationships, *Burgrecht*-treaties were similar to other kinds of short-term alliance. For example, in the 1397 citizen-alliance between Rudolf von Friedingen and his wife Klara Anna von Thiengen, lords of the town and castle of Thiengen in the Black Forest, and the Imperial City of Rottweil,

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<sup>52</sup> Ibid.; *RUB*, III, 195, 210, 229.

<sup>53</sup> 'den obman unser buntenisse und gesellschaft'. Ibid., IV, 281.

<sup>54</sup> A. Würgler, 'Burgrecht', in *HLS*.

the noble couple agreed to submit themselves to the arbitration of the urban court in disputes, and to provide military assistance to Rottweil, which would be reciprocated when Rudolf or Klara Anna requested it.<sup>55</sup> In the following year Lady Anna of Geroldseck sealed a virtually identical agreement with Rottweil, which was to last five years, with the additional stipulation that she would pay an annual contribution of 5 fl. to the city.<sup>56</sup> Rottweil also maintained a comparable agreement with the abbey of St Georgen which lasted for much of the fifteenth century, ending only in 1502-3.<sup>57</sup> Zurich was similarly active in seeking *Burgrecht*-agreements with its neighbours, and succeeded in making the counts of Sulz, among others, citizen-allies for much of the fifteenth century, with renewals extending into the 1500s.<sup>58</sup> Basel was particularly prolific, signing *Burgrecht*-contracts with small towns (such as Delsberg/Délémont in 1407) and many of the nobles based in the surrounding fortresses in the Sundgau.<sup>59</sup> As late as 1517 Basel entered into a citizen-alliance with Jakob von Rotberg, which still relied on the classic formula of mutual aid, ‘especially if the said Jakob, our citizen, should ever have disputes with his princes or feudal lords’, and agreed means of managing disagreements and litigation.<sup>60</sup> The Swiss Confederates also made use of *Burgrechte* (and *Landrechte*, as they were called when they were signed with rural communes rather than towns), not only as individuals – as in the case of Zurich above – but also collectively. Hence, for example, the 1437 *Landrecht* between Schwyz and Glarus on one side and the communes

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<sup>55</sup> *UBR*, p. 238.

<sup>56</sup> *Ibid.*, p. 240.

<sup>57</sup> GLA 100/109.

<sup>58</sup> GLA 10/1484.

<sup>59</sup> *UBB*, V, 373-5.

<sup>60</sup> ‘besonnder ob derselb Jacob, unnser erbburger, vonn sin selbs wegenn mit sinem fürstenn unnd lehennherrenn spenn wurde habenn’. *Ibid.*, IX, 401-3.

of the Sarganserland, west of the *Rheintal*, on the other,<sup>61</sup> or the eternal *Burg-/Landrecht* sealed by the abbot of St Gallen with Zurich, Lucerne, Schwyz, and Glarus in 1451.<sup>62</sup>

*Burgrecht*-alliances were undoubtedly instruments of control from the perspective of the dominant urban partner, as indicated by clauses obliging the citizen-ally to obtain consent for any alliances made elsewhere, and to pay regular contributions.<sup>63</sup> However, in many cases the citizen-allies seem to have retained substantial autonomy, and the dynamic of the relationship was never characterised by one-sided domination. The ultimate aim of *Burgrechte* was not simply to make lords and ladies into citizens, but to establish an associative bond with attendant military and adjudicatory obligations. The corollary of such a bond was that municipal governments did not enjoy straightforward obedience from citizen-allies, but had to treat them as – sometimes unruly – partners. The Strasbourg chronicler Jakob Twinger wrote these rueful reflections on the relationship between his city and its citizen-allies:

When they needed help from the city, they would say that they were citizens, and that we were therefore obliged to assist them, as with [any other] citizens. However, when we requested that they do something which did not appeal to them to assist the city, they would say that they were not citizens after all, and that they had nothing to do with the city. Thus, they wanted to have it both ways.<sup>64</sup>

That citizen-alliances did not always work in the ways intended by municipal governments is illustrated by a war between Hagenau and the lord of Lichtenberg, who was a citizen-ally of the Imperial City, in 1359-60. A report drawn up by the government of Hagenau in 1360 for the purposes of peace negotiations at a *Tag* in Strasbourg begins: ‘The first thing to know is that the town of Hagenau has a sealed letter, with the

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<sup>61</sup> TLA Sigm./04b.55.054.

<sup>62</sup> AEA, II, 864-6.

<sup>63</sup> E.g. UBB, V, 374.

<sup>64</sup> ‘so sü der stette bedurftent, so sprochent sü, sü werent burgere, und was men in denne beholfen also den burgern. aber wenne men sü hies etwas tûn der stette zû helfe das in nüt wol gefiel, so sprochent sü, sü werent nüt burger noch hettent mit der stette nüt zû tûnde. sus woltent sü die wege bede han’. COS, II, 802.

appended seal of Hanman, lord of Lichtenberg, stating that he swore a spelled-out oath to become and remain a citizen of Haguenau for ten whole years from the day the letter was given, and in this time to avoid damage to the afore-named town and to promote its honour and wellbeing'.<sup>65</sup> Against this backdrop, the report indignantly recounts that Hanman von Lichtenberg acted against Haguenau's interests by raiding its possessions and allying with the bishop and town of Strasbourg against it, all of which deviated from the way in which citizen-allies were supposed to behave.<sup>66</sup> The citizen-alliance clearly allowed enough room for manoeuvre on both sides for it to be categorised within the spectrum of short-term formal associations, even if it differed in some respects (mainly in terms of its framing according to the typology of citizenship) from the more generic kinds of alliances discussed so far.

### **Longer-term alliances and leagues**

It will be clear by now that the political elite of the south-western lands of the Holy Roman Empire shared an associative format and vocabulary which was widely used and understood. Sometimes alliances and leagues based on this format survived for unusual lengths of time, usually through repeated renewals of treaties and substantial continuity in the core membership of the groups undertaking these renewals. Over time such long-term formations could develop their own internal structures and hierarchies, while remaining anchored in the generic format of formal associations, with its primary objectives of regulating interactions through military assistance and agreed pathways of justice and mediation, backed up by oaths and mutually agreeable parameters.

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<sup>65</sup> 'Zû dem ersten ist zû wissende, daz die stat Hagenowe einen besigelten brief het mit hern Hannemannes, herren zû Liechtenberg, hangenden ingesigel besigelt, daz er gesworn het einen gestabeten eyt, burger zû siende und zû blibende zû Hagenowe zehen ganze jar, die nahenander kument nach dem tage, also der brief geben ist, und der egenanten stat schaden do zwu<sup>e</sup>schen zû wendende und ire ere und gefu<sup>e</sup>re zû werbende'. Mone, 'Fehde', p. 176.

<sup>66</sup> Ibid., pp. 176-88.

A prime example is the league of Swabian cities, which underwent dozens of renewals in the course of the fourteenth and fifteenth centuries.<sup>67</sup> In its first incarnation the league consisted of nine Imperial Cities between the Swabian Jura and Lake Constance, including Esslingen and Rottweil, which collectively constituted a *Landfriede* approved by King Ludwig IV in 1331.<sup>68</sup> The cities were temporarily joined by several nearby princes and nobles in the ensuing decade.<sup>69</sup> By 1348 the association had grown to encompass 23 towns, including Ulm, Augsburg, and Nördlingen, and seems to have acquired a kind of institutional unity, judging by the willingness of Charles IV's administration to confirm the fiefs of all 23 members in a single document.<sup>70</sup> It was closely linked to Charles's fiscal and peace-keeping initiatives until 1376, when its core members formed a new league specifically to defend their autonomous status, and thereafter constituted the core of a vast network of leagues that survived until 1389.<sup>71</sup> A mere year after the dissolution of the great leagues of the 1380s, Ulm, Nördlingen, and ten other Free and Imperial Cities formed a new multilateral alliance, which soon found princely and comital allies in its vicinity.<sup>72</sup> Though its membership waxed and waned, the league of Swabian cities endured without any clear interruptions throughout the fifteenth century, sustained by constant treaty renewals and renegotiations.<sup>73</sup> There were sub-groups within the league which were independent of the dominant East Swabian towns (primarily Ulm and its neighbours), such as the coalition of West Swabian and Black

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<sup>67</sup> For this paragraph see Bleizinger, *Städtebund*; R. Kießling, 'Städtebünde und Städtelandschaften im oberdeutschen Raum: Ostschwaben und Altbayern im Vergleich', in M. Escher-Apsner *et al.* (eds), *Städtelandschaft – Städtenez – zentralörtliches Gefüge. Ansätze und Befunde zur Geschichte der Städte im hohen und späten Mittelalter* (Mainz, 2000), pp. 79-116, and references to older literature therein.

<sup>68</sup> HSA A602/5242-5.

<sup>69</sup> HSA A602/5246-8.

<sup>70</sup> HSA A602/5250-2.

<sup>71</sup> HSA A602/5253-4, 5259-75; on the events of 1376-89 see ch. 10.

<sup>72</sup> HSA A602/5351-2, 5355, 5366-71.

<sup>73</sup> E.g. HSA A602/5390, 5415, 5436, 5451, 5466, 5480-2, 5505, 5523, 5548, 5579, 5605, 5627, 5705, 5745-6, 5752, 5759, 5765, 5780.

Forest towns centred on Esslingen and Rottweil in the 1370s.<sup>74</sup> Several of the towns on the *Hochrhein* and around Lake Constance, such as Constance and Schaffhausen, were drawn into the league in the 1370s and again in the 1440s.<sup>75</sup> Between the 1330s and 1400s Constance was simultaneously the linchpin of an alliance ‘of towns of the Holy Roman Empire around the lake’, a long-term league in its own right based around the shores of Lake Constance.<sup>76</sup>

The league of Swabian cities was therefore very loose, and based on multiple sub-associations which overlapped with other alliance-based networks. Nevertheless, it showed remarkable continuity and resilience between the early fourteenth and early sixteenth centuries. Neither Charles IV’s opposition in the 1370s, nor the official dissolution of the league by Wenceslas in 1389, nor the resounding defeat of the coalition it underpinned in the 1440s-50s eliminated it or prevented its re-formation for very long, and it survived to become a vital element within the later Swabian League of 1487-1533. At times members of the league even acquired some rights and properties collectively, as in the case of the lordship of Hohenberg, which was held in pledge from the duke of Austria-Tyrol by the allied towns in the 1420s and ‘30s.<sup>77</sup> Throughout its periodic existence the league relied on the classic alliance format, with its military and judicial regulations adapted to the needs of a sprawling and durable association of towns and shorter-term noble, princely, and episcopal allies.

A smaller league of Imperial Cities, which was more firmly based in a defined region, existed throughout the later fourteenth and fifteenth centuries in Alsace.<sup>78</sup> Already

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<sup>74</sup> E.g. *UBE*, pp. 139-40.

<sup>75</sup> E.g. *UAODSB*, III, 1478; *RTA*, XVII, 732.

<sup>76</sup> ‘des hayligen Romischen rychs stetten umb den Sê’. GLA 5/6917. On this league, see Füchtner, *Bodenseestädte*.

<sup>77</sup> TLA Frid./29/3, 34/20.

<sup>78</sup> For this paragraph see Sittler, *La Décapole*; *La Décapole – der Zehnstädtebund, 1354-1789* (Haguenau, 1988); Vogler, *La Décapole*.

in the thirteenth century the smaller autonomous towns on the west bank of the Rhine co-operated regularly, and by the early fourteenth century they were forming constant alliances with one another. In 1336, for example, the towns of Colmar, Haguenau, Sélestat, Mulhouse, Rosheim, and Obernai were allies in a war against partisans of John of Luxemburg,<sup>79</sup> and in 1338 they were joined by Kaysersberg, Turckheim, and Munster within the framework of *Landfrieden*, in collaboration with the bishops of Basel and Strasbourg, the abbot of Murbach, and others.<sup>80</sup> The southernmost towns renewed their alliances again in 1342 and 1346.<sup>81</sup> In 1354 these links were harnessed by Charles IV, who sanctioned an alliance of all nine Alsatian Imperial Cities, plus Wissembourg in the far north, under the supervision of the Imperial *Landvogt*, an officer whose district (*Landvogtei*) encompassed most of these cities.<sup>82</sup> These ten allied towns have been dubbed *la Décapole* ('the Decapolis') by modern historians, and depicted as the unflagging political backbone of Alsatian regional identity between the fourteenth and seventeenth centuries. However, as Olivier Richard recently pointed out, this interpretation of the league has more to do with nineteenth- and twentieth-century francophone historians' desire to uncover a republican regional identity in the Alsatian past than with the dynamics suggested by the pre-modern sources.<sup>83</sup> Like the towns of Swabia, the Alsatian Imperial Cities made alliances outside of their league, and sometimes outside of Alsace: Haguenau and Wissembourg joined the Rhenish League of 1381, for example,<sup>84</sup> while Colmar and Sélestat were drawn into the trans-regional coalition against Burgundy via their membership of the Lower Union in 1474.<sup>85</sup> More

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<sup>79</sup> *CDM*, I, 153-4.

<sup>80</sup> *Ibid.*, I, 162-6.

<sup>81</sup> *Ibid.*, I, 179-82, 196-8.

<sup>82</sup> *Ibid.*, I, 239-44.

<sup>83</sup> O. Richard, 'La Décapole dans l'historiographie du Rhin supérieur', in Buchholzer and Richard, *Ligues*, pp. 105-19.

<sup>84</sup> See ch. 10, p. 255.

<sup>85</sup> See ch. 12, p. 313.

importantly, the league did not consist of ten towns throughout this period, nor did it function without interruption. It was dissolved on the orders of Charles IV in 1378.<sup>86</sup> When, following his death, some of the municipal governments re-forged the league in 1379, they did so without Kaysersberg, Turckheim, and Munster, and with the new addition of the Imperial City of Seltz, Wissembourg's neighbour.<sup>87</sup> By the late fifteenth century, the southernmost city, Mulhouse, was becoming increasingly detached from the rest of the 'Decapolis', allying with Bern and Solothurn in 1466, and joining the Swiss Confederation in 1515.<sup>88</sup>

The associative activities of the Imperial Cities were clearly shaped by their desire to preserve their status. The first clause of the 1379 alliance – before the usual regulations concerning military aid and methods of adjudication – insisted upon their joint resolve 'to remain with [i.e. immediate, autonomous members of] the Holy Roman Empire' through mutual assistance against threats of alienation to other lords via pledging or conquest.<sup>89</sup> This fear was not unfounded: in 1418 Seltz was pledged to the Count Palatine, and thereby lost its Imperial status, shortly after Sigismund had granted a so-called *privilegium de non alienando* to the towns of the 1379 league and their former allies Kaysersberg, Turckheim, and Munster. That the Imperial Cities prized this *privilegium* is clear from the large number of copies (both contemporary and in the form of later *vidimi*) which survive in their municipal archives, and from the fact that, soon after Sigismund had issued this privilege, the towns renewed their oaths of alliance with one another.<sup>90</sup>

The treasured legal status of the Imperial Cities in Alsace was the key context in which their league acquired its specific, and very durable, purpose, beyond the general

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<sup>86</sup> CDM, I, 302-3.

<sup>87</sup> Ibid., I, 306-10.

<sup>88</sup> Vogler, *Décapole*, pp. 343-53.

<sup>89</sup> 'blichen by dem heiligen romschen riche'. CDM, I, 307.

<sup>90</sup> AMS AA80, AA102; AMH AA228, AA236; AMM Série I/458; AMC AA52.

regulatory aims which framed all associative activity. As Imperially-immediate entities, the cities were answerable only to the Empire and its administrative structures, and could benefit in return from the legal sanction of the kings and emperors of the Romans.<sup>91</sup> As components of the *Reichslandvogtei* of Alsace, based in Hagenau, the Imperial Cities already had a ready-made framework for collective activity, especially arbitration, which the alliance treaties served only to reinforce. There was a trade-off here, of course, in that the *Landvogt* wielded notional authority to which the cities were supposed to submit. In 1408 and again in 1423 the *Landvogtei* was pledged by the kings of the Romans to Count Palatine Ludwig III – one of the main threats to the cities’ independence, as the case of Seltz in 1418 indicates – and it remained in the hands of his descendants until the early sixteenth century.<sup>92</sup> If during the fourteenth century the relationship between the towns and the *Landvogt* had been fairly deferential, in the fifteenth it was more ambiguous, and frequently took on almost horizontal characteristics.<sup>93</sup> This is best exemplified by the way in which the *Landvogt* and his local appointees, the *Unterlandvögte*, functioned as allies alongside the Imperial Cities in *Landfrieden*, and in a 1465 coalition formed by the towns and Count Palatine Friedrich against the count of Lupfen, who had occupied Turckheim.<sup>94</sup> The Imperial Cities’ belonging to the *Landvogtei* also gave them a bargaining position from which to reject requests from the monarchs which did not appeal to them, all the while retaining their autonomy. For example, in response to a command from Frederick III to supply troops for a war against the duke of Bavaria in 1461, the Imperial Cities wrote: ‘Unto us is given by the Holy Empire a *Landvogt* in Alsace... and since we are answerable to the Count Palatine as our *Landvogt*, it is not seemly for us, nor is it our

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<sup>91</sup> This was especially beneficial during Sigismund’s reign – see ch. 11, pp. 288-9. It also came in useful in times of conflict, such as the 1469-71 Wissembourg war against the Count Palatine – see *RTA*, XXII, 125-245.

<sup>92</sup> *RI*, XI, no. 5447.

<sup>93</sup> This relationship is explored in depth in Hardy, ‘Reichsstädtische Bündnisse’, pp. 118-20.

<sup>94</sup> *Ibid.*, p. 119.

customary obligation, to set out to war on behalf of the Empire, unless we are setting out with the same *Landvogt*, our lord, under the banner of the Holy Empire'.<sup>95</sup>

It is an indication of the pervasiveness of associative political culture that the alliance template was deployed by the cities within this existing administrative situation, caught mid-way between Imperial immediacy and subjection to a part-lord, part-ally. This combination of membership of the *Landvogtei* and membership of the league of cities within it helped to shape certain common institutions, and perhaps even a common identity, for the Alsatian towns in the course of the fifteenth century. There was a joint archive for the alliance, for example, which was kept in Sélestat.<sup>96</sup> The allied cities held frequent meetings (*Tage*), and by the 1490s these were minuted under such headings as 'Record of the *Tag* of the honourable council envoys of the collective cities belonging to the *Landvogtei*, held on Tuesday after the Conception of the Virgin Mary, 1493'.<sup>97</sup> This nomenclature, which emphasised the collective nature of the cities and their attachment to the *Landvogtei*, is also found in the labels attributed to their representatives at the Imperial assemblies and diets.<sup>98</sup> Perhaps the most enduring testament to the sense of community engendered by the ties between the Alsatian Imperial Cities is the iconographic programme on the 1480 *Koifhus* (customs house) of Colmar. The window panes on the top floor, which may have served as a meeting place for *Tage* held in the city, display the arms of each of the ten towns.<sup>99</sup>

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<sup>95</sup> 'Uns ist von des heiligen richs wegen ein lantvogt zû Elsass gegeben... Demnach wir dem benanten unserm gne<sup>a</sup>digen herren dem pfaltzgraven als einem landvogt von des heiligen richs wegen zuversprechen... zusteent, also daz uns des und unsers herkommens halb nit gebürt so uns zimbt von des heiligen richs wegen usszûziehen, anders zû ziehen dann by und mit demselben unserm herren dem landvogt under des heiligen richs banner'. *CDM*, II, 348-9.

<sup>96</sup> Hardy, 'Reichsstädtische Bündnisse', p. 104.

<sup>97</sup> 'Abchied des tags von gemeynen Stetten Inn die Landtvogtie gehörig Ersame' Ratsbott' zû Schletzstat gehalten uff zynstag noch Conceptio' Marie virginis Anno LXXXXiii'. *AMC* AA52/23-27.

<sup>98</sup> Richard, 'Décapole', p. 109.

<sup>99</sup> D.P. Brunel and T. Larière, 'Une œuvre contemporaine de Schongauer: le *Koifhus* de Colmar', *Annuaire de la société d'histoire et d'archéologie de Colmar*, 32 (1992-3), 17-30.

Another long-term association which was made up of shifting constituent networks and developed its own 'internal' institutions was the Society of St George's Shield. Like the other knightly societies discussed in the previous section, it emerged through the coalescence of noble affinities, in this case over a large area extending from the *Rheintal* and the shores of Lake Constance to the heart of the Black Forest and the Swabian Jura. The origins of this association lie in the 1401-8 conflict between the communes of Appenzell and their allies on the one hand (the so-called 'League above the Lake' – *Bund ob dem See*) and the abbot of St Gallen and Duke Friedrich IV of Austria-Tyrol on the other.<sup>100</sup> The nobles of the Hegau, west of Lake Constance, felt threatened by the Appenzeller war bands, and allied together, and soon afterwards a second alliance of nobles on the upper stretches of the Danube and in the Allgäu, east of Lake Constance, was formed. Soon the upper nobility on both sides of the *Rheintal*, notably the Klingenberger, the Werdenberger, and the Montforter, were drawn into these constellations. In November 1407 these disparate groups 'allied and leagued' together through a formal treaty, which referred to them collectively as the 'knighthood of Swabia', and which listed over thirty members, including several counts and the bishops of Constance and Augsburg.<sup>101</sup> Bishops and cathedral chapter members, who were typically related to the noble dynasties of the south-western Empire, were regularly involved in these knightly associations.<sup>102</sup> The avowed aim of the 1407 treaty was mutual military aid, especially against the Appenzeller. The captains ('hauptleut') of the knighthood had defined roles in facilitating communication between members, setting up arbitrations, dividing booty, collecting funds, and approving alliances made outside of the association by individual members; captured towns and fortresses were to be

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<sup>100</sup> For this paragraph see Obenaus, *St. Jörgenschild*; H. Obenaus, 'Sankt Jörgenschild', in *LDM*, VII, 1170; K.H. Burmeister, 'Sankt Jörgenschild', in *HLS*.

<sup>101</sup> 'vereint und verbunden' 'ritterschaft in Swauben'. *UBASG*, IV, 823-8.

<sup>102</sup> Obenaus, *St. Jörgenschild*, pp. 232-5.

administered jointly by all the members. This scheme was taken up in a renewed one-year alliance between these groups in 1413. This treaty described the association as ‘the Society of St George’s Shield’, with three component groups in the Allgäu, the Hegau, and the Upper Danube.<sup>103</sup> From this point onwards the Society was renewed a further fourteen times throughout the fifteenth century, either in the form of one of these sub-groups (to which branches in Lower and Upper Swabia were added) or as a pan-regional alliance encompassing all four local groupings.<sup>104</sup> Throughout this time, and even when the Society joined the Swabian League in 1487, it retained this decentralised structure, in which the captains and their counsellors (*Räte*) acted as military, financial, communicative, and mediatory nodal points within the network. Within this structure, the Society functioned as a highly-populated and durable version of a classic alliance. There is plentiful evidence from outside of the treaties themselves that members of the knighthood drew on their association as a source of assistance and arbitration in feuds and disputes.<sup>105</sup>

The Society also provided options to its members which would not have been available to them in other contexts, especially the more humble knights and retainers. Within the Society, or one of the groupings that constituted it, its members could forge alliances with powerful political actors as a bloc, and they did so very frequently in the fifteenth century. As early as 1409 the margrave of Baden mentioned ‘our alliance’ in a letter to ‘the captains of the Society of St George’s Shield’.<sup>106</sup> More would follow, and in the year 1469 alone Margrave Karl of Baden sealed alliances with both the Hegau and the Upper Swabian branches of the Society.<sup>107</sup> Other frequent princely allies included the

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<sup>103</sup> Ibid., p. 229.

<sup>104</sup> Ibid., pp. 229-31.

<sup>105</sup> Ibid., *passim*; see also e.g. GLA 123/98-98a, 237-239.

<sup>106</sup> ‘uns’ eynu’ge’ ‘den Ho<sup>u</sup>ptluten der geselschaft santte ge<sup>o</sup>rienschilt’. TLA Frid./9/4.

<sup>107</sup> GLA 46/767-768.

dukes of Bavaria, the counts of Württemberg, and the dukes of Austria-Tyrol.<sup>108</sup> Urban allies included Constance, Schaffhausen, Überlingen, Lindau, Wangen, Radolfzell, Buchhorn, and Pfullendorf.<sup>109</sup> Naturally, in times of feud the allies within the Society also entered into states of enmity collectively, as against Duke Sigmund of Austria-Tyrol in 1490.<sup>110</sup> From an early stage the members of the Society were also capable of negotiating collectively through joint messengers, as at the Imperial assembly at Frankfurt in 1427, at which they requested assistance against renewed uprisings of the Appenzeller.<sup>111</sup> The minutes of a 1489 meeting of the whole society (*Rittertag*) mention that 30 fl. were owed to one Ludwig von Emerßhofen ‘for the horse that he rode to the Netherlands for us on behalf of the league’.<sup>112</sup> Specialists were hired quite early on by the captains to carry out the documentary aspects of the Society’s internal administration and its interactions with outside powers. In 1433 reference was made to one ‘Johannsen, scribe of our collective knighthood’.<sup>113</sup>

By the end of the century the Society had also developed a financial system capable of funding the military, diplomatic, and para-judicial activities of the knighthood. Services were paid for up-front by the overall captain (‘gemain hauptman’), who therefore had to be relatively wealthy. In the records of *Rittertage* at Reutlingen and Esslingen in the late 1480s, the captain, Count Ulrich V of Montfort, is said to have spent 643 fl. 11 s. 2 d. on the ‘master of the war wagons’ (‘wagenburgmaistern’), for which he was due to be reimbursed by the knighthood collectively.<sup>114</sup> Such reimbursements were provided by pooled funds raised through contributions called ‘stüren’ (‘taxes’ or ‘levies’), and plenty of letters confirming debts owed by various members of the society have

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<sup>108</sup> Obenaus, *St. Jörgenschild*, pp. 236-45.

<sup>109</sup> *Ibid.*, p. 124.

<sup>110</sup> GLA 123/393.

<sup>111</sup> *KC*, p. 201.

<sup>112</sup> ‘für das pferd So er uns puntz wegen Ins Niderlannd abgeritten hat’. GLA 123/576.

<sup>113</sup> ‘Johannsen, unser gemainen ritterschaft schriber’. Obenaus, *St. Jörgenschild*, p. 179.

<sup>114</sup> GLA 123/393.

survived.<sup>115</sup> By the latter half of the fifteenth century these contributions were notionally annual, though in practice they were still paid through ad hoc credit networks which bound the various branches of the society to the captains who took on most of the expenditure.<sup>116</sup> In this respect, the associative political culture of the Society of St George's Shield rested on the interconnective structures of credit noted in chapter 4.

The Swabian League of 1487-1533 was in many respects a continuation and expansion of the complex associative structures and conventions developed by long-term alliances like the Society of St George's Shield. The key difference was that the League's purpose was partly driven by the agendas of the monarchical administration. In a sense it represented a revival of the fourteenth-century tradition of close royal involvement in the foundation of regional leagues, in that it was created on the orders of Emperor Frederick III.<sup>117</sup> At the 1487 *Reichstag* in Nuremberg he issued an ordinance which culminated with the following command:

So we bid each and every one of you, whatever your status or rank, in the "land" of Swabia, ordering gravely with imperial might, integrity, just knowledge, and personal emotion, that for the [ten-year] duration of our aforementioned "landfriden" [of Frankfurt, 1486] you unite and league yourselves in an amicable treaty... and show one another assistance and support therein. And so that this undertaking [of an] alliance and league may be freer and more fruitful, and may remain in existence, if any of you are already, through oaths and promises, allied or committed, protected by, or related to someone outside of this alliance of ours, regardless of what that [relationship] is called, we fully abolish all of that henceforth... by the power of this letter.<sup>118</sup>

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<sup>115</sup> E.g. GLA 123/1087.

<sup>116</sup> Obenaus, *St. Jörgenschild*, pp. 187-95.

<sup>117</sup> See pp. 146-9 above.

<sup>118</sup> 'So gepieten wir Ew allen und yeglichen insonderhait in was wir den wesens oder Standts die seyen in dem Lannd zu Schwaben uß Kaiserlicher macht vollkommenhait rechtem wißen und aigner bewegnuß ernstlich befelhende daß Ir Ew die zeit in dem gemeltem unserm Landfriden bestimpt zusammen in fruntlich verschreibung tun und pinden... und ainander darinn hilff und beystand erzaigend beweisend und nit verlaßend. Und umb das sollich unser fu<sup>r</sup>nemen ainung und Puntnuß dest fryer und fruchtbarer bestand haben und bestennlich beleiben mo<sup>g</sup>: Ob dann Ewer ainer oder mer vor... dieser ainung verbunden verschriben mit aiden oder glu<sup>p</sup>ten schirms weyß oder in ander weg ußerhalb unser und sollicher unser

It is likely that Frederick and his newly-crowned son Maximilian were seeking to harness the remaining Imperially-immediate resources in the southern Empire at a time when their position there was in acute crisis because of the expansionistic policies of Duke Georg ‘the Rich’ of Bavaria-Landshut and the conquest of eastern Austria by Matthias Corvinus.<sup>119</sup> The core members of some existing Swabian networks – the league of Free and Imperial Cities and the knighthood of Swabia – duly consulted one another and drafted a league treaty, which was soon ratified.<sup>120</sup> Within a few years a range of political actors, from minor powers like the Cistercian abbey of Salem, just to the north of Lake Constance,<sup>121</sup> to princes like the margrave of Baden and the archbishop of Mainz, had joined the League, or at least become its allies (so-called *Zugewandten*).<sup>122</sup>

Horst Carl’s detailed study of the League members’ activities has revealed a trans-regional association with the same format and priorities as other, far smaller and shorter-term leagues and alliances.<sup>123</sup> The correspondence of the League members and the records of their consultative and arbitrational meetings (*Tage*) display the traditional concepts and activities which defined associative political culture – military assistance, mutual counsel, and collective resolution of disputes. They were sometimes infused with discourses about the need for reform for the common good of the ‘Holy Roman Empire of the German Nation’, which suggests that, in uniting rhetoric about peace and security with customary associative impulses, Frederick and Maximilian tapped into a fruitful vein.<sup>124</sup> However, the Swabian League was by no means a straightforward instrument of

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ainung yemand anders verwant were wie man dem namen geben mo<sup>e</sup>cht so heben wir das alles... in krafft ditz unser briefs yetzo alßdann und dann alß yetzo genntzlich uff’. *DPIP*, pp. 272-3.

<sup>119</sup> H. Carl, ‘Der Schwäbische Bund und das Reich – Konkurrenz und Symbiose’, in Press, *Reichsverfassung*, pp. 43-5.

<sup>120</sup> *UGSB*, I, 1-8.

<sup>121</sup> GLA 98/210.

<sup>122</sup> Carl, ‘Bund’, pp. 45-7.

<sup>123</sup> For this paragraph see Carl, *Schwäbischer Bund*, chs 4, 7, 8.

<sup>124</sup> See ch. 8, *passim*.

resurgent monarchical authority.<sup>125</sup> Despite the optimistic expectation in the 1487 ordinance that members of the League should abandon all other associative ties, the Swabian League itself was really an amalgamation of existing alliances, which brought with them their own structures and methods. On the one hand there was the Society of St George's Shield, the complex workings of which we have already seen. On the other hand there was the association of Swabian towns, centred on the Ulm-Augsburg partnership, which had driven a consultative and co-operative political culture among the autonomous cities of the southern Empire for over a century.

The priorities of these pre-existing groups naturally shaped the dynamics of the new Swabian League. Rather than becoming pliable customers of the Imperial judicial organs that Frederick III sought to develop from the 1460s onwards, these groups continued to rely on the feuding- and arbitration-based methods inherent in the alliance format. Where the arbitrational committees of the League felt that a case fell outside of their competence, they would at least reach a decision about the 'correct' (*ordentlich*) court to which the litigants should be referred.<sup>126</sup> By the early sixteenth century, constant demand for mediation from League members led to a gradual institutionalisation of the arbitrational apparatus, which took on civil lawyers trained in the south German universities, such as the humanist Johannes Reuchlin, as 'League judges' ('Bundtsrichter'). Reuchlin wrote of 1502, the year of his appointment: 'Now civil cases [in the League's court] were overflowing; I went back and forth endlessly in the arbitrational committee; I was in the midst of the counsellors of the most powerful German princes; I was appointed to a position at the summit of the Swabian triumvirate

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<sup>125</sup> For early examples of Frederick's failure to control the league, see TLA Sigm./14.1251.38-41.

<sup>126</sup> Carl, *Schwäbischer Bund*, p. 372.

[of judges], which I fulfilled thenceforth for eleven continuous years'.<sup>127</sup> In this respect, the Swabian League suggests that it was not only the so-called princely territories which underwent a process of institutionalisation in the decades around 1500, but also the associative structures and practices which defined the political culture of the south-western Empire.

It is in the context of these durable leagues of the Upper Rhine and Swabia that we should understand the Swiss Confederation. It is particularly important to include the Confederation in this survey, because it is almost always excluded from analyses of politics in the late medieval Holy Roman Empire, and is treated instead as an isolated, proto-national sphere. Like these other large and long-term leagues, the Confederation developed over the course of the later fourteenth and fifteenth centuries out of many overlapping and often outward-facing associations, which were formal alliances in their own right. The long-term formation of the Confederation in this period, from the alliances of 1291, 1315, and 1351-3 to the 1481 Compacts of Stans and the admission of Basel and Schaffhausen in 1501, is well known, and will not be rehearsed here.<sup>128</sup> What is worth noting is that the Confederate treaties of these centuries were in most respects similar to those we have already seen. Like other leagues and alliances, they were committed to seal-authenticated, oath-bound *Urkunden*. More significantly, they drew on the same alliance format, with its emphasis on mutual assistance, especially in times of war, and collective pathways of mediation and conflict resolution, and they articulated these regulations using the same vocabulary and concepts.<sup>129</sup>

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<sup>127</sup> 'Jam Civiles Causae obruebant: in foro versabar: potentissimorum Germaniae Principum Consiliis intereram: post deinde ad Summam Triumviratus Sueviae dignitatem electus quam undecim annos continuos gessi'. *DPIP*, p. 454.

<sup>128</sup> A recent overview is A. Würzler, 'Eidgenossenschaft: 3 – Konsolidierung und Erweiterung (1353-1515)', in *HLS*.

<sup>129</sup> E.g. *AEA*, I, 260-3, 275-8, 285-8; *ibid.*, II, 719-22; *ibid.*, III.2, 1291-7.

The key difference between the Swiss Confederates and the other participants in the south-western Empire's associative political culture was that the former's treaties were ostensibly eternal. Already in the 1351 league of Zurich, Lucerne, Uri, Schwyz, and Unterwalden it was asserted that the participants had sworn 'to hold and to have an eternal alliance with one another, which should remain unchanging and unbroken and in all respects without lapses, faithfully and firmly, for eternity'.<sup>130</sup> To these exceptionally strong bonds were added, in the later fifteenth century, a discourse which valorised the associative ties between the Confederates in a uniquely affectionate language of 'brotherliness'.<sup>131</sup> Yet these features of the Confederation, interesting though they are, should not be allowed to obscure the potential for rupture and instability within its system of leagues – as revealed by the so-called 'Old Zurich War' of the 1440s.<sup>132</sup> Nor should the teleology of subsequent Swiss nationhood occlude the important associative bonds which the Confederates maintained outside of their league until the very end of the fifteenth century, even with their supposed arch-enemies, the dukes of Austria.<sup>133</sup> It is true that by the Swabian War of 1499 the Confederation was beginning to detach itself from the southern core of the Empire, which encompassed the rest of the Upper Rhenish and Swabian regions – though even for the sixteenth century, the gap between the *Eidgenossenschaft* and the *Reich* has recently been called into question.<sup>134</sup> In view of its similarities and connections with the rest of the networks of the Upper Rhenish sphere in this period, the Swiss Confederation is best understood as a particularly developed

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<sup>130</sup> 'mit einander ein ewig buntniss ze haltene und ze habene, die ouch nu und hienach unwandelbar, unverbrochen und aller ding unverseret mit gutten truwen stet und vest ewenklich pliben sol'. Ibid., I, 260.

<sup>131</sup> R. Schmid, "'Liebe Brüder". Empfangsrituale und politische Sprache in der spätmittelalterlichen Eidgenossenschaft', in P. Johanek and A. Lampen (eds), *Adventus. Studien zum herrscherlichen Einzug in die Stadt* (Cologne/Weimar/Vienna, 2009), pp. 85-111.

<sup>132</sup> See P. Niederhäuser and C. Sieber (eds), *Ein Bruderkrieg macht Geschichte. Neue Zugänge zum Alten Zürichkrieg* (Zurich, 2006).

<sup>133</sup> See the *Erbvereinigung* with Sigmund of Austria-Tyrol in 1477, and the subsequent alliances and interactions with him and Maximilian: *AEA*, II, 944-6; TLA Sigm./01.49.2-3, 06.03; *RTAMR*, I, 712-13, 726-30.

<sup>134</sup> T. Maissen, *Die Geburt der Republik. Staatsverständnis und Repräsentation in der frühneuzeitlichen Eidgenossenschaft* (Göttingen, 2006).

manifestation of an all-pervasive associative political culture. It is only because of unusual historical and geopolitical conjunctures that the Confederation eventually attained state-like characteristics in the early modern period, while long-term leagues in neighbouring regions did not.

### **Alliances and leagues: a universal format in the south-western Empire**

It is clear from this comparative survey that the entire continuum of alliances and leagues, with all its shorter- and longer-term variants, was characterised by the same set of features. We have seen in example after example that the formal associations on the later medieval Upper Rhine, and in the regions adjoining it, were all based to some extent on a traditional template. This was first and foremost about the regulation of military and judicial matters, primarily through mutual assistance and the use of agreed courts or mediators. These two hallmarks of associative political culture are covered in the chapter that follows. More generally, all these formal associations were clad in conventions that we encountered in Part I. Leagues and alliances of both the shorter- and longer-term variety were grounded in a culture of oath-taking, in which ritual modes of interaction intersected with lasting legal artefacts like seal-authenticated contracts. Diebold Schilling of Bern's 1484 'Chronicle of Spiez' offers a rare glimpse of what this performative side of associative political culture might have looked like in an illustration of the swearing of a citizen-alliance between the count of Kyburg and his family on the one hand and the municipal council of Bern on the other (Figure 9). Allowing for the idealised nature of the scene, and particularly for the suspiciously serene and dominant pose adopted by the Bernese councillors, it is likely that when treaties stated that 'we have lovingly sworn an

oath to God and the saints with raised fingers and prescribed words' (to quote an example from 1391), the ritual looked something like this.<sup>135</sup>

Finally, in a bid to streamline their military and adjudicatory regulations, alliance and league treaties all specified the parameters within which they could – or could not – be invoked. Virtually all alliances allowed participants to exempt third parties from being targeted by the stipulations of the treaty, on the basis that these might be prejudiced if some alliance members had pre-existing ties to the parties in question. In most cases these *ausgenommen* ('excepted') parties had clear ties to one or more of the members of the alliance, but at times the list could be truly all-encompassing, naming the pope, the Holy Catholic Church in its entirety, and the king of the Romans, and long lists of princes, prelates, and cities, as in the case of a 1452 alliance between Count Palatine Friedrich and the bishop of Speyer.<sup>136</sup> This legally superfluous but rhetorically powerful flourish indicates how deeply ingrained the need to take existing relationships into account was. This was after all a highly interconnected world, in which it was not sufficient to address a single actor, because 'those who are allied with him'<sup>137</sup> – and even the 'allies of the allies'<sup>138</sup> – needed to be taken into account. Furthermore, the powers forging all these associations were not neat territories with closed borders, but the overlapping actors and entities observed in chapter 4, whose authority rested on fragmentary agglomerations of rights, assets, and revenues, managed by semi-autonomous officers. It was therefore common for alliance and league treaties to employ broad disclaimers, such as 'all those included in this alliance should remain in their privileges, liberties, good customs, and old traditions', which enabled the participants to fulfil the treaties' stipulations while

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<sup>135</sup> 'Wyr haben ouch lyplich zu got und zu den hayligen mit uffgebottnen vyngern und gelerten worten ayd gesworen...'. GLA 5/6917.

<sup>136</sup> *QGFDS*, II, 233.

<sup>137</sup> 'den die mit In in eynung sind'. GLA D/660.

<sup>138</sup> 'helfershelfern'. GLA 21/44.

navigating around these constellations of lordship.<sup>139</sup> For the more powerful princes and cities, whose *mouvances* were so large and scattered that the implementation of the terms of any alliance treaty would be delegated to quasi-independent officers and servants, it was vital that treaties address not only the interactions between the named participants – ‘any of us’ – but also between those in their affinity – ‘any of our servants or their people’.<sup>140</sup>

These points in common between the different forms of alliance and league found in the south-western Empire can only be fully appreciated in light of a comparative investigation such as this, unrestricted by assumptions about ‘estate’-based differences in ideology and practice, or about the inherently vertical nature of Imperial politics. What this investigation has revealed is the absolute ubiquity of formal associations, which were evidently central to the operations of all political actors in this large zone, regardless of their status. Short-term alliances involved powers from across the socio-political spectrum, and any one power was typically involved in several such alliances at once. Longer-term leagues sometimes had a more homogeneous composition. For example, the Swabian and Alsatian leagues of Free and Imperial Cities were predominantly or entirely urban, while the Society of St George’s Shield mostly consisted of knights and noblemen, as well as the occasional bishop, abbot, or town. However, even the members of these more durable associations formed individual or collective alliances with political actors of different statuses. For instance, the league of Swabian cities had many princely and noble allies in the fourteenth and fifteenth centuries.

These various associations may have exhibited some differences in composition and duration, but they were clearly part of a continuum of alliance-like forms, based on a

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<sup>139</sup> ‘It’ die so In disr eynu’g begriffen sind, sollen by Iren p’vilegien fryheiten gnaden gu’ten gewonheiten und altern herkome’ bliben’. TLA Sigm./14.1118.

<sup>140</sup> ‘u’ns dehainen’ ‘u’nsrer dehains diener oder die sinen’. GLA 46/192.

universal template defined by mutual aid, especially of a military nature, and agreed pathways of mediation or dispute resolution. There was no definitive ‘*Ur*-alliance’, but most formal associations fell within a spectrum marked by the same key features. Others deviated somewhat, while retaining the core elements of this template. We have already begun to see how the universal use of alliances and leagues was grounded in the shared participation of the political elite of the Upper Rhine and Swabia in the conventions and structures discussed in Part I of this thesis. Formal associations both stemmed from and provided a regulatory layer over regional customs and practices in matters of law, war, and justice. Associative political culture was therefore about both a shared format for relations between elites and a shared participation in a political landscape which fostered, indeed required, such a format. The chapters that follow will explore in more detail how this format helped to regulate interactions between political actors, practically and discursively.

## 7. The functions of alliances and leagues: assistance and adjudication

The evidence of alliances and leagues in the south-western Holy Roman Empire suggests that they functioned as a sophisticated means of regulating relations between their members. We saw in chapter 6 that all types of alliance and league, including variants like knightly societies, were characterised by stipulations concerning mutual aid and pathways of dispute avoidance and resolution, and that these characteristics were present regardless of the context, composition, and duration of a given association. Having established that these functions were extremely common, it is important to examine them in more detail, in the articles of alliance and league treaties and in the activities of association members, insofar as we can access the latter through surviving correspondence and chronicle accounts.

The detail of these functions has largely been ignored by the various strands of the historiography surveyed in chapter 5. As we saw, associations have mostly been studied in terms of their alleged ‘legal’ or ‘constitutional’ character, while the way in which they actually worked has not been of great interest to scholars of Germany and the Empire. For example, Peter Moraw’s analysis of the ‘Funktion’ of alliances and leagues is primarily a discussion of their place in his constitutional scheme for the development of the Empire in the course of the thirteenth to sixteenth centuries, rather than a study of how these associations themselves operated.<sup>1</sup> Eva-Marie Distler’s dissertation focuses in some detail on the military and arbitrational functions of several later medieval alliances and leagues, and her analysis does yield some interesting insights into the ways in which these functions might have assisted municipal governments,<sup>2</sup> but she seeks to harness these to

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<sup>1</sup> Moraw, ‘Funktion’, esp. pp. 2-7.

<sup>2</sup> Distler, *Städtebünde*, pp. 103-218.

an argument about the inherently urban, egalitarian nature of what she calls *Städtebünde*.<sup>3</sup> Surprisingly, the extensive scholarship of feuding in the German lands has engaged very little with alliances and leagues, even though formal associations were closely linked to this universal practice.<sup>4</sup> Only case studies of individual leagues have provided a detailed impression of the practical operation of associations. The few studies of this kind – notably Herbert Obenaus’s work on the Society of St George’s Shield and Horst Carl’s on the Swabian League – underline the centrality of co-operation in feuds and agreed judicial and arbitrational methods for the practice of forming and maintaining alliances and leagues.<sup>5</sup> This chapter aims to rectify the lack of a truly comparative study of the functions of alliance and leagues in the later medieval Empire by examining these defining aspirations and activities more closely.

The goals of all alliances and leagues can be divided roughly into two spheres of activity: the military or conflictual, and the arbitrational or litigatory. In the former, associations seem to have aimed to promote assistance against threats to the shared interests of their members, while in the latter the imperative was to minimise disputes between associates, and to ensure that those that did arise were adjudicated according to agreed methods which would maximise the likelihood of an acceptable outcome for all involved. Each of these spheres will be considered in turn in this chapter. In order to make sense of them, it is important to be aware of the dynamics of politics in general on the Upper Rhine and in Swabia. As this thesis has repeatedly emphasised, associations are best understood as a form of regulation for the activities of political elites. Associations were not self-contained entities. Rather, through the provisions of their binding treaties,

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<sup>3</sup> Ibid., *passim*, esp. pp. 1-10, 103-77.

<sup>4</sup> For instance, the role and function of alliances are not considered in any detail Brunner, *Land und Herrschaft*; Zmora, *State and Nobility*; Zmora, *Feud in Early Modern Germany*.

<sup>5</sup> Obenaus, *St. Jörgenschild*; Carl, *Schwäbischer Bund*.

associations established contractual layers over existing practices and structures which formed the political culture of the Holy Roman Empire.

### The ‘military’ sphere: assistance

Virtually all treaties which enacted alliances, leagues, and their variants called for co-operation between their members, which was expressed through a small lexicon of words and phrases related to the concepts of ‘aid’ or ‘help’, ‘assistance’, and ‘counsel’. The authors of fourteenth- and fifteenth-century treaties often stated that allies would be ‘beräten und beholfen’ (‘disposed to provide counsel and assistance’) to one another.<sup>6</sup> Instances of this phrase survive in treaties from the 1330s to the 1480s and beyond.<sup>7</sup> The requirement of allies to help one another was often reiterated in specific clauses which linked the concepts of assistance to the parameters of the treaty: ‘[we] are bound to help [“helffende”] [one another] to the extent determined by our alliance’,<sup>8</sup> or ‘to offer help and assistance [“hilff und bystand”] in such matters according to the stipulations of our alliance’.<sup>9</sup> This cluster of much-repeated terms defined one of the two main purposes of associations. These terms were not coined deliberately for associative activities, but stemmed from widespread and deeply-rooted discourses and practices, on and over which leagues and alliances were constructed. The vocabulary of ‘counsel’ and ‘assistance’ was anchored in a long-standing contractual culture shared throughout Latin Christendom in the high and late middle ages. For centuries the tenurial relationship between the grantor and recipient of a fief or *Lehen* was encased in reciprocal promises of mutual support (*consilium et auxilium*).<sup>10</sup> By the fourteenth and fifteenth centuries these feudal formulae

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<sup>6</sup> As spelled in *UBR*, p. 243 (‘inen beräten und beholfen sin’).

<sup>7</sup> E.g. *CDM*, I, 45, 87, 307, 309, 409; *USGÖA*, II, 418; *DPIP*, pp. 281-4; *GHW*, III.6, 204.

<sup>8</sup> ‘gebunden sin ze helffende, so verre und wite der bunde... begriffen hat’. *UBB*, IV, 439.

<sup>9</sup> ‘in solhen sachen hilff und bystand thun nach sag diser eynung’. *UBF*, II, 555.

<sup>10</sup> Patzold, *Lehnswesen*, p. 84.

overlapped with the concepts of assistance in a feud. For example, the Golden Bull of 1356's legislation concerning fief tenure includes the injunction that, in the context of feuds by the recipients of fiefs against the granting lords, the latter no longer had to 'supply help, counsel, or favour' ('consilium prestant, auxilium vel favorem'/'rat, helffe adir gunst gebin') to the former.<sup>11</sup> Indeed, throughout the period under consideration, the phrase 'hilff und bystand' belonged first and foremost to the protocols of feuding. This phrase described the assistance that 'helpers' (*Helfer*) and 'backers' (*Gönner*) might provide to a party who was initiating a feud or on the receiving end of a *diffidatio* or *Absage*.<sup>12</sup> Compared to the typically informal ties between feuding parties and their *Helfer* and *Gönner*, an oath-bound alliance provided a measure of security by formalising obligations of mutual assistance. The customary concepts of 'hilff', 'bystand', and 'rat', which all political elites shared, were harnessed in league and alliance treaties to specific steps which members of these associations were expected to follow.

At the most basic level, allies agreed to aid one another in times of conflict, and not to assist or harbour one another's feud-enemies. For example, in the February 1488 treaty confirming Count Eberhard V of Württemberg's entry into the Swabian League, the existing members promised the following:

Should we enter a state of open/public feud and enmity with anyone, whoever they might be, on behalf of our oft-named gracious lord [Count Eberhard], we should not abandon, forsake, or separate from him, but, until the matter is arbitrated, remain disposed to provide counsel and assistance as per the contents of this alliance, faithfully and honestly. Also, we and our people, and also our retainers/servants/officers and their people, and those who are in some way answerable to us, should not and do not wish knowingly to: contain, house, or host in our castles, towns, markets, villages, and districts; supply with food or drink; assist in dangerous endeavours; provide help, support, or assistance to; or give free-conduct, comfort, or security to enemies of our above-named gracious lord,

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<sup>11</sup> *MGHCA*, XI, 598-9.

<sup>12</sup> See ch. 3, pp. 80, 85-6.

but rather, we should and wish to take on such enemies of his, whatever the cause of the feud, to ensure that a rightful outcome be granted and brought about, without impediment and excuse, faithfully and honestly.<sup>13</sup>

Statements with similar wording are to be found in a range of alliance treaties from the 1390s to the 1490s,<sup>14</sup> while the principle of aid against feud-enemies and other threats and the requirement not to support them in any way was shared by all alliances and leagues, including *Landfrieden* and knightly societies.<sup>15</sup> Such articles reinforced in specific terms what the language of ‘assistance’ and ‘counsel’ had already signalled in general: that alliances and leagues functioned as a way of guaranteeing mutual aid in the feuds and wars which affected all Upper German actors.

