

# VIRTUS

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# Prussia's Franconian undertaking

## Dynasty, law, and politics in the Holy Roman Empire (1703-1726)\*

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Bey Ihren eigenen Quartier zum Schwanen erschallte eine Stimme: Wir wollen ihn holen, wir wollen ihn holen (...) Zu anderen mahlen wäre [der] durch[eucht] eine Stimme zu Ohren [ge]kommen. Es brüllet der Löwe, und solches Brüllen wäre auch erfolgt. An Himmel in den Wolcken, hätten sich einstens viel, und unzehliche Köpffe sehen lassen, welche alle voll Stimmen gewesen.<sup>1</sup>

This is an excerpt from an extensive and peculiar report about Carl August of Brandenburg-Culmbach. It was handed in to the *Reichshofrat* in 1706 by Prussia's agent in Vienna. The *Reichshofrat* was one of the two supreme courts that administered justice in the Holy Roman Empire and the sole institution that managed the Empire's feudal ties. With this report King Friedrich I in Prussia and Margrave Christian Ernst of Brandenburg-Bayreuth – both vassals of the Empire – wanted to demonstrate that their cousin Carl August was mad and had been suffering from delusions. He allegedly had been wandering through the Empire foretelling a peasant rebellion, proclaiming 'daß in 14 Tagen Bayreuth Republicke seyn sollte'.<sup>2</sup> For his own wellbe-

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- 1 'Copied' Prussian correspondence concerning Margrave Carl August's worrisome condition dating back to 1701, handed in to the *Reichshofrat* 1706, Haus-, Hof- und Staatsarchiv in Vienna (HHSTA), *Reichshofrat Archiv* (RHR), Decisa 635.
- 2 An alleged copy of a letter of Carl August to Christian Ernst, dating back to 1701, handed in to the *Reichshofrat* 1706, HHSTA, RHR, Decisa 635.

ing and to protect the good name of the Hohenzollern family, Carl August had been locked-up in the Plaßenburg family castle for a few months. It was asserted that, during his confinement, Carl August had given his guards a vivid account of his delusions. The report compiled by the guards included troubled letters of Carl August himself and was presented to the Reichshofrat.<sup>3</sup>

But why would King Friedrich and Margrave Christian Ernst try to demonstrate that a member of their own Hohenzollern family was mad? And why expose it to the Reichshofrat, which was closely affiliated with the emperor? Carl August's case was central to a conflict that stirred controversy throughout the Empire. The Hohenzollern dynasty was embroiled in an internal dispute over the succession in the principality of Bayreuth in the Southern German region of Franconia. King Friedrich wanted to add Bayreuth to his numerous possessions in case the last margrave died without a male heir and his cousin Margrave Christian Ernst supported him. However, Carl August, member of a non-ruling and impoverished branch of the family, objected and appealed to the Reichshofrat, arguing that his rights on Bayreuth were violated by King Friedrich's plan. Protecting hereditary rights was one of the Reichshofrat's main responsibilities. Such rights were the building blocks of the Empire's political structure and crucial to maintain governmental stability. Dynasticism and princely inheritance practices ranked as the third most important topic of conflict at the supreme courts (*Reichshofrat* and *Reichskammergericht*), accounting for 14,3 per cent of all cases.<sup>4</sup> Prussia reacted on Carl August's objections by handing in the report about his alleged madness, arguing that he did not possess the mental stability to rule a principality. In exceptional cases mentally impaired princes could be barred from responsibility, but the report did not convince the Reichshofrat to acknowledge King Friedrich's claim.<sup>5</sup> Instead, Carl August's appeal started a legal dispute that took more than twenty years to settle.

The appeal required the Reichshofrat to arbitrate between members of one of the Empire's most distinguished noble families and the stakes were high. The Empire's high nobility (*Reichsunmittelbarem Adel*) was subjected only to the collective authority of *Kaiser und Reich* and enjoyed considerable autonomy in ruling their lands. Therefore, the future of Bayreuth and its inhabitants was on the line, but the dispute had broader implications as well. The imperial counts, princes, and prince-bishops who ruled the many small counties and principalities around Bayreuth were not waiting on a new dominant power in Franconia. They formed an opposition and actively lobbied

3 Ibidem.

4 The 14,3 per cent concerns only the period between 1648 and 1806. Yet, these are considerable numbers, taking into account that, between 1495 and 1806, the supreme courts handled more than 220.000 cases, see: S. Westphal, *Kaiserliche Rechtsprechung und herrschaftliche Stabilisierung. Reichsgerichtsbarkeit in den Thüringischen Territorialstaaten 1648-1806* (Osnabrück, 2002) 53; P.H. Wilson, *The Holy Roman Empire. A thousand years of Europe's history* (Hull, 2016) 630.

5 J.J. Moser, *Familien-Staats-Recht derer Teutschen Reichsstände* (2 Vols; Frankfurt-Leipzig, 1775), I, 311.



Map of Hohenzollern lands (1688-1740), with the electoral Brandenburg-Prussian possessions in the north and the Margravates of Brandenburg-Bayreuth and Brandenburg-Ansbach in the south (G. Wendt, Schul-Atlas zur Brandenburgisch-Preussischen Geschichte (Clogau, 1900))

in Vienna against King Friedrich's claim. To safeguard Bayreuth's independence of mighty Prussia, the opposition wanted to secure the succession for Carl August or another Franconian Hohenzollern. Moreover, greater powers such as Hanover, the Palatinate, Württemberg, and even the emperor were increasingly worried about Prussia's aggrandisement, making the succession dispute a highly controversial case. However, it was a dynastic internal dispute, which the Reichshofrat could only resolve by arbitrating between the various members of the Hohenzollern dynasty as only they held rights on Bayreuth.

Noble rights of inheritance were a contentious issue in the early modern political discourse as Europe's many succession wars demonstrated. In the Empire, however, the dy-

dynamic of inheritance disputes was different because the territorial dynasties fell under imperial jurisdiction. All individual members of ruling dynasties could directly appeal to the supreme courts to request arbitration and legal protection.<sup>6</sup> This reinforced the legal position and agency of less powerful and non-ruling members of a dynasty vis-à-vis their more powerful relatives or neighbours. Prussia tried to acquire various principalities, but was confronted with numerous Reichshofrat appeals of aggrieved stakeholders, causing endless legal complications.<sup>7</sup> Dynastic discord and legal obstacles could, furthermore, be exploited by political opponents to disturb the ambitions of rivals.

The conflict over the succession in Bayreuth demonstrates the importance of several factors that have long been depreciated in the historiography of the Empire. In the last three decades, a revived academic debate has revaluated many of the Empire's functions, but the interaction between the ruling dynasties and Kaiser und Reich remains understudied.<sup>8</sup> The Culmbach conflict shows the persistent relevance of the imperial hierarchy, built on a feudal constitution. The authority of the supreme judge to acknowledge the legitimacy of status and territorial claims played a crucial role in imperial politics. This 'legitimizing authority' forced even major powers like Prussia to take the emperor and his Reichshofrat seriously. The supreme courts had only limited coercive power, but the Culmbach dispute demonstrates the Reichshofrat's ability to secure peace and stability by brokering settlements. Reichshofrat arbitration, furthermore, meant imperial interference in the family affairs of major dynasties and had consequences for dynasticism, governance, and politics throughout the Empire. The political relevance of Reichshofrat judgements also fortified the importance of the imperial constitution and caused a juridification of relations within the Empire; not in the least of relations amongst and in noble families. The high nobility possessed most governmental rights, privileges, and offices, giving their family conflicts great legal and political significance.

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6 J. Weitzel, 'Die Hausnormen Deutscher Dynastien im Rahmen der Entwicklungen von Recht und Gesetz', in: H. Neuhaus and J. Kunisch, eds, *Der dynastische Fürstenstaat. Zur Bedeutung von Sukzessionsordnungen für die Entstehung des frühmodernen Staates* (Berlin, 1982) 47.

