

*Nach der Fehde: Studien zur Interaktion von Adel und Rechtssystem am Beginn der Neuzeit: Bayern 1500 bis 1600.* Christian Wieland.

Frühneuzeit-Forschungen 20. Epfendorf: Bibliotheca Academica, 2014. 564 pp. n.p.

---

It is a commonplace that the Holy Roman Empire underwent a process of juridification between the late fifteenth century and the seventeenth century. Gradually, violent confrontation was replaced by peaceful conflict resolution; the principles of Roman law became accepted throughout the empire; the legal institutions created by both the empire and many territories in the period around 1500 came to be seen as the natural first resort for the resolution of grievances. This history has often been presented as the narrative of the emergence of the early modern state, albeit with the addition of the imperial higher courts, the Reichskammergericht, and then the Reichshofrat. Christian Wieland asks how the nobility reacted to this process and how and why it began to use the courts to settle its disputes rather than resort to force. His study of these issues in Bavaria offers fascinating insights into the development of legal norms and practice in a major territory. He also illuminates the slow but decisive changes in the mentality of the nobility that transformed knights into courtiers between the late fifteenth and early eighteenth centuries.

Wieland provides an excellent account of the development of legal structures. On the one hand, the empire saw the institutionalization of two courts of appeal: the Reichskammergericht, established in 1495, and the Reichshofrat two years later, though the latter really only came into its own in the 1550s. In the early sixteenth century the dukes of Bavaria also concentrated powers in their own aulic council, or Hofrat, as well as establishing other higher law courts at Burghausen, Landshut, and Straubing. These councils and courts were increasingly staffed by nobles, while the noble landowners also exercised autonomous jurisdiction as lords of their various manors. There were perennial disputes over the boundaries between ducal and aristocratic jurisdiction, as there were between ducal and imperial jurisdiction, though by 1625 the ducal administration managed to resolve the latter by making it virtually impossible for Bavarian subjects to appeal to the imperial courts.

The Bavarian nobility was a heterogeneous group. A small minority enjoyed immediate status as imperial knights or imperial counts, and, as immediate subjects of the emperor, they retained their right to appeal directly to him. The majority was, however, subject to the dukes. Among them was an informally defined elite of so-called tournament families, whose ancestors had participated in high and late medieval imperial tournaments. They were richer and more influential than the majority of landowners, whose ranks could quite easily be joined by wealthy townsmen and even ambitious peasants. This latter group was further differentiated in 1557 when Duke Albrecht V granted the privilege of noble liberty (*Edelmannsfreiheit*), formerly reserved to the tournament nobles, to large numbers of others. This increased the number of those who enjoyed jurisdictional rights over peasants, albeit by the grace of the prince rather than by ancient right.

Wieland's analysis of the cases brought before the various imperial and territorial courts in the sixteenth century shows that up to 50 percent of all cases had either noble plaintiffs or noble defendants. The number of cases increased dramatically from the 1540s onward. Nobles of all kinds used the ducal and territorial courts. Only the elite made use of the imperial courts without favoring one court over the other, generally in order to pursue a property grievance against the ducal family. Property was by far the most frequent cause of disputes between nobles and between nobles and the ruling family. Other common bones of contention were inheritance issues, the rights of women as heirs or as administrators of property on behalf of minors, or conflicts between peasants and noble landowners. Wieland gives detailed examples of all of these in a fascinating series of chapters that follow specific cases in detail.

While nobles continued to proclaim their independence from courts of law managed by university-educated jurists well into the seventeenth century, their behavior in fact changed decisively over the course of the sixteenth century. They abandoned the old violent ways and added use of the new judicial system to their repertoire of devices for maintaining their status, privileges, and property. This is an important study that should be read by anyone interested in the development of legal practice and of the nobility in the early modern Holy Roman Empire.

JOACHIM WHALEY, *Gonville and Caius College, University of Cambridge*