The obligation to provide general support and avoid assisting enemies was only the most fundamental way in which formal associations shaped the options of their members in conflicts. Many alliances and leagues contained more precise and complex procedures for military co-operation. Some of these stipulations addressed the issue of consultation and decision-making in this sphere of activity. In Swabia and on the Upper Rhine in the late fourteenth century, leagues and alliances, including *Landfrieden* and knightly societies, were based on treaties which advocated discussions between associates in the event of an attack on any one member. Envoys were to be sent by the attacked party to other allies, either directly or via intermediaries (an emergency *Tag* in a major town, for instance, or a captain in a division of a knightly society), and the nature of the

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<sup>13</sup> ‘Wann wir auch von des offtgenanten unsers gna<sup>e</sup>digen herrn wegen mit yemand, wa<sup>e</sup>r der oder die wa<sup>e</sup>ren zu offner fehd und feindschafft ka<sup>e</sup>men, So sollen Wir uns von Im nit ziehen furworten noch schaiden sonder Im biß zu Austrag der sach Inhalt diser Eynung berauten und beholffen sein getrewlich und ungefa<sup>e</sup>rlich. Wir und die unsern auch unsere Diener die Irn, und die uns zuversprechen stend sollen und wollen auch des obgenanten unsers gnedigen herren feindt... in allen und yeglichen unsern Slossen Stetten Ma<sup>e</sup>rckten Do<sup>e</sup>rffern und gebietten wissentlich nit enthalten, hawsen noch hoffen a<sup>e</sup>sen trencken noch gefarlich hinschieben hu<sup>e</sup>lff Fu<sup>e</sup>rderung noch bystand thun noch Inen fur sie dehein gelait tro<sup>e</sup>stung noch sicherhait geben sunder dieselbe anna<sup>e</sup>men und Im zu so<sup>e</sup>llichen sein feinden an welhen enden die ergriffen wurden rechts gestatten und ergeen lassen one Intrag und verziehen getruwlich und ungefarlich’. *GHW*, III.6, 202-3.

<sup>14</sup> E.g. *UBS*, VI, 458; *ADBR* G140/1; *AMS* AA54.

<sup>15</sup> E.g. *UBS*, VI, 576; *UBASG*, IV, 827.

conflict and the appropriate counter-measures by the allies would be discussed.<sup>16</sup> In some cases, discussion was dependent on the severity of the enmity that had broken out, and participants in a new feud were to exercise judgement in deciding whether to call for assistance and how much aid they needed. For example, the treaty sealed in 1378 between the Imperial Cities of Swabia, on the one hand, and Dukes Leopold III and Albrecht IV of Austria, on the other, stipulated that, if an enmity was declared against one party, the other was required ‘to provide counsel and assistance to him/them, to the extent that we should lend and send out 100 honourable mounted men armed with lances’ within fourteen days.<sup>17</sup> If, however, the enemy was ‘very large and powerful’, such that 100 men-at-arms were not sufficient, several urban councillors were to meet with the dukes of Austria and their counsellors to discuss how to proceed.<sup>18</sup> Similarly, in the 1469 alliance treaty between the margrave of Baden and the Society of St George’s Shield in the Hegau it was stated that if a feud affecting either party could not ‘be halted or set right through a swift outcome’ then traditional ‘assistance and counsel’ should be provided.<sup>19</sup> If this help was to be on a large scale then a committee consisting of the captain of the Society and six to eight knights was to meet with the margrave’s counsellors to discuss their options; if a settlement did not seem imminent, men-at-arms (20 from the Society or 32 from the margrave) could be despatched ‘to where they are most needed’ at the committee’s discretion.<sup>20</sup> This sort of negotiation was entirely in-keeping with the more general dynamics of the initiation, pursuit, and resolution of conflicts that we saw in chapters 2 and 3; feuding, mediation, and discussion of one sort or another were never far apart. In this sense, the ‘assistance’ clauses in formal associations represent an attempt to channel

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<sup>16</sup> E.g. *UAODSB*, III, 47-9, 63-4, 96-7; Beilagen 3, 11 in Ruser, ‘Gesellschaften’, pp. 49, 55.

<sup>17</sup> ‘beraten und beholfen sin in der wise, das wir in hundert erber mit spiessen ze rosse zu schikken, lihen und senden sulen’. *UAODSB*, III, 35.

<sup>18</sup> ‘gar grosz und ma<sup>e</sup>htig’. *Ibid.*, III, 35.

<sup>19</sup> ‘erylet und Zu recht mogen uffgehalten werden’ ‘einander beholfen sin und berauten’. GLA 46/767.

<sup>20</sup> ‘wa... des am notturftigosten ist’. *Ibid.*

these interlocking forms of negotiation, in much the same way as the ‘adjudication’ clauses examined in the second half of this chapter.

The detail of how – and how much – military assistance was to be provided by allies who were ‘beraten und beholfen’ towards one another was the most variable element in association treaties. As we have just seen, they could specify exact quantities of troops to be levied in certain circumstances, but by no means all treaties did this; many stopped at the level of promises of mutual help and counsel, expressed in the ways noted above. Where alliances and leagues contained built-in obligations for the provision of troops, these tended to be determined by the relative strength of the participants. There might be a specification for the overall size of a joint army to be put together by the allies, with their respective contributions to be discussed on an ad hoc basis. This was the case in the 1395 *Landfriede* in Alsace which incorporated the bishop and city of Strasbourg, ten Imperial Cities, and the Imperial *Landvogt*, Count Emiche of Leiningen. The *Landvogt* was to lead a combined force of thirty regiments (‘glefen’), each consisting of ten mounted men-at-arms, with the respective contributions of troops and funds to be decided by a council of seven men representing the various allies, based on circumstances such as who had had a feud declared against them, whose lands were being defended, and so on.<sup>21</sup> Other treaties established in minute detail the exact number of men and quantity of supplies to be furnished by each individual party. For example, the three-year alliance entered into by Duke Leopold IV of Austria-Tyrol, Margrave Bernhard of Baden, and Count Eberhard III of Württemberg in 1393 contains an extensive list of procedures to be followed in times of ‘day-to-day war’.<sup>22</sup> If any one party was attacked, the other two were each to send fifteen ‘gleven’ to a rallying point at Rottenburg am Neckar within fourteen days. The prince or lord who called for aid was to cover the maintenance of these troops

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<sup>21</sup> *UBS*, VI, 577.

<sup>22</sup> ‘ta<sup>e</sup>glichem crieg’. *GLA* 46/192.

for the period during which they assisted him in his war, including their accommodation and food, extending even to ‘night quarters for every horse... and hay and straw as required’.<sup>23</sup> The 1423 alliance of the Free and Imperial Cities of Alsace and the Breisgau and the Count Palatine similarly specified the exact numbers of divisions of men to be provided by each party, in proportion to their wealth and population. If any one member was attacked, they were to send the enmity-letter they had received to the other allies, and a joint army would be assembled within forty days, consisting of no fewer than 40 ‘glefen’ from Strasbourg, 30 from Basel, 20 from the Alsatian cities collectively, 15 from the cities of the Breisgau, and 40 from the Count Palatine.<sup>24</sup> Bilateral treaties might contain simpler versions of these sorts of stipulations. In the 1458 alliance between Duke Sigmund of Austria-Tyrol and Count Ulrich V of Württemberg-Stuttgart, for example, it was stated that, in times of war, each party was obliged to provide the other with ‘200 mounted and well-armed people, funded and supplied by the one sending them’.<sup>25</sup>

The stipulations of association treaties about mutual assistance against feud-enemies and the form it ought to take were not merely aspirational. While much of the evidence we have of co-operation between allies comes from the treaties themselves, there are sources which indicate that their terms were put into effect. At the most formal level, members of an alliance or league who had been attacked might send a seal-authenticated *Mahnungsbrief* (‘summons-letter’) to their associates, informing them of their need for help. For example, in 1353 an officer in the Sundgau called Volman von Pfirt sent a *Mahnungsbrief* to Freiburg on behalf of the duke of Austria, who had concluded an alliance with the Imperial City a few years earlier.<sup>26</sup> In it, Volman informed

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<sup>23</sup> ‘jeglichem pferd der naht ain viertel... und ho<sup>e</sup>w und strow ain noturft’. Ibid.

<sup>24</sup> *CDM*, II, 36-7. See ch. 11, pp. 291-2.

<sup>25</sup> ‘cc Raysiger zuo Ross wolgeraussten lewt in des Costen zeruong und schaden der daz volkh schickht’. TLA Sigm./13.519.

<sup>26</sup> See ch. 6, p. 143.

Freiburg that two knights, ‘Johannes von Vy’ and ‘Johannes von Valon’, had attacked the holdings of the lordship of Austria, and spurned all attempts to find a judicial or arbitrated solution to their dispute with the duke and his administration in the Sundgau. This attack was said to fulfil the requirements for calling for aid ‘as the alliance states’, so Volman requested that Freiburg attack the two knights and remain in a state of enmity with them until they received word that peace or a settlement had been achieved.<sup>27</sup> Several of Volman’s noble associates witnessed and authenticated the summons to war by swearing oaths that his claims were true, and they attached their seals to prove it.<sup>28</sup> Phrases like ‘as the alliance states’, also found in other formulations such as ‘as the alliance documents actually show’,<sup>29</sup> indicate clearly that the expectation of assistance was predicated on the shared participation of the sender and the recipient of a *Mahnungsbrief* in the regulatory framework of a treaty of association. Calls to arms in *Mahnungsbriefe* were apparently taken seriously, and allies were bound to respect them. When in 1488 Emperor Frederick III ordered Sélestat to join the Swabian League, the Alsatian Imperial City replied that it could not comply because it anticipated difficulties fulfilling its duties as an ally. According to Sélestat’s municipal council, while the towns, lords, knights, and prelates of Swabia were their ‘especially good friends’, the councillors could not see how allying with these last ‘could possibly be of benefit to them or to us, seeing as the lands of Swabia and Alsace are separated by great distances’, so that if Sélestat received a *Mahnung* from its allies, it could not ‘come to [their] assistance’ within the time limits stipulated by the treaty.<sup>30</sup> These protestations probably represent a rhetorical strategy deployed by the reluctant elites in Sélestat, but the fact that they felt that an inability to

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<sup>27</sup> ‘als die buntnisse stat’. *UBF*, I, 425-6.

<sup>28</sup> *Ibid.*, I, 426.

<sup>29</sup> ‘als ouch daz die buntbriefe eigentlich wisent’. *UAODSB*, III, 111-12.

<sup>30</sup> ‘besondern güten fründen’ ‘Inen oder uns sollichs Nutzlich oder herschießlich sin moge’ ‘zu hillf komen’. TLA Sigm./14.985.

fulfil the duty of assisting allies in war constituted the best excuse to avoid joining a league is surely significant.

The written agreements that developed out of calls for assistance could set out in considerable detail how associates were to proceed militarily within the confines of what their treaty allowed and prescribed. For instance, on 27 May 1433 a coalition of noblemen including Duke Reinold of Urslingen, Count Heinrich of Fürstenberg, and several lords and knights invoked their alliance with Margrave Jakob of Baden in order to raise a force to besiege Schuttern, the castle of their feud-enemies Lords Diebold and Heinrich of Geroldseck, a month later (29 June).<sup>31</sup> In their letter they determined that Margrave Jakob should provide 100 mounted men-at-arms and 400 footmen, including at least 100 crossbowmen and 30 handgunners, plus a large cannon and supplies of gunpowder and crossbow bolts, while the coalition would raise a similar force collectively. The entire force would be led jointly by two captains, one drawn from each side in the alliance.<sup>32</sup> One of the most impressive documents to come out of formal correspondence between associates concerning mutual military assistance is an attack plan of 1446 against the Swiss Confederates, drawn up in the latter stages of the so-called 'Old Zurich War' by the margrave of Baden, the count of Württemberg-Stuttgart, the dukes of Austria, and the Society of St George's Shield.<sup>33</sup> These allies agreed to raise a combined force totalling 9430 mounted men-at-arms and 15,800 foot soldiers. Only through the principles of military assistance within alliance and league treaties was it possible to levy such large armies in the politically and administratively fragmented Holy Roman Empire in this period, and this goes some way to explaining why even the most powerful princes

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<sup>31</sup> *FUB*, VII, 442.

<sup>32</sup> *Ibid.*, VII, 442.

<sup>33</sup> TLA Sigm./04b.55.106. See H. Berger, *Der Alte Zürichkrieg im Rahmen der europäischen Politik* (Zurich, 1978).

continued to interact with their neighbours within the framework of associative political culture well into the sixteenth century.

The sources which result from requests for and the provision of assistance in feuds and wars, along with the narrative accounts of conflicts between shifting coalitions of associates in some chronicles, offer a rich impression of the dynamics of alliance-based feuding.<sup>34</sup> They show that formal associations worked in practice, and that every kind of political actor in the south-western Holy Roman Empire had to deal with alliances, leagues, and other kinds of association on a regular basis. This was the case because formal associations were built into the fabric of political life on the Upper Rhine and in Swabia. They were intended to regulate features of the political culture which governed interactions between all elites, thereby shaping the outcomes of conventional forms of negotiation and conflict in ways which favoured those who managed to forge and maintain the most numerous and advantageous alliances.

### **The ‘judicial’ sphere: adjudication**

Alliances and leagues also had adjudicatory functions, which were just as important as their stipulations concerning assistance and military support. These adjudicatory functions were also embedded in the legal and judicial culture of the Holy Roman Empire. We saw in chapters 2 and 3 that military and litigatory conflict were closely linked; feuding and arbitration were two intertwined facets of the constant negotiation which characterised political life in Upper Germany.<sup>35</sup> It would therefore have made little sense for alliances and leagues, as regulatory frameworks for political interaction, to address military matters

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<sup>34</sup> For example, Jakob Twinger’s account of the war between Strasbourg and its episcopal and princely neighbours in the 1390s (*COS*, II, 684-97), or the depiction in Eikhardt Artzt of Wissembourg’s chronicle of the 1458 feud between Heinrich Holtzapfell von Herxheim and the town of Landau, in which the latter called in dozens of allies including the margrave of Baden and the lords of Bitsch and Leiningen (*QGFDS*, II, 200-5). For more examples, see the case studies in chs 10-12.

<sup>35</sup> See esp. ch. 3, p. 85.

but to overlook judicial ones. Just as allies were obliged to assist one another, so they were expected to restrict themselves to agreed channels for resolving their disputes with other participants in the formal association(s) of which they were members. Virtually all league and alliance treaties contained some kind of stipulation about how disputes among associates would be resolved, or at least what methods these associates ought to use to bring about a resolution. The extremely rare instances in which this is not the case nonetheless make allusion to collective pathways of adjudication. For example, a laconic treaty of alliance sealed by the counts of Fürstenberg and Sulz in 1410 is unusual in containing no articles dedicated to conflict resolution, but it does state that both sides should co-operate ‘for the attainment of justice’.<sup>36</sup> The fact that it said no more than this was probably because the need for co-operation in adjudicatory matters was taken for granted.

Given that adjudication was an indispensable component of associative political culture, it was important for alliance and league treaties to cover a broad range of judicial eventualities. As we saw in Part I, most of the judicial options open to political elites in the Empire were arbitral in nature, whether they took place through ad hoc committees of mediators or in more institutionalised courts acting as ‘civil’ resorts. These options were functionally similar, and a given cluster of disputants might make use of several in sequence, or even simultaneously. Formal associations therefore had to be quite vague and general about the kinds of dispute which they sought to regulate, so that their stipulations minimised the chances of redress being sought from external authorities in ways which might destabilise relations between members. Indeed, references to judicial conflicts and litigation in alliance and league treaties were deliberately broad and all-encompassing. For example, the grounds for resorting to agreed adjudicatory measures in

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<sup>36</sup> ‘zû dem rechten’. GLA 9/212.

a 1405 alliance between Duke Friedrich IV of Austria-Tyrol and the city of Constance were very open-ended:

So that this alliance and union between us may henceforth on both sides be maintained with goodwill, we have also agreed that if we the above-named [people] of Constance should, collectively as a city or through any of ours and those answerable to us, at any point in the duration of this alliance, enter into any dispute or attain any claim with or against the above-named lordship of Austria itself or any of its vassals/servants, be they counts, lords, knights, or retainers... for such an eventuality we have elected [named arbitrators] for us and our people.<sup>37</sup>

Not all formulae in alliance treaties were so expansive, but most that survive from the c. 1350-1500 period employed a small cluster of broad concepts which acted as blanket terms for any kind of litigation, dispute, complaint, or claim. One common formula used in this period (with many minor variations) was: ‘Wanne hat ieman under uns... mit dem andern iht zu schaffen oder sie ane zu sprechen, in welchen weg das were...’ (‘If anyone among us should have anything to work out with or claim against another, in whatever way/form that might be...’).<sup>38</sup> Other comparable phrases include ‘mitainander stossig wurden’ (‘should enter into a state of dispute with one another’),<sup>39</sup> and ‘spruch und vordrung gewinnen’ (‘should obtain a demand and claim’).<sup>40</sup> What these broad and generic phrases show is that formal associations aspired to shape a sphere of political activity – justice and litigation – which was of vital importance to the entire political elite. Alliance and league treaties evidently aimed to regulate all the means by which political actors negotiated their constant disputes with one another.

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<sup>37</sup> ‘Das nu dise buntnúzz und verainung enzwischen unser baider sit deß baß in gûtem willen bestan mug, so haben wir uns des och mit ainander geaint, also wer ez, daz wir vorgeant von Costenz von gemainer unser stat oder dehainer der unser, der uns ze versprechen stat, besunder nu hinnenthin die wil, und dise verainung weret, icht sto’s ald zûsprûch hetten oder gewonnen zû der vorgeant unser herrschafft von O<sup>o</sup>sterreich selber oder zû iren dienern, es weren grauffen herren ritter oder knecht... darumb haben wir ietzo fûr uns und die unsern ze gemainen lûten genomen und erwellt [names]’. *USGÖA*, II, 420.

<sup>38</sup> *UAODSB*, III, 67; cf. variations in *UBR*, p. 255; *GLA* 46/192.

<sup>39</sup> *GLA* 5/6917.

<sup>40</sup> *TLA Sigm./13.519*; cf. *DPIP*, p. 282.

The ways in which alliance and league treaties sought to achieve this goal varied, but they were always rooted in existing customary practices and institutions which were widely viewed as legitimate. The most common method of resolving the myriad forms of conflict regulated by treaty stipulations was ad hoc mediation, which was a universal and extremely frequent (para-)judicial format.<sup>41</sup> The arbitration was usually supposed to be provided by members of the association, either in person or via their councillors and other respected followers and employees. This procedure was built into all the alliances and leagues, knightly societies, and *Landfrieden* of the fourteenth and early fifteenth centuries. In many treaties the pattern was virtually the same: members of the association would furnish mediators, who were usually drawn from participants in numbers roughly proportionate to their power and prestige, and these men would form a committee or council (usually designated by the *frühneuhochdeutsch* word *Gemein*) which would meet as a court of sorts (*Tag* or *Gericht*) whenever disputes arose in order to provide arbitration.<sup>42</sup> For example, a 1366 *Landfriede* in Alsace called for the appointment of ‘thirteen reputable men’,<sup>43</sup> selected from the various participants: two each from the bishops of Basel and Strasbourg, the administration of the dukes of Austria in the Sundgau, the *Vogt* of Riquewihr, the city of Strasbourg, and the Imperial Cities of the 1354 league (‘*Décapole*’),<sup>44</sup> together with one from the city of Basel. They were ‘to come together in Colmar’ in order to ‘adjudicate the complaints/lawsuits brought before them because of the *Landfriede*’.<sup>45</sup> Similarly, the 1379 renewal of the league of Imperial Cities in Alsace stated that nine ‘*gemein lute*’ (i.e. arbitrators) should ‘unanimously provide

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<sup>41</sup> See ch. 2, *passim*.

<sup>42</sup> On the judicial meaning of *Gemein* as a neutral arbitrational committee, see ‘*Gemein*’, in *Deutsches Rechtswörterbuch. Wörterbuch der älteren deutschen Rechtssprache* (13 vols, Weimar, 1914-2014), IV, 118-20, under definition XXII.

<sup>43</sup> ‘dritzehen ahtbere manne’. *RUB*, II, 27.

<sup>44</sup> See ch. 6, p. 158.

<sup>45</sup> ‘gegen Colmar zû einander kommen’ ‘ußrihten die clage, die vor in geschehnt von des lantfriden wegen’. *RUB*, II, 27.

judgements and speak justice concerning all matters brought before them because of this league'.<sup>46</sup> Colmar and Haguenu each provided two of the nine arbitrators, and the remaining five represented the six other cities. Comparable stipulations for the selection of respectable arbitrators from all sides, who should meet at *Tage* in defined locations, can be found in the treaties drawn up by the various Swiss Confederates in 1351-3, 1408, 1421, 1423, and 1450.<sup>47</sup> Members of the knightly societies of the late fourteenth century and the Society of St George's Shield throughout the fifteenth century also relied on mediation from within their associations, though in these formations it was conducted by the captains or men selected by them, sometimes organised into 'chapters' ('cappitel'), at appointed *Tage*.<sup>48</sup>

These provisions for 'internal' arbitration worked according to the same principles in bilateral alliances, but had to be adapted in order to function in a context in which there were no third parties within the association to act as mediators. Sometimes figures outside the alliance were named,<sup>49</sup> but it was more common for both sides to provide a certain number of men – usually 'councillors' or 'counsellors' (*Räte*) from within their respective administrations – to form a panel of arbitrators. This was the case in the bilateral Confederate alliances – between Bern and Lucerne in 1421 and Bern and Zurich in 1423 – noted above.<sup>50</sup> Another example is the 1412 alliance between Duke Friedrich IV of Austria-Tyrol and Basel, in which provisions were made along these lines in the event of any kind of dispute between Austrian subjects and affiliates and the citizens and subjects of Basel. A 'gemeyner manne' (a kind of head arbitrator), selected from Basel's municipal council by the party initiating the dispute, was to appoint 'one or two

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<sup>46</sup> 'umbe alle sache die fur sie braht werden von disz bundes wegen, glich urtel und reht zu sprechen'. *CDM*, I, 308.

<sup>47</sup> *AEA*, I, 261, 276, 287, 338-9; *ibid.*, II, 720-21, 725, 861-2.

<sup>48</sup> Beilagen 11-12 in Ruser, 'Gesellschaften', pp. 54-5, 59-60; *UBASG*, IV, 827; Obenaus, *St. Jörgenschild*, pp. 94-5.

<sup>49</sup> E.g. *RUB*, IV, 198.

<sup>50</sup> *AEA*, II, 720-21, 725.

arbitrators' from within both allied governments, and the three to five men would form a court-like committee which would resolve the matter.<sup>51</sup> Similarly, in the 1477 alliance between Margrave Christoph of Baden and Count Eberhard V of Württemberg-Urach, disputes between the two rulers or any of their affiliates or subjects were to be arbitrated at a para-judicial *Tag*, presided over by 'arbitrational counsellors' ('schidlichen rete') drawn from both princely administrations, to be held within one month at Pforzheim (if the complaint was against Christoph's side) or at Tübingen (if it was against Eberhard's side).<sup>52</sup> This treaty stipulated a fall-back solution if no satisfactory outcome could be achieved at this *Tag*: another arbitrational meeting within a further month, this time to be conducted by a trusted third party, namely Bishop Matthias of Speyer.<sup>53</sup>

Because their procedures could be more tightly defined than in multilateral alliances and leagues, the adjudicatory methods set down in bilateral alliance treaties often discussed in some detail the judicial pathways to be followed by disputants. Thus, an arbitrational committee set up according to the terms of the 1412 treaty between Basel and the lordship of Austria was to consider 'both sides' claims, arguments, counter-arguments, letters, [and] evidence', and establish whether they 'could attain a friendly solution'; if not, the committee was 'to pass a judgement... unanimously or by majority voting'.<sup>54</sup> In other words, the committee was either to find a compromise (*Minne*) or to issue a judicial verdict (*Recht*), and in order to reach either outcome it had to function in the same way as any arbitrational panel or court. This vocabulary was taken straight from the arbitration and mediation that took place more generally in the Holy Roman Empire,

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<sup>51</sup> 'einen oder zwene schideman'. *UBB*, VI, 75.

<sup>52</sup> GLA 36/2377-8.

<sup>53</sup> *Ibid.*

<sup>54</sup> 'beyderteil zûsprûch rede widerrede brieffe kuntschafft' 'früntlich úbertragen mo<sup>e</sup>gent' 'ein recht darúber sprechen... von dem gemeinen manne und den schidlúten oder dem merenteil under inen'. *UBB*, VI, 75.

in improvised and institutionalised settings alike, as we saw in chapter 2.<sup>55</sup> These conventions were still in use in alliance treaties in the latter half of the fifteenth century. In the 1477 alliance of Margrave Christoph and Count Eberhard, the five arbitrators who were supposed to preside over any *Tage* called at Pforzheim or Tübingen were to ‘hear claims, replies, counter-arguments, responses to counter-arguments, and whatever else it seems necessary for either side [to raise] in the litigation’, and, through a unanimous or majority decision, to reach an outcome ‘amicably’ or ‘according to justice’.<sup>56</sup> Articles of this sort, using similar wording, can be found in countless late fourteenth- and fifteenth-century bilateral treaties.<sup>57</sup> Clearly, the forms of judicial negotiation employed widely by Upper German political elites were also imported directly into their formal associations. This is hardly surprising, since these associations did not seek to bring new practices into being, but rather to regulate pre-existing ones through binding contracts, in the absence of an overarching authority capable of doing this on behalf of the multitude of local and regional powers.

While most alliances and leagues employed the judicial and arbitrational methods common to political life in the Empire in order to create their own ad hoc mediatory institutions, others, especially from the second half of the fifteenth century onwards, also sought to navigate pre-existing courts and jurisdictions, and sometimes referred their members to these in the event of disputes. This might take the form of an additional adjudicatory layer in a treaty, alongside conventional arbitration. For example, in 1440 a *Landfriede* encompassing numerous princes, prelates, nobles, and towns in and around Swabia, the Black Forest, and Lake Constance was proposed (but ultimately never

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<sup>55</sup> Compare the quotations in this paragraph with those in ch. 2, pp. 62-3.

<sup>56</sup> ‘verhören ansprach antwurt widerrede nachrede und was yede tail Im rechten notturfftig sin vermaint’ ‘In der gutlichait’ ‘zurecht’. GLA 36/2377-8.

<sup>57</sup> See e.g. some alliances of the bishops of Strasbourg: ADBR G134/2 (1392), G140/1 (1444), G142/5-6 (1465), G143/5 (1468), G153/6 (1490).

realised). The primary means of resolving conflict within the association was to be through chosen counsellors acting as arbitrators. However, complex litigation between the subjects of participating powers was assigned to ‘those courts to which they belong, or in the jurisdiction in which they are based’.<sup>58</sup> Similarly, the 1469 alliance treaty between Margrave Karl of Baden and the Society of St George’s Shield in the Hegau stipulated three judicial channels that members, subjects, and affiliates of both parties could pursue, depending on their status and the nature of their dispute. The first two options were the standard selection of arbitrators from among the administrators of the participating powers and mediation via an external third party. The third option pertained to ‘people who are subject to [the jurisdictional authority of] courts’, as well as to disputes over fiefs and inheritances.<sup>59</sup> These cases were to be judged in the most appropriate customary or feudal court. A comparably tiered system featured in the 1488 foundational treaty of the Swabian League. While most disputes were referred to the League’s mediatory court,<sup>60</sup> it was envisaged that some would fall outside of its competence: ‘Should conflicts arise over criminal matters, inheritance, personal property, or fiefs, they should be resolved in the authorities in which they occur and to which they pertain’.<sup>61</sup>

Such stipulations suggest that some attention had to be paid in association treaties to more static and consolidated institutions and jurisdictions in the latter half of the period with which we are concerned. Increasingly, there were established spheres of influence, mostly affecting weaker and lower-status actors like the subjects and retainers of association members, which could not be circumvented by the ad hoc judicial apparatus brought into being by alliances and leagues. This change was gradual, and its significance

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<sup>58</sup> ‘den gerichten, darinne sie geho<sup>o</sup>ren und gesessen sind’. *RTA*, XV.1, 382.

<sup>59</sup> ‘personen, die In gerichten gesessen w<sup>o</sup>ren’. *GLA* 46/767.

<sup>60</sup> See ch. 6, p. 167.

<sup>61</sup> ‘Wann aber Spa<sup>e</sup>nn wurden umb fra<sup>e</sup>fel Erbfa<sup>e</sup>ll aigen oder lehen so soll die berechtigt werden an den enden da sie beschehen ligen oder dahin sie geho<sup>o</sup>ren’. *DPIP*, pp. 294-5

should not be exaggerated. All treaties which allowed for the use of existing courts also mandated pathways of internal or third-party arbitration. Furthermore, some very late treaties continued to offer only improvised methods of mediation to their members. The 1493 renewal of the ‘Lower Union’ of four Alsatian towns and the bishops of Basel and Strasbourg, plus King Maximilian in his capacity as archduke of Austria, was one such treaty. As in the fourteenth-century *Landfrieden* and leagues, disputes were to be solved through the selection of a ‘gemeynen’ committee, staffed by arbitrators furnished by members of the association; and as in the other alliances we have seen, this committee would act as a court, hearing the evidence and reaching a compromise or judgement.<sup>62</sup> It is also worth remembering that the more institutionalised customary, feudal, and urban courts to which some conflicts were being referred in the late fifteenth century were not so different from ad hoc arbitrational meetings.<sup>63</sup> For most members of the political elite, these were effectively ‘civil’ resorts, with little binding authority or capacity to enforce their judgements. Whatever their precise judicial stipulations, the goal of all formal associations remained the regulation of the polycentric, loosely organised, and highly negotiated methods of adjudication which characterised political life in the south-western Holy Roman Empire.

As with military assistance, there are sources which demonstrate that the adjudicatory stipulations of alliance and league treaties functioned in practice. Evidence attesting to arbitration between two members within the framework of a formal association survives in abundance from the larger and more durable leagues. Because they lasted a long time, and led to the creation of consolidated archives, many of the records produced within them have been preserved. The Generallandesarchiv Karlsruhe alone houses numerous cases from within the Society of St George’s Shield. In 1438, for

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<sup>62</sup> AMS AA54.

<sup>63</sup> See ch. 2, p. 63.

example, arbitrators in the ‘*ritterschaft*’ of St George’s Shield resolved the high-profile inheritance dispute between Counts Eberhard and Heinrich of Lupfen, two members of the Society.<sup>64</sup> By the 1460s, multiple simultaneous arbitrations can be identified within the corpus of documents bound together in the archives of the divisions of the Society in the Hegau and Upper Swabia, many of which were overseen by the same well-connected captain, Count Georg of Werdenberg-Heiligenberg.<sup>65</sup> Similarly, from the 1490s onwards the Swabian League oversaw a great deal of judicial activity until its effective dissolution four decades later. Horst Carl’s reconstruction of the League’s functions has uncovered a wealth of evidence of arbitration within this sprawling association, for matters ranging from the theft of horses to the ownership of the entire north-eastern Swabian town of Wemding.<sup>66</sup> Still more numerous are the sources that survive from judicial processes among the Swiss Confederates, who offered one another mutual mediation in a range of issues at appointed *Tage* throughout the fourteenth and fifteenth centuries, and indeed beyond, as established in the nexus of treaties which bound them to one another.<sup>67</sup>

For shorter-term alliances, the evidence of ‘internal’ arbitration in practice is patchier. Whereas the invocation of terms of mutual assistance can be traced in surviving *Mahnungsbriefe* and joint military plans, the records and outcomes of judicial proceedings pursued according to the stipulations of alliance treaties lack features which make them easily distinguishable from mediation and arbitration in general. Sometimes it is possible to infer from the context that a given *Tag* was held to resolve a dispute between allies in the manner specified in a treaty they had recently signed. For instance, in May 1479 the margrave of Baden and the count of Württemberg-Urach had their

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<sup>64</sup> GLA 9/890-1; see H. Oka, ‘Die Erbschaftsteilung der Grafen von Lupfen im Jahre 1438’, *ZGO*, 144 (1996), 215-40.

<sup>65</sup> GLA 123/98-8a, 237-8a.

<sup>66</sup> Carl, *Schwäbischer Bund*, chs 4, 7 (range of cases at p. 405).

<sup>67</sup> E.g., among many other examples, *AEA*, I, 90-1, 128; *ibid.*, II, 112, 289; *ibid.*, III.1, 167-8, 516.

dispute over capital jurisdiction in the village of Malsch arbitrated by the bishop of Speyer.<sup>68</sup> Given that, as we just saw,<sup>69</sup> the five-year alliance they signed in 1477 determined that the two princes were to turn to this prelate as a third-party mediator if no other solution to their litigation could be found, their submission of their case to him in 1479 must constitute the fulfilment of this stipulation. In addition to these fairly clear-cut cases, there are many instances of mediation involving several parties from one association and an ‘external’ litigant. These did not conform strictly to the terms of alliances and leagues since, as we have seen, their treaties were primarily aimed at resolving internal disputes. At the same time, it is difficult to escape the conclusion that associative ties played a role in shaping the composition of arbitrational panels in these situations. In 1417, for example, a conflict between Sélestat and the abbess of Andlau over jurisdictions in the town of Kintzheim was resolved before a committee of six mediators. These men were sent collectively by the towns of Colmar, Haguenau, Mulhouse, Munster, Obernai, Rosheim, Turckheim, Kaysersberg, Wissembourg, and Seltz – that is, ten members of the league of Imperial Cities in Alsace as it stood in 1417.<sup>70</sup> Given that the only other member was Sélestat itself, the association that united these cities cannot have been incidental to the selection of mediators from among their municipal councils, even if arbitration in disputes with outsiders was not explicitly foreseen in their treaties. That contemporaries recognised the potential of such ties is illustrated by a 1466 dispute between Lord Heinrich of Klingenberg and a parish priest and subject of Zurich called Hans Nadler. Zurich’s government mooted the possibility that the affair might be arbitrated by members of the Society of St George’s Shield in the

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<sup>68</sup> GLA 36/2380.

<sup>69</sup> See pp. 189-90 above.

<sup>70</sup> AMS BB26.

Hegau in a letter to its captain, Hans Jakob von Bodman, on the basis that ‘the above-mentioned [lords] of Klingenberg are in an alliance with you’.<sup>71</sup>

It was relatively rare for the notion that associative ties facilitated the resolution of disputes to be articulated in writing in this way, but there are plenty of surviving sources that allow us to link a particular instance of litigation to a particular alliance. Such sources provide some insight into the relationship between the adjudicatory functions of formal associations and the wider political landscape which gave rise to them. The signatories of league and alliance treaties were not consciously seeking to create an alternative set of institutions or jurisdictions in an attempt to construct an egalitarian, horizontal alternative to the prevailing ‘monarchical-aristocratic’ forces in the Holy Roman Empire. Insofar as they brought ‘internal’ systems geared towards the needs of their members into being, the arbitrational stipulations of alliances and leagues drew on a widely used set of vocabularies and customs in order to emphasise their own conventionality and legitimacy. In other words, these stipulations aspired to bring a degree of order and regulation to the judicial and negotiatory activities of networks of interconnected political elites. The first layer of regulation was generally inward-facing, in that its procedures relied solely on judicial personnel from within the association; the evidence from the larger leagues, at least, shows that such systems could be effective and popular. However, it is clear that no alliance or league treaty intended adjudication to be an entirely self-contained process, especially by the mid-fifteenth century, when articles concerning third parties and pre-existing courts were increasingly included as second or third regulatory layers. Perhaps most importantly of all, as the examples of the Alsatian Imperial Cities in 1417 and the Society of St George’s Shield in 1466 show, ties of alliance not only influenced the dynamics of relations between members of a given association, but also spilled back into

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<sup>71</sup> ‘die gemelten von Clingenberg mit uch In vereynung sind’. GLA 123/238, letter no. 6.

the wider nexus of conflictual and co-operative relationships which constituted political life in the south-western Empire.

### **Conclusion: alliances and leagues as products of and regulatory frameworks for Upper German political culture**

The ways in which alliances and leagues dealt with the two spheres of activity with which they were primarily concerned – the military and the judicial – yield important insights into the place of formal associations within the political landscape as a whole. As we saw in Part I, political life in the south-western regions of the Holy Roman Empire (as indeed in many other parts of Europe) consisted in large part of constant processes of litigation and para-judicial negotiation over assets, rights, revenues, and jurisdictions. In the shared political culture of the Upper German lands, litigation and negotiation were mediated through endless cycles of feuding and arbitration within networks of variegated political elites. In addressing feuding and arbitration, formal associations aspired to shape the practices which were at the very heart of politics in the Empire. From this perspective, the concern, voiced by Moraw and others, about the lack of ‘institutionalisation’ exhibited by associations in the Empire, misses the point.<sup>72</sup> Although they could give rise to semi-permanent institutions, as in the cases of the Alsatian Imperial Cities, the Swabian League, and the Swiss Confederation, associations were primarily frameworks, not institutions (in the sense of fixed administrative apparatuses). Any given political actor might be a member of several associations at once, and most were of a short duration.<sup>73</sup> As we have seen, alliances and leagues were often successful, provided it is recognised that their goal was to channel, harness, and reinforce the surrounding dynamics and ways

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<sup>72</sup> Moraw, ‘Funktion’, pp. 6-7.

<sup>73</sup> See ch. 6, p. 140 and *passim*.

of doing things, rather than to create ‘alternative’ modes of politics, self-contained entities endowed with their own *Verfassungen*, or free and egalitarian Germanic communities.<sup>74</sup>

Alliances and leagues, then, were not only very numerous and widespread, as we saw in chapter 6, but they also regulated matters of fundamental importance. Day-to-day political activities stimulated the use of shared relational formats like alliances and leagues, and so formal associations became and remained central to many aspects of government and the exercise of power. Just as alliances and leagues cannot be understood outside of the broader context of the ideas, conventions, structures, and practices examined in Part I, so political culture in the Empire cannot be understood if associations are not included in the picture; it was truly an ‘associative’ political culture. Furthermore, associations defined this political culture in other ways, which go beyond even the functions discussed in this chapter. Alliances and leagues, and their myriad variations, were closely related to certain shared discourses and ideologies. A broad interpretation of what constituted an association also reveals yet more spheres of activity in which mutually dependent political actors relied on contractual relationships and regulations. It is to these aspects of associative political culture that we must now turn in the final two chapters of Part II.

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<sup>74</sup> See ch. 5 for these interpretations of associations in the existing historiography.

## 8. Associations and the discourses of peace, common weal, and Empire

So far we have seen that formal associations emanated from widespread conventions and activities, and that their function was to stipulate and regulate pathways of assistance and adjudication. One final important feature of these associations remains to be considered: their ideological and discursive content. Virtually all the treaties which resulted from the creation or renewal of leagues, alliances, *Landfrieden*, knightly societies, and other comparable formations in the course of the fourteenth and fifteenth centuries contained prefaces of some sort. These linked the associations in question to moral and political concepts like peace (*Friede*), necessity (*Notdurft*), the common good (*gemeiner Nutz*), the land or region (*Land*), the Empire (*[heiliges römisches] Reich*), and the German nation (*deutsche Nation*). The fact that the writers of association treaties chose to employ this type of vocabulary is significant. It shows that alliances and leagues were not perceived purely as pragmatic tools. They also involved appeals to peace, necessity, and the common good, alongside invocations of the Holy Roman Empire and the German lands and peoples. These were discursive strategies which signalled that the nature and aims of a given undertaking belonged to the highest and most public layer of political activity in the Romano-German polity. This suggests that associations helped to define the political culture of the south-western Empire in every sense of the word ‘culture’: not only did they shape relationships and modes of interaction, but they also tapped into the most powerful political ideas and discourses of their time. Any attempt to understand the place of associative activity in the late medieval and early modern Empire needs to take this ideological dimension into account.

The presence of this politicised language in associative contexts has received relatively little attention in existing work on alliances and leagues in the Empire.<sup>1</sup> Indeed, there is not much scholarship on political discourse in the late medieval Holy Roman Empire. This is surprising, in that German historiography has a long tradition of *Begriffsgeschichte*, and scholars working within this tradition – Otto Brunner foremost among them – have addressed, on a general level, concepts that appear frequently in medieval and early modern sources, like peace, justice, and the common good.<sup>2</sup> Some of these studies predate the ‘linguistic turn’ by several decades. Yet the existing work on political concepts in German-speaking Europe rarely pursues the socially contingent meanings they might have had in varying literary and documentary forms and to different groups. *Begriffsgeschichte*, particularly in the work of Brunner, has rightly been concerned with the wording of sources in its attempt to reconstruct past mentalities, but it has a tendency to impute universal and timeless qualities to these terms. The only monograph-length study of the concept of *utilitas publica/gemeiner Nutz*, for example, traces this ‘theoretical construct’, in all its lexical and semantic variations, from Antiquity up to the early modern state, mostly within the traditional canon of medieval political thinkers.<sup>3</sup> This is a worthwhile exercise in itself, but for the fourteenth and fifteenth centuries the specific social uses of this concept in more prosaic and performative texts

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<sup>1</sup> The invocation of the common good (‘gemeiner Nutz[en]’) is mentioned in passing in Obenaus, *St. Jörgenschild*, p. 90; Moraw, ‘Funktion’, p. 11. Distler briefly discusses the concept of peace in treaties, linking it to Augustinian and medieval values – Distler, *Städtebünde*, pp. 175-7; cf. O.G. Oexle, ‘Friede durch Verschwörung’, in J. Fried (ed.), *Träger und Instrumentarien des Friedens im Hohen und Späten Mittelalter* (Sigmaringen, 1996), pp. 115-50. Similarly, Carl mentions the priorities of peace and justice, of which ‘gemeiner Nutzen’ was in his view a mere reformulation in the context of the Swabian League – Carl, *Schwäbischer Bund*, pp. 365-7.

<sup>2</sup> See e.g. A. Diehl, ‘Gemeiner Nutzen im Mittelalter. Nach süddeutschen Quellen’, *ZWL*, 1 (1937), 265-95; O. Brunner, *Adeliges Landleben und europäischer Geist* (Salzburg, 1949), pp. 249-51; Brunner, *Land und Herrschaft*; P. Hibst, *Utilitas publica, gemeiner Nutz, Gemeinwohl: Untersuchungen zur Idee eines politischen Leitbegriffes von der Antike bis zum späten Mittelalter* (Frankfurt, 1991); P. Blickle, ‘Kommunalismus – Begriffsbildung in heuristischer Absicht’, in P. Blickle (ed.), *Landgemeinde und Stadtgemeinde in Mitteleuropa: ein struktureller Vergleich* (Munich, 1991), pp. 15-16.

<sup>3</sup> Hibst, *Utilitas publica* – ‘theoretisches Konstrukt’ on p. 122. See also Kaminsky, ‘bonum commune’, for the same tendency.

(treaties, legislation, polemical tracts, and so on) are still largely uncharted.<sup>4</sup> This is also true of the other terms mentioned above, with the exception of that of the ‘German nation’.<sup>5</sup> Scholarship of other regions of Europe has shown that our understanding of a given polity and society can greatly be enhanced by paying close attention to patterns in political discourse.<sup>6</sup> The task that remains is therefore twofold. It is necessary not only to examine the hitherto-neglected ideological preambles in association treaties, but also briefly to consider the other sources in which similar discourses were deployed and their contexts. This will in turn shed light on the significance that at least some fourteenth- and fifteenth-century actors imputed to associations, providing new insight into their role in the political culture and order of the Holy Roman Empire.

The concepts noted so far were the central components of the political discourse exhibited by association treaties, so they require close attention. However, it should be noted that these concepts were rarely used individually, or in a way which emphasised one of them in particular, in any single association treaty. Rather, the authors of these treaties seem to have developed and then redeployed and refashioned formulae in which clusters of concepts were used. For example, in 1362 an alliance was formed by the abbot of Murbach, the bishops of Strasbourg and Basel, the Austrian administrators in Alsace

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<sup>4</sup> An important exception is J. Rogge, *Für den gemeinen Nutzen: politisches Handeln und Politikverständnis von Rat und Bürgerschaft in Augsburg im Spätmittelalter* (Tübingen, 1996). On the polyvalence and instrumentalisation of the term in early modern Germany, see J. Nowosadtko, ‘Die policierte Fauna in Theorie und Praxis’, in K. Härter (ed.), *Policey und frühneuzeitliche Gesellschaft* (Frankfurt, 2000), p. 324; L. Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford, 1989), pp. 73, 163.

<sup>5</sup> This term has received extensive attention in recent decades, after a post-war phase in which its study was taboo. See especially J. Ehlers, ‘Die deutsche Nation des Mittelalters als Gegenstand der Forschung’, in J. Ehlers (ed.), *Ansätze und Diskontinuität deutscher Nationsbildung im Mittelalter* (Sigmaringen, 1989); C. Sieber-Lehmann, *Spätmittelalterlicher Nationalismus. Die Burgunderkriege am Oberrhein und in der Eidgenossenschaft* (Göttingen, 1995); C. Hirschi, *Wettkampf der Nationen: Konstruktionen einer deutschen Ehrgemeinschaft an der Wende vom Mittelalter zur Neuzeit* (Göttingen, 2005). On the theme of late medieval German identity more generally, and its myriad expressions, see Scales, *Identity*.

<sup>6</sup> For example, this approach has provided important new insights into political life in later medieval England. See J.L. Watts, ‘Ideas, Principles and Politics’, in A.J. Pollard (ed.), *The Wars of the Roses* (Basingstoke, 1995), pp. 110-33; J. Watts, ‘The Pressure of the Public on Later Medieval Politics’, in Clark and Carpenter, *Political Culture*, pp. 159-80; J. Watts, ‘Public or Plebs: The Changing Meaning of “the Commons”, 1381-1549’, in H. Pryce and J. Watts (eds), *Power and Identity in the Middle Ages* (Oxford, 2007), pp. 242-60.

and Swabia, several counts, the Imperial *Unterlandvogt* in Alsace, and the Free and Imperial Cities on the left bank of the Rhine plus Freiburg. The immediate cause of the union was the threat of pillage by marauding bands of soldiers from the west – or, as the authors of the treaty put it, ‘the gathering of people and hosts in the kingdom and land of France who are called in common parlance the “Engellender”’.<sup>7</sup> Before getting to this specific issue, the treaty’s preamble evoked a series of much more general concerns and notions. It claimed that the allies had come together ‘collectively and unanimously because of the wellbeing and necessity of the lands, zones, and areas, with their districts, named hereafter, and additionally that of all people, rich and poor, residing within them, and especially our own people and all those who belong to us’.<sup>8</sup> A century later, in April 1468, an abortive alliance was drawn up between the bishops of Basel and Constance, the duke of Austria-Tyrol, the cities of Basel, Solothurn, and Fribourg, and Bern, Zurich, Lucerne, and the other Swiss Confederates. This was probably an attempt to bring together these various powers in the wake of recent tensions (which ultimately failed as the ‘Waldshut War’ broke out a few weeks later).<sup>9</sup> Those who drew it up chose to justify it in the following terms:

that henceforth, for the sake of the honour of God and also the common good and necessity and for our own wellbeing, we have deemed with timely resolve that peace, reconciliation, and unanimity would deliver benefit and mutual affection to us and also to the lands and peoples collectively, and to nomadic and settled, domestic and foreign, spiritual and temporal people alike, and that dissensions and damage would thereby be eliminated, whereby the roads of the Holy Empire would hereafter be set free[.]<sup>10</sup>

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<sup>7</sup> *CDM*, I, 261.

<sup>8</sup> ‘durch nutz unde notdürfft willen der lande, der gebiete und der gegenen die begriffenlich und nemeleich mit zilen unterscheiden hie nach an disem briefe geschriben stant, darze aller lüt, rych und arm, die dar inne gesezzen sint, und besunder unser selbes und aller der die ze uns geho<sup>e</sup>rent, miteinander gemeinlich und einhelllich’. *Ibid.*, I, 261.

<sup>9</sup> See ch. 12, p. 302.

<sup>10</sup> ‘das vorab umb gotes ere, ouch gemeynes und unsers nutzes und notturfft willen mit zytlichem fursatz bedacht haben, das frid sün und einhellikeit uns, ouch gemeynen lannden und luten, den werbenden und anndlenden, inlenndigen und usslendigen personen, geistlichen und weltlichen nutz und lieb bringen und

The linguistic and ideological similarities between these two treaties are striking considering the chronological gap between them and the very different circumstances in which they were written. Furthermore, while not all preambles were as elaborate as that in the 1468 draft, comparable politicised and moralising discourses are to be found in the prefaces to almost all association treaties which survive from the period between 1350 and 1500. Not all mentioned God, peace, affection and co-operation, nearby lands and peoples, the common good, necessity, or the Empire and its local manifestations; however, a great many justificatory formulae invoked at least two or three of these notions.

It is this clustering together of key items of politicised vocabulary which is significant for making sense of the place of alliances, leagues, *Landfrieden*, and knightly societies in the Empire's political culture. Individually, words like 'peace', 'common weal', and 'Empire' were commonplaces that might be encountered in any number of contexts in the fourteenth and fifteenth centuries. It was much rarer for later medieval actors to interweave them within a single manifesto-like statement of purpose. Indeed, there was only one other context in which these concepts were deployed simultaneously in German-speaking Europe: in the official documentation which surrounded and proceeded from the monarchy, the Imperial Diets (*Tage*), and other institutions and events which claimed an Empire-wide relevance for themselves. In exploring the wider patterns of political discourse in the Holy Roman Empire, we will see multiple examples of clusters of these concepts in Imperial summonses, proclamations, consultations, legislation, and *Abschiede* (the records and outcomes of the collective *Tage*). The fact that the authors of association treaties drew on the same discourses is extremely important. It indicates that alliances and leagues belonged to the highest and broadest – that is, the

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irring und schad dadurch furschen und des heiligen richs strass deserbass an den enden gefryet werden mag'. *UBB*, VIII, 251-2.

most ‘public’ – layer of political life in the Holy Roman Empire. Whether this status was universally recognised and agreed is less clear; occasional attempts by monarchs like Charles IV and Sigismund to abolish or restrict league-making activity suggest that at times it was not.<sup>11</sup> However, at the very least it can be said that those who wrote association treaties wanted them to be perceived as highly public and political enterprises. It is no accident that, in their quest to define Imperial *Staatsrecht* (‘state law’), seventeenth- and eighteenth-century jurists like Johannes Philipp Datt, Johann Christian Lünig, and Johann Joachim Müller felt compelled to include the documentation of many leagues and alliances in their compilations.<sup>12</sup> Association treaties advertise themselves as pertaining to the public life of the Holy Roman Empire in a manner matched only by sources stemming from the ‘central’ interactions of the monarchs, electors, and estates at the Diets and in times of crisis like the Hussite Wars and the Turkish incursions.

In the rest of this chapter, the key components of this shared Imperial and associative discourse – peace, the common weal, and the Empire – will be considered in more detail. In order to understand precisely why they were selected, and what resonances they had, it is important to focus on each of these broad concepts, and the nexus of related terms and ideas which they evoked, in turn. Because of the way in which these concepts were clustered together, it is of course somewhat artificial to analyse their use separately. Nonetheless, each had specific emphases, so it is worth examining them one at a time, while remaining aware that they garnered their political connotations from their inclusion within formulae which connected them to one another.

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<sup>11</sup> See e.g. Sigismund’s letter to the Alsatian Imperial Cities demanding that they desist from entering into further alliances without his permission: *CDM*, I, 494-5.

<sup>12</sup> See *DPIP*; *RTT*; J.C. Lünig (ed.), *Das Teutsche Reichs-Archiv* (14 vols, Leipzig, 1710-22).