7 R. Endres, 'Die Erbabreden zwischen Preußen und den fränkischen Markgrafen im 18. Jahrhundert', *Jahrbuch für Fränkische Landesforschung*, XXV (1965) 43-87; H. Kluebing, 'Grafschaft und Großmacht. Mindermächtige Reichsstände unter dem Schutz des Reiches oder Schachfiguren im Wechselspiel von Großmachtintressen. Der Weg der Grafschaft Tecklenburg vom gräflichen Territorium zur preußischen Provinz', in: H. Neuhaus and B. Stollberg-Rilinger, eds, *Menschen und Strukturen in der Geschichte Alteuropas* (Berlin, 2002) 103-131; T. Schenk, 'Die Geschichte Brandenburg-Preußens und der Hohenzollern im Spiegel der Akten des kaiserlichen Reichshofrats. Ein Rundgang durch drei Jahrhunderte', *KultGeP Colloquien*, I (2014), [http://www.perspectivia.net/publikationen/kultgep-colloquien/1-2014/schenk\\_geschichte](http://www.perspectivia.net/publikationen/kultgep-colloquien/1-2014/schenk_geschichte) (accessed Sep. 2016).

8 An important exception is: Westphal, *Kaiserliche Rechtsprechung*. Her book provides a systematic enquiry of the interaction between the various small Wettling dynasties and the Reichshofrat. For the revived academic debate and extensive literature suggestions see the latest synthesis studies: Wilson, *The Holy Roman Empire*; J. Whaley, *Germany and the Holy Roman Empire* (2 Vols; Cambridge, 2012-2013), II.

The Culmbach conflict has been studied in some detail. In 1869, Constantin von Höfler called it one of the ‘interessantesten Vorgänge der späteren Reichsgeschichte’, but only Rudolf Endres wrote a full article on it in 1965, dealing mainly with the opposition of the Schönborn family.<sup>9</sup> Some additional insights into the opposition’s conduct will be provided in this article. More importantly, however, the legal side of the conflict has not been examined. The conflict has been treated as a purely political affair because the Empire’s legal framework was not yet taken seriously. This article will take a different approach by using the legal arguments of the litigants and the Reichshofrat as a point of departure.

The central aim of this article is to enquire how the imperial framework guaranteed princely rights of inheritance in a dispute with major consequences for the balance of power in the Empire. The first section will trace the course of the Culmbach conflict and reveal how the dynastic internal, regional, and imperial spheres closely interacted. The second part will, in more detail, analyse two decisive moments of decision-making in Vienna, demonstrating how the emperor was constrained by the imperial rule of law in dealing with the succession rights of the Empire’s high nobility.

The Reichshofrat’s legal dossier of the Culmbach dispute, kept in the Haus-, Hof-, und Staatsarchiv in Vienna, was the main source for my research.<sup>10</sup> The Reichshofrat’s record books, furthermore, allowed me to count the number of sessions devoted to the case (28 between 1706 and 1717, which is still only part of the conflict’s duration) and gave information about when and by whom certain documents were handed in. I have also used the correspondences of the Schönborns, of the imperial ambassador in Berlin, and of Prussia’s agents in Vienna.<sup>11</sup> Johann Jacob Moser’s contemporary series of *Teutsches Staatsrecht* (1737-1754), which can conveniently be consulted digitally, in addition, served as a great companion to elucidate Reichshofrat judgements and imperial law. Clearly, Hohenzollern family relations occupied the minds of countless legal experts, councillors, diplomats, judges, and princes throughout the Empire.

<sup>9</sup> Endres, ‘Die Erbabreden’. Several other studies have shortly outlined the conflict, see: C. Höfler, ‘Fragmente zur Geschichte Kaiser Karl’s VI’, *Sitzungsberichte der Kaiserlichen Akademie der Wissenschaften*, LX (1869) 417-431; H. Hantsch, *Reichsvizekanzler Friedrich Karl v. Schönborn 1674-1746* (Augsburg, 1929) 63, 134-137, 223-225; A. Berney, *König Friedrich I. und das Haus Habsburg (1701-1707)* (Munich, 1927) 232-243; 43-87.

<sup>10</sup> The Brandenburg-Culmbach dossier, HHSTA, RHR, Decisa 635, 636.

<sup>11</sup> Reichshofrat record book series, HHSTA, RHR, Resolutionsprotokolle (RP) XVIII, Vols 14-42; HHSTA, Reichskanzleiarchiv (RK) Diplomatische Akten, Berichte aus Berlin, 7c, 10a Konv. 1, 2; and HHSTA, Mainzererkanzlerarchiv (MEA) Frankische Kreisakten, (FK) 12 korrespondenz zwischen Schönborn und den Frankischen Kreis Korrespondenz, 89-90: Several letters from Bartholdi, Prussia’s agent in Vienna, are published in: Berney, *König Friedrich I.*

## The Culmbach conflict

### *King Friedrich's ambitions*

In the second half of the seventeenth century, the electors of Brandenburg-Prussia emerged as major players in the Empire. They acquired numerous new territories and built a composite state of imperial fiefs. Their rise to power eventually enabled Elector Friedrich III to crown himself King Friedrich I *in* Prussia in 1701.<sup>12</sup> Yet, Prussia was Friedrich's only major possession outside the perimeter of the Empire. Most of his territories were imperial fiefs and fell under imperial jurisdiction, making King Friedrich accountable to imperial justice.<sup>13</sup> The newly minted king continued the expansionist policies of his predecessor by cultivating relations with financially troubled or heirless counts and princes in order to establish legal or dynastic claims. Prussia was able to conclude succession treaties with the counts of Limpurg-Speckfeld (1703), Geyer (1705), Tecklenburg (1707) and the Margraves of Brandenburg-Bayreuth (1703). The ruling families were bought out and accepted the king as future successor.<sup>14</sup> By securing the acknowledgment of stakeholders in advance, Friedrich wanted to make sure that his territorial claims would be accepted by Kaiser und Reich. In the feudal structure of the Empire, the legitimate possession of a fief, ultimately, depended on the emperor's confirmation.

The ongoing War of the Spanish Succession (1702-1713-14), furthermore, offered Friedrich a favourable bargaining position in Vienna. Emperor Leopold I wanted to assert his authority in Northern Italy and faced a violent uprising in Hungary.<sup>15</sup> He desperately needed Prussia's support to defend the Empire against French aggression. Prussia maintained the second-largest army in the Empire and Friedrich had already been able to obtain the emperor's recognition for his Prussian royal dignity in return for a commitment to contribute 8000 men to the imperial army in case of war.<sup>16</sup> According to Prussia's resident in Vienna, this was the moment to ask for additional favours:

Ew. Königl[iche] Mayestät haben hier nie als in trüben waßern einen guthen fang gethan, oder man hat Ihro nichts accordiret, als wan man Ihre Freundschaft nicht entbehren können. Wan der Kayser nicht in einen Krieg befangen, und nur die Hoffnung zum Frieden angeschieden, hat man Ihro den Rücken zugewand.<sup>17</sup>

12 F. Göse, *Friedrich I (1657-1713). Ein König in Preußen* (Potsdam, 2012) 202-235.

13 Wilson, *The Holy Roman Empire*, 472-464; P.H. Wilson, 'Prussia and the Holy Roman Empire, 1700-40', *German Historical Institute London Bulletin*, XXXVI (2014) 14.

14 R. Endres, 'Preußens Griff nach Franken', in: H. Duchhardt, ed., *Friedrich der Große, Franken und das Reich* (Bayreuth, 1986) 46-50; Klüeting, 'Grafschaft und Großmacht', 103-131.

15 Whaley, *Germany and the Holy Roman Empire*, II, 112-120.

16 Berney, *König Friedrich I*, 3; Göse, *Friedrich I*, 234; Wilson, 'Prussia and the Holy Roman Empire', 18.

17 Christian Friedrich von Bartholdi, Prussian resident in Vienna, to King Friedrich I, 2 Mar. 1706, published in: Berney, *König Friedrich I*, 263.

Friedrich I, King in Prussia and Elector of Brandenburg (1657-1713, elector since 1688, king from 1701) (oil portrait, Samuel Theodor Gericke; coll. Stiftung Preußische Schlösser und Gärten Berlin-Brandenburg, photo Daniel Lindner)



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With its much-needed military strength, Prussia had a means to negotiate with the emperor and get its territorial claims acknowledged.

