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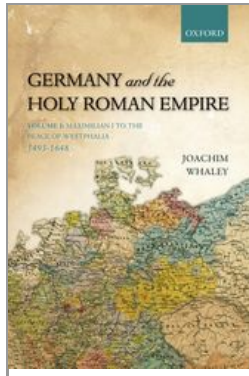
Germany and the Holy Roman Empire in 1500

Joachim Whaley

[–] Abstract and Keywords

This section takes a comprehensive view of the state of Germany around 1500. The origins and medieval development of the Reich and the titles of its Emperor are explained. It outlines the fluctuating frontiers of the Reich and surveys the 300–400 territories and some 2,000 further small territorial entities the Reich comprised. It also illuminates the development of the constitutional system of the Reich in the late fifteenth century and highlights the emergence of the Reichstag as a defining moment in the construction of the German Reich. Finally, the relationship between the Reich and the German nation is considered as it is reflected in the writings of humanist scholars around 1500: they created the framework for thinking about rights and liberties, identity and patriotism for the next three centuries.

Keywords: Medieval Reich, frontiers, imperial constitution, Reichstag, German nation, identity, patriotism, humanism

(p.17) 1 Origins and Frontiers

To speak of Germany in 1500 raises fundamental questions about the history of the early modern Holy Roman Empire. The term 'Germany' is itself deeply problematic. In the late fifteenth century there was undoubtedly a growing sense of what was German. This was based on language and on awareness of a common ethnic identity and historical experience. It was reinforced by the sense, in some German-speaking territories, of common political interests that needed to be defended and hence expressed in legal and institutional forms. During the fifteenth century the terms 'German lands' and 'German nation' were increasingly employed to convey this community of interests; in 1474 the Reich was first referred to in a document as the Holy Roman Empire of the German Nation, and this nomenclature was formally established in 1512.[1] The link between Reich and 'Nation' which it expressed was not, however, defined in precise terms.

Indeed, neither the Reich nor the 'German nation' can be easily defined at this time. The Reich's origins lay in the translation of the inheritance of the Roman Empire northwards by Charlemagne and the gradual assumption of the imperial title by the German kings after Otto I (912–973), who succeeded as king of Germany in 936, subjugated Italy, and became king of the Lombards in 951–2, and was crowned emperor in 962.[2] The idea of a *translatio imperii* was fundamental to the ethos of the Reich: the prestige of the emperor was immeasurably enhanced by the notion that he held supreme power inherited from the emperors in Rome. Henry IV (1050–1106) had added the title *Rex Romanorum*, thereafter given to the elected king (known as the *römisch-deutscher König*) before his coronation as emperor.[3] The epithet 'Holy' was added by the Hohenstaufen Emperor Frederick I in 1157, reflecting his ambition to dominate Italy and the papacy, as well as the areas north of the Alps.

The disparate origins and multifaceted character of the Reich are reflected in the titles and coronation rites of its rulers. The fact that the German monarchy remained an elective system undoubtedly contributed to the perpetuation of an **(p.18)** itinerant court and the lack of a clear geographical centre or capital city. Yet the Reich's titles themselves were vague and not geographically specific: *Imperium Romanum, Imperium Christianum, Imperium mundi*—Roman, Christian, and universal. In so far as there were geographical fixed points, they lay in places of little significance from the point of view of government. The coronation of the ruler as German king (with the title King of the Romans) took place in Aachen from the reign of Charlemagne until 1531; after the coronation of Ferdinand I in that year, the ceremony took place in Frankfurt, or sometimes simply in the same place as the election had occurred. Throughout the Middle Ages, the king's subsequent coronation as emperor took place in St Peter's in Rome at the hands of the pope. The first emperor not crowned in this way was Maximilian who, in 1508, simply declared himself *Erwählter Römischer Kaiser* (Elected Roman Emperor). The last papal coronation was that of Charles V, which took place in Bologna in 1530. In between coronations the imperial insignia, in theory located in Aachen, were moved from place to place until 1424, when the most important objects (including the crown, sceptre, orb, sword, and the holy lance) were located in Nuremberg.[4]

Successive German dynasties had elaborated the geographical implications of the imperial titles, bringing large parts of Eastern Europe into the constellation, in addition to the mass of lands north and south of the Alps. The Luxemburg emperors Charles IV (r. 1347–78), Wenzel (r. 1378–1400), and Sigismund (r. 1411–37) attempted to secure Bohemia, Silesia, Lusatia, the Mark of Brandenburg, and above all, but outside the Reich, Hungary as stem lands. At no stage was their dominion over these lands secure or stable. On the contrary, it was punctuated by rebellions and the periodic emergence of successful rival claimants. Yet by virtue of marriage and inheritance strategies, the Luxemburg emperors generated a catalogue of potential claims which were inherited by the Habsburg dynasty when Sigismund died in 1437, leaving as his heiress his daughter Elizabeth, who had married Albert V of Habsburg in 1421. Albert's election as emperor in 1438 combined the Bohemian, Hungarian, and German crowns for the first time. By then, however, the Kingdom of Burgundy had been irrevocably lost: the last German emperor crowned King of Burgundy was Charles IV in 1356; on his death in 1378 the kingdom was dissolved and largely absorbed into France. By then, the emperors had also effectively lost control over much of what remained of the Kingdom of Italy.

Luxemburg ambitions had focused on the east. In a sense the Luxemburg rulers had thus marginalized the German territories, allowing the new Burgundian rulers from the house of Valois (Dukes of Burgundy from 1363) to consolidate and exploit discontent amongst the German princes. As a result, their Habsburg heirs were almost immediately obliged to turn their attentions to the west. They responded to the challenge of the Burgundian Charles the Bold in turn with rapprochement, with military force, and, ultimately more effectively, with a marriage alliance between Charles's daughter and heiress Maria and Frederick III's heir **(p.19)** Maximilian, which came to fruition in April 1477, shortly after Charles's death. The addition of Burgundy as well as the Franche Comté to the Habsburg patrimony, and hence to the empire, was itself the prelude to more extensive schemes which bore fruit in the establishment, again by marriage, of aspirations to Aragon and Castile. That, in turn, was a response to the growing hostility of France, where Louis XI (r. 1461–83), Charles VIII (r. 1483–98), and Louis XII (r. 1498–1515) successively harboured designs not only on the Burgundian inheritance but also on the imperial position in Italy.

The elaboration of the territorial ambitions of the Luxemburg and Habsburg dynasties, which reached their culmination in the reign of Maximilian I (as king and co-ruler with his father Frederick III after 1486, as sole ruler from 1493, and as emperor from 1508 to 1519), generated insecurity as well as power. The Habsburgs created an empire arguably more universal in potential than any previous imperial dynasty. Yet their need for resources to press their various claims, or to defend them periodically from hostile neighbours such as the kings of France, led them to exert pressure on the German territories. The call on their part for the reform of the Reich, for laws and institutions that would enshrine their rights, was above all a response to that pressure.

The collection of overlordships and territories that Maximilian I inherited, together with those he acquired by marriage and whose overlordship he assumed with the imperial

title, dominated the map of Europe. Yet while on paper this area might seem like a monolithic block, it was far from being anything of the kind. The emperor wielded power and influence to very different degrees in different areas. Just as there were jurisdictions of varying age and antiquity, so the real meaning of these jurisdictions, and their value to the emperor as vehicles of potential power, varied considerably. All of them broadly came under the umbrella of the Holy Roman Empire, but in terms of institutional or governmental reality, in terms of imperial kingship, that title meant different things at different times.

Attempts to compile accurate maps of the Reich are hampered by two difficulties. First, there is a perpetual uncertainty over external boundaries. They changed with great frequency, and they are difficult to draw with precision at any point. Second, there is the virtual technical impossibility of reproducing the internal territorial boundaries on the page in such a way that the eye can make sense of their sheer complexity. This latter problem will be discussed in relation to the structure of the imperial system or constitution. First, however, an outline of the extremities *circa* 1500 will illuminate not only questions of geographical extent but also factors that constrained the functioning of the system in certain areas.[5]

In some ways the very question of frontiers in relation to the Holy Roman Empire is anachronistic. They were not fixed or clear. On the contrary, because they arose out of the feudal relationships between king and vassals, they varied as that relationship changed, for example with the extinction of dynasties or noble lines, or by marriage treaties. Furthermore, a noble could be vassal to two overlords **(p.20)** simultaneously, thus creating overlapping lordships and an imponderable nexus of rights, claims, and aspirations. Equally important was the fact that the 'Holy Roman Empire of the German Nation' was more than just a German empire. Within its lands there was a multinational mixture of groups who spoke French, Dutch, Frisian, Sorbian, Czech, Slovenian, Italian, Ladin, and Rhaeto-Romanic. Nor did the empire by any means embrace all German-speaking areas, since it excluded all German-speaking settlements in eastern Europe, the so-called *Sprachinseln* (linguistic islands).[6]

Even so, it is possible to speak of the emergence of a 'German' Reich in the decades around 1500. In theory, the fifteenth-century Reich was composed of three major blocks or groups of territories: Italy, Germany, and Burgundy. In practice, however, only the Kingdom of Germany remained. One of Maximilian's enduring ambitions was to recover the Italian and Burgundian lands that had been lost; at one stage he even tried to reconquer Provence in order to regain the old centre of the Burgundian kingdom at Arles. Yet ultimately these were projects that failed and by the end of his reign the Reich was, more than ever, exclusively centred on the Kingdom of Germany.

Maximilian may have envisaged the three kingdoms as a unity, but neither Italy nor Burgundy could in fact be said to have fully belonged to the early modern Reich in so far as it developed as a bond for the German lands. At the same time, the idea of the Reich as a universal Christian monarchy steadily lost ground. Ultimately, it became more a part of the dynastic mythology of the Habsburgs than a real attribute or aspiration of the system

that came to embrace primarily those represented (*Mit Sitz und Stimme*, 'with seat and vote') in the Reichstag or diet.[7] Of the three Imperial Archchancellors (the Archbishops of Mainz, Trier, and Cologne for Germany, Burgundy, and Italy, respectively) only the Archbishop of Mainz actually held a chancellery as *sacri imperii per Germaniam archicancellarius*.

This process of segmentation of the larger Reich, of differentiation between the periphery and the German lands, is most graphically illustrated in the south. The Italian territories, for example, had been a major part of the Hohenstaufen Empire. Some parts, such as Venice at the end of the fifteenth century, went their independent ways. Yet other parts still remained. Savoy, the duchies of Milan, Modena, and Parma, together with the Republics of Genoa, Lucca, Pisa, Florence, and Siena, continued to regard the emperor as their overlord. With the exception of Savoy, however, none was represented at the Reichstag; and none at all was included in any of the regional institutional structures (Reichskreise) developed in the early sixteenth century.[8] The rituals of enfeoffment (often accompanied by substantial monetary tributes and bribes) continued to be played out at the accession of a local dynasty or of an emperor. Even at the end of the eighteenth century *Reichsitalien* extended over some 250–300 fiefs involving some 50–70 **(p.21)** families.[9] But these territories were not subject to the jurisdiction of the imperial courts and paid no imperial taxes. Johann Jacob Moser, the great eighteenth-century commentator on the law of the Reich, repeatedly stated in his works that Italy unquestionably belonged to the Reich, but that it had no real link with Germany. Furthermore, as an expert on German law, he said, he was unable even to give an explanation of its constitution.[10]

The Italian territories became in effect part of a more narrowly defined Habsburg dynastic patrimony, and formed the basis for the Habsburg claims in Italy into the nineteenth century. While the Archbishop of Cologne retained the title of *sacri imperii per Italiam archicancellarius* until the end of the Reich, imperial interests in Italy were in fact administered by plenipotentiaries appointed in Vienna, such as Leopold of Tuscany during the reign of Joseph II. To all intents and purposes, however, the Italian lands played no active or meaningful role in the early modern Reich and hence are excluded from this study.[11]

A different kind of exclusion applies to the Swiss confederation. A potential rift between the confederation, with its communal traditions, and the essentially aristocratic empire was progressively reinforced during the fifteenth century by their opposition to the territorial claims and aspirations of the Habsburgs. After 1471, the 'eidgenössische Orte' no longer appeared at the Reichstag and held separate communal meetings (Tagsatzungen). A final attempt by Maximilian I to subjugate them failed in 1499; they were then able to have their exemption from the jurisdiction of the empire confirmed. Formally, they remained within the Reich. However, even the Swiss border cities, such as Basle and Schaffhausen, ceased to attend the Reichstag after 1530 and the confederation persisted in asserting and maintaining its traditional autonomy within the empire until its sovereignty was finally recognized in the Peace of Westphalia of 1648.[12]

In the west, the frontier presents a more varied picture. Much of Alsace was dominated by Habsburg territory, while Strassburg and the ten Upper Alsatian Imperial Cities all clearly belonged to the empire. Further north the Dukes of Lorraine were vassals of the emperor, but also of the king of France in respect of the Duchy of Bar, whose link with the Reich was purely nominal.[13] More complex was the situation concerning the Burgundian lands. The County of Burgundy (Freigrafschaft Burgund or Franche Comté), wedged between Lorraine in the north and Savoy in the south, clearly once belonged to the Reich (since the ninth century), though the Imperial City of Besançon formed a significant enclave at its centre. The extent of the county's integration into the Reich was, however, limited by its status as a Habsburg territory which, in 1556, passed into the hands of the Spanish line **(p.22)** and played a crucial role in the enduring conflict between Spain and France, to which the county eventually fell in 1674–8.