## Peace

‘Peace’ (*Friede*) was one of the most commonly invoked notions in all varieties of associative contexts. A sizeable multilateral alliance, like the one entered into by the Austrian *Landvögte*, Freiburg, Basel, and Strasbourg in 1351, might be said to exist ‘for the peace and wellbeing of their [the Austrian lordship’s] people and lands... and also on behalf of the peace and wellbeing of us [the three cities], our people, citizens, and assets, and of the land/region collectively’.<sup>13</sup> Equally, smaller and seemingly more amicable bilateral alliance treaties appealed to this idea, as in the case of the 1458 contract between Duke Sigmund of Austria-Tyrol and Count Ulrich V of Württemberg-Stuttgart. The document asserts that the alliance was not only created because of ‘birth-given family ties, affection, and friendship’, but also ‘for the sake of peace, wellbeing, and comfort, and of [our] lands and peoples’.<sup>14</sup> Even the shortest of preambles in the smallest of alliances, like that of the 1410 treaty of the counts of Fürstenberg and Sulz, referenced the idea of peace (in this case, ‘for the sake of good peace and protection’).<sup>15</sup> As these three examples illustrate, ‘peace’ was often linked to other ideas (not least ‘wellbeing’), functioning as the head of a list of discursively clustered virtues and goals. At other times it was closely related to the notion of divine sanction, giving the impression that a given association was a pious undertaking. In a 1391 renewal of the ‘league of towns around the lake’,<sup>16</sup> it was asserted that, since King Wenceslas had approved past re-creations of the league, ‘so we have by divine right extended the same league, unanimously and with good intentions, and for the sake of our and the land’s/region’s collective peace’.<sup>17</sup> The authors of a 1455 treaty between Rottweil and Duke Albrecht VI of Austria declared that

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<sup>13</sup> ‘dur friden und nutz ir lüten und landes... ouch dur friden und nutzes willen, unser, unser lüten, burgern und guotes und des landes gemeinlich’. *UBF*, I, 397-8.

<sup>14</sup> ‘von angeborene Sipp lieb und frundtschafft’ ‘umb frides nuotz und gemachs willen umb Lannd und Lewt’. TLA Sigm./13.519.

<sup>15</sup> ‘durch gu<sup>o</sup>tz friden un‘ schim’ng willen’. GLA 9/212.

<sup>16</sup> See ch. 6, p. 157.

<sup>17</sup> ‘darvmb so haben wir von gotlichem rechten die selben bund ainhelleklich mit guter vorbetrachtung vnd durch gemainen frid vnser vnd des lands furbazz gestrekt’. GLA 5/6917.

the alliance was ‘for the promotion of our lands and peoples and also of the common good, in order – as far as this will be granted to us through divine mildness – to create peace, comfort, and reconciliation’.<sup>18</sup>

A broad and multi-faceted concept like ‘peace’ obviously had numerous possible meanings, drawn from a large number of sources, and its many origins and connotations in the later medieval Empire cannot detain us here. Fortunately, the configurations within which it was deployed, as illustrated by the examples just cited, provide clues as to what the most powerful moral and political resonances of the term might have been to contemporaries. For instance, the writers of the latter two preambles clearly strove to relate the professed peace-making mission of their alliances to God and his approval, and to Christian virtues more generally. Christian ethics emphasise peace and mutual affection, even among enemies, and there is evidence that some later medieval clerics tried to communicate this message to lay authorities. A 1370 courtly manuscript at Heidelberg contains several transcribed sermons by the renowned Franciscan preacher Berthold of Regensburg, including one which commands listeners that ‘just as one should be at peace with God, so one should be at peace with oneself, and so one should also be at peace with one’s neighbour as if he were one oneself’.<sup>19</sup> Equally, as customary legal texts like the *Schwabenspiegel* emphasised, drawing on Romano-canonical thought and ultimately on Paul in Romans 13, temporal authority was justified as a God-given means of preserving peace on earth.<sup>20</sup> By referencing divinely-sanctioned peace, association members tacitly attributed to their leagues and alliances the same notional legitimacy and

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<sup>18</sup> ‘unsern lannden und lew<sup>e</sup>ten, auch gemeiner nutz ze furdrung, sovil uns dann des von go<sup>t</sup>licher miltkait verilhen wirdet, frid, gemach und sone ze schaffen’. *UBR*, p. 536.

<sup>19</sup> ‘als er fride haben sol mit gote, also sol er fride haben mit im selber, so sol er auch friden haben mit sinem nehsten als mit im selber’. Universitätsbibliothek Heidelberg, Cod. Pal. germ. 24, fol. 97r.

<sup>20</sup> See e.g. *MGHFI*, IV.1-2, 38-42.

purpose as those enjoyed by any lord with temporal political authority, including the princes and monarchs of the Empire.

The discourse of peace in association treaties also had a more overtly political connotation, as its linkage with concepts like the ‘common good’ and ‘our lands and peoples’ implies. There had long been a direct connection in Europe, and especially in the German-speaking lands, between the language of peace-keeping and law enforcement by the highest figures in the socio-political hierarchy. This connection can be traced back at least to the eleventh century, when the Peace and Truce of God was promulgated by prominent clerics and enforced, at least theoretically, by regional elites. In the Empire, the monarchs were quick to (re-)assume the authority to enforce the peace, and by the thirteenth century the ordinances they issued in an attempt to do so were known in the vernacular as (*Land*)*frieden*, the most influential being the 1235 *Reichslandfriede* of Mainz.<sup>21</sup> The discourse of peace remained closely related to the highest and most all-encompassing legal initiatives in the period with which we are concerned. Empire-wide legislation issued by the kings and emperors in consultation with the estates continuously invoked the benefit and necessity of peace. The Golden Bull of 1356, for instance, asserted that the more the unity that existed among the Imperial electors, ‘so much more will the benefits of abundant peace [“pacis”] and tranquillity [“tranquillitatis”] emanate happily to Christian people’.<sup>22</sup> The *Reichslandfriede* issued in 1486 by Emperor Frederick III, the newly-crowned King Maximilian, and the estates at Frankfurt began with a paean to peace: ‘As we esteem that there can be nothing in the world more praiseworthy or fruitful than peace and concord... and in order to restrain turmoil, war, and bickering in the Empire, we have... made a common, Christian peace, undertaken throughout the

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<sup>21</sup> See B. Arnold, *German Knighthood 1050-1300* (Oxford, 1985), p. 16; see also ch. 6, p. 148.

<sup>22</sup> ‘tanto uberioris pacis et tranquillitatis commoda feliciter profluunt populo Christiano’. *MGHCA*, XI, 578.

whole Empire of the German nation and to last for the next ten years'.<sup>23</sup> Clearly, when it was combined with notions like the wellbeing of 'our/the land' or 'Christian people', this particular formulation of 'peace' – (*Land*)*friede* – evoked and invoked the most prominent and legitimate forms and spheres of political activity in the Holy Roman Empire. By borrowing this formulation, members of associations claimed unmistakably to be participants in these forms and spheres.

This linkage of peace as a divinely-sanctioned political status with the stated purpose of formal associations sheds light on the complex relationship between regional peace-keeping unions and other alliances and leagues. We saw in chapter 6 that the word *Landfriede* could have two meanings. It could refer to Imperial legislation like the ordinances just cited, but it was also used by contemporaries to denote certain multilateral regional associations, usually because the king or royal office-holders were somehow involved.<sup>24</sup> We also saw that these *Landfriede*-associations were functionally very similar to leagues and alliances in general. Significantly, the discourses used in the preambles to associations labelled *Landfrieden* were also very close to those used in other alliances, leagues, and knightly societies. For example, the treaty of a 1395 Alsatian *Landfriede* contains a preface declaring that it was created 'for the sake of the common good of the land and all the people who travel, live, or reside in it, and so that the lives and possessions of all upstanding and righteous people may henceforth be safe on water and on land'.<sup>25</sup> These vocabularies, themes, and motifs differ little from those in the alliance and league treaties we have seen so far. Even the one seemingly *Landfriede*-specific

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<sup>23</sup> 'So wir betrachten, daz aller welt nicht loblichers, nicht fruchtperlichers dann fried und einmutikeit gesein mag... und darumb aufrur, krieg und gezenk im Reiche zu verhalten... haben wir... einen gemeinen, cristenlichen friden durch das ganz Reich deutscher nacion furgenomen und die nechtkomenden zehen jar lang zu weren gemacht'. *RTAMR*, I, 384-5.

<sup>24</sup> See ch. 6, pp. 146-9.

<sup>25</sup> 'umbe gemeinen nutz des landes und aller lüte, die dar inne wandelent, wonende oder seszehaft sint, und umbe das, das alle biderbe und gerehte lüte deste bas mügent sicher gesin lybes und gutes uffe waszer und uffe lande'. *UBS*, VI, 575.

feature – appeals to the safety of the inhabitants of a given region, regardless of their status – can also be found in the treaties of alliances and leagues which were not labelled *Landfrieden*, such as the examples from 1362 and 1468 quoted at the start of this chapter.<sup>26</sup> Many alliances, such as that entered into in 1425 by the Count Palatine, the bishop of Strasbourg, and the lords of Lichtenberg and Fleckenstein, explicitly offered protection to merchants and pilgrims in a manner identical to *Landfrieden*.<sup>27</sup>

Even more interestingly, the discourses shared by *Landfrieden* and associations in general were also present in Imperial legislation and the proceedings and correspondence that emerged from Imperial Diets. Not only was a politicised language of peace also deployed in these texts, but they drew on the same *topoi*. For instance, some formal associations emphasised rhetorically the increasing disorder and insecurity of the land or Empire. A 1405 *Landfriede*-association in the Wetterau justified its existence in relation to the ‘much robbery and discord’ the region had allegedly experienced.<sup>28</sup> The treaty of the 1445 alliance between the count of Württemberg-Urach, the archbishop of Mainz, and several princes bemoaned the ‘manifold undue, foreign, and severe events/misdeeds which have now arisen all over our lands’ and other ‘extreme afflictions and damages’, in view of which ‘we have allied ourselves henceforth, to the praise of almighty God, the honour of the Holy Roman Empire, of which we are members, and for the peace and wellbeing of the land collectively and of our counts, lords, knights, and retainers, and those of ours who are answerable to us and whom we must defend’.<sup>29</sup> This is the same theme that was stressed in Imperial ordinances like the 1442 ‘Reformation of Frankfurt’,

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<sup>26</sup> See above, p. 201.

<sup>27</sup> *CDN*, no. 233.

<sup>28</sup> ‘vil rauberi und unfriedes’. *RTA*, V, 631.

<sup>29</sup> ‘manigfeltige mißfellige fremde und swere leufe, die sich iczunt allenthalben umb unsere lande erhaben’ ‘sweren bedrengnissen und schaden’ ‘so haben wir vorab got dem almechtigen zu lobe, dem heiligen Romschen riche, des wir gelidder sin, zu eren, gemeinen landen, auch unsern graven herren rittern knechten und den unsern, die uns zugehorent und zu schirmen steent, zu frieden und nucze uns zusammen getan geeynet und verbunden’. *Ibid.*, XVII, 684.

which justified its peace-making initiatives by highlighting supposedly omnipresent disorder:

When we [Frederick III] now at the outset of our government, and also now after our royal coronation, authentically and from many sources have been instructed and have heard that in the Holy Roman Empire, and especially in German lands, many abuses, violent crimes, and also other unacceptable and dishonourable attacks and injuries have taken place, and continue to take place every day with stealing and murder and arson, because of which the Holy Empire, of which we have been named an augmenter, appears greatly diminished, and many of the Empire's subjects and loyal people, both spiritual and temporal, daily suffer great distress, corruption, and damage/loss, so that great complaints sadly arise throughout the lands, through which the common good is greatly led astray, wasted, and suppressed; so, because of the burden of our royal office, which we, God be praised, have taken upon ourselves for the honour of the Holy Empire and through the will of the common good, we have resolved that we wish to work with all diligence and to the best of our capabilities, with timely counsel and the help of God as well as the assistance of our and the Empire's loyal people, to obliterate such atrocious and evil occurrences.<sup>30</sup>

Comparable passages can be found in Imperial legislation from 1471, 1486, or 1495, among other examples.<sup>31</sup>

This sharing of discourses and tropes among Imperial documentation and associations seems to indicate something more than just intellectual cross-fertilization. It suggests that, in any context, the politicised vocabularies and formulae of peace indicated a commitment by ruling authorities to preserving the security and wellbeing of the lands and peoples within the Empire – a commitment which was one of the main justifications for their power and status. It follows that the ideology of *Landfriede* did not originate

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<sup>30</sup> 'wan wir nû in anbegynn unsers regiments, auch yecz nach unserr ku<sup>e</sup>niglichen kro<sup>e</sup>nung aigentlich und manigveltlich underweiset sein und veruomen haben, daz in dem heiligen Ro<sup>e</sup>mischem reiche und sunderlich in Deutschen lannden vil unrates, gewelticlicher, auch anderr unzzymlicher und unerlicher angriffe und beschedigung geschehen sint und noch teglich geschehen mit raub mordt und brannt, davon das heiligreiche, des wir ain merer genant sein, gar schedlich gemynnert und vil des reichs undertan und getrewn, geistlich und weltlich persone, gross not verderbnu<sup>e</sup>ss und scheden teglich leiden, als dann laider grozze klag druch die lannde geet, dadurch gemainer nucz grozzlichen geirret geswechet und undergedruckt wirdet, so haben wir uns von der burde wegen unsers kuniglichen amptes, die wir gote zu lob, dem heiligen reiche zu eern und durch gemeines nuczs willen auf uns genomen haben, darczû ergeben, daz wir mit allem fleizze so<sup>e</sup>lh unrat und bo<sup>e</sup>ß sachen mit zeitlichem rate und mit der hilffe gotes, auch beystand unserr und des reichs getrewn nach allem unserm vermugen zu tilgen arbaiten wellen.' Ibid., XVI, 402.

<sup>31</sup> Ibid., XXII, 870-1; *RTAMR*, I, 384-5; *ibid.*, V, 362-3.

either with the Empire's upper layer of institutions or with regional associations; it was something on which both drew. *Landfriede* itself was not so much an institution, whether monarchical, Imperial, or associative, as a mission or statement of intent: to deploy the moralising and politicised discourse of peace, whether in legislation or a league or alliance treaty, was to appeal to the very essence of what the Holy Roman Empire was supposed to be and do. The function of the Empire was to enforce the *Landfriede*, and those who claimed to fulfil this mission *were*, in a sense, the Empire (or, as they put it, 'its members'). Consultation and legislation at Diets and the making of associations in the localities were two interrelated ways of achieving the same ostensible goal within the Empire's overarching framework. This is clear from the response of a group of Franconian elites to a request from the electors in 1423 that they sign up to a new *Landfriede* in the form of a series of laws for Upper Germany. Their letter to the assembled estates at Frankfurt stated: 'You should be fully aware that we have [already] entered into an alliance in an attempt to seek the peace, honour, wellbeing, and profit of the land' – for which reason a new *Landfriede* was, in the view of the members of this Franconian association, redundant.<sup>32</sup> Since the Rhenish League of 1254 invoked the 1235 *Reichslandfriede* of Mainz, the carrying out of the Imperial peace-keeping mission was itself an associative process, and, to contemporaries, leagues, alliances, and legislative initiatives were all equivalent means to this same end. Even as the number of *Landfriede*-unions initiated or sanctioned by the monarchs or electors tailed off after the 1420s, the principle that peace-enforcement was an Imperial duty manifested simultaneously in legislation and formal associations endured, to resurface powerfully in the Swabian League of 1487-1534.<sup>33</sup>

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<sup>32</sup> 'solt ir genzlichen wissen, das wir in einung darumb kommen, fried ere nucz und frummen des lands zu<sup>e</sup> suchen'. *RTA*, VIII, 304.

<sup>33</sup> See ch. 6, pp. 165-6, and see below, pp. 218-19.

## Common weal

It will be clear by now that association treaties also placed a strong emphasis on the notion of the ‘common good’, ‘common weal’, ‘utility’, ‘wellbeing’, or ‘benefit’ (*gemeiner Nutz*, or simply *Nutz*). Much of its significance can be explained in the same way as that of the term ‘peace’. Indeed, the two words often accompanied one another in the same phrase, as we have seen in some of the treaties cited so far. A very common formulation in leagues and *Landfrieden* from the 1380s, for instance, claimed that these associations were created ‘to the honour of the Holy Roman Empire and for the sake of the wellbeing, peace, and profit of all our lands and subjects’.<sup>34</sup> In 1407 the writers of the first treaty of the knightly Society of St George’s Shield declared that this association had been formed ‘collectively and unanimously for the sake of the common good and profit of lords, all knighthood, and the land collectively’.<sup>35</sup> This term was often invoked in bilateral alliances too. The treaty of the 1457 alliance of the margrave of Baden with the city of Strasbourg used the wording ‘to the praise of God and for the common good and peace of us and our people’.<sup>36</sup> Such formulaic appeals to the ‘common good’ (often that of the Empire as a whole) in combination with peace, and sometimes with honour, can also be found in many fourteenth- and fifteenth-century invitations, consultations, and ordinances stemming from and concerning the Imperial assemblies and Diets.<sup>37</sup> ‘Peace’ and the ‘common weal’ were part of the same discursive package, which signalled that the users of these terms were involved in the highest and most divinely-sanctioned spheres of political activity in the Holy Roman Empire. In this respect, the ‘common good’ was

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<sup>34</sup> ‘dem heiligen Romischen rich zu eren und durch nutz, fryden und fromen willen aller unser lande und undertanen’. *UAODSB*, III, 72; cf. *ibid.*, III, 45, 96, 234.

<sup>35</sup> ‘gemainiglich und einhelliglich durch nutz und frommen herren und aller ritterschaft und gemeines landes’. *UBASG*, IV, 823-4.

<sup>36</sup> ‘gott zü lobe, uns und den unsern zü gemeinen nutze und friden’. *GLA* 46/770.

<sup>37</sup> E.g. *RTA*, II, 158; *ibid.*, XII, 121, 124; *ibid.*, XIII, 157; see also examples cited on p. 209 above.

simply the profitable and harmonious state that the region, population, or realm would enter into as a result of the successful enforcement of the peace by the political elite.

In this sense of the term, the ‘common weal’ was often bound up with the idea of ‘necessity’ (*Notdurft*) – a link which was in evidence both in association treaties and in official Imperial documentation. In the latter context, necessity and the common good were usually cited together in order to reinforce the need for action in the face of a crisis. In the last decades of the fourteenth century the formula ‘common weal and necessity’ was used repeatedly in royal and electoral correspondence about the establishment of regional *Landfrieden* to combat symptoms of what was depicted as generalised disorder: robbery, destruction, and division.<sup>38</sup> This language gained a new intensity and specificity in the 1420s in connection with the Hussite Wars. During this decade both King Sigismund and the electors appealed to the necessity and the common good of the Holy Roman Empire and Christendom in their invitations and ordinances in order to persuade the elites of German-speaking Europe to attend frequent *Tage* and provide troops and funds for anti-Hussite campaigns.<sup>39</sup> Frederick III, Maximilian, and the estates drew on the same discourses of Imperial and Christian ‘notturft’ and ‘gemein nucze’ in the 1450s, ‘70s, and ‘80s in consultations and legislation formulated against the backdrop of Turkish incursions into Hungary and Austria.<sup>40</sup> More generally, the second half of the fifteenth century saw a crescendo of debate among German-speaking elites about legislative initiatives and reforms which would, in the words of a 1455 consultation, ‘bring notable honour and benefit’ if geared towards ‘the necessity of the Holy Empire and of the German lands collectively’.<sup>41</sup> Appeals in association treaties to ‘the common weal and

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<sup>38</sup> E.g. ‘nucze und not’. *Ibid.*, I, 351 (footnote).

<sup>39</sup> E.g. *ibid.*, VIII, 6-9, 28-38, 125-6; *ibid.*, IX, 65-75.

<sup>40</sup> *Ibid.*, XIX.3, 158-9, 319; *ibid.*, XXII, 870-1; *RTT*, I, 512-14.

<sup>41</sup> ‘Ere und Nutze merglich bringen’ ‘des heiligen Richs und gemeines dutzschen Landes notturfft’. *Ibid.*, I, 513.

notable collective necessity' (as formulated in the 1379 renewal of the league of Alsatian Imperial Cities)<sup>42</sup> or to 'the honour of our gracious lord the Roman Emperor and, as members of the Holy Empire... the sake of the common good and necessity' (the words of a 1473 alliance of the bishop and city of Strasbourg)<sup>43</sup> staked a place for leagues and alliances within this same Empire-wide sphere of political discussion and activity. What might at first sight appear to be bland formulae selected from an array of late medieval commonplaces took on a specific politicised meaning in the context of the discourses that framed the interactions of the governing elites in the Holy Roman Empire. Just as associations were portrayed as contributors to the Empire's peace-keeping mission, so they were widely depicted as mechanisms for meeting its urgent defensive needs, thereby ensuring the common good of its inhabitants.

The concept of the *gemeiner Nutz* had a further, specifically governmental, connotation which may have had a bearing on how the role of formal associations was understood. The 'common good' or 'weal' was not only one among several key terms within the conceptual clusters that pervaded discourse at the level of Empire-wide interaction. It was also part of a late medieval lexicon which denoted an increasingly well-defined sphere of government – that set of 'public' institutions and functions which are often bound together, somewhat anachronistically, in the word 'state'. By the mid-sixteenth century the term *gemeiner Nutz* was the standard vernacular translation of the Latin *res publica*.<sup>44</sup> Already in the early fifteenth century, *res publica* was used where a German document would have appealed to the *gemeiner Nutz*. In a 1427 proclamation of a new anti-Hussite campaign, the Imperial electors asserted that the endeavour was not

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<sup>42</sup> 'nutz und merklicher gemeiner notdurfft'. *CDM*, I, 306-7.

<sup>43</sup> 'unserm aller gnedigsten heren dem Römischen keyser zu eren und als glider der heiligen Richs durch... nutz und notdurfft willen'. TLA Sigm./14.1114.

<sup>44</sup> For example, the German translation of Andrzej Frycz Modrzewski's *De republica emendanda...* (Basel, 1554), by Wolfgangus Wissenburg, was entitled *Von Verbesserung des Gemeinen Nutz* (Basel, 1557).

only for the praise and exaltation of God and the Church, but also ‘ad... reipublice commodum et salutem’.<sup>45</sup> Elsewhere it was translated as *utilitas publica*, as in the Latin version of the 1471 *Landfriede* of Regensburg, in which this concept stood in for ‘gemein nucze’ in the German original.<sup>46</sup> It seems that *gemeiner Nutz* was the German variant of that pan-European vocabulary identified by John Watts as a reflection of ‘the growth of government and the expansion of discourse about government’ in the course of the thirteenth, fourteenth, and fifteenth centuries.<sup>47</sup> It was the direct equivalent of the Franco-Burgundian notions of the *commun bien* and the *chose publique*, for instance.<sup>48</sup> In this sense of the term, *gemeiner Nutz* evoked the increasingly consolidated governments that were emerging within the many different layers of the Holy Roman Empire. This includes those polities or sub-polities that German historians have devoted most of their energy to studying: the ‘territories’ of princes, cities, and other powers, which we have argued might be better understood as overlapping agglomerations of items of lordship;<sup>49</sup> and the Empire itself, centred on the meetings of the monarchs, the electors, and the other elites, which underwent what Moraw described as ‘configured consolidation’ (*gestaltete Verdichtung*) in the fifteenth century.<sup>50</sup> By claiming to work for the common weal, members of associations very deliberately positioned themselves within the developing governmental functions and structures of German-speaking Europe. Furthermore, while by the seventeenth century the common good was a ubiquitous commonplace, deployed at every level (including that of peasant life),<sup>51</sup> in the fourteenth and fifteenth centuries it seems largely to have been reserved for the supreme layer of government: the overarching

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<sup>45</sup> *RTA*, IX, 33.

<sup>46</sup> *Ibid.*, XXII, 871, 875.

<sup>47</sup> Watts, *Polities*, p. 386.

<sup>48</sup> See A. Vanderjagt, *The Concepts of Noblesse and Chose Publicque in Burgundian Political Thought* (Groningen, 1981), p. 55.

<sup>49</sup> See ch. 4, pp. 95-6, 114-15.

<sup>50</sup> Moraw, *Verfassung*.

<sup>51</sup> See M. Forster, *The Counter-Reformation in the Villages* (Ithaca, 1992).

framework of the Holy Roman Empire. The invocation of the most public, 'state'-like concept available in *frühneuhochdeutsch* in the prefaces of association treaties was a clear statement that alliances and leagues were supposed to be understood as integral parts of that framework. This is also obvious from the references the treaties made to the Empire itself.

## **Empire**

The third important component of the political discourse found in association treaties is the idea of the Holy Roman Empire. We have already seen many quotations from a variety of fourteenth- and fifteenth-century treaties in which the Empire and its honour and wellbeing were invoked. It is true that some of these involved Free or Imperial Cities in some capacity, and the particular attachment of the municipal elites in these communes to their status as Imperially-immediate subjects may go some way to explaining the prevalence of pro-Imperial language in the association treaties they were involved in writing.<sup>52</sup> Nonetheless, this language was by no means unique to predominantly urban associations. Even the Swiss Confederates sometimes valorised the Empire in their alliances. When in 1454 the eight core Confederates signed a joint treaty with Schaffhausen, it was declared in the document's preamble that the alliance was 'to the praise and honour of the Holy Empire and for the sake of the wellbeing, profit, protection, and peace of the lives and goods of we the afore-named towns and lands, and also the land collectively'.<sup>53</sup> Similarly, it was entirely possible for small, non-urban alliances to use this language. The 1477 alliance of Margrave Christoph of Baden and Count Eberhard V of Württemberg-Urach was avowedly created 'to the praise of almighty God,

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<sup>52</sup> See Isenmann, *Stadt im Mittelalter*, pp. 304-5.

<sup>53</sup> 'dem heiligen Rich zu lob und zu eren und durch nutz, fromen, schirmb und friden willen libz und gutz der vorgenannten unser Stetten und lender, ouch gemeines landes'. *AEA*, II, 875-6.

to the honour of the Holy Roman Empire, of which we are members, and also for the sake of the peace, comfort, and common good of us, our lands, peoples, and subjects, and all those associated with us, spiritual and temporal'.<sup>54</sup> It seems that the discourse of Empire even featured in the negotiations that led to the formation of alliances. In 1461 the government of Constance and its allies around Lake Constance wrote to Count Ulrich V of Württemberg-Stuttgart, to whom they were allied. Merely considering whether to extend this 'aynung und verpundnisse' was apparently sufficient cause to assert that the pious wish of Constance and its allies was 'happily to promote all honourableness, for the wellbeing of the Holy Empire'.<sup>55</sup>

Such references to the Empire gave further specificity to the appeals to peace and the common weal which pervaded association treaties. We have seen that the way in which the writers of these treaties deployed these terms closely matched the discourses in use in monarchical and Empire-wide political activity. The fact that these same writers also referred directly to the Empire confirms beyond doubt that leagues and alliances were understood as components of its functions and structures. Those treaties which did not explicitly mention the Empire, but specified instead only their own and the land's peace and wellbeing, were otherwise borrowing from the same lexical palette, which suggests that even in those instances the writers would have been conscious of the Imperial resonances of their wording choices. Members of associations were not merely aping discourses used by those in a more elevated sphere in an attempt to legitimise themselves. By invoking the Empire, local and regional alliances and leagues brought it into being imaginatively and discursively. By purporting to fulfil its divinely-ordained peace-keeping and common weal-upholding mission to its praise and honour (i.e. on its

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<sup>54</sup> 'dem Almechtigen gott zu lob, dem hailigen Romischen Rich des glider wir sint zu eren ouch unns unsern lannden luten undertonen und allen zu unns gewannten, gaistlichen und weltlichen, zu friden und gemach und umb gemains nutzes willen'. GLA 36/2377-8.

<sup>55</sup> 'das wir alle erberkeit dem hailigen Ryche zûfrumen gern fu<sup>r</sup>rdern wölten'. GLA 123/239.

behalf), however temporarily and imperfectly this worked in practice, they made its presence felt throughout Upper Germany in the long gaps between Imperial assemblies and visits by peripatetic monarchs.

Furthermore, the ‘central’ layer of Imperial activity – the interactions of electors with local powers, the maintenance of monarchical networks of correspondence, the calling of *gemeine Tage* and *Reichstage*, and the implementation of ordinances agreed at those *Tage* – was closely interlinked with, and reliant upon, associative activity. From at least the late fourteenth century onwards, the monarchs and electors were able to use associative networks, particularly those of towns, in order to spread word of Imperial initiatives and Diets.<sup>56</sup> The reigns of Charles IV, Wenceslas, and Rupert saw continual reliance on associations, particularly ones consisting of Free and Imperial Cities, princes, and the upper nobility, for the implementation of Imperial peace-keeping ordinances on the Middle and Upper Rhine and in Swabia, Franconia, Bavaria, and Saxony.<sup>57</sup> As we have seen, even those associations which were not appointed by monarchs, electors, or Diets still claimed to be carrying out what were effectively Imperial duties. The 1420s and ‘30s saw some experimentation with associative means of governing the Empire, in the form of multiple electoral unions on the one hand and leagues of towns and lesser nobles promoted by Sigismund on the other, with plenty of interaction between these coalitions.<sup>58</sup> Association remained a favoured method of political action in the mid-fifteenth century, as formations like the princely ‘League of Mergentheim’ of 1445 show.<sup>59</sup>

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<sup>56</sup> See, among hundreds of examples, *RTA*, II, 86-7; *ibid.*, VIII, 122-30.

<sup>57</sup> On the particularly eventful 1370s and ‘80s, see ch. 12 below.

<sup>58</sup> See ch. 11, pp. 294-6. See also S. Wefers, *Das politische System Kaiser Sigmonds* (Stuttgart, 1989).

<sup>59</sup> See ch. 6, pp. 145-6.

Even after 1470, the moment at which, in Peter Moraw's interpretation, associations definitively lost their role in Imperial affairs in favour of a consolidating *Reichsverfassung*,<sup>60</sup> leagues and alliances remained key points of contact between the developing monarch-and-estates sphere of Imperial politics and political society at large. The foundation of the Swabian League in 1487 was a product of the joint energies of networks of powers in Swabia itself and the legislative initiatives which Frederick III and Maximilian had undertaken under the guidance and pressure of the estates, and especially the reform-minded Archbishop-Elector Berthold of Mainz.<sup>61</sup> In that year Frederick called five successive *Tage* in key Swabian cities – Esslingen, Ulm, and Reutlingen – in order to negotiate the implementation of the Frankfurt legislation of 1486, and the rapid creation of the League is testimony to the receptiveness of regional elites to an associative solution to the problems of the emperor and the Empire.<sup>62</sup> It was in this context that the idea that the Empire was a particular instrument of government for the German 'nation' really took hold in political discourse. While the 'German lands' (or even the *natio Germanica* in ecclesiastical Latin) had often been invoked before, it was only at the end of the fifteenth century that documents pertaining to the political life of the Empire began to link it to the 'German nation'. The designation 'Holy Roman Empire of the German nation' was not yet in use in the Imperial ordinances of 1471, but the 'Lower Union' of 1474 and the anti-Burgundian coalition that grew out of it appealed to this Germanised formulation of the Imperial polity.<sup>63</sup> Thereafter it remained a commonplace of discourse pertaining to the Empire's institutions – legislation and consultation at the Diets, and also associations like the Swabian League and the renewal of the 'Lower Union' in 1493.<sup>64</sup> When Maximilian approved the extension of the Swabian League in 1500 as a vehicle for upholding the

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<sup>60</sup> Moraw, 'Funktion', pp. 9-10, 19-20.

<sup>61</sup> On the League's origins see Carl, *Schwäbischer Bund*, ch. 2.

<sup>62</sup> *RTAMR*, II, 753-840.

<sup>63</sup> *CDM*, IV, 170-1; see ch. 12, pp. 313-15.

<sup>64</sup> E.g. *RTAMR*, I, 376, 385; *ibid.*, III, 180; AMS AA54.

1495 *Landfriede* of Worms ‘everywhere in the German nation’, with the League now boasting several electors and princes as members, associations were a more integral component of the Empire than ever.<sup>65</sup> In the sixteenth century they would form the basis of the Imperial Circles (*Reichskreise*) and act as the format of choice for the confessional coalitions of the 1520s to ‘50s. The Empire was indeed becoming more consolidated, but it is important to understand that associations, far from being marginal, played an important role in this process, having long been a part of its multi-layered, disparate structure in both functional and conceptual terms.

### **Conclusion: the Holy Roman Empire as an associative polity?**

It is clear from the ubiquity of certain concepts in association treaties, and the multiple politicised resonances that these concepts had, that alliances and leagues cannot be fully understood if they are not studied within the context of the political culture of the Holy Roman Empire in all its richness – and that includes the ideological and discursive facets of this culture, as well as its structural and behavioural aspects. Equally, the discourses used in the documentation of leagues and alliances highlight their centrality to this Imperial political culture, such that it can be said to have been truly ‘associative’ in the period between 1350 and 1500.

Of course, it could be argued that this was merely an ideological veneer imposed on a more mundane reality, in which alliances and leagues served primarily to channel and regulate local and regional relationships. However, this would be to miss the point of what the sharing of these discourses signified. It shows that associations symbolised the participation of their elite members in the mission of the Holy Roman Empire itself, and that this symbolic participation was enabled by associative activity. Even the most exalted

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<sup>65</sup> ‘allenthalben in teu<sup>e</sup>tscher Nacion’. *DPIP*, p. 350.

figures in the Empire – the electors and the kings and emperors of the Romans themselves – were not averse to participating in leagues and alliances. Though the Imperial monarchs sometimes opposed specific associations which threatened their interests, there seems to have been widespread acceptance at even the highest levels of political activity that autonomous elites in the Empire could enter into alliances and leagues, and that this might be necessary or beneficial. Partly this reflects the configurations of power in the Empire that have been highlighted so far in this thesis – the interconnectedness and interdependence of its constituent members, and the need for a framework to embrace their conventional modes of interaction. However, it also draws attention to the legitimacy that associations enjoyed, and which they themselves advertised by appealing to concepts specific to the uppermost layer of political activity in the Holy Roman Empire: peace, the common good, and the Empire itself. On the one hand this widespread rhetoric validated even the smallest, most temporary, and most localised associations, although these may not have had particularly important practical effects. On the other hand it facilitated the success of the Imperial system, even in fragmented and seemingly disorderly regions like the Upper Rhine, by providing a link – via associations – between the customary world of feuding, arbitration, and financial and tenurial networks and the lofty aspirations of Christian government under the Roman emperor and the political community which was supposed to counsel and assist him.

Indeed, the role of associations as bearers of discourses otherwise reserved for Imperial legislation and assemblies suggests that these two spheres were not as far apart as existing historiography would have us believe. The developing institutions of the fourteenth- and fifteenth-century Empire also emerged from the customary dynamics of power in Upper Germany. The *gemeine Tage* and *Reichstage* could be viewed as Empire-wide versions of the negotiatory *Tage* so prevalent in everyday political life in the

localities, especially in connection with associations. The growing conception of the Empire as a body of horizontally-related ‘members’ instead of as the old *Heerschildordnung* hierarchy,<sup>66</sup> depicted visually as the so-called *Quaternion* from the late fifteenth century, mirrors the situation in the land-communities of the localities, and especially that in formal associations. From this perspective, it may not be an exaggeration to suggest that the Holy Roman Empire was itself a kind of association, or at least a series of overlapping associations – not in the Gierkian sense of a harmonious Germanic *Genossenschaft* endowed with legal personality, but in the customary sense that contemporaries tried to articulate when they evoked the peace and common good of themselves, the land, its people, and the Empire as a whole, ‘of which we are members’.<sup>67</sup> Certainly, as the final chapter of Part II will now explore, horizontal, associative ties existed in many circumstances beyond the leagues, alliances, and societies discussed so far.

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<sup>66</sup> See Introduction, pp. 22-3.

<sup>67</sup> ‘des glider wir sint’. GLA 36/2377-8.

## **9. Beyond alliances and leagues: the associative character of political life in the Empire**

Throughout the chapters of Part II we have seen that alliances, leagues, and similar formal associations were prominent features of the political landscape, which emerged naturally as regulatory mechanisms for the underlying structures and dynamics noted in Part I. Far from being marginal formations in a world of nascent territorial states, or horizontal peculiarities in a predominantly vertical ‘Imperial constitution’, associations were functionally and ideologically central to many of the activities of the governing elites in the Holy Roman Empire – arbitration, feuding, intertwined structures of lordship and finance, and so on. Because they accomplished all this in a manner which accorded with contemporary values and behaviours, associations were woven into the wider fabric of social and political life. Formal associations constituted a practical and flexible format; because they were of short duration and could easily be extended or expanded, they could respond nimbly to evolving disputes and shifting configurations of lordship. As a collective and ongoing activity, associations also constituted a durable focal point in politics – a shared layer of interaction and discussion which drew on the discourses and ideologies developed at the Imperial assemblies and in the dialogue between the kings and emperors of the Romans and the rest of the governing elite in the German lands. All in all, alliances, leagues, and other comparable formations were geared to the needs of the later medieval societies that produced them, which is ultimately not very surprising, since these associations were clearly a product of the political structures and activities which prevailed within those societies.

Leagues and alliances were not the only associative ways of doing things in the political life of the south-western Empire, however. While the treaty-based formations

examined so far were central to associative political culture, many other structures and activities in the fourteenth and fifteenth centuries also exhibited what might be considered associative dynamics. The term ‘associative’ seems appropriate to describe any quasi-horizontal interactions between power-wielders who were not arranged in a clear hierarchy, as well as the constant redefinition of the contractual relationships between these power-wielders. Such associative dynamics and configurations can be identified at almost every level of government, from local authorities within fragmented castle districts to the estates of a ‘land’ or princely agglomeration. On the Upper Rhine and in Swabia, trans-regional challenges of a financial or jurisdictional nature were approached via associative means, as were the tasks of governing sprawling and morcellated lordships. In other words, most political processes in the Holy Roman Empire involved lateral ties and interactions between multiple powers.

This vital associative dimension has not been articulated as such because of the dominant narratives and interpretive frameworks in late medieval and early modern German historiography. As we have seen repeatedly, the evidence from this period is usually read as tending towards the creation of territorial states or *Landesherrschaften*, or it has been subsumed within a reified *Reichsverfassung*, or else it is categorised according to preconceived and essentialised socio-political groups or legal entities.<sup>1</sup> While it is not possible here to consider all of the many facets of associative activity on and around the Upper Rhine, this chapter will conclude the case for an associative model of politics in the later medieval Empire by briefly highlighting prominent areas in which horizontal associations were employed, beyond the alliances and leagues that have already been discussed. Three key manifestations of associative dynamics will be considered: specialised associations which addressed problems beyond the remit of individual

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<sup>1</sup> See Introduction, pp. 14-17; ch. 4, pp. 89-91; ch. 5, *passim*.

powers; joint forms of lordship, especially within dynasties; and institutions and collectivities which encompassed multiple actors within a single political entity. It will then be possible to reflect on the full implications and reach of ‘associative political culture’ as an interpretive framework.

### **Specialised associations as solutions to political fragmentation**

Divided as it was among a multitude of autonomous actors who were connected to one another in shifting networks, the south-western Holy Roman Empire was a challenging environment for mobilising collective action. The formal associations examined so far provided temporary frameworks for multilateral activity in the spheres of conflict and litigation, and did so by reference to the values and ideologies of the Empire as a shared polity. There was no such widely recognised and replicated format for dealing with other issues, like financial instability or the administration of fragmented localities. However, treaty-based agreements between multiple parties were sometimes improvised to deal with these issues, and the resulting associations were not dissimilar from the more common alliances, leagues, *Landfrieden*, and knightly societies.

This problem-oriented resort to treaty-based associations is clearly exemplified by the coinage leagues – or ‘coin/mint-unions’ (*Münzvereine*) – of the fourteenth to sixteenth centuries.<sup>2</sup> In this period, associations of autonomous powers in different parts of German-speaking Europe created or renewed treaties which committed all those who signed up to them to controlling the quality of the coinage minted in the areas under their jurisdiction and to punishing those who disobeyed these rules about coinage quality within the specified zones. This was necessary because of the dispersal of the regalian

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<sup>2</sup> On coinage leagues, see J. Cahn, *Der Rappenmünzbund. Eine Studie zur Münz- und Geld-Geschichte des oberen Rheinthaales* (Heidelberg, 1901); W. Jesse, *Der Wendische Münzverein* (Lübeck, 1928); Scott, *Economic Change*, ch. 6; M. Körner and B. Zäch, ‘Münzvereine und Münzkonkordate’, in *HLS*.

right to mint among a multitude of powers in the Empire, which placed the establishment of stable currency values and exchange rates beyond the remit of any single authority – although Frederick III did attempt, unsuccessfully, to legislate the gold content of florins (*Gulden*) minted in the Empire in his 1442 ‘Reformation’.<sup>3</sup> For instance, in 1377 a fifteen-year treaty regulating minting was drawn up by Duke Leopold III of Austria, Count Rudolf of Habsburg, Count Hartman of Kyburg, Countess Elsbeth of Neuchâtel, Lord Hannemann of Krenkingen, and the Free and Imperial Cities of Basel, Zurich, Bern, and Solothurn, ‘since many great afflictions have occurred in these lands lately because of the coinage’.<sup>4</sup> The valuation of the coins (*Schillinge*, *Gulden*, and others) struck in the mints of each of these powers was specified very precisely by the treaty, as was the precious metal content. The masters of the mint in each of the participating authorities were to obey these specifications, on pain of mutilation, which all of the signatories agreed to carry out if necessary.<sup>5</sup> A century later, in 1478, a comparable treaty was signed by the Alsatian *Landvogt* of Austria and the cities of Basel, Colmar, Freiburg, and Breisach.<sup>6</sup> It also imposed agreed coinage values within the jurisdictions of these powers, and banned the circulation of foreign currencies, with a few named exceptions. The participants also agreed to fixed exchange rates. Future modifications could be discussed at *Tage* by representatives of the signatories. The treaty also called for the punishment of masters of the mint who ignored its stipulations. This was not an empty threat: the government of Basel had recently imprisoned its ‘münzmeister’, Ludwig Gesell, for flouting the coinage regulations within the ‘zones of the coin/mint-association’.<sup>7</sup> That the term ‘mint-association’ (‘munzgnosschafft’) had developed reflects the sense of

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<sup>3</sup> *RTA*, XVI, 406. See J. Schüttenhelm, *Der Geldumlauf im südwestdeutschen Raum vom Riedlinger Münzvertrag 1423 bis zur ersten Kipperzeit 1618* (Stuttgart, 1987).

<sup>4</sup> ‘wonde vil grosser gebresten von der münz wegen in disen landen dahar gewesen sint’. *UBB*, IV, 400.

<sup>5</sup> *Ibid.*, IV, 401.

<sup>6</sup> *Ibid.*, VIII, 439-41.

<sup>7</sup> ‘kreyssen der munzgnosschafft’. *Ibid.*, VIII, 379.

collective solidarity that durable coinage leagues could foster. The 1478 treaty was one of several signed by this group, dubbed the *Rappenmünzbund* ('coin/mint league of the *Rappen*' – an Upper Rhenish coin), which, with some breaks and fluctuations in its composition, operated from 1399 until 1584.<sup>8</sup> The coinage league of Riedlingen (1423-c. 1500), driven by the partnership of Constance and Ulm, lasted for many decades.<sup>9</sup> The unions were not always successful in maintaining set monetary values or in excluding unwanted foreign currencies,<sup>10</sup> but an associative approach which regulated minting activity across multiple fragmented and overlapping authorities was the best tool available for trying control a large-scale phenomenon like coinage.

Multilateral judicial treaties were another type of association which addressed challenges that transcended the governmental competences of any single political actor or entity. If multiple powers wanted to support or oppose a judicial outcome, or to abolish an external source of judicial redress which threatened them collectively, treaty-based associations were an obvious means of achieving a common policy. An example of associative support for a quasi-judicial process is the 1373 'eternal' league formed by the Austrian *Landvogt* Rudolf von Walse, Strasbourg, Basel, the Imperial cities in Alsace, and the towns in the Breisgau to uphold the judgements and sentences made against the lesser noblemen Hans Erbe and Hans zum Wiger and their followers.<sup>11</sup> These had been the feud-enemies of Strasbourg and several other Alsatian powers in 1372, and the signatories of the 1373 treaty had formed a coalition to defeat them. The allies besieged Erbe's hideout, the castle of Herlisheim, and – apparently as a collective ad hoc court – tried and then executed him and 53 followers.<sup>12</sup> The 1373 treaty was an associative

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<sup>8</sup> Körner and Zäch, 'Münzvereine'.

<sup>9</sup> *Ibid.*

<sup>10</sup> On the fortunes of the *Rappenmünzbund*, see Scott, *Economic Change*, ch. 6.

<sup>11</sup> *UBB*, IV, 338.

<sup>12</sup> *COS*, II, 803.

method of legitimising this quasi-judicial decision made by a network of political elites. An association with a more ambitious goal was the 1461 treaty against the *Feme*, or Vehmic courts.<sup>13</sup> These were run by a Westphalian group of self-proclaimed judges and jurors, and by the mid-fifteenth century they had a substantial presence in the south-western Empire. In exchange for a fee, the Vehmic courts would offer to resolve disputes, regardless of whether they had already been pursued before other courts or arbitrators. If the accusations made by the established authorities against the *Feme* are to be believed, their staff resorted to intimidation in order to force their clients' opponents to appear before them or accept their judgements.<sup>14</sup> In any case, the *Feme* constituted a parallel judicial system, which encroached upon the jurisdictions of other princely, urban, and noble powers. It is not surprising, therefore, that these powers formed an association to oppose this trans-regional threat to their authority. The 1461 project involved actors from across the length and breadth of the Upper Rhine: the Count Palatine, the archduke of Austria, the margrave of Baden, the bishop of Strasbourg, the abbot of Murbach, the counts of Lupfen and Lichtenberg, the lords of Bussnang and Rappoltstein, and the towns – free, Imperial, and subject – in Alsace and the Black Forest. Their professed aim was to end the alleged injustices which the use of 'Westuelschen gerihten' had caused by banning their subjects from having recourse to them. The measures of the 1442 'Reformation', which had sought to circumscribe the jurisdiction of the *Feme* on pain of heavy fines and bans from holding office, were integrated into the agreement.<sup>15</sup> It is telling that the Upper Rhenish powers ultimately took it upon themselves to implement a multilateral solution to the *Feme*, even after two decades of top-down attempts to legislate

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<sup>13</sup> *RUB*, IV, 271-6.

<sup>14</sup> See V. Trugenberger, 'Württemberg und die Feme', in H. Maurer and W. Schmierer (eds), *Aus südwestdeutscher Geschichte* (Stuttgart, 1994), pp. 238-63.

<sup>15</sup> *RTA*, XVI, 405.

against them on the part of Frederick III.<sup>16</sup> Only a course of action which bound several authorities together in a horizontal union could hope to combat a phenomenon that was present throughout the fragmented lands of the south-western Empire.

More local administrative concerns in the fourteenth- and fifteenth-century Empire could be managed through treaty-based relationships called *Burgfrieden* ('castle-peaces'). As we saw in chapter 4, property and jurisdiction were even fragmented at the level of small settlements.<sup>17</sup> It was therefore helpful for the different powers who exercised some form of authority within a given town, village, or castle to form associations of sorts with one another, whereby their commitments to co-existence and a clear delineation of their respective rights and responsibilities were enshrined in treaties. For example, in 1399 Lords Smassmann and Ulrich of Rappoltstein entered into a kind of administrative association, called a 'burgffriden', with the knight Friedrich von Hattstatt, which applied to the fortress of Eckerich/Échéry and its jurisdictions ('gerichte und ban') in Upper Alsace.<sup>18</sup> The lords of Rappoltstein and Hattstatt each owned parts of Eckerich, and their *Burgfriede* stipulated joint obligations within its carefully-defined limits. These included collective maintenance of bridges, cisterns, and gates; exercising a shared criminal jurisdiction over the fortress and its lands; and storing the proceeds of incomes and fines in a 'common building' ('gemeinen bu'). Both parties agreed to notify one another if they planned to accommodate people within the 'creisse' ('circles') of the *Burgfriede*, and not to harbour each other's feud-enemies. Their officers and followers had to swear oaths to respect the terms of the treaty. Some *Burgfriede*-treaties also specified exactly which components of a given settlement were under the lordship of which authority, and how the neighbouring lords should navigate one another's property

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<sup>16</sup> In addition to the 1442 'Reformation', see individual mandates against the *Feme* such as *CDM*, II, 338-41.

<sup>17</sup> See ch. 4, pp. 93-4, 111-12.

<sup>18</sup> *RUB*, II, 486-91.

and rights while fulfilling common duties within the framework of the peace-association.<sup>19</sup> Others, like a 1416 treaty between the Counts Palatine Stephan and Otto and Margrave Bernhard of Baden for the castle of Schadeck, entailed joint military responsibilities, such as the obligation to create a shared cache of armaments in the castle.<sup>20</sup> If one of the lords in a settlement sold or pledged his/her assets and jurisdictions, the associative ties created by *Burgfrieden* could be transferred to the new owner. Thus, when Count Heinrich of Fürstenberg promised the incomes of the castle of Wolfach to the town of the same name in 1485, the pre-existing *Burgfriede* linked to Wolfach was included in the package of rights and revenues to be transferred.<sup>21</sup> The involvement of some princely or quasi-princely actors in *Burgfriede* treaties is a reminder that the owners and exercisers of property and jurisdiction in a given zone were rarely equal in power. Many *Burgfrieden* were highly asymmetrical, and their establishment can be interpreted as a means of bolstering the position of a more powerful actor vis-à-vis a weaker one by granting the former the ability to interfere directly in the assets of the latter. Nonetheless, these treaty-based relationships are best understood as associative formations – however imbalanced – because they clearly do not fit within a paradigm of outright, vertical domination. Instead, they obliged two or more authorities with intermingled rights and properties in a single place to pool their resources and responsibilities as horizontal associates, with the aim of creating a workable *modus vivendi* in contexts which could (and frequently did) provoke frictions on a regular basis. Indeed, the exercise of lordship in the later medieval Empire can frequently be explained in terms of this associative dynamic, as the next section of this chapter will now examine.

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<sup>19</sup> E.g. GLA 46/257, 303.

<sup>20</sup> GLA 46/305.

<sup>21</sup> *FUB*, IV, 495.

### **Joint lordship as an associative process**

Lordship in the Holy Roman Empire has generally been conceptualised in unitary terms, i.e. as a process which was overseen by individual lords, governments, or administrations, especially within the paradigm of the developing ‘territory’.<sup>22</sup> However, at most levels within a given authority, the practical exercise of government relied on multiple political actors, whose relationships to one another operated along horizontal axes. This horizontal dimension has often been overlooked by historians of the German lands for the reasons outlined so far, as well as because of more general preconceived notions about ‘feudal hierarchy’, ‘territorialisation’, or the ‘rise of the modern state’ which still pervade much medieval and early modern historiography.<sup>23</sup> If the evidence is considered outside of these interpretive frameworks, it makes sense to read many configurations of lordship as collective or associative. Indeed, this is a perspective that has recently been adopted for earlier periods of European history, in work such as H  l  ne Debax’s study of ‘les coseigneurs’ in the eleventh to thirteenth centuries and Jonathan Lyon’s analysis of the importance of sibling ties in twelfth- and thirteenth-century German princely activities.<sup>24</sup> A key finding of this research on high medieval Europe is that many processes of lordship were undertaken jointly by multiple social and political peers, and especially by networks (or, as we might also call them, associations) of family members of the same generation. This applies equally to the fourteenth to sixteenth centuries.