To secure future expansion, the lands of King Friedrich's dynastic kinsmen were an obvious target because the legal and familial connections already existed. Brandenburg-Prussia was the main line of the Hohenzollern dynasty, but there existed four collateral branches with territorial possessions. Friedrich rejuvenated the relations with the Swabian branches, Hohenzollern-Hechingen and Hohenzollern-Sigmaringen, by concluding new family treaties in 1695 and 1707, mainly to strengthen Prussia's claim on the Swabian inheritance.<sup>18</sup> An even better opportunity emerged in Brandenburg-Bayreuth when a war injury reduced the chance that Friedrich's distant nephew, the heir apparent Georg Wilhelm, would produce a successor.<sup>19</sup> Within a few months

<sup>18</sup> H. Schulze, *Die Hausgesetze der Regierenden Deutschen Fürstenthümer* (3 Vols; Jena, 1862-1883), III, 548-549, 632-638.

<sup>19</sup> J.W. Holle, 'Georg Wilhelm, Markgraf von Bayreuth, Markgraf von Bayreuth 1712-1726, nach gleichzeitigen handschriftlichen Quellen dargestellt', *Archiv für Geschichte und Alterthumskunde von Oberfranken*, VI (1856) 5; H. Stark, *Die Culmbach-Weferlinger Hohenzollern und der Bayreuther Markgrafenthron* (Kulmbach, 2008) 12.



after the injury, King Friedrich arranged a marriage between his half-sister Elisabeth Sophie and ruling Margrave Christian Ernst of Brandenburg-Bayreuth (father of the injured and childless Georg Wilhelm).<sup>20</sup> The king was a possible candidate for the succession in Bayreuth and eager to strengthen the dynastic relation. Brandenburg-Bayreuth was a traditional Hohenzollern possession and part of the collective family inheritance. The Hohenzollern house rules stipulated that in case the margraval line extinguished, the principality should be inherited by another Hohenzollern scion.<sup>21</sup> This arrangement, moreover, had been confirmed by the emperor who had collectively enfeoffed the Brandenburg-Prussian, Brandenburg-Ansbach, and Brandenburg-Bayreuth branches with the Hohenzollern inheritance in a so-called *Samtbelehnung*. This solemn act confirmed that in case one of the branches extinguished, their fiefs could, instead of reverting to the feudal overlord, immediately be taken over by one of the other branches and thus remain in Hohenzollern hands.<sup>22</sup> So King Friedrich's rights on Bayreuth were fixed in the Hohenzollern house rules and the feudal-constitutional order of the Empire; a proper legal basis for a new acquisition.

King Friedrich, however, was not the only stakeholder in the Hohenzollern dynasty. The margraves of Bayreuth had a non-ruling junior line, closely related to Margrave Christian Ernst. This impoverished Culmbach branch, headed by Christian Heinrich, was next-in line for the succession in Bayreuth. To buy the Culmbach family out, Prussia offered Christian Heinrich a pension, a landed estate, a new residence, and a suitable upbringing for his six princely children.<sup>23</sup> At the time, it was still uncertain whether the Brandenburg-Bayreuth line would indeed become extinct and Prussia's agent asserted that the debt resting on Bayreuth would be unmanageable for a Culmbach prince. This uncertainty eventually convinced Christian Heinrich to sign the Schönberger Treaty (1703), in which the Culmbach family refrained from its rights of succession in favour of the King in Prussia.<sup>24</sup> Christian Heinrich, his spouse, and their two underage sons renounced their rights in an oath, which the two princes had to repeat as soon as they turned eighteen to guarantee the treaty's lawfulness.<sup>25</sup>

Friedrich immediately sent the Schönberger Treaty to Vienna and requested the emperor for confirmation. Feudal law required the emperor's confirmation for changing the order of succession and transfer a fief to another vassal.<sup>26</sup> A confirmation could,

<sup>20</sup> Endres, 'Preußens Griff', 64.

<sup>21</sup> Schulze, *Die Hausgesetze*, 654-708.

<sup>22</sup> Schenk, 'Die Geschichte Brandenburg-Preußens', 29.

<sup>23</sup> Endres, 'Die Erbabreden', 48-50; Berney, *König Friedrich I*, 234.

<sup>24</sup> Appeal and objections of Margrave Georg Friederich Carl of Brandenburg-Culmbach and his brother Albrecht Wolfgang of Brandenburg-Culmbach, 7 Dec. 1715, HHSTA, RHR, Decisa 636, doc. 35.

<sup>25</sup> Endres, 'Die Erbabreden', 50.

<sup>26</sup> R. von Schönberg, *Das Recht der Reichslehen im 18. Jahrhundert, zugleich ein Beitrag zu den Grundlagen der bundesstaatlichen Ordnung* (Heidelberg, 1977), 154; T. Schenk, 'Das Alte Reich in der Mark Brandenburg, Landesgeschichtliche Quellen aus den Akten des kaiserlichen Reichshofrats', *Jahrbuch für Brandenburgische Landesgeschichte*, LXIII (2012) 49-53.

furthermore, confer legitimacy on the treaty for the collective of Kaiser und Reich and guarantee Friedrich's succession in advance. The Reichshofrat executed the confirmation procedure. It was a standard practice to survey whether a treaty complied with the Empire's constitutional charters and respected the rights of all stakeholders involved. The treaty was scrutinised, but the Reichshofrat wanted clarification on two issues: the rights of the two Culmbach princes – who were still minors – and the rights of the members of the Brandenburg-Ansbach and Brandenburg-Bayreuth branches – who had not been included in the Schönberger negotiations.<sup>27</sup> The *Samtbelehnung* had affirmed the members of all three branches as stakeholders in the Hohenzollern inheritance, they all held rights on Bayreuth, and the Reichshofrat could only confirm the Schönberger Treaty if all their rights were guaranteed. Protecting the rights of the weak against the ambitions of the strong was considered the supreme court's central task.

Prussia's resident in Vienna complained about the delay caused by these, as he put it, 'Unnöthige gerichtssolenia'.<sup>28</sup> Emperor Leopold I had died in 1705 and Prussia had been unable to strike a deal with his successor, Joseph I, to trade off military support for a quick confirmation of the Schönberger Treaty.<sup>29</sup> The new emperor was more critical about the ambitions of his most powerful vassals and, according to Prussia's resident, inclined: 'der mächtigsten Stände des Reiches aggrandisement zu verhindern'.<sup>30</sup> Joseph, therefore, insisted on strict Reichshofrat procedures, before any territorial claims could be acknowledged.

Yet, Friedrich was not the only prince who was confronted with precautionary remarks of the Reichshofrat about the rights of the dynastic family and grudgingly started gathering evidence to demonstrate that the Schönberger Treaty respected the imperial constitution and the rights of all Hohenzollern stakeholders.<sup>31</sup> Christian Heinrich and his spouse provided statements declaring that their renouncement of rights was a well-considered decision, taken in their own best interest.<sup>32</sup> Their oldest son turned eighteen in 1706 and repeated his oath of renouncement in the presence of an authorised imperial notary, a Lutheran professor of theology and his Prussian teacher, who all handed in personal statements to bear witness of the oath's legitimacy

27 Collective request of Brandenburg-Prussia, Brandenburg-Ansbach and Brandenburg-Bayreuth, drafted at the Hohenzollern conference in Nurnberg, Feb. 1706, HHSTA, RHR, Decisa 635; Endres, 'Die Erbabreden', 53.

28 Bartholdi to Reichshofrat, 21 Feb. 1707, HHSTA, RHR, Decisa 635, doc. 14.

29 C.W. Ingrao, *In quest and crisis. Emperor Joseph I and the Habsburg monarchy* (West-Lafayette, 1979) 46.

30 Interpretation bases on two letters of Christian Friedrich von Bartholdi of 12 Nov. 1705 and 2 March 1706, published in: Berney, *König Friedrich I*, 255-257, 261-263.