The northern parts of the Burgundian inheritance in Brabant, Flanders, and the Low Countries remained similarly peripheral to the Reich proper.[14] While those parts of the southern Netherlands that remained in Habsburg hands (Spanish until 1713–14; Austrian thereafter) were formally included in a Burgundian Kreis, they were all exempted from imperial jurisdiction and dues in 1548. Thus the emerging Dutch Republic technically remained part of the empire until 1648. While developments there—political, intellectual, and cultural—came to exert significant influence over the German lands, they cannot in any meaningful sense be regarded as *Reichsstände*, or Estates of the Holy Roman Empire. These territories played a far greater role than the Italian ones, but this above all reflected their greater significance in the power-political interests of the Austrian Habsburg dynasty. Like his colleague in Cologne, the Archbishop of Trier found his status inflated in a purely honorific way by virtue of his title as *sacri imperii per Galliam et regnum Arelatense archicancellarius*.[15]

The frontier in the north was perhaps the most clear-cut of all, though it too reveals a peculiarity of considerable significance for the early modern Reich. The Duchy of Holstein belonged to the Reich; Schleswig, by contrast, was Danish. The two were united in the Treaty of Ripen 1460, when Christian I of Denmark inherited the lands of the extinct ducal line of Schaumburg (by virtue of his claims as senior heir of the house of Oldenburg). As a result, the king of Denmark became a vassal of the emperor and subject to the jurisdiction of the Reich in respect of Holstein. This created a situation that was to recur repeatedly in the later history of the Reich; for example, with regard to Saxony and Poland or Hanover and Great Britain. The existence of non-German monarchs as vassals of the emperor and princes of the Reich was one of the factors that made it into something of a keystone of a European state system. At the same time, the fact that these were non-Habsburg monarchs also added to the checks on Habsburg power in the Reich, making transgressions on their part, potentially at least, causes of European wars.

In the north-east, things were less straightforward in a different way. While Pomerania, Brandenburg, and Silesia were imperial fiefs, the extensive lands of the Teutonic Knights (*Deutscher Orden*) were not.[16] These territories, stretching across northern Poland and northwards through Lithuania, Latvia, and Estonia, were the result of thirteenth-century

conquests by the religious Teutonic Order as it turned its energies away from the Holy Land towards the conquest and Christianization of the pagan north. They owed loyalty to the emperor under the Golden Bull of Rimini 1226, but their relationship with the Reich developed largely as a result of the threats posed to their conquests by Poland and Russia, which resented the incursions made by the German aggressors. A Polish counter-offensive in the **(p.23)** fifteenth century resulted in significant territorial losses, which effectively partitioned the Order: the Prussian lands were subject to Poland and the papacy; the lands of the northern or Lithuanian branch were disputed between Russia and Poland. While the latter maintained some degree of independence as a result, the Prussian branch of the Order sought to keep Poland at bay by electing Grand Masters from German princely houses in 1498 (Frederick of Saxony) and 1511 (Albrecht of Brandenburg-Ansbach). This did not prevent the area becoming the Duchy of Prussia when the Order was secularized in 1525. However, the fact that it remained in the hands of the Hohenzollern dynasty ensured the perpetuation of the ties to the Reich. The lands of the Lithuanian branch of the Order, by contrast, became the Duchy of Kurland, outside the Reich, in 1561, when it was secularized by *Landmeister* Gotthard Ketteler.

Immediately to the south of Brandenburg lay a complex of territories attached to the Kingdom of Bohemia and characterized by special privileges quite different from those in any other part of the Reich. By about 1500, this complex included, in addition to Bohemia itself, the Duchy of Silesia, and the Margravates of Moravia and Upper and Lower Lusatia. These lands came into the direct possession of the Habsburgs by inheritance in 1526. Unlike the Habsburg Burgundian territories, however, whose special privileges arose with the accession of the Habsburgs as overlords, the Bohemian crown had long enjoyed a distinctive position in the Reich. For one thing, Bohemia was (since 1198) the only subordinate kingdom in the Reich. The Bohemian king's position as an imperial Elector had been confirmed by the Golden Bull in 1356, but he did not participate in the deliberations of the Electoral College. Like all Electors, his territories were exempt from imperial jurisdiction in that subjects could not appeal to imperial appeal courts (*privilegium de non appellando*) and the imperial lower courts did not operate within them (*privilegium de non evocando*).[17]

Perhaps even more significant, and of enormous importance later, was the existence within Bohemia of distinct political and religious traditions. The right of the Bohemian Estates to elect their king was vigorously reasserted on every occasion. In 1471, for example, on the death of the Bohemian King George Podiebrady, they elected the Polish Jagiellonian, Ladislas II. Even when Ferdinand I of Habsburg gained the crown by inheritance in 1526, the Bohemian Estates insisted on their right to 'elect' him before he was actually crowned. This tradition of political independence was reinforced by the survival, in the face of both imperial and Church opposition and radical Taborite insurrection, of the mainstream Hussite or Utraquist religion. In Bohemia, therefore, alone among the imperial lands, a 'national' religion reinforced a 'national' ideology in the Estates. At the end of the sixteenth century, this constellation was to become the catalyst for the outbreak of the Thirty Years War.[18]

The circle is completed with the Habsburg lands proper in the south-east. With the exception of Hungary, which came by inheritance (albeit disputed) in 1526 with the death of the last Jagiellonian king of Bohemia and Hungary, the core **(p.24)** Habsburg lands all belonged to the Reich. The Archduchy of Austria, the Duchies of Styria, Carinthia, and Carniola, along with the Counties of the Tyrol and Görz (on the Adriatic), formed a more or less coherent bloc in the hands of the Habsburg dynasty. Like the other Habsburg lands, they enjoyed exemption and special privileges in the Reich. A further characteristic of this frontier was the way that Habsburg lands straddled it, with Hungary outside the Reich.[19] In northern Italy, the Prince-Bishoprics of Brixen and Trent abutted the Habsburg lands and their rulers were princes of the Reich until 1803, although they played no significant role in imperial politics.

From the 1440s onwards, the need of the dynasty first to secure this kingdom, and indeed the Austrian territories generally, from the Turks and then to defend it involved them, and by extension the Reich, in sporadic and often protracted armed conflict for more than two centuries. The ways in which this both helped to integrate the Reich and, in the long term, underlined the Habsburgs' sense of distinction and even difference from it, will form a central theme of this work. Above all, the fact that the Habsburgs were themselves based on the geographical periphery of the Reich had immense implications for the future development of the system as a whole. While they were undoubtedly the most powerful of all the German dynasties, hegemony perpetually eluded them. A similar power at the geographical centre of the Reich, or even firmly in the north, south, or west, would have created a very different empire, perhaps even a German 'national' monarchy similar to the French.

A survey of the Reich's major frontier areas conveys a sense of the many gradations of imperial rule at the periphery. Direct dynastic government by the Habsburgs in the south-east is matched by semi-autonomous forms in the Swiss cantons, and this in turn contrasts with the informal, but no less significant, non-membership of the lands of the Teutonic Knights (later Prussia) in the north-east. In each area, different dynastic and legal traditions gave rise to differing degrees of imperial jurisdiction, and in some cases distinctions between the jurisdiction of the emperor as Habsburg dynast and the Reich as a legal entity. Some of these areas (Italy, Switzerland, the Low Countries) were gradually falling away from the empire, contributing to a process of consolidation of what remained into a German Reich. In the case of Switzerland and the Low Countries, however, this was by no means obvious at the beginning of the sixteenth century, but the result of a long process over the next hundred years.

The variety on the periphery was matched by variety in the interior. This is perhaps best approached by turning first to the imperial constitution, before surveying the territorial map of the 'German' Reich itself. For the fragmented patchwork that existed there was itself the result of the way that the imperial framework had developed in the later Middle Ages. The culmination of that development in a series of reforms of the imperial system around 1500 placed the seal on the basic features of the territorial map and thus laid the foundations for the further evolution of the Reich in the early modern period.

(p.25) 2 The Reich as a Polity

The major difficulty encountered in describing the imperial constitution before 1500 is the fact that it had no systematic written form. Nor was there a clearly defined set of imperial institutions with a continuous history, let alone demonstrable efficacy. The arrangements that prevailed in the fifteenth century had evolved over a period of several centuries, and historians are divided over key aspects of the process. There is debate over whether the privileges granted to the princes were a sign of weakness in the rule of the Hohenstaufen monarchs and their successors. There is disagreement over the extent of imperial government at any stage from the eleventh to the fifteenth centuries, and finally there is disagreement over the motivation and nature of the key reforms carried out in 1495 and 1500. Some argue that the reforms represented a return to a past state, however idealized. Others maintain that they represented a radical new departure, though there is also dispute over the extent to which what emerged actually reflected the aims of the reformers, or whether in reality the outcome was a messy and contradictory compromise. The conclusions reached at the Reichstag in 1495 and 1500 are clearly of prime significance for the early modern period, since they were the point to which all subsequent attempts to define or redefine the imperial constitution referred back. These reforms themselves, however, in a sense articulated developments that had taken place over the previous two or three centuries.

Several things seem certain, whether or not one regards the history of the post-Hohenstaufen monarchy as one of decline. The first is the persistence of Reich as an elective monarchy and the failure of a single dominant dynasty to emerge. Second, the preoccupation of successive emperors with matters outside the German lands, especially in Italy, and the fact that some had courts on the periphery of the German lands, especially in the east, further reinforced the elective principle and progressively empowered the princes. In order to secure money and manpower for their wars, or simply to establish some kind of power base north of the Alps, successive emperors gave away more and more privileges. Consequently, in generation after generation, royal officials were able to establish themselves as hereditary lords in the feudal nexus. By 1400, in fact, virtually all the regalia and meaningful rights of sovereignty had been lost.

The position of the German princes had strengthened progressively since the reign of Frederick Barbarossa (1152–90). By the early thirteenth century, significant privileges had been granted and confirmed in widely accepted laws such as the *statutum in favorem principum* of 1231–2, which recognized the jurisdiction of the **(p.26)** princes over their subjects.[1] Furthermore, the conflict between emperor and papacy in the investiture controversy resulted in the emperor giving up any political and legal rights over the Church. The Concordat of Worms 1122 recognized the free election of bishops and abbots by chapters and monastic communities. The transformation of a formal royal investiture, in which the king handed over crozier and ring into an act of enfeoffment, brought the Church into the feudal system of the Reich. The implications of this compromise were subsequently elaborated. In 1220 the monarchy gave up any claim to ecclesiastical lands on the death of a bishop or abbot, and these dignitaries were recognized as princes of the empire (*confoederatio cum principibus ecclesiasticis*).[2]

In a parallel process, the Imperial and Free Cities also evolved as a distinct corporate group, though their evolution into a constitutional entity in the Reich was slower than that of the secular and ecclesiastical princes.[3] During the thirteenth century Imperial Cities were promoted by the emperor for fiscal reasons. Initially administered by a royal steward, they increasingly gained independence as city councils assumed stewardship, as well as duties of administration and justice. The Free Cities were those such as Augsburg, Cologne, and Strassburg, originally subject to the authority of a bishop.[4] By the late fifteenth century, the distinction between Imperial and Free Cities had almost disappeared, with many including both terms in their title, and some seventy cities were included in this Estate of the Reich (*Reichsstand*). Their corporate identity was strengthened by the formation of leagues such as the Rhenish League of 1254, or the later Swabian League of 1488. From 1471 there were also increasingly regular meetings of representatives of all the Free and Imperial Cities, and from 1489 they formed a distinct college or chamber in the Reichstag, though until 1648 only had a consultative role (*votum consultativum*), rather than an active vote.[5]

The steady evolution of the Imperial Estates (*Reichsstände*) was accompanied by a more erratic development of institutional structures. The most important was the emergence in the thirteenth century of a clearly defined group of Electors from the group of secular and ecclesiastical princes.[6] This group was composed of the Archchancellor and the two Vice-Archchancellors (the Archbishops of Mainz, Trier, and Cologne), and the secular incumbents of the (albeit purely honorary in the early modern period) major imperial court offices (high steward, marshall, treasurer, cup-bearer): the Count Palatine, the Duke of Saxony, the Margrave of Brandenburg, and (after some dispute with the Dukes of Bavaria in 1257–89) the Kings of Bohemia. Their role as Electors was perpetuated and reinforced by the fact that no strong ruling dynasty emerged and by the conflict between emperors and papacy. The fact that they themselves contributed to the chaotic conditions in the **(p.27)** thirteenth century by double elections and the periodic support by some of their number for 'anti-kings' merely enhanced their position further.[7] They became, in fact, more than just Electors: they developed into a council of regency, with aspirations to guide and, in important ways, constrain the freedom of the monarchs.[8]

The final confirmation of the Electors' status came with the Golden Bull of 1356, which illustrates perfectly the complexity of many imperial decrees or concessions.[9] Often viewed as a triumph of the princes, it was in fact initiated by Charles IV as an attempt to secure the continued tenure of the imperial throne for his own successors by confirming the composition of an electoral body favourable to him and by granting its members privileges. The concession of the Bull failed to achieve the establishment of the Luxemburg dynasty. It did, however, both formalize the electoral procedure and the role of the Electors in the empire generally. As well as specifying in detail the procedure for an election and the principle of majority decision, it confirmed the role of the Electors as advisers to the emperor and envisaged regular annual meetings of the Electors for this purpose. In addition, the Counts Palatine and Dukes of Saxony were designated *Reichsvikare*, imperial vicars or administrators in the monarch's absence or during an interregnum. At the same time, the Bull laid down that the lands of an Elector should be

indivisible and, in the case of secular Electors, subject to primogeniture.[10]