It was not uncommon for even the smallest building-blocks of political authority in the later medieval Empire – local properties, incomes, and jurisdictions held as fiefs, *Pfandschaften*, or offices – to be enjoyed and exercised collectively by two or more

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<sup>22</sup> See Introduction, pp. 14-15; ch. 4, pp. 89-91.

<sup>23</sup> See Introduction and ch. 5, *passim*.

<sup>24</sup> H. Debax, *La seigneurie collective: pairs, pariers, paratge; Les coseigneurs du XIe au XIIIe si  cle* (Rennes, 2012); J. Lyon, *Princely Brothers and Sisters: The Sibling Bond in German Politics, 1100-1250* (Ithaca, 2013).

actors. We saw many examples of this pattern in chapter 4. In each generation of the Bock dynasty of Strasbourg, for instance, members of that patrician and noble family can be found holding properties, incomes, or jurisdictions jointly with their siblings or with other local elites (see Table 1). Such joint lordship entailed the formation of a tacit association between the two or more lords involved in the tenure of a given item. This is particularly clear in the case of fiefs, because the later medieval sources explicitly refer to co-tenants of *Lehen* as ‘fief-associates’ – ‘lehensgenossen’.<sup>25</sup> As late as 1511, many fiefs granted by the lordship of Austria were held by multiple tenants – as in the case of Ludwig von Masmünster and his *Lehengenosse*, who possessed joint fiefs in the vicinity of Basel.<sup>26</sup> Joint lordship over other administrative units also resulted in horizontal agreements between interlinked parties. For example, it is clear from an arbitration case in 1352 that the bishop of Basel and the count of Neuchâtel jointly exercised and enjoyed rights and revenues in the *Vogtei* of Diesse, the village of Orvin/Ilfingen, and the town of Bien/Biel, which necessitated complex bilateral arrangements for the long-term administration of justice and collection of incomes.<sup>27</sup> In the 1420s and ‘30s the castle of Heidburg on the south-western fringe of the Black Forest, originally a possession of the counts of Fürstenberg, was a *Pfandschaft* in the joint possession of Count Conrad of Tübingen and Lords Berthold of Staufen and Caspar of Klingenberg.<sup>28</sup> On a larger scale, some Free Cities had to interact associatively with their former episcopal lords and their autonomous cathedral chapters, either to demarcate contested jurisdictions within and around the town, or to reach contractual agreements about how to manage overlapping spheres of activity. There is plentiful evidence of these treaties, and the negotiations that

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<sup>25</sup> See ch. 4, p. 108; as spelled in *MHAEB*, V, 591-3.

<sup>26</sup> SBS NA/Adelsarchiv no. 670 Masmünster.

<sup>27</sup> *MHAEB*, IV, 43-55.

<sup>28</sup> *FUB*, III, 186.

produced them.<sup>29</sup> An extreme case is represented by the 1406 treaty of the bankrupt Bishop Wilhelm II of Strasbourg with the municipal council and the cathedral chapter of Strasbourg. Each of the three parties provided an administrator, and the trio governed the bishopric's temporal possessions for ten years, until its financial position was stabilised.<sup>30</sup> A more usual example is the 1488 treaty between the bishop, chapter, and municipal council of Constance, which regulated their common and respective control over the city's ecclesiastical jurisdiction, weights and measures, road maintenance, and tolls.<sup>31</sup>

The shared possession of lordship among members of the same dynasty was even more clearly horizontal and collaborative. This applied at all levels – as the example of the Bock family illustrates – but it is worth focusing more closely on the most powerful upper noble and princely actors, since they are at the centre of the territorialisation and state formation narratives of German/Imperial history which have caused associative dynamics to be overlooked or marginalised.<sup>32</sup> Contrary to the impression of abstract centralisation given by these narratives, ‘principalities’ and ‘territories’ were effectively agglomerations of properties, incomes, and jurisdictions, which were often governed associatively by brothers (and occasionally cousins, uncles/nephews, and spouses) of the same family. This dynastically-networked format of government was widespread among the most powerful elites in the Empire because of the inheritance customs in German-speaking Europe.<sup>33</sup> Primogeniture was extremely rare in the noble and princely families of the fourteenth, fifteenth, and even sixteenth centuries. It was the norm for all legitimate sons, even those destined for ecclesiastical careers, to adopt their father's title. A Spanish

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<sup>29</sup> See e.g. *MHAEB*, IV, 628-30; TLA Sigm./14.1079.3; ADBR G121, G127, G135.

<sup>30</sup> AVCUS AA1451/5-7.

<sup>31</sup> GLA 209/353.

<sup>32</sup> See ch. 4, pp. 89-91.

<sup>33</sup> On noble/princely inheritance see K.-H. Spieß, *Familie und Verwandtschaft im deutschen Hochadel des Spätmittelalters. 13. bis Anfang des 16. Jahrhunderts* (Stuttgart, 1993); K.-H. Spieß, ‘Safeguarding Property for the Next Generations: Family Treaties, Marriage Contracts and Wills in German Princely Dynasties in the Later Middle Ages (14th-16th Centuries)’, in S. Cavaciocchi (ed.), *La famiglia nell' economia Europea secc. XIII-XVIII*. (Florence, 2009), pp. 23-45.

visitor to Schaffhausen in 1436 noted with surprise the fact that, in Upper Germany, all the offspring of a lord of comital rank bore the title of 'count'.<sup>34</sup> Many of these titled sons also aspired to participate in the government of their patrimony as equal partners of their eldest sibling.

This customary expectation was usually met in two (interrelated) ways: several relatives co-governed the same properties and jurisdictions simultaneously; or the possessions of the father were split among several heirs, who each received separate portions, but were forced to collaborate in order to make effective use of their still-interconnected assets and networks. We have already seen some instances of the former, in which noble or princely brothers ruled or negotiated in concert as a single political power. To take one example among many, several generations of the counts of Fürstenberg in the fourteenth and fifteenth centuries saw the comital possessions run jointly by two or three brothers on an equal footing, at least in certain circumstances or for certain periods of time before a division was negotiated.<sup>35</sup> The widespread German custom of partible inheritance usually meant that, sooner or later, the patrimony of a noble or princely father was formally divided between multiple parties. However, this merely altered the framework of the associative relationships between co-ruling siblings and relatives. Whether princes and nobles in a given generation went down the path of condominium or that of partition, contractual agreements had to be drawn up which, in the manner of other associations, regulated precisely what the relationship between these horizontally-tied parties would be, and what roles, competences, and obligations everybody involved would be assigned.

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<sup>34</sup> K. Stehlin, 'Ein spanischer Bericht über ein Turnier in Schaffhausen im Jahr 1436', *Basler Zeitschrift für Geschichte und Altertumskunde*, 14.1 (1915), 163.

<sup>35</sup> See e.g. *FUB*, II, 192; *ibid.*, III, 227, 323-6.

While partitioned inheritances could generate conflict and rivalry, the day-to-day impression conveyed by the evidence is of collaboration between the related rulers of sub-agglomerations of noble and princely rights and assets. For example, after the division of the enormous holdings of the Habsburg dukes of Austria in the 1379 Treaty of Neuburg, the western lands of the Leopoldine line were further partitioned among the four sons of Leopold III (1351-86). The younger three (Leopold IV, Ernst, and Friedrich IV) worked closely together in Tyrol and Swabia and along the Upper Rhine, despite their periodically separate administrations.<sup>36</sup> After a phase of individual rule by Friedrich IV (c. 1411-39), the Outer Austrian lordship was again divided between his son Sigmund and his nephew Albrecht VI. The latter was officially regent in the 1440s, and ran his own administration, but from the late 1450s both men had to collaborate in governmental and military endeavours.<sup>37</sup> The lands and jurisdictions of the counts of Württemberg underwent similar developments in associative rule in this period. In 1350 Counts Ulrich IV and Eberhard II entered into an oath-bound contract which stipulated that they ‘should have in common’ their ‘lands and peoples’.<sup>38</sup> When Count Eberhard IV died in 1419, he left two infant sons – Ludwig I and Ulrich V – to rule the comital possessions jointly, initially under the regency of their mother, Countess Henriette of Montbéliard/Mömpelgard, and a council of nobles.<sup>39</sup> In 1442 the brothers determined, under the guidance of their mother and a shared group of councillors (‘Retten’), to divide their patrimony in two, with Ulrich setting up court in Stuttgart and Ludwig in Urach.<sup>40</sup> The contract which initiated the division reads in many respects like an alliance treaty: the

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<sup>36</sup> See W. Baum, *Die Habsburger in den Vorlanden, 1386-1486: Krise und Höhepunkt der habsburgischen Machtstellung in Schwaben am Ausgang des Mittelalters* (Vienna, 1993), pp. 20-168. After Leopold IV's death, his widow Catherine of Burgundy became an autonomous co-ruler of his possessions alongside Friedrich IV.

<sup>37</sup> See e.g. TLA Sigm./01.04.5, 04b.55.152.

<sup>38</sup> ‘gemain sollen han’ ‘unser Lant un’ uns’ Lu<sup>e</sup>te’. HSA A602/8.

<sup>39</sup> See N. Kühnle, ‘Zwischen Landesteilung und Wiedervereinigung: Die württembergischen Höfe Stuttgart und Urach (1442-1482)’, *ZWL*, 68 (2009), 103-38.

<sup>40</sup> HSA A602/86; *AUWG*, pp. 38-46.

importance of peace is emphasised in its prologue, as are the ongoing ties between the two counts, who claimed to be proceeding ‘so that we do not come to discord with one another, but may, in peace and brotherliness, co-exist together, remain henceforth [in possession of] our lands and peoples, and protect and govern them’.<sup>41</sup> The whole process was to be undertaken through regular consultations with the ‘Retten’ at customary *Tage*. Despite their separate courts, the brothers (and, after Ludwig’s death, uncles, nephews, and cousins) maintained closely related administrations, not least because a large proportion of their advisors and retainers were shared. In 1480, for instance, Ulrich and Ludwig’s successors signed a treaty – almost an alliance – which stipulated mutual aid and pooled their criminal jurisdiction and the resources for enforcing it, with a view to the eventual recombination of other lordship rights.<sup>42</sup> These associative ties made it relatively easy for the two agglomerations to be reintegrated under a single government following the 1482 Treaty of Münsingen between Ulrich’s son Eberhard VI and Ludwig’s grandson Eberhard V.<sup>43</sup> Such horizontal contracts and treaties between noble and princely relatives, which were sometimes referred to as ‘aynung[en]’<sup>44</sup> (the word used to describe alliances and leagues), are a clear indication of how far the ‘territories’ beloved of German historiography were dependent on associative dynamics.

### **‘Territories’ and ‘estates’ as associations**

The standard narrative of the crystallisation of princely ‘territories’ in the Empire in this period stresses the growth of fiscal and judicial apparatus and the formation of compliant estates, and casts these developments as centralising tendencies which manifested the rise

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<sup>41</sup> ‘das wir nit zu unfryden miteinander komend sonder in fryden und Bruderlichen miteinander geleben by land und luten destbas beliben und die geschirmen und gehanthaben mögen’. HSA A602/86.

<sup>42</sup> HSA A602/295.

<sup>43</sup> *AUWG*, pp. 65-72.

<sup>44</sup> *Ibid.*, p. 66.

of the modern state in German-speaking Europe.<sup>45</sup> Without denying that some developments in the fourteenth and fifteenth centuries can be read into a long trajectory towards consolidated early modern principalities, it is worth noting just how much the dynamics of these supposed territories depended on associative mechanisms and ties that shaped ‘internal’ relations and cut across notional boundaries. These dynamics took effect in structures and institutions such as princely councils, which often included ‘external’ actors; horizontal and overlapping bodies of elite subjects, or ‘estates’; and the meetings of these groups at council sessions and *Landtage*. This in turn forces us to recognise that political actors in the Empire were in some respects more autonomous than existing narratives and models allow, and that in other respects they were more interdependent. Their positions and relationships were arranged in configurations which rarely mapped neatly onto incipient *territoria clausa*, still less unitary states. A multitude of what might be termed associative connections – i.e. horizontal ties, often enshrined in contracts, between approximate socio-political peers – played out within and across the shifting territorial and jurisdictional agglomerations in the Holy Roman Empire. The notion that elements within ‘territorial’ agglomerations were actually associations of sorts has been suggested before, of course, in the work of both Otto von Gierke and, with a different emphasis, Otto Brunner.<sup>46</sup> However, as we have seen, these interpretive impulses derived from the fetishisation of the imagined communitarian character of pre-modern Germanic peoples, or else from a belief in the timeless legal principles of the Germanic nobility. Against the backdrop of the structures and political culture explored so far, it is possible to consider the link between associative dynamics and the ‘territorialisation’ of the Empire more concretely. Just as ‘territorial’ lords like the Habsburgs and the Württemberger employed collective and networked modes of dynastic rule, so the

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<sup>45</sup> E.g. in Guenée, *États*, pp. 60-75, 245-69, and *passim.*; cf. Krieger, *Spätmittelalter*, p. 1, and discussion of this historiography in Introduction, ch. 4.

<sup>46</sup> See Introduction, pp. 12-14; ch. 4, p. 91; ch. 5, pp. 120-6.

political life – even the solidarity – of the lands and jurisdictions under their authority relied in practice on the common, interconnective, and associative political culture examined in the previous chapters of this thesis.

To understand how associative dynamics shaped the developing political units in the fourteenth- and fifteenth-century Empire, it is important to note again the extent to which the key administrators within them were, in practice, autonomous powers in their own right. Most councillors, officers, tenants, and members of the estates of princes and upper nobles were also part of the large group of interconnected political elites who shared in the common set of ideologies and practices covered in Part I. The *Landvögte* who represented the dukes of Austria on the Upper Rhine and in Swabia in this period, for example, were all Imperially-immediate actors with their own independent power bases and connections – men like Count Hugo XII of Montfort-Bregenz (1357-1423), Margrave Wilhelm of Hachberg (1406-82), and Lord Wilhelm I of Rappoltstein (1451-1507).<sup>47</sup> Such elite figures had plenty of room for manoeuvre in making alliances and distributing patronage on their own initiative, while nominally acting on behalf of the dukes of Austria within the parameters of their office.<sup>48</sup> Even the margraves of Baden – powerful princes who were second only to the dukes of Austria and the Counts Palatine in the south-western Empire – participated in the Austrian affinity on the Upper Rhine. Margrave Bernhard I was appointed *Landvogt* in the Breisgau in 1384 by Duke Leopold III, while Margrave Karl I was made a councillor (‘Rath’) of his brother-in-law Archduke Albrecht VI in 1455. In that same year, Albrecht also appointed Bishop Ruprecht of

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<sup>47</sup> See ch. 4, p. 106.

<sup>48</sup> The same conclusion has been reached for other regions of the Empire – see C. Hesse, *Amtsträger der Fürsten im spätmittelalterlichen Reich. Die Funktionseliten der lokalen Verwaltung in Bayern-Landshut, Hessen, Sachsen und Württemberg. 1350-1515* (Göttingen, 2005).

Strasbourg as another of his councillors.<sup>49</sup> The position of councillor has sometimes been taken to imply socio-political subordination, and is closely linked in most scholarship to the expansion of the courts (*Höfe*) of the Imperial princes – much-researched institutions viewed as centres of gravity which catalysed the rise of late medieval and early modern princely territories.<sup>50</sup> Yet Albrecht’s interactions with his new councillors are more suggestive of an almost horizontal, associative relationship; indeed, his appointment of these two other princes as *Räte* was accompanied by the creation of a *Landfriede*-alliance with them and several other Upper Rhenish powers against the Swiss Confederates.<sup>51</sup> The pattern in the sphere of influence of the counts of Württemberg was similar. Their fifteenth-century councillors included numerous upper noblemen who were themselves Imperially-immediate bearers of comital titles (such as the counts of Werdenberg, Helfenstein, Zollern, Oettingen, Montfort, and Hohenberg), as well as the prince-bishops of Constance and Augsburg.<sup>52</sup> It is not surprising, therefore, that a fifteenth-century depiction of a council session (*Ratssitzung*) under Count Eberhard III of Württemberg (1362-1417) resembles in many respects an associative *Tag* held by horizontally-related members of an alliance or league (Figure 10; compare with Figure 11).<sup>53</sup> The administrative elites in the princely agglomerations of the later medieval Empire were autonomous, multivalent, and connected to trans-‘territorial’ networks. This situation precludes any interpretation of the political units ruled by princes and other major powers as neat and discrete states-in-the-making. The model of associative political culture offers

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<sup>49</sup> M. Gmelin, ‘Aus einem Registrarium des Erzherzogs Albrecht von Österreich von 1454 und 1455’, *ZGO*, 24 (1872), 117.

<sup>50</sup> See especially T. Zotz (ed.), *Fürstenhöfe und ihre Außenwelt. Aspekte gesellschaftlicher und kultureller Identität im deutschen Spätmittelalter* (Würzburg, 2004); Paravicini, Hirschbiegel, and Wettlaufer, *Höfe und Residenzen*.

<sup>51</sup> Krimm, *Baden und Habsburg*, pp. 45-7.

<sup>52</sup> I. Kothe, *Der fürstliche Rat in Württemberg im 15. und 16. Jahrhundert* (Stuttgart, 1938), pp. 103-13.

<sup>53</sup> On the *Ratssitzung* scene – which in this form probably dates from the sixteenth century – see P. Rückert, ‘Die “Ratssitzung” Graf Eberhards III. von Württemberg – Politische Partizipation im Bild?’, in S. Lorenz and P. Rückert (eds), *Auf dem Weg zur politischen Partizipation? Landstände und Herrschaft im deutschen Südwesten* (Stuttgart, 2010), pp. 137-49. Figure 11 is discussed in ch. 11, p. 291.

a more convincing framework within which to characterise and explain the quasi-horizontal nature of their relationships and the collective formats of interaction which they employed.

This has important implications for how the putative political communities under a given ‘territorial’ lord should be understood. Lateral ties between various elites with a shared connection to a particularly powerful overlord or dynasty certainly led in some cases to the formation of polities within the Holy Roman Empire in this period, but it is crucial to understand how very contingent and incomplete these polities were. Neither the concept of the incipient *territorium clausum* nor the Brunnerian notion of a legally- and ethnically-defined land-community fully captures the reality of the situation.<sup>54</sup> The associative perspective offered here suggests that later medieval terms and concepts such as the *Herrschaft* of (Outer) Austria, the *Markgrafschaft* of Baden, or the *Pfalzgrafschaft* (Palatinate) should not automatically be taken to refer either to territories and states or to ancestral legal-political communities. Rather, they denoted bundles of associations that were linked to a particular location or tied to a given lord. Here, as in other areas, associative political culture provides a third and equally if not more plausible optic through which to examine and explain contemporary political solidarities. As we have seen, this culture was defined by the contractual formation of quasi-horizontal relationships that stipulated acceptable forms of interaction, notably at negotiatory summits called *Tage*, all of which was predicated on a varied but highly interconnected political landscape with a widely shared set of structures and customs.<sup>55</sup>

In concrete terms, the collectivities of administrators and estates denoted by terms like *Landschaft* and *Landstände* functioned like long-term associations. In some respects,

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<sup>54</sup> On the *territorium clausum* and Brunner, see Introduction, pp. 13-15; ch. 4, pp. 89-91.

<sup>55</sup> All aspects of contractual associations are discussed in chs 6-8, *passim*. On *Tage*, see especially ch. 2, pp. 61-2; ch. 6, pp. 161, 166; ch. 7, pp. 187-9; ch. 8, pp. 202, 220-1.

this made it possible for princes like the Leopoldine dukes of Austria to extend their influence over a large area, from their base in Tyrol in the east all the way to the Vosges in the west. When Dukes Albrecht III and Leopold III ordered their Swabian *Landvogt* Albrecht von Puchheim to resolve their disputes in the Breisgau in 1368 by organising a *Tag* at which Puchheim was to ‘follow the advice of our councillors up there’, they were effectively making use of a network of largely independent associates to make their presence felt at the other end of their notional sphere of authority.<sup>56</sup> Similarly, in 1380 Leopold III tried to establish minting reforms by issuing a set of recommendations which, rather than being imposed directly throughout the scattered Outer Austrian possessions, were to be considered and eventually implemented by the nexus of ‘lords or towns which possess the mints’ – a more realistic approach to effecting change via a network of self-sufficient localities.<sup>57</sup> When disputes arose within the affinities connected to a prince or dynasty, as they frequently did, they could be resolved by arbitration within that affinity, as in any association, limiting the need for extensive central judicial organs.<sup>58</sup> So it is that in Outer Austria, as in Württemberg and elsewhere, the *Landtag* seems to have developed in the fifteenth century as a more formalised version of the associative *Tag*, rather than as a territorial parliament *avant la lettre*. It enabled decisions taken by the princely administration in consultation with the wider association of elites to be agreed to and carried out by those autonomous local powers which were in the best position to implement them. Archduke Sigmund’s invitation to the 1487 Outer Austrian *Landtag* at Meran makes this clear. He wrote to all of the constituent powers and authorities in the estates: ‘we recommend that you select and charge two of your most reasonable [representatives], so they can wisely attend the said *Tag* in person with authority, and take

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<sup>56</sup> ‘nach rate, uns’ s Rates da oben’. GLA 21/2506.

<sup>57</sup> ‘hr’ oder statt, die die munczen hand’. TLA Urk-I/7441.

<sup>58</sup> Among many examples of arbitration within the Outer Austrian affinity, see TLA Urk-I/199 (762) (in 1382), I6052 (in 1467).

in hand the necessity of our lands and peoples, and to consult, assist, and not be absent'.<sup>59</sup> A subsequent invitation clarified that the estates in attendance at the *Landtag* were to offer 'counsel and assistance' – the customary formula that pervaded all associative discourse in German-speaking Europe, as we have seen.<sup>60</sup> The *Landtage* held in the first half of the fifteenth century cannot even be placed in this transitional stage between the associative or judicial *Tag* and the representative institutions of a principality. Rather, the term simply seems to have referred to an assembly of counsellors or arbitrators overseen by a *Landrichter* (the office tied to a particular regional court, e.g. in the *Landgericht* in Baar, under the counts of Fürstenberg, or in the Thurgau, under the dukes of Austria-Tyrol).<sup>61</sup>

Finally, in addition to displaying associative dynamics, political communities in the 'territories' of the later medieval Empire sometimes presented themselves as associations. The councillors or estates of a principality regularly acted in 'internal' affairs as a single body, and often strengthened the associative character of their ties by means of treaties and contracts which resemble those of the many other associations considered in Part II. This is evident in the case of the 'Arrogation' of 1451-2 by which Count Palatine Friedrich I adopted the electoral dignity on behalf of his infant nephew. The Arrogation was ratified via a treaty sealed by all of the councillors of the Palatinate. In this treaty, these elites depicted themselves as an association of powers who did not merely act as a caste of administrators within the properties and jurisdictions ruled by the Counts Palatine, but collectively formed the dominant parts of the Palatinate itself – or, as they put it in the treaty, the 'splendid councillors and notable members of the Rhine

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<sup>59</sup> 'emphelhen wir ew, daz ir zwen vernünfftig aus ew fu<sup>r</sup>nemet und ordnet, damit die auf denselben tag mit gewaltsam gewislich daselbs sein, und solich unnser, unnser land und leut notdurft fürzenemen, und zu betrachten verhelffen und nit ausbleiben'. *UBF*, II, 572-3.

<sup>60</sup> 'rat und hilff'. *Ibid.*, II, 573. See ch. 7, pp. 176-7.

<sup>61</sup> E.g. *FUB*, III, 157; *TLA* Frid./26/5.

Palatinate'.<sup>62</sup> In the same vein, the elites who referred to themselves collectively as the 'estates' of a region or princely agglomeration (*Landstände*, *Landschaft*, or simply *Land*) were effectively giving an abstract label to a concrete association of powers. This is what made it possible for external authorities to write to 'estates' as a whole. When the bishop of Chur complained to the entire *Landschaft* of the county of Tyrol about the behaviour of the *Vogt* of Matsch in 1420,<sup>63</sup> or when Emperor Frederick III ordered the *Landstände* of Outer Austria to respect the truce signed by Duke Sigmund and the Swiss Confederates in 1468,<sup>64</sup> it was understood that these collective terms denoted an association of prelates, noblemen, and communes with lateral ties to one another and a shared connection, in some capacity, to a prince or dynasty. In the case of Tyrol, the associative nature of the *Landschaft* is particularly explicit in the sources. The ecclesiastical, noble, and communal authorities of the county formed several treaty-based associations in the course of the fifteenth century in which they referred to themselves as the estates or *Landschaft* while using an associative vocabulary – words like 'pundnuss' and 'aynung' ('alliance') – to describe their formal union.<sup>65</sup> The *Land* of Swabia – the term by which the prelates, towns, and nobles of that region referred to themselves collectively, even though they were never notionally united under one princely dynasty – had similar associative undertones. These became explicit and concrete when these powers formed the Swabian League from 1487 onwards.<sup>66</sup> All this discursive and structural elision suggests that, to borrow John Watts's expression, '[t]here is a sense in which leagues merge seamlessly into estates'.<sup>67</sup> Seemingly 'territorial' concepts like the *Land*, the *Landschaft*, and the

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<sup>62</sup> 'der Pfalzgraveschafft by Ryne trefflichen Rete und mergliche Gelidder'. *UGKF*, no. VI.

<sup>63</sup> TLA Frid./20/1.

<sup>64</sup> TLA Sigm./04b.55.312.

<sup>65</sup> E.g. TLA Kanzleibücher Cod. 122, fol. 1r, 2v, 27v.

<sup>66</sup> See chs 6-8.

<sup>67</sup> Watts, *Polities*, p. 103.

estates were actually networks of elites which operated according to associative configurations and conventions.

## **Conclusion**

It will by now be clear that associative dynamics shaped the interactions of political actors in the south-western Empire in almost every sphere of activity. Although what this thesis has called ‘associative political culture’ was defined first and foremost by the format of the alliance or league, the paradigm of the treaty-based association, and the modes of interaction that it entailed, was extremely widespread, and was adapted to a variety of purposes. The reasons for this relate to two characteristics of the Upper Rhine and Swabia in the fourteenth and fifteenth centuries which have already been noted several times.<sup>68</sup> Firstly, despite the importance of the Holy Roman Empire as an imaginary political entity, there was no overarching authority capable of organising political life directly in the south-western localities through central governmental institutions. Secondly, even the most powerful princes in these regions were reliant on sprawling and overlapping networks of other quasi-autonomous actors, who rarely maintained straightforwardly vertical relations vis-à-vis each other or their notional lord(s). In these circumstances, the many different actors with a stake in government at some level had to form quasi-horizontal relationships, and regulatory frameworks to accompany them, on their own initiative. Contractual ties which left room for frequent negotiation were the perfect tool for this purpose. The proliferation of treaties and contracts in later medieval Europe has recently become a subject of research in a number of regions, and their particular abundance in the German-speaking lands has prompted Jean-Marie Moeglin to style the Holy Roman Empire a ‘laboratory for the

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<sup>68</sup> See Introduction, chs 1-4, *passim*.

institutionalised political contract'.<sup>69</sup> However, while Moeglin was referring to contracts between rulers and subjects in the Empire's most consolidated principalities, the evidence considered in this chapter points to a much broader vista of contractual and associative activity, anchored primarily in lateral (though rarely equal) relationships between elites. The extraordinary extent to which associative dynamics shaped political life in the southwestern Empire reinforces the need for a new perspective to complement and refine the narratives of territorialisation and the creation of a socio-politically segmented 'Imperial constitution', neither of which can fully deal with the political dynamics examined in Part II. To consider the ways in which an 'associative' model of the Holy Roman Empire might be articulated and applied is the task of the conclusion of this thesis.

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<sup>69</sup> 'laboratoire du contrat politique institutionnalisé'. J.-M. Moeglin, 'Le Saint Empire: contrat politique et souveraineté partagée', in F. Foronda (ed.), *Avant le contrat social. Le contrat politique dans l'Occident médiéval (XIIIe-XVe siècles)* (Paris, 2011), pp. 173-92.

### III. ASSOCIATIVE POLITICAL CULTURE IN ACTION: THREE CASE STUDIES

As defined in this thesis, ‘associative political culture’ is a model that aims to make sense of the structures and conventions of power exhibited by the sources that survive from the later medieval and early modern Holy Roman Empire. Parts I and II have examined the key features of these structures and conventions with particular reference to the Upper Rhine and its adjoining regions. To recapitulate briefly, the political elites in these regions all shared in the following elements: sophisticated performative and documentary cultures, within the legal framework of the Empire and its monarchy; interlocking practices of arbitration and feuding as modes of multilateral negotiation, notably at meetings called *Tage*; and interconnective structures of lordship and administration requiring many autonomous political actors to work in concert to operate. In this densely networked political landscape, a variety of political actors found it advantageous to enter into formal associations with one another, especially alliances and leagues. These conformed to a ubiquitous and normative format which stipulated and regulated mutual assistance, primarily during armed conflicts, and flexible methods of arbitration at ad hoc *Tage*. More generally, almost all political activity in this period relied on contractual interactions between horizontally-related powers, regardless of whether these were of princely, ecclesiastical, noble, or urban status.

The goal of Part III is to demonstrate in a more sustained manner how these elements of associative political culture operated, by reference to three case studies. Each of these will take a series of prominent episodes in the southern Empire at a different point within the 1350-1500 timeframe and highlight how sequences of events can be understood in terms of the associative political culture shared by those involved in them.

The point of these chapters is not to offer exhaustive narratives of these events, all of which have been covered already by several historians. Rather, they aim to show how attentiveness to associative political culture can illuminate seemingly unintelligible or chaotic episodes, and that it can do so more effectively than other interpretations of these same episodes, and of the later medieval history of the Empire more generally. They also present an opportunity to look beyond the individual and more localised cases, mostly from the Upper Rhine, which have formed the bulk of the evidence presented so far in this thesis, and to examine how associative politics played out on the broader horizon of the Upper German lands of the Holy Roman Empire. The three case studies range from the 1370s to the 1470s, so they also allow for consideration of the extent to which political life evolved over time, which will enable this thesis to conclude with some diachronic perspectives on continuity and change within the Empire's structures and political culture.

## 10. The ‘Town War’, c. 1376-89

The so-called ‘Town War’ (*Städtekrieg*) of 1387-9, and the eventful decade that preceded it, has frequently been presented as ‘one of the central conflicts over order [within the Empire] in the fourteenth century’.<sup>1</sup> The narrative of this conflict, as it is typically recounted, can be summarised as follows. In the mid 1370s Emperor Charles IV embarked on a campaign to secure the election of his son Wenceslas as king of the Romans. In order to obtain the funds needed to purchase the support of the electors, he intensified his exploitation of the crown’s resources and prerogatives, primarily by increasing the taxes demanded from the Imperial Cities and by pledging royal assets – including entire towns – to wealthy princes. In July 1376 the Free and Imperial Cities of Swabia responded to these perceived threats and injustices by forming a large league. Despite a dispute with the monarchs and several princes in 1376-7, the league survived into the 1380s, and in 1381 it formed an alliance with another urban association, the league of Free and Imperial Cities along the Rhine. A series of disorderly wars against noble and princely opponents throughout the 1380s only reinforced the resolve of the cities to act in concert to protect their interests, despite Wenceslas’s attempts to mediate and re-impose order via a series of parallel *Landfrieden*. The strength and unity of the cities reached its apogee in 1385, when an enormous trans-regional league system was sealed between the Swabian and Rhenish town leagues and the towns of the Swiss Confederation. The Swabian towns confidently declared war on the dukes of Bavaria in late 1387 when these princes kidnapped the league’s ally, the archbishop of Salzburg. By early 1388 virtually all the cities of the Middle and Upper Rhine, Swabia, and Franconia

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<sup>1</sup> ‘einer der zentralen Ordnungskonflikte des 14. Jahrhunderts’. A. Schubert, ‘Städtekrieg, 1387/1389’, in *Historisches Lexikon Bayerns* <[http://www.historisches-lexikon-bayerns.de/artikel/artikel\\_45561](http://www.historisches-lexikon-bayerns.de/artikel/artikel_45561)> (2011). See A. Schubert, *Der Stadt Nutz oder Notdurft? Die Reichsstadt Nürnberg und der Städtekrieg von 1388/89* (Husum, 2003), pp. 9-30 for an overview of the nineteenth- and twentieth-century literature, from which this paragraph draws its summary of events.

were at war with a growing coalition of princes and noblemen, and chaos threatened to engulf Upper Germany. Large-scale military confrontations in the summer and autumn of that year ended in defeat for the towns, and in the spring of 1389 they were forced to accept humiliating peace conditions orchestrated by Wenceslas (who by now strongly favoured the princely faction) in the '*Reichslandfriede* of Eger'.

In its general outlines, this account captures something of what seems to have occurred, based on the sources that survive from these decades. However, there is also much that is misleading about this oft-repeated narrative. First of all, it implies that the wars of the 1370s and '80s were fought by two monolithic 'urban' and 'princely' blocs vying for prominence within the 'Imperial constitution'.<sup>2</sup> Variations on this simplistic interpretation have existed since the earliest scholarship of the 'Town War'.<sup>3</sup> For much of the nineteenth and twentieth centuries these conflagrations were understood as an inevitable clash between ontologically different socio-political groups: the mercantile, republican (or, in a Marxist idiom, proto-capitalist and bourgeois) towns versus the reactionary feudal nobility, led by the ambitious territorial princes. It is certainly true that these decades saw the creation of leagues which predominantly consisted of cities, and that these leagues were opposed by coalitions led by princes. However, the developments subsumed within the historiographical construct of the 'Town War' were more complex than the narrative of a two-way struggle between inherently opposed groups would suggest. We shall see that a series of interlocking conflicts and negotiations unfolded in Upper Germany between 1376 and 1389, and that they had a variety of possible causes. While some of the sources do contain 'princely' and 'urban' identifications, these apparent solidarities do not, in themselves, explain the events of these years.

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<sup>2</sup> E.g. in Moraw, *Verfassung*, pp. 256-8.

<sup>3</sup> For an overview of these, with references, see Schubert, *Städtekrieg*, pp. 9-19.

A second disputable feature of existing narratives is the impression they create of a unique and generalised crisis of order in the last decades of the fourteenth century. The competent Charles IV had established law and order in the Empire, so the narrative goes, but he overreached himself in his final years. His model of peripatetic kingship – and the stability it underpinned – crumbled under his idle and corrupt successor Wenceslas, catalysed by economic upheaval and the schism in the Church. These decades are still frequently characterised as a period marked by ‘the lack of commonly-binding norms’ which ‘fostered a general uncertainty in matters of justice, which found expression in the law of the fist and in an increase in feuding, and threatened to spill over into total anarchy’.<sup>4</sup> This case study will demonstrate that, on the contrary, all the political actors embroiled in the events of the 1370s and ‘80s were behaving according to the shared structures and principles of associative political culture. Feuding and alliance-making were normal aspects of political life, as we have seen, and all of the supposed upheavals of these years – even the climactic confrontations of 1387-9 – can be elucidated in terms of the logic of that political culture and its concomitant modes of interaction.

In order to appreciate the full complexity of the war, and the reasons for which the existing narratives of late fourteenth-century history in the Empire are too simplistic, it is necessary to examine the sequence of conflicts between 1376 and 1389 in some detail. Through a ‘thick description’ of the activities of the many shifting parties involved in the events of these decades, it will be possible to perceive the recurrent role played by alliances and leagues and by associative approaches to warfare and arbitration. First of all, it is worth surveying the history and circumstances of the league of Swabian towns, because the members of this association were among the most important actors in this

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<sup>4</sup> ‘das Fehlen gemeinverbindlicher Normen’ ‘förderte eine allgemeine Rechtunsicherheit, die sich im Faustrecht und in der Zunahme von Fehden niederschlug und in völlige Anarchie auszufernen drohte’. Hoensch, *Die Luxemburger*, p. 235.

episode. The long-term context of intersecting monarchical and associative politics is significant here. As we have seen, alliances of many different sizes and durations were already widespread in the mid-fourteenth century.<sup>5</sup> The alliance or league format was also the means by which Charles IV implemented his regional peace-keeping programmes in partnership with regional elites. The *Landfrieden* he sanctioned were formal associations, which fulfilled the usual functions of assistance and arbitration.<sup>6</sup> Several cities in Upper Swabia, Lower Swabia, and around Lake Constance formed leagues in the course of the 1330s to the 1370s, sometimes on their own initiative, and sometimes at the behest of a monarch, or with his sanction.<sup>7</sup> Thus, when on 4 July 1376 fourteen Imperial Cities in Swabia and the Lake Constance area formed a four-year league, invoking peace and the common good, this was very much in continuity with the recent past and not an ambitious new departure, as is sometimes implied.<sup>8</sup> However, the 1376 league did differ from its earlier incarnations in that, beyond stipulating the generic functions of any formal association, it had a context-specific goal to preserve the privileges and liberties of its members, notably their Imperial immediacy, even if this meant opposing the emperor himself. Nobody was ‘excepted’ (‘ußgenommen’) from the league’s possible war targets (although the treaty did allow its members to join *Landfrieden* and ally with noblemen in parallel to their commitments to the other towns).<sup>9</sup> In this respect, the cities’ governments were seeking an associative solution to the growing threat to their prosperity and autonomy presented by Charles IV’s recent policy of raising the taxes paid by Imperial Cities and pledging them to princes. In order to finance the enormous payments he made to the electors to secure the coronation of his son Wenceslas as king of the Romans in 1376, Charles intensified his exploitation of the assets and jurisdictions of the Roman

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<sup>5</sup> See examples in ch. 6, pp. 142-3, 146, 148, 156-9.

<sup>6</sup> See ch. 6, pp. 146-9; ch. 8, pp. 207-8.

<sup>7</sup> E.g. *MGHCA*, XI, 459-61; *UAODSB*, II, 568-99, 1002-3.

<sup>8</sup> *Ibid.*, II, 601-5.

<sup>9</sup> *Ibid.*, II, 603-4.

crown. His pledging of the Imperial City of Donauwörth to Dukes Friedrich and Stephan III of Bavaria-Landshut for 60,000 fl. in June 1376 was perceived as a grave menace by other autonomous Upper German municipal governments, most notably that of Ulm, and this provided the short-term justification for their league.<sup>10</sup>

These measures of self-preservation in the face of monarchical policy were given concrete expression by the cities of the league when they refused to offer homage to the newly-crowned King Wenceslas of the Romans on 6 July 1376. This was not an attempt to defend the principle of urban *Widerstandsrecht* vis-à-vis the crown or the aristocracy, as some interpretations of this Swabian league have suggested.<sup>11</sup> Rather, it was the opening gambit in a bid to negotiate with Charles and Wenceslas, via customary *Tag*-based mechanisms, to obtain guarantees about the cities' surviving franchises. Led by Ulm, the municipal governments made their homage conditional upon a new charter promising that Charles and Wenceslas would not impinge further on the cities' liberties.<sup>12</sup> At the same time, the city governments took measures to stiffen their mutual resolve, and that of their subjects. In Constance, for instance, 'the league was proclaimed publicly at the [town] hall, and the people were told how the towns had allied with one another'; this proclamation was backed up by a warning that citizens who opposed the league would have their possessions seized.<sup>13</sup> Initially Charles did not back down, and declined to provide the requested charter. Nor did he reverse his policy, and in September he tried to pledge the Imperial City of Weil to Count Eberhard II of Württemberg, which drove its government to join the Swabian league.<sup>14</sup> Troops were even raised by other Swabian and Franconian powers on Charles's orders and Ulm was besieged, but a truce was negotiated

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<sup>10</sup> Ibid., II, 600-1, 605.

<sup>11</sup> 'd[as] Machtstreben des Schwäbischen Städtebundes, der ein Widerstandsrecht auch gegen die oberste Reichsgewalt proklamierte'. Schubert, 'Städtekrieg'.

<sup>12</sup> *UAODSB*, II, 616-18.

<sup>13</sup> 'do verkund man die buntnust uff dem hof offenlich und sait man dem volk, wie die stette sich ze samen verbunden haben'. Ibid., II, 607.

<sup>14</sup> *GHW*, I, 251-3.

by Duke Friedrich of Bavaria-Landshut, the Imperial *Landvogt* in Swabia, in the course of September and October 1376 at a lengthy *Tag* in Nuremberg.<sup>15</sup> However, the troops of Count Eberhard of Württemberg – one of the Swabian powers who responded to Charles’s call and sent enmity-letters to the league – continued to damage Ulm’s people and properties, and the Swabian cities responded with reprisals against Eberhard’s assets and subjects. Ulm wrote indignant accounts of these perceived injustices to several Upper German powers, notably its close contacts in the governments of Frankfurt and Strasbourg.<sup>16</sup> Eberhard did the same, denying that his officers had violated Duke Friedrich’s negotiated truce, and maintaining that he had accepted that Friedrich convene another *Tag* at Blaubeuren to investigate Ulm’s accusations. Furthermore, he claimed that the Swabian cities had entered and then attacked his lands through an underhand ruse, since they had access rights in his towns for the wine and corn trade.<sup>17</sup>

Regardless of whose account of the autumn’s events was the more truthful, this expansion of the conflict, and the growing catalogue of accusations levelled both by the Swabian cities and the counts of Württemberg, had the effect of drawing yet more parties into this dispute via associative mechanisms. Several more cities and noblemen joined the Swabian league, while Count Eberhard was backed up by his brother Ulrich, Duke Stephan of Bavaria-Landshut, and several noblemen like Count Heinrich of Werdenberg-Alpeck and Lord Kraft of Hohenlohe.<sup>18</sup> The war took a violent turn around Reutlingen in the spring of 1377, and Duke Friedrich of Bavaria-Landshut intervened once again as mediator on behalf of both parties, with whom he maintained close connections. The result was a negotiated peace in mid-May 1377.<sup>19</sup> Charles and Wenceslas were by this

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<sup>15</sup> *UAODSB*, II, 610-11.

<sup>16</sup> *Ibid.*, II, 616-18.

<sup>17</sup> *Ibid.*, II, 619-21.

<sup>18</sup> *Ibid.*, II, 636-7.

<sup>19</sup> *Ibid.*, II, 632-3.

point willing to compromise with the intransigent cities in order to avoid any further escalation, and on 31 May they formally pardoned the Swabian communes, confirmed their privileges and perpetual Imperial immediacy, and sanctioned the recent reconciliation treaty.<sup>20</sup> However, the conflict had brought unusually large and polarised league-based configurations into being, and these configurations would shape politics in the Empire for the ensuing decade.

In the short term, the uncertainties linked with Charles IV's death in late 1378 and the divided loyalties engendered by the papal schism seem to have encouraged the majority of Upper German powers to join these leagues, especially that of the Swabian cities. An anonymous contemporary chronicle written in Constance enumerates dozens of powers which joined the fourteen original members within the Swabian league between 1376 and 1383 – a list that is confirmed (and indeed expanded) by surviving treaties and correspondence.<sup>21</sup> Within this timeframe, these powers included, at various points, eighteen more Imperial Cities, such as Esslingen and Regensburg, and the rural communes of Appenzell, but also noble and princely actors, like Duke Leopold III of Austria, Count Heinrich IV of Fürstenberg, and Count Rudolf III of Hohenberg.<sup>22</sup> The league itself was extended until 1385, and thereafter until the 1390s.<sup>23</sup> In July 1379 the league even managed to obtain a six-year alliance with the Counts Palatine, Ruprecht I ('the Elder') and Ruprecht II ('the Younger'), and their cousins, Dukes Friedrich, Stephan, Otto, and Johann of Bavaria-Landshut, as well as the two young margraves of Baden, Bernhard I and Rudolf VII, then under Ruprecht the Elder's tutelage.<sup>24</sup> Even the counts of Württemberg, the lords of Hohenlohe, and their affinity of Upper Rhenish,

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<sup>20</sup> *RTA*, I, 190-2.

<sup>21</sup> *UAODSB*, II, 635-6.

<sup>22</sup> See *ibid.*, II, 644-67.

<sup>23</sup> *Ibid.*, II, 656-7.

<sup>24</sup> *Ibid.*, II, 728-44.

Swabian, and Franconian aristocrats – the bitter enemies of Ulm and its allies during the initial conflict of 1376-7 – were briefly drawn into the nexus of alliances centred on the Swabian cities and the duke of Austria in 1382, although not before a new spate of feuds between these two groups had erupted, creating and expanding yet more associations.<sup>25</sup>

After the peace of May 1377, tensions between the Württemberg affinity and the Swabian cities remained high, and both sides' grievances were thrashed out at multiple *Tage* in the summer of 1378.<sup>26</sup> Low-level disputes between the two groups continued thereafter.<sup>27</sup> These disputes took on much larger dimensions when some members of the Württemberg affinity were drawn into three enormous knightly societies in 1379-81: the Societies of the Lion, of St William, and of St George.<sup>28</sup> The first of these was founded by networks of Middle and Upper Rhenish noblemen in late 1379. They were led by the archbishop of Mainz and the count of Nassau, and their union was primarily directed against the Counts Palatine. The formation of the Society of the Lion therefore had nothing to do with any rivalry between towns and nobles, and indeed it went on to recruit the municipal government of Basel in the ensuing months. Most of the Outer Austrian nobility also joined this Society between 1379 and 1381, as did the bishops of Strasbourg and Basel and the counts of Württemberg, with Count Ulrich acting as captain of its Swabian component. The Societies of St William and St George were much smaller groupings, founded respectively in Swabia and Franconia in 1380-1, but they were pulled into the influence and activities of the Society of the Lion by the three-way alliances sealed by all the knightly societies in early March 1381.<sup>29</sup> By this point the Society of the Lion was involved in several feuds in the Rhineland, notably against Frankfurt, prompting

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<sup>25</sup> *Ibid.*, III, 1478-1554.

<sup>26</sup> *RTA*, I, 213-15.

<sup>27</sup> E.g. *UAODSB*, II, 711.

<sup>28</sup> For what follows, see Ruser, 'Gesellschaften', pp. 31-42.

<sup>29</sup> *UAODSB*, III, 1430-7.

the creation of a formal Rhenish league of Free and Imperial Cities on the foundations of long-standing urban networks in the region. This new league, a union between Mainz, Strasbourg, Worms, Speyer, Frankfurt, Haguenau, and Wissembourg, was founded on 20 March 1381.<sup>30</sup> It soon expanded to include other Alsatian and Rhenish towns, as well as several lords and noblemen, not least Count Simon III of Sponheim.<sup>31</sup> The inclusion of the Counts Palatine was mooted, but this project was not realised.<sup>32</sup> In Swabia, meanwhile, a state of open enmity resumed between the Swabian cities and the counts of Württemberg and their allies, who were now members of the same trans-regional Society of the Lion as the enemies of the Rhenish cities. In June 1381 the Rhenish and Swabian leagues entered into a formal alliance, with all the customary stipulations this entailed (mutual assistance, procedures for arbitration of disputes).<sup>33</sup> The shared hostility of the Upper German cities towards certain members of the knightly societies at this moment in time, and not any inherent sense of urban solidarity, prompted this alliance.<sup>34</sup>

This multi-theatre conflict could not last long, however. The interests of the knightly societies and the towns actually converged in many respects – their possessions and jurisdictions were often intertwined, and some noblemen, like the counts of Öttingen, were also citizens of some Imperial Cities.<sup>35</sup> Duke Leopold of Austria, meanwhile, was not content to allow this disruptive hostility to continue, since some of his key allies and retainers were fighting on both sides of the war in Swabia and along the Rhine. These connections also made him an ideal mediator, and in the early months of 1382 he negotiated a truce and then, in early April, a more durable reconciliation at a *Tag* in Ehingen. An Augsburg chronicler claimed, somewhat tendentiously, that ‘no emperor,

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<sup>30</sup> Ibid., III, 63-9.

<sup>31</sup> Ibid., III, 283-9, 364-8.

<sup>32</sup> Ibid., III, 87-92.

<sup>33</sup> Ibid., III, 101-4.

<sup>34</sup> See the ‘*Zusatzvertrag*’ signed at the same time: *ibid.*, III, 104-7.

<sup>35</sup> Ruser, ‘*Gesellschaften*’, p. 38.

king, duke, free lord, or squire could have arbitrated in the war except the noble Duke Leopold of Austria'.<sup>36</sup> The outcome of this mediation was the largest and most interconnected set of associations yet since the Swabian league's foundation in 1376-7. Under Leopold's influence, the Rhenish and Swabian leagues and the knightly societies agreed on 9 April 1382 to a two-year alliance between all of their respective associations, which effectively brought into being an extensive league system spanning the entirety of Upper Germany.<sup>37</sup> The majority of political actors in Swabia and Franconia and along the Middle and Upper Rhine were now connected to one another by one or more league- or alliance-based ties.

The complex, at times almost contradictory course of events between 1379 and 1382 cannot be explained solely by reference to either of the existing grand narratives of the 'Town War': namely, 'estate'-based conflict within the *Reichsverfassung* or generalised chaos. Only the customary resort to associative modes of interaction among all the different elite groups in the Empire explains the rapid creation and evolution of these alliances. It was also associative means – multilateral negotiation between horizontally-related parties at *Tage* – which brought this phase of the leagues' activities to an end. The starting point of these developments was surely the urban reaction to Charles IV's policies in 1376, which led to the creation of two opposing blocs – the Swabian cities and the Württemberg affinity.<sup>38</sup> Both blocs then expanded from 1378-9 onwards. The reasons for this expansion are not always easy to discern in the laconic evidence, but it seems clear that many allegiances were determined by the position of particular powers, rather than by estate-based solidarity. Thus, the Swabian and Rhenish cities won the Counts Palatine and the duke of Austria as allies, while the cities' opponents in 1376-8 –

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<sup>36</sup> 'Den krieg kund weder kaiser noch ku<sup>e</sup>ng, Herzog noch fri noch dienstmann nie verrichten dann der edel Herzog Liupolt von o<sup>e</sup>sterrich'. *UAODSB*, III, 1474.

<sup>37</sup> *Ibid.*, III, 1478-1554.

<sup>38</sup> See above, pp. 250-2.

the counts of Württemberg and their allies – played a leading role within the rival coalition of knightly societies.<sup>39</sup> Through the mediation of Duke Leopold of Austria these two blocs were finally brought together in a loose nexus of leagues in April 1382.