31 In the same period, Sachsen-Eisenach and Schwarzenburg-Sondershausen received Reichshofrat comments on their family treaties as well and many more examples can be found, see: Westphal, *Kaiserliche Rechtsprechung*, 83-84; J.J. Moser, *Persönliches Staats-Recht derer Teutschen Reichs-Stände* (2 Vols; Frankfurt a.M., 1775), II, 265-266.

32 First statement of Christian Heinrich Margrave of Brandenburg-Culmbach and his wife Sophie Christiana Margravine of Brandenburg-Culmbach, co-signed by their two sons Margraves Georg Friedrich Carl and Albrecht Wolfgang, 6 Nov. 1706, HHSTA, RHR, Decisa 635, doc. 7.

– an act that was repeated for the second Culmbach prince two years later.<sup>33</sup> Moreover, the Reichshofrat based its judgement on the Hohenzollern house rules, which stipulated that a broad dynastic consent was required to change inheritance arrangements. This forced Friedrich to organise a Hohenzollern family conference to formally obtain permission of the Brandenburg-Ansbach and Brandenburg-Bayreuth branches for his future succession in Bayreuth.<sup>34</sup>

Representatives of the Hohenzollern family gathered in Nurnberg in January 1706.<sup>35</sup> Prussia's agent presided over the meeting and requested the members of the Brandenburg-Bayreuth and Brandenburg-Ansbach branches to acknowledge the Schönberger Treaty. All members agreed, except Carl August of Brandenburg-Culmbach. He was a younger brother of Christian Heinrich and considered the Schönberger Treaty a violation of his rights of succession, even though he was only fifth in line. His representative Dr. Hammern held a speech, arguing that the Hohenzollern house rules stipulated that in case Christian Heinrich and his sons renounced their rights of succession, Carl August would, as next-in-line, be the one to succeed Margrave Georg Wilhelm in Bayreuth.<sup>36</sup> Hammern thus asserted that Christian Heinrich could impossibly transfer his rights to the king without violating the rights of his younger brother. The other representatives reacted by offering Hammern the possibility to exactly pinpoint the passage in the house rules on which his argumentation was based. Yet, a quick glance on the house rules, consisting of several ancient testaments and charters, showed that there were no stipulations detailed enough to validate Hammern's strict interpretation.<sup>37</sup>

Faced with this problem, Hammern decided to refrain from further participation in the conference, hoping to undermine its legitimacy as a joint family meeting. He refused to receive the other representatives in his lodgings and did not show up for the official closing of the conference.<sup>38</sup> The other representatives proceeded without him and drafted a joint declaration of consent that omitted Carl August's objections and sent it to the Reichshofrat.<sup>39</sup> Yet, Carl August's objections could not be suppressed for long.

33 Report and statement concerning the renouncement oath of Margrave Georg Friedrich Carl, 1706, HHSTA, RHR, Decisa; C.G. Nicolai, *In Jure & Facto gegründete Facti Species (...)* (Berlin, 1718) 41-49.

34 Hohenzollern-Hechingen and Hohenzollern-Sigmaringen were less well integrated in the dynasty and were not included in most of the Hohenzollern house rules, see: Schulze, *Die Hausgesetze*, 548-549, 632-638.

35 Endres, 'Die Erbabreden', 55; Nicolai, *In Jure & Facto*, 11-12; Collective request of Brandenburg-Prussia, Brandenburg-Ansbach and Brandenburg-Bayreuth, Feb. 1706, HHSTA, RHR, Decisa 635.

36 Minutes of the Hohenzollern conference handed in to the Reichshofrat, 7 Sep. 1707, HHSTA, RHR, Decisa 635, doc. 13.

37 Schulze, *Die Hausgesetze*, 654-708.

38 Minutes of the Hohenzollern conference, 7 Sep. 1707, HHSTA, RHR, Decisa 635, doc. 13.

39 Collective request of Brandenburg-Prussia, Brandenburg-Ansbach and Brandenburg-Bayreuth gathered in Nurnberg, Feb. 1706, HHSTA, RHR, Decisa 635; Bartholdi to Reichshofrat, 9 Feb. 1706, HHSTA, RHR, Decisa 635.

*The Franconian opposition*

Prussia's territorial ambitions met with resistance in Franconia. Bayreuth was a significant principality and acquiring it enhanced Prussia's chances on inheriting Brandenburg-Ansbach as well. At the time, the Ansbach line depended on one male member and the principality could possibly fall to Bayreuth. This, combined with Prussia's claims on the counties of Limpurg-Speckfeld and Geyer, could suddenly make Friedrich one of the most important rulers in the Franconian-Kreis. Each of these territories would render Prussia a vote in the regional Franconian-Kreis assembly (*Kreistag*), which was a dreadful prospect for many Franconian counts and princes, fearing Prussian interference in their regional affairs. An opposition took shape headed by the shrewd Lothar Franz von Schönborn, whose agents attentively observed Prussia's every move in Franconia.<sup>40</sup> As imperial arch-chancellor, elector of Mainz, prince-bishop of Bamberg, and Franconian-Kreis director, Lothar Franz was the most influential figure in Franconia and he was reluctant to share that position with the King in Prussia.

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To frustrate Friedrich's plan, the opposition needed to find a way to interfere in Hohenzollern family affairs. In 1705, Lothar Franz asked Margrave Wilhelm Friedrich of Brandenburg-Ansbach not to sign the Schönberger Treaty. The margrave was critical about the treaty, but did not dare to obstruct his royal Prussian cousin.<sup>41</sup> Yet, not much later, the discord at the Hohenzollern conference in Nurnberg offered an excellent opportunity for the opposition. The prince-bishop of Würzburg found out about Carl August's objections and informed Lothar Franz, who immediately reached out to the aggrieved margrave.<sup>42</sup> After being ignored by his Hohenzollern relatives, Carl August was willing to cooperate with the opposition. Lothar Franz, the prince-bishop of Eichstadt, and the grand master of the Teutonic Order provided Carl August with a pension and took him under their wings.<sup>43</sup> Carl August's objections offered an ideal opportunity to frustrate Prussia because as a 'mit interessirten Markgraff' he could make full legal objections against the Schönberger Treaty.<sup>44</sup> Lothar Franz's councillors drafted a protest memorandum on Carl August's behalf, which was handed in to the Reichshofrat in April 1706.<sup>45</sup> Prussia now faced an intra-dynastic conflict that needed Reichshofrat arbitration.

The Franconian opposition was well-represented in Vienna. Lothar Franz's nephew, Friedrich Karl von Schönborn, had just been appointed imperial vice-chancellor. Frie-

<sup>40</sup> Endres, 'Die Erbabreden', 43-87.

<sup>41</sup> Letter of Franz Erwein von Schönborn to Vice-chancellor Friedrich Karl von Schönborn, 28 Aug. 1705, HHSTA, MEA, FK, Korrespondenz Schönborn und den Frankischen Kreis, 12.

<sup>42</sup> Johann Philipp von Greiffenclau Vollrats Prince-Bishop of Würzburg, 8 Sep. 1705, HHSTA, MEA, FK, Korrespondenz Schönborn und den Frankischen Kreis, 12.