The regular annual meetings of Electors envisaged by the Golden Bull to discuss issues of internal peace and imperial reform did not in fact take place. However, these provisions of the Bull served to reinforce the oligarchic nature of the Reich: sharing power meant sharing responsibility. In particular, the Bull seemed to imply the recognition that the periodic gatherings of princes (Hoftage, later Reichstage) did not fulfil these functions adequately. Indeed, until the late fifteenth century, these gatherings were both irregular and of varying composition. Only selected princes were invited to discuss current issues, with the result that many of those who did not attend either ignored or blatantly refused to recognize resulting decisions or decrees.[11]

Similar uncertainties and obstacles seem to have attended efforts to develop other central institutions in the thirteenth and fourteenth centuries. A royal chancery existed more or less continuously from the reign of Rudolf of Habsburg (1273–91), but its actions, beyond merely issuing royal confirmations in return for relatively small amounts of money, were rarely significant. Equally, royal courts of justice such as the Hofgericht at Rottweil near Stuttgart seem to have been only intermittently effective. The continued existence of such institutions undoubtedly fostered a tradition of legally trained officialdom, but as instruments of government they **(p.28)** remained lame.[12] Symptomatic of the absence of royal authority was the emergence of organizations such as the freelance courts in Westphalia, the so-called Veme or Feme. This secretive organization flourished between about 1300 and 1450 and imposed a kind of rough and ready justice, sometimes in areas far outside their native Westphalia, in the absence of any effective royal authority. The 'Feme counts' were essentially self-appointed, though they enjoyed the protection of the Archbishop of Cologne and the occasional approval of the emperor. They were able to operate because their justice was backed up by the kind of enforcement that imperial institutions lacked.[13]

The fact that no central government emerged did not, however, mean that the sense of the Reich as a polity was lost or that the Reich withered away to become a mere idea, as traditional historians often argued. Indeed, by 1600, a new structure had clearly developed. This gave a clearer definition both to the relationship between emperor and Reich and to the broad nature and purpose of the Reich itself. Though much of it developed during the course of the sixteenth century itself, the new system was fundamentally the result of the reform movement that emerged in the early fifteenth century and bore fruit in the reforming Reichstag of Worms in 1495 and Augsburg in 1500. Historians have disagreed in recent decades over the origins of these reforms. Some argue that they represented a failed attempt to create for the first time a genuine imperial state. Others see them as an attempt to return to the past, regardless of whether that was an idealized past that corresponded little to reality. Some now question the notion of continuous reform traditions in the fifteenth century. Indeed, Peter Moraw has argued that the very term 'reform' should be abandoned, since it disguises the state of flux and the openness of potential outcomes that characterized the process.[14]

This would seem to be an excessive response to the uncertainties inherent in a process that many contemporaries clearly understood as one of reform. The practical meaning of the term evolved over the course of the fifteenth century. The implementation of practical initiatives was sporadic and shaped at every juncture by new variations on old problems. The ultimate outcome in 1495–1500 was not a decisive conclusion, but rather a series of compromises that were not necessarily intended as permanent solutions. There is, however, a continuity of theme and content to the reforming ideas which remains fundamental to any understanding of the early modern Reich.

The vision of a wide-ranging reform and renewal arose out of a number of factors, both internal and external, which, from the late fourteenth century, exacerbated the endemic instability of the Reich. The first was internal disorder and conflict. The dramatic depopulation that followed the Black Death in some areas (up to 40–50 per cent in Hessen and Silesia) had economic ramifications which generated severe social tensions. The fact that towns prospered did nothing **(p.29)** to ameliorate conditions elsewhere. Indeed, it led to new friction between princes and towns. Large parts of the German lands were rendered insecure by the regular, sporadic feuds and armed conflicts escalating to minor wars. The only law that seemed to count in many areas was the *Faustrecht*—the law of the fist. Such conditions scarcely improved when prosperity began to return after about 1450, since a new threat then arose, particularly in western areas, of roaming mercenary armies made redundant by the end of the Hundred Years War in 1453.

There were a variety of regional responses to this insecurity. Leagues of princes, knights, or towns were formed sporadically to combat the disorder that posed an existential threat to many small territories and towns and impeded trade and commerce generally. Some of these received support from emperors perennially ambitious to exploit any opportunity to establish a basis for support within the Reich. Few, however, were effective for any length of time. Even those that survived, such as the Swabian League of 1488, which endured until 1534, could not hope to solve the wider problem. The failure of the Swabian League in this regard is all the more significant for the fact that its foundation was actively supported by Frederick III in an attempt to contain Bavarian ambitions by uniting the south-western cities with the imperial crown. While periodically it acted to great effect, notably in dispossessing Duke Ulrich of Württemberg in 1519 and in mobilizing against the rebellious peasantry in 1525, the alliance between the League and the crown was largely an uneasy one. Despite strenuous efforts, Maximilian I was unable to build upon it effectively. The subsequent efforts of Charles V to do so were undermined by the inability of the League to survive the religious divisions that opened up in the 1520s and which ultimately destroyed it in 1534. Again and again, therefore, the question arose of how to promote a general peace or *Landfriede* within the Reich.

Instability and turmoil within the Reich were exacerbated by a number of external threats to its integrity. The most significant were the Hussite Wars of 1419–36 and the threat posed by the Turkish Empire after the fall of Constantinople in 1453. Both challenges generated ideas and plans for crusades to defend the Reich against heathen invasion. Both ultimately contributed to the emergence of the common cause between

emperor and Estates, stimulating both to seek ways of organizing, and above all paying for, concerted action. After the 1470s, the growing conflict between the Habsburgs and Burgundy/France added a further dimension of external threat. Indeed, the reforms of the Reichstag of 1495 crystallized around the issue of the extent to which the Imperial Estates were willing to participate in a conflict which many regarded as a matter for the Habsburg dynasty, rather than the 'German nation'. In that sense, reform as a response to imperial requests for money contributed to the emergence of a distinct 'national' identity of the Reich.

The first serious, wide-ranging proposals for imperial reform arose in the context of the Church Councils of Constance (1414–18) and Basle (1431–7). The main aim of the Council of Constance was to overcome the schism in the Church, to deal with the Hussite heretics, and to promote the cause of Church reform generally. Yet these issues were clearly linked with the problem of the reform of the Reich in the mind of Emperor Sigismund, the guiding force behind the council and the person **(p.30)** responsible for it being held on German soil. He was a ruler acutely aware of the insecurity of his empire and ambitious to find some lasting solution.

The nature of Sigismund's ambitions to reassert imperial claims on a broad basis is perhaps symbolically revealed in his introduction, in 1422, of the double-headed eagle of Byzantium as the imperial symbol.[15] Reform proposals made at Constance in 1417 by the Palatinate lawyer Job Vener, seem to have inspired the implementation of the *Reichsmatrikel* of 1422, which specified the number of armed men each Imperial Estate should provide for a crusade against the Hussites.[16] At the Reichstag of Frankfurt am Main in 1427, the first general war tax was introduced (*Gemeiner Pfennig*). These taxes were more significant as precedents than as sources of revenue: there was no treasury and only a single treasurer.[17] Above all, they must be seen as part of an attempt by Sigismund to establish imperial government on a secure footing. Other measures included attempts to ally himself with leagues of cities and knights, to align himself with a short-lived reform-minded league of Electors in 1424, and bribes made to nobles such as the Zollern Burgrave of Nuremberg (enfeoffed with Brandenburg in 1417) and the Wettin Margrave of Meissen (enfeoffed with the Duchy of Saxony in 1423).

Sigismund's initiatives of the 1420s produced no lasting solution. The idea of reform, however, was reiterated in the context of the Council of Basle by Nicholas of Cusa. His *De concordantia catholica* ('On Universal Harmony') of 1433–4 once more elaborated plans for the parallel reform of Roman Church and German Reich. Fundamental to his scheme for the Reich was the institution of annual diets and the promotion of general peace. Nicholas's proposals were formulated in the context of the Church Council, and had little impact after its end in 1437.[18] The link between Church reform and imperial reform surfaced again in the anonymous *Reformatio Sigismundi* ('Reformation of the Emperor Sigismund') of 1439, which demanded change for the sake of simple folk as well as princes. But already in the 1430s the wider question of the universal Christian Church was gradually diminishing in significance compared with the cause of imperial reform. More and more, specifically German issues became exclusive: internal peace, effective

administration, a viable revenue system, stable coinage, and the effective organization of a military force for the defence of the Reich.

Repeatedly, proposals by Electors and princes on the one hand, and the Emperors Sigismund and then Frederick III on the other, came to nothing. A general public peace of 1442 (*Landfriedensordnung*) failed to hold. Proposals by the Elector of Trier (1453–4) or by the king of Bohemia (1464) to create a central executive power both failed.[19] A military tax voted at the 'Christian Diet' ('Christentag') of **(p.31)** Regensburg in 1471 in response to Frederick III's appeal for a crusade against the Turks failed to galvanize the Reich once the Reichstag had dissolved, still less to launch a general crusade. Time and again, proposals were quashed, agreements rendered ineffective by the tension between emperor and princes, and by disagreements between reforming Electors and princes and their sceptical peers.

Nonetheless, the Reichstag of 1471 marked a change in attitude. For one thing, it brought Frederick III back into the Reich, from where he had been absent since 1444.[20] It also concentrated his mind on the idea of a marriage between his son Maximilian and the daughter and heir of Charles of Burgundy, discussed in 1473 and finally achieved in 1477. This further reinforced the emperor's interest in western affairs, and laid the foundations for the conflict with France that was to dominate the politics of the 1490s. At a time when the imperial position was under threat in the east through the ascendancy of Matthias Corvinus in Hungary, the creation of a new power base in the west was of particular importance. Equally significant, however, was the fact that this western involvement rapidly generated new problems. Between the first negotiations with Charles the Bold in Trier in 1473 and Maximilian's marriage with Mary of Burgundy in 1477, Charles himself generated a war crisis when he laid siege to Neuss (on the Rhine north of Cologne) in 1475. His death shortly before the marriage in 1477, during a campaign against the Swiss cantons, brought the Burgundian inheritance into the hands of the Habsburg dynasty. His intervention in the Reich also contributed decisively to the renewal of ideas of reform.

For both the Habsburgs and the Imperial Estates, the events of the 1470s underlined the need to reorganize the military capability of the Reich. Maximilian's marriage immediately plunged him into conflict, first with France over Artois and the Duchy of Burgundy and then with the provinces of the Low Countries. At the same time, he became involved in further conflict with Matthias Corvinus in the east. The reconquest of Vienna in 1490, after its loss in 1485, and of the Erblande thereafter raised the prospect once more of re-establishing a power base in the south-east. The inheritance of the Tyrol and the Vorlande in 1489 and the Peace of Pressburg, which in 1491 secured the right to inherit the land of Corvinus's Jagiellonian successors in Hungary, completed this process. Then in 1495 the French attack on Italy, where Maximilian's interests were enhanced by the claims of his second wife, Bianca Maria Sforza of Milan, created a new front. Maximilian's response was twofold. First, he planned an alliance with Spain by means of the marriage of his children Philipp and Margarethe to the infantas Juana and Juan. Second, he turned to the Reich for military assistance.

From the point of view of the Imperial Estates, these developments generated rather different imperatives.[21] On the one hand, they were willing to concur in the election of Maximilian as King of the Romans and therefore as successor to his father in 1486. That then led logically to Maximilian's succession as sole ruler in 1493, though he only became emperor in 1508. On the other hand, the Estates **(p.32)** gradually developed a distinct agenda based on their experiences in the 1470s. The threat of the Turks in the early 1470s and Charles the Bold's attack on Neuss in 1475 had underlined the need to find a means of protecting the Reich effectively from external attack. This clearly required money, which in turn required reform and reorganization of the system. However, it did not necessarily entail a complete identification with what were increasingly perceived to be the largely dynastic interests of the Habsburgs. The repeated requests for money now made by Frederick III and especially Maximilian sharpened their awareness of the issues. The Estates now reacted increasingly both to external threats and to Habsburg responses to those threats.

The reforms thus had two driving forces: on the one hand the emperors, on the other the Reichstag.[22] Indeed, it was during this period that the Reichstag for the first time gained a sense of its identity as a constitutional organ of a specifically German Reich; the very fact that the term 'Reichstag' now took over from the original term 'Hoftag' reflected the growing independence of that body from the imperial court and the person of the king.[23] The gatherings retained many of their old functions as meetings of the emperor's vassals at which fiefdoms were renewed or granted, and as extended family reunions at which marriages were negotiated or celebrated.[24] Yet the political-constitutional dimension came increasingly to the fore.

The man who coordinated the efforts of the Estates was the Archbishop of Mainz, Berthold von Henneberg. In 1486 he gained control of the imperial chancellery in return for his support of Maximilian's election as King of the Romans. With that he was able to transform the operation of the Reichstag. For example, it now began to conduct its business in curias or colleges: the College of Electors, the College of Princes, and, from 1489, a third College of Imperial Cities. A complex procedure developed of advance consultations, proposals, and discussions, both within the colleges and between the Reichstag as a whole and the emperor, along with counterproposals, votes, and formal decisions (*Reichsschluss*), which then were promulgated at the end of a Reichstag in an imperial decree (*Reichsabschied*) and immediately became law.[25]

The formalization of procedure, which remained valid until the end of the Reich in 1806, was the essential precondition for the reforms achieved at the Reichstag of Worms (1495) and Augsburg (1500). At Worms, the princes were unwilling to accede to Maximilian's request for money to finance a campaign against the French in Italy. They regarded this as primarily a dynastic matter. Yet both sides recognized the need for reform. There was, for example, ready agreement on the publication of a 'perpetual public peace' (*Ewiger Landfriede*), which outlawed feuds. On the question of an imperial court of justice, Henneberg and the Estates were able to ensure that the Reichskammergericht (Imperial Chamber Court) was set **(p.33)** up independently of the royal court. While the

emperor had the right to appoint the presiding judge of the court (the *Kammerrichter*), the Estates gained the right to nominate the ordinary judges, of whom half were to be trained lawyers (non-noble doctors of canon and Roman laws) and half nobles. Above all, the extent to which the court assumed functions that were previously royal prerogatives became clear in the definition of its remit: to maintain the public peace and to adjudicate in disputes between the emperor's vassals.[26]

The early history of the court was characterized by disputes between emperor and Estates over the rights of appointment; in 1498 Maximilian attempted to diminish the court's influence by establishing a rival royal court (the Reichshofrat, or royal aulic council).[27] But the Reichskammergericht was at first able to maintain its position as the prime institutional court of the Reich. Furthermore, by stipulating that local or regional laws would only be regarded as valid in so far as they did not conflict with Roman law, the Reichskammergericht promoted the more widespread reception of Roman law, which rapidly became the basis for the legal system of the Reich as a whole, as well as providing a model for the territories and cities. Within a few decades, a legal training was a prerequisite even for the noble judges, which lent the court as a whole a sense of solidarity and a uniformity of outlook that further bolstered its independent position.