Another factor that seems to have played a role is the papal schism, and the division of ecclesiastical loyalties that it provoked in the Empire. Wenceslas favoured obedience to the Roman pope, Urban VI, but the dukes of Austria offered their allegiance to the curia at Avignon, led by Clement VII, perhaps because of their dynastic ties to Burgundy.<sup>40</sup> In February 1379 Wenceslas had initiated a pan-Imperial league of powers backing Urban, so it is perhaps unsurprising that supporters of Clement sought alliances within the Empire.<sup>41</sup> As noted above, Duke Leopold forged ties with the Swabian cities and the knightly societies. These last were, at least for some of their members, another means of expressing Clementist allegiance; one of the founding members of the Society of the Lion, the count of Nassau, was the brother of Archbishop Adolf I of Mainz, a fervent supporter of Clement, to whom Adolf owed his archiepiscopal office.<sup>42</sup> However, ecclesiastical politics alone do not explain the shifting networks of the 1370s-80s. All of the Free and Imperial Cities followed Wenceslas in supporting Urban, for instance, but this did not prevent the municipal governments in Swabia from accepting an alliance with Leopold in 1378 and with the knights and nobles in the EHINGEN treaties of 1382. The generalised and particularly frenetic league-making in these years also points to a search for security and regulation. In this period, as we have seen, this was always achieved through associative modes of assistance and arbitration, whether within *Landfrieden* sanctioned by the crown or alliances forged on local initiative, or via a combination of the

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<sup>39</sup> See above, pp. 253-4. For the perception of the knightly societies as a single coalition, see e.g. a letter from Mainz in *UAODSB*, III, 55, in which ‘etwie vil gesellschaftt’ are mentioned.

<sup>40</sup> See TLA Urk-I/8138-43.

<sup>41</sup> *RTA*, I, 232-40.

<sup>42</sup> Ruser, ‘Gesellschaften’, pp. 30-2.

two. Far from causing chaos and the use of the ‘law of the fist’, the associative activities of the princes, nobility, and cities manifest an attempt to control and minimise violence and disruption. This is demonstrated not only by the proliferation of alliances – which can be traced through treaties – but also by the constant and effective use made by the members of these associations in the 1380s of the possibilities they offered for assistance (via *Mahnungen* to allies in times of conflict) and adjudication (via arbitration among allies).<sup>43</sup>

The associative patterns of the early 1380s represented a change from Charles IV’s reign, and a more contested understanding of who the purveyors of peace – the *Landfriede* – were. As a peripatetic monarch, Charles had relied on regular contact with networks of loyal and prominent actors in the localities, whose formal alliances he sanctioned. This method ceased to work for his son, perhaps because Wenceslas was not as energetic and mobile, but also because the events of 1376-7 had invigorated the networks discussed above. Despite Wenceslas’s efforts to establish *Landfrieden* between 1378 and 1382, most powers in the Upper German regions relied instead – or simultaneously – on alliances formed with little to no reference to the crown.<sup>44</sup> The discursive patterns noted in chapter 8 were particularly prominent here – the writers of the Swabian and Rhenish league treaties were at pains to emphasise their commitment to peace, the common good, and the honour of the Empire in their rhetoric.<sup>45</sup> Similarly, the huge nexus of associations arranged by Duke Leopold in April 1382 was unambiguously presented as a *Landfriede*, founded for the common peace of the land, the protection of

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<sup>43</sup> See e.g. *UAODSB*, III, 376, 1770-1, 1774-6, 1908-9.

<sup>44</sup> For Wenceslas’s *Landfrieden* see *RTA*, I, 216-24, 243-5, 285-7, 315-25, 337-49.

<sup>45</sup> See esp. *UAODSB*, III, 63, 101.

pilgrims and merchants, and so on, even though it was created without royal sanction or any reference to Wenceslas.<sup>46</sup>

In February 1383 Wenceslas travelled to Nuremberg in the hope of resurrecting his father's model of peace-enforcement. He was partially successful, in that the majority of princes and upper noblemen in the southern and western German-speaking lands agreed to join a vast, quadripartite alliance ('eynunge') with the usual stipulations of a formal association, and a strong rhetorical emphasis on peace-keeping and loyalty to the king and Empire.<sup>47</sup> The overly-ambitious nature of the project was immediately acknowledged, however, as Wenceslas had to dispense distant members of the alliance from offering one another military assistance.<sup>48</sup> More importantly, the core members of the Swabian and Rhenish leagues, including all the cities, preferred to remain within their own *Landfriede*-like alliances, so a large proportion of the Upper German elite was excluded from Wenceslas's project. This proportion increased as the Swabian league attracted new members in 1384, including Nuremberg and the city and bishop of Basel.<sup>49</sup> It was only in July of that year that the princes, prelates, noblemen, and cities came together in a large-scale league, which was even more extensive than the nexus of alliances forged in April 1382. Several *Tag*e had been held in Würzburg (1383) and Speyer (February 1384) at which this project was debated without reference to the king, against the backdrop of yet more local feuds.<sup>50</sup> Count Palatine Ruprecht the Elder took the initiative in bringing these parties together again at Heidelberg in July, a *Tag* which was also attended by Wenceslas. With these two influential figures presiding, the predominantly urban leagues and the powers of the 1383 Nuremberg *Landfriede* were

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<sup>46</sup> Ibid., III, 1534, 1544.

<sup>47</sup> *RTA*, I, 367-74.

<sup>48</sup> Ibid., I, 374-5.

<sup>49</sup> *UAODSB*, III, 1698-1701, 1715-17

<sup>50</sup> Ibid., III, 404-19, 427.

able to come to a contractual compromise, referred to as a ‘stallung’.<sup>51</sup> In practice it was yet another three-year *Landfriede*-alliance, which guaranteed mutual assistance against those who attacked or harmed the rights of members of the *Stallung*, as well as pilgrims, merchants, and travellers.<sup>52</sup> Importantly, the *Stallung* did not impinge on the existing alliances of all those who affixed their seals to it.<sup>53</sup>

It is in this context that the nine-year ‘Great Town League’ of February 1385, sealed at Constance by the Rhenish and Swabian cities with Zurich, Bern, Solothurn, and Zug, should be understood.<sup>54</sup> This was not, as nineteenth- and twentieth-century historians often claimed, a radical union of proto-republican forces seeking to assert themselves in the Empire.<sup>55</sup> It could be argued that urban solidarity played a role in its construction, in that it consisted entirely of towns, but this should not be exaggerated as a motivating factor. The main sub-groups within the 1385 league – the Swabian and Rhenish cities – each had a set of noble and princely allies, as we have seen.<sup>56</sup> In any case, the urban character of the league had little obvious effect on its functions, as they were set down in its founding treaty. The league of 1385, like the 1384 *Stallung* of Heidelberg, with which it heavily overlapped, was simply another large-scale associative means of regulating and enforcing advantageous peace in the localities of the powers involved in it. It resembled in all respects the alliances, leagues, and *Landfrieden* founded over the previous decade, emphasising the peace and honour of the Empire and the common good, and defining the spheres within which its members owed one another assistance and adjudication.<sup>57</sup> While Wenceslas did not endorse this new league, he was content to make use of the collective action of the cities, for example as a means of

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<sup>51</sup> Ibid., III, 524.

<sup>52</sup> Ibid., III, 527-40.

<sup>53</sup> Ibid., III, 533.

<sup>54</sup> Ibid., III, 1785-93.

<sup>55</sup> See Schubert, *Städtekrieg*, p. 13.

<sup>56</sup> See above, pp. 253-5.

<sup>57</sup> *UAODSB*, III, 1785-6.

ending local conflicts,<sup>58</sup> or by allowing municipal governments to erase the debts owed to their Jewish subjects and then expel or expropriate them in exchange for substantial payments to the crown.<sup>59</sup>

What potential this trans-regional league had to shake up the existing configurations of lordship and association in Upper Germany was in any case never realised. The Swiss towns broke away from the league little more than a year after its foundation, following the outbreak of a feud between the Confederates and Duke Leopold of Austria in 1386. The Swabian and Rhenish allies of Zurich, Bern, Solothurn, and Zug attempted to mediate in the dispute, and then decided that their ties to Duke Leopold (not least within the framework of the 1384 *Stallung*) took priority over the 1385 agreements, and declined to involve themselves in the so-called ‘War of Sempach’.<sup>60</sup> Leopold’s death on the battlefield of Sempach in July 1386, along with dozens of patricians and noblemen from the Outer Austrian lands, resulted in an Austro-Confederate peace treaty (January 1387) which largely removed all these parties from the activities of their former associates north of the *Hochrhein*.<sup>61</sup> In March 1387 Wenceslas confirmed all the privileges of the cities of Swabia, tacitly acknowledging the legitimacy of their league,<sup>62</sup> and in October-November 1387 the *Stallung* of Heidelberg with the Upper German princes and nobility was renewed for a further three years at a well-attended *Tag* in Mergentheim.<sup>63</sup> Both the Rhenish and Swabian leagues and many major princes, including the Rhenish electors, the counts of Württemberg, and the dukes of Bavaria, were included in the new treaty. The association-based *modus vivendi* that had prevailed in the Upper German lands since the early 1380s looked set to endure for some time.

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<sup>58</sup> E.g. *ibid.*, III, 1608-9.

<sup>59</sup> *RTA*, I, 492-503.

<sup>60</sup> S. Jäggi, ‘Sempacherkrieg’, in *HLS*.

<sup>61</sup> *Ibid.*

<sup>62</sup> *RTA*, I, 546-9.

<sup>63</sup> *UAODSB*, III, 2104-2128.

However, a few weeks later a new conflict broke out among the members of the *Stallung* of Mergentheim. Traditionally viewed as the main act of the ‘Town War’, the origins of this conflict in fact had nothing to do with any urban actors; rather, it was a contest between princes, and the eventual involvement of the cities is explicable only by reference to the dynamics of associative interaction. For several years tensions over jurisdictions had arisen between Duke Friedrich of Bavaria-Landshut and his eastern neighbour Archbishop Pilgrim II of Salzburg.<sup>64</sup> Under the guise of seeking to negotiate with Pilgrim, Friedrich invited the archbishop to talks at Raitenhaslach. When he arrived, on 27 November 1387, he and his entourage were seized and imprisoned by the Bavarian duke. Friedrich’s armed retainers took over several Salzburg-owned castles nearby, and a number of passing merchants from cities within the Swabian league had their wares and money stolen from them. Wenceslas learned of these developments from Prague in December, and ordered his councillor Bořivoj von Svinaře – a Bohemian nobleman on whom he had bestowed offices in Bavaria – to negotiate Pilgrim’s release.<sup>65</sup> However, Bořivoj was more committed to the local ties of finance, lordship, and association that he maintained in Bavaria, not least with the dukes themselves, than to his notional responsibilities assigned from afar – including the duty of seeking an impartial solution in the dispute between Friedrich and his brothers and the captive prelate. In late January 1388 Bořivoj reported to the king that Pilgrim had been released and that the matter was resolved, even though the archbishop was still imprisoned, and the conflict had escalated substantially by that point.<sup>66</sup> In the weeks that followed he continued to write favourable

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<sup>64</sup> Schubert, *Städtekrieg*, pp. 38-40.

<sup>65</sup> *Ibid.*, p. 40 (esp. note 23).

<sup>66</sup> *UAODSB*, III, 2185-6.

reports about the dukes of Bavaria to Wenceslas, depicting their growing list of enemies as unjust and unreasonable, and falsely claiming that Pilgrim was free.<sup>67</sup>

The archbishop of Salzburg, however, had other sources of assistance. The most important powers with a connection to Salzburg were the Swabian cities and their close noble allies, who had signed an alliance with the archbishop in the summer of 1387. On 15 December of that year several representatives of the members of the Swabian league met at a *Tag* in Ulm to discuss how to proceed.<sup>68</sup> The municipal governments were motivated by the obligation to provide assistance as per their alliance treaty with Pilgrim, and they were also incensed by the ‘great evil and injustice’ done to the merchants whose goods were seized by Duke Friedrich’s men.<sup>69</sup> The representatives agreed to assemble an army before Augsburg, to double the troop commitments specified in the existing league treaties, and to appoint their ally Count Heinrich IV of Montfort-Tettnang – a former retainer of both Charles IV and Duke Leopold III of Austria, and a member of the Society of the Lion – as their captain.<sup>70</sup> The intentions of the league’s leaders initially received support from Wenceslas. On 8 January 1388 the king sent an enmity-letter to Friedrich of Bavaria, and called upon other powers in the Empire to open hostilities against the duke because of his peace-breaking actions.<sup>71</sup> However, Wenceslas soon retracted this declaration of war when he received falsified reports from Bořivoj von Svinaře claiming that the archbishop of Salzburg had been released and that the dispute was settled. Furthermore, some of the key members of the *Stallung*-based league system renewed in November 1387 declined to respond to the king’s invitation to war. Burgrave Friedrich V of Nuremberg, Count Palatine Ruprecht the Elder, and the Rhenish cities all sought

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<sup>67</sup> Schubert, *Städtekrieg*, pp. 49-55.

<sup>68</sup> *UAODSB*, III, 2142.

<sup>69</sup> ‘von solch großen Uebel und Unrechts wegen’. *Ibid.*, III, 2142.

<sup>70</sup> Schubert, *Städtekrieg*, p. 44.

<sup>71</sup> *Ibid.*, pp. 40-1.

instead, unsuccessfully, to open channels of negotiation between the Bavarian dukes and the Swabian cities, citing their ties of alliance to both of these parties.<sup>72</sup>

Thus, when the Swabian league members sent an enmity-letter to Friedrich on 17 January 1388, formally entering into a state of feud with him, they had less support than they might have hoped in light of their extensive alliances within the framework of the *Stallung* of Heidelberg-Mergentheim.<sup>73</sup> This did not prevent them from attempting to invoke their alliances with the Count Palatine in January and then, in early February, with Counts Eberhard and Ulrich of Württemberg.<sup>74</sup> This seems to indicate that the municipal governments in Swabia took the *Stallung* seriously, and had reason to expect that this alliance, which they invoked in their *Mahnung*-letter to the counts, would have an effect. However, the dukes of Bavaria had also sealed the Mergentheim treaty, so the counts of Württemberg and their affinity – perhaps still nursing grievances from the feuds of 1376-82 – chose to support Duke Friedrich and his brothers instead, sending a collective enmity-letter to the Swabian cities on 7 February.<sup>75</sup> The Swabian league did manage to secure an alliance with Margrave Bernhard of Baden on 16 February, but only on the express condition that Bernhard would not be obliged to intervene in any way in the current war against the Bavarian dukes.<sup>76</sup>

As the conflict escalated in February 1388, with the forging of new alliances on both sides and the destruction of the property of the dukes of Bavaria by the advancing army of the Swabian cities, associative procedures for achieving compromise came into play. Friedrich attempted to defuse matters by extracting a 60,000 fl. payment from Archbishop Pilgrim in exchange for his release and the annulment of his alliance with the

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<sup>72</sup> Ibid., p. 42.

<sup>73</sup> *UAODSB*, III, 2179-80.

<sup>74</sup> Ibid., III, 2212-13.

<sup>75</sup> Ibid., III, 2211-12.

<sup>76</sup> Ibid., III, 2215-19.

Swabian cities, but the chapter and estates of Salzburg rejected these exorbitant terms.<sup>77</sup> Count Palatine Ruprecht the Elder, meanwhile, continued to push for a mediatory *Tag* under his supervision. In early March both sides agreed that he should arbitrate at Neumarkt in the Upper Palatinate in the customary manner, offering a compromise or a judgement (‘mit der mynne odir mit dem rechten’).<sup>78</sup> On 15 March Ruprecht issued an initial arbitrational outcome (‘anlaßbrief’) which called for a truce and reconciliation and the release of all prisoners, but the question of the restoration of the wares stolen from the merchants in November 1387 was not settled and, as was typical in mediatory proceedings, another *Tag* was appointed in April to resolve this.<sup>79</sup> However, Friedrich’s armed retainers did not respect the deadline for the cessation of hostilities. In late March Regensburg was embargoed and its merchants were abducted by the dukes of Bavaria, while several citizens of Nuremberg, Augsburg, and St Gallen had their possessions stolen, and one of them was murdered.<sup>80</sup> Thus, when the new *Tag* convened in mid-April at Heidelberg, tensions were higher still than in early March. Ruprecht attempted to extend the *Anlaß* from the Neumarkt conference, in order at least to maintain the truce, but the Swabian cities, backed by their Rhenish allies, now contested the validity of that arbitrational outcome on the grounds that the dukes of Bavaria had violated its terms. The representatives of the Swabian cities had been sent with a mandate to obtain appropriate restitution for this perceived injustice, and for the original theft of the merchants’ wares in November 1387, and were ordered not to accept any result which did not achieve this goal.<sup>81</sup> However, all other participants at the *Tag*, including third-party mediators within the *Stallung* as well as the Bavarian dukes, were unsympathetic to this recalcitrant position. The only actor who might have been supportive – Archbishop Pilgrim – was still

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<sup>77</sup> Schubert, *Städtekrieg*, pp. 55-6.

<sup>78</sup> *RTA*, II, 8. Cf. ch. 7, pp. 189-90.

<sup>79</sup> *UAODSB*, III, 2236-9.

<sup>80</sup> Schubert, *Städtekrieg*, p. 70; *RTA*, II, 28.

<sup>81</sup> *Ibid.*, II, 38-42.

languishing in a Bavarian prison. Sensing that fair terms (from their governments' perspective) were not going to be put on the table, the urban diplomats chose to abandon the conference in secret on 23-24 April rather than be tied to an unpalatable arbitrational outcome.

This understandable course of action proved to be very harmful to the Swabian league's image and options for the remainder of the conflict. In the Upper German nexus of elite networks, which was configured around built-in arbitrational mechanisms for resolving its many internal disputes and feuds, the outright refusal to continue negotiations at a *Tag* must have seemed like an unduly intransigent – even destabilising – approach. It did not bring Ruprecht the Elder's mediation to a halt; he simply extended the *Anlaß*, and left the possibility open for a future *Tag* to settle any outstanding concerns raised by either side.<sup>82</sup> The Rhenish cities tried to exercise their influence over the Count Palatine to bring about this new conference in the weeks that followed, but events had already overtaken them. In May the archbishop of Salzburg consented to an *Urfehde*-treaty with Duke Friedrich and was released, exiting the war in the process.<sup>83</sup> In June Dukes Stephan and Friedrich intensified their attacks against Augsburg, Regensburg, and Kaufbeuren, while the counts of Öttingen occupied Giengen's possessions. Dozens of princes and lords joined the Bavarian dukes in the war against the Swabian league, including the archbishop of Cologne, the bishops of Würzburg, Bamberg, and Augsburg, the burgrave of Nuremberg, Count Palatine Ruprecht the Younger, and Margrave Rudolf of Baden; extremely lengthy enmity-letters listing these actors and their associates survive from June to August 1388.<sup>84</sup> Even Ruprecht the Elder – hitherto the default third-party mediator in the conflict – sent his feud declaration on 27 July. A multitude of

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<sup>82</sup> *UAODSB*, III, 2259-68.

<sup>83</sup> *Ibid.*, III, 2276.

<sup>84</sup> *Ibid.*, III, 2293-354.

skirmishes and sieges unfolded simultaneously from the Upper Rhine to Franconia.<sup>85</sup> The municipal governments appealed to Wenceslas, but the king of the Romans was preoccupied by events in Bohemia that summer, and offered little response; so little, in fact, that rumours of his death circulated in Upper Germany.<sup>86</sup>

Throughout July, August, and September, Nuremberg sought desperately to induce its former princely allies to accept a truce and seek mediated solutions, even as the cities assembled large armies at Weil and Ulm, the former led by Peter Stromer, the septuagenarian patriarch of Nuremberg's most powerful patrician dynasty.<sup>87</sup> The Rhenish cities did likewise, appealing in particular to Archbishop Adolf of Mainz.<sup>88</sup> Ruprecht the Elder, who had little to gain from an extended war against his urban neighbours on the Middle and Upper Rhine, briefly contemplated a *Tag* in early September within the framework of the 'aynung zu Mergentheim'.<sup>89</sup> However, most actors in the Bavarian coalition were unwilling to negotiate while the conflict was going their way, and the Mergentheim *Stallung* was effectively a dead letter. These convictions were only reinforced when the princes and lords on the Bavarian side inflicted two major defeats on the city leagues and their allies in the ensuing months. The first came at Döffingen on 23 August, where the Swabian army suffered thousands of casualties, despite killing Count Ulrich of Württemberg on the battlefield; and the second took place near Pfeddersheim on 6 November, where the cities of the Rhenish league suffered a crushing defeat at the hands of Ruprecht the Younger and Margrave Rudolf of Baden. However, despite the common claim that these battles represented the ignominious end of the Rhenish and Swabian leagues' military adventures, the enemies of the Bavarian coalition were not

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<sup>85</sup> See Schubert, *Städtekrieg*, pp. 91-105.

<sup>86</sup> *Ibid.*, p. 98.

<sup>87</sup> *Ibid.*, p. 95.

<sup>88</sup> *RTA*, II, 47-9.

<sup>89</sup> *Ibid.*, II, 50; Schubert, *Städtekrieg*, pp. 104-5.

defeated outright. Nuremberg's troops successfully occupied dozens of Franconian towns and fortresses, especially those of the burgraves of Nuremberg, and peace conferences were planned for 8 and then 11 November.<sup>90</sup> While these failed to materialise, because many of those invited did not appear, a kind of stalemate was developing across the Upper German lands. The will for negotiations increased as princes like Archbishop Adolf and the bishop of Bamberg ceased hostilities and worked to arrange a mediatory *Tag*.<sup>91</sup>

The decisive initiative came in December 1388 from King Wenceslas, who seemed able once again to intervene in the Empire, and despatched several councillors to announce his intention to hold an adjudicatory *Tag* at Mergentheim in January 1389, where he would restore peace by erecting new *Landfriede*-associations, as his father had done.<sup>92</sup> In the end Wenceslas could not leave Bohemia in time for this conference, and so the *Tag* at Mergentheim became the occasion for a discussion about the precise form which a future *Tag*, which might arbitrate once and for all between the warring parties, should take.<sup>93</sup> Because of the importance of arbitration in Upper German political culture, and the particularly high stakes of the anticipated negotiations, a variety of political actors now attempted to manoeuvre each other into accepting the most advantageous circumstances for this upcoming *Tag*. From the perspective of Nuremberg and the Rhenish cities, the most beneficial outcome could be hoped to proceed from a conference overseen by neutral princes like Archbishop Adolf, especially if they were selected for this task by Wenceslas himself. The Swabian league members were asked to raise twice their usual contributions to the association, resulting in a sum of 12,110 fl., for the purposes of purchasing support among the princes and/or paying reparations in order to

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<sup>90</sup> Ibid., pp. 106-44.

<sup>91</sup> *RTA*, II, 84-7.

<sup>92</sup> Ibid., II, 91.

<sup>93</sup> Ibid., II, 104-9.

obtain the best possible result from the negotiations.<sup>94</sup> However, the princes of the Bavarian coalition were more confident in their ability to influence Wenceslas and his councillors, and they accepted the royal messengers' proposals for a double-*Tag*, encompassing as many actors as possible, at Mergentheim and Regensburg in mid-February 1389. When the king also failed to appear at these conferences, his messengers once again proposed a new *Tag*, this time to be held in Bamberg on 28 March.<sup>95</sup> In the absence of an immediate truce, northern Alsace and other localities were threatened by renewed violence.<sup>96</sup> Against this backdrop, a group of princes on the Bavarian side made a secret pact with the Rhenish cities, Augsburg, Regensburg, and Nuremberg: if Wenceslas did not preside in person over the new *Tag* at Bamberg, they would nevertheless hold it, and appoint a mediatory committee on their own initiative in order to achieve an arbitrated solution.<sup>97</sup>

If the Rhenish and Swabian municipal governments were now hoping for relatively favourable mediation via the princes they trusted the most, they were soon disappointed. On 10 March Wenceslas wrote to them announcing that, because of 'great and vital matters which occupy both us and our brother and our hereditary lands', the *Tag* would no longer be held in Bamberg, but instead in Eger (modern-day Cheb), in westernmost Bohemia, under the king's direct supervision.<sup>98</sup> Nuremberg's government and its allies were incensed by this change, which threatened to rob them of all the influence they might have wielded at Bamberg with the assistance of its metropolitan bishop, who was now in close contact with the Swabian cities.<sup>99</sup> They sought to convince Ruprecht the Elder and the archbishop of Mainz to persuade Wenceslas to change his

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<sup>94</sup> Ibid., II, 109.

<sup>95</sup> Ibid., II, 117-18.

<sup>96</sup> Ibid., II, 110.

<sup>97</sup> Schubert, *Städtekrieg*, pp. 174-6.

<sup>98</sup> 'groß und trefflich sach, die bede uns unser bru<sup>e</sup>der und unser erblich land antreten'. *RTA*, II, 150-1.

<sup>99</sup> Schubert, *Städtekrieg*, p. 177.

mind, or else to forge ahead with the original plan for a *Tag* in Bamberg.<sup>100</sup> This was partially successful, in that these two princes, along with the burgrave of Nuremberg and the representatives of the Rhenish and Swabian cities, met in Bamberg in April, a few weeks later than planned, in the hope that the Count Palatine could oversee an arbitrated outcome.<sup>101</sup> Ruprecht's conditions for doing so were very exacting: the unilateral release of all prisoners on the part of the Swabian and Rhenish cities and compensation for damage he had incurred, in addition to a one-off payment of 50,000 fl. However, the municipal envoys were aware that their governments had expended all their remaining political capital in order to make the *Tag* at Bamberg happen, and so they agreed to these exorbitant terms – an interesting insight into the price political actors might be willing to pay in order to secure a preferred arbitrator. Unfortunately for these envoys, the municipal governments themselves – some of which were already deeply in debt – could not uphold this deal, even when the archbishop of Mainz offered to make a financial contribution towards it. The conference ended without any results.<sup>102</sup>

Wenceslas therefore succeeded in assembling a *Tag* at Eger in early May, which was attended by all the major participants in the conflicts of the preceding year and a half. Initially the urban delegates were hopeful that Wenceslas would oversee a fair arbitral procedure, in conformity with the Mergentheim proposals of January and February. However, on 4 May Wenceslas accompanied his order that all the implicated leagues (Rhenish, Swabian, and Bavarian) be disbanded and replaced by a new *Landfriede* with some measures that clearly targeted the cities specifically. Declaring the privileges he had issued in recent years null and void, he demanded that all Jews and urban jurisdictions be returned to him, while the common practice of adopting citizens

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<sup>100</sup> *RTA*, II, 151-4.

<sup>101</sup> *Ibid.*, II, 200-14.

<sup>102</sup> *Ibid.*, II, 198-204.

from beyond urban precincts (*Pfahlbürger*) was to be proscribed.<sup>103</sup> This was a clear violation of the expected behaviour of a mediator – even a royal one – in the political culture of the Upper German lands, where some level of compromise was the norm, even if one side had suffered the majority of defeats in a conflict. The Rhenish envoys responded by pleading that they had no authority to negotiate in the face of such shockingly unfavourable terms, adding that they would rather die than return to their governments having accepted such an outcome.<sup>104</sup> The Swabian representatives, conferring in secret, were torn between abandoning the conference and continuing the war, or accepting Wenceslas's proposed new *Landfriede*, perhaps on the basis that the broadly-based *Stallung* of Heidelberg-Mergentheim had not been completely ineffective.<sup>105</sup> After Wenceslas had softened his jurisdictional demands of the cities, it was the latter option that prevailed: on 5 May he instituted a notionally Empire-wide 'lantfrid und buntnusse', sub-divided into circles in Swabia, Franconia, the Middle and Upper Rhine, Bavaria, Thuringia, Hesse, and Meissen.<sup>106</sup> Within this association, all of the former members of the Rhenish and Swabian leagues and the Bavarian coalition were to become allies, with the conventional duties of providing mutual assistance and adjudication. The coalitions of 1387-9 were abolished, and the individual disputes of all the various participants were to be decided 'mit mynne oder mit rechte' in appropriate arbitrational settings.<sup>107</sup> All *Pfahlbürger* were to have their citizenship revoked, and the cities were to pay reparations to the king and various princes, the value of which were contested in the days and weeks that followed.<sup>108</sup>

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<sup>103</sup> *Ibid.*, II, 200.

<sup>104</sup> *Ibid.*, II, 197.

<sup>105</sup> Schubert, *Städtekrieg*, pp. 195-6.

<sup>106</sup> *RTA*, II, 157-67.

<sup>107</sup> *Ibid.*, II, 164-5.

<sup>108</sup> *Ibid.*, II, 165, 194-214.

Though it was obviously a disadvantageous outcome for the cities in the short term, especially compared to what might have been gained from an arbitrated solution at Bamberg in April, the *Landfriede* of Eger was by no means an ignominious defeat, whereby urban aspirations and prominence in the Empire were permanently suppressed, as is often suggested in the secondary literature.<sup>109</sup> The disbanding of the leagues involved in the war, for instance, was not an anti-urban policy, but an equitable means of putting an end to the hostile coalitions behind the conflicts of 1387-9 (which included the networks fighting on the Bavarian side).<sup>110</sup> It is notable that some other predominantly urban leagues – those of the towns around Lake Constance and the Imperial Cities in Alsace, for example – were not only ignored in the negotiations of Eger, but received active support from the Roman monarchs into the 1390s and beyond.<sup>111</sup> It is in any case absurd to link the peace of 1389 with a desire on the part of the monarchy to get rid of supposedly disruptive leagues, given that the *Landfriede* of Eger was itself a league (a ‘buntnusse’, as it is called in the treaty document), with extremely similar stipulations to those found in the Swabian and Rhenish leagues, the *Stallungen* of Mergentheim and Heidelberg, and the *Landfrieden* and alliances of the late 1370s. Furthermore, the Swabian networks behind the league of 1376-89 remained highly active, and regional alliances soon re-formed. The local arbitrations and reparation negotiations ensured that the municipal governments remained in close contact throughout 1389-90 and beyond, as multiple *Tage* were held all over the Upper German regions to thrash out on a case-by-case basis what was owed by and to different combinations of towns and lords, and how payment would be implemented.<sup>112</sup> The *Reichslandfriede* of Eger, meanwhile, did not last

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<sup>109</sup> E.g. M. Weindl, ‘Der Städtekrieg von 1388’, in P. Morsbach and P. Brielmaier (eds), *Regensburg – Metropole im Mittelalter* (Regensburg, 2007), p. 225.

<sup>110</sup> *RTA*, II, 164.

<sup>111</sup> See e.g. ch. 6, p. 159; ch. 8, p. 204.

<sup>112</sup> *UAODSB*, III, 1253-423, 2670-941.

long, and was soon replaced by more local *Landfrieden*, with Wenceslas's approval, later in the 1390s.<sup>113</sup>

Day-to-day reality in these thirteen years thus greatly resembled political life more generally in the fourteenth and fifteenth centuries, as analysed in Parts I and II: constant cycles of litigation, feuding, and mediation in a variety of interconnected spheres, ranging from the local to the trans-regional. There were flashpoints in 1376-7, 1381-2, 1386, and 1387-9, when unusually large-scale leagues and especially violent military operations took place, but at no point did anything occur which would not be expected or plausible within the constraints of the associative political culture of the southern Holy Roman Empire. Certainly, this was not a phase of acute chaos, nor was it a struggle between reified princely and urban blocs for supremacy within the *Reichsverfassung*. Even the dramatic final act of 1387-9 was really a series of localised disputes that happened to gain a greater coherence because of the extensive coalitions within which regional actors were integrated. It is true that these coalitions were identified with socio-political solidarities by contemporaries who attempted to make sense of the turbulent events of 1387-9. In correspondence from these years, and in near-contemporary chronicles, the conflict was sometimes presented as a war between 'the towns' and 'the princes and lords', and these imagined collectivities must have played a role in shaping the allegiances of some actors.<sup>114</sup> However, the 'Town War' cannot be understood in its full complexity if these identifications are taken at face value. Indeed, they were only one way in which these events were narrated and understood. When it came to enumerating the members of any one league, or the multiple interlocking groups involved in the different theatres of conflict in the 1380s, these simplistic labels were replaced by more accurate descriptions. Contemporaries were capable of describing the side of 'the princes and lords' more

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<sup>113</sup> See e.g. *UBS*, VI, 575-81.

<sup>114</sup> 'die stete' 'den fursten und herren'. *UAODSB*, III, 2550. Cf. *COS*, II, 835-54.

specifically as ‘the dukes of Bavaria and their helpers’, for instance.<sup>115</sup> More importantly, it is clear that in practice the extensive and overlapping associations of this period never consisted solely of one type of actor. Even in 1387-9 the Swabian and Rhenish cities were allied to the archbishop of Salzburg, and retained many noble and lordly associates. Nuremberg, for example, was allied to lords like Hermann von Weidenberg, Ulrich and Caspar von Putendorf, and the bishop of Eichstätt.<sup>116</sup> Furthermore, at every stage between 1376 and the peace of Eger and its aftermath, political actors of every kind showed extreme willingness to negotiate in the customary manner at appointed *Tage*, often within the framework of alliances like the *Stallungen* of 1384-7. They thereby shared in those associative modes of interaction which characterised the political elite of the Upper German lands, and in which no obvious differentiation was made between princes, prelates, patricians, and noblemen.

Finally, one of the most interesting aspects of this episode is the light it sheds on the role of the kings of the Romans in the later medieval Empire. As his father Charles IV had successfully done throughout the mid-fourteenth century, as his half-brother Sigismund would do in the 1410s-30s, and indeed as Frederick III and Maximilian would in many respects do as well, most notably in connection with the Swabian League of the 1480s, Wenceslas used associative means in the 1370s-80s to manage the politics of the Empire. When he was not preoccupied in Bohemia, Wenceslas was able to exploit, and occasionally create, alliances, leagues, and *Landfrieden*. Like all the Roman monarchs in this period, he attempted to use his royal position as supreme arbitrator to guide the multilateral negotiation that these associations – and the conflicts between their members – entailed. Because of his unwillingness (or inability) to commit to this course of action, however, his initiatives were either appropriated or ignored by the political actors in the

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<sup>115</sup> ‘den hertzen von Beyern und iren helffern’. *UAODSB*, III, 1139.

<sup>116</sup> *Ibid.*, III, 2494, 2556-7, 2496.

localities, who increasingly resented his absence from the customary *Tage* they held so dear – a state of affairs that ultimately enabled an alliance of the four Rhenish electors to depose Wenceslas in 1400.<sup>117</sup> Yet, with or without the king's input, the 1380s saw the creation of some of the largest, most trans-regional associations that the Empire would see until the 1420s, if not the 1480s. In this respect, at least, the 1370s-80s were unusual for the fourteenth century, and they prefigured the 'Imperial consolidation' located by Peter Moraw in the 1470s-1520s.<sup>118</sup>

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<sup>117</sup> See *RTA*, III, 254-60.

<sup>118</sup> Moraw, 'Funktion', pp. 1-21.

## **11. The south-western Empire in the reign of Sigismund of Luxemburg, c. 1410-37**

The early decades of the fifteenth century, like the last decades of the fourteenth, provide abundant evidence of associative politics at every level and in every sector of elite society in the Holy Roman Empire. However, whereas much of the activity in the 1380s was undertaken on the initiative of regional actors, the alliance-making, feuding, and mediation of the 1410s to 1430s were largely stimulated, at least indirectly, by the king/emperor Sigismund of Luxemburg (king of Hungary, Croatia, and Dalmatia, 1387-1437; king of the Romans, 1410/11-37; king of Bohemia, 1419-37; Roman emperor, 1433-7). As such, his twenty-six-year reign in the Empire provides valuable insight into the potential on the part of monarchs to interact with and harness the associative structures and dynamics in the German-speaking lands. Sigismund's reign is all the more interesting because it took place against the backdrop of developments which are traditionally viewed as crises in the Empire and Europe as a whole: the fraught negotiations that ended the three-way papal schism between the Council of Pisa (1409) and the election of Martin V (1417); the rise of a reformist and conciliarist challenge to papal authority within the Western Church at the Councils of Constance (1414-18) and Basel-Lausanne (1431-49); and the Hussite wars and anti-Hussite crusades of the 1420s-30s.

While Sigismund's role in these developments failed to attract much detailed interest from historians outside of Hungary for most of the nineteenth and twentieth centuries,<sup>1</sup> scholarship of his life and multiple reigns exploded from the mid-1980s onwards, not least because research funding for the study of transnational and pan-

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<sup>1</sup> The key exception being J. von Aschbach, *Geschichte Kaiser Sigmunds* (4 vols, Hamburg, 1838-45).

European phenomena has increased in recent decades.<sup>2</sup> In the Empire and elsewhere, Sigismund has been shown to have been an exceptionally energetic and shrewd ruler, who strove to enforce his will and maximise the resources available to him by exploiting the prestige of his titles and mastering ritual and negotiation.<sup>3</sup> At the same time, his reign in the Empire was punctuated by internal conflicts; his rule bred resentment in some quarters; and he himself was absent from the core Imperial lands for many years. These more negative aspects are reflected in a tendency in recent German scholarship to label much of Sigismund's rule as a phase of an 'Empire without a king' (*Reich ohne König*), in which the *Reichsverfassung* had to cope with troubled circumstances without direct input from the monarch.<sup>4</sup> Both of these interpretive strands emphasise that the early fifteenth century was a turning point in the development of the Empire as a polity – a time when contact between its leading powers intensified, both in the presence of Sigismund (at the general councils) and in his absence (during the Hussite wars).

This case study will consider evidence of political life in the south-western Empire during Sigismund's reign. In doing so, it will build on some of these interpretations – of Sigismund as a competent negotiator and decisive orchestrator capable of bringing about profound change, and of the impact of his absences on the collective activity of the Imperial elites – which have proved to be plausible and fruitful ways of making sense of the developments in the Empire in the 1410s to 1430s. By examining events through the framework of associative political culture, it will also seek to contextualise Sigismund's actions and their effects within the widespread and deep-

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<sup>2</sup> An overview of this literature up to 2012 is provided in K. Hruza, 'Einleitung', in K. Hruza and A. Kaar (eds), *Kaiser Sigismund. Zur Herrschaftspraxis eines europäischen Monarchen (1368-1437)* (Cologne, 2012), pp. 13-20.

<sup>3</sup> See esp. J. Hoensch, *Kaiser Sigismund. Ein Herrscher an der Schwelle zur Neuzeit, 1368-1437* (Munich, 1996), pp. 482-525; J. Schneider, 'Herrschererinnerung und symbolische Kommunikation am Hof König Sigismunds. Das Zeugnis der Chronik des Eberhard Windeck', in Hruza and Kaar (eds), *Sigismund*, pp. 429-48.

<sup>4</sup> Moraw, 'Verwaltung', in *DVG*, pp. 54-7; Wefers, *System*, pp. 5-33, 69-93.

seated political dynamics and configurations along the Upper Rhine and in the regions adjoining it. We shall see that investigating Sigismund's reign from an associative perspective yields new insights into how the many layers of government in the Empire operated, and also highlights the need to modify existing narratives about how the fundamental outline and evolution of the Empire should be conceived in this period. This study will be illustrated by particular reference to Sigismund's interactions with Duke Friedrich IV of Austria-Tyrol and their ramifications.

The important role played by associations in the Empire under Sigismund was prefigured by the events leading up to his election as king of the Romans in 1410-11. Already in the 1390s a durable coalition was being formed in the west by the three Rhenish archbishops and the Count Palatine, who acted in unison at a number of *Tage* during the absences of King Wenceslas, eventually forming a six-year alliance on 19 August 1400.<sup>5</sup> On the following day the four Rhenish electors issued a joint judgement against Wenceslas, in which they declared him deposed for corruption and negligence, and on 21 August they elected one of their own – the Count Palatine – as the new king of the Romans, Rupert I, a radical move that was buttressed by a simultaneous re-affirmation of their electoral alliance.<sup>6</sup> Rupert's reign was marked by energetic associative activity both on the new king's part (in personal alliances and the promotion of *Landfrieden*) and on the part of his rivals, whose opposition culminated in the 'League of Marbach' (1405-7) – a coalition that included many cities and princes like Margrave Bernhard I of Baden and Rupert's former ally Archbishop Johann II of Mainz.<sup>7</sup> After Rupert's death in May 1410 the divisions among the electors manifested themselves in a

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<sup>5</sup> *RTA*, III, 247-53.

<sup>6</sup> *Ibid.*, III, 254-68.

<sup>7</sup> *Ibid.*, V, 578-648, 731-65; *ibid.*, VI, 204-58.

split vote between Wenceslas's half-brother Sigismund and his cousin Jost of Moravia.<sup>8</sup> The negotiations surrounding the election afforded Sigismund his first opportunity to build alliances within the Empire and harness long-standing associations to a mutually advantageous end. Jost's death in January 1411 enabled Sigismund to reach out to the archbishops of Mainz and Cologne, who had voted against him in 1410. The result was two reciprocal contracts whereby the prelates received guarantees regarding their privileges and Sigismund's stance in the papal schism in return for their support.<sup>9</sup> The agreement of the other electors had already been secured via two key intermediaries – Burgrave Friedrich VI of Nuremberg (whom Sigismund would elevate to the margraviate of Brandenburg in 1415) and Margrave Bernhard of Baden.<sup>10</sup> These two partnerships, which Sigismund forged via correspondence before he had even left Hungary, would prove to be of great importance to the new king's style of rule, which relied upon the competence of select actors within their networks and associations in different parts of the Empire. The unanimous election of July 1411 did not resolve the tensions among the Rhenish electors and their neighbours – the rivalries of the previous decade had not disappeared – but a decisive step towards the re-creation of the electoral coalition of 1400 had been taken, and this, too, would shape the politics of the south-western Empire during Sigismund's reign.

Sigismund reached the Upper Rhenish lands in July 1414, on the way to his coronation at Aachen, having travelled to Italy to pressure the Pisan curia into accepting the Free City of Constance as the location for an upcoming General Council aimed at resolving the schism in the Church.<sup>11</sup> By this point the connections that the king was building in order to put his planned policies into effect had intensified. In January of that

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<sup>8</sup> On 1410/11 see Wefers, *System*, pp. 5-27.

<sup>9</sup> *RTA*, VII, 107-10.

<sup>10</sup> Wefers, *System*, pp. 6-21.

<sup>11</sup> *RI*, XI, nos. 994-1214.

year, for example, he had written to several Imperial Cities, individually or as associations, requesting financial contributions and troops for countering the threat presented by Ladislas of Naples.<sup>12</sup> In support of his request Sigismund emphasised the needs of the Empire, Christendom, and the common good, and in particular the imperative of defending the upcoming Council of Constance. Implicit in his letter was the promise that a swift resolution of his problems in Italy would hasten his arrival in the German lands, which would be accompanied by the distribution and confirmation of privileges coveted by the cities. The recipients of such letters seem to have been selected carefully, based not only on whether they could provide Sigismund with what he needed individually, but also whether they maintained close ties with the king's collaborators at the time. For instance, it is perhaps no coincidence that Strasbourg was chosen as a recipient, as the city was not only a well-connected power in its own right, but was also allied with Count Palatine Ludwig III – a supporter of Sigismund since 1410 – at this time.<sup>13</sup> Indeed, Sigismund made the value of such alliances among his collaborators explicit in a letter dating from mid-1414 in which he exhorted the Free and Imperial Cities along the Rhine to maintain their alliances with the Count Palatine.<sup>14</sup> Count Palatine Ludwig had made a concerted effort to integrate himself into a variety of Upper German associations following his father King Rupert's death, and, alongside his ties to the Rhenish towns, he was a member of the league of Swabian cities and an ally of the counts of Württemberg.<sup>15</sup> Even before his letter-writing campaign of 1414, there are signs that Sigismund was seeking to instrumentalise associations in the Empire. At Chur in September 1413, on the way to Lombardy, Sigismund called a *Tag* with eight representatives from the Swiss Confederation, from whom he requested assistance against

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<sup>12</sup> *RTA*, VII, 189-90.

<sup>13</sup> AVCUS AA137.

<sup>14</sup> AVCUS AA153.

<sup>15</sup> HSA A602/5106, 5425, 5435.

Duke Filippo Maria Visconti of Milan.<sup>16</sup> This associative approach seems to have worked well in the early years of Sigismund's reign. Until the conclusion of the Council of Constance – the centrepiece of Sigismund's policy in the 1410s – the new king faced no substantial challenges from the powers in the German lands, with the crucial exception of Duke Friedrich of Austria-Tyrol, and Sigismund's successes against Friedrich were due largely to his ability to draw on the power-bases and alliances of his new partners.

In order to make sense of the conflicts between Sigismund and Friedrich in the 1410s, it is necessary to consider the situation of the Austrian lordships at the beginning of the fifteenth century. In the 1390s and 1400s the brothers Dukes Wilhelm, Leopold IV, Ernst, and Friedrich IV jointly ruled the Upper Rhenish, Swabian, Tyrolean, and Inner Austrian patrimonies of the Leopoldine line of the Habsburg dynasty. After the deaths of Wilhelm (1406) and Leopold (1411), Tyrol and the Outer Austrian lands fell to Friedrich, while Ernst governed Styria, Carinthia, and Carniola.<sup>17</sup> Leopold's widow, the dowager Duchess Catherine (sister of John the Fearless of Burgundy), reached a series of accommodations with Friedrich in 1410-12 which installed her as co-ruler of the Austrian possessions in Alsace and the Sundgau.<sup>18</sup> Friedrich's government was dependent on officers, vassals, and retainers who were highly autonomous, and whose contractual ties to their duke and to one another were quasi-horizontal in nature, in the manner discussed in chapter 9. Independent powers such as Counts Hermann VI and Rudolf III of Sulz, Count Johann I of Lupfen, Lord Smassmann I of Rappoltstein, and Count Friedrich VII of Toggenburg served as *Landvögte* or *Hauptmänner* for Duke Friedrich and Duchess Catherine, from whom they held some of their fiefs.<sup>19</sup> Friedrich's councillors included the

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<sup>16</sup> *AEA*, I, 138.

<sup>17</sup> Baum, *Habsburger*, pp. 20-108.

<sup>18</sup> See their joint activity in e.g. *UBB*, VI, 70-77.

<sup>19</sup> *KC*, p. 159; *RUB*, II, 549-51; E. Eugster, 'Toggenburg, Friedrich VII. von', in *HLS*.

prince-bishops of Constance and Chur.<sup>20</sup> There is plentiful evidence of the autonomy of these actors. For instance, in 1409 Smassmann von Rappoltstein, Austrian *Landvogt* in Alsace, engaged in a lengthy dispute with Friedrich and Catherine, in which the Count Palatine offered a mediated solution.<sup>21</sup> When in April 1411 Dukes Friedrich and Ernst made an alliance with the Swabian cities, Rudolf von Sulz felt it necessary to specify that he, too, would join the alliance, since he was the dukes' retainer and councillor; he was sufficiently independent that his membership could not be taken for granted.<sup>22</sup> The count of Toggenburg, meanwhile, had been a citizen-ally of Zurich since 1400.<sup>23</sup> These upper noble leaders of the western lordships of Austria nevertheless formed a united front with Friedrich during the wars against the communes of Appenzell and their allies among the Swiss Confederates (1401-12), mostly within the framework of the Society of St George's Shield, of which many of them were members.<sup>24</sup> These conflicts ended in stalemate, resulting in a fifty-year peace treaty between the Confederates and Duke Friedrich in May 1412.<sup>25</sup>

Thus, when Sigismund travelled through the Upper Rhenish and Swabian lands in 1414 and oversaw the first weeks of the Council of Constance at the end of that year, the western lordships of Austria were in a fragile but stable condition. However, Duke Friedrich's relations with Sigismund were already deteriorating at this point. Whereas Sigismund's ties to Pope John XXIII were expedient in nature, and intended to last only until his prized general council could negotiate a permanent solution to the schism, Friedrich was a very close adherent of the Pisan pontiff. In December 1413 Friedrich allied himself with the archbishop of Mainz, Pope John's main agent among the German

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<sup>20</sup> *KC*, p. 178.

<sup>21</sup> *RUB*, III, 4-18.

<sup>22</sup> HSA A602/5422.

<sup>23</sup> *AEA*, I, 98.

<sup>24</sup> K.H. Burmeister, 'Appenzeller Kriege', in *HLS*; see ch. 6, p. 162.

<sup>25</sup> *AEA*, I, 342-6.

princes, as well as the dukes of Lorraine and Burgundy, an association that Sigismund interpreted as an affront to his authority as acting protector of the Church.<sup>26</sup> On 15 October 1414, in Tyrol on the route to Constance, the pope himself entered into a formal alliance with Friedrich and, in the bull *Dum intuitus*, named the duke his *consiliarius* and captain of all papal troops.<sup>27</sup> The tension that this generated in the relationship between Friedrich and Sigismund was compounded by growing dynastic and territorial disputes between the two rulers, notably in the Adriatic sphere.<sup>28</sup>

These animosities came to a head in the spring of 1415, precipitated by John XXIII's actions at Constance. Dissatisfied with the minimal influence he was able to wield in the face of Sigismund and the general council, the Pisan pope and the prelates closest to him left the city in secret with Friedrich's assistance on 20 March. In the weeks that followed he fled north-westwards along the Rhine, reaching Freiburg in late April, during which time he rebuffed many demands from the king and the council to return to them.<sup>29</sup> The immediate reaction to John's flight in Constance on 21 March, colourfully narrated in Ulrich von Richental's chronicle, seems to have been a mixture of panic and outrage, which Sigismund moved quickly to control. Riding through Constance with the Count Palatine and a band of trumpeters, Sigismund 'shouted with his own mouth' that the city was to be locked down.<sup>30</sup> On the following day he had all the prelates and princes gather in the cathedral, where he 'complained before all therein that Duke Friedrich had led the pope away... and that he had thereby brought great disgrace upon him [Sigismund] and the holy council... and he [Sigismund] requested that they provide him

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<sup>26</sup> W. Brandmüller, *Das Konzil von Konstanz, 1414-1418* (2 vols, Paderborn, 1991-7), I, 90-91.

<sup>27</sup> *Ibid.*, I, 92.

<sup>28</sup> See H. Koller, 'Kaiser Siegmunds Kampf gegen Herzog Friedrich IV. von Österreich', in F.B. Fahlbusch and P. Johaneck (eds), *Studia Luxemburgensia* (Warendorf, 1989), pp. 313-52.

<sup>29</sup> Brandmüller, *Konzil*, pp. 271-7.

<sup>30</sup> 'rúft mit sin selbes munde'. *CKK*, p. 47.

with counsel [“rat”] and assistance [“hilff”] in this matter’.<sup>31</sup> Having publicly established Friedrich’s culpability and – if Richental’s wording is accurate – called for aid against him in the traditional language of associative political culture,<sup>32</sup> Sigismund placed the Austrian duke in the Imperial Ban on 30 March, theoretically depriving him of all his possessions.<sup>33</sup> A few days later, at the king’s behest, the unnerved churchmen still in Constance reassembled for the fifth session of the council and, spurred on by the fear of what the escaped John XXIII might accomplish, promulgated the conciliarist decree *Haec sancta*, nullifying the pope’s remaining authority.<sup>34</sup>

The startling chain of events that followed, which led to the virtual disintegration of Austrian lordship on the Upper Rhine in a matter of weeks, was made possible by the associative structures and dynamics of this region of the Empire, and in particular by Sigismund’s foresight and good fortune in finding partners within the regional nexus of associations. The assembled powers in Constance responded to Sigismund’s call for assistance in the customary manner by issuing *Absagebriefe* (declarations of feud-enmity) to be sent to Friedrich. On 22 March alone over 400 enmity-letters were sent.<sup>35</sup> More feud declarations followed over the ensuing days and weeks, and as late as 5 May Friedrich’s chancery was still receiving *Absagebriefe* from retainers of several Imperial princes.<sup>36</sup> Significantly, many came from the officers and vassals of the western lordships of Austria, who now banded together against their former lord. The author of the chronicle of the Klingenberger, who remained loyal to Friedrich, depicted the situation in these terms:

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<sup>31</sup> ‘klegt da vor inn allenn, wie daz hertzog Fridrich den ba<sup>u</sup>pst hinweg hett gefürt... und das er im und dem hailgen concilium große schmah daran erzögt hett... [u]nd batt, im darinn rat ze geben und hilff ze tünd’.  
Ibid., p. 48.