<sup>43</sup> Endres, 'Die Erbabreden', 56

<sup>44</sup> *Reichshofratsgutachten*, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

<sup>45</sup> Endres, 'Die Erbabreden', 56.

drich Karl presided over the imperial court chancellery, held a seat in the Reichshofrat, and maintained close contact with the emperor and his chief ministers, but countering Prussia proved quite a challenge.<sup>46</sup>

Prussia constantly pressured the Reichshofrat to expedite the confirmation procedure, threatening to withdraw its troops from imperial defence amid the raging War of the Spanish Succession.<sup>47</sup> To prevent a lawsuit, Prussia tried to bribe a Reichshofrat judge, but Emperor Joseph insisted that he considered that ‘diesen Punctum an dero Reichshofrath zur rechtlicher untersuchung zu übergeben vor nötig erachtet’.<sup>48</sup> Prussia had to face Reichshofrat arbitration. The king presented two extensive memoranda that underlined his constitutional claim and countered Carl August’s argumentation.<sup>49</sup> Margrave Christian Ernst of Brandenburg-Bayreuth, who was under the influence of his Prussian spouse, strongly supported the king. Bayreuth’s agents handed in the minutes of the Hohenzollern conference and contributed to the report about Carl August’s episodic madness.<sup>50</sup>

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In 1707, the Reichshofrat needed eight sessions to consider almost 400 pages of arguments and pieces of evidence before a first interim-judgement was issued.<sup>51</sup> Since Carl August had presented a clear and well-argued appeal, the Reichshofrat found no reason to consider him mad. However, the reluctance of Carl August’s representative to properly participate in the family conference was condemned. The Reichshofrat, furthermore, tried to validate Carl August’s next-in-line argument with the house rules, but concluded that ‘nachdem aber dergleichen passus biß daher we[der] angezeigt werden können, noch der sich kunfftig finden werde’, it could not consent with his interpretation.<sup>52</sup> The house rules were too indistinct on this point. Christian Heinrich’s renouncement could not be interpreted as a violation of Carl August’s rights. Technically, the Schönberger Treaty only degraded Carl August’s position in the line of succession and did not deprive him of his rights.<sup>53</sup>

Prussia’s constitutional arguments, on the other hand, were judged very positively. The *Samtbelehrung* evidently confirmed Friedrich’s rights on Bayreuth. The Schönberger Treaty was, furthermore, justified with a fifteenth-century imperial privilege, which allowed the Hohenzollern dynasty to freely reapportion its fiefs among all

46 Whaley, *Germany and the Holy Roman Empire*, II, 113.

47 Ingraio, *In quest and crisis*, 46; Bartholdi to Reichshofrat, 4 Feb. 1707, HHSTA, RHR, Decisa 635, doc 15.

48 Berney, *König Friedrich I*, 241; *Copia decreti an den Reichshoffrath*, 13 Sep. 1706, HHSTA, RHR, Decisa 636, doc. 21; Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18

49 Memorandum Bartholdi to Reichshofrat, 1706, HHSTA, RHR, Decisa 635 doc. 8; Memorandum Bartholdi to Reichshofrat, 1709, HHSTA, RHR, Decisa 636, doc 32.

50 ‘Copied’ Prussian correspondence concerning Margrave Carl August’s condition dating back to 1701, handed in to the Reichshofrat 1706, HHSTA, RHR, Decisa 635, -.

51 The Reichshofrat’s record books between 1706-1717, HHSTA, RHR, RP, XVIII, Vols 17, 19, 20a, 22, 26, 30, 34, 39-42; and HHSTA, RHR, Decisa 635/636.

52 Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

53 Ibidem.

male-line members.<sup>54</sup> The Reichshofrat was also convinced of the Culmbach family's sincere wish to renounce its rights, the problem of minority had largely disappeared after the eldest prince turned eighteen, and almost the entire Hohenzollern family supported the treaty. The Reichshofrat, therefore, concluded that: 'Waß aber anlangst die dispositionem juris feudalis so scheint selbige dem herren Markgraff Carl August viel mehr zu wied[er] alß vorträglich zuseyn'.<sup>55</sup> The Schönberger Treaty was not considered a violation of the 'allgemeinen rechte', 'dem juri feudali', Carl August's personal rights, or the 'pacta domus Brandenburgia'.<sup>56</sup> Despite the opposition's efforts, Carl August was losing ground after merely one year of litigating. Vice-chancellor Friedrich Karl von Schönborn wrote to Lothar Franz in Mainz: 'oppositiones ohne frucht gemacht'.<sup>57</sup>

The Schönberger Treaty, however, was not yet confirmed. The exchange of documents was incomplete. Carl August had not been able to react on all Prussia's arguments and was granted extra time to present a memorandum of defence. But there was a more pressing problem. The emperor had received numerous Franconian complaints about Prussia's increased military presence in the region. Margrave Christian Ernst had allowed Friedrich to station Prussian troops in Bayreuth. Prussia had, in addition, seized part of Limpurg-Speckfeld after Count Georg Eberhard had passed away – as agreed in the succession treaty – and the king increasingly interfered in Geyer.<sup>58</sup> Yet, Prussia's occupation of Limpurg-Speckfeld was considered illegal because family members of Count Georg Eberhard disagreed with the Prussian succession treaty and presented claims based on charters dug up in the family archive. Just as for Bayreuth, the dispute required Reichshofrat arbitration before the emperor could confirm a successor.<sup>59</sup> Prussia's assertions alarmed the Franconian counts and princes. They feared that the king would use his military strength to takeover Bayreuth and push through all kinds of claims, which could lead to oppression of 'die benachbahrte stände und Reichs freye von adel'.<sup>60</sup> There even circulated a rumour that Friedrich planned to take the city-state Nurnberg.<sup>61</sup> Enough reason for the Reichshofrat to postpone the confirmation of the Schönberger Treaty until Prussia adhered to the imperial law.<sup>62</sup>

54 Ibidem.

55 Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

56 Ibidem.

57 The vice-chancellor to Lothar Franz, 8 Feb. 1708, HHSTA, MEA, Korrespondenz, 89.

58 Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18; Endres, 'Preußens Griff', 61-62.

59 H. Preshers, *Geschichte und Beschreibung der zum Fränkischen Kreise gehörigen Reichsgrafschaft Limburg* (2 Vols; Stuttgart, 1789-1790), II, 34-48.

60 Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

61 Berney, *König Friedrich I*, 266-267.

62 Reichshofratsgutachten, 31 Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

*Shifting dynastic alliances*

After the Reichshofrat's first interim-judgement, the king subsequently withdrew his troops from Bayreuth to not undermine his bargaining position in Vienna – though he kept part of Limpurg-Speckfeld occupied.<sup>63</sup> Prussia's retreat, however, did not expedite the Reichshofrat procedure, which awaited Carl August's memorandum of defence. Friedrich now tried to directly buy out Bayreuth's heir apparent Georg Wilhelm. Yet, a father-son tension had developed in Bayreuth. Georg Wilhelm was increasingly frustrated about the prominent role of his Prussian stepmother and detested the pro-Prussian policies of his father Margrave Christian Ernst. Bayreuth's citizens even called the margravine the 'Preußischen Statthalter'. Georg Wilhelm did not accept the king's offer and, instead, approached his Ansbach cousin Margrave Wilhelm Friedrich to complain about Prussia's family strategies. The two margraves agreed that Friedrich went too far in turning Bayreuth into a Prussian satellite. They dropped their support for the king and contacted Vice-chancellor Friedrich Karl von Schönborn. It was a turning point for the opposition. Two additional Hohenzollern scions had shifted sides and joined the opposition. Lothar Franz von Schönborn advised the two margraves and they both appealed to the Reichshofrat.<sup>64</sup>

88

Margrave Wilhelm Friedrich denounced Prussia's dynastic policy in sixteen points and sent his memorandum to Berlin and Vienna. He claimed that his representative had exceeded his instructions by acknowledging the Schönberger Treaty at the Hohenzollern conference in Nurnberg and pulled back his support.<sup>65</sup> Georg Wilhelm, furthermore, appealed to the Reichshofrat to complain about the position of his Prussian stepmother. His father had granted her a substantial part of the inheritance and Georg Wilhelm – the legitimate heir – was denied access to all government councils. The Reichshofrat took this extremely serious and commissioned Lothar Franz to mediate.<sup>66</sup> It was common that Kreis-directors were designated as imperial commissioners, but this suited the opposition almost too well. Friedrich Karl's position in Vienna surely helped to secure Lothar Franz's designation, allowing him to directly interfere in Hohenzollern family affairs. In January 1711, Bayreuth's ruling family gathered in Nurnberg and Lothar Franz chaired the meeting. A settlement was reached on the 21<sup>st</sup>. Margrave Christian Ernst acknowledged his son as co-ruler and granted him the right to attend all government councils, while Margravine Elisabeth Sophie was lifted from her governmental role, ending her 'faktische Administration'.<sup>67</sup> One year later, Christian Ernst passed away, his widow left Bayreuth, and Georg Wilhelm took over the full

<sup>63</sup> Hantsch, *Reichsvizekanzler*, 136.

