

Imperial Districts As Federal And Regional Elements Of The Holy Roman Empire 1500–1806

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ABSTRACT

The creation of the Imperial Circles (= *Reichskreise*) was an overdue answer to the powerlessness of the Empire and the Estates in matters of the preservation of peace in the countryside, the organization of the Supreme Court, the control of taxes, begging, the poor, customs and coin matters, the conscription of the Imperial Army, health care – formed by the medical *Policey* with regard to the supply of drinking water, protection against epidemics and plague – and many other points in the early modern process of civilization. These included, for example, the construction of cross-border roads and streets and the settlement of territorial prestige and border disputes. Some of these were certainly more of a requirement than an everyday practice. Since the 16th century, most of the administrative work was then carried out by the increasing competence of county councils. In combination with their territorial system of offices and government, they had new instruments of regional planning control at their disposal. For urgent tasks such as regional and supra-regional road construction, the fight against epidemics and crime, and customs, coinage or trade policy, the county councils (= *Kreiskonvente*) were often too “small”, especially in the territorial area of southern Germany, but the *Reich* as a whole was far too “large” to find and implement practicable solutions. Up to now it was a research desideratum to classify the imperial circles into the European system of federal structures. My contribution aims to close this gap.

CIRCULAR PRELUDE - INTRODUCTION

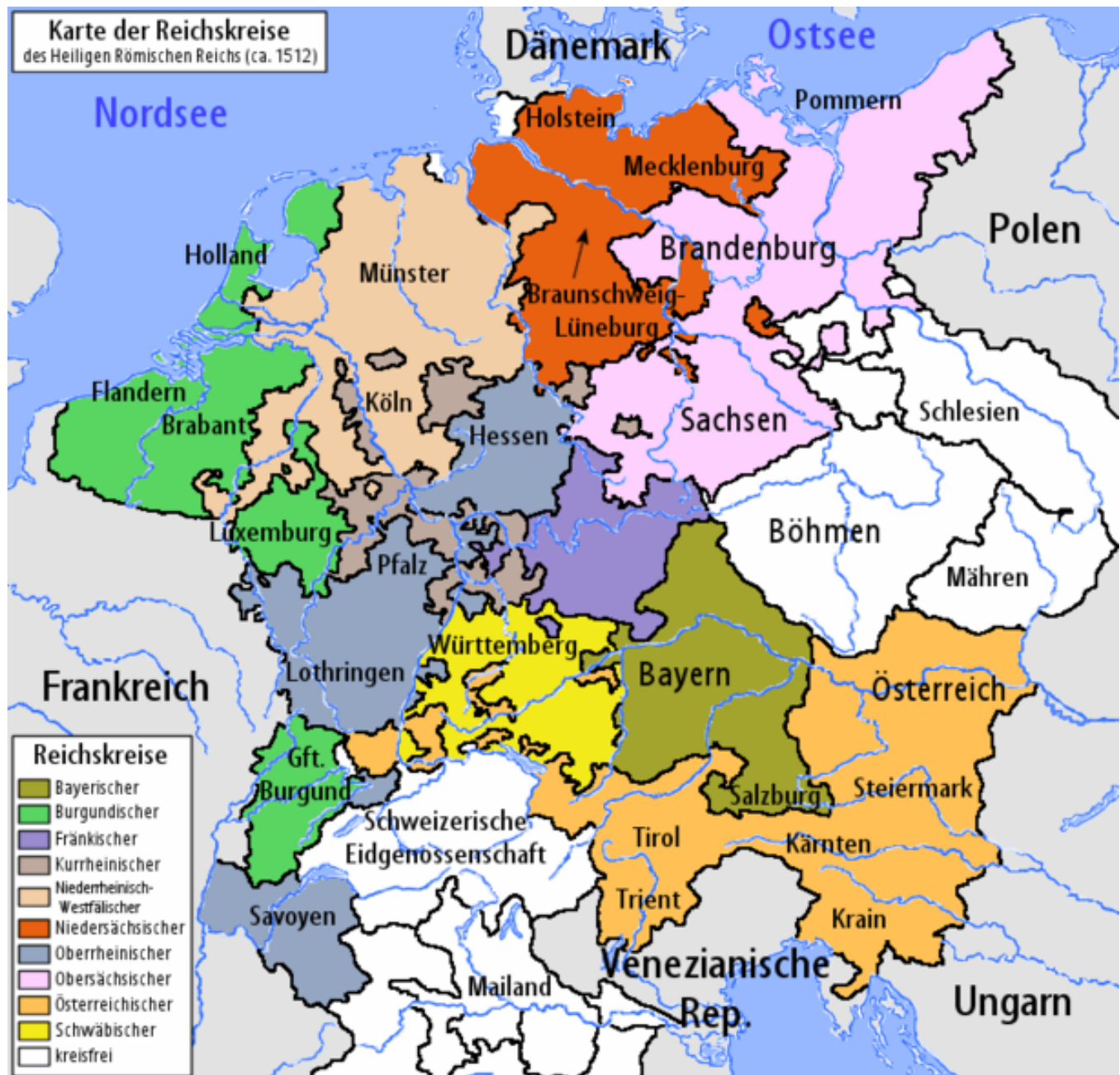


Fig. 1: The ten Imperial Circles, around 1560. Source: W. Wüst (ed.), *Reichskreis und Territorium: die Herrschaft über die Herrschaft?* (see note 3) p. 5.



Fig. 2: Imperial Circle Map, 1512. Source: H. Th. Menke / K. Spruner von Merz (eds.), *Hand-Atlas für die Geschichte des Mittelalters und der neueren Zeit*, 3th ed., Gotha (Justus Perthes) 1875.

The Imperial Circles (= *Reichskreise*) as the regional substructure of the Holy Roman Empire of the German Nation were characterized within the state and constitutional organizations in German as well as in European history by a very long lifetime and thus by a lasting effectiveness. At the same time, they had a federal organizational structure, at least in their function of mediating imperial affairs “downwards” and organizing them from the district councils. Their members – the county councils – had a limited autonomy in the sense of pre-modern statehood under the common umbrella of the county constitution and county office management. However, they could not and were not allowed to develop into sovereignty under constitutional law.¹ Furthermore, federal is not to be understood here in the sense of closed federations, whereby in the *Reichskreise* at most the district associations that were formed again and again, but especially after the Thirty Years' War,

should be considered. These associations² not only served the military strengthening of defensive district and imperial armies, but also had a socio-political, epidemic and crisis-preventive as well as economic-promoting significance.³

Dietmar Willoweit has repeatedly referred to the federal early modern constitutional phenomena – including the imperial circles – and at the same time, through many years of research, has differentiated and systematized them considerably.⁴ Johannes Burkhardt referred to the peculiarities of German federalism before 1806 under the provocative title “Who is afraid of 'small states'?”⁵ Peter Claus Hartmann focused on the historical role of the *Kurrheinischer* und *Oberrheinischer Reichskreis* for the development of federalism on the Rhine as early as 1997 on the occasion of a conference organized by Michael Mattheus on “Regions and Federalism” on the occasion of the 50th anniversary of the founding of the federal state of Rhineland-Palatinate.⁶ In 1999, Georg Schmidt designed the legal figure of the complementary *Reich-State*, in which the *Reichskreise* also found themselves as border crossers between empire and territories.⁷ The draft could by no means be taken for granted, since in 2002 the historian and nation-state thinker Heinrich August Winkler, without any knowledge of the sources, still held the construct of dual forms of government in the old empire (*Altes Reich*) responsible for the German special path into the 21st century. In explaining the suddenly exaggerated national feeling, he took up the polemic of the 19th century, when the publicist Johann Konrad Friedrich had still assessed the state of the nation in 1806 as follows:

“The Holy Roman Empire was now an old, dilapidated and rotten building, which the first storm had to collapse, its more than three hundred owners” – most of the southern German territories were among them – “were in part even strange and odd balls, especially the duodecic sovereigns, almost everyone of whom had their own, often very precious gadgets in their own country. This little prince squandered the money extorted by his subjects with foreign mistresses, this little count and margrave had the fury of a soldier [...], another brought the income of his country through theatre buildings, great opera performances and theatre princesses, another was an angry Nimrod⁸, and he engaged in eternal par force hunts⁹ in which not only the game but also the poor devils were chased par force by peasants.”¹⁰

So it was the lack of sovereignty that led us to the two World Wars. The “long shadow” of the *Reich* ended, according to Winkler, in a disastrous balance of German history, at whose “beginning” the *Reich* had stood.¹¹ No wonder that under such premises the *Reichkreise* remained unmentioned.

If one follows current discussions about federalism as an obstacle to nation-state and economic efficiency in Europe, one could also regard the *Reichskreise* as superfluous constitutional institutions. In an article of the economically liberal Austrian daily “Die Presse” on the subject of “Federalism? Please more of that!” in the Alpine countries on 28 July 2013 we could read:

“Yes, yes, federalism. It is quite okay in itself. Identity-building, because decisions are made where they belong. A Carinthian is not an Upper Austrian and a Bregenzer is not a Kremser¹². The regional diversity of species is also one of the reasons why the Austrians find the division of tasks between the federal government, the provinces and the municipalities quite good. But unfortunately, as is increasingly being heard, a small country like Austria can no longer afford federalism. Nine federal states, 80 districts and

*2357 municipalities including the corresponding administrative units are a luxury for a mini state like Austria that can no longer be afforded. After all, there would only be 98 municipalities in Denmark and, in addition, neighbouring Bavaria can do without federal states (the seven administrative districts, which are very close to our federal states, are often ignored. In addition, Bavaria has 71 administrative districts and 2056 municipalities). Whoever wants to be modern today thinks in large units, small states have long since become a synonym for small-mindedness. Even in Switzerland, which has become a federal state, there are weekly reports about planned mergers of cantons and municipalities. Which is why it is high time to correct or even abolish the sinfully expensive federalism in Austria."*¹³

Were – seen in this light – the Imperial Circles also protagonists of Central European particularism and often criticized small-mindedness?

Imperial circles accompanied and determined the destiny of the early modern period for more than three centuries, at least since its foundation during the Augsburg Imperial Diet in 1500.¹⁴ In 1512 their number was increased from six to ten. During the Peace-Royal Diet of 1555¹⁵, the competences were extended, after the Imperial Circles had originally only been intended to carry out imperial executions, to execute the judgements of the Imperial Chamber Court and to elect the court assessors. The circles functioned for a long time; some, such as the Franconian Imperial Circle, even invited to final sessions after the laying down of the imperial crown by Franz II on 6 August 1806. Later state structures had to restrict themselves more strongly in time. The German Confederation existed from 1815 to 1866, the Second German Empire lasted less than fifty years, the Republic of Weimar fell after fourteen years, the Third Reich after twelve, and the Federal Republic of Germany was not yet seventy years old when it was founded in 1949.¹⁶ However, the constitutional significance of the long-lived imperial circles varied greatly. In southern Germany, where the federal principle was also firmly anchored in the constitutions of the 19th and 20th centuries and where the territorial scope of most of the *Reich's* territories was not very large, the *Reich* districts in Swabia, Franconia, the Upper Rhine and Bavaria developed what were in part astonishing activities. The Swabian County Council, for example, held at least 340 conferences between 1517 and 1804, either as a general or a narrow convention, as well as on association days.¹⁷ Charges were made especially in years of crisis and revolution, which required adequate circular responses. In the spring of 1789, the district councils in Constance and Stuttgart invited the Swabian county councils to the Ulm town hall for the convention. This letter arrived in Nördlingen on 17 May:

*"Our gracious greetings before. Strong, prudent, honorable and wise, dear special ones. Since it is sometimes necessary to hold a general meeting of the Circle to advise and deal with internal affairs, we have decided to postpone such a meeting until the 23rd of June, and to set up the enclosed deliberanda in the city of Ulm."*¹⁸

In decreasing work effectiveness, the Lower Rhine Westphalian, the Lower Saxonian, the Kurrheinian, the Upper Saxonian, the Austrian and finally the Burgundian Imperial Circle followed.



Fig. 3: The German Confederation 1815 to 1866. Source: Fr. W. Putzger, Historischer Weltatlas. Jubiläumsausgabe, 94th ed., Berlin 1970, p. 96.

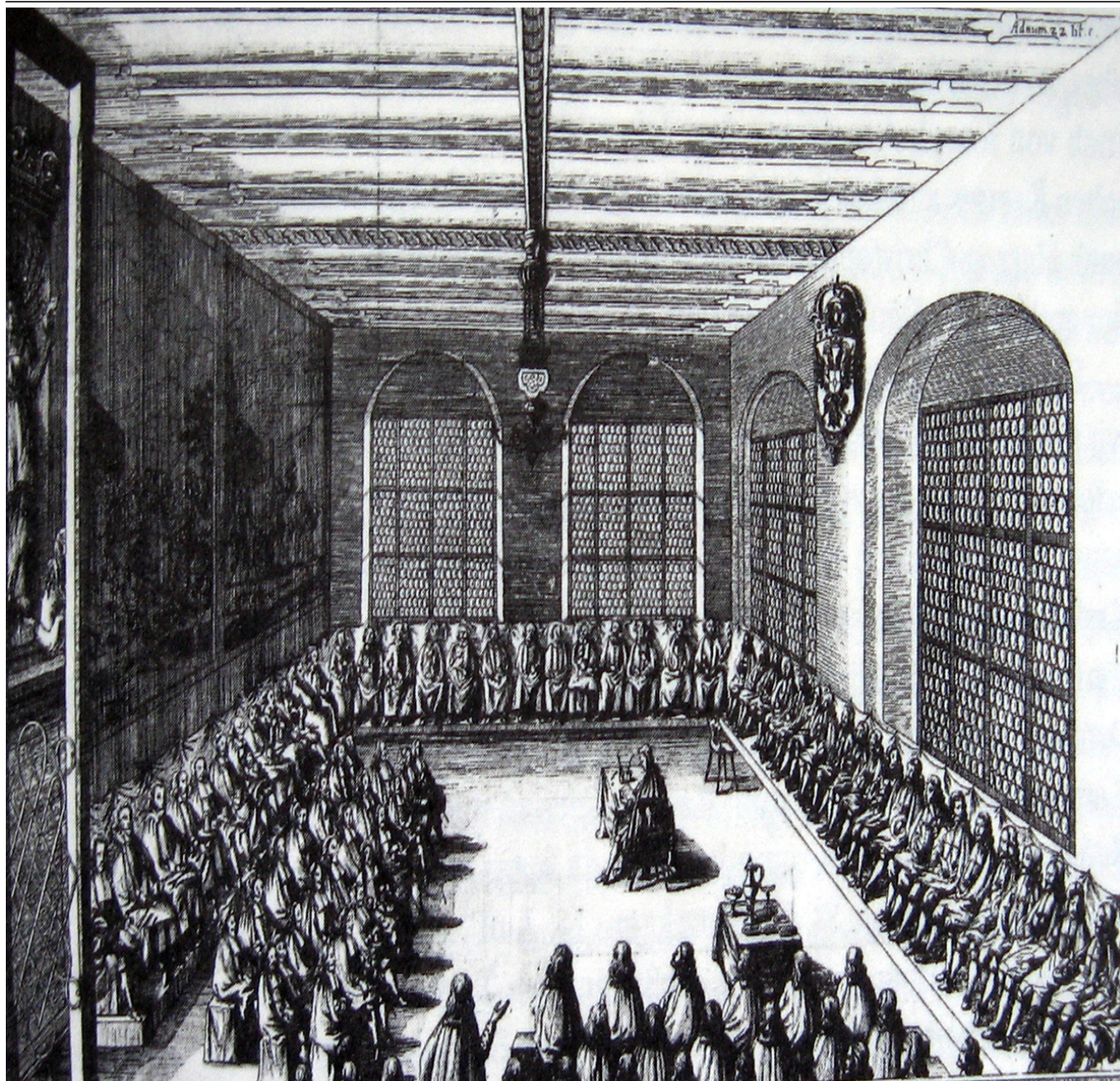
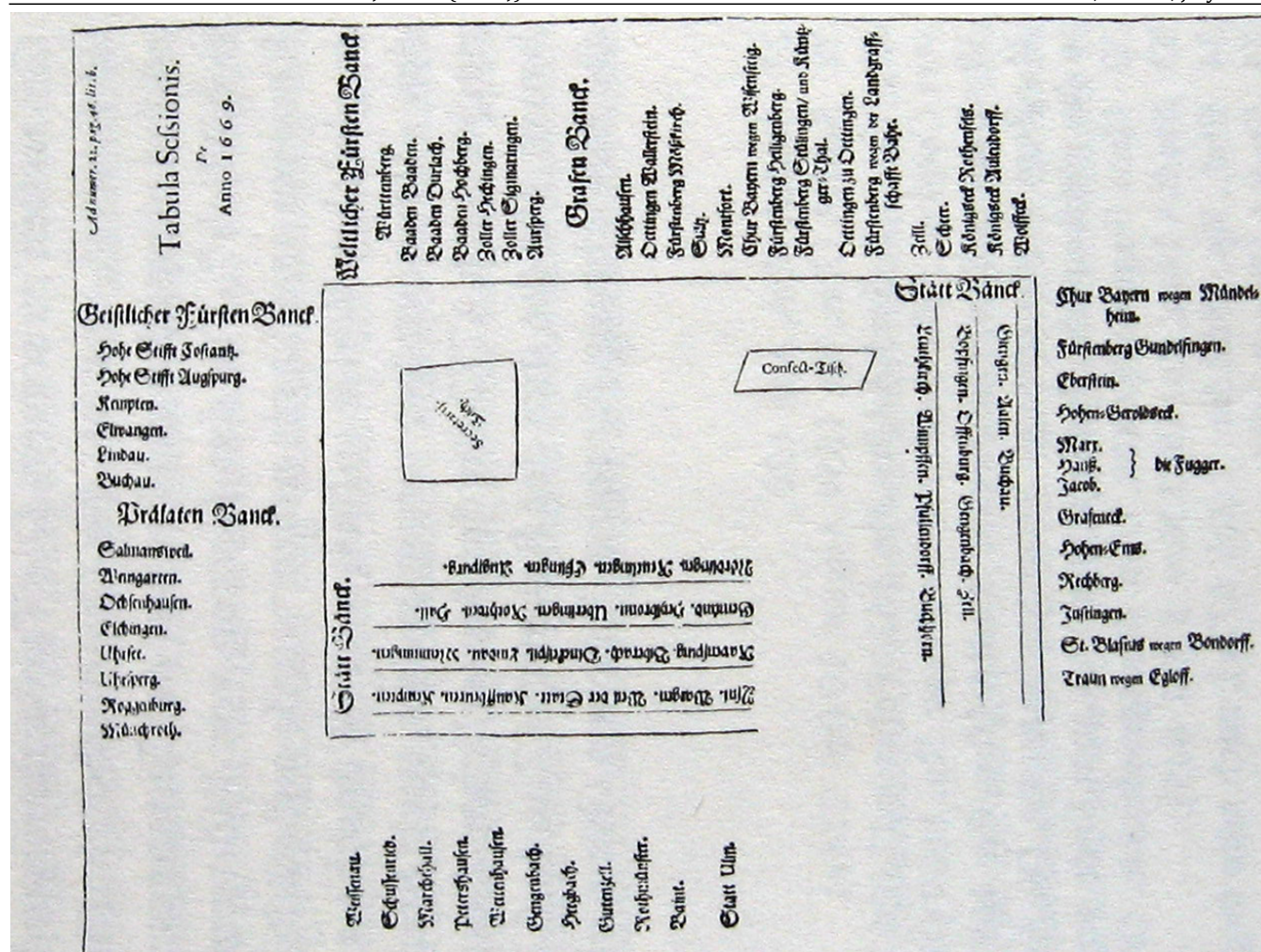


Fig. 4: Swabian district convent (= Kreiskonvent) in Ulm town hall, 1669. Source: City Archive Ulm, F3, picture 620.



1669. Source: City Archive Ulm, F3, picture 620g.

The exploration of the Imperial Circles has gained considerable momentum in the last decades, after source-based surveys had already been published before the end of the Old Empire. These included, for example, Martin Zeller's "*Tractatus de X circulis imperii Romano-Germanici, Oder Von den Zehen deß H. Römischen Teutschen Reichs Kraißen: darinn nicht allein, welche Stände zu einem jeden derselben gehörig, Sondern auch die Vornemste und Bekanteste in solchen belegene Landschaften, Stätt [...] mit eingebracht werden [...]*".¹⁹ Udo Gittel²⁰, Peter Claus Hartmann²¹, Nicola Humphreys²², Ferdinand Magen²³, Michael Müller²⁴, Markus Nadler²⁵, Thomas Nicklas²⁶, Bernhard Sicken²⁷ and Wolfgang Wüst²⁸ are some of the authors and editors who, in monographs or conference proceedings, considerably deepened our knowledge of the Circle and focused the findings regionally. Karl Otmar von Aretin²⁹, Johannes Burkhardt³⁰, Axel Gotthard³¹, Peter Claus Hartmann³², Matthias Schnettger³³ and Georg Schmidt³⁴ belong to the small group of historians who have always referred to the importance of the *Reichskreise* in the course of the reassessment of the early modern history of the Empire. In a circular overview one still falls back on Winfried Dotzauer's pioneer work. In 1989 and 1998 he presented in two editions a certainly deserving, but regionally just as unbalanced as well as distant overview of the "life" of *Reichskreise*.³⁵

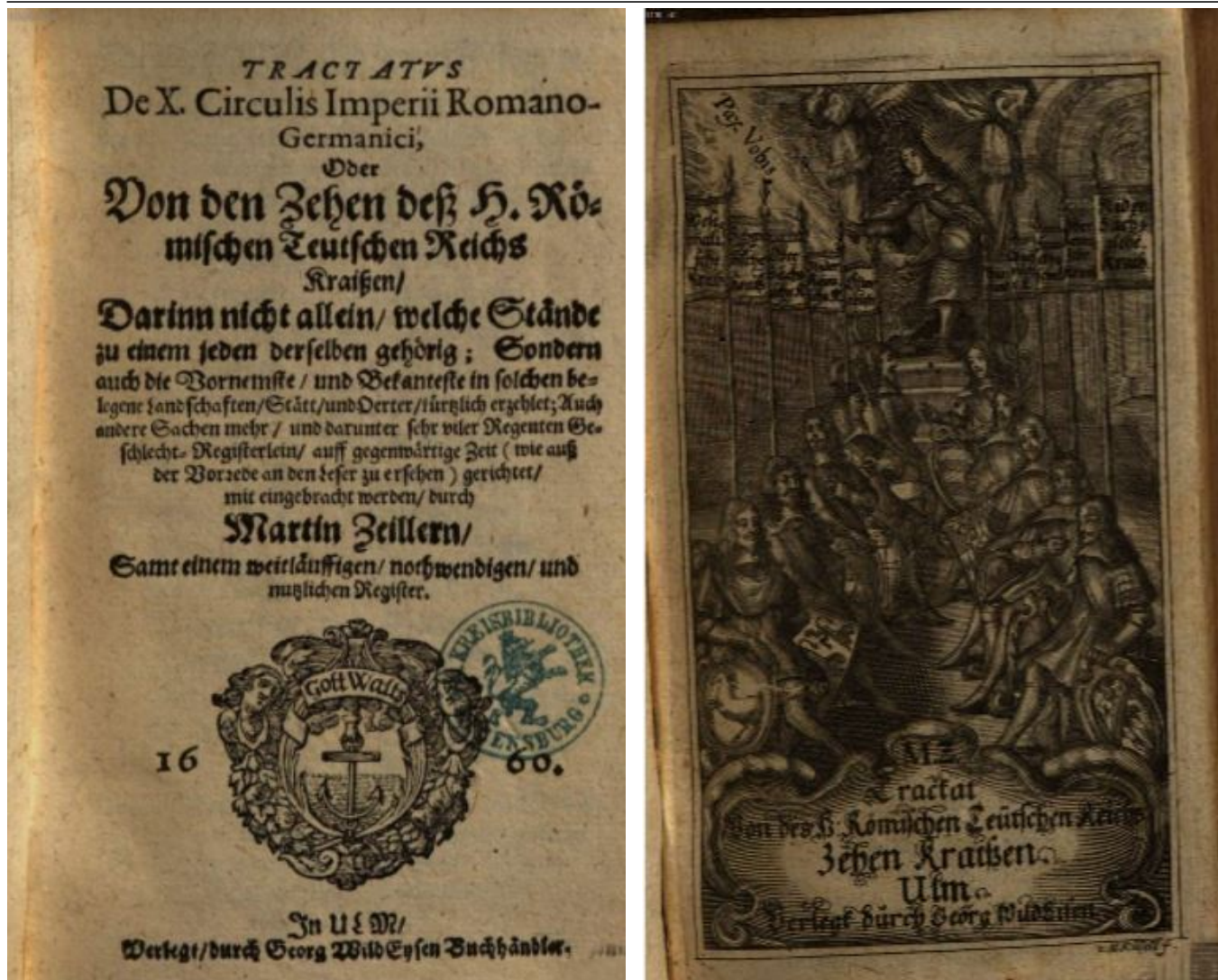
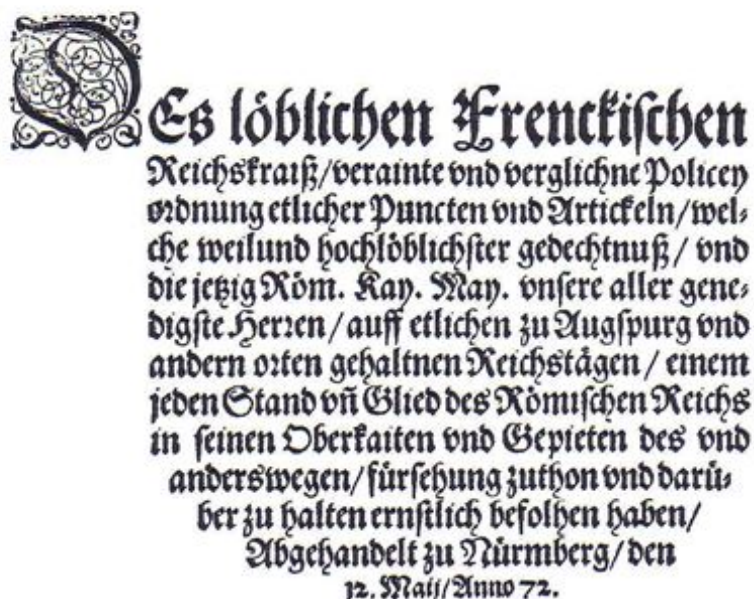


Fig. 6: Tractatus de X circulis imperii Romano-Germanici, Ulm 1660. Source: Regensburg State Library, 999/Hist.pol.360.

THE TASKS OF THE REICHSKREISE – A FEDERAL PLEA?

The creation of the *Reichskreise* was an overdue answer to the powerlessness of the Empire and the Estates in matters of the preservation of peace in the countryside, the organization of the Supreme Court, the control of taxes, beggars³⁶ the poor and coins, the raising of the imperial army, health care – formed by the medical police³⁷ with regard to the supply of drinking water, protection against epidemics and plague – and many other central points in the early modern civilization process. Some things, however, were more of a demand than an everyday practice. Since the 16th century, most of the administrative work has been carried out by the increasing competence of county councils. In combination with their territorial system of offices and government, they had new instruments of spatial planning control at their disposal. For urgent tasks such as regional and supra-regional road construction, the fight against epidemics and crime, and customs, coinage or trade policy, the county councils were often too “small”, especially in the small territorial area of southern Germany, but the Reich as a whole was far too “large” to find and implement practicable solutions. As in the case of Swabia with its up to 40 clerical and 60 secular county councils³⁸, the

imperial counties were now exactly the “right” size to reach consensus on central problem areas of early modern politics and a reasonably reliable implementation.³⁹ Nevertheless, the imperial circles reflected open spaces that corresponded outwards and inwards across borders. Their field of interaction between the Imperial Regiment, the Imperial Courts and individual imperial territories was tied to the consensus of the district councils⁴⁰ Thus the counties remained less imperial executive organs than supraterritorial, regional and federal parts of the imperial constitution.



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Fig. 7: The *Policeyordnung* of the Franconian *Reichskreis*, 12.5.1572. Source: *Die gute Policey im fränkischen Reichskreis. Ansätze zu einer überterritorialen Ordnungspolitik in der Frühmoderne. Edition der verainten und verglichenen Policey Ordnung von 1572*, in: Ch. Bühl / P. Fleischmann (ed.), *Festschrift für Rudolf Endres zum 65. Geburtstag* (see note 41), p. 191.

How central, regional or federal the leverage of the Imperial Circles was, is reflected – normatively and directly – in their own orders. In Franconia, the district's own order policy played a key role, since the district council there was to be the only one among the ten imperial districts to adopt its own policey order, the “*verainte und verglichne Policey Ordnung*” of 12 May 1572.⁴¹ Although there was extensive debate in other imperial districts about this direction, it was decided either to adopt

the corresponding imperial police orders⁴² or to follow territorial designs.⁴³ In other cases, reference was made to the legislative competence of the *Reichstag* or other forms of imperial consultation.⁴⁴ Federal constructions arose from the realization that the *Reichskreis*, for example, delegated the control of the prohibition of blasphemy and cursing ("*Von gottesschwüren vnd fluchen*") to places where one had to deal with it daily. The circle relied on the principle of subsidiarity. It activated the pastors, the heads of the house and the families:

*"Every pastor should also, even in the time of the cancelling / his parish priest's robe should stand aside from the pious and difficult one / seriously and faithfully asked to the most faithful former priest / and together with others / ask God the Almighty to help / to turn away such a great reading of God / and swear / from the Christian people. The parents and rulers should not tolerate such a blasphemy with their children and household members, but should abolish it with great seriousness. But if the parents and rulers invent themselves/ that they should look for such things and not punish them/ and that the authorities should break into credible knowledge/ against them/ they should be taken seriously by the authorities/ and receive serious corporal punishment."*⁴⁵

In other questions, however, the district order focused on supra-regional and central standards for social discipline. This applied, for example, to restrictions on all too lavishly garnished feast days or days of mourning (weddings, church consecrations, baptisms and funerals). The Franconian Circle acted after

"miscellaneous expenses/ that had been created for considerable use in the night / at weddings / and what was attached to them".

In 1572 it was said:

*"But at these cracks standing / at these courts the order of the villages and the land / a great inequality / with the attitude of the marriage council / wedding days / times weddings / before and after weddings / charging of the people / giving gifts and others to each other / and in these present tents / an equal employment of each stand should be provided."*⁴⁶

Something similar was read in the sections "*Of child baptism with great expenses*", "*Of church consecrations*" or "*Of exorbitant dinners*".⁴⁷

FEDERAL AND SMALL - CIRCULAR STANDS MADE TO MEASURE?

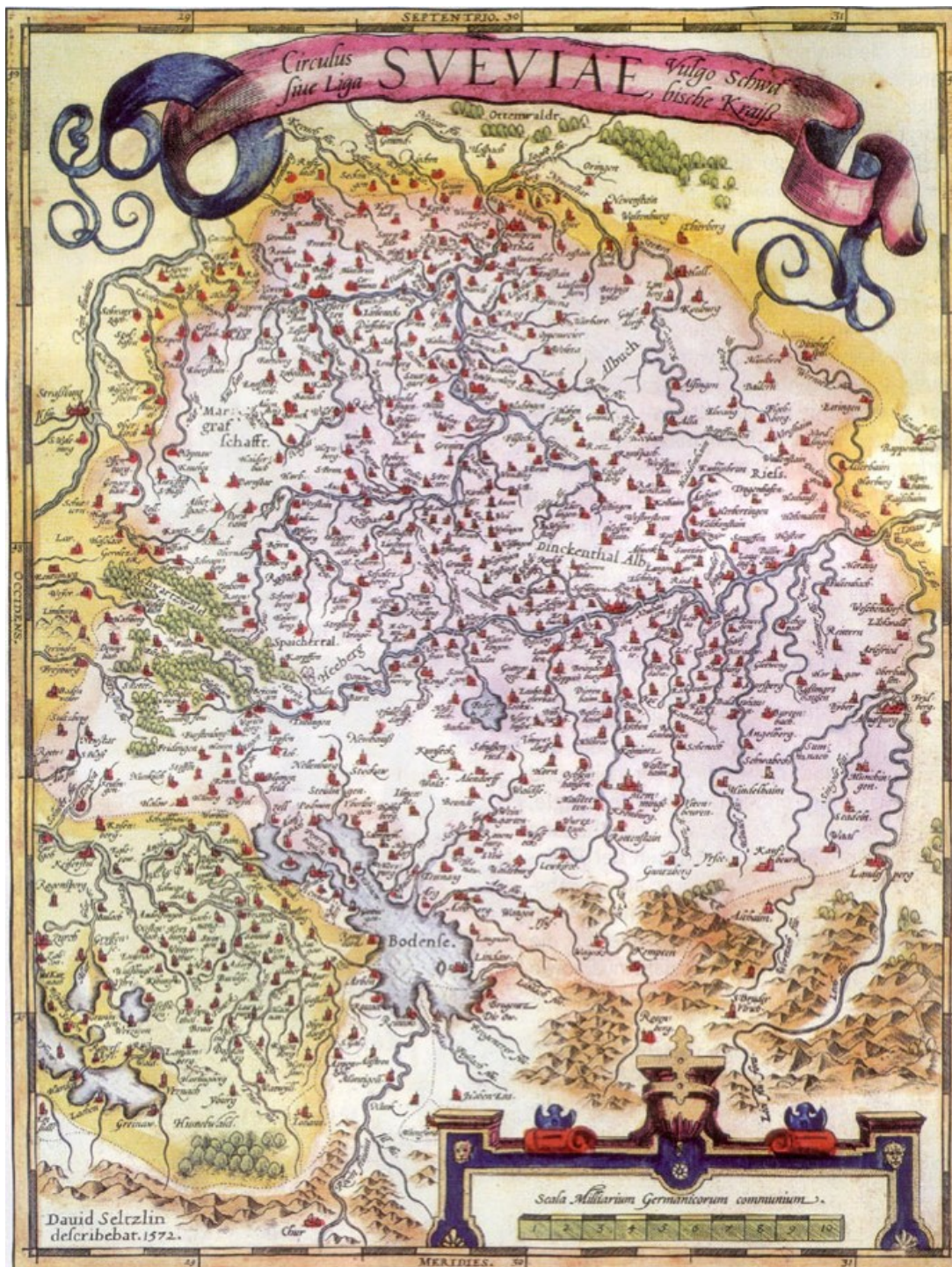


Fig. 8: Circulus sive Liga Sueviae vulgo Schwäbische Kraiß. Map by David Seltzlin, 1572. Source: State and City Library Augsburg.

In research, there is a consensus that the *Reichskreise*, with their federal orientation, functioned best where they formed a political platform and a protective shield against mediatisation and foreign domination for a large number of the tiny, small and medium-sized imperial territories. According

to the comprehensive circular registers printed in Augsburg in 1532 "*Hernach volgend die Zehen Krayß / wie vnd auff welliche art die inn das gantz Reyck außgethaylt / vnd im 1532. jar Roem. Kay. Maye. hilff wider den Türcken zu^o geschickt haben. Auch welliche Sta^end in yeden Krayß geh^erend nach altem herkommen*"⁴⁸ no less than 81 counties paid taxes to the Swabian Imperial Circle. At peak times there were over 100 counties. In the years before the prelates left the district, 88 booths were invited to the district convents, most of which met in Ulm. Among them were territorial midgets such as the imperial city of Pfullendorf⁴⁹ – the city only broke the 3,000 inhabitants mark in 1950 – or the imperial abbeys of Baidt⁵⁰, Isny and Söflingen⁵¹. In 1795, the latter paid five guilders a year in district taxes, in order to address the economic differences, while the Duchy of Württemberg paid 1,400 guilders a year and the imperial city of Ulm 370 guilders.⁵²

In the Bavarian District of the 21 county councils of the years 1521/32, the prince bishop of the bishopric (= *Hochstift*) of Freising, the Prince Provost of Berchtesgaden, the abbots of Waldsassen, Rott am Inn, Kais(ers)heim and St. Emmeram, as well as the abbesses of the Lower Church and Upper Church in Regensburg were among the lesser imperial rulers. The Landgraves of Leuchtenberg – in 1712 the county fell back to Bavaria –, the Counts of Haag, the counts of Ortenburg, the barons of Stauff and Ehrenfels, the lords of Degenberg as well as the baron of Wolfstein as baron of Sulzbürg-Pyrbaum reigned in tiny states. In any case, the Imperial Circle only secured their federal existence for so long until the "*reversion*" of their aristocratic houses to the Bavarian dukes under inheritance and loan law occurred.⁵³

At the end of the 18th century, the electors then led nine of the twelve county councils. The Franconian Imperial Circle, in whose territory the cantons of the Imperial Knighthood⁵⁴ which often cooperated but were outside the district constitution, dominated the regional scene, still had 24 members in 1532. And on the Upper Rhine – which also included the city of Fulda and the *Hochstift* of Fulda⁵⁵ – the 1792 register still had 58 members, including the imperial cities of Frankfurt am Main, Friedberg, Speyer, Wetzlar and Worms, which varied greatly in their importance.⁵⁶



Fig. 9: The Principality of Sulzbach and the County of Leuchtenberg. Coloured copper engraving, no. 165, by Franz Joseph Johann von Reilly, 1792. Source: Archive of the author.

THE VOTE OF INFERIOR MEMBERS IN THE BAVARIAN CIRCLE

The constitutional importance of the Imperial Circles should not be measured primarily by his tasks and subjects – since 1512, the district archives⁵⁷ have kept a number of differentiated registers like the “*Extracti actorum circularium*”. We are more interested in the working style in the federal district plenum⁵⁸, the early and pre-modern culture of speech, the process of consensus building in a society of estates, the concrete voting act in the district councils, diplomatic activities and the leadership of the district councils. More often than in northern and eastern German *Reichskreise*, the intentions of smaller estates were recorded in the southern landscapes. This was also the case in the Bavaria, where a militarily equipped district council, the Duchy and, with Maximilian I, the Wittelsbach Electorate, played a dominant role. Was there something like an authoritarian opinion leadership of a minority in the concert of the many? This assumption does not seem to be plucked out of thin air when we examine the voting act of small territorial powers in the protocols. The House of Wittelsbach was anxious for independence, as Wittelsbach, after acquiring territory at the end of the 18th century, bundled nine of the twenty votes in the convents. The duration of the meetings are surprisingly informative. Conformist voting was valid in Bavaria, where an orientation

towards the vote of the board of directors – there Salzburg⁵⁹ and Bavaria had been formally equal since 1555 – and above all towards the powerful House of Wittelsbach was on the agenda according to the current state of research. Let us take a district convention at the end of the Thirty Years' War as an example.

In November 1648, little Maxlrain, whose dynasty had been elevated to the rank of Imperial Barons (= *Reichsfreiherrenstand*) exactly 100 years earlier, voted “like Churbayrn” in the Wasserburg Convent⁶⁰, as he had done countless times before. The former imperial county of Haag⁶¹ also voted “like Churbayrn for the main”.⁶² This was not surprising, since the dominion had fallen to Bavaria after the death of the last Count of Fraunberg in 1566. Although the county was re-catholicized and still managed as an independent imperial fiefdom, Haag was under the influence of the Wittelsbach dynasty. In 1648, the district convention was concerned with tax payments to secure peace. The reform of the *Reich's* defensive system, which had been broken at the end of the war, was also on the agenda. At the same time, the representative from the Ehrenfels dominion, which had fallen to the Palatine Counts in 1567, voted there “like Neuburg”. Also the envoy from Wolfstein, where one was not elevated to the status of an imperial count until 1673, had at this time quite different concerns than to think about an independent district policy. In the vote, the envoy from Wolfstein said:

*“He instructed the principal to take charge of the ruin he had suffered, and that they should lead his life with more, with more. More so, a pure possibility, when they would be horrified by what was agreed upon in the peace treaty, hope that they would direct their quota towards an assignment, and conformed with the maioribus.”*⁶³

Finally, the Leuchtenberg county representative, whose lordship with the royal seat of Pfreimd had fallen to Bavaria as an imperial fiefdom two years before, also took the floor. Without instruction one gave modestly on record:

*“If the ruin of the same Landgravate also foretold that the loans and allodial benefits had been taken away from them, they could no longer be laid out according to the matriculation plan, but rather that they would not be spared, for they wanted to hope that they would be given a proportionate moderation. In the main matter he has not been instructed sufficiently, but he wants to report to his sovereign prince [of Bavaria] in a very obedient way.”*⁶⁴

In the same session, however, other things were also heard. The alignment with the vote of the small *Hochstift* Freising thus completely contradicted the usual picture of the electorate's catching votes. Thus the territorially modest *Hochstift* Regensburg stated:

“Show with more than one suspicion that they have gained and ruined the same greatness, the weakness and the disposition of their princes and that the same would have no more food, delivered to the governing board a closed letter from their princes, in which the crises was pointed out and asked him to observe the vote: But mainly like Freising.”

And the vote of Neuburg Palatinate was based on the opinions of Salzburg and Freising. The Palatinate

“referred to the fact that Salzburg and Freysing voted alike, it had to handle the costs for the soldiers. The delegate was instructed on the way, the ruin of the Neuburg

Palatinate was known that the country would not be able to present anything, one could execute as one wished, the intelligent guardians were still on their backs, they had only recently plundered the city and ruined everything, one had been against the government, and could bring together with great difficulty that he might have the costs for the journey, or else perhaps several orders might be prevented, recommended that he should ask the government, where he did not want to be completely confounded by this arrangement, and who would then help to ensure that the guards were taken out of the places where there were ambiguous places.”⁶⁵

CLOSING

Early modern opinion-forming processes have repeatedly been the focus of interdisciplinary research in recent years. It has become clear that the end of the Old Empire, even in a parliamentary tradition that has been extended over time, did not at all represent the decisive caesura that has so far been attributed to the key year 1806.⁶⁶ If we assess “pre-democratic” decision-making forums from the perspective of the 17th and 18th centuries, and less so from the 19th century, the share of the *Reichskreise* is certainly more important in the evaluation of Estates Chambers and early parliamentary forms.

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