<sup>32</sup> See ch. 3, p. 80; ch. 7, pp. 176-7.

<sup>33</sup> *RI*, XI, no. 1542.

<sup>34</sup> Brandmüller, *Konzil*, pp. 248-50.

<sup>35</sup> *CKK*, p. 48. Most of these *Absagebriefe* are now in Vienna – see Schuler-Alder, *Reichsprivilegien*, p. 47.

<sup>36</sup> TLA Frid./15/3.

the majority of the nobility in these lands – counts, lords, knights, and retainers – turned against the lordship of Austria, and even though most of them had been endowed by the same lordship, and much of what they had was held from the same... they dared collectively to drive out the same lordship of Austria from the land, which indeed occurred. [...] And so they cancelled their loyalty and service to the duke, and all became servants of the king against the aforesaid lordship.<sup>37</sup>

In fact, Sigismund had been building relationships with some of the key players in the Outer Austrian affinity for some time, which helps explain the rapid and overwhelming opposition to Friedrich following his public condemnation. Count Johann von Lupfen, for instance, had been appointed as Sigismund's *Hofrichter* before the Council of Constance,<sup>38</sup> while the counts of Sulz had been reinstated as judges at the *Hofgericht* of Rottweil in 1411, which they brought back into operation with Sigismund's support.<sup>39</sup> Now, starting in the last week of March 1415, Sigismund called upon these clients, individually and in alliance with each other and local Free and Imperial Cities, to attack Friedrich's possessions.<sup>40</sup> In effect, Sigismund was harnessing the power of associative modes of interaction: he granted various urban and noble actors along the Upper Rhine free rein to negotiate and form alliances as necessary in order to overcome Duke Friedrich and convince his subjects to be received into Sigismund's direct lordship as Imperially-immediate entities.<sup>41</sup> This tactic was exceptionally effective in the case of the Swiss Confederation. Sigismund had already approached Zurich about the possibility of Confederate aid against Friedrich in February 1415, but its government declined to consider the king's plan, citing the fifty-year peace treaty of 1412.<sup>42</sup> With Friedrich publicly disgraced, this obstacle was removed, and Bern declared war on the duke of

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<sup>37</sup> 'der mertail aller adel in disen landen sich wider die herrschaft von österrich satzt, graffen, herren ritter und knecht, und was doch der mertail under inen die von derselben herrschaft begabet warent, und ze guoter mass was si hattent, das hattent si von der selben... die understuondent sich, die selb herrschaft von österrich von dem land ze vertribent, als och beschach [...] Also saitent si dem hertzen ir truw und dienst ab, und wurdent all des künigs diener wider die vorgeannte herrschaft'. *KC*, p. 178.

<sup>38</sup> GLA 36/741; cf. *RI*, XI, nos. 2111, 3247.

<sup>39</sup> *Ibid.*, XI, no. 142.

<sup>40</sup> E.g. *ibid.*, XI, nos. 1518, 1543, 1547.

<sup>41</sup> See *ibid.*, XI, no. 1553.

<sup>42</sup> *AEA*, I, 143.

Austria-Tyrol on 23 March.<sup>43</sup> At a *Tag* at Beckenried on 30 March the other members of the Confederation agreed to respond to Sigismund's request for assistance by attacking the Austrian possessions in the Aargau.<sup>44</sup>

With the mobilisation of so many powers against the lordship of Austria, the towns and fortresses that remained loyal to Duke Friedrich were put under severe pressure in April 1415. The Confederates quickly captured or cut off most of the strongholds in the Aargau, while Count Friedrich of Toggenburg besieged the settlements in the *Rheintal* south of Lake Constance. The Thurgau was occupied by Burgrave Friedrich of Nuremberg, while Basel, Strasbourg, and members of the league of Imperial Cities in Alsace attacked Duke Friedrich's westernmost possessions with the assistance of the Count Palatine.<sup>45</sup> Desperate missives from his beleaguered subjects reached Friedrich in Freiburg, and in early May he returned to Constance and sought peace, submitting publicly to Sigismund's authority and becoming his hostage, while John XXIII was imprisoned by the Count Palatine.<sup>46</sup> This formal submission was not enough to end Friedrich's troubles, however. His surrender was unconditional, and it did not prompt Sigismund to order the return of his possessions and vassals. On the contrary, the king was now trying to take control of the conquests made by the Confederates and others, though in the former case he was forced to acknowledge that the new *de facto* controllers of these lands and settlements were to become their *de jure* owners as an association, and in due course he pledged the Aargau to the Confederate towns.<sup>47</sup> Other settlements north of the Rhine, like Badenweiler, were pledged to local noble supporters of Sigismund.<sup>48</sup> He also set about cementing the Imperially-immediate status of former Austrian

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<sup>43</sup> Ibid., I, 143-4.

<sup>44</sup> Ibid., I, 144-5.

<sup>45</sup> *KC*, pp. 177-81.

<sup>46</sup> Hoensch, *Sigismund*, pp. 217-21.

<sup>47</sup> *AEA*, I, 149-56.

<sup>48</sup> GLA 21/440-1.

possessions that remained unconquered, like Freiburg and other towns in the Black Forest, which offered their homage to the king collectively via his representatives, notably Margrave Bernhard of Baden.<sup>49</sup>

Furthermore, when Friedrich escaped from Constance in March 1416 and headed to Tyrol, his last stronghold, he was faced by yet more opposition made possible through associative activity. By May of that year a group of Tyrolean elites led by the bishop of Brixen and Lord Ulrich of Starkenberg, claiming to act on behalf of the entire 'landschafft', had formed an oath-bound alliance ('ainung' and 'punftnis') directed against Friedrich in order to bring 'great honour and benefit' to Tyrol, with the support of Sigismund's administration in Constance.<sup>50</sup> While Friedrich 'held *Tage*' with his remaining advisors in Bozen, seeking to bring the alliance to heel, its leaders justified their actions on the basis of their duke's disgrace, and also the perceived problem that Friedrich and his brother Ernst were 'lacking in unity and divided' – i.e. not behaving in the co-operative manner expected of joint rulers of the same dynasty.<sup>51</sup> This is further evidence that government in the lordship of Austria was an associative affair, to be carried out according to similar principles to those which governed alliances. When Friedrich had appeared in Tyrol in April, Ernst had marched west with an army to confront his brother, and a council of fifteen Tyrolean noblemen and patricians had to convene an arbitrational *Tag* in Meran on 9-11 May in order to resolve the tensions between the two dukes 'zu der minne' or 'zum rechten', which yielded only another *Tag* in Innsbruck at Whitsun.<sup>52</sup> Ernst seems to have doubted Friedrich's competence to rule after the dramatic events of 1415, and wanted to take personal control of the defence of

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<sup>49</sup> *RI*, XI, 1635; *UBF*, II, 253-64.

<sup>50</sup> 'gross er und nutze'. TLA Kanzleibücher Cod. 122, fol. 1r-4r.

<sup>51</sup> 'betegt' 'unveraynt und in zwayung'. Ibid., fol. 4v-4r.

<sup>52</sup> Ibid., fol. 11v. Cf. ch. 2, p. 62; ch. 7, p. 189.

his patrimony.<sup>53</sup> Friedrich attempted to negotiate with his brother repeatedly over the summer, proposing a formal alliance (‘aynung’) with him, but Ernst simply appealed to the wider Tyrolean elite, including the alliance led by Ulrich von Starkenberg.<sup>54</sup> These internal dynastic disputes were resolved only in March 1418 at a *Tag* in Salzburg, where Friedrich and Ernst were reconciled via the mediation of their cousin Duke Albrecht V of Austria, who was betrothed to Sigismund’s daughter.<sup>55</sup>

Upon his return to Constance from a diplomatic tour of Western Europe in January 1417, Sigismund had Friedrich excommunicated by the council and continued to promote the transfer of former Austrian possessions to the Empire, and more specifically to his network of clients. One of the main beneficiaries of this ongoing shift was Margrave Bernhard of Baden, whose new titles, revenues, and jurisdictions enabled him to expand his power base considerably between 1415 and 1420.<sup>56</sup> Sigismund’s grant of the title of *Landvogt* in the Breisgau to Bernhard in March 1417, and the accompanying power to hand out fiefs in the region on his behalf, was particularly significant, and made the margrave into the most influential power in the lands immediately to the east of the Rhine.<sup>57</sup> The king also sought to maintain the support of the allied towns of the Upper Rhine, who had provided generous financial assistance to him in the form of taxes and loans during the early years of his reign.<sup>58</sup> In early 1418 Sigismund travelled to Alsace and the Breisgau in order to confirm the privileges of Strasbourg, Basel, and the league of Alsatian Imperial Cities. Sigismund’s policy vis-à-vis the Alsatian league is especially revealing of his capacity to instrumentalise local associations. In confirming the eleven cities’ privileges jointly in the spring of 1418, he provided much-coveted royal approval

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<sup>53</sup> Cf. *ibid.*, fol. 13v-15r; TLA Frid./16/2.

<sup>54</sup> TLA Frid./16/5; TLA Kanzleibücher Cod. 122, fol. 15v-17r.

<sup>55</sup> TLA Frid./18/6.

<sup>56</sup> GLA 46/147, 477-8; GLA 36/636-7; GLA D/616, 625.

<sup>57</sup> GLA D/592.

<sup>58</sup> E.g. a 25,000 fl. loan in 1414 from the league of Alsatian cities. AMC AA52/7.

of the league, which had not been forthcoming since the reign of Charles IV. Its members reacted by renewing their oaths of alliance to one another and extending their commitment to providing the loans promised to Sigismund and his noble clients in the region.<sup>59</sup> Sigismund was now in a dominant position on the Upper Rhine. Many members of its elite networks looked directly and eagerly to him for leadership, and he had distributed most of the formerly Austrian possessions among his supporters, with a view to maintaining his regional authority and his finances for years to come. Perhaps as a step towards restoring a sense of normality within this changed political landscape, Sigismund chose at this point to mend his formal relationship with Duke Friedrich of Austria-Tyrol. A treaty of reconciliation between the two rulers was enacted at Constance on 26 April 1418.<sup>60</sup> The deal came with stringent conditions: Friedrich had to pay hefty reparations, and many of his possessions had to be re-purchased by him, since Sigismund had pledged them to a plethora of other actors.<sup>61</sup>

However, as Sigismund sought to win alliances and cement his position in some quarters, he harmed his relations with other formerly friendly powers. This was unavoidable; the interconnected configuration of the elite networks in the south-western Empire ensured that fostering associative ties in some quarters would inevitably infringe on the interests of other neighbouring powers. In this case, Sigismund's actions generated tensions with Count Palatine Ludwig. Despite the king's generous pledging policy towards him, Ludwig was growing increasingly impatient with the monarch's interference in his sphere of influence. It was unusual for a king or emperor to be so directly active in this area, and – for all the benefits he derived from it – Sigismund's engagement in Upper Rhenish politics also had costs. Already in September 1416 Ludwig

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<sup>59</sup> *CDM*, I, 486-92.

<sup>60</sup> *RI*, XI, no. 3120a.

<sup>61</sup> *AEA*, I, 195-8; *RI*, XI, nos. 3152, 3153.

had restored his relations with the archbishop of Mainz and, together with the archbishops of Trier and Cologne, resurrected the electoral coalition of the 1390s-1400s in an alliance sealed at Boppard.<sup>62</sup> This Rhenish configuration would play an important role in both regional and Imperial politics over the next decade. The turning point in relations between Ludwig and Sigismund seems to have come in July 1418, when the northernmost of the eleven Alsatian cities – Seltz – was incorporated by force into Ludwig’s lordship, on the basis that his father had pledged it to the Palatinate while king.<sup>63</sup> Having just confirmed Seltz’s place within the Alsatian league, Sigismund tried to prevent this annexation, and deputed Ludwig’s old rival Margrave Bernhard of Baden to free the town. Bernhard failed, and Sigismund was forced to put off tackling the issue until a planned *Tag* with the Rhenish electors in Trier at the end of the year.<sup>64</sup> This conference never materialised, as by then Sigismund had travelled east to pursue yet another association-based agenda: persuading the league of cities led by Ulm and Augsburg to implement a trade embargo against Venice.<sup>65</sup> By early 1419 the king was heading towards Bohemia and Hungary, not to return to the south-western Empire until 1430.<sup>66</sup>

At this point the balancing act whereby Sigismund tried to mobilise his different partners in concert in order to accomplish his goals was no longer working, and in his absence conflicts began to unfold via the customary mechanisms of associative politics. The central issue that now began to divide the powers of the Upper Rhine was the rivalry between Count Palatine Ludwig and Margrave Bernhard of Baden.<sup>67</sup> The roots of this rivalry lay in the late fourteenth century, when Bernhard, having been a ward of Ludwig’s great uncle Count Palatine Ruprecht I, sought to break free from Palatine influence. He

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<sup>62</sup> Wefers, *System*, p. 57.

<sup>63</sup> Vogler, *Décapole*, p. 21; *RTA*, VII, 357-8; see ch. 6, p. 159.

<sup>64</sup> Wefers, *System*, p. 58.

<sup>65</sup> *RTA*, VII, 361-6.

<sup>66</sup> Hoensch, *Sigismund*, pp. 359-60.

<sup>67</sup> On Baden-Palatine relations in these years see H. Krieg, ‘König Sigismund, die Markgrafen von Baden und die Kurpfalz’, in Hruza and Kaar (eds), *Sigismund*, pp. 175-96.

was assisted in this goal by King Wenceslas, who confirmed the sole authority of the margrave over the patrimony of the house of Baden in 1382 and 1387.<sup>68</sup> Following the accession of Ludwig's father Count Palatine Ruprecht III as king of the Romans in 1400, Bernhard refused to transfer his allegiance from Wenceslas to the new monarch, and later spearheaded the anti-Palatine League of Marbach.<sup>69</sup> As we have seen, Bernhard then became one of the leading supporters of Sigismund in the Empire in 1410, and was amply rewarded when the royal administration oversaw the transfer of many formerly Austrian assets and jurisdictions around the Upper Rhine into the margrave's hands from 1415 onwards.<sup>70</sup> Bernhard's resulting ascendancy greatly exacerbated his long-standing rivalry with the Counts Palatine, especially in connection with the new tolls and safe-conduct rights acquired by the margrave, which clashed with Ludwig's traditional claims along the same stretch of the Rhine.<sup>71</sup> By early 1419 the expansion of Bernhard's powers in the Breisgau was also alarming the Free and Imperial Cities on both sides of the Rhine. In a bid to defuse the situation, a series of mediatory interventions were made by Ludwig's allies in the electoral coalition, notably at an arbitrational *Tag* at Mainz in January 1419.<sup>72</sup> This meeting is illustrated in one of the few surviving depictions of an arbitrational *Tag*, in an illumination dating from the 1430s in the Diebold Lauber workshop's edition of Eberhard Windeck's chronicle (Figure 11).<sup>73</sup>

These mediatory efforts were insufficient, however, as Bernhard showed little willingness to compromise, and was slow in returning even his temporary possessions and offices to the rehabilitated Duke Friedrich of Austria-Tyrol.<sup>74</sup> On 3 October 1422 the

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<sup>68</sup> Ibid., pp. 182-3.

<sup>69</sup> Ibid., pp. 184-5.

<sup>70</sup> See above, p. 288.

<sup>71</sup> Krieg, 'Sigismund', pp. 190-1.

<sup>72</sup> GLA 46/214; *RMBH*, I, no. 3094.

<sup>73</sup> See W. Altmann (ed.), *Eberhart Windeckes Denkwürdigkeiten zur Geschichte des Zeitalters Kaiser Sigmunds* (Berlin, 1893), pp. 106-8 for the corresponding passage.

<sup>74</sup> E.g. GLA 46/456.

league of Imperial Cities in Alsace, Strasbourg, Basel, and the newly-independent towns of Freiburg, Breisach, Neuenburg, and Endingen responded by forming a five-year alliance. The treaty was steeped in the *Landfriede*-esque rhetoric of peace, the common good, the defence of the roads, and the honour and benefit of the Holy Roman Empire.<sup>75</sup> Beyond its generic clauses about assistance and adjudication, the alliance treaty pointedly underlined the need for mutual aid against those (like Bernhard) who were encroaching upon the members' liberties and privileges, and its unusually specific sphere of validity (along both banks of the Upper Rhine in precisely those zones where Bernhard was active) make it clear that it was designed to counter the margrave's aggression.<sup>76</sup> In December the cities welcomed Lady Verena of Tübingen-Lichteneck and several lords and knights in the Black Forest into their league.<sup>77</sup> In 1423 Count Palatine Ludwig – now the *Reichslandvogt* in Alsace – joined this anti-Baden coalition.<sup>78</sup> In 1424 it gained yet more allies and captains, many of whom had played important roles in the Austrian affinity of the 1400s and early 1410s: Lord Smassmann of Rappoltstein, Count Hermann of Sulz, Duchess Catherine of Austria and her dispersed vassals and towns, and Abbot Wilhelm of Murbach.<sup>79</sup> Bernhard, meanwhile, formed an alliance with the lords of Lichtenberg, Bishop Wilhelm II of Strasbourg (who was waging a war of his own against the city of Strasbourg), and this prelate's network of noble allies.<sup>80</sup> Skirmishes between members of these rival associations ensued on both sides of the Rhine, and peace was only achieved when Sigismund, hearing of the escalating situation from Hungary, deputed the archbishop of Cologne, the bishop of Würzburg, and the lord of Hohenlohe to intervene as mediators. On 3 July 1424 a *Tag* was overseen by these arbitrators 'on the

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<sup>75</sup> *CDM*, II, 19-20.

<sup>76</sup> *Ibid.*, II, 21-6.

<sup>77</sup> *FUB*, III, 116-18.

<sup>78</sup> See ch. 6, p. 160; *CDM*, II, 29-44.

<sup>79</sup> *UBB*, VI, 172-6, 190; *RUB*, III, 164-6.

<sup>80</sup> Sittler, *Maximin*, p. 81.

field outside Mühlberg', and a truce was negotiated.<sup>81</sup> As often with multilateral conflicts in the Empire, the complex details of the disputes in which the various parties were engaged were consigned to future *Tage*, and these negotiations dragged on into the late 1420s.<sup>82</sup> These tensions were not fully dissipated until Bernhard's death in 1431, and his successors were able to keep hold of some of the late margrave's acquisitions on a permanent basis, particularly in the Breisgau.<sup>83</sup>

While the consequences of Sigismund's patronage and partnerships on the Upper Rhine panned out along associative lines, similar dynamics enabled Friedrich to patch together parts of his former patrimony along the Rhine and the Upper Danube. It was a gradual and painstaking process, in which Friedrich relied greatly on the finances and connections of his vassals and officers – a network he slowly reconstituted in the course of the 1420s and '30s.<sup>84</sup> For instance, Lord Caspar of Klingenberg was able to use his position as a captain of the Society of St George's Shield and a central figure in Swabian noble and patrician networks to woo back many of Friedrich's former subjects.<sup>85</sup> Through the agency of such actors, even large towns like Freiburg were returning to the Outer Austrian fold by 1427.<sup>86</sup> There were important exceptions; the Aargau was lost definitively and became a Confederate 'collective lordship', Schaffhausen maintained its newfound independence, and even minor towns like Radolfzell resisted reincorporation for several decades.<sup>87</sup> Still, in view of the dire situation faced by the Outer Austrian lands in the 1410s, Friedrich made substantial recoveries. Just as the collapse of his lordship had been possible because of the loose and associative structure of power in the south-

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<sup>81</sup> 'In dem velde vor Mühlberg'. GLA 46/144, 219; *RMBH*, I, nos. 3706-7.

<sup>82</sup> E.g. GLA 36/2088.

<sup>83</sup> Krieg, 'Markgrafen von Baden', p. 195.

<sup>84</sup> Baum, *Habsburger*, pp. 169-208.

<sup>85</sup> E.g. HSA A602/9618-34; TLA Frid./28/1.

<sup>86</sup> GLA 21/86.

<sup>87</sup> TLA Frid./26/2-3, 27/3-4.

western Empire, so these recoveries owed a great deal to the autonomous connections and networks of Friedrich's followers.

Although Sigismund did not enjoy any more dramatic successes on the scale of his proxy war against Friedrich IV in the mid-1410s during the remainder of his reign, it is worth noting briefly that both he and the electors continued to pursue their policies in the Upper German lands by means of the structures and mechanisms inherent in the Empire's associative political culture. Through correspondence with his networks of partners, Sigismund continued to try to harness associations towards the goals of defence, peace-enforcement, and neutralisation of his rivals while he was engaged in Bohemia and Hungary.<sup>88</sup> In the 1420s these goals took on a new urgency as the Hussite wars consumed Bohemia and the German-speaking regions along its borders. The most ambitious project that Sigismund concocted in response came in 1422, when he sought to encourage the collation of existing alliances of Free and Imperial Cities across Upper Germany into a sprawling super-league.<sup>89</sup> He simultaneously granted a series of privileges to the knightly societies 'everywhere in the German lands' which enabled them to ally with one another and with the projected urban league.<sup>90</sup> The protracted negotiations produced only further local *Landfrieden* in the 1420s, though Sigismund persevered: as late as 1431, when the king had returned to the Empire to oversee the Council of Basel, he was calling for the elites to coalesce into a 'great and broad league or broad *Landfriede*'.<sup>91</sup> In late 1432 the captains of the Society of St George's Shield received charters of privileges ('mayestätbriefe') from Sigismund, prestigiously decorated with a 'golden bull'.<sup>92</sup> Not coincidentally, a key member of the Society at this point, Margrave Wilhelm of

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<sup>88</sup> See Wefers, *System*, pp. 99-183.

<sup>89</sup> *RTA*, VIII, 216-19.

<sup>90</sup> 'uberal in Deutschen landen'. *Ibid.*, VIII, 219-20.

<sup>91</sup> 'große und wite bunde oder wite lantfriden'. *Ibid.*, IX, 542.

<sup>92</sup> GLA 46/1689.

Hachberg, had been made *Landgraf* in the Breisgau and deputy protector of the Council of Basel by Sigismund in 1429-31.<sup>93</sup>

For their part, the Rhenish electors also pursued an energetic policy of association and *Tag*-based negotiation in the Empire during the 1420s. The revived electoral coalition of 1416 stimulated multiple arbitrational *Tage* in the ensuing years between its four core members and the various neighbours with whom they had individual or collective disputes.<sup>94</sup> From 1420 the electors' association became a valuable platform for the promotion of anti-Hussite activity in the Empire, in parallel with Sigismund's efforts to organise this from afar. This collective activity has typically been interpreted as evidence of antagonism between the monarch and the electors, echoing the opposition to Wenceslas mounted by the Rhenish princes in 1399-1400.<sup>95</sup> However, the electors' goals and activities also converged with those of Sigismund, at least in the sphere of organising the defence of the Empire against the Hussites, and this convergence suggests that a purely confrontational reading of electoral policy in the 1420s is not plausible. At an Empire-wide *Tag* in Nuremberg in April 1421, organised but not attended by Sigismund, the Rhenish electors 'allied and leagued together' for the defence of the Empire and Christendom against the 'the heresy and unbelief that has regrettably arisen in the kingdom of Bohemia'.<sup>96</sup> Their alliance was soon joined by numerous other Upper German princes and cities, and in the years that followed the electors took the initiative in organising conferences to discuss the situation in the Empire and call for assistance against the Hussites.<sup>97</sup> The other Upper German powers seem to have responded enthusiastically to these appeals, even in the regions furthest from Bohemia. The league

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<sup>93</sup> Ibid.; cf. GLA 46/1724-6.

<sup>94</sup> E.g. Wefers, *System*, p. 83.

<sup>95</sup> Ibid., p. 120.

<sup>96</sup> 'mit einander vereinet und verbunden' 'soliche keczerie und unglauben die leider in dem kunigriche zu Beheim uferstanden sint'. *RTA*, VIII, 29-31.

<sup>97</sup> Ibid., VIII, 32-8; cf. *ibid.*, VIII, 84-95, 125-7, 283-327.

of Imperial Cities in Alsace signalled their readiness to supply troops and funds in 1421, and there is evidence that Smassmann von Rappoltstein travelled with the Count Palatine on the second anti-Hussite crusade.<sup>98</sup> The associative activity of the electors culminated in an expanded 'einunge' sealed at Bingen in January 1424, within which the Rhenish princes were joined by the duke of Saxony and Sigismund's loyal partner Margrave Friedrich of Brandenburg, and mutual assistance, adjudication, and co-operation in the face of the Hussite threat were stipulated.<sup>99</sup>

Thus, both the local and the trans-regional dimensions of the political activity displayed by the sources from throughout Sigismund's reign demonstrate that power at every level in the Empire was exercised and mediated through the customary institutions and mechanisms of associative political culture. If Sigismund enjoyed considerable successes at certain junctures, it was not in spite of or independently from these institutions and mechanisms, but precisely because he devoted considerable energy to harnessing associative interactions and building strategic relationships with leading actors within elite networks. Even during his prolonged absences from the Empire's core lands, Sigismund was able to make use of these partnerships, and could reasonably expect that the associative activity of princes, nobles, and towns would yield results – as indeed they did, in the form of large-scale collective activity against Duke Friedrich of Austria-Tyrol in the 1410s and the Hussites in the 1420s. Not all of Sigismund's projects came to fruition, and he could not always control the longer-term outcomes of his policies, but the notion that there were phases of an 'Empire without a king' during his reign clearly does not stand up to the abundant evidence of his interactions with regional clients and associations. At the same time, the somewhat adulatory view that has developed in recent years of Sigismund as a masterly politician can be tempered by the evidence that it was

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<sup>98</sup> *CDM*, II, 6-7; ADHR E525.

<sup>99</sup> *RTA*, VIII, 346-51.

often felicitous alliances as much as personal skill which made his successes possible. Sigismund's close interactions with far-flung associations like the Swiss Confederation also complicate Peter Moraw's influential view of an Empire divided programmatically into regions 'near to' and 'distant from' the king (*köngisnah/köngisfern*).<sup>100</sup>

In general, the associative activity of the 1410s-30s contributed to contact and consolidation within the Empire. As in the latter half of the fourteenth century, alliances, leagues, and concomitant *Tage* were pervaded by rhetoric which valorised peace, the common good, and the Empire, but the notion of 'the Empire' seems to have resonated more strongly and denoted something rather more concrete in the context of the general councils and the Hussite wars. While no league reached the proportions of the coalitions of the 1380s, despite Sigismund's projects in the 1420s, many of the associations formed during his reign were stimulated by the actions of the monarch himself and also by the evolving idea of an Imperial community, which the electoral coalitions sought to promote and embody. Collective action may also have been encouraged by the crescendo of discussion about the need for religious and political reform in the Empire that accompanied the councils of Constance and Basel and the many pan-Imperial *Tage* of the 1420s and '30s.<sup>101</sup> By contrast, more regional communities and lordships, like the patrimony of Duke Friedrich of Austria-Tyrol, proved to be more fragile than narratives of the 'territorialisation' of the Empire would allow. We should beware of seeing in these developments a clear-cut dualism between 'crown' and 'estates' or *Kaiser* and *Reich*, as in the Moravian paradigm of the *Reichsverfassung*: we have seen that allegiances to Sigismund and the electors overlapped and shifted rapidly, and that both Sigismund's supporters and his opponents could form associations in the customary way, all evoking the same notions of peace, commonweal, and Empire. Indeed, for the first few years of

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<sup>100</sup> Moraw, *Verfassung*, pp. 71, 383.

<sup>101</sup> Boockmann and Dormeier, *Reichsreform*, pp. 35-78.

Sigismund's reign, and arguably again in the mid-1420s, the Count Palatine – the keystone of the electoral coalition – was one of the king's closest partners. Beyond these consolidatory shifts, the main impression left by the evidence from the first decades of the fifteenth century is of striking continuity with the fourteenth. As under Charles IV and Wenceslas, albeit in different configurations, traditional means of association- and *Tag*-based interaction remained the hallmarks of political life in the south-western Empire. These were the drivers and the framework of politics, from the level of small towns and nobles up to that of the monarch and the electors. This would continue to be the case well into the later fifteenth century and beyond.

## 12. Burgundian rule on the Upper Rhine and its aftermath, c. 1468-77

It is widely accepted that the 1470s constituted a turning point in the development of the Holy Roman Empire. In the orthodox paradigm of Peter Moraw, it was around this decade that the Empire's 'open constitution' (*offene Verfassung*) underwent an accelerated shift towards 'configured consolidation' (*gestaltete Verdichtung*).<sup>1</sup> The later 1460s saw the return of Emperor Frederick III to the core German lands after more than two decades of absence. His belated engagement with the 'reformist' plans of both princes and cities unleashed a crescendo of Empire-wide activity. The first monarchical ordinance since his 'Reformation' of 1442 was approved and issued in 1467, and the 1471 Diet organised by Frederick in Regensburg to counter the advancing Turks not only resulted in peace-legislation ('einen gemein bestendigen frieden') for the next four years, but became the best-attended pan-Imperial conference until that point.<sup>2</sup> At the same time, the 1460s and '70s saw unprecedented contact between German powers and the polity of Dukes Philip ('the Good') and Charles ('the Bold') of Burgundy all along the western frontier of the Empire, from Guelders to the Confederate lands. The broad outlines of this contact are well known. It had two clear stages: the expansion of Burgundian lordship along the Rhine, and the eruption of a series of conflicts in the mid-1470s known as the 'Burgundian Wars' (*Burgunderkriege*). These wars saw the resounding defeat of Charles the Bold's state-of-the-art army. The same duke's death on the battlefield of Nancy in January 1477 resulted in the inheritance of much of the Burgundian patrimony by the future King/Emperor Maximilian I. These events have been studied extensively, first in the 1930s, '40s, and '50s by German late medievalists who were interested in the

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<sup>1</sup> Moraw, *Verfassung*, esp. pp. 25-7, 420.

<sup>2</sup> *RTA*, XXII, xiv, 871.

supposedly ‘nationalist’ and ‘*völkisch*’ dimensions of this putative clash of civilisations,<sup>3</sup> and then, in the latter half of the twentieth century, within the increasingly international sub-discipline of Burgundian studies.<sup>4</sup> The Burgundian Wars, along with the growing threat from the Ottomans and Matthias Corvinus, are now held to have played a key role in bringing about the consolidatory shifts of the 1470s. They are said to have produced greater unity in the Empire, both conceptually (as the encroachment of non-German-speaking foreigners prompted greater self-definition as a ‘German nation’) and practically (as ever more intra-Imperial contact was required to organise large-scale military defence).<sup>5</sup>

A common strand in all this work on the Empire and the Burgundian Wars in the 1460s-70s has been a focus on how contact and consolidation shaped – and were shaped by – the constitutional frameworks of the late medieval/early modern ‘state’ or *Verfassung* – whether that of Burgundy, the Empire, or the German ‘territories’. What has largely been missed is the important role played by associations and their concomitant modes of negotiation and mediation. As we have seen, there is not much scope for engaging with horizontal, multilateral, and interdependent formations in existing paradigms of state formation and constitutional history in this period.<sup>6</sup> Yet the politics of the Empire in these decades, which were indeed a time of consolidation and evolution, continued to play out within the associative political culture identified in this thesis. Interaction between the powers in and beyond the Empire continued to be mediated through horizontal alliances and other contractual ties, and negotiation remained centred

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<sup>3</sup> E.g. H. Heimpel, ‘Karl der Kühne und Deutschland, mit besonderer Rücksicht auf die Trierer Verhandlungen im Herbst des Jahres 1473’, *Elsass-Lothringisches Jahrbuch*, 21 (1943), 1-53; H. Brauer-Gramm, *Der Landvogt Peter von Hagenbach* (Göttingen, 1957).

<sup>4</sup> E.g. R. Vaughan, *Charles the Bold: The Last Valois Duke of Burgundy* (London, 1973; repr. Woodbridge, 2002); W. Paravicini, *Karl der Kühne: das Ende des Hauses Burgund* (Zurich/Göttingen/Frankfurt, 1976); J.-M. Cauchies, *Louis XI et Charles le Hardi: de Péronne à Nancy (1468-1477): le conflit* (Brussels, 1996).

<sup>5</sup> Moraw, *Verfassung*, pp. 411-12; Sieber-Lehmann, *Burgunderkriege*, esp. pp. 234-300.

<sup>6</sup> See Introduction, p. 17.

on *Tage*. Furthermore, even within the agglomerations ruled by the princes of the Empire – ‘territories’ like the lands of Margrave Karl of Baden or Duke Sigmund of Austria-Tyrol – associative dynamics still prevailed, in that their officers and elite subjects were very autonomous and their joint activity resembled that of a league or alliance. In these respects, the years of Burgundian rule on the Upper Rhine and the conflicts that ensued form a valuable case study in the ongoing importance of associative conventions and mechanisms in the political life of the Empire. In some respects Charles the Bold’s *modus operandi* mirrored and reinforced the associative modalities of power in the German lands, but in other important ways the forms of administration he oversaw differed considerably from the structures and methods common to the political actors in the southwestern Empire. This contrast highlights the specificities of associative political culture, both within and across political units, exceptionally well. More generally, the responses of Imperial elites to the expansion of Charles the Bold display notable continuities with the behaviours and configurations of the fourteenth and early to mid-fifteenth centuries, and the innovations of the 1460s-70s built on these associative ways of doing things, rather than replacing them outright.

In order to understand how the duke of Burgundy came to be involved directly in the Upper Rhenish sphere, it is important to survey the shifting political configurations of the region in the mid- to late fifteenth century. These decades were not only marked by the usual cycles of alliance-making, feuding, and arbitration, but also by ongoing conflict between the Swiss Confederates and the sprawling Outer Austrian affinity of towns and nobles on both sides of the Upper Rhine. In the 1430s-40s and again from the late 1450s these clashes resulted in large-scale troop mobilisations, massacres and destruction of property, and the conquest of Outer Austrian settlements and jurisdictions by the

Confederates.<sup>7</sup> An Austro-Confederate peace in 1461 failed to defuse tensions all along the *Hochrhein*.<sup>8</sup> In the Sundgau in the west, disputes between Mulhouse and the Austrian-leaning nobility led to an alliance between this city and Bern and Solothurn.<sup>9</sup> In the Thurgau and the Hegau in the east, frictions persisted between the Confederates and their ally Schaffhausen on the one hand and local Austrian clients, especially members of the Society of St George's Shield, on the other.<sup>10</sup> These tensions came to a head in 1468, in two interrelated wars. Bern and its allies spearheaded a campaign in the Sundgau against the feud-enemies of Mulhouse, while the partisans of Lord Pilgrim of Heudorf, a pledgeholder of the bishop of Constance and an enemy of Schaffhausen, provoked the Confederates into invading several Outer Austrian settlements in the Black Forest.<sup>11</sup> Though Duke Sigmund of Austria-Tyrol had little direct involvement in these conflicts, he had no choice but to accept a disadvantageous peace treaty with the Confederates imposed at an arbitrational *Tag* in August 1468, overseen by Duke Ludwig IX of Bavaria-Landshut, Margrave Rudolf of Hochberg-Rötteln-Neuchâtel, the bishop and chapter of Basel, and the city of Nuremberg.<sup>12</sup> In particular, Sigmund had to pay 10,000 fl. in reparations to the victorious Confederates, who held the town of Waldshut as collateral, while the Confederates achieved further alliances with nearby princes.<sup>13</sup>

These bitter confrontations between the Confederates and their neighbours resulted in a certain hardening of discursive identifications with either 'der herrschaft von Oesterrich' or 'gemeinen Eidgenossen'.<sup>14</sup> However, this apparent polarisation belies the fluidity and multivalence of associative ties and allegiances in the Upper Rhenish and

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<sup>7</sup> Berger, *Zürichkrieg*; E. Trösch, 'Plappartkrieg', in *HLS*.

<sup>8</sup> *AEA*, II, 886-90.

<sup>9</sup> *CDM*, II, 459-62.

<sup>10</sup> GLA 123/79.

<sup>11</sup> *CDM*, III, 76-281; TLA Sigm./04b.55.258, 04b.55.310, 04b.55.268, 13.102.

<sup>12</sup> *AEA*, II, 900-3.

<sup>13</sup> *Ibid.*, II, 904-8.

<sup>14</sup> *BTBC*, p. 222.

Swabian sphere in the 1460s. Much of the aggressive political activity undertaken in the name of the Swiss Confederation was specific to Bern and its network of allies and clients, while the other Confederates only became involved occasionally in times of open war. Meanwhile, the Outer Austrian towns and nobles in Upper Alsace had different priorities and leaders from those on the eastern shores of Lake Constance, which were distinct again from those of the political community of Tyrol. The westernmost ‘Austrian’ *Landvögte*, like Margrave Karl of Baden – a prince of the Empire in his own right – and Lord Thüring III of Hallwyl were autonomous powers with their own interests and networks, who oversaw the dispersal of many of the properties, revenues, and jurisdictions under their purview among a variety of actors within and beyond the Outer Austrian affinity.<sup>15</sup> The noblemen of Upper Alsace and the Sundgau were not only independent, but also divided their service and homage between Duke Sigmund, Count Palatine Friedrich I, and Charles the Bold, sometimes serving two or three lords simultaneously in various capacities.<sup>16</sup> Thüring von Hallwyl’s nephew, Hans von Hallwyl, exemplifies the many layers of connections these independent actors could accrue: he began his career in the service of Duke Albrecht VI of Austria, then served as a mercenary in Bohemia, after which he sealed a *Burgrecht*-alliance with Bern, fought in the Burgundian Wars as a Confederate captain, and ended his life as a counsellor of Louis XI of France.<sup>17</sup> The logic of shifting alliances and multilateral negotiation predominated in the late fifteenth century, as political fragmentation and local autonomy still characterised much of the Empire.

It was in this context of multiple wars and disputes that Duke Sigmund of Austria-Tyrol turned to the duke of Burgundy for assistance in 1469. This choice was not random:

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<sup>15</sup> See e.g. the report on Thüring von Hallwyl’s pledging of the villages west of Neuenburg am Rhein in TLA Sigm./04b.049.1; see also *FUB*, III, 392-400.

<sup>16</sup> E.g. *CDM*, III, 279, 450-6; TLA Sigm./1.74.

<sup>17</sup> T. Frei, ‘Hallwyl, Hans von’, in *HLS*.

the dukes of Burgundy and their clients had been involved in the western lands of the Empire throughout the fifteenth century. Already in the 1400s Catherine of Burgundy had married the Austrian Duke Leopold IV.<sup>18</sup> As they expanded in the Low Countries and along the Lower Rhine, Philip the Good and Charles the Bold cultivated relationships with the powers of the south-western Empire. In 1465 Count Palatine Friedrich entered into a lifelong alliance with Dukes Philip and Charles, which stipulated both mutual assistance and adjudication in their disputes.<sup>19</sup> Charles the Bold also sealed an ‘eynunge’ with Bishop Ruprecht of Strasbourg in 1470.<sup>20</sup> Margraves Rudolf of Hochberg-Rötteln-Neuchâtel and Karl of Baden spent extensive periods at the Burgundian court and drew pensions from its treasury, while their relatives married Burgundian vassals in the Low Countries.<sup>21</sup> In 1467 the dukes of Burgundy drew up a contract for free-passage and non-aggression with the Confederate towns of Bern, Zurich, Fribourg, and Solothurn.<sup>22</sup> Peter and Stephan von Hagenbach, knights whose family had deep roots in the Sundgau, both served as mercenaries in Burgundian circles and achieved favour at court.<sup>23</sup> Peter would become the bailiff of the Burgundian possessions in Alsace in September 1469, shortly after he had been made an Outer Austrian councillor and granted a 200 fl. pension by Duke Sigmund.<sup>24</sup> Sigmund himself had contacted Philip the Good about a possible anti-Confederate alliance in 1460, and in 1468 he sent ambassadors to both Louis XI of France and Charles the Bold to call for assistance against the aggressive Confederation.<sup>25</sup> Reeling from the costly peace of August 1468, Sigmund approached Charles again for financial and military aid. The result was a series of contracts sealed in May 1469, subsequently

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<sup>18</sup> See ch. 11, p. 281.

<sup>19</sup> TLA Urk-I/7538.

<sup>20</sup> TLA Sigm./13.114.

<sup>21</sup> Vaughan, *Charles*, pp. 90-1.

<sup>22</sup> *AEA*, II, 899-900.

<sup>23</sup> G. Claerr-Stamm, *Pierre de Hagenbach: le destin tragique d'un chevalier sundgauvien au service de Charles le Téméraire* (Altkirch, 2004).

<sup>24</sup> TLA Urk-I/4338, 8232.

<sup>25</sup> TLA Sigm./04a.182.02, 04b.037.

dubbed the ‘Treaty of St Omer’, whereby Charles loaned 50,000 fl. to Sigmund and placed him under Burgundian protection, in return for which the duke of Burgundy received Sigmund’s scattered possessions and jurisdictions in Alsace and the Sundgau, along with Rheinfelden, Laufenburg, Säckingen, and Waldshut, as pledges (‘phandt’, ‘gaiges’, ‘pignorat[i]o[n]es’).<sup>26</sup> Significantly, the Burgundian negotiators extracted from Sigmund the right to redeem the many items of lordship within this agglomeration which had been pledged to other powers.<sup>27</sup> By the end of 1469, with the help of his loyal officer Peter von Hagenbach, Charles the Bold had officially taken possession of these Upper Rhenish lands and jurisdictions, which he would hold until 1474, when they were forcibly returned to Duke Sigmund.

While the interactions of the dukes of Burgundy with the princes and cities of the south-western Empire in the 1450s-60s conformed to the conventions of associative political culture, centred on reciprocal contracts, the relationship between Charles and his new subjects on the Upper Rhine was shaped by quite different dynamics. We have seen abundant evidence of the autonomy and interconnection of the Outer Austrian political actors and their neighbours, and the ways in which the ‘internal’ dynamics of princely agglomerations mirrored the horizontal and associative characteristics of politics at other levels of the Empire.<sup>28</sup> By contrast, the Burgundian government in the possessions acquired by Charles the Bold in 1469 seems to have aimed to curtail the freedom of manoeuvre of the towns and nobility and to intensify their obedience to a small circle of administrators who answered directly to the duke. This is not to say that political life in Burgundian-controlled areas was radically transformed. In reaction to an older historiography which claimed that the ‘French’ and ‘German’ ways of life were

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<sup>26</sup> Vaughan, *Charles*, p. 86; TLA Urk-I/8183-5, 8244; GLA 21/7769.

<sup>27</sup> GLA 21/1014.

<sup>28</sup> See the discussion of the 1460s above, and ch. 9, pp. 237-43.

inherently antithetical, historians in the 1970s-90s rightly emphasised the continuities between the rule of Sigmund and that of Charles the Bold in the pledged zones. Richard Vaughan speaks of an ‘absence of ducal policy in the region of the Upper Rhine’ compared to other, more secure territories in the Burgundian composite polity.<sup>29</sup> Yet this revisionist approach has underplayed the considerable evidence that Charles did in fact pursue several objectives consistently in Alsace and the Black Forest, and that this entailed a tightening of the administrative configuration of the area, which was effected through intensive (by Upper German standards) correspondence and collaboration with his agent Peter von Hagenbach.<sup>30</sup> While Charles disbursed no significant funds to assist Hagenbach in consolidating his Upper Rhenish possessions, he did encourage him to use the means at his disposal to control and exploit them, notably by raising exceptionally large numbers of troops for Burgundy’s many wars and building a unified administrative district with streamlined jurisdiction exercised solely by Burgundian officers.<sup>31</sup>

The transition from the loose and associative modalities of Austrian rule to the more intensive and top-down methods of Burgundian government was already evident at the conceptual level. The fragmented and dispersed possessions that had been summarised as ‘our lands’ or ‘the *Landvogtei* in Alsace, the Sundgau, and the Breisgau’ under the Austro-Tyrolean regime were given precise administrative labels: Charles was now lord of the ‘vicecomitatus et comitatus ac dominorum n[ost]rorum Elzacie et Firet[t]eu’, governed by ‘n[ostri]s Rectoribus et legislatoribus’.<sup>32</sup> In his September 1469 grant of office, ‘our beloved and loyal knight, counsellor, and master of the ordinary household, my lord Pierre de Haquenbaq [*sic*]’ was invested with these somewhat

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<sup>29</sup> Vaughan, *Charles*, p. 92.

<sup>30</sup> This chapter draws mostly on the documents from Hagenbach’s administration now kept in the TLA. The archival evidence is discussed exhaustively in Claerr-Stamm, *Hagenbach*.

<sup>31</sup> Examples of Charles discussing the consolidation or exploitation of ‘noz pars de Ferraitte et Dauxoy’ with his administrators can be seen in TLA Sigm./01.80.28, 04a.009.14, 04a.009.17.

<sup>32</sup> TLA Sigm./13.110.1, 1.80.20.

fabricated administrative districts: he became ‘bailiff [“Bailli”] of the said vice-county of Auxois [*sic* – a corruption of the *Landgrafschaft* of Alsace?], of the said county of Ferratte [*sic* – an invented comital title derived from the town of Pfirt], of the said Brisac [*sic* – Breisach], of the said Black Mountain [*sic* – the Black Forest towns of the *Hochrhein*?], and their appurtenances’.<sup>33</sup> Even in the German documents in his trilingual chancery, Hagenbach was sometimes referred to as ‘gubernierer’ – a highly unusual term in the Empire at this time, presumably imported from Burgundian administrative jargon.<sup>34</sup> The new regime was made visible to the local population by the replacement of all Austrian arms and banners with the Burgundian cross, even though this was only a temporary transfer of lordship via a pledge contract, and the establishment of a kind of uniformed police force in all major settlements which was answerable directly to Peter von Hagenbach. These local enforcers seem to have made a great impression in their liveried costumes – a rarity in the German lands at this time.<sup>35</sup>

More important still than these aesthetic and conceptual changes were the Burgundian policies aimed at centralising and streamlining the pledged zones under a single administration, which began to make extensive military and jurisdictional demands of its subjects. These moves contrasted with the decentralised and associative political culture that had characterised the Upper Rhine until this point, and continued to characterise the areas beyond Charles the Bold’s control. Soon after the sealing of the May 1469 contracts, Charles commissioned a report on the state of his new acquisitions, in which it was explained just how many of the jurisdictions and revenues within them had been pledged to third parties, and how much autonomy those holding fiefs within

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<sup>33</sup> ‘n[ost]re ame et feal ch[eva]ll[ie]r conseiller et maistre dostel ordinaire messire Pierre de Haquenbaq’ ‘Bailli de la d[i]c[t]e viconte Dauxois dicelle conte de Ferratte dudit Brisac de Lad[i]c[t]e Noire Montaigne et leurs apparttenances’. TLA Urk-I/8232.

<sup>34</sup> TLA Sigm./1.80.19 fol. 2v.

<sup>35</sup> Sieber-Lehmann, *Burgunderkriege*, pp. 52-3.

Charles's new lands enjoyed.<sup>36</sup> Subsequent reports in 1470 and 1471 reinforced this picture. The dispersed and multilateral nature of government and tenure on the Upper Rhine did not escape the notice of Burgundian administrators, who wrote to Charles about the fact that many partial possessions of his were 'in several hands' ('en plus[ieu]rs mains'), and recommended measures for acquiring complete and unitary control of these places.<sup>37</sup> Between 1469 and 1474 Peter von Hagenbach aggressively pursued tenants within the lands under his purview, including external parties like the government of Basel, in order to redeem their pledges and consolidate ducal authority over all the revenues and jurisdictions in the Burgundian districts.<sup>38</sup> With Charles's sanction, the funds to enable this were sometimes extracted forcibly from subject towns like Thann.<sup>39</sup> In some cases these forced redemptions involved the displacement of multiple co-tenants in a single castle or settlement to make way for unitary Burgundian lordship under Hagenbach as a sole 'hauptmann'.<sup>40</sup> Where redemptions could not be carried out, Hagenbach took oaths of loyalty from the inhabitants of the possessions and jurisdictions held by third parties, undermining the authority of the pledge-holders.<sup>41</sup> These heavy-handed methods, which disrupted local networks of lordship, were compounded by military exactions. Charles the Bold billeted thousands of mercenary troops in his Upper Rhenish settlements, and sought to extract as many soldiers as possible from them.<sup>42</sup> In December 1470 he ordered Peter von Hagenbach to submit a report on how many cavalry and infantry the lands under his authority could provide.<sup>43</sup> A month later he sent Jean de

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<sup>36</sup> ADBR C47/1.

<sup>37</sup> TLA Sigm./04b.49.1.

<sup>38</sup> TLA Sigm./04a.009.08, 04a.009.13-14, 04a.182.05; *UBB*, VIII, 293-5, 315-19.

<sup>39</sup> TLA Sigm./04a.009.10, 13.110.1.

<sup>40</sup> TLA, Sigm./01.80.19 fol. 2r, 01.80.54.

<sup>41</sup> TLA Sigm./1.80.19 fol. 2v.

<sup>42</sup> E.g. TLA Sigm./01.79, 01.80.44.

<sup>43</sup> TLA Sigm./01.80.35.

Neuchâtel to round up 4000 soldiers from the Upper Rhenish lands – the kind of military request that would be repeated several times in 1471-4.<sup>44</sup>

Unsurprisingly, the Burgundian regime's controlling and exacting approach to jurisdiction and troop-raising generated complaints and opposition. According to a Strasbourg chronicle, the inhabitants of the lands pledged to Charles in 1469 wrote to Duke Sigmund complaining that 'the Burgundian bailiff did not want to allow them to remain with their good old traditions'.<sup>45</sup> Hagenbach's councillors received petitions from towns begging to be exempted from Burgundian troop-levying mandates.<sup>46</sup> The Burgundian bailiff had to resort to armed force in order to try to enforce his will in several locations, notably at Ortemberg.<sup>47</sup> The Upper Rhenish subjects of Charles the Bold were not only opposed to his day-to-day measures, but seem to have perceived the contrast between the Burgundian style of rule and what we would call the decentralised and associative regime of the dukes of Austria-Tyrol and their autonomous vassals and officers. At his trial in 1474, discussed below, one of the crimes of which Hagenbach was accused was tyranny.<sup>48</sup> Several verses from the 'Rhyming Chronicle about Peter von Hagenbach and the Burgundian Wars', written by a patrician in the Outer Austrian (and temporarily Burgundian) town of Breisach around 1480, demonstrate an awareness of the governmental differences between Burgundy and the Empire. The following words were attributed by the chronicler to Hagenbach in an address he made to the citizens of Breisach:

'I do not want to lie to you,  
my lord [Duke Charles], by his hand,  
subjugates the land,

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<sup>44</sup> TLA Sigm./01.80.46; cf. TLA Sigm./01.07.1, 01.80.25.

<sup>45</sup> 'sie der burgundisch lantvogt bey irem alten herkumen nit wolt loszen bleiben'. SAC, p. 185.

<sup>46</sup> E.g. TLA Sigm./01.80.52.

<sup>47</sup> TLA Sigm./01.80.49, 01.80.56.

<sup>48</sup> Sieber-Lehmann, *Burgunderkriege*, pp. 61-7, 89-94.

with many good knights/nobles,  
 whom he targets out of necessity,  
 in order to bend them to his will,  
 by means of terrifying methods,  
 in order that for all time  
 they obediently ride to him,  
 and should anyone wish to be left out,  
 he [Charles] would soon drive him [the dissenter] out.  
 [...] [W]hereas my lord of Austria  
 has only a light grip on his knights and retainers,  
 of all the things he would order,  
 not one would be accomplished,  
 therefore the prince [of Austria] suffers being driven away  
 and cannot deal much with his lands[.]<sup>49</sup>

While it seems unlikely that Hagenbach actually made this speech, this blunt (and obviously exaggerated) articulation of the difference between the government to which the Burgundian duke and his officers aspired and the realities of political life under the dukes of Austria-Tyrol is revealing. Not only are the contrasting political cultures evident in the documentary sources that survive today, but they were also clear to contemporaries who experienced both Austrian and Burgundian lordship.

The short-lived Burgundian administration presided over by Peter von Hagenbach also antagonised almost all of the external political actors in its vicinity. Mulhouse's relations with the new regime were even worse than with the Outer Austrian nobility in the 1460s, and it reported its grievances regularly to its allies Bern and Solothurn.<sup>50</sup> Charles the Bold and Hagenbach plotted to have Bishop Johann V of Basel removed or pensioned off, to be replaced by a client more amenable to Burgundian expansion, one Anthoine Haneron of Bruges.<sup>51</sup> The policy of jurisdictional consolidation interfered with the many contractual ties between actors within the Burgundian zones and their external

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<sup>49</sup> “Ich will eüch nit liegen, / mein herre mit seiner handt / bezwinget umb sich die landt / mit ytel guter ritterschaft, / das er mit noth thut behafft, / zu im zu zwingen, / die miesßen mit forchtsamen dingen / im zu allen zeiten / vast gehorsamlich zu riten, / und welcher wolt ußpliben, / so wurd er in bald vertriben. / [...] aber mein herre von Österrych / haltet sein ritter und knechte licht, / uber alles, das er heißet, / würt en keines von inen geleistet, / darumb so liden der fürste trang / und komet gar umb sein land”. *QBL*, III, 278.

<sup>50</sup> *CDM*, IV, 6-11, 16-18, 33-5, 40-9, 95-102.

<sup>51</sup> TLA Sigm./01.80.11, 01.80.30.

neighbours. The attempted redemption of Rheinfelden was an affront to Basel, for instance, since the town had been held as a pledge by that city's government for decades.<sup>52</sup> Associative relationships demanded mutual assistance in conflicts, and between 1469 and 1471 some of the Burgundian towns and nobles had obligations towards Duke Ludwig of Veldenz, the leader of a coalition that formed to oppose Count Palatine Friedrich when this prince attacked the monastery of Wissembourg in Lower Alsace.<sup>53</sup> However, Charles tried to prevent his subjects from getting involved in the conflict, and, when this failed, to oblige them to return immediately from the war, in order to protect his friend and ally Friedrich.<sup>54</sup> Still more threatening was Hagenbach's July 1472 ban on cereal exports to Upper Rhenish towns outside of the lands he controlled, which jeopardised the food supplies of Basel, Strasbourg, Colmar, and other cities.<sup>55</sup> It was feared that this was a first step towards the conquest of more Upper Rhenish lands by Charles the Bold. The prevailing attitude among Hagenbach's neighbours can be gauged from the impressions expressed by the government of Haguenau, recorded in a 1475 letter to Frederick III: 'the duke of Burgundy is now powerfully situated in the German lands around us, and it has been believably suggested to us that certain towns and castles around us will soon be swallowed up [by the duke], because of which we are greatly worried'.<sup>56</sup>

In the course of the years 1470-4 the powers near the Burgundian possessions on the Upper Rhine began to undertake collective action in order to counter the threat they perceived in Peter von Hagenbach and Charles the Bold. They did so using the customary mechanisms that had defined associative political culture in the Holy Roman Empire

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<sup>52</sup> *BC*, III, 373.

<sup>53</sup> *RTA*, XXII, 171-235.

<sup>54</sup> TLA Sigm./01.80.43; TLA Urk-I/8188.

<sup>55</sup> TLA Sigm./01.80.51.

<sup>56</sup> 'so liget der hertzoge von Burgundy Jetz mit sine' maht nohe an du'tschen lande' by uns und wurt uns ouch gloiplich furbroht dz Im etliche stette und sloß umb uns gelegebn ku'rtzlich uffgeton werden sullen, davon wir In grossen sorgen sten'. TLA Sigm./13.128.

since the fourteenth century. Already in July 1470 a *Tag* was held in Basel by representatives of the Upper Rhenish and Confederate cities, the Count Palatine, and the bishop of Basel to discuss how to manage their relationship with Hagenbach's administration.<sup>57</sup> By early 1473 repeated meetings of this sort had led to concrete suggestions about a regional alliance, and in March a possible treaty was drafted.<sup>58</sup> The would-be allies also discussed ways of financing redemption payments to Charles the Bold in order to return the lands pledged to him in 1469 to the Outer Austrian affinity.<sup>59</sup> These discussions became more urgent in the course of 1473. As news filtered through of the duke of Burgundy's meeting with Frederick III at Trier in November, rumours circulated that Charles, as a newly-crowned king of Lotharingia, would annex all of the Upper Rhine.<sup>60</sup> A *Tag* was organised at Mulhouse by the Confederate and Upper Rhenish cities, and measures were agreed for the event of a Burgundian invasion of the entire region.<sup>61</sup> These fears proved unfounded – Charles did travel to Alsace in December, but passed through it peacefully. Nonetheless, the plans for a grand alliance progressed.<sup>62</sup>

Duke Sigmund, meanwhile, was soon disappointed by the lack of concrete assistance he received from Charles the Bold, and he, too, was alarmed by Burgundian policies in the pledged lands. His interests therefore began to converge with those of the Confederates and their allies and contacts. Between 1471 and 1474 his councillors reached several contractual accommodations with the Confederates at a series of *Tage*, assisted by mediation from the bishop of Constance.<sup>63</sup> Traditionally Louis XI of France was viewed as the orchestrator of this Austro-Confederate convergence and the anti-

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<sup>57</sup> *AEA*, II, 412.

<sup>58</sup> *CDM*, IV, 103-4.

<sup>59</sup> TLA Sigm./04a.009.04.

<sup>60</sup> See Vaughan, *Charles*, pp. 139-55.

<sup>61</sup> *BC*, II, 24-5.

<sup>62</sup> *CDM*, IV, 135-52.

<sup>63</sup> TLA Sigm./04b.55.277-9, 04b.55.280-6, 04b.55.313, 04b.55.351-60.

Burgundian coalition which followed it.<sup>64</sup> While Louis XI's ambassadors nominally oversaw some of these negotiations, in reality they offered little more than lukewarm encouragement and promises of future financial support.<sup>65</sup> The negotiations culminated in a treaty known to Swiss historiography as the *ewige Richtung*, whereby the duke of Austria-Tyrol and the Confederates set aside their differences and entered into an eternal pact to respect each other's rights, follow defined adjudicatory procedures, and make common cause against either side's enemies – the sub-text here being that Charles the Bold was one such enemy.<sup>66</sup> This treaty already existed in draft form in March 1474, but it was only formalised in June, and its finer details were thrashed out at a *Tag* in Feldkirch in October.<sup>67</sup> However, the rapprochement between the Confederates and Sigmund had already reached an advanced enough stage in early 1474 for both powers to be party to the final iteration of the planned Upper Rhenish coalition against Burgundy. By March the urban members of the nascent league were prepared to provide almost all the funds needed to redeem the pledged zones on Sigmund's behalf, with Strasbourg alone offering 40,000 fl.<sup>68</sup> Between 31 March and 4 April both the Confederates and Sigmund sealed ten-year alliance treaties with the leading proponents of anti-Burgundian co-operation, namely the bishops of Basel and Strasbourg and the cities of Basel, Strasbourg, Colmar, and Séléstat, at a *Tag* in Constance.<sup>69</sup> The league consisting of these last six powers would endure for two decades, and be known as the 'Lower Union' ('nieder verainung' – which might be translated more helpfully as 'lower alliance/league').<sup>70</sup>

The anti-Burgundian league of March/April 1474 was a classic formal association in every sense. It promised mutual counsel and assistance in conventional terms ('rate,

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<sup>64</sup> See Vaughan, *Charles*, pp. 274-8.

<sup>65</sup> TLA Sigm./04b.55.350.

<sup>66</sup> *AEA*, II, 913-16.

<sup>67</sup> TLA Sigm./04b.55.287-93, 04a.017, 01.73.1.

<sup>68</sup> TLA Sigm./04b.046.

<sup>69</sup> *AEA*, II, 911-12; *CDM*, IV, 170-3.

<sup>70</sup> Scott, *Economic Change*, pp. 47-8. On the Lower Union's later history see ch. 6, pp. 144-5; ch. 7, p. 192.

hilff und bystandt'), a stipulation which was valid against all enemies, though 'a duke' was pointedly mentioned as a thinly-veiled reference to Charles the Bold.<sup>71</sup> Disputes between members were to be resolved via customary arbitration within the association.<sup>72</sup> In a sign of direct discursive and legislative interrelationship between regional associations and Empire-wide activity, the writers of the treaty of 4 April not only used the usual language of peace, necessity, the common weal, and the honour of the Holy Roman Empire, but also invoked three pieces of Imperial legislation: the 'gulden bullen' (1356), the 'gemeinen reformation zu Franckfurt' (1442), and the 'keiserlichen fridens zu Regenspurg' (1471).<sup>73</sup> The treaty also featured a rhetorical innovation: its authors asserted that the alliance had not only been made for the sake of the 'peace, common good, and necessity' of the Empire, but also for that 'of the Holy Empire of the German nation's members'.<sup>74</sup> This is one of the first known uses of the phrase 'the Holy (Roman) Empire of the German nation', which would be commonplace by King Maximilian's reign, and its appearance in an alliance treaty reinforces the impression that associative activity was understood as a central component of Imperial politics in the late fifteenth century, just as it had been in earlier periods.<sup>75</sup> The use of the vernacular term *deutsche Nation* (in all its *frühneuhochdeutsch* variants) was a very recent phenomenon in 1474. It seems to have surfaced in the late 1460s, in vernacular documents pertaining to discussions about the defence and pacification of the Empire, especially vis-à-vis the Turks.<sup>76</sup> In this context it was clearly an importation from long-standing references to a *natio Germanica/Theutonica/Alamannica* in ecclesiastical Latin, terms which had reached broad audiences in the German lands via humanist orators like Aeneas Silvius

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<sup>71</sup> 'einen herzug'. *CDM*, IV, 171.

<sup>72</sup> *Ibid.*, IV, 172.

<sup>73</sup> *Ibid.*, IV, 171-2; see Introduction, p. 22.

<sup>74</sup> 'gemeynen friden, nütz und notturft willen' 'des heiligen richs glider dutscher nacion'. *Ibid.*, IV, 171.

<sup>75</sup> See ch. 8, pp. 216-19.

<sup>76</sup> E.g. *RTA*, XXII, 251.

Piccolimini.<sup>77</sup> In the south-western Empire, the perceived threat of Burgundy seems to have catalysed the extremely rapid diffusion of this language of the ‘German nation’, defined against a French/Romance – *welsch* – ‘other’ embodied above all by Charles the Bold, ‘the Turk of the West who shames Christendom’ (‘Türk im occident, der die cristenhait also schendt’).<sup>78</sup> Already in the mid-1470s it was used liberally in letters, pamphlets, and chronicles. For instance, Duke Sigmund wrote to Count Palatine Friedrich a few days after allying with the Lower Union and Confederates, stating that he had ‘signed up to a collective alliance... to the praise and honour of almighty God, the Holy Empire, and the German nation and for the assistance and furthering of the emperor’s [1471] peace [of Regensburg] and the necessity of our land and peoples’, and that the alliance would regain the lands he pledged to Charles in 1469 – a legitimate undertaking, since the Burgundian duke had contravened the contracts of that year by bringing ‘foreigners’ into Alsace and the Black Forest.<sup>79</sup>

This newly-formulated ‘national’ conception of the Empire was a central feature of the downfall of the Burgundian administration on the Upper Rhine, in which the league of March/April 1474 played an instrumental role. The immediate pretext for the league’s attack on the Burgundian regime came from within the pledged lands on 6-15 April, when the townspeople of Breisach, in partnership with some German soldiers formerly employed by Peter von Hagenbach, revolted against the Picard mercenaries he had stationed in their town and imprisoned Hagenbach himself. While support for the uprising was not universal throughout the pledged lands, the leaders of the anti-Burgundian

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<sup>77</sup> Hirschi, *Nationen*, pp. 124-74. See also Scales, *Identity, passim*; ch. 8, pp. 218-19.

<sup>78</sup> Sieber-Lehmann, *Burgunderkriege*, pp. 163-301. The ‘Türk im occident’ quotation is from a south German song composed in 1475 – see *ibid.*, p. 251.

<sup>79</sup> ‘ainer gemainen verainung verschriben’ ‘zu lob dem alma<sup>e</sup>chtigen got dem heiligen Reich zu Eren und der Teutschen Nation zu hilff und furdrung dem k. friden und notdurfft unns’ lannd und leut’ ‘frombd volkh’. ADBR C47/2.

coalition saw it as a perfect opportunity to intervene.<sup>80</sup> In-keeping with their pro-‘German’, anti-Burgundian propaganda, they branded the captured Hagenbach a traitor and an agent of foreign tyranny, and obtained custody of the bailiff. Basel’s executioner was deputed to extract confessions under torture, and Hagenbach was subjected to a show trial for murder, conspiracy, and treason. On 9 May 1474 he was beheaded in public in Breisach.<sup>81</sup>

Hagenbach’s trial is an exceptional example of the extent to which associations could involve themselves in all areas of political and judicial activity. Rather than referring Hagenbach’s case to an urban or princely court with competence in criminal justice, the leaders of the anti-Burgundian ‘*verainung*’ took it upon themselves to try him jointly, ‘on behalf of all those who belonged to the league’.<sup>82</sup> According to Johannes Knebel of Basel, the author of near-contemporaneous annals, 27 to 29 judges sat on the case, and most members of the anti-Burgundian alliance (with Sigmund represented by Austrian subject towns like Breisach and Freiburg) provided at least two of these each.<sup>83</sup> This associative approach has led to some confused and implausible interpretations of the nature and significance of Hagenbach’s trial. Scholars have suggested that it was a contradictory fusion of the procedures of the ‘traditional’ *Rechtstag* and the ‘modern’ inquisitorial hearing,<sup>84</sup> or even the first ever ‘war crimes’ trial, which supposedly prefigured the Nuremberg trials of 1945-6 because it involved multiple ‘sovereign’ powers delivering justice collectively.<sup>85</sup> In light of what we have seen of the associative political culture of this region in this period, it is clear that a more plausible reading of the

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<sup>80</sup> Sieber-Lehmann, *Burgunderkriege*, pp. 68-89.

<sup>81</sup> *Ibid.*, pp. 89-94.

<sup>82</sup> ‘von aller deren wegen, die in den bundt gehörten’. *SAC*, p. 187.

<sup>83</sup> *BC*, II, 85-6.

<sup>84</sup> See discussion in Sieber-Lehmann, *Burgunderkriege*, p. 90.

<sup>85</sup> G.S. Gordon, ‘The Trial of Peter von Hagenbach: Reconciling History, Historiography and International Criminal Law’, in K.J. Heller and G. Simpson (eds), *The Hidden Histories of War Crimes Trials* (Oxford, 2013), pp. 13-50.

trial can be achieved. While it was unusual for an association to hold a multilateral criminal trial (as opposed to the far more common method of arbitration according to *Minne* or *Recht*), it was not unheard of: for instance, we saw in chapter 9 that in the 1370s a league of Alsatian powers tried and executed Hans Erbe and his followers as peace-breakers.<sup>86</sup> We have also seen that the *Hofgericht* of Rottweil occupied a grey area between criminal jurisdiction exercised in the name of the king/emperor and arbitral procedures undertaken by an association of elites in the Black Forest.<sup>87</sup> More generally, joint jurisdiction was no novelty for the intertwined powers of the south-western Empire. We have seen many examples of co-rule and ‘common lordships’, and the temporary creation by the members of the anti-Burgundian league of a shared and multilateral authority to try Hagenbach fits comfortably within the same logic.<sup>88</sup>

During and after Hagenbach’s imprisonment and trial, the allies worked to bring their anti-Burgundian project to fruition. They collected 80,000 fl. in Basel for the redemption of the pledged lands, and the sum was offered by Duke Sigmund’s herald to Charles the Bold in Luxembourg on 22 April 1474, whereupon the Burgundian duke denied the validity of the attempted transaction.<sup>89</sup> Nevertheless, Sigmund’s officers moved to reintegrate the pledged settlements into the Outer Austrian agglomeration, encountering no opposition. Encouraged by missives from Frederick III, the leaders of the ‘verainung’ then debated plans for pre-emptive strikes into Burgundian Franche-Comté, in part to safeguard the Württemberg-owned border town of Montbéliard/Mömpelgard.<sup>90</sup> The Swiss Confederates were initially reluctant, but the deliberations gained new urgency when Stephan von Hagenbach, the late bailiff’s brother, carried out a murderous raid into

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<sup>86</sup> Ch. 9, pp. 226-7.

<sup>87</sup> Ch. 2, pp. 65-8.

<sup>88</sup> See chs 4, 9, *passim*.

<sup>89</sup> SAC, p. 186.

<sup>90</sup> Sieber-Lehmann, *Burgunderkriege*, pp. 110-18.

the Sundgau with several thousand Burgundian troops in the summer of 1474.<sup>91</sup> Between July and October several more Alsatian Imperial Cities and the officers in charge of Montbéliard joined the anti-Burgundian coalition.<sup>92</sup> On 12 August the members of the growing league signed a collective treaty of protection in the event of a Burgundian invasion of the Upper Rhine with Count Palatine Friedrich and Margrave Karl of Baden.<sup>93</sup> On 25 October a Bernese ambassador was sent to Charles, who was now besieging the city of Neuss on the Lower Rhine, in order to deliver an *Absagebrief* (feud-declaration) on the part of the Confederates and the Lower Union.<sup>94</sup> At the same time, troops were prepared for a joint army of the anti-Burgundian alliance, and captains – mostly drawn from the Austrian-leaning nobility of Alsace – were appointed.<sup>95</sup> In November 1474 the 18,000-strong coalition army marched to Héricourt on the frontier of Franche-Comté and, after a short siege and a resounding victory against a Burgundian relief force, captured the fortress.<sup>96</sup> Instructions for Sigmund’s representatives at a *Tag* of the league in February 1475 show that discussions were held about how to divide the shared military costs and booty.<sup>97</sup> The ‘*verainung*’ reached its maximum extent in April 1475, when Duke René II of Lorraine – another enemy of Charles the Bold – became a member during a conference held in Colmar.<sup>98</sup>

The remaining events of the Burgundian Wars, which culminated in the death of Charles the Bold, are well known, and will not be rehearsed in detail here.<sup>99</sup> Between July 1474 and May 1475 Charles used the bulk of his armies to besiege Neuss, ostensibly in support of his ally Archbishop Ruprecht of Cologne. The creation of a pan-Imperial army

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<sup>91</sup> *BC*, II, 103-7.

<sup>92</sup> *UBB*, VIII, 371,

<sup>93</sup> TLA Sigm./14.1118.

<sup>94</sup> *AEA*, II, 515.

<sup>95</sup> *RUB*, V, 21-3.

<sup>96</sup> *Ibid.*, V, 22-3.

<sup>97</sup> TLA Sigm./04b.55.295.

<sup>98</sup> *AEA*, II, 537.

<sup>99</sup> See Vaughan, *Charles*, chs 9-10.

led by Frederick III himself and a three-pronged French attack on Burgundy by Louis XI forced Charles to back down. In late 1475 and 1476 he turned his attention to invading Lorraine and gaining control of Savoy – a course of action which necessitated the removal of the Confederates from the duchy’s northern possessions. Charles personally led an enormous Burgundian army into the Vaud and the Üchtland, where he suffered two crushing defeats at Grandson (2 March 1476) and Morat/Murten (22 June 1476) at the hands of Bern and its allies. In January 1477 he was killed by an army of Lorrainers and Swiss mercenaries while besieging Nancy. It is worth noting briefly that associative dynamics continued to play a role in these large-scale confrontations. For instance, when messengers arrived from besieged Neuss to implore those in attendance at the 1474 Imperial Diet at Augsburg to consider their ‘necessity’ (‘Nothdurfft’), lest they be ‘torn away from the Empire’, they stated in the customary terms of associative interaction that they had come ‘to call upon’ (‘aufmahnen’) the powers of the Empire for ‘assistance’ (‘hülff’) against Charles the Bold.<sup>100</sup> Frederick III responded by writing to key members of the Empire requesting ‘urgent assistance’, and leaving the details of the army that he hoped would be assembled to be worked out collectively by the participating powers at a *Tag* in Würzburg.<sup>101</sup> As in Sigismund’s pan-Imperial war of 1415, and indeed Maximilian’s 1499 ‘*Reichskrieg*’ against the Swiss Confederates, Frederick’s military response relied on the mechanisms of alliance-making and network-based feuding in order to mobilise the powers of the Empire against Charles the Bold.<sup>102</sup> The call for help spread along the vectors of the alliances and *Tage* that brought the cities and princes of the Empire into contact with one another in 1474-5, and in response they promised

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<sup>100</sup> ‘vom Reich abgerissen’. *RTT*, II, 648-9.

<sup>101</sup> ‘eilenden Hilf’. *Ibid.*, II, 649-50, 660-1.

<sup>102</sup> See ch. 3, pp. 79-80; ch. 11, pp. 284-6.

‘assistance, counsel, and succour’.<sup>103</sup> At a *Tag* in Mainz in November 1474 Louis XI sealed an alliance with Frederick and the assembled representatives of the Empire-wide coalition against Burgundy, which was described revealingly by Margrave Albrecht of Brandenburg as ‘the “eynung” which the emperor, the electors, and other princes and lords entered into... against Burgundy’.<sup>104</sup> In January 1475 Frederick sent an *Absagebrief* to Charles the Bold on behalf of all members of the Empire.<sup>105</sup> It should also be acknowledged that the defeats inflicted on Charles in 1476 were not only the work of the ‘Swiss’, even if Grandson and Morat have mostly been studied within the context of self-congratulatory nineteenth- and twentieth-century Swiss historiography.<sup>106</sup> The alliances of March/April 1474 were valid for ten years, and had given rise to what was by 1476 being called the ‘great league’ (‘grosse[r] bund’).<sup>107</sup> The Confederates therefore called upon their allies at the time of Charles the Bold’s incursion in the Vaud. The members of the Lower Union responded by sending troops which formed part of the force that destroyed Charles’s army in the summer of 1476.<sup>108</sup> The anti-Burgundian coalition remained militarily active from mid-1474 right up until January 1477.<sup>109</sup>

Thus, the significance of the Burgundian Wars is not limited to their role in precipitating the downfall of the last Valois duke of Burgundy and the division of his inheritance between Louis XI and Maximilian. At their core, these conflicts were yet another manifestation of the associative modes of interaction between powers in the Holy Roman Empire. The associative political culture of Europe’s German-speaking elites

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<sup>103</sup> ‘hilff Rat und bystandt’. TLA Sigm./04a.171.1. See also the correspondence printed in Sieber-Lehmann, *Burgunderkriege*, pp. 418-30.

<sup>104</sup> ‘die eynung, die der keiser und die curfürsten, auch ander fürsten wider Burgund... eingangen sind’. PCKAA, I, 751.

<sup>105</sup> *RI*, XIII.4, no. 671.

<sup>106</sup> E.g. W. Schaufelberger, *Der Alte Schweizer und sein Krieg: Studien zur Kriegführung vornehmlich im 15. Jahrhundert* (Zurich, 1966).

<sup>107</sup> *BC*, III, 44.

<sup>108</sup> See e.g. the record of Mulhouse’s contingent at Morat in AMM I/2154.

<sup>109</sup> The allies’ actions are narrated in *BC*, III, 3-115

entailed more decentralised and multilateral forms of government than those exercised in parts of the French and Burgundian polities, but the Empire's political system could nonetheless yield impressive results, even in the face of the consolidated political and military resources of Charles the Bold. The achievements of the 'great league' of 1474 in raising huge sums of money and organising effective campaigns attest to this. This is not to say that the Empire's political culture was somehow superior. Observations by outsiders that Alsace became a safer place for travellers under Charles underscore the merits, as well as the drawbacks, of Burgundian approaches to government.<sup>110</sup> It is not clear whether either administrative system had better or worse effects on the lives of the unfree or low-status majority living in the lands pledged to Burgundy in 1469, since the perspectives that survive were all written by or for political elites of one affiliation or another. Rather, the points of contrast between the political culture of Charles and his officers and that of Imperial actors highlight the enduring importance – indeed, the unavoidability – of associative structures, dynamics, and ideologies in the fragmented German-speaking lands. Even in the 1460s-70s, the beginning of Moraw's age of consolidation, constant multilateral negotiation between horizontally-related elites within the framework of a shared set of conventions and discourses remained the fundament of Imperial politics. Throughout these years, the princes and cities of the Empire continued to forge alliances and leagues as prolifically as ever, and arbitrational or negotiatory *Tage* – not least the conferences dignified with the label of *Reichstage* by subsequent historiography – only increased in frequency.<sup>111</sup> Furthermore, the intensification of Imperial consolidation in the decades classically linked to 'Reichsreform', the 1480s to 1510s, built on the associative tendencies of the 1460s-70s. As we saw in chapters 6 and 8, the issuing of new peace-ordinances and the development of an increasingly close, if

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<sup>110</sup> See report quoted in Vaughan, *Charles*, p. 269.

<sup>111</sup> Some examples of alliances in the decade 1467-77 beyond the Upper Rhine are HSA A602/5135, 5139-4, 5211-13, 5221-6.

tension-ridden, interplay between the Roman monarchs and the Imperial estates went hand-in-hand with the creation and maintenance of the Swabian League, which was modelled on coalitions like the ‘great league’ and other parallel associations in the 1470s. The Lower Union, another associative instrument of contact and consolidation until the 1490s, when it was joined by King Maximilian, was a direct product of the events of the 1470s.<sup>112</sup> The increasingly ‘national’ dimension of the discourses about peace, the common good, and the Empire which pervaded the treaties and correspondence of German-speaking elites in the late fifteenth and sixteenth centuries owed their rapid development and diffusion to the conjunctures of the Burgundian Wars. All in all, the new layers and accelerating processes of political life after 1477 were additions to and reconfigurations of a fundamentally associative framework, which persisted into the latter half of the fifteenth century and continued to shape the Holy Roman Empire thereafter.

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<sup>112</sup> See ch. 6, pp. 144-5; ch. 7, p. 192.

## Conclusion

### Towards an associative conception of the Holy Roman Empire

As I read in a chronicle  
How praiseworthy endowed the German tongue is,  
Its foundations and its origins  
I want to relate, if I can.  
I begin with the electors,  
Of whom there are seven, that I know of...  
[They] elect one who should be crowned  
For whom is thereby done a great favour:  
Namely a king of the Roman crown,  
We should justly hold to him  
With all our obedience.  
His name is 'forever august';  
But he ought to be of German tongue  
Unless the election has gone horribly wrong.  
He should be strict, just, and pious,  
Providing equal protection without deception  
And bringing peace to Christendom.  
In this his members should provide him with assistance,  
Those [members] who are answerable to the Empire,  
Those that are convincing [in performing this task] are famous,  
And upon them rest the Empire's foundations.<sup>1</sup>

This extract from the 'Lyric Poem about the Roman Empire' was composed in 1422 by an unknown author, possibly a herald involved in the Hussite Wars. It is one of the few known attempts to express what the Holy Roman Empire was in the later middle ages, at least outside of law-books and political treatises. It is notable that this vernacular work mentions not only the monarch and the electors, but also all the 'members' ('glieder') of the Empire. The role of these last is presented in the customary language of associative

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<sup>1</sup> 'Als ich in eyner Cronick laß, / Wie lublich begabt sie teutsche zunge, / Der grunt vnd der vrsprunge / Will ich ertzelen, ob ich kann. / Myt denn kurfursten heb ich ann, / Der siebend sindt, die ich kenne. / [...] Welenn ein den man kronen soll, / Wer inn darzu tut geuallen wol: / Das heyst ein kunig der Romisch kronn, / Den sollen wir pillich haltten schonn / Mit aller vnser gehorsame. / Altzeit Augustus ist sein name; / Doch das er sey teutscher zungen, / Sust menigklich ist der wal verdrungen. / Er soll sein streng, gerecht vnd frum, / an geuerde gleicher schirmung, / Vnd setzen die cristenheyt in frydt. / Des sullenn ym geholfenn sein seyne gleder, / Die dem reich do sind gewant, / Die myr ertzeygent sindt bekant, / Darauff des reichs grund ist gesetzt'. E. Henrici, 'Spruch vom Römischen Reich aus dem Jahre 1422', *Zeitschrift für deutsches Altertum und deutsche Literatur*, 25 (1881), 73.

political culture – they must provide ‘assistance’ (‘geholfen sein’) in securing peace, and they are ‘answerable to’ or ‘associated with’ the Empire (‘dem reich... gewant’), phrasing which recalls the formula ‘[to] all those associated with us’ (‘allen zu unns gewannten’) used in some alliance treaties.<sup>2</sup> This work also insistently identifies a ‘German’ component in its understanding of what the Empire was. This ‘German’ element of Imperial self-understanding would increase in pervasiveness and intensity in the ensuing decades, as we have seen. More interestingly still, in the verses following the excerpt above, this poem makes the first known written reference to the *Quaternion*, the symbolic representation of the Empire in the form of the king and four examples of each of these powers: dukes, counts, margraves, landgraves, burgraves, knights (or ‘free lords’), Imperial Cities, ‘villages’, and ‘farmers’ (the latter two categories usually being represented by what were in fact Free or Imperial Cities, like Ulm, Cologne, and Constance).<sup>3</sup> The first visual depiction of the *Quaternion* was a fresco on the walls of the city hall of Frankfurt, thought to have been commissioned by Sigismund during his stay there in 1414.<sup>4</sup> By the early sixteenth century this symbolic image of the Empire as a representative sample of its ‘members’ had become commonplace, a widely-circulated example being the woodcut *Quaternion* in Hartmann Schedel’s ‘Nuremberg World Chronicle’, printed in 1493 (Figure 12). Clearly, by the fifteenth century some inhabitants of the Empire were searching for both verbal and visual vocabularies in order to articulate the complex structure and configuration of the sprawling polity in which they found themselves.<sup>5</sup>

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<sup>2</sup> See e.g. GLA 36/2377-8, quoted in ch. 8, p. 216.

<sup>3</sup> Henrici, ‘Spruch’, pp. 74-5.

<sup>4</sup> E. Schubert, ‘Die Quaternionen’, *Zeitschrift für historische Forschung*, 20 (1993), 1-63.

<sup>5</sup> On visual representations see H.J. Cohn, ‘The Electors and Imperial Rule at the End of the Fifteenth Century’, in S. MacLean and B. Weiler (eds), *Representations of Power in Medieval Germany 800-1500* (Turnhout, 2006), pp. 295-318; L. Scales, ‘The Illuminated Reich: Memory, Crisis and the Visibility of Monarchy in Late Medieval Germany’, in J. Coy *et al.* (eds), *The Holy Roman Empire, Reconsidered* (New York/Oxford, 2010), pp. 73-92.

There is no denying that it is very difficult for us, burdened as we are by the dominant political concepts of recent centuries (the ‘state’, the ‘constitution’, and so on), to make sense of the later medieval and early modern Holy Roman Empire as it was imagined by contemporaries in metaphors like the *Quaternion* and as we detect it in the abundant but bewildering primary sources. Already in 1667 the jurist Samuel von Pufendorf asserted in his polemic ‘Concerning the Constitution of the German Empire’ that ‘there remains no alternative but to name Germany, if one wants to classify it according to the rules of politics, as an irregular and almost monstrous state-entity, which has over time, through the sluggish indulgence of the emperors, the ambition of the princes, and the restlessness of the priests, arisen from what was once a monarchy’.<sup>6</sup> As we saw in the Introduction, the gap between the historical evidence and modern notions of what the structure and development of political entities ought to be has resulted in a fraught and negative historiography of the Empire, and particularly of its later medieval history. In recent decades this gap has yielded ‘territorial’ and ‘constitutional’ interpretations predicated on teleologies of state-formation and an ongoing, if now only implicit, acceptance of the *Sonderweg* narrative of German history.<sup>7</sup>

This thesis has tried as far as possible to avoid reading the Empire and its components into the distorting categories of the ‘state’ and the ‘constitution’, and instead to build a model from the patterns evident in the sources and the imaginary and social frameworks within which these patterns gained meaning. The result is a rather different and more coherent picture, which chimes with the conceptual vision of the *Quaternionen*. We have seen that the Empire was understood as a community of varied elite ‘members’,

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<sup>6</sup> ‘Es bleibt also nichts übrig, als Deutschland, wenn man es nach den Regeln der Politik classificiren will, ein unregelmäßiges und fast monströses Staatsgebilde zu nennen, das im Laufe der Zeit durch die träge Nachgiebigkeit der Kaiser, durch den Ehrgeiz der Fürsten und die Ruhlosigkeit der Pfaffen aus der einstigen Monarchie entstanden ist’. H. Breßlau (ed.), *Severinus von Monzambano (Samuel von Pufendorf), Ueber die Verfassung des deutschen Reiches* (Berlin, 1870), p. 106.

<sup>7</sup> See Introduction, pp. 14-17.

who ranged from princes and prelates to knights and burghers. Despite the general fragmentation of the German lands, these groups shared in a mutually intelligible array of values and practices, and this commonality was both a driver and a consequence of myriad interconnections and co-dependencies between political elites. In the south-western Empire, at least, political life was constituted in large part by quasi-horizontal ('associative') interactions between these entangled actors, formalised and regulated through contractual relationships. When they took the form of the archetypal league or alliance, these relationships were understood as one of the most fundamental and legitimate formats for political activity. This is clear from the way in which formal associations regulated feuding and arbitration, two vital and unavoidable methods of interaction between elites in this period. It is also clear from the ideological veneer imposed upon alliance- and league-making, which presented these formations as instruments for furthering the peace-keeping and common weal-upholding mission of the Holy Roman Empire.

Thus, just as associations emanated from the Empire's underlying structures, so they also shaped its political culture. On one level they bridged the gap between the Empire's intermittent 'central' institutions – the king or emperor and his modest administration and the Diets called by monarchs or electors – and the Upper German localities. However, in light of the conception of the Empire manifested by sources like the *Quaternionen*, it seems justifiable to take this interpretation even further: the later medieval Empire was, in itself, an associative entity. The diverse community of its members was sustained by their shared participation in a trans-regional nexus of associative relationships, which is precisely why the idea of the Empire was valorised to such an extent in alliance and league treaties. *Tage* – the flexible conferences at which members of associations and other actors negotiated with and mediated between one

another – functioned as nodal points at every level within this nexus, from local arbitrational meetings set up by quarrelling villagers to the *kaiserliche, gemeine*, and *Reichs- Tage* attended by representatives from most of German-speaking Europe. To put it another way, the structures and mechanisms of power in the Empire as a whole were similar in many respects to those which shaped the Swiss Confederation. This similarity is borne out by the comparative and connective analysis of the south-western regions undertaken here, and it challenges the traditional divide between ‘Swiss’ and ‘German’ history.<sup>8</sup> Long-standing customs and geopolitical realities ensured that the Empire functioned according to these dynamics, rather than conforming to the classic model of the incipient institutional state. The interplay between associative mechanisms and configurations and Imperial ideologies continued until 1500 and beyond, as we have seen.<sup>9</sup> It would therefore appear that the intensive years of ‘Imperial reform’ under Emperor Maximilian and the first decades of the Reformation in the early sixteenth century played out within the framework of associative political culture. Research by Gabriele Haug-Moritz, among others, into the continuing importance of leagues in the sixteenth-century Empire certainly seems to support this.<sup>10</sup> The implications of an associative perspective for our understanding of these supposed turning points merit further consideration in future research.

A corollary of the findings of this thesis about the associative structures and dynamics which characterised the later medieval Empire is that the orthodox ‘territorial’ and ‘constitutional’ models of Imperial history require some modification. It is clear that the Holy Roman Empire, when it is approached through the political culture of its

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<sup>8</sup> On Swiss historiography see ch. 5, p. 131.

<sup>9</sup> See esp. ch. 5, p. 135, note 46; ch. 6, pp. 165-8; ch. 8, p. 219.

<sup>10</sup> G. Haug-Moritz, *Der Schmalkaldische Bund, 1530-1541/42: eine Studie zu den genossenschaftlichen Strukturelementen der politischen Ordnung des Heiligen Römischen Reiches Deutscher Nation* (Leinfelden-Echterdingen, 2002); Haug-Moritz, ‘Föderalismus’.

inhabitants, can be seen as a coherent and interconnected political community, rather than as a dualistic one divided into polarised blocs. These inhabitants are best understood when they are studied collectively across social and geopolitical space, not separately as ontologically different ‘estates’ or within bounded ‘territorial states’. The evidence suggests that the Empire as a whole was the only political framework which functioned convincingly and consistently as an overarching governmental unit in German-speaking Europe. This thesis has argued that this framework was full of vitality in the fourteenth and fifteenth centuries, whereas the consolidation of the so-called *Territorialstaaten* has been greatly exaggerated. In this sense it agrees with the view recently expressed by Joachim Whaley that the ‘territorial’ narrative of German history ‘distorts the reality of the Reich and underestimates the integrative potential inherent in its system... [and] also distorts the reality of the territories and overestimates the degree of concentration they had achieved by about 1500’.<sup>11</sup> Furthermore, the inner structures of the Imperial polity are not easily apprehended through the legal-political categories of *Verfassungsgeschichte*. The political elites of the Empire thought about and presented their world in terms of lists of title-holding powers and their multi-layered relationships to one another. These relationships were rarely arranged as mappable hierarchies or ‘constitutional’ schemes, but overlapped and branched in multiple directions, often in a horizontal plane. Where Gierke’s intellectual successors, notably Peter Blickle, would want to see horizontal and communal ties as the preserve of villages, towns, and other supposed laboratories of modern ideas of liberty and citizenship, this thesis has shown that such ties shaped the activity of the entire political elite in the Holy Roman Empire.<sup>12</sup> These elites justified their authority, and the ties which underpinned it, through discourses and imagery which invoked unity, peace, and the common good within the framework of

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<sup>11</sup> Whaley, *Germany*, I, 40.

<sup>12</sup> See ch. 5, pp. 122-7.

the Holy Roman Empire. Modelling the Empire as an abstract constitution with evolving institutions and built-in separation of powers only partially captures this picture. Studying its political culture uncovers these dynamics in all their richness and complexity, and allows for the identification of long-term trends which had their basis in the localities as well as in the Empire's shifting centre.

### **The later medieval and early modern Empire and the 'genesis of the modern state' in Europe**

It is worth reflecting briefly on the implications of this thesis for the grand narratives and models of European political history which encompass the fourteenth, fifteenth, and early sixteenth centuries. Of course, the findings presented here, which derive primarily from Upper Rhenish and Swabian sources, cannot necessarily be generalised to other parts of Europe. Even within the Empire, it is possible that some of the more consolidated princely agglomerations in the northern and eastern areas of German-speaking Europe prevented those regions from being conditioned by what has been identified here as 'associative political culture' to the same extent as the south-west; this is a question that must await further research in order to be answered. However, the substantial size of the zone examined here, which was in the political heartlands of the Empire and the geographical centre of Latin Christendom, justifies some consideration of how its features might modify the broad characterisations of European history in this period. Furthermore, we have seen that the Holy Roman Empire as a polity reflected – and was constituted by – many of the configurations and conventions that shaped political life in its south-western lands.

As we have seen, the modern European historiography of the period between around 1350 and 1500 is dominated by the narrative of the 'genesis of the modern state',

which can encompass a chronological range as large as the eleventh to nineteenth centuries, but often centres on the ‘late medieval’/‘early modern’ periods.<sup>13</sup> This approach has a number of guises – diplomatic, legal-historical, macro-sociological – but it always posits the centralising state as the prism through which all data that can be classified as pertaining to ‘political history’ is analysed.<sup>14</sup> In the case of the evidence that survives from the south-western Empire, this scheme is simply not convincing. Unitary administrations with uncontested jurisdiction and military authority over well-defined territories did not emerge in these regions, and instead lordship and administration in the mid-fourteenth to early sixteenth century were overlapping and multilateral processes that were handled within networks of varied political elites. Their interactions gave rise to an Imperial polity that never developed a streamlined and bureaucratised hierarchy of authority emanating from an increasingly institutionalised centre. Instead, this polity was polycentric, and constituted by quasi-horizontal relationships within and between dominant socio-political groups. In the face of this evidence, it is counter-productive to agonise about the applicability of the modern concepts of the state and its genesis.

This is not to say that research into state formation is entirely unhelpful. From a long-term perspective, it is of course true that institutionalised political entities with some degree of centralisation emerged all over Europe by the nineteenth century, and the search for their origins is natural. Nor is it wrong to posit political consolidation as a key feature of the later middle ages and early modernity. However, if it is to be of pan-European relevance, the standard narrative of state formation needs to be able to accommodate pathways of development apart from centralisation and institutionalisation, and take

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<sup>13</sup> A manifesto for this approach, in the context of a European Science Foundation-funded project that ran between the 1980s and 2000s, is J.-P. Genet, ‘La genèse de l’État moderne: les enjeux d’un programme de recherche’, *Actes de la recherche en sciences sociales*, 118 (1997), 3-18.

<sup>14</sup> See e.g. Guenée, *États*; Blockmans, *Power*; C. Tilly, *Coercion, capital, and European states, A.D. 990-1992* (Cambridge, MA/Oxford, 1992).

account of the kinds of structures and dynamics observed in this thesis. The Holy Roman Empire was unquestionably more interconnected and consolidated in 1500 than it had been in 1350, but this trajectory unfolded through the vectors of customary, associative interactions, rather than through the development of centralised institutions. We need to recognise that the growth of government at multiple levels of pre-modern Europe's complex societies generated polycentrism, fragmentation, and trans-‘territorial’ networks at least as often as it produced centralising administrations.<sup>15</sup> Indeed, the configurations and activities noted in this thesis were far from unique to the south-western Empire. Similar structures and mechanisms, expressed through feuding, arbitration, and dependence on leagues and other multilateral networks, have been detected in Scotland, southern France, and Hungary, to name just three locations, even if historians of these regions have not always pursued the implications of this evidence to the point of adapting their political models to take account of these structures and mechanisms.<sup>16</sup> If our macro-historical models of political change could incorporate this evidence more convincingly, we would also gain a better understanding of how different state formats emerged in later centuries. It seems very plausible, for instance, that the federal forms taken by the modern incarnations of Germany were rooted as much in its associative structures in the later medieval and early modern periods as in its subsequent division into post-Westphalian princely territories.<sup>17</sup> Only when we have found a way to articulate ‘horizontal’, network-dependent structures that preclude any neatly unitary vision of pre-modern political

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<sup>15</sup> On the ‘growth of government’ and its implications, see Watts, *Polities*, *passim*.

<sup>16</sup> See e.g. J. Wormald, *Lords and Men in Scotland: Bonds of Manrent, 1442-1603* (Edinburgh, 1985); Firmhaber-Baker, *Violence*; I. Petrovics, ‘The Kings, the Towns and the Nobility in Hungary in the Anjou Era’, in N. Coulet and J.-M. Matz (eds), *La noblesse dans les territoires angevins à la fin du Moyen âge: actes du colloque international organisé par l'Université d'Angers, Angers-Saumur, 3-6 juin 1998* (Rome, 2000), pp. 431-42; N. Moaçanin, *Town and Country on the Middle Danube 1526-1690* (Leiden, 2006), pp. 3-14.

<sup>17</sup> This argument about a ‘federal mentality’ in the pre-modern Empire is made, though with more emphasis on the role of the early modern ‘larger territories’, in Whaley, *Germany*, II, 645-50 (esp. p. 650).

processes can we hope to understand the facets of European history manifested by the continent's largest polity, the Holy Roman Empire.

## Figures

1. Illustration (detail) from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the king of the Romans distributing *Urkunden*. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689-91, fol. 95v.



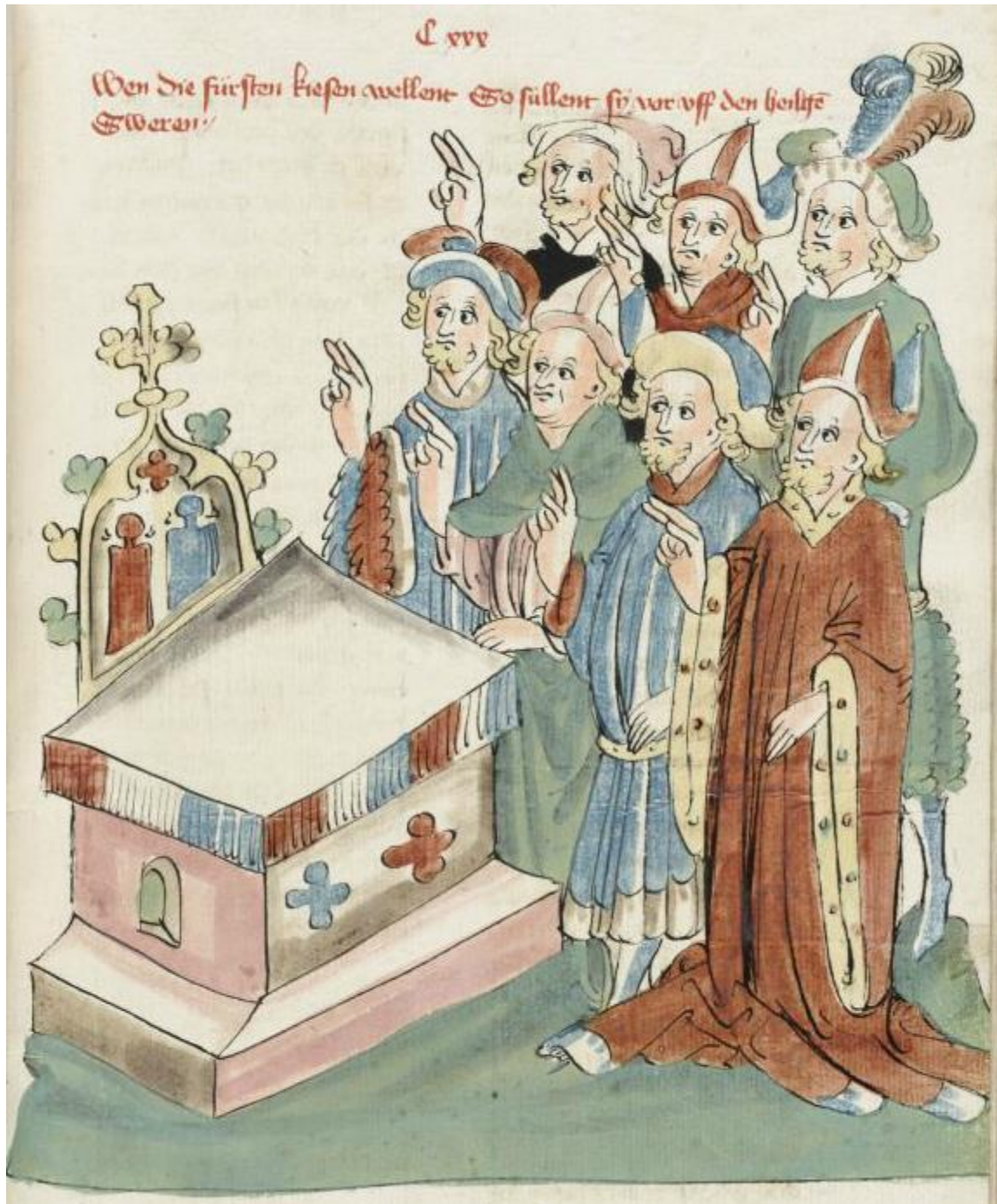
2. 1439 alliance treaty of the bishop of Strasbourg, the Free and Imperial cities of Alsace, the lords of Rappoltstein and Lichtenberg, and several knights. ADBR G139/3, author's photograph.



3. 1479 renewal treaty of the alliance between Zurich, Bern, Lucerne, Uri, Schwyz, Unterwalden, Zug, Glarus, Fribourg, and Solothurn on the one hand and the bishop of Strasbourg on the other. ADBR G153, author's photograph.



4. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the electors of the Empire swearing an oath on holy relics. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689-91, fol. 150r.



5. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting a prisoner making a vow. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689-91, fol. 216v.



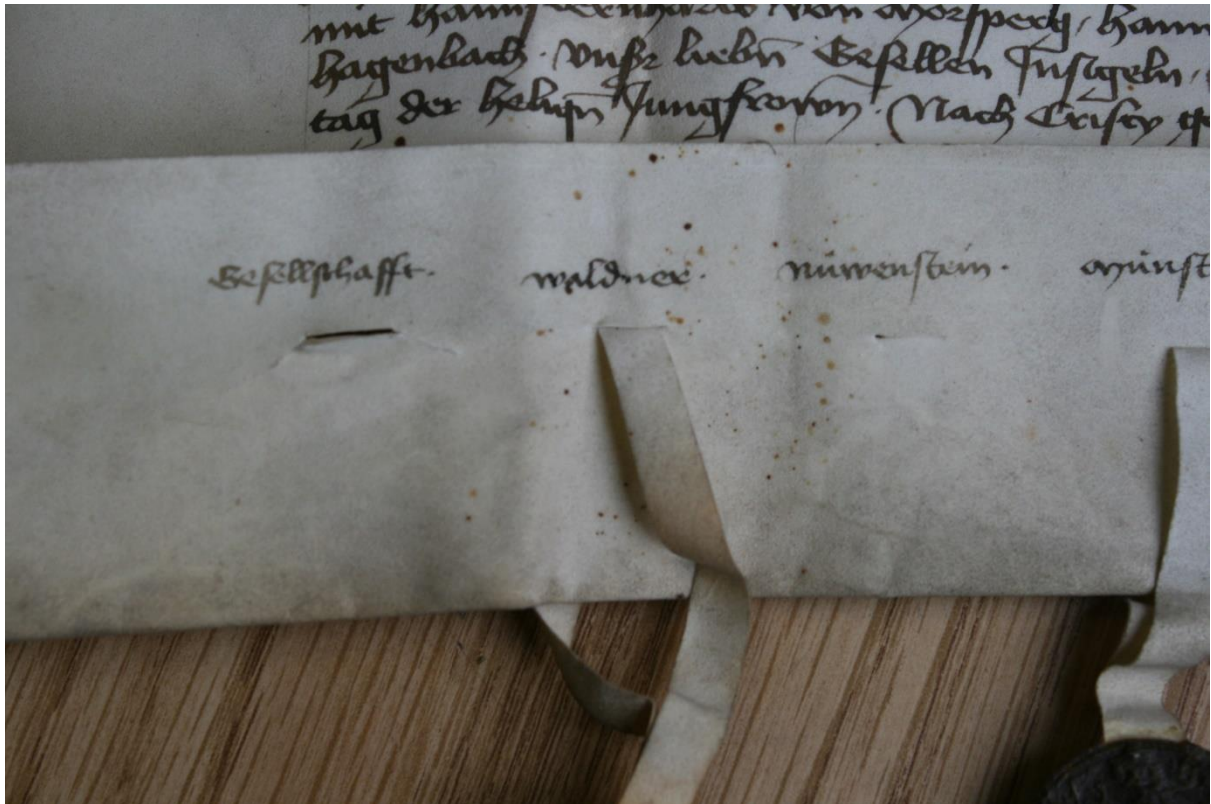
6. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting a feudal oath being sworn on holy relics. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689-91, fol. 183v.