<sup>64</sup> Endres, 'Preußens Griff', 64.

<sup>65</sup> Wilhelm Friedrich von Brandenburg-Ansbach, memorandum of complaint sent to King Friedrich and the *Reichshofrat*, 10 Mar. 1710, HHSTA, RHR, Decisa 636, doc 34a.

<sup>66</sup> Endres, 'Preußens Griff', 64.

<sup>67</sup> Endres, 'Preußens Griff', 64; Holle, 'Georg Wilhelm', 7.

inheritance.<sup>68</sup> It was a major setback for Prussia. King Friedrich had lost all influence in Bayreuth and could no longer count on the support of his Brandenburg-Ansbach and Brandenburg-Bayreuth cousins.

Meanwhile, the Schönberger Treaty was gathering dust on the shelves of the Reichshofrat. Prussia had recalled its agent from Vienna in 1707, mainly due to diplomatic disagreements with the emperor about mutual commitments and troop deployments during the War of the Spanish Succession. Delay in the Culmbach case was only one of the factors that caused frustration. Carl August finally handed in his memorandum of defence in September 1710 and the privy council granted him a 4000 *thaler* annuity to secure his independence of Prussia during the process.<sup>69</sup> However, the death of Emperor Joseph I in April 1711 and the subsequent interregnum hampered all judicial procedures. Prussia's attention for the Schönberger Treaty waned after the death of King Friedrich in February 1713, while the end of the War of the Spanish Succession (1713-1714) weakened Prussia's bargaining position in Vienna. The Peace Treaties of Utrecht-Rastatt-Baden acknowledged Prussia's acquisition of the Lingen and Moers territories in the Westphalian-*Kreis*, but the emperor was no longer in desperate need of Prussian troops.<sup>70</sup> Moreover, the Great Northern War (1700-1721) in Prussia's backyard started to demand more of the king's attention.<sup>71</sup>

89

At his accession, Friedrich's successor, Friedrich Wilhelm I, did try to reinvigorate his claim on Limpurg-Speckfeld. The county's inhabitants were made to inaugurate their new Prussian lord, but an imperial commission headed by Lothar Franz, immediately intervened. The king could not be allowed to ignore the ongoing inheritance dispute. A commissioner entered the county, publicly explained the situation, and summoned Prussia's regiment to leave. Friedrich Wilhelm was unwilling to cause further consternation and withdrew his troops. Limpurg-Speckfeld was subjected to the authority of the Franconian-*Kreis* until the inheritance dispute would be resolved by the Reichshofrat and a successor confirmed. This took so long that Friedrich Wilhelm's successor, Friedrich II, eventually lost interest in the county and relinquished his claim to Brandenburg-Ansbach, which agreed on a partition treaty with the comital family in 1746.<sup>72</sup>

Prussia's aggression had been successfully checked by the Empire's judicial system. For Bayreuth, however, the question of succession remained apparent. Carl August's memorandum of defence repeated most of the arguments that had already been rejected. His claim was simply too farfetched, making him an unlikely candidate. Georg

<sup>68</sup> Endres, 'Preußens Griff', 65.

<sup>69</sup> Berney, *König Friedrich I*, 241.

<sup>70</sup> R. Lesaffer, 'The Peace of Utrecht and the balance of power', in: *Oxford public international law* (Oxford, 2014), <http://opil.ouplaw.com/page/utrecht-peace/The-Peace-of-Utrecht-and-the-Balance-of-Power> (accessed 18 Oct. 2017).

<sup>71</sup> Whaley, *Germany and the Holy Roman Empire*, II, 117, 139-140.

<sup>72</sup> Preshers, *Geschichte und Beschreibung*, 27-36.



Wilhelm and Wilhelm Friedrich no longer supported the Schönberger Treaty, but this hardly solved the problem of succession. Margrave Georg Wilhelm remained childless and Prussia's claim on Bayreuth had been acknowledged by the Reichshofrat. Lothar Franz von Schönborn realised this and the pressure increased when Georg Wilhelm fell severely ill in 1715. Lothar Franz had one last idea that could maybe prevent a Prussian succession in Bayreuth – it again involved interfering in Hohenzollern family affairs. In March 1715, he wrote to Friedrich Karl in Vienna that:

(...) ist mir beigefallen, daß, wann ein Mittel oder Weg ersonnen werden könnte, den in denen Brandenburgischen Landen befindlichen älteren Culmbach[ische] Prinzen von dorten hinweg zu verleiten, für solchen trefflichen Fundamenta vorhanden wären, ihm die Brandenburg-Kulmbach[ische] Succesion zu adjudiciren.<sup>73</sup>

90 The Culmbach family held the most direct rights on Bayreuth. Christian Heinrich had passed away in 1708, but the rest of the family still lived on its Prussian estate near Magdeburg. There were four Culmbach princes and the eldest, Georg Friedrich Carl, already had two sons. Although the family had renounced its rights of succession, the Schönberger Treaty was still not confirmed.<sup>74</sup> The Franconian opposition probably contacted the Culmbach family via Wilhelm Friedrich of Brandenburg-Ansbach and a Hanoverian connection, to not arouse Prussian suspicion.<sup>75</sup> The Culmbach princes had probably been unaware about the controversy surrounding the Schönberger Treaty and were willing to appeal and reclaim Bayreuth. The eldest two travelled to Margrave Wilhelm Friedrich of Brandenburg-Ansbach, who took them to Lothar Franz von Schönborn. It was a pivotal moment for the opposition. Lothar Franz's plan had worked out perfectly and he immediately sent an express courier to inform Friedrich Karl in Vienna.<sup>76</sup>

Legal experts from Ansbach, Bayreuth, and Mainz prepared the Culmbach appeal.<sup>77</sup> They shortly outlined several complaints about how Prussia had treated the family and requested the Reichshofrat to await their full memorandum of complaint.<sup>78</sup> In the meantime, King Friedrich Wilhelm urged the princes to return to their Prussian domicile and, when they refused, cut off all support to the family.<sup>79</sup> The Reichshofrat proceeded rapidly and concluded in February 1716 that the Culmbach fami-

73 Quoted after: Hantsch, *Reichsvizekanzler*, 408; Endres, 'Die Erbabreden', 61.

74 N. Sack, 'Markgraf Georg Friedrich Carl und seine Kinder', in: H. Stark, ed., *Die Culmbach-Weferlinger Hohenzollern und der Bayreuther Markgrafenthron* (Kulmbach, 2008) 14; E. Pasch, *Friedrich Christian, Markgraf von Kulmbach / Bayreuth. Die Geschichte der Hohenzollernfamilie aus Weferlingen* (Weferlingen, 2008) 16.

75 Höfler, 'Fragmente zur Geschichte', 423.

76 Endres, 'Die Erbabreden', 62-63.

77 *Ibidem*, 46.

78 Appeal of Margrave Georg Friedrich Carl and his brother Albrecht Wolfgang of Brandenburg-Culmbach, 1716, HHSTA, RHR, Decisa 636, doc 35.