Two further measures agreed in 1495 served in different ways to give definition to the Reich. First, discussion of how the public peace was to be implemented resulted in a compromise formula, the so-called *Handhabung des Friedens und Rechts* (administration of peace and justice). This reminded the emperor of his duties with regard to the Reich and in particular of his obligation to call a Reichstag annually. In itself this formula perhaps merely seemed to state the obvious. Yet it represented a significant success for the Estates. They asserted their position by putting it forward, and their constitutional position as, collectively, partners if not equals of the emperor was enshrined in the diet. Above all, it paved the way for the more formal agreements between emperor and Estates that, from 1519, were negotiated before imperial elections: the *Wahlkapitulation* or election agreement, which elaborated the promises made by an emperor-elect. The effect of this formula for the 'implementation of peace and law' was therefore to define the limits of imperial power and to specify its functions within the Reich: the emperor's position was to be more that of a referee in the legal system than that of a sovereign ruler.

The decisions that were reached concerning taxation also helped determine the kind of polity the Reich would become. The attempt to introduce a general tax, the *Gemeiner Pfennig*, to finance both the Reichskammergericht and the imperial army, illustrated the limitations of the Reich. Designed as a mixture of income, wealth and poll tax, and agreed for four years in the first instance, the tax proved unworkable. The very principle of such a tax, agreed at the Reichstag by princes and lords, conflicted in many instances with the right of their own local Estates to participate in an agreement on taxes. Some major princes even regarded the very **(p.34)** idea of raising a tax on behalf of the Reich as demeaning to their position. Everywhere, the task of collecting the money proved difficult in view of the inadequate data for the assessment of liability, the lack of tax-collecting

agencies, and the incompetence of the parochial organizations of the Church. Relatively few princes and magistrates, including Maximilian himself in his own lands, in fact made much effort to collect the tax, and it was abandoned.

Further negotiations in 1507 resulted in two forms of imperial taxation based on a revision of the traditional *Matrikel*, a list of all Imperial Estates (i.e. entities represented in the Reichstag), together with an assessment of what proportion of a general levy each might contribute.[28] The so-called *Kammerzieler* for the support of the Reichskammergericht became a regular tax.[29] No such solution was found for military expenditure. These costs continued to be covered by specific levies, negotiated afresh in respect of each threat to the Reich, and calculated on the traditional basis. The *Matrikel* were used to calculate the equivalent cost of a quota of armed men for periods of one month (the so-called *Römermonate*, or 'Roman months' which referred to the medieval origins of the levy to support campaigns in Italy). The implications of the procedure for the government of the territories will be examined in relation to levies for the Turkish campaigns of the 1570s and 1580s.[30] The significance of this outcome for the constitutional structure of the Reich was, however, clear much earlier.

Even before the long-term implications of the agreements of 1495 became evident, it was apparent that the immediate problems had not been solved. Maximilian still needed the military support of the Reich. Above all, while an imperial court of law had been established, there was no mechanism for enforcing its decisions. Public peace remained a hopeless ideal as long as there was no way of policing it. Yet the question of executive powers once more raised the whole question of the balance between emperor and Estates.

In 1495, Maximilian had successfully resisted the creation of anything like a central executive. By 1500, his need for military assistance was such that he was obliged to acquiesce in the proposal for a Reichsregiment (central imperial government). This was to be a council of twenty members, including the seven Electors and others appointed by the Estates presided over by the emperor or his representative.[31] Though it was promptly established in Nuremberg, the council soon failed. It had no income and no real power. The emperor resented it from the start as a limitation of his powers and turned radically against it when Henneberg began to enter into talks with representatives from France.[32] Even the Imperial Estates failed to support their own creation, many of them seeing it as a potential threat to their own position. It was dissolved in 1502 and never revived in the same form: the Reichsregiment of 1521–31 was more of a council of regency in the **(p.35)** absence of Charles V. Indeed, when it was moved from Nuremberg to Esslingen in 1524 (near the court at Stuttgart, which was under Habsburg control after the dispossession of Duke Ulrich of Württemberg in 1519 until he was reinstated in 1534), the second Reichsregiment became for all the world to see, and hence to distrust more than ever, an instrument of Habsburg policy, rather than the central executive envisaged by Henneberg and the reformers.[33]

More indicative again of the idiosyncratic system of checks and balances that was the constitutional legacy of the German Middle Ages was the mechanism introduced in 1500

for the regional administration of imperial justice and organization of military support. The institution of six Kreise, or regional associations of territories, was based on an idea that dated back to 1383 and was originally intended as a way of electing the six representatives of the Estates in the Reichsregiment.[34] But once that body failed, the Kreise were all that remained. In 1507, the Kreise were made responsible for the nomination of the assessors at the Reichkammergericht. In 1512, their number was increased to include the lands of those who were formerly directly represented in the Reichsregiment. These were the lands of the Habsburgs themselves (in the Austrian and Burgundian Kreise) and those of the Electors (the ecclesiastical Electors in the Kurrheinischer Kreis or 'electoral Kreis of the Rhine'; the inclusion of Saxony and Brandenburg led to the division of the Saxon Kreis into Lower and Upper Saxon regions).

What may at first sight appear to be yet another saga of disintegration was in fact quite the opposite. By steady degrees, the Kreise developed regular internal, formalized constitutional arrangements and administrations. The *Reichsexekutionsordnung* (law regulating the implementation of justice in the Reich) agreed in 1555 was a particularly important milestone in this process. Each Kreis was headed jointly by a *Direktor* (the senior ecclesiastical prince) and a *kreisausschreibender Fürst* (a prominent secular prince who was also the military commander for the Kreise) who oversaw the chancellery, and summoned the Kreistag or Kreis assembly, modelled on the Reichstag, and presided over it. As they evolved over time, these Kreise exercised executive and integrative functions that were crucial to the Reich. They organized military contingents and saw to it that the *Matrikel* taxes raised by their members flowed to the emperor. They were charged with the implementation of imperial decrees and with maintaining peace within the region, either by mediating in disputes or by direct military intervention. Later, they came to be responsible for roads, prisons, and workhouses, for combating beggars and robber bands, and for maintaining the purity of the coinage.

Not all of these functions were implemented immediately: military organization and maintenance of the public peace were fundamental initially; the rest came later. Nor did the Kreise by any means always function in the regular manner that might be suggested by a schematic summary of their structure and duties. Some indeed never really functioned at all; and in the long term the most effective Kreise were those in Swabia and Franconia, regions characterized by extreme territorial **(p.36)** fragmentation and the absence of one or more dominant territorial princes. Furthermore, some Kreise were periodically paralysed by disputes over prerogatives, precedence, and procedure similar to those that occasionally lamed the Reichstag, as well as virtually every other institution of the Reich.

The very existence of the Kreise, however, provided an important infrastructure of regional networks in the Reich, a relatively formal set of associations. They aided communication both between their individual members and between the regions and the emperor. They added a further complex consultative machinery to that of the Reichstag, in which participation went hand in hand with the right to be consulted and the right to veto measures deemed contrary to the interests of individual Estates. They contributed

to the emergence and acceptance of what might be described as the 'legal culture' of the Reich: the norms and conventions on which its legal system was founded. Not least, the institution of Kreise created a new elite group of princes within the Reich, the *kreisausschreibende Fürsten*, who joined the Electors as a group without whose consent and cooperation the emperor, and indeed the Reich itself, could not function.[35]

Many of the implications of the negotiations of 1495 and 1500 became clear only gradually. A number of the detailed arrangements for the functioning of the Reichskammergericht or the Kreise were evolved during the course of the Reichstag meetings between 1500 and the early 1520s. The wider significance of the outcome of the negotiations as a whole emerged over a much longer period as the system responded to the challenge of the Reformation and the need to find a legal-political formula to overcome religious division in the 1550s. It was only in the later sixteenth century that, following further changes and adjustments, legal and political commentators began to construct a historical narrative of the genesis of the modern Reich in the reforming diets of 1495 and 1500.[36] Nonetheless, some fundamental positions crystallized around 1500, and were even evident at the time. However, in order not to overestimate the degree of clarity achieved around 1500 it is perhaps worth setting out the main features of the situation in that year.

The reform movement, which had its origins in schemes for the parallel reform of Roman Church and Roman Reich, ended by becoming focused more exclusively on the German Reich. The idea of Church reform had not died. Indeed, Henneberg himself was very much a successor of Nicholas of Cusa. He maintained a fervent belief in the unity of Church and Reich, and consequently in the need for a new concordat and the remedy of abuses in the Church as part and parcel of the reform of the Reich.[37]

Maximilian too, though in a rather different way, aspired to maintain the union of Roman Church and Roman Reich. His political dispute with the papacy resulted in him being the first emperor not crowned by the pope in Rome and this obliged him to assume the title *Erwählter Römischer Kaiser* (Elected Roman Emperor). He did not, however, abandon his inherited claims to dominion in Rome and **(p.37)** protectorate over the Church. In 1511, he even toyed with the idea of having himself elected as pope. However, the Estates as a whole increasingly equated the Reich with the 'German nation', that is, the Reich north of the Alps. They, too, held on to the idea of Church reform: from 1456 the *Gravamina nationis Germanicae*, a catalogue of German grievances against the Roman Church, were reiterated and extended at every diet. They are examined in greater detail later in the discussion of the origins of the Reformation.[38] Their significance in the present context, however, is that they provide further evidence for the focus of the Estates on the Reich of the 'German nation'.

For the main issue here was the political one of the emperor's authority and power in the Reich. That in turn underlines a significant divergence in views of the Reich and its *raison d'être* between emperor and Estates. Both were bound together in a symbiotic relationship. Both shared common interests, especially in the need to defend the Reich against the Turks and other eventual enemies. Yet while there was agreement and

solidarity on the Turkish question, emperor and Estates differed on the definition of other enemies.

Maximilian's view of the Reich was shaped by his dynastic inheritance. He inherited from his father a grand vision of the resurgence of imperial power based both on the complex of Habsburg lands and inheritance possibilities in the east (from the Adriatic up through Austria to Bohemia and Silesia and including Hungary) and on a similar complex in the west (from the Sundgau up through the Franche Comté to the Low Countries). This imperial vision still included Italy, and the traditional relationship between Reich and papacy, both as a religious ideological symbol and as a sphere of political influence. Frederick III had laid the foundations but, beyond simply surviving as monarch for fifty-three years, had done little to construct a reality out of the vision. His later reputation as the 'arch-sleeping cap of the Holy Roman Empire' ('*des Hl. Röm. Reiches Erzschlafmütze*') is unjust.[39] Yet the contrast with his son and heir could hardly be more striking.[40] From the 1480s onwards Maximilian strove tirelessly to assert his rights and realize every ounce of potential on all fronts. The result, inevitably, was perennial military conflict: against France, against Venice, and even against the papacy, in addition to protracted struggles in Bohemia and Hungary, and with the Turks.

The whole enterprise was accompanied at every stage by brilliant propaganda. Leading humanists such as Conrad Celtis were enlisted to extol the glory of the Habsburg dynasty.[41] Yet the urgent need for money and military support brought conflict with the core of that empire, the German Reich. If Frederick III and Maximilian I elaborated an ideology of empire, the Imperial Estates in the German lands had, since the 1470s at the latest, developed their own distinct perspective. They viewed Habsburg dynastic ambitions with reserve, if not outright suspicion. Above all, they developed a view of the Reich as a defensive alliance.[42] In that **(p.38)** view, Italy or Habsburg entanglements with Burgundy and France were purely dynastic concerns, rather than matters for the 'German' Reich. Hence they denied Maximilian the full extent of the help that he requested against France in the 1490s and refused point blank to support him in his conflict with Venice between 1509 and 1517. As a result, Maximilian was increasingly forced to rely on his own resources. The reform and reorganization of his Austrian territories was forced upon him by his inability to mobilize the Reich in his service. The resources that Maximilian could not raise as emperor, he was obliged to find as *Landesherr* or territorial prince. The long-term implications were profound. The dualism of Austrian lands or *Hausmacht* and the German empire created a perpetual tension between Austria and 'Germany'.

That still left the Turks, of course, and that element of the conflict with Burgundy/France which potentially threatened the western areas of the Reich. This could not have been foreseen in 1500, however. Indeed, the threat posed by the Turks and Burgundy/France then created a perfectly viable community of interests. Maximilian still needed the support of the Estates, however limited and accompanied by whatever conditions. The Estates for their part still needed the emperor. No other German prince could supply his role.

Both emperor and Estates were therefore equally interested in the military regeneration of the Reich. The argument revolved fundamentally around the question of whose authority would be asserted in the process. In the event, neither side won. The emperor failed to push through an imperial right to tax and failed at the same time to transform the Reich into a monarchy in any meaningful sense. The Estates, for their part, failed to achieve a government in the form of the Reichsregiment, which would formally limit the emperor's powers and establish their own dominion. Henneberg and his allies failed entirely in their attempts to pursue a Reich foreign policy independently of the emperor. Symbolic of that failure was that Henneberg was obliged in 1503 to hand back the seal of the Reich which he had held as Imperial Archchancellor. Significantly, too, Henneberg had also been unable to rally the German princes. Collectively they mistrusted a strong corporate regime composed of members they themselves nominated, as much as they mistrusted the ambitions of a strong emperor.

What remained in the stalemate between emperor and Estates was a series of principles on which the imperial constitution rested until the end: the cooperative decision-making process of the Reichstag with its implicit system of checks and balances; the idea of the Reich as a defensive alliance of the Estates against external aggression; and the Reich as a *Rechts- und Friedensordnung*, a legal system for the maintenance of public peace. These were the minimal principles to which the princes and magistrates of the Reich reverted again and again in the next few centuries. These were the core principles on which all subsequent agreements, treaties, and institutions were founded. Those which conformed to them prospered; those which did not soon atrophied. They were, moreover, principles whose implications bound the Habsburg emperors as much as they did princes and magistrates: no attempt to break out of them was successful before Napoleon forced the dissolution of the Reich in 1806.

(p.39)   This notion of a polity based on fundamental principles over three centuries must, however, be qualified in two ways. First, the Reich was not a static entity. The institutional and legal framework evolved progressively throughout the period. In particular, it gained new contours in the Peace of Augsburg 1555 and the Peace of Westphalia in 1648. Those agreements were consciously formulated on the basis of the principles established in 1495, yet their eventual emergence could not be taken for granted from the perspective of around 1500. Second, even in the form that it then assumed, the imperial system did not function uniformly over the whole extent of the German lands. By no means all the Imperial Estates, for example, participated in the Reichstag. Not every vassal of the emperor, even in the German lands, participated in the emerging political system from the start. In the period around 1500 what might be described as the political nation was largely confined to the south, to the old Hohenstaufen core territories south of the Main and the Saale, to the areas between Alsace in the west and the Austrian duchies in the east, where the Habsburgs had extended their territories and around them, their clientele. The areas to the north, especially the north-west, only gradually became integrated during the course of the late sixteenth century. It was only after 1648 that one could speak of a Reich that functioned from the Alps to the North Sea and the Baltic.[43]

(p.40) 3 Fragmented Territories

The reforms of 1495 and 1500 in a sense saved the Reich from disintegration, while at the same time revealing the limits of its integration. The construction of a central government, whether under the control of the emperor or of the Estates, was thwarted by powerful centrifugal tendencies. Nationalist historians of the nineteenth and early twentieth centuries characterized this process as the triumph of the princes, the emergence of the territorial state which hindered the consolidation of the nation state in the fifteenth and sixteenth centuries. This view distorts the reality of the Reich and underestimates the integrative potential inherent in its system. It also distorts the reality of the territories and overestimates the degree of concentration they had achieved by about 1500.

While it is possible to speak of progressive stabilization in some territories during the later fifteenth century, it is difficult to speak in any meaningful sense of a generalized process of 'state-building' or 'state formation'. If it is convenient to think of the Reich as a kind of federation, it is also misleading and technically inaccurate. Nor were the territories that belonged to the Reich a collection of closed or coherent units. For one thing they were not sovereign, and *Landeshoheit* or *Landesherrschaft* was subject to the higher authority of the emperor and the Reich.[1] Even considered as in some way subordinate entities, however, they were far from being states in the making. On the other hand, in responding to the same problems of lawlessness and insecurity that motivated the reform of the Reich, some at least of the territories achieved, by about 1500, a greater concentration of authority and power.

Something of the complexity of the territorial arrangements within the Reich was indicated earlier in the discussion of the frontier areas. An understanding of them is crucial to any understanding of early modern German history. Yet the extraordinary variety of different circumstances and constellations that prevailed across the German lands makes it difficult even to present a broad overview.[2] Indeed, the picture was subject to such constant flux and change that even the most detailed maps can only account for the situation in a given year, and are rarely able to reproduce in any meaningful visual way the mosaic of splintered territories and overlapping jurisdictions that prevailed over large areas. The fact that **(p.41)** primogeniture laws gained currency only gradually from the late fifteenth century adds to the problem. The history of many territories is consequently a history of perpetual partition, reunion, and further partition as the fertility of the dynasty is reflected in the division or concentration of its lands.[3] A close view of many areas would have revealed something akin to a mass of amoebae, constantly changing shape through inheritance, marriage, land purchase, sale or, more remarkably still, through the widespread practice of pawning land or jurisdictions, a device used by all from the emperor downwards, either to raise money or to extend influence, depending on which side of the deal one found oneself.[4]

The sheer number of quasi-independent units renders even a simple enumeration quite problematic. However, a rough approximation of numbers, size, and variety of conditions is essential. For only a sense of the variety of its constituent parts will provide an accurate perspective on both the degree of 'state formation' that characterized a

minority of territories and the role that the Reich played as a polity that protected all of them.

The prime subordinate units of the Reich were clearly those defined as Imperial Estates: those whose lords or representatives were entitled to a seat and a vote in the Reichstag. Their numbers fluctuated over the fifteenth and sixteenth centuries, even after a supposedly definitive list was drawn up in 1521.[5] Some disappeared as dynasties died out. Others were added as they were elevated by the emperor, whose prerogative this remained until the end of the Reich. For the late fifteenth century the following rough numbers emerge. At the top of the list stood the seven Electors. In addition, there were some twenty-five major secular principalities, together with roughly ninety archbishoprics, bishoprics, and abbeys. The latter were of lesser status than the bishoprics and more or less on the level of the next gradation of higher nobility, the group of approximately one hundred counts.

The final category comprised the Free and Imperial Cities, some sixty-five by 1500. Their number also fluctuated like that of other Imperial Estates. Their main problems were debt or the hostility of neighbouring principalities, which steadily eroded their numbers until the Peace of Westphalia finally stabilized their situation, in legal terms at least, in 1648. At all stages, they varied immensely in size and significance, both economic and political. In the late fifteenth century, the scale stretched from Cologne, the largest with some 30,000 inhabitants, via Lübeck, Danzig, Hamburg, Strassburg, Ulm, and Nuremberg with over 20,000, to small cities the size of Dinkelsbühl in Franconia with well under 5,000 inhabitants, and many others with a good deal less than that; some had only a few hundred inhabitants and were scarcely more than villages.[6]

The number of units that were either Imperial Estates or, like the Imperial Cities towards the end of the fifteenth century, became Imperial Estates, fluctuates, but it **(p.42)** is at least capable of being roughly calculated. That cannot be said of the lordships and other units which retained a degree of freedom from their more powerful neighbours but which were not Imperial Estates. Individually, they were perhaps of little significance. Their existence is, however, important in two ways. First their survival, like that of the Imperial Cities and Imperial Counts, illustrates the limitations of the process of territorial consolidation by the more significant secular and ecclesiastical princes. These were the groups, moreover, which, along with the Imperial Cities and the Imperial Counts, provided natural potential allies for the emperors in the fifteenth and sixteenth centuries in their struggle to frustrate the complete 'territorialization' of the Reich.[7] Ultimately, too, their survival underlines the effectiveness of the Reich as a peace-keeping system governed by law, though it is significant that these individually powerless entities had endured even the unstable and, by comparison, lawless period of the fifteenth century. Second, their concentration in a broad swathe of territory arching from the south-west, through Swabia and Franconia, and up into Hessen and Thuringia gave this part of the map of the Reich an entirely different complexion to the relatively solid blocks of territory characteristic of the Lower Rhine, the north, and north-east, or Bavaria and the Austrian duchies.

The most important of these groups, which enjoyed *Reichsunmittelbarkeit* but not *Reichsstandschaft*, were the Imperial Knights; they were nobles of the Reich subject only to the emperor but had no representation in the Reichstag.[8] Originally members of the lower nobility who remained outside the larger territorial unit, they were concentrated in Swabia, Franconia, and the Upper and Middle Rhine regions. Until the sixteenth century, they survived by periodically forming leagues, associations, and knightly societies: the Society of the Donkey in the Kraichgau, for example, or the Society of St George's Shield (*Sankt Jörgenschild*) in the Upper Swabian Allgäu. It was only after 1500, however, that wider regional associations emerged in Swabia, Franconia, and the Rhineland, and not until 1577 that these were incorporated into a joint association, the *Corpus liberae et immediate imperii nobilitatis*. These developments, in turn, were part of a wider process. The transformation of the knights from a traditional military knighthood into an independent nobility of service in the Reich proceeded gradually through the late fifteenth and sixteenth centuries.[9] The pressures that drove the process and the factors that shaped it in the Reformation period will be examined in detail below.[10] The significant point in the present context is simply the survival of these small Estates outside of any larger territorial unit, indeed their ability to leave such larger units during the course of the sixteenth century.

Special forms abounded in this relatively heterogeneous group. The institution of the *Ganerbschaft*, or community of noble heirs, was one of the **(p.43)** most remarkable.[11] In the so-called 'noble republic' of Friedberg in Hessen, for example, twelve noble families shared a single castle (though they lived in separate residences within it). Under the constitution for the castle developed between 1337 and 1498, the network of knightly families with rights in the castle elected a *Burggraf* (burgrave), two *Baumeister*, and twelve *Regimentsburgmannen*, to represent the community, maintain its buildings and govern its affairs. During the fifteenth century, they gained control over the Imperial City of Friedberg at their gates (when the emperor pawned it), acquired a share in the noble *Ganerbschaft* of Staden (in Hessen), and purchased the nearby County of Kaichen in the Wetterau. The status of their community was reflected in the fact that their *Burggraf* acted as leader of the Wetterau knights from 1492 until 1729 and as *Hauptmann* (military commander) of the Middle Rhine knights from 1536 to 1764.[12] The Friedberg 'noble republic' was unusual in that it was sustained by a large number of families and its organization was formalized by a constitution. Other inheritance communities such as the castle of Staden or the Burg Eltz on the Moselle operated more straightforwardly and they were limited to smaller groups.[13] In the case of Burg Eltz, this took the form of an association of several branches of one family in what amounted to a family entail.

The survival as independent entities of Imperial Cities, Imperial Counts, and Imperial Knights is to a large extent explained by the fact that they had some economic (in the case of cities) or political (in all cases) function within the Reich. Until the mid-sixteenth century, in particular, they were regarded as potential partners in repeated imperial attempts to establish networks of influence and power in the south and west. The cities declined in number, as unfavourable economic conditions left many vulnerable to pressure from powerful territorial neighbours. The counts and knights, by contrast, successfully

organized themselves into regional interest and self-defence groups, while their persistence in the practise of partible inheritances ensured that numbers remained high even though the unit size threatened to dwindle to insignificance. Even in the 1790s, for example, there were still perhaps as many as 1,700 Imperial Knights' 'territories'.

It is much more difficult to explain the survival, free of territorial overlords, of peasant communities without political function and with few, if any means of self-defence. In the north, such areas succumbed to systematic 'territorialization' relatively early. The tribal communities of Frisia, with their sworn council and seal of communal government inscribed *Universitas Frisonum*, gradually fell victim first to warring chieftains, then to the domineering tom Brok line (*c.*1350–1464), and finally to the rule of the Cirksena dynasty of counts (1464–1744).[14] A similar 'peasant republic' or oligarchy of regents in Dithmarschen on the right bank of the mouth of the Elbe survived until 1559, when it was incorporated into the **(p.44)** Duchy of Holstein.[15] Better organized in terms of government than the Swiss communes and easily their match in wealth, Dithmarschen failed because it lacked a natural centre. Unlike the Netherlands provinces, also, it lacked contiguous natural allies along the Frisian coastal belt. Its isolated position in the north-west, for so long a natural advantage, ultimately proved its downfall in the face of the relentless hostility of the kings of Denmark and in the absence of effective imperial power in the area in the early sixteenth century.

In the south and west and in Alsace, by contrast, much smaller communities could survive. Here, a collection of so-called *Reichsdörfer* (imperial villages) formed the most minuscule and least significant independent entities of the Reich. Formerly parts of the medieval Hohenstaufen royal demesne, their inhabitants remained free men. The emperor was their only overlord, though they were not regarded as an Estate of the Reich and were not represented in the Reichstag. Originally there were some 120 in number, but relatively few survived into the early modern period; by 1803 there were only five.[16] Yet the history of these communities in Gochsheim and Sennfeld near Schweinfurt, the Free Men of the Leutkircher Heide in the Allgäu near Ravensburg, Soden in the Taunus, and Sulzbach near Frankfurt, is more than just an antiquarian curiosity. In each case the communities struggled successfully over several centuries against the implications of pawn contracts and disputes with neighbouring 'protective powers' over higher and lower jurisdictions to achieve, entirely without force of arms, recognition of their free status. Their very survival was testimony to the progressive 'juridification' of the Reich from the early sixteenth century.

The continued existence of well over a thousand smaller territories in the Reich places arguments about the 'rise of the territorial state' in perspective. There were undoubtedly larger territories that emerged and stabilized during the fifteenth and sixteenth centuries. Their growth was determined above all by the regional need to respond to the problem of public order, before they then took on a momentum of their own as instruments of power in the hands of ambitious princes. The largest blocks emerged, perhaps not surprisingly, in the north and north-east, where fifteenth-century emperors sought to extend their power and pacify the land through clients such as the

Zollern Margraves of Brandenburg or the Wettin Dukes of Saxony.

Elsewhere, other powerful territorial blocks also emerged by a process of evolution. They were not closed territories but rather, in the first instance, feudal networks secondary and similar to the Reich itself: agglomerations of lordship rights only very gradually formed into principalities under anything like uniform administration. At close quarters, these apparently solid blocks of land dissolved at their peripheries into a mass of overlapping and often shared jurisdictions. The process of rounding off the boundaries, by means of sales and purchases, by pawn **(p.45)** deals, by land exchanges, and not infrequently by acquisition by brute and illegal force, extended throughout the early modern period.

Equally often, the evolution of such a territorial unit was then sharply arrested, sometimes for a generation or two, sometimes in perpetuity, by partition on the death of an overlord with more than one son. The Margravate of Baden, for example, though a potentially significant territory constructed on the inheritance of the powerful Zähringer, was handicapped throughout the early modern period by repeated partitions.[17] The Wettin dynasty in Saxony might have become even more powerful had it not partitioned its lands in 1485 between an Ernestine electorate and an Albertine duchy. This was the first of numerous partitions which, by the seventeenth century, made Thuringia into the classic region of German *Kleinstaaterei*, with no less than twenty-seven courts and administrations in the combined Ernestine and Albertine lines.[18] By contrast, the emergence of Bavaria as a powerful territory in the early modern period was founded on the reunion of the duchies of Inner and Outer Bavaria after the extinction of the Landshut line of the Wittelsbachs in 1503, after which the Munich heirs introduced a primogeniture law in 1506. Even here, however, the next few decades were characterized by a bitter dispute between the brothers Wilhelm IV and Ludwig X over the interpretation of the law, which only gained clarification and acceptance in the second half of the century.[19]

The vagaries of inheritance conventions and family politics were not the only obstacles to the stabilization and consolidation of a territory. Just as the emperors could not rule against their noble Estates, so most princes could not govern against their own territorial Estates: nobles subject to them as feudal overlords (*landsässiger Adel*), towns, and in some parts even peasants.[20] An imperial law of 1231 obliged the princes to seek the consent of their nobles to any new laws or to changes of any kind. In the fifteenth century, as major princes tackled the task of creating public order, this more often than not meant seeking consent for new financial burdens. The first step towards a uniform government was therefore generally the translation of subordinate Estates into Estates-General.

This was rarely a smooth process, and in some cases, such as the Palatinate in the fifteenth century or Württemberg and others in the sixteenth century, it led to a decisive break between princes and lower nobility—counts or knights—who asserted their *Reichsunmittelbarkeit* or vassalship of the emperor himself. The remaining Landtag then consisted exclusively of clergy and towns. In Saxony, Bohemia, and the eastern Austrian

Erblande, by contrast, bicameral organizations of counts or lords in a Herrenkurie and of knights in a Ritterkurie developed; in Brandenburg, bishops joined counts and lords in an 'upper' chamber, while knights and towns formed a 'lower' chamber. In some larger episcopal territories **(p.46)** the cathedral chapters assumed the role played by the Estates elsewhere, while in the lands of the Swabian prelates (imperial abbeys and the like) peasant communities formed the Landschaft with similar functions.[21]

The variety of forms of Estates—some with real political power, others functioning purely as tax generators or guarantors of princely debts; some developing quite elaborate administrations, others remaining ad hoc gatherings—reflected the variety among the territories themselves. Everywhere, however, their broad function was the same. Their *raison d'être* was the increasing need of their lords for money to finance self-defence and administration. From the 1490s the growing number of levies agreed by the Reichstag reinforced the need for Estates. It also enhanced their bargaining power, to a degree that became problematical in many territories after 1550.[22] This, in turn, underlined a second function of the Estates. They were moderators of princely rule, guarantors of stability and continuity during debt crises or minorities, or during shorter periods of partition when the Estates often persisted as a consolidated body while rule was divided between two or three male heirs.[23] Although they were rarely able to maintain unity in the face of long-term fragmentation of a ruling dynasty into several lines (the Mecklenburg Estates, which preserved their unity from 1523 until 1918, were unique), they did in many instances prevent such divisions and help bring about an inheritance settlement that preserved the integrity of the territory.

It is tempting to follow F. L. Carsten and use the more familiar terms 'parliaments' or 'diets' rather than Estates, to describe these institutions.[24] Yet this distorts the reality. They were the institutional expression of a corporate society, tied to the ruler, just as the ruler was tied to them.[25] They were institutions that mediated between competing interests. In practice, they aimed at consensus rather than conflict, and while they enjoyed greater power over policy than, say, the English Parliament, they never transcended their role to challenge their lords.

The significance of the Estates generally is underlined by the fact that even princes who enjoyed rich regalian revenues relied upon them or their equivalents. The Rhineland Electors of the Palatinate, Mainz, and Cologne profited immensely from river tolls. The Saxon Electors enjoyed highly profitable mineral rights. The rulers of Bavaria, the Austrian duchies, and Brunswick-Lüneburg derived considerable income from salt. They were thus better placed than the Dukes of Mecklenburg, with more land than some of them, but also more marginal land. Yet all of them relied increasingly, like Mecklenburg, on loans and taxes.

Much of this money went to pay for military expenses or imperial levies. Much, however, also went towards building up or intensifying administrations. The process by which early modern territorial administrations emerged from the medieval noble court was protracted and uneven. But by 1500 several territories had followed the example set by Cologne in 1469 in establishing a permanent princely council responsible for advising the

ruler and overseeing major aspects of **(p.47)** government. Parallel to that process was a growing professionalization of administration with the employment of legally trained officials (*gelehrte Räte*). This, in turn, promoted interest in the foundation or reform of universities such as Tübingen, founded in 1477 by Duke Eberhard the Bearded, or Heidelberg, reformed in 1452 by Friedrich I.[26]

Increasingly, professionalization at the centre was accompanied by growing penetration downwards and across into parallel institutions such as the Church. By 1500, territories such as the Palatinate, Württemberg, Trier, and parts of Brandenburg were all more or less rigorously organized into administrative districts (Ämter) with a hierarchy of officials —some local nobles and notables, others paid 'experts'—connecting the localities with the centre. At the same time, such territories aspired, long before the Reformation, to increase their influence over the Church. They sought to arrogate for themselves the right of appointment to benefices (east of the Elbe even the right to nominate bishops). They struggled to impose limits on ecclesiastical courts and gain at least some control on church finances. Taxation of the clergy and, in some areas, the transformation of ecclesiastical tithes into a secular tax, the demand for a share of revenue from indulgences, or even the employment of indulgence revenue to pay for bridges or roads, were accompanied by a growing hostility to espiscopal or papal levies.[27]

By 1500, even the largest and most advanced territories were far from being closed territorial states. Their control over their often scattered lands was incomplete and many princes relied on feudal networks that extended over areas they never came to dominate. While they had undoubtedly created the framework for public peace in some of their own territories, many princes still spent vast sums on ceaseless military activity, defending themselves against aggression, pursuing feuds against neighbours on whose lands or jurisdictions they had designs, or simply asserting their claims against brothers or cousins. To that extent, the Reich was still characterized by an extreme degree of instability and insecurity which had begun to recede in England, France, Spain, and even Italy.[28] Despite this, and partly in response to the financial necessities imposed by these conditions, the territories had also developed infrastructures and instruments of government and corporative participation that bore favourable comparison with any elsewhere.[29]

At the same time there were signs of a changing perception of the functions of government. The traditional concern with 'peace and law' (*Friede und Recht*) was complemented by a preoccupation with notions of the 'common good'. Interpreted by legally trained officials through the conceptual language of Roman law, this led, soon after 1500, to the formulation of extensive territorial legislation: sumptuary laws and measures that aimed at the relief of the poor.[30] Increasingly, governments aspired not only to maintain good order but also to enhance the moral welfare of **(p.48)** their subjects, a combination that was encapsulated in the term *Polizei*. By the early sixteenth century, the promotion of good order or *Polizei* and the regulations and statutes generated by it, increasingly consolidated into comprehensive codes (*Polizeiordnungen*), had come to be seen as one of the key tasks of government.[31]

The development of *Polizei* and the new government interventionism, or at least interventionist aspirations, which the concept of *Polizei* entailed, would have been unthinkable without the administrative structures developed before 1500. It was also the product of changed circumstances in the period after 1500. One important precondition was the degree of relative stability that gradually unfolded in the Reich as a whole in the wake of the general peace of 1495. A second was the need to respond to the challenges posed by the Reformation movement.

The situation in the territories around 1500 in some ways parallels that in the Reich itself. In retrospect it might appear that a decisive watershed had been passed and that the major territories were by then irrevocably set on a path of 'state formation'. Thus, many have linked these developments with the outcome of the reform discussions of 1495 and 1500 and concluded that the decades around 1500 mark the triumph of the princes over the empty shell of the Reich. This both underestimates the Reich and overstates the position of the territories. For one thing, significant parts of the south and west were splintered territorially and characterized by the survival of Imperial Cities, Imperial Counts, and Imperial Knights. Even in areas of greater concentration, in princely territories, the power of the princes was significantly limited. Internally, power was limited by the Estates, and by the rights of subjects (particularly nobles but increasingly also others), based on the imperial law of 1231, which required princes to gain consent for innovations and, more generally, on the widespread currency of the principle *quod omnes tangit, ab omnibus approbari debet* (what concerns all must be agreed by all). Externally, power was limited by the princes' subordination to the emperor.

The definition in theory of this position only became clear later when German lawyers and theorists pondered the applicability of Bodin's theory of the sovereign state to German conditions (Bodin's *Les Six livres de la République*, or 'Six Books of the Commonwealth' of 1576 were first translated into German in 1592). Long before then, however, the limitations of princely power were explicit in the terms used to describe it. In the fifteenth century, *Landesherrschaft* described not a blanket power or authority but the cumulation of jurisdictional and prerogative rights. Most of them derived from various forms of allegiance and regalia granted by the emperor.[32] The concentration of these rights into a more uniform governmental power (albeit matched by a similar concentration of the rights of subjects in *Landstände*) was reflected in the increasing use of the term *landesfürstliche Obrigkeit* (princely authority or government). This expressed a degree of higher authority implicit in the wide-ranging legislative initiatives of the period after 1500, **(p.49)** and was later rendered as *Landeshoheit*.[33] The evolution of the terminology was not consistent, nor was there general agreement at all times on any distinctions between the various terms. The question of whether Imperial Knights, who unquestionably enjoyed *Landesherrschaft*, also had *Landeshoheit* was disputed in early modern discussions, as it is today.[34] One key point, however, was undisputed: even the grandest territorial prince did not enjoy sovereignty. All remained limited by their feudal obligations to the emperor and to the Reich, in other words subject to imperial law as formulated at the Reichstag. The fact that the powers accumulated in the sixteenth and seventeenth centuries increasingly seemed to belie that formal situation did

nothing to change it, in theory or in practice, or even to generate explicit challenges to it until the second half of the eighteenth century.

(p.50) 4 The Reich and the German Nation

If one combines the picture presented of the Reich with that presented of the territories around 1500, an impression might emerge of an inchoate and incoherent mass which could scarcely be described as a unity. The system appeared to have no centre and no unifying force. The authority of the imperial dynasty was insecure and, by many judgements, simply absent in large parts of the north. What authority it had, radiated not from the centre but from the south-eastern periphery. Moreover, the Reich had no core province or territory, no gravitational centre comparable, for example, with the province of Holland in the United Netherlands. Nor did it apparently have a close ideological bond such as that which united the Swiss cantons, first as a separate union within the Reich and ultimately as a separate state after 1648. The fragmentation of its territorial arrangements was mirrored by the variety of economic landscapes. From the Alps to the Baltic, from west of the Rhine across to the areas of Slav settlement in the east, there seems little basis for any community of interests. With a total population of some 16 million around 1500 (excluding imperial Italy, but including roughly 2 million in the Netherlands, about 2 million in the Bohemian lands, and about 600,000 in Switzerland), the Reich included roughly one-quarter of the population of Europe as a whole.[1] To what extent can one speak of a meaningful community of interests or even of unity? How did contemporaries perceive 'Germany'?

Clearly, some areas had developed their own distinct identity by 1500 or were about to do so. For that reason the Swiss cantons and the Netherlands must be excluded from any account of the Reich's early modern history, or at the very least marginalized. Bohemia is perhaps another special case, though it remained integrated and came to play a certain role once more in the later history of the Reich. In large parts of the area that remained within the Reich, one should not underestimate the degree of integration afforded by noble family networks and by clientele and patronage systems based on territorial courts, as well as on the imperial court. In the Wetterau, for example, intermarriage between the counts of the region and exchanges of land through condominium agreements and 'inheritance agreements' (*Erbeinungen* or *Erbverbrüderungen*) created a web of alliances and a sense of corporate group identity that ultimately translated into the emergence of what has been described as a 'corporative' or 'quasi-territorial' state.[2] Similarly, courts such as those of the Palatinate and Württemberg maintained clientele (p.51) networks which extended far outside their own territories and attracted otherwise independent nobles and educated *Bürger* from Imperial Cities to the court. In ecclesiastical territories, the court was complemented by the cathedral chapters as agencies whereby outlying nobles were integrated. And more than all of these, the imperial court itself maintained a clientele network that extended westwards across virtually the whole of the southern Reich.[3]

The significance of these essentially feudal networks has led some historians to question whether a 'national' approach to the history of the Reich is justified.[4] On the other hand

there is considerable evidence to suggest that a 'national' dimension became increasingly important around 1500. Indeed, it is striking that terms such as 'German nation' or 'German language' gained a new currency at this time in the context of a new preoccupation with the German past and with the question of the identity of the Germans.

There is little agreement among historians on how this phenomenon should be interpreted. Few now accept the view of traditional historians, who saw the patriotic effusions of certain humanists as evidence of the gradual emergence of the German nation, which was then promptly thwarted by political events.[5] Similarly, modern scholars who describe such sentiments as 'compensatory' nationalism are equally guilty of judging late medieval conditions by the yardstick of nineteenth- and twentieth-century circumstances.[6] Indeed, that recognition leads others to deny that anything like nationalism existed before the modern period.

However, it seems clear that even in the Middle Ages there was such a thing as national consciousness. During the fifteenth century the term 'natio', originally denoting subgroups within corporations like the Church or Church Councils, a university or a merchant community, came to assume a broader meaning in relation to a wider linguistic or cultural community. Of course, there was a world of difference between medieval and early modern national consciousness on the one hand and later nationalism on the other. For the most part, the social range of such ideas was far more limited, though there is evidence that they existed in popular mythology and propaganda. Their political implications were certainly less far-reaching. Above all, these implications did not extend to anything like a demand for a nation state.

Another major problem is the fact that the terms themselves are extremely vague. *Deutsche Nation*, for example, did not translate easily into a precise geographical area, if only because the Reich was a feudal nexus (*Personenverband*) rather than a territorial state. Despite this, however, some lines of development become clear. They build on the foundations of two key medieval traditions: first, the belief that the Germans possessed an individual and distinctive language; second, the conviction that they were the heirs to the Roman Empire in a continuous constitutional tradition.[7]

(p.52) The first of these traditions, concerning language, presents a particularly fascinating problem, partly because of the importance attached by scholars, from Herder and Jakob Grimm in the eighteenth and nineteenth centuries onwards, to language as a key element in the formation of collective, ethnic, and national identities. According to Rüdiger Schnell, there is evidence that from the ninth to the sixteenth centuries, despite awareness of the strong regional differences that divided Germans, there was a persistent conviction that there was a single German language. In fact, this conviction is apparently contradicted by the philological evidence. Quite apart from the persistence within the Reich of various non-German-speaking linguistic groups, a standard German language only emerged in the second half of the sixteenth century. The argument for any standardization before then is tenuous.[8]

If there was a widespread standard then it was the spoken and written form of Low

German based on Lübeck that had evolved and spread with the rise of the Hanseatic League. By 1500, this extended across the northern parts from Emden in the west to Riga, Dorpat, and Reval on the eastern Baltic coast.[9] The situation in Upper and Middle Germany was far more complex. These areas have been more central to philological study because of the fact that modern German ultimately emerged from an amalgam of the dialects and forms used in them. Many assumptions concerning the evolution of this amalgam are also based on the view that Martin Luther was in effect the progenitor of modern German. Much significance is accorded to Luther's reflection (*c.*1532, recorded in his table talk) that he had no 'particular German language' but that he used the 'common German' that could be 'understood by both high and low Germans'. He spoke, he said, 'according to the Saxon chancellery, which is followed by all dukes and princes of Germany; for all cities and princely courts write according to the Saxon chancellery of our Elector. The Emperor Maximilian and Elector Frederick have drawn all the German languages in the Roman Empire together into a single language.'[10]

Luther's conclusion is perhaps premature. Indeed, the impact of his own writings in the north was aided by the fact that they were translated into Low German.[11] His comments do, however, indicate some of the forces that may have promoted a limited degree of standardization before the 1520s. The commercial language of western Upper Germany (*das gemeine Deutsch*) seems to have been predominant as the language of commerce in the south. That, in turn, shared much in common with the written forms developed in the imperial chancellery and vigorously promoted by Emperor Maximilian's chancellor Niclas Ziegler, who saw to it that imperial documents were increasingly characterized by a uniform orthography, whether they were produced in Innsbruck or the Netherlands.[12] If the Imperial chancellery exerted influence from the south-east, it seems clear that the Meissen (Saxon) chancellery radiated a similar influence in Middle Germany further north. There were, of course, political links between the two chancelleries and so it is **(p.53)** difficult to define precise or exclusive realms of influence. It was, however, the Meissen style that prevailed in Mainz, and which became the style of the *Reichsabschiede* or proclamations of imperial laws. It was the Meissen style, too, that soon after 1500 was gradually adopted by chancelleries further north, starting with Brandenburg, and which thus contributed significantly to the long-term decline of Low German as a written language of administration.[13]

There is little consensus on the pace of these changes, or on the relative significance that should be attached to the various linguistic forms that contributed to them. It is, however, clear that the whole process was at a very early stage by 1500. The influence of printing, invented around 1450, had scarcely become apparent. The ultimate demise of Low German as the dominant language of the northern Reich, though foreshadowed by the decline of the Hanseatic League after 1450, could not be taken for granted before about 1550 (and, of course, it survived in places like Hamburg into the eighteenth century). Apart from anything else, the real standard language for scholars, administrators, and the like around 1500 was still Latin rather than any form of German.[14] Even for those humanists who sang the praises of the vernacular, Latin remained dominant. Significantly, the first attempt at a history of German literature—

Johannes Trithemius's *De viris illustribus Germaniae* of 1495—listed some three hundred authors, but only one who wrote in German: Otfried von Weissenburg in the ninth century.[15]

The gulf between the reality of linguistic diversity and the perception of a single language is rendered less paradoxical if considered in relation to the second medieval tradition: the awareness of a continuous constitutional tradition in an empire descended from Rome. The basis for this perception is more apparent and founded in political reality. Yet while the ideas of a *translatio imperii* and of continuity were a leitmotif of the medieval period as a whole, they gained new dimensions in the second half of the fifteenth century. A new political context provided a framework in which humanist writers elaborated a plethora of variations on received ideas. These drew on 'pre-political' ideas of origins, language, and customs, and on what we might describe as ideas of ethnic identity. They remained, however, fundamentally linked with perceptions of the essential functions of the Holy Roman Empire. They were not manifestations of early nationalism looking forward to a future nation state, but reflections of the contemporary state of affairs.

The nature of the new momentum in imperial politics from the 1470s has already been indicated in the discussion of the imperial constitution. The emergence of a Turkish threat in the east and of a Burgundian/French threat in the west generated the rhetoric of German national self-defence that introduced a new vocabulary into the language of imperial politics. That which belonged to the 'German nation', also frequently simply defined as those areas in which the 'German tongue' was spoken, needed to be defended by the community of the Reich. At the same time, resistance to Habsburg ambitions in Italy defined another **(p.54)** distinction between what was German on the one hand and 'Welsch' (Latin or Italian) on the other. Maximilian insisted on the community of interests between the German and 'Welsch' nations. The German Estates assembled at the Reichstag responded by emphasizing exclusively the interests of the 'German nation'.[16]

There was nothing inherently nationalist in such exchanges. What was at stake was not a 'nation' in any nineteenth-century sense of the term, but real questions of money, defence, and power.[17] The propaganda significance of the language used is illustrated by the fact that in 1474 even the city of Bern could appeal to its Swiss neighbours to rise up against the Burgundian aggressor in the name of the 'teutsche Nation' and to defend that nation against the 'Türk im Occident'. The language of its appeal, with its equation of Charles the Bold and Mehmet II, mimicked that of the Emperor Frederick III when he appealed to the Swiss in 1455 to defend the 'German Nation' against the Turks.[18] Equally, there was nothing nationalist, or even 'multinationalist', about Maximilian's use of appeals to his nations in the 1490s. His autobiographical writings reveal that nation, Reich, and even Christianity—the terms that dominated his public political utterances—were all secondary to his own person, stylized in the heroic figures of 'Weisskunig' (the 'White King') and the wise, heroic crusading knight Theuerdank.[19]

In the literary imagination of Emperor Maximilian the language of political propaganda clearly coincides with the discussion of the nation in literary and mythological terms by the German humanists. They, too, drew on medieval and populist traditions. Indeed, the

myth of the sleeping Reich, of the Emperor Barbarossa, of an imperial saviour who would rescue the Germans, continued to feature in populist prophetic writings through to the Reformation period.[20] It was, however, the humanist writers from the 1480s onwards who framed these perennial eschatologies in a new discourse. Their writings were, moreover, closely linked both with the growing political discussion of the need to defend the Reich and to reform it, and then with the imperial ambitions of Maximilian himself. The need to defend the Reich fostered a new need to define its enemies, to elaborate the national and moral boundaries between the Germans and their foes. At the same time, the growing perception of the need to reform the Reich in the late fifteenth century also fostered a desire to define its essential character and potential.

Finally, the emerging discussion of these themes was harnessed by Maximilian I in a sustained attempt to mobilize the pens of the educated as he was trying to mobilize the military resources of the Reich. The transformation of the institution of imperial poet laureate (*poeta laureatus caesareus*) is indicative of the new mood. The changes began in the later years of the reign of Frederick III. The traditional coronation ceremony for poets laureate, with its general injunction that the laureate should glorify emperor and Reich, had been used only intermittently, and then **(p.55)** largely in Italy. With the coronation of Conrad Celtis, the first German laureate, in 1487, this rather vaguely defined office took on a new political significance.

Celtis himself was instrumental in founding the Vienna academy of poets and mathematicians in 1501. He became its first *laureae custos et collator* and received from Maximilian the right to crown suitably qualified poets. In Maximilian, his vivid literary patriotism and ambition found a kindred spirit. Between them Maximilian and Celtis crowned more laureates than in any previous period; by the time of his death in 1519 Maximilian had been responsible for the coronation of no less than thirty-seven poets. The aim was to create a legion of literary propagandists for the Reich, who would use their influence and connections to create a humanist clientele network.[21] Their political function was underlined by the obligation to perform a laudatory verse oration at the opening of a Reichstag. In this way the laureates, together with other ceremonial officials with literary functions such as the imperial heralds, helped enhance the sense of the unity and solidarity of the Reichstag.[22]

Of course, a few hundred humanists do not make a nation. It is difficult to know how far down the social scale either humanist notions or the political concerns of the Reichstag really reached. There is, however, much evidence to suggest that some elements of both at least overlapped with, perhaps even shaped, social movements and expressions of opinion at the popular level. The Bundschuh (literally 'tied boot', the symbol of protesting peasants in Alsace and the south-west) uprisings of 1493, 1502, 1513, and 1517 all generated demands for reform of the Reich and defence against France, among other more local and material demands. The astrological fantasies of Johannes Lichtenberger (especially his popular *Prognosticatio in latino* of 1488, reprinted no less than twenty-nine times between1492 and 1530) warned that the Turks would take Cologne if the Reich were not reformed.[23] Similarly, the anonymous 'Upper Rhine Revolutionary' combined

humanist mythology with millenarian eschatology in 1509, when he wrote of the Brotherhood of the Yellow Cross that would assist a new Emperor Frederick (who would be born in Alsace) in establishing a new thousand-year empire as the prelude to the Golden Age.[24] Finally, there is evidence that strong popular feelings were aroused over the imperial election of 1519. The English envoy Richard Pace, for example, among others, reported that there would be a revolution of the people if the French king were elected in favour of the 'German' Charles (a multilingual Habsburg with Burgundian, German, and Spanish antecedents, whose 'nationality' is in fact almost impossible to determine).[25]

These themes will recur in the context of the Reformation and the Peasants' War. Their significance here lies in the way that they illustrate the wider ramifications of what might otherwise be seen as a discussion conducted at a high level of **(p.56)** learned abstraction by a minority. In their repeated insistence on the need for reform of the Church as well as the Reich, these more radical manifestations of popular views also underline one final point about the new humanist discourse of the nation.

The overall tendency of German humanist writing was to introduce a new variation on the traditional notion of the *translatio imperii*.[26] In a very short time, the differing interpretation came to reflect the divide between Protestants and Catholics, though the divergence clearly pre-dated the Reformation. The old view of the Reich as a universal Christian empire still prevailed in the writings of humanists such as Johannes Cochlaeus. When he declared 'Teutschlandt uber alle Welt', he was referring to the 'German' Reich as the centre of this world empire. His words were later misinterpreted as an assertion of German superiority and, in the equally misunderstood formulation 'Deutschland, Deutschland über alles' by the nineteenth-century writer Hoffmann von Fallersleben, became the hymn of militant German nationalism.[27] Yet Cochlaeus himself, like other humanist 'traditionalists', was merely reflecting the centrality of 'Germany' to the contemporary Reich.[28]

The anti-Italianism of other humanist writers frequently translated into a more strident anti-Romanism. Their assertion of the 'indigenous' character of the Germans and their 'discovery' of Trojan or pre-Trojan origins, both gave the Germans a new and independent status and, for some, justified the rejection of modern Rome in the shape of the papacy. Hutten, for example, found further inspiration in the rediscovery and publication in 1515 of the early books of Tacitus's *Annals*, which contained the history of the victory of Arminius (Hermann the Cherusker) over the Romans under Quintilius Varus in the Teutoburg Forest in AD 9.[29] It is true that the German literary mythology of Arminius only really developed fully in the seventeenth and eighteenth centuries, and it developed into something approaching a cult in the nineteenth century. Yet the origins of the myth in the early sixteenth century form yet another source of the idea of a German nation at the start of the early modern period.[30] For writers like Hutten and Jakob Wimpfeling the logical conclusion from several decades of humanist research was to demand liberation from the yoke of Rome. This tendency has been aptly described as a 'partial nationalization' of the idea of the Reich. The *translatio* was now understood as the process whereby the services of the Germans to Christianity had been rewarded with

custodianship of the Roman Empire.

Like so much of the constitutional precedent, the political language and 'national' self-definition of the period around 1500 was but the prelude. Just as the constitutional system evolved and unfolded over the next century, so too did the thinking about its historical origins. It was not until 1643 that Hermann Conring finally contradicted the tradition of Roman origins and formulated the theory of the **(p.57)** specifically German genesis of the Reich.[31] The humanists, however, laid the foundations. And in doing so they reinforced a sense of community, of shared political and constitutional traditions, that bound the German lands together and made the Reich into a whole. Its frontiers were fluid. Its interior was fragmented. Its constitutional system did not yet fully embrace all parts of the north-west other than in the purely formal, and in practice sometimes tenuous, sense of the feudal bonds between imperial overlord and princely or noble vassal. Yet the essential elements, which created a full community of German lands rather than a German nation state in the early modern period, all began to coalesce in the late fifteenth century. Paradoxically, the next crucial stage in the realization of that community was a challenge that in some senses divided it: the German Reformation.

Notes:

([1]) The term 'Reich' will be used for empire throughout, since this is the term used most frequently in contemporary sources. On the evolution of the nomenclature, see Nonn, 'Heiliges Römisches Reich'.

([1]) Conrad, *Rechtsgeschichte*, i, 428.

([1]) Conrad, *Rechtsgeschichte*, ii, 231–5.

([1]) Rabe, *Geschichte*, 42–3.

([2]) The following passages are based on the studies by Boockmann, *Stauferzeit*, Leuschner, *Deutschland*, and Herbers and Neuhaus, *Reich*, 1–127. A good survey in English is Du Boulay, *Germany*.

([2]) Conrad, *Rechtsgeschichte*, i, 387–91, 429.

([2]) Wagner, 'Grenzen', 243–6. The most comprehensive surveys are Köbler, *Lexikon* and Sante (ed.), *Geschichte*. The latter volume, also known as the *Territorien-Ploetz*, provides a good comprehensive survey. Another broad, but less comprehensive, survey may be found in the first five volumes of Braunfels, *Kunst*: the emphasis is on architecture and art, but the scope is much broader.

([2]) Schmidt, *Grafenverein*, 1–5, 113–59.

([3]) On the assumption of the title *Rex Romanorum* by the German kings, see *LdM*, v, 1304–9 and vii, 777–8.

([3]) Leuschner, *Deutschland*, 185–96; Conrad, *Rechtsgeschichte*, i, 440–61.

(³) Fichtner, *Protestantism*, 1–6.

(³) Press, 'Patronat', 20–8.

(⁴) Conrad, *Rechtsgeschichte*, i, 317–18, 326–7 and ii, 66–74; Rabe, *Geschichte*, 109–11.

(⁴) Magdeburg is sometimes included in this category, but its freedom was never formally recognized: Köbler, *Lexikon*, 402–3.

(⁴) Krause, 'Pfandherrschaften', 515–24; Cohn, *Government*, 43–9, 62–5, 69–73.

(⁴) Press, 'Patronat', 36.

(⁵) A discussion of frontiers may be found in Conrad, *Rechtsgeschichte*, i, 399–43 and ii, 106–11, and Rabe, *Geschichte*, 13–23.

(⁵) Schmidt, *Städtetag*, 1–18.

(⁵) The 1521 list omitted some who were included later, often after protracted legal arguments; others were apparently included by mistake. The uncertainty reflected the difficulty of defining membership on the basis of an often erratic record of attendance at the Reichstag. See p. 30 (fn 16).

(⁵) Stauber, 'Nationalismus'.

(⁶) Neuhaus, *Reich*, 5; see also the comments on language on pp. 51–3.

(⁶) Conrad, *Rechtsgeschichte*, i, 306–14, and ii, 94–6.

(⁶) Gerteis, *Städte*, 52–6; Amann, 'Stadt'; Mauersberg, *Städte*, 75–9.

(⁶) For example, Reinhardt, 'Primat', 91.

(⁷) The term 'Reichstag' will normally be used throughout; the occasional use of 'diet' does not convey any different meaning.

(⁷) Leuschner, *Deutschland*, 109–10.

(⁷) Schmidt, 'Politische Bedeutung'.

(⁷) Moraw, 'Voraussetzungen', 101–2; Thomas, 'Identitätsproblem', 155.

(⁸) See pp. 35–6.

(⁸) Schubert, 'Stellung'; Cohn, 'Electors'.

(⁸) Conrad, *Rechtsgeschichte*, ii, 202–6; Press, *Reichsritterschaft*; Neuhaus, *Reich*, 36–7.

(⁸) Schnell, 'Literatur', 298.

(⁹) Köbler, *Lexikon*, 315–16; Aretin, *Das Reich*, 76–163; Aretin, *Altes Reich*, i, 112–15; Conrad, *Rechtsgeschichte*, ii, 110–11.

(⁹) The most recent surveys are in Hohensee et al., *Goldene Bulle*.

(⁹) The Swabian knights only finally left the Württemberg *Landtage* in the 1520s; the Franconian knights left the *Landtage* of Würzburg, Bamberg, and Brandenburg-Ansbach between 1540 and 1579; those of the Rhine region departed the Trier *Landtag* in 1577.

(⁹) Wiesinger, 'Sprachausformung', 339–40.

(¹⁰) Moser, *Grund-Riss*, 75–7, 690–713.

(¹⁰) Conrad, *Rechtsgeschichte*, i, 311.

(¹⁰) See pp. 210–19.

(¹⁰) Wells, *German*, 141, 198, 455.

(¹¹) For further information, see Schnettger, *Genua*, 23–38; Schnettger, 'Impero romano'; Aretin, *Altes Reich*, i, 112–15, 201–8, 310–12, ii, 85–96, 128–34, 194–215, 351–80, 458–67, and iii, 63–71, 168–71; Aretin, *Das Reich*, 76–163.

(¹¹) Isenmann, 'Kaiser', 192–203; Moraw, *Reich*, 178–9; Moraw 'Entstehung'.

(¹¹) Conrad, *Rechtsgeschichte*, i, 415–16. The term derives from the fact that a group of heirs received an inheritance in their collective hands: *zur gesamten Hand*.

(¹¹) Wiesinger, 'Sprachausformung', 339.

(¹²) Blickle, 'Eidgenossen'; Stadler, 'Schweiz'.

(¹²) Du Boulay, *Germany*, 76–83.

(¹²) Köbler, *Lexikon*, 197–8; Sante, *Hessen*, 145–8.

(¹²) König, *Atlas*, 95.

(¹³) Monter, *Bewitched duchy*, 21–58.

(¹³) Du Boulay, 'Law enforcement'.

(¹³) Köbler, *Lexikon*, 167, 678.

(¹³) König, *Atlas*, 93; Wells, *German*, 136–7, 141, 198; Coupe, *Reader*, xiii–xviii.

(¹⁴) Mout, 'Niederlande'; Press, 'Niederlande'; Israel, *Dutch Republic 1476–1806*, 9–40, 64, 66, 68–70.

(14) Moraw, *Reich*, 416–21; Boockmann, *Stauferzeit*, 348–53; Leuschner, *Deutschland*, 201–19; Angermeier, *Reichsreform 1410–1555*, 13–30.

(14) Sante (ed.), *Geschichte*, 406–10; Schmidt, *Ostfriesland*; Schindling and Ziegler, *Territorien*, iii, 162–80.

(14) Wells, *German*, 133–4, 141–2; Lutz, *Ringen*, 79; Schnell, 'Literatur', 298–300, 307.

(15) The *Regnum Arelatense* was so called because the Burgundian coronations originally took place in Arles.

(15) Hye, 'Doppeladler', 73–83.

(15) Stoob, *Dithmarschen*, 7–16, 407–12; Urban, *Dithmarschen*, 60–143; Krüger, *Verfassung*.

(15) Schnell, 'Literatur', 308.

(16) Du Boulay, *Germany*, 110–14; Boockmann, *Orden*, 197–224.

(16) The term *Matrikel* means literally a register or list of names. The list was never accurate, and included some who never attended the Reichstag and omitted others who did attend. Its revision also proved problematic so that it never became wholly accurate. Nonetheless, it serves as a rough and ready guide to the German Estates.

(16) Neuhaus, *Reich*, 38; Conrad, *Rechtsgeschichte*, ii, 205. See also the relevant entries in Köbler, *Lexikon*.

(16) Schröcker, *Nation*, 118–19.

(17) Conrad, *Rechtsgeschichte*, ii, 160, 164, 168. See also, Begert, *Böhmen, passim*.

(17) Conrad, *Rechtsgeschichte*, i, 376–7; Isenmann, 'Reichsfinanzen'; Rowan, 'Imperial Taxes'.

(17) Press, 'Badische Markgrafen', 20–1.

(17) Schröcker, *Nation*, 141.

(18) See pp. 448–56.

(18) Boockmann, *Stauferzeit*, 350–2.

(18) Klein, 'Staatsbildung?', 96, 100.

(18) Sieber-Lehmann, 'Teutsche Nation'.

(19) Evans, *Making*, 157–60.

(¹⁹) Isenmann, 'Kaiser', 151–5.

(¹⁹) *HBayG*, ii, 297–302.

(¹⁹) Schröcker, *Nation*, 143–4; Benecke, *Maximilian I*, 7–30; Silver, *Maximilian*, *passim* analyses the iconography and its projection and dissemination.

(²⁰) Koller, *Friedrich III*. 168–97.

(²⁰) For the following see: Carsten, *Princes*; Press, 'Formen'; Press, 'Steuern'; Press, 'Herrschaft'; Rabe, *Geschichte*, 128–31.

(²⁰) Borchardt, *Antiquity*, 199–297.

(²¹) Schröcker, *Deutsche Nation*, 31–95; Isenmann, 'Kaiser', 167–84.

(²¹) Quarthal, 'Krummstab'.

(²¹) Mertens, 'poeta laureatus', 155–7; Flood, *Poets laureate*, i, lxxxviii–ciii, On humanism, see 106–16.

(²²) Angermeier, *Reichsreform 1410–1555*, 150–64.

(²²) Press, *Kriege*, 113–15; Schulze, *Geschichte*, 205–8.

(²²) Schubert, *Reichstage*, 174–89.

(²³) Isenmann, 'Kaiser', 185–94.

(²³) Carsten, *Princes*, 426–8.

(²³) Lutz, *Ringen*, 92; Killy, *Lexikon*, vii, 266–7; *ADB*, xviii, 538–42.

(²⁴) Stollberg-Rilinger, *Verfassungsgeschichte*, 23–91; Neuhaus, 'Wandlungen'.

(²⁴) Carsten, *Princes*, v–vi.

(²⁴) Borchardt, *Antiquity*, 116–19.

(²⁵) Schubert, *Reichstage*, 34–56; Rabe, *Geschichte*, 118–20.

(²⁵) Press, *Kriege*, 113; Oestreich, 'Verfassungsgeschichte', 400–3; Krüger, *Verfassung*, 1–10.

(²⁵) Schmidt, 'Reichs-Staat', 23–4.

(²⁶) Smend, *Reichskammergericht*, 23–67; Press, *Reichskammergericht*.

(²⁶) Other universities founded at this time included Greifswald (1456), Freiburg (1457),

Ingolstadt (1472), Trier (1473), Mainz (1476), Wittenberg (1502), Breslau (1505), and Frankfurt an der Oder (1506). See Conrad, *Rechtsgeschichte*, i, 276.

(26) Garber, 'Nationalismus', 24–5.

(27) Gschließer, *Reichshofrat*, 1–3. See also pp. 364–5.

(27) Rabe, *Geschichte*, 139–40.

(27) Hoffmann von Fallersleben, of course, was a political liberal appealing to Germans to value Germany above their regional homelands (Prussia, Bavaria, etc.): Schlink, *Hoffmann*, 45–69.

(28) See note 16 above.

(28) Cohn, *Government*, 248.

(28) Bagchi, 'Nationalism', 52; Schmidt, 'Reichs-Staat', 22–3.

(29) Conrad, *Rechtsgeschichte*, ii, 135–6. The name referred to the fact that it was to be levied by certain dates (*zielen* = to aim), i.e. the Frankfurt autumn and Lent fairs.

(29) Cohn, *Government*, 247–50.

(29) Roloff, '*Arminius*'.

(30) See pp. 409, 515.

(30) Rabe, *Geschichte*, 133.

(30) Kuehnemund, *Arminius*, 1–19; Dorner, *Mythos*, 131–2.

(31) Angermeier, 'Reichsregimenter'.

(31) Scribner, 'Police', 104–6; Stolleis, *Öffentliches Recht*, i, 367–70; Maier, *Staats- und Verwaltungslehre*, 92–105.

(31) Willoweit, 'Conring', 141–3; see p. 461.

(32) Baron, 'Imperial reform', 300.

(32) Cohn, *Government*, 120–3; Conrad, *Rechtsgeschichte*, i, 427–32.

(33) See pp. 161–3.

(33) Conrad, *Rechtsgeschichte*, ii, 231–5; Oestreich, 'Verfassungsgeschichte', 394–9.

(34) Conrad, *Rechtsgeschichte*, ii, 101–5; Dotzauer, *Reichskreise*, 23–79.

(^{34}) Conrad, *Rechtsgeschichte*, ii, 203–4.

(^{35}) Schmidt, 'Deutschland', 13; Conrad, *Rechtsgeschichte*, ii, 101–5; Dotzauer, *Reichskreise*, 579–82.

(^{36}) Stolleis, *Öffentliches Recht*, i, 48, 72–3.

(^{37}) *NDB*, ii, 156–7; *ADB*, ii, 524–9.

(^{38}) See pp. 86–8, 113, 169, 172, 177–8.

(^{39}) Koller, *Friedrich III.*, 20–32.

(^{40}) Boockmann, *Staufer*, 326–4; Leuschner, *Deutschland*, 209–16; *NDB*, v, 486.

(^{41}) Benecke, *Maximilian I*, 178.

(^{42}) Isenmann, 'Kaiser', 163–7.

(^{43}) Schmidt, 'Integration'.

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