7. Illustration from the Diebold Lauber workshop *Schwabenspiegel* (c. 1440) depicting the swearing of oaths before God. Bibliothèque Royale de Belgique, Brussels, Cabinet des Manuscrits, ms. 14689-91, fol. 167r.



8. 1420 treaty of the Society of the Leopard with Bishop Wilhelm of Strasbourg. Detail showing the slot (labelled 'Gesellschaft') for the Society's collective seal, now missing. ADBR G136/2, author's photograph.



9. Illustration (detail) from Diebold Schilling the Elder's *Spiezer Chronik* (1484) depicting the swearing of a *Burgrecht*-alliance between the family of the count of Kyburg and the city of Bern. Burgerbibliothek, Bern, Mss.h.h.I.16, fol. 152.



10. Copy (c. 1540) of a late fifteenth-century depiction of a council session (*Ratssitzung*) of Count Eberhard III of Württemberg (1362[?]-1417) and his councillors. Landesmuseum Württemberg, Stuttgart, WLM inv. Nr 2735.



11. Depiction of an arbitrational *Tag* in Mainz in 1419, conducted by the archbishops of Mainz, Trier, and Cologne to resolve the disputes between the Count Palatine, their ally, and the margrave of Baden. The caption also mentions the presence of the duke of Saxony and the margrave of Brandenburg. From Eberhard Windeck's chronicle of the life of Sigismund (c. 1430-40). Österreichische Nationalbibliothek, Vienna, Cod. 13.975. Eberhard Windeck, Sigismundbuch, fol. 127v.





## Tables

1. Components of lordship held by members of the Bock family of Strasbourg between 1350 and 1500.

<b>Bock family members and any other involved parties</b>	<b>Component of lordship</b>	<b>Granted by/purchased from</b>	<b>Date of acquisition or reconfirmation</b>	<b>Reference</b>
Nicolaus Bock	Property (pledge?) consisting of 1 fl. yearly rent from a house ( <i>domus</i> ) and courtyard ( <i>area</i> ) in the Krutenau	Johannes Elsesser and Ru <sup>e</sup> felin Grimmolt	1380 (attested 1383-4)	<i>UBS</i> , VII, 552
Ulrich Bock II (grandson of Nicolaus), Johannes Bumann, Heytzeman Wetzzel, and Reinbolt Vo <sup>e</sup> lschin	Joint pledge consisting of the church of Riquewihr and its appurtenances and incomes ( <i>alle nu<sup>e</sup>tze, zehenden, zinse, gewechßede, geuelle und alles daz, das jerlich do von werdent</i> ), on which is raised one yearly barrel of wine for the priest	Lords Bruno of Rappoltstein, Buchar of Finstingen, and Volmar of Geroldseck	1370s? (attested 1381)	<i>RUB</i> , II, 181
Ulrich Bock I (son of Nicolaus)	Pledge (redeemable for 15 fl.) consisting of 30 s. rent from assets in Mittelbergheim: a courtyard and garden and two half-acres of vines, as a proportion of the incomes of the incumbent labourers	Sifrid Rötelin of Mittelbergheim	1389	<i>CDN</i> , no. 145
Ulrich Bock II (son of Ulrich I)	Fief consisting of 7 fl. 1¼ s. from the episcopal cellar toll ( <i>zollkeller</i> )	Bishop Wilhelm II of Strasbourg	1396	<i>CDN</i> , no. 147
Ulrich Bock II	Fief consisting of a field in Kehl	Bishop Wilhelm II of Strasbourg	1397	<i>CDN</i> , no. 152
Ulrich Bock III (son of Ulrich II)	Pledge (redeemable for 30 s.) consisting of a portion of the white wine produced at the vines of	Jeckelin Wibesack of Mittelbergheim	1407	<i>CDN</i> , no. 171

	Mittelbergheim owned by Hans Bock I of Strasbourg (Ulrich's son) and Hennickens Henselin of Andlau			
Ulrich Bock III and his wife Katharina	Receipt as dowry of a rent of 140 quarts of wheat from assets at Kogenheim	Hugo Dütschmann, former husband of Katharina	1400s? (attested 1410)	CDN, no. 176
Ulrich Bock III and his brother-in-law Friedrich Klette	Joint fief consisting of an acre of vines at Dieffenthal and a rent of 32 quarts of rye and barley from assets at Nordhausen	Duke Friedrich IV of Austria-Tyrol	1412	CDN, no. 182
Hans and Claus Bock (brothers, sons of Ulrich III)	Promise of future joint tenure of the sub-fief consisting of the office of <i>Vogt</i> of the town of Strasbourg, to be held for life, upon the death of the incumbent Werlin von Halle	Count Ludwig IV of Lichtenberg, on behalf of the Empire	1412	CDN, no. 183
Ulrich Bock III and Walter Spiegel	Joint purchase for 32 fl. of 1) a rent of 30 s. and 6 quarts of rye, to be transferred from the rents owed by one Henselin Pfister on assets at Saesselheim, and 2) a house in Strasbourg opposite the Heiligenkreuz chapel, on which is also raised a rent of 3 fl. for a prebend at St Peter der Jüngere	Claus Gim Brett, innkeeper of Strasbourg, and his wife Adelheid Flotz	1414	CDN, no. 188
Ulrich Bock III	Pledge (redeemable for 12 fl.) consisting of a 1 fl. rent from the vines of Mittelbergheim owned by the convent of Niedermunster and Jakob zum Trübel, <i>scholasticus</i> in Basel	Sifermans Henselin of Mittelbergheim and his wife Katharina	1415	CDN, no. 193
Ulrich Bock III	Sub-fief consisting of 4 fl. from the episcopal cellar toll ( <i>zollkeller</i> )	Count Ludwig IV of Lichtenberg	1415	CDN, no. 194
Ulrich	Pledge (redeemable for 3	Bitsche	1418	CDN,

Bock III and his son Johann	fl.) consisting of 1½ acres of vines, on which a 10 s. rent (redeemable for 6 fl.) has also been pledged to other parties	Cunzelin of Mittelbergheim		no. 209
Ulrich Bock III, his cousin Georg Bock, and Eberhard von Mullenheim	Joint fief consisting of half of the village of Obenheim and half of the communal jurisdiction over it	Bishop Wilhelm II of Strasbourg	1419	CDN, no. 210
Ulrich Bock III and his cousin Wolfhelm Bock	Joint fief consisting of 5 s., 28 quarts of oats, 150 eggs, and several hens from the labourers of the <i>Hof</i> of Bernolsheim	Count Ludwig IV of Lichtenberg	1419	CDN, no. 211
Ulrich Bock III	Fief consisting of one quarter of the village of Obenheim, the right of ecclesiastical patronage, and control of the harvest tithe ( <i>Zehnt</i> )	Bishop Wilhelm II of Strasbourg	1420	CDN, no. 214
Ulrich Bock IV and his brother Hans Bock I (sons of Ulrich III)	Joint fief consisting of a rent of 20 quarts of wheat and rye from Bischheim	Count Ludwig IV of Lichtenberg	Early 1420s? (attested 1422)	CDN, no. 216
Ulrich IV, Hans, and Claus Bock (brothers)	Purchase for 600 fl. of half of the castle and village of Blaesheim	Reibold Jungzorn and his wife Clarelse von Rosheim	1429	CDN, nos. 236, 238
Ulrich IV, Hans, and Claus Bock	Fief consisting of the purchased half of the castle and village of Blaesheim	King Sigismund	1429	RI, XI, no. 7290
Ulrich Bock III	Office of episcopal counsellor and retainer ( <i>rate und diener</i> ) with a salary in rent form of 50 fl.	Bishop Wilhelm II of Strasbourg	1430	CDN, no. 247
Hans and Claus Bock	Purchase for 25 fl. of the right of jurisdiction over the inhabitants of Blaesheim	Reibold Jungzorn and his wife Clarelse von	1430	CDN, no. 249

		Rosheim		
Hans Bock I and his wife Emmeline von Oberkirche	Pledge (redeemable for 500 fl.) consisting of a levy of four barrels of wine from Rosheim	Burkart von Oberkirche	1431	<i>RI</i> , XI, no. 8269
Conrad and Hans Conrad Bock (sons of Hans Bock I)	Joint fief consisting of 1) the tithe rent of Rosfeld, of which 17 s. 1 d. are raised on assets in Tubelshin(heim?), 2) three acres of vines at Mutzig, 3) a rent of 10 quarts of oats from the manorial <i>Hof</i> and assets in Mutzig, 4) four and a half acres of vines at Obernai, and 4) a rent of one barrel of white wine from tithe of the <i>trotthuse</i> of Amerßwilr (Ammerschwihl)	Lord Smassman I of Rappoltstein	1431	<i>RUB</i> , III, 346
Ulrich Bock IV	Fief consisting of a 100 fl. pledged rent (redeemable for 1400 fl.) from the saltworks of Dieuze, with the right to seize this payment in kind directly from the labourers there	Duke René I of Lorraine	1431	<i>CDN</i> , no. 252
Ulrich Bock IV and Hans von Heiligenstein	Joint sub-sub-fief (sub-eneffed to the duke of Austria, and sub-sub-eneffed to these two men) consisting of a third of the wine tithe from Epfig	Bishop Wilhelm II of Strasbourg, via Duke Friedrich IV of Austria-Tyrol	1432	<i>CDN</i> , nos. 257, 258, 260
Ulrich Bock IV	Fief consisting of a 50 fl. rent to be raised from any vacant episcopal fiefs	Bishop Wilhelm II of Strasbourg	1432	<i>CDN</i> , no. 262
Ulrich Bock IV and his wife Margareta Twinger	Pledge consisting of 1) a 2 fl. 10 s. rent from assets in Erstein, 2) a 1 fl. rent from assets in Obernai, 3) a 1 fl. rent from assets and revenues in Benfeld and Huttenheim, 4) a 1 fl. rent from assets at Nordhausen, and 5) a 1 fl. rent from assets in Sand	Reibold von Girbaden	1434	<i>CDN</i> , no. 266
Hans and	Joint sub-fief consisting of	Count Jakob of	1435	<i>CDN</i> ,

Claus Bock	the office of <i>Vogt</i> of the town of Strasbourg	Lichtenberg, on behalf of the Empire		no. 270
Ulrich Bock IV, his brother Hans Bock I, his cousins Adam and Wolfhelm Bock, and his other cousin Hans Bock II	Joint fief consisting of 21½ quarts of wheat and rye from Bischheim and Hoenheim	Counts Jakob and Ludwig (V?) of Lichtenberg	1435	CDN, nos. 272, 273
Ulrich Bock IV	Sub-fief consisting of 4 fl. from the episcopal cellar toll ( <i>zollkeller</i> ) and two thirds of the lay tithe ( <i>leyenzehend</i> ) and municipal tithe ( <i>etterzehend</i> ) collected from Hochstett	Counts Jakob and Ludwig (V?) of Lichtenberg	1435	CDN, no. 272, 274
Claus Bock	Pledge (redeemable for 3 fl.) consisting of a 5 s. rent from a house and garden in Blaesheim, on which is also raised a rent of 5 s. for a prebend at St Nicolaus of Strasbourg	Claus Eckerich of Blaesheim	1437	CDN, no. 279
Ulrich Bock IV	Fief consisting of a 9 fl. rent raised from one of the municipal courts ( <i>stockgericht</i> ) of Strasbourg	Bishop Wilhelm II of Strasbourg	1437	CDN, nos. 281, 282
Hans Bock I	Purchase of a 45 fl. rent from assets in Auenheim and Hundsfeld and, indirectly, from portions of rents in the <i>Vogtei</i> of Ortenberg, Rouffach, and the Mundat	Ulrich Bock, Hans's brother (?), and his cousins Adam and Wolfhelm Bock	1437	CDN, no. 285
Ulrich Bock IV	Pledges (collateral for a 3000 fl. loan) consisting of a 9 fl. rent from the town of Saint-Hippolyte and a rent of 26 quarts of rye and other small tithes from the village of Elsenheim, to be	Conrad von Hallwil	1437	CDN, no. 286

	collected in a hostel in Séléstat			
Ulrich Bock IV and his wife Margareta Twinger	Purchase for 1450 fl. of 1) the castle of Bockstein at Gerstheim, 2) a house with courtyard and ban, the tithing rights of which belong to St Denis of Gerstheim and the Great Chapter of Strasbourg, and 3) a right to a rent, called <i>Rödergut</i> , of 36 quarts of rye and barley	Hans Marx and his wife Agnes Schilt	1438	<i>CDN</i> , no. 291
Claus Bock (now styled 'lord of Blaesheim')	Pledge (redeemable for 14 fl.) consisting of a 1 fl. rent from lands and a field in the ban of Blaesheim, belonging to the Hospitallers of Dorlisheim, St Peter der Jüngere, and others, and the tithing rights of which pertain to the manorial court of Hohenburg at Blaesheim	Burckelin Hugelin of Blaesheim	1442	<i>CDN</i> , no. 300
Claus Bock	Fief consisting of a 100 fl. pledged rent from the saltworks of Dieuze (inherited from Ulrich Bock)	Duchess Elizabeth of Lorraine	1442	<i>CDN</i> , no. 301
Claus and Hans (Conrad) Bock	Joint fief consisting of the village of Blaesheim and its castle ( <i>hus</i> ) near Gloeckelsberg	King Frederick (III)	1442	<i>RI</i> , XIII.8, no. 15; <i>CDN</i> , no. 303
Ulrich Bock IV and his son Claus Bock	Joint fief consisting of 1) an acre of vines at Dieffenthal and a rent of 32 quarts of rye and barley from assets at Nordhausen (inherited from Ulrich Bock III) and 2) a third of the tithe of Efig, and in particular the tithe of Buchberg	Margrave Wilhelm of Hachberg, on behalf of the lordship of Austria	1442	<i>CDN</i> , no. 304
Claus and Hans Bock I	Joint fief consisting of 1) a rent of 5 quarts of rye from lands at Erstein, 2) rents of 2½ fl., 20 pots of red wine, 3 barrels of wine from	Bishop Ruprecht of Strasbourg	1442	<i>CDN</i> , no. 305

	Bennwihr, and a rooster from the convent of St Catherine in Colmar, and 3) three fields at Kehl			
Hans Bock I	Pledge consisting of half of the village of Westhausen and half of its seigneurial dues (10 fl., 28 quarts of rye, and 20 quarts of barley)	Georg the cathedral canon and his brother Diebold von Hohengeroldseck	1443	CDN, no. 313
Ulrich Bock IV	Sub-fief consisting of rents of 20 fl. and 8 fl. from Kaysersberg and Rosheim respectively	Margrave Wilhelm of Hachberg, on behalf of the Empire	1443	CDN, no. 314
Claus Bock	Purchase for 10 fl. of lands and vines near Blaesheim	Kellers Heinze of Blaesheim	1444	CDN, no. 315
Claus Bock	Pledge (redeemable for 18 fl.) consisting of a 30 s. rent from 1) lands in the ban of Innenheim belonging to the late Hugo Dütschman and 2) assets in Blaesheim (a house, garden, barn, and stable from which a 3 s. tithe is already owed to Claus Bock, and a house and garden on which is also raised 2 d. for the village <i>plebanus</i> )	Lorenz Lauwelin of Blaesheim	1444	CDN, no. 317
Claus Bock and his nephews (sons of the late Hans Bock I)	Confirmation of the means of division and joint exercise and enjoyment of the fiefs and rents formerly owned individually or jointly by Claus and Hans Bock I, including the saltworks of Dieuze, the Imperial fief of Blaesheim, and the <i>Vogtei</i> of Strasbourg	Agreement between the two branches of the Bock family	1447	CDN, no. 323
Claus Bock	Pledge (redeemable for 40 fl.) of the jurisdiction over and use of the bondsmen ( <i>eigenlute</i> ) of Kork and Odelshofen, held in fief from the counts of Lichtenberg	Hans Sturm of Offenburg	1448	CDN, no. 327

Claus Bock and Peter Blumelin	Joint fief consisting of 1) a 5 fl. 5 s. rent from the profits of the mint of Strasbourg and 2) a 5 s. rent from a house in Epfig	Bishop Ruprecht of Strasbourg	1448	<i>CDN</i> , no. 328
Hans Bock I	Pledge (redeemable for 1500 fl.) consisting of the Imperial tax incomes ( <i>Reichssteuer</i> ) of Rottweil, minus 50 fl. of this income which is pledged to others	Duke Reinold of Urslingen, to whom the incomes was pledged by Emperor Sigismund	1430s-40s? (attested 1448)	<i>RCDFI II</i> , I, no. 2411
Ulrich Bock IV	Fiefs consisting of 1) a 9 fl. rent from the revenues of the Strasbourg judicial office of <i>Schultheiss</i> and the municipal court, 2) a rent of 12 quarts of rye and barley from assets in Matzenheim, 3) the tithe of the abbey of Erstein at Ebersheim, 4) a rent of 12 quarts of rye and barley from Uttenheim, 5) the manorial court of Nordhausen with its immunities, jurisdictions, and dependencies, 6) a quarter of the village of Obenheim, 7) one sixth of the wine tithe from Bischofsheim, 8) 8 quarts of rye, 3 s., and 5 roosters from the assets of Hans von Sultz at Erstein, 9) 2 fl. 5 s. quarts of fodder from Erstein, Benfeld, and neighbouring villages, 10) two named fields, and 11) a rent of one bale of hay from Erstein	Bishop Ruprecht of Strasbourg	1450	<i>CDN</i> , no. 333
Ulrich Bock IV, his brother (the late?) Hans Bock I, and his cousin Hans Bock of	Joint fief consisting of a rent of 7 fl. 1¼ s. from the episcopal cellar toll ( <i>zollkeller</i> ) and the tanners' tavern in Molsheim	Bishop Ruprecht of Strasbourg	1450	<i>CDN</i> , no. 333

Dachstein				
Ulrich Bock IV, Claus von Graffenstein, and others	Joint fief consisting of a quarter of the castle of Nideck	Bishop Ruprecht of Strasbourg	1450	CDN, no. 333
Claus Bock	Pledge (redeemable for 7 fl.) consisting of a rent of 8 s. and 3 roosters from a house and garden in Blaesheim, on which is also raised a rent of 4 roosters for the chancellor of the margrave of Baden	Götzen Henselin of Blaesheim	1450	CDN, no. 334
Claus Bock	Pledge (redeemable for 4 fl.) consisting of a 8 s. rent from lands in Blaesheim tied to the manorial court of Hohenburg and owned by the abbess of Hohenburg, the squire Bechtold Krantz, and others	Ofener Thoney of Blaesheim	1450	CDN, no. 334
Conrad Bock and his brother Hans Conrad Bock	Joint fief consisting of 1) the tithe rent of Rosfeld, of which 17 s. 1 d. are raised on assets in Tubelshin(heim?), 2) three acres of vines at Mutzig, 3) a rent of 10 quarts of oats from the manorial <i>Hof</i> and assets in Mutzig, 4) four and a half acres of vines at Obernai, and 4) a rent of one barrel of white wine from tithe of the <i>trotthuse</i> of Amerßwilr (Ammerschwihl)	Lords Caspar, Wilhelm, and Smassman (II) of Rappoltstein	1452	RUB, IV, 150-1
Claus Bock and his cousin Friedrich Bock	Joint fief consisting of the manorial court of Bernolsheim and 5 s., 28 quarts of oats, 150 eggs, and several hens from the labourers of its <i>Hof</i>	Count Jakob of Lichtenberg	1454	CDN, no. 348
Claus Bock	Fief consisting of 1) 32 quarts of rye from Nordhausen, 2) fields and vines in Tiefenthal, and 3) a third of the wine tithe of	Duke Albrecht VI of Austria-Tyrol	1454	GLA 69 Rinck von Baldens

	Epfig and the tithes of Buchberg			tein Zugang 2002-45/5
Claus Bock	Fief consisting of a quarter of the castle of Nideck	Bishop Ruprecht of Strasbourg	1454	CDN, no. 352
Claus and his cousin Hans Bock of Dachstein	Joint fief consisting of 1) a rent of 7 fl. 1¼ s. from the episcopal cellar toll ( <i>zollkeller</i> ) and the tanners' tavern in Molsheim, and 2) an acre of vines at Molsheim	Bishop Ruprecht of Strasbourg	1454	CDN, no. 352
Stephan Bock (son of Claus) and his cousins Ulrich V and Friedrich Bock (sons of the late Hans Bock I)	Joint fiefs consisting of 1) a 100 fl. pledged rent (redeemable for 1400 fl.) from the saltworks of Dieuze and 2) a rent of 9 fl. from Saint-Hippolyte and 26 quarts of rye from the village of Elsenheim	Duke Jean of Lorraine	1457	CDN, no. 367
Claus Bock	Lands in Geispolsheim yielding at least 23 quarts of rye, which are set aside for the church of St Michael in Nordhausen (and which they claim in a lawsuit)	Unknown	1450s? (attested 1458)	CDN, no. 369
Claus Bock	Fief consisting of 1) 32 quarts of rye from Nordhausen, 2) fields and vines in Tiefenthal, and 3) a third of the wine tithe of Epfig and the tithes of Buchberg	Duke Sigmund of Austria-Tyrol	1458	GLA 69 Rinck von Baldenstein Zugang 2002-45/6
Stephan Bock, his brother Ludwig, and his cousins Ulrich Vand	Joint fief consisting of 1) a rent of 5 quarts of rye from lands at Erstein, 2) rents of 2½ fl., 20 pots of red wine, 3 barrels of wine from Bennwihr, and a rooster from the convent of St Catherine in Colmar, and	Bishop Ruprecht of Strasbourg	1460	CDN, no. 374

Friedrich Bock	3) three fields at Kehl			
Stephan and Ludwig Bock and their cousins Ulrich V and Friedrich Bock (sons of the late Hans)	Joint fief consisting of the village of Blaesheim and its castle ( <i>hus</i> ) near Gloeckelsberg; to be fully confirmed when Stephan offers liege-homage to Margrave Karl of Baden	Emperor Frederick III	1461	<i>CDN</i> , no. 376; <i>RI</i> , XIII.8, no. 184
Hans Conrad Bock	Grant (sale?) of the town and castle of Mutzig	Mayor and council of Strasbourg	1463	AVCU S AA145
Stephan Bock	Title of knight, awarded for service in the battle of Seckenheim	Wiprecht von Helmstadt (on behalf of Count Palatine Friedrich I?)	1464	<i>CDN</i> , no. 391
Claus Bock and Stephan Bock	Joint fiefs consisting of 1) a 9 fl. rent from the revenues of the Strasbourg judicial office of <i>Schultheiss</i> and the municipal court, 2) a rent of 12 quarts of rye and barley from assets in Matzenheim, 3) a rent of 12 quarts of rye and barley from Uttenheim, 4) the manorial court of Nordhausen with its immunities, jurisdictions, and dependencies, 5) a quarter of the village of Obenheim, 6) one sixth of the wine tithe from Bischofsheim, 7) 8 quarts of rye, 3 s., and 5 roosters from the assets of Hans von Sultz at Erstein, 8) 2 fl. 5 s. quarts of fodder from Erstein, Benfeld, and neighbouring villages, 9) two named fields, and 10) a rent of one bale of hay from Erstein	Bishop Ruprecht of Strasbourg	1466	<i>CDN</i> , no. 395
Claus Bock	Joint fief consisting of 1)	Duke Sigmund	1466	<i>CDN</i> ,

and Stephan Bock (referred to as <i>oberschultheiss</i> of Strasbourg)	an acre of vines at Dieffenthal and a rent of 32 quarts of rye and barley from assets at Nordhausen (inherited from Ulrich Bock III) and 2) a third of the tithe of Epfig, and in particular the tithe of Buchberg	of Austria-Tyrol		no. 399
Stephan Bock	Fief consisting of a 8 fl. rent from Rosheim; to be fully confirmed when Stephan offers liege-homage to the <i>Schultheiss</i> of Strasbourg	Emperor Frederick III	1468	<i>CDN</i> , no. 407; <i>RCDFI II</i> , II, no. 5525
Stephan Bock	Fief consisting of a 100 fl. pledged rent (redeemable for 1400 fl.) from the saltworks of Dieuze	Duke Nicolas of Lorraine	1471	<i>CDN</i> , no. 414
Stephan Bock, his brother Ludwig, and his cousins Ulrich V and Friedrich Bock	Joint fief consisting of 1) a 9 fl. rent from the town of Saint-Hippolyte and 2) a rent of 26 quarts of rye and other small tithes from the village of Elsenheim	Duke Nicolas of Lorraine	1471	<i>CDN</i> , no. 414
Claus Bock	Purchase (pledge?) consisting of a 6 s. rent from a vine in Dieffenthal	Niclaus Wolfhart of Dieffenthal	1470? (attested 1471)	<i>CDN</i> , no. 416
Stephan Bock	Fief consisting of a 100 fl. pledged rent (redeemable for 1400 fl.) from the saltworks of Dieuze	Duke René II of Lorraine	1473	<i>CDN</i> , no. 424
Stephan Bock, his brothers, and his cousins Ulrich V and Friedrich Bock	Joint fief consisting of 1) a 9 fl. rent from the town of Saint-Hippolyte and 2) a rent of 26 quarts of rye and other small tithes from the village of Elsenheim	Duke René II of Lorraine	1473	<i>CDN</i> , no. 424
Stephan Bock and his father-in-law	Joint fiefs consisting of 1) a 9 fl. rent from the revenues of the Strasbourg judicial office of	Bishop Albrecht of Strasbourg	1479	<i>CDN</i> , no. 450

Claus Bock	<i>Schultheiss</i> and the municipal court, 2) a rent of 12 quarts of rye and barley from assets in Matzenheim, 3) a rent of 12 quarts of rye and barley from Uttenheim, 4) the manorial court of Nordhausen with its immunities, jurisdictions, and dependencies, 5) a quarter of the village of Obenheim, 6) one sixth of the wine tithe from Bischofsheim, 7) 8 quarts of rye, 3 s., and 5 roosters from the assets of Hans von Sultz at Erstein, 8) 2 fl. 5 s. quarts of fodder from Erstein, Benfeld, and neighbouring villages, 9) two named fields, and 10) a rent of one bale of hay from Erstein			
Stephan Bock and his nephew Ulrich Bock VI	Joint fief consisting of 1) a rent of 5 quarts of rye from lands at Erstein, 2) rents of 2½ fl., 20 pots of red wine, 3 barrels of wine from Bennwihr, and a rooster from the convent of St Catherine in Colmar, 3) three fields at Kehl, 4) a 5 fl. 5 s. rent from the profits of the mint of Strasbourg, and 5) a 5 s. rent from a house in Efig	Bishop Albrecht of Strasbourg	1479	<i>CDN</i> , no. 451
Eilse Bock (daughter of Jakob Bock, eldest son of Stephan Bock) and Wilhelm Böckell (acting as her attorney)	Pledged fief (redeemable for 600 fl.) consisting of a 30 fl. rent from the lordship of Rappoltstein's assets and jurisdictions in Sigoltzheim	Johann and Friedrich von Parroy, with the permission of the liege-lord Lord Wilhelm of Rappoltstein	1481	<i>RUB</i> , V, 256-7
Friedrich	Joint purchase (renewed)	Unknown	1481	<i>CDN</i> ,

Bock and Hans Meiger of Offenbourg	of assets in Appenweier, on which is raised a rent of 11 quarts of rye			no. 470
Stephan Bock and his nephew Ulrich Bock VI	Joint purchase for 10 fl. of a 10 s. rent raised on 1) a house in Blaesheim, on which is also raised a 4 s. 4 d. rent for the rector of Blaesheim's church, 2) four and a half acres of land belonging to a tenant in Barr, and 3) one and a half acres of land belonging to a tenant in Burgheim	Bietenheim Michel of Blaesheim and his wife Ennelin	1481	CDN, no. 471
Stephan Bock	Fiefs consisting of 1) the office of <i>Vogt</i> of the town of Strasbourg as sub-fief and 2) the jurisdiction over and use of the bondsmen ( <i>eigenlute</i> ) of Kork, all in return for services rendered, particularly the cancellation of a 500 fl. debt owed to Stephan by the counts of Hanau-Lichtenberg	Count Simon Wecker of Zweibrücken, in his name and those of Counts Philipp and Ludwig of Hanau-Lichtenberg	1483	CDN, no. 489
Ulrich Bock VI	Pledge (redeemable for 7 fl.) consisting of a 7 s. raised on assets in Blaesheim, namely 1) a house and 2) an acre of vines	Martin Schultheiss, citizen of Strasbourg	1485	CDN, no. 494
Jakob Bock (son of the late Stephan Bock)	Fief consisting of a 100 fl. pledged rent (redeemable for 1400 fl.) from the saltworks of Dieuze	Duke René II of Lorraine	1485	CDN, no. 495
Jakob Bock, his brothers Philipp and Hans Bock III, and his cousin Ulrich Bock VI	Joint fief consisting of 1) a 9 fl. rent from the town of Saint-Hippolyte and 2) a rent of 26 quarts of rye and other small tithes from the village of Elsenheim	Duke René II of Lorraine	1485	CDN, no. 495
Jakob Bock, his	Joint fief consisting of 1) a rent of 5 quarts of rye from	Bishop Albrecht of	1485	CDN, no. 496

brothers Philipp and Hans Bock III, and his cousin Ulrich Bock VI	lands at Erstein, 2) rents of 2½ fl., 20 pots of red wine, 3 barrels of wine from Bennwihr, and a rooster from the convent of St Catherine in Colmar, 3) three fields at Kehl, 4) a 5 fl. 5 s. rent from the profits of the mint of Strasbourg, and 5) a 5 s. rent from a house in Epfig	Strasbourg		
Jakob, Philipp, and Hans Bock III	Joint fiefs consisting of 1) a 9 fl. rent from the revenues of the Strasbourg judicial office of <i>Schultheiss</i> and the municipal court, 2) a rent of 12 quarts of rye and barley from assets in Matzenheim, 3) a rent of 12 quarts of rye and barley from Uttenheim, 4) the manorial court of Nordhausen with its immunities, jurisdictions, and dependencies, 5) a quarter of the village of Obenheim, 6) one sixth of the wine tithe from Bischofsheim, 7) 8 quarts of rye, 3 s., and 5 roosters from the assets of Hans von Sultz at Erstein, 8) 2 fl. 5 s. quarts of fodder from Erstein, Benfeld, and neighbouring villages, 9) two named fields, and 10) a rent of one bale of hay from Erstein	Bishop Albrecht of Strasbourg	1485	<i>CDN</i> , no. 497
Jakob Bock	Fief consisting of 1) an acre of vines at Dieffenthal and a rent of 32 quarts of rye and barley from assets at Nordhausen (inherited from Ulrich Bock III) and 2) a third of the tithe of Epfig, and in particular the tithe of Buchberg	Archduke Sigmund of Austria-Tyrol	1485	<i>CDN</i> , no. 498
Jakob, Philipp, and	Joint fief consisting of a 8 fl. rent from Rosheim; to	Emperor Frederick III	1485	<i>RI</i> , XIII.8,

Hans Bock III	be fully confirmed when they offer liege-homage to the <i>Schultheiss</i> of Strasbourg			no. 436
Jakob, Philipp, and Hans Bock III	Joint fief consisting of the village of Blaesheim and its castle ( <i>hus</i> ) near Gloeckelsberg	Emperor Frederick III	1485	<i>RI</i> , XIII.8, no. 437
Jakob, Philipp, and Hans Bock III	Joint fief consisting of 11 quarts of rye raised on assets pertaining to the manorial court of Duntzenheim, under the tenancy of Claren Hans Zwecker	Count Heinrich of Zweibrücken-Bitsch	1491	<i>CDN</i> , no. 515
Jakob and Hans Bock III	Joint fief consisting of a 8 fl. rent from Rosheim	King Maximilian I	1494	<i>CDN</i> , no. 524
Friedrich Bock	Fief consisting of purchases from Zeysolf von Aletzheim (details unknown)	The town of Strasbourg, on behalf of King Maximilian I	1495	<i>RI</i> , XIV.1, no. 1415
Jakob Bock	Fiefs consisting of 1) the office of <i>Vogt</i> of the town of Strasbourg as sub-fief and 2) the jurisdiction over and use of the bondsmen ( <i>eigenlute</i> ) of Kork, all in return for services rendered, particularly the cancellation of a 500 fl. debt owed to Stephan by the counts of Hanau-Lichtenberg	Count Philipp of Hanau-Lichtenberg	1500	<i>CDN</i> , no. 549

2. Parties involved in lordship over or administration of Guémar, 1350-1500.

<b>Parties</b>	<b>Nature of involvement</b>	<b>Received/taken from</b>	<b>Date received/rec onfirmed</b>	<b>Refere nce</b>
Lords Bruno and Ulrich VII of Rappoltstein	Joint freeholders of an allod consisting of a <i>Hof</i> by Guémar castle, with all the fields and rights which pertain to it	The late Lord Johann III of Rappoltstein	Inherited from father (attested 1369)	<i>RUB</i> , II, 38
Lords Bruno and Ulrich VII of Rappoltstein	Joint tenants of a fief consisting of the castle and town of Guémar, with all its appurtenances	Bishop Johannes of Strasbourg	1369	<i>RUB</i> , II, 38
Lord Bruno of Rappoltstein	Beneficiary of a toll charged to those passing through Guémar	King Charles IV	1360s/70s (attested 1376, when revoked)	<i>RUB</i> , II, 122
Count Rudolf of Habsburg-Laufenburg	Creditor of a 1,000 fl. loan secured against collateral which includes the castle and town of Guémar	Lord Bruno of Rappoltstein	1379	<i>RUB</i> , II, 163
Anna von Grandson	Holder of a promised jointure raised on the town and castle of the Guémar, its inhabitants, and its jurisdictions and appurtenances	Lord Bruno of Rappoltstein, with the approval of Bishop Friedrich of Strasbourg	1381	<i>RUB</i> , II, 183-4, 190-2
Heinz von Mülnheim, knight, citizen and <i>Vogt</i> of Strasbourg	Tenant of a pledge (redeemable for 7,500 fl. [ <i>su<sup>e</sup> benthalbe tusement guldin</i> ]) consisting of the castle and town of Guémar, its inhabitants, and its jurisdictions and appurtenances	Lord Bruno of Rappoltstein	1387	<i>RUB</i> , II, 243
Peter von Schuttern and Heintzeman (no surname given)	Joint bearers of the office of <i>Schultheiß</i> of Guémar	Unknown (presumably appointed by Bruno von Rappoltstein?)	1390s (attested 1396)	<i>RUB</i> , II, 361
Lord Bruno of Rappoltstein	Temporary occupier of the town of Guémar, taken by betrayal ( <i>mit verrethnyse</i> ), in the course of a feud against Strasbourg	Heinz von Mülnheim and other citizens of Strasbourg	1392	<i>COS</i> , II, 685
The municipal government of Strasbourg	Re-occupier of the town of Guémar, taken by force with an army and with the assistance of troops from	Lord Bruno of Rappoltstein	1396	<i>UBS</i> , VI, 658-9

	Basel			
Duke Leopold IV of Austria-Tyrol	Tenant of a pledge consisting of extensive Rappoltsteiner possessions, including the town and castle of Guémar; Bruno will retain the usufruct of this collateral pledge ( <i>fürphand</i> ), but all its revenues will go towards repaying a 21,000 fl. loan extended to him by Leopold	Lord Bruno of Rappoltstein	1396	<i>RUB</i> , II, 418
Rudolf von Hohenstein, knight	Pledge consisting of the town and castle of Guémar, redeemable after ten years for 12,000 fl. plus the cost of any repairs or extensions	Lords Smassmann I, Ulrich VIII, and Johann VI of Rappoltstein, with the approval of Bishop Wilhelm II of Strasbourg	1399	<i>RUB</i> , II, 476-80
Bishop Wilhelm II of Strasbourg and <i>Jungherr</i> Johann of Lichtenberg	Temporary occupiers of the castle and town of Guémar, taken by force in the course of a feud against the Hohensteiner	Rudolf von Hohenstein and his two sons	1400	<i>RMBH</i> , I, no. 1957
Rudolf von Hohenstein and his two sons, as representatives of Margrave Bernhard I of Baden	Theoretically reinstated as joint tenants of the town and castle of Guémar	Bishop Wilhelm II of Strasbourg and <i>Jungherr</i> Johann of Lichtenberg, as per an arbitrational agreement organised at Haguenau	1401	<i>RMBH</i> , I, no. 1997
Dietrich von Girsberg	Tenant of a fief consisting of eight meadows around Guémar	Lord Smassmann I of Rappoltstein	1401	<i>RUB</i> , II, 513
Lord Smassmann I of Rappoltstein, the towns of Colmar and Basel, and Bishop	Occupiers of the town and castle of Guémar, taken by force in the name of King Ruprecht during a war against Margrave Bernhard I of Baden and his allies	Margrave Bernhard I of Baden	1403	<i>RUB</i> , II, 527-8; <i>RMBH</i> , I, no. 2097

Wilhelm II of Strasbourg				
Margrave Bernhard I of Baden	Tenant of half of the town and castle of Guémar with its appurtenances, as assigned by Schwartz Reinhard von Sickingen, <i>Landvogt</i> in Alsace; held according to the terms of a <i>Burgfriede</i> with Lord Smassmann and King Ruprecht, and ultimately as a pledge from Lord Smassmann	Archbishop Friedrich of Cologne and other mediators in the Palatinate-Baden war	1403	<i>RUB</i> , II, 528
Lord Smassmann I of Rappoltstein	Tenant of half of the town and castle of Guémar with its appurtenances, on behalf of King Ruprecht of the Romans, as assigned by Schwartz Reinhard von Sickingen, <i>Landvogt</i> in Alsace; held according to the terms of a <i>Burgfriede</i> with Margrave Bernhard	Archbishop Friedrich of Cologne and other mediators in the Palatinate-Baden war	1403	<i>RUB</i> , II, 528
King Ruprecht of the Romans and Eberhard von Ramberg	Joint tenants of a pledge consisting of one quarter of the town and castle of Guémar, purchased from the Rappoltsteiner brothers' half of the locale, redeemable after five years for 1,850 fl.	Lords Smassmann I and Ulrich VIII of Rappoltstein	1403	<i>RUB</i> , II, 531
Rudolf von Hohenstein, knight	Tenant of a sub-pledge consisting of half of the town and castle of Guémar with its appurtenances, as assigned to Margrave Bernhard in 1403, and ultimately as a pledge from Lord Smassmann	Margrave Bernhard I of Baden, with the approval of Lord Smassmann I of Rappoltstein	1406	<i>RUB</i> , II, 554-5
Heinrich Röder	Holder of the office of <i>Vogt</i> for Margrave Bernhard's half of the town and castle of Guémar	Margrave Bernhard I of Baden	1409	<i>RMBH</i> , I, no. 2563
Count Ludwig IV of Lichtenberg and his wife Anna, daughter of	Tenant of a sub-pledge consisting of half of the town and castle of Guémar, as a form of collateral for 6,500 fl. of the dowry due by	Margrave Bernhard I of Baden	1409	<i>RMBH</i> , I, no. 2584

Margrave Bernhard I of Baden	Bernhard to Ludwig's wife Anna; should the Rappoltsteiner redeem this half, Ludwig is to use the money to redeem pledged properties of his own			
Wernlin von Altencastel	Tenant of a fief consisting of a tithe (details unknown) from Guémar	Margrave Bernhard I of Baden	1416	<i>RMBH</i> , I, no. 2902
Lord Ulrich VIII of Rappoltstein	Tenant of a fief consisting of half of the town and castle of Guémar with all its revenues, jurisdictions, and appurtenances	Lords Smassmann I and Ulrich VIII of Rappoltstein, in an inheritance division treaty	1419	<i>RUB</i> , III, 117
Duke Reinold of Urslingen	Tenant of a sub-pledge, to be held for life, consisting of half of the town and castle of Guémar; should the Rappoltsteiner redeem this half, Reinold will receive a yearly 300 fl. payment from Bernhard as compensation	Margrave Bernhard I of Baden	1421	<i>RMBH</i> , I, no. 3259
Duke Charles II of Lorraine	Tenant of a sub-sub-pledge (redeemable for 5,000 fl. by Margrave Bernhard or, by extension, the lords of Rappoltstein, after Reinold's death) consisting of half of the town and castle of Guémar	Duke Reinold of Urslingen, with the approval of Margrave Bernhard I of Baden	1423	<i>RMBH</i> , I, nos. 3583, 3593; <i>RUB</i> , III, 158
The towns of Colmar, Séléstat, and Kaysersberg	Temporary occupiers of the town and castle of Guémar, in the course of a war against Margrave Bernhard I of Baden and his ally Lord Ulrich VIII of Rappoltstein, and with the support of the towns' allies Count Palatine Ludwig III and Lord Smassmann I of Rappoltstein	Duke Charles II of Lorraine (as the pledge-tenant of one half, via Reinold von Urslingen and Bernhard von Baden) and Ulrich VIII von Rappoltstein (tenant of the other half)	Late 1423/early 1424	<i>RMBH</i> , I, nos. 3666, 3668
Lord Smassmann I of Rappoltstein	Occupier of the town and castle of Guémar, handed over by his allies, on the basis that he has a claim to it as his paternal inheritance ( <i>mins</i>	The towns of Colmar, Séléstat, and Kaysersberg	1424	<i>RMBH</i> , I, 3680 (cf. <i>RUB</i> , III, 156)

	<i>va<sup>e</sup>tterlich erbe)</i>			
Hans von Ratsamhausen	Overseer of the town and castle of Guémar, tasked with ensuring that both the Rappoltsteiner half (held in fief by Ulrich VIII, now also jointly claimed by Smassmann I) and the Lorrain half remain secure and in-keeping with the <i>Burgfriede</i> of 1403	Lord Smassmann I of Rappoltstein, claiming to act also in the name of his brother Ulrich VIII and Duke Charles II of Lorraine	1424	<i>RUB</i> , III, 168
Duke Charles II of Lorraine	Claimant to half of the town and castle of Guémar, in dispute with the current occupier Smassmann I and his allies Colmar, Séléstat, and Kaysersberg, on the basis that Lord Smassmann I has violated his rights to these properties and jurisdictions	(Claimed by right of the pledge contract drawn up with Reinold von Urslingen)	1424	<i>RUB</i> , III, 169-74, 179-80, 184
Duke Charles II of Lorraine	Theoretically re-established as tenant of a sub-sub-pledge consisting of half of the town and castle of Guémar, by order of King Sigismund of the Romans (not implemented in practice)	King Sigismund, with the implementation to be carried out by Colmar, Séléstat, Kaysersberg, and Turkheim	1424	<i>RUB</i> , III, 187
Duke Charles II of Lorraine	Theoretically re-established as tenant of a sub-sub-pledge consisting of half of the town and castle of Guémar, as per an arbitrational judgement rendered by Count Wilhelm of Mortfort and Count Eberhard of Kirchberg (not implemented to Charles's satisfaction in practice)	Lord Smassmann I of Rappoltstein, in accordance with the arbiters' decision	1426	<i>RUB</i> , III, 212-14 (cf. 261-4)
Lord Ulrich VIII of Rappoltstein	Theoretically re-established as tenant of a fief consisting of half of the town and castle of Guémar, as per an arbitrational judgement rendered by Count Wilhelm of Mortfort and Count Eberhard von	Lord Smassmann I of Rappoltstein, in accordance with the arbiters' decision	1426	<i>RUB</i> , III, 212-14 (cf. 217-18)

	Kirchberg (not implemented to Ulrich's satisfaction in practice)			
Duke Charles II of Lorraine	Theoretically re-established as tenant of a sub-sub-pledge consisting of half of the town and castle of Guémar, as per an arbitrational judgement rendered by Bishop Wilhelm II of Strasbourg (not implemented to Charles's satisfaction in practice)	Lord Smassmann I of Rappoltstein, in accordance with the arbiters' decision	1426	<i>RUB</i> , III, 238-9 (cf. 261-4)
Hans von Ratsamhausen, Anton von Hattstatt, and Konrad von Halfingen, <i>Vogt</i> of Riquewihr	Overseers of the town and castle of Guémar, tasked with maintaining it, and keeping it secure and peaceful, while the three-way disputes between Smassmann I and his allies Colmar, Séléstat, and Kaysersberg, Ulrich VIII, and Charles II are resolved	Lord Smassmann I of Rappoltstein	1426	<i>RUB</i> , III, 246-8
Lord Smassmann I of Rappoltstein	Tenant of a fief consisting of half of the town and castle of Guémar, now undisputedly a rightful possession of Lord Smassmann following the death of his brother Ulrich VIII; tenancy regulated by a <i>Burgfriede</i> sworn with Duke René I of Lorraine's representatives	Lord Smassmann I of Rappoltstein, acting in the name of all parties involved in Guémar	1431	<i>RUB</i> , III, 343-4
Duke René I of Lorraine	Tenant of a sub-sub-pledge consisting of half of the town and castle of Guémar; tenancy regulated by a <i>Burgfriede</i> sworn with Lord Smassmann I of Rappoltstein	Lord Smassmann I of Rappoltstein, acting in the name of all parties involved in Guémar	1431	<i>RUB</i> , III, 343-4
Fryderich von Parroy, knight, <i>belis</i> (bailli?) of Nancy, and Henrich von Hasen	Joint officers and representatives for Duke René I of Lorraine in his half of the town and castle of Guémar	Duke René I of Lorraine	1431	<i>RUB</i> , III, 343-4
Bishops	Joint officers and	Duke René I of	Mid-1430s?	<i>RUB</i> ,

Conrad II of Metz and Louis of Toul, on behalf of Duke René I of Lorraine	representatives for Duke René I of Lorraine in his half of the town and castle of Guémar	Lorraine	(attested 1438)	III, 474-5
Lord Smassmann I of Rappoltstein	Officer and representative for Duke René I of Lorraine in his half of the town and castle of Guémar; Smassmann must relinquish this half directly into René's hands if this is requested	Duke René I of Lorraine	1438	<i>RUB</i> , III, 474-5
Margrave Jakob I of Baden	Tenant of a pledge consisting of half of the town and castle of Guémar with all its appurtenances; tenancy regulated by a <i>Burgfriede</i> sworn with Lord Smassmann I of Rappoltstein	Unknown (redeemed from René of Lorraine and Reinold von Urslingen, and thus held as a pledge from the Rappoltsteiner as with Bernhard I?)	1438	<i>RUB</i> , III, 490
Lords Caspar, Wilhelm I, and Smassmann II of Rappoltstein	Joint tenants of a fief consisting of the town and castle of Guémar, of which half is pledged to the margrave of Baden	Bishop Ruprecht of Strasbourg	1451	<i>RUB</i> , IV, 142
Philipp von Susenberg	Bearer of the office of <i>Vogt</i> for the margrave of Baden's half of the town and castle of Guémar	Margrave Jakob I of Baden	1451	<i>RUB</i> , IV, 145
Margrave Karl I of Baden	Tenant of a pledge consisting of half of the town and castle of Guémar with all its appurtenances; tenancy regulated by a <i>Burgfriede</i> sworn with Lord Caspar of Rappoltstein	The late Margrave Jakob I of Baden	1456	<i>RUB</i> , IV, 192-3
Heinrich Beger von Geispolsheim	Tenant of a sub-pledge (redeemable for 3,000 fl.) consisting of half of the town and castle of Guémar with all its appurtenances	Margrave Karl I of Baden	1461	<i>RUB</i> , IV, 487

Claus von U <sup>e</sup> tenheim	Bearer of the office of <i>Vogt</i> for (half of?) the town and castle of Guémar	Lord Wilhelm I of Rappoltstein	Mid-1460s? (attested 1469)	<i>RUB</i> , IV, 433
Lords Wilhelm I and Smassmann II of Rappoltstein (brothers) and Heinrich Beger von Geispolsheim	Theoretical joint bearers of the jurisdictional rights and revenues attached to the entirety of the town and castle of Guémar with regard to fishing, hunting, tolls, excise ( <i>vngelt</i> ), incomes from lower jurisdiction ( <i>fra<sup>e</sup>flinen</i> ), and all other lordship rights ( <i>ouch alle herlichait... nutzit ußgenommen</i> )	Decision rendered by Count Johann of Sulz, <i>Hofrichter</i> of the <i>Hofgericht</i> of Rottweil, in the name of Emperor Frederick III	1471	<i>RUB</i> , IV, 506-9
Lord Smassmann III of Rappoltstein	Tenant of a 1 fl. yearly rent raised on a house in Guémar, purchased from two fellow members of the lay brotherhood of Our Lady in Tussenbach	Conrad Schider and his landlady ( <i>ewurtin</i> ) Ennel, both burghers of Guémar	1488	<i>RUB</i> , V, 391
Duke René II of Lorraine	Claimant to a (sub-)pledge consisting of one half of the town and castle of Guémar, dating from the 1430s (this claim is rejected by the Rappoltsteiner, who assert that the pledge was subsequently redeemed, via the margraves of Baden)	Lords Wilhelm II and Smassmann III of Rappoltstein	1494	<i>RUB</i> , V, 459 (cf. 460)
Lord Smassmann III of Rappoltstein	Tenant of a 16 s. yearly tithe raised on a house and grange in Guémar	Jakob Hemmerlin, burgher of Guémar	1495	<i>RUB</i> , V, 479
Michel Vogler, burgher of Guémar	Tenant of a sub-fief consisting of named meadows and fields in the <i>ban</i> of Guémar, to be held in return for yearly payments of a quart of rye and 3 s.	Claus von U <sup>e</sup> tenheim, <i>Vogt</i> of Guémar, on behalf of Lord Wilhelm III of Rappoltstein	1498	<i>RUB</i> , V, 513

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- D Spezialarchive
- Familienarchive (FA)

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- AA Altes Archiv
- AA 1001 (1 A. Urkunden (1239-1789))

Staatsarchiv des Kantons Basel-Stadt (Switzerland)

- HA Hauptarchiv
- AHA Älteres Hauptarchiv
- Städtische Urkunden (1180-1798)
- [Abbreviated here as HA/St-Urk]
- NA Nebenarchive
- Adelsarchiv (0705-1849)
- [Abbreviated here as NA/Adelsarchiv]

SLL Sammlungen

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[Abbreviated here as SLL/St-Urk]

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A1 Urkunden der Stadt Freiburg  
A1 I Recht und Verfassung der Stadt  
A1 II Bündnis-, Versöhn- und Richtungsbriefe  
A1 III Herrschaftswesen  
A1 IV Kriegs- und Landessachen

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Staatliche Bestände (Historische Bestände, Pertinenz-System)  
URK Urkunden der Stadt Luzern (1244-1890)

Staatsarchiv des Kantons Zürich (Switzerland)

C Urkunden (09 Jh.-20 Jh.)  
C V Abgelieferte, geschenkte, gekaufte, deponierte Urkunden (1193-1924)  
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