79 Endres, 'Die Erbabreden', 63-65; Pasch, *Friedrich Christian*, 17.

ly had been under too much pressure, renouncing their rights 'aus höchster noth'.<sup>80</sup> The Culmbach family and its minor princes, in particular, had been ill informed about 'daß jenigen auf was Sie renunciert, als auch was die verordnungen Ihrer voreltern [the house rules] hierinfals im Munde führen'.<sup>81</sup> The Reichshofrat added that the compensation offered to the Culmbach family was too low compared to the annual revenues of Bayreuth and that Prussia had exaggerated Bayreuth's debt. Prussia, according to the Reichshofrat, had deliberately withheld crucial information and had deceived its Franconian cousins. 'Zur verzicht überredet' as the judgements stated.<sup>82</sup>

A harsh imperial judgement on Prussia's family strategies and the full memorandum of complaint had yet to be presented. The Reichshofrat was more critical about the terms of the Schönberger Treaty now, because the main signatories complained. The princes were taken seriously because as minors they had been in a weak position. Moreover, as the legitimate first-in-line stakeholders their claim carried serious weight. King Friedrich Wilhelm realised that he could no longer push through his claim. The princes enjoyed broad imperial support. The Schönberger Treaty was no longer considered legitimate and the Reichshofrat expected the parties to start mutual negotiations to reach a settlement. Prussia lamented that the princes broke their princely word and had 'auff eine verachtliche art solches alles von sich gestoßen' after they had been maintained and educated by Prussia for many years.<sup>83</sup> To refrain from the Schönberger Treaty Prussia demanded reimbursement of the 'considerabler pensionen und alles das jenige was Sie [the Culmbach family], krafft des Successions pacti, aus [der] König[liche] Mays[stätliche] landen gezogen'.<sup>84</sup>

91

The negotiations started in 1719. Georg Friedrich Carl was willing to compensate Prussia, but it still took three years to agree on the amount. A settlement was concluded in 1722. The Culmbach family was restored to its rights of succession. In return, they would pay Prussia either a one-time sum of 500.000 thaler, or agree with considerable annual payments. The king, furthermore, demanded a quick imperial confirmation to secure his fiscal claim on the Culmbach family. The Reichshofrat did a final constitutional check and Emperor Charles VI confirmed the settlement in 1725.<sup>85</sup> Margrave Georg Wilhelm died in 1726 and his Culmbach cousin Georg Friedrich Carl assumed office without further ado.<sup>86</sup>

The new margrave, however, still needed his Franconian allies. He inherited a debt and the settlement stipulated that Prussia could seize parts of Bayreuth if the margrave failed to pay the compensation. Bayreuth's estates declared themselves willing to con-

<sup>80</sup> Reichshofrat Gutachten, 14 Feb. 1716, HHSTA, RHR, Decisa 636, doc. 36.

<sup>81</sup> Ibidem.

<sup>82</sup> Ibidem.

<sup>83</sup> Graeve to Reichshofrat, Apr. 1717, HHSTA, RHR, Decisa 636, doc. 46.

<sup>84</sup> Ibidem.

<sup>85</sup> Endres, 'Die Erbabreden', 67-68.

<sup>86</sup> L.J.J. Lang, *Kulmbachische Stadt- und Historienkalender (1778-1797)*, ed. H. Stark (Weißenstadt, 2013) 77-80.

tribute, but were unable to provide the funds on a short term.<sup>87</sup> Lothar Franz saw this problem coming. He already mobilized the Franconian-Kreis one month before Georg Wilhelm's death. Bayreuth could be reduced to a Prussian tributary, making Prussian influence inevitable. Lothar Franz convinced the Franconian-Kreis assembly of the need to prevent this at all costs and the Kreis agreed to lend Georg Friedrich Carl the 500,000 thaler necessary to pay off Prussia at once. The king was surprised, he preferred annual payments and reluctantly accepted the lump sum. The opposition had finally sealed off its original objective; averting Bayreuth to be united with Brandenburg-Prussia.<sup>88</sup>

## Decision-making in Vienna

### *The first interim-judgement*

92 The Reichshofrat was embedded in the Habsburg court establishment and closely affiliated with the emperor, i.e. the supreme judge. The emperor appointed Reichshofrat judges and, in politically relevant cases, the Reichshofrat always consulted the emperor and his privy council for a *vetum ad imperatorum*. This consultation practice offered scope for political influence and Vice-chancellor Friedrich Karl von Schönborn and others with vested interests in the Culmbach dispute actively lobbied in Vienna. In Franconia, Vienna, and throughout the Empire, Prussia's aggrandisement was increasingly regarded as a threat. In 1706, Prussia's agent in Vienna described this sentiment in a letter to Berlin:

die fränkische Dinge (...) erregen doch noch größeres Lermen; Chur-Mainz als Bischoff zu Bamberg, Chur-Pfalz, Chur-Braunschweig, Würtzburg, Eychstädt, der Herzog von Württemberg, ja der gantze Schwabische und Fränkische Creyß schreyen dawieder.<sup>89</sup>

Emperor Joseph I shared the opposition's concerns and had no interest in seeing Prussia acquire additional land, particularly not in Habsburg-loyal Franconia. Contemporary critics and later historians have, therefore, often regarded the Reichshofrat as an instrument of Catholic or Habsburg power, opposing Protestant rulers like the Kings in Prussia.<sup>90</sup> In the historiography, the Culmbach dispute is regarded as completely skewed by political expediency, but this view requires refinement.<sup>91</sup> By tracing the decision-making process on a micro-level, this section will reveal how the emperor was

87 J.W. Holle, 'Georg Friedrich Carl, Markgraf von Bayreuth 1726-1735, nach gleichzeitigen handschriftlichen Quellen dargestellt', *Archiv für Geschichte und Alterthumskunde von Oberfranken*, VI (1855) 34.

88 Endres, 'Die Erbabreden', 71-72.

89 Bartholdi to King Friedrich, Mar. 1706, published in: Berney, *König Friedrich I*, 261-275, 266.

90 On the contemporary critics V. Press, 'Der Reichshofrat im System des Frühneuzeitlichen Reiches', in: F. Battenberg, F. Ranieri and B. Diestelkamp, eds, *Geschichte der Zentraljustiz in Mitteleuropa* (Weimar, 1994) 353-358.

91 Endres, 'Die Erbabreden'; idem, 'Preußens Griff'; Hantsch, *Reichsvizekanzler*, 63, 134-137, 223-225; Höfler, 'Fragmente zur Geschichte', 417-431.

constrained by the imperial constitution in dealing with princely rights of succession.

In his article on the Culmbach conflict, Rudolf Endres acknowledged that Emperor Joseph was opposed to Prussian expansion from the outset, but he failed to explain why the emperor was unable to reject the Schönberger Treaty during his lifetime. The Schönborns lobbied in Vienna since 1703, warning the emperor and his chief ministers that a Prussian succession in Franconia meant an ‘*anschlag für daß allgemein Kayserl[ische] und Reichs auch Catholische Religiono wesen*’ and, from 1706 onwards, they pushed Carl August’s case to disturb the confirmation.<sup>92</sup> The vice-chancellor formally held a seat in the Reichshofrat, but he rarely attended. Discussing the legal contents of the Schönberger Treaty was left to the Reichshofrat’s legal experts.<sup>93</sup> The vice-chancellor did maintain informal contact with individual Reichshofrat councillors, as he wrote to Lothar Franz, but his position in the privy council was far more important to secure political goals.<sup>94</sup> Lothar Franz’s stadholder in Bamberg was instructed to keep the vice-chancellor informed about the ‘*Königliche Preußische unternehmungen im Fränkischen Crayse*’ and Friedrich Karl used this information to convince the privy council of the need to prevent a Prussian succession in Bayreuth.<sup>95</sup> The Schönborns and the emperor held a shared interest in the Catholic cause, which also fostered the cooperation with the prince-bishops of Würzburg and Eichstadt, the grand master of the Teutonic Order, and the now Catholic Elector of the Palatinate. The Catholic princes had an additional motive to support a weak Protestant prince against a powerful one, but the resistance went beyond clear religious divides as Protestant Hanover and Württemberg also opposed Prussian expansion. Lothar Franz, furthermore, worked with many Protestants, the Franconian Hohenzollerns and many Franconian-Kreis members included. His Catholic network was important, but fear of Prussian power politics was the common denominator of the opposition. However, despite this broad support the opposition had serious trouble to secure its political goal.

When the Reichshofrat’s first interim-judgment on the Schönberger Treaty was discussed in the privy council in July 1707, Vice-chancellor Friedrich Karl von Schönborn, the prince of Salm, Reichshofrat president Oettingen, and two other ministers were present.<sup>96</sup> The privy council shared the vice-chancellor’s concerns about Prussia’s ambitions. The Reichshofrat’s legal advice, however, with which the privy council

<sup>92</sup> Lothar Franz described the situation in a letter to his stadholder in Bamberg, Jul. 1705, HHSTA, MEA, FK, Korrespondenz Schönborn und den Frankischen Kreis, 12.

<sup>93</sup> O. Gschliesser, *Der Reichshofrat. Bedeutung und Verfassung, Schicksal und Besetzung einer obersten Reichsbehörde von 1559-1806* (Vienna, 1942) 67; The Reichshofrat record books do not mention Schönborn among the attendees, HHSTA, RHR, RP XVIII, Vols 17, 19, 20a, 22, 26, 30, 34, 39, 40, 41, 42.

<sup>94</sup> Friedrich Karl to Lothar Franz: ‘Wie ich mich so wohl mit dem Referenten, als anderen Reichshoffrhäts darüber gesprochen und ob deren einhelligen meynung wahrnehmen können’, 1708, HHSTA, MEA, Korrespondenz, 89.

<sup>95</sup> Lothar Franz to his stadholder in Bamberg, Jul. 1705, HHSTA, MEA, FK, Korrespondenz Schönborn und den Frankischen Kreis, 12

<sup>96</sup> The judgment bears their signature, Reichshofratsgutachten, Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.



Joseph I, Holy Roman Emperor (1678, 1705-1711) (mezzotint and engraving, Johann van der Bruggen, after a painting by Frans van Stampart, first half eighteenth century; coll. Rijksmuseum, Amsterdam)



Lothar Franz von Schönborn, Imperial Arch Chancellor and Elector of Mainz (oil on copper, Christian Schilbach, 1715; Köln, Wallraf-Richartz-Museum and Fondation Corboud, Gemälde-sammlung, photo Rheinisches Bildarchiv Köln, Sabrina Walz)

was confronted sharply contradicted the opposition's interests, leaving little room for manoeuvre. The interim-judgement acknowledged Prussia's constitutional claim on Bayreuth and rejected Carl August's objections, advising the emperor to confirm the Schönberger Treaty. Friedrich Karl explained this in a letter to Lothar Franz:

daß nach sonstiger gewohnheit das ReichsHofrhat guthachten in dergleiche vorfallenheiten Kayll[liche] May[estät] was zu thuen oder zulaßen ahn handt zugeben pfligt, von deroselben hingegen in dieser Materie indessen einrathen verworffen – mithin ihme mittels anderwertiger verordnung die hände so gebunden worden, daß er besorglich darinn weither fürzufahren anstehen wird.<sup>97</sup>

97 Friedrich Karl to Lothar Franz, Feb. 1708, HHSTA, MEA, Korrespondenz, 89.

nach Reiffer überlegung so beschaffen gefunden, daß er die verlangte confirmation ohne weithere communication nach dem weege der justiz billig er-messen.<sup>98</sup>

The vice-chancellor's formulation reveals that the emperor and his privy council had resisted the Schönberger Treaty, but it was highly unlikely that they could proceed in doing so after the Reichshofrat's legal advice. Prussia's obvious constitutional rights could not simply be rejected and designating Bayreuth to Carl August would be an unacceptable move. The Culmbach family would have never renounced its rights only to empower Carl August and feudal law clearly allowed Bayreuth to be transferred to Prussia. The judgement kept Emperor Joseph 'die hände so gebunden'.<sup>99</sup> Although willing to counteract Prussia, he was constrained by the imperial rule of law.

The Reichshofrat's judgement was not the result of opposing political agendas, but was based on straightforward legal considerations. It was the Reichshofrat's tasks to provide advice on the imperial constitution and the privy council had to take the constraints on the emperor's authority very seriously. The emperor was not in a position to enforce whatever verdict he liked because the Reichshofrat had only limited coercive power. Enforcement was usually delegated to princes in the region, but Prussia maintained the second-largest army in the Empire.<sup>100</sup> Prussia sometimes gave in to imperial pressure, but enforcing clearly Habsburg favourable judgements upon the king was no option. To prevent problems with coercion, the Reichshofrat always aimed at brokering settlements between the parties instead of issuing final-verdicts.<sup>101</sup> So the Reichshofrat depended on mutual negotiation and acceptance to resolve the Culmbach conflict. This could only be achieved when the Reichshofrat presented reasonable alternatives or solutions. In this case, only a Hohenzollern scion could succeed in Bayreuth and Carl August was no option, while the rest of the family still supported the king. Hence, at this point, no alternatives were available.

Unwilling to confirm the Schönberger Treaty straightaway, the privy council aimed for delay. The Franconian complaints about Prussia's military conduct and the procedural struggles around the exchange of documents served this purpose. The Reichshofrat issued a judgement that urged Prussia to end its military provocations, while demanding patience until Carl August would hand in his memorandum of defence.<sup>102</sup> This was the only good news the vice-chancellor could report to Lothar Franz. He explained that:

von der Geheimbe stele gleichwohlen nach darüber vorgewester berathschlagung und erwogenen umständen, sonderlichen der gefährlichen folge, sothanem concluso abgefalten, und das communicatur bewilliget worden.<sup>103</sup>

<sup>98</sup> Ibidem.

<sup>99</sup> Friedrich Karl to Lothar Franz, 8 Feb. 1708, HHSTA, MEA, Korrespondenz, 89.

<sup>100</sup> Wilson, 'Prussia and the Holy Roman Empire', 18.

<sup>101</sup> Wilson, *The Holy Roman Empire*, II, 628-629.

<sup>102</sup> Reichshofratsgutachten, Mar. 1707, HHSTA, RHR, Decisa 636, doc. 18.

<sup>103</sup> Friedrich Karl to Lothar Franz, Feb. 1708, HHSTA, MEA, Korrespondenz, 89.

Yet, the same judgement acknowledged Prussia's constitutional claim and rejected Carl August's objections. Friedrich Karl admitted his failure to secure the opposition's objective, but he reassured Lothar Franz that he had done everything in his power to advance their cause 'die gantze zeith über mit möglichsten eÿffer nit ohne gefahr'.<sup>104</sup> The privy council already felt that it was stretching its authority by procrastinating the confirmation. Prussia flooded the Reichshofrat with demands for confirmation and the tone of its exhortations revealed a growing resentment about the delay:

daß wegen des (...) getroffenen Pacti Succesorii, oder cessions=vergleich, bishero nach immer so viel, schwierigkeiten, verzöger- und hinderungen sie würden verfführen müssen, (...) und es klahr an den Tag lieget, daß auch Ew. Kayser[liche] May[stat] und den Heyl[lichen] Römischen Reich, der lehenbarkeit halber, dadurch nichts entgehet (...) mithin der geringste zweiffel bey der sache mehr übrig bleibt.<sup>105</sup>

96 Prussia's agent rightly suspected ulterior motives, complaining about 'übelgesinneten, die ihrer Königl[iche] May[stat] in Preußen es nicht einmahl gönnen'.<sup>106</sup> The integrity of the supreme judge was being questioned by one of his most powerful vassals and the vice-chancellor understood that this was putting the Reichshofrat's authority at stake. He explained to Lothar Franz that 'eine weithere verzögerung umb so ohnverantwortlicher vorkommen will', because Prussia threatened to withdraw its request.<sup>107</sup> The Reichshofrat would then lose its grip on the case, denting its authority while provoking a broad imperial controversy. Prussia's military provocations, furthermore, were not as bad as the Franconian princes claimed. The troops stationed in Bayreuth had been welcomed by Margrave Christian Ernst and the raging War of the Spanish Succession provided ample reason for their presence as Prussia pointed out.<sup>108</sup> Only the Limpurg-Speckfeld issue was still unsettled. The vice-chancellor warned Lothar Franz that it would be even more difficult to withhold the confirmation in the near future if Prussia obeyed the Reichshofrat and retreated its troops. The vice-chancellor saw no further possibilities to prevent a Prussian succession in Bayreuth and he thought it best to cease the opposition before troubling the relations with Prussia any further.<sup>109</sup>

#### *The Culmbach complaints*

After the turbulent years of 1707-1708, quarrels around the Schönberger Treaty came to a standstill. Carl August and his Franconian supporters were not in a hurry to pro-

<sup>104</sup> Ibidem.

<sup>105</sup> Bartholdi to Reichshofrat, Feb. 1707, HHSTA, RHR, Decisa 635, doc 15.

<sup>106</sup> Ibidem.

<sup>107</sup> Friedrich Karl to Lothar Franz, Feb. 1708, HHSTA, MEