



Kersten Krüger. *Die Landständische Verfassung.* Munich: R. Oldenbourg Verlag, 2003. xi + 148 pp. EUR 19.80 (paper), ISBN 978-3-486-55017-7.



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A Long Way to Parliamentarianism?

The Holy Roman Empire of the German Nation, nowadays better known as the “Old Empire” (*Altes Reich*), is back on track. For the bicentennial of its demise in August 1806, several exhibitions and numerous publications have come to paint a more nuanced picture of a constitutional system that was disdained from the pronounced Prussian perspective traditional in German historiography. This new perspective may be seen as highlighting a historiographical position against the Prussian mainstream which emerged after the Second World War, when the Empire gradually became more attractive to historians who searched for positive traditions in early modern German history away from the fatal paths of militarism and the *Machtstaat*. [1] Along with this trend (and closely related to it), research was conducted into the origins of modern parliamentarianism and representation, which inevitably involved the questions of why and when Germany had departed from the putatively “normal” Western path to liberal society and representative parliamentary democracy. [2]

It is to be welcomed, therefore, that within Oldenbourg’s acclaimed series, a volume now covers the terri-

torial estates (*Landstände*) as an important part of the political system in early modern Germany. They are not to be confused with the imperial estates (*Reichsstände*)—that is, the local and regional rulers of lay or ecclesiastical territories assembled at the imperial Diet at Regensburg. On the highest level of the political system, the imperial estates were both a counterpart to and an ally of the emperor, as the emperor and *Reichsstände* together formed the Empire as a whole. By contrast, the *Landstände* came into play only on the level of the territory, but at that level, their role was more or less equivalent to that of the *Reichsstände* at the imperial level.

Kersten Krüger is a leading expert on the social and constitutional history of some of the middle-range territorial states of early modern Germany, such as Hesse. Following the standard composition of the series, his book is divided into three parts. Part 1 provides a brief summary of the history, structure and function of the *Landstände*; part 2 deals with the main problems and trends in research; part 3 is an exhaustive bibliography (of almost 700 titles) that covers not only larger regions of the Empire, but even its smallest bits and pieces,

including such tiny territories as Hohenlohe, Rheda, Schwarzburg or Solms.

As he clearly expresses right at the beginning, Kr  ger wants to show that the political system of the *Landst  nde* was an eminent part not only of early modern German, but also of early European parliamentarianism (p. 1). Based on traditions of political federations, Roman law and ecclesiastical organization, the estates became increasingly important in the course of early modern state-building, both controlling and supporting the prince, especially by tax appropriation, thus participating in the polity and forming "the territory." Their main institution was the Diet (*Landtag*), basically an assembly of the local nobility, the clergy and towns (peasants had no access). Drawing on (and quoting at length from) the work of Johann Jacob Moser (a well-known constitutional expert of the eighteenth century), Kr  ger presents the typical model of a diet, the forms and structures of which survived more or less unchanged from the sixteenth to the close of the eighteenth century. This section leaves a mixed impression. Although it is packed with information as to how diets (should have) worked in practice, one still feels that too much space is wasted on too many details. Part 1 ends with a short account of the decline of the *Landst  nde* in times of rising principal power after the Peace of Westphalia (1648), when diets were not assembled for decades, or even centuries, in many regions of the Empire. Nonetheless, Kr  ger emphasizes their importance for European constitutional development (p. 30), referring to some signs of renaissance based on local activities at the end of the eighteenth century.

Part 2, aimed at summarizing the historiography of the field and the current state of research, begins by again referring to Moser's contemporary description of the *Landst  nde* in 1769. Kr  ger then turns to the nineteenth-century controversy over the *Landst  nde*, which in fact was about the problem of continuity and transition from the ancient feudalism to a civic society: After 1815, reactionaries like Friedrich Gentz used the concept of the estates in a traditional way, trying to defend and define them *against* any liberal and constitutional interpretation. By the mid-nineteenth century, conservatives like Friedrich Julius Stahl continued to argue along these lines, in order to strengthen and legitimate monarchist power, while Marx and Engels judged the Estates as a retarding, feudal element. After 1871, scholars like Georg von Below or Hans Spangenberg mainly discussed the *Landst  nde* with respect to absolutism, regarding and evaluating the dualism between

princes and estates.

However, it was only after the First World War that genuine historical research into the actual working of the *Landst  nde* emerged, research primarily associated with names such as Otto Hintze or Otto Brunner. While Hintze tried to create a typology of the constitution of the Estates in their historical development and European dimension, Brunner postulated the unity of the country and its rule. The latter notion was highly influential in historical research in West Germany after the Second World War, in that it paved the way towards a radically new form of constitutional history, which soon turned into social history. At the same time, it was scholars like Dietrich Gerhard, Francis Ludwig Carsten and Gerhard Oestreich who introduced a new perspective bound to clash with older opinions (such as those of Fritz Hartung). These scholars addressed the question of the extent of continuity between the estates and modern forms of (parliamentary) representation. On the whole, Kr  ger provides a nuanced, useful and fair account of the ways in which these new perspectives emerged and gained impetus, though he mostly abstains from any (critical) judgement.

However, I am less happy about Kr  ger's appreciation of the current state of research. His major concern is with the pathbreaking contributions of the 1970s and 1980s, especially with the typological advances made by Helmut G. Koenigsberger, Peter Blickle and Volker Press. But in this context Kr  ger neglects the important objections made very early on by Eberhard Weis, who warned against making too much of continuity—especially in cases where there was clear discontinuity after 1800, as in W  rttemberg and Bavaria.[4] What is more, Kr  ger concludes his account with a short summary and comment (pp. 81-84). Drawing on Gerhard Oestreich (and aware of the benefits as well as the limits of establishing typologies), the author classifies different types of constitution of the estates under the labels of communalism, parliamentarianism and federalism (p. 85). Again by means of a useful scheme (p. 86), Kr  ger shows how the different Estates were organized, how they were protected by the constitutional Imperial laws and how they participated in political reality. But is this really the present state of the art? One wonders why Kr  ger takes so little notice of new approaches that emerged in the late 1990s. For example, Barbara Stollberg-Rilinger has looked closely into the concepts of representation in the territorial estates of the later eighteenth century, stressing the political possibilities (but also the singularity) of early modern representa-

tion.[4] Wolfgang Neugebauer has made interesting suggestions concerning the inner structure of the Estates, especially in Eastern Prussia, and as early as 1996 he rightly pointed out that the specific relation between continuity and discontinuity has to be analyzed with respect to regional differences. He also argued that influences from Western and Eastern Europe have to be considered so as to understand the specific regional conditions of each of the estates.[5]

Kr  ger's volume is to be recommended as an informative introduction to the German *Landst  nde* and their constitution. But the reader ought to be aware of Kr  ger's particular interest in placing the *Landst  nde* firmly in the tradition of modern parliamentarianism, and more firmly than other scholars might be prepared to accept. Those who want to consult a different opinion may turn to the recent survey by Raingard Esser.[6] From a historical point of view, it seems that the way to modern parliamentarianism—at least in Germany—was not only long, but also very complicated.

Notes

[1]. For example: Karl Otmar Freiherr von Aretin, *Heiliges R  misches Reich 1776-1806* (Wiesbaden: Steiner, 1967).

[2]. Important impulses often came from the outside

of Germany; to name only two historians—Dietrich Gerhard and Francis Ludwig Carsten—both of whom had emigrated from Nazi Germany.

[3]. Eberhard Weis, "Kontinuit  t und Diskontinuit  t zwischen den St  nden des 18. Jahrhunderts und den fr  hkonstitutionellen Parlamenten von 1818/1819 in Bayern und W  rttemberg," in *Festschrift f  r Andreas Kraus zum 60. Geburtstag*, ed. Pankraz Fried and Walter Ziegler (Kallm  nz: Lassleben, 1982), pp. 337-355, at p. 354.

[4]. Barbara Stollberg-Rilinger, *Vorm  nder des Volkes? Konzepte landst  ndischer Repr  sentation in der Sp  tphase des Alten Reiches* (Berlin: Duncker & Humblot, 1999).

[5]. Wolfgang Neugebauer, *Politischer Wandel im Osten. Ost- und Westpreu  en von den alten St  nden zum Konstitutionalismus* (Stuttgart: Steiner, 1992); Wolfgang Neugebauer, "Landst  nde im Heiligen R  mischen Reich an der Schwelle der Moderne. Zum Problem von Kontinuit  t und Diskontinuit  t um 1800," in *Reich oder Nation? Mitteleuropa 1780-1815*, ed. Heinz Duchhardt and Andreas Kunz (Mainz: von Zabern, 1998), pp. 51-86.

[6]. Raingard Esser, "Landst  nde im Alten Reich. Ein Forschungs  berblick," *Zeitschrift f  r Neuere Rechtsgeschichte* 27 (2005), pp. 254-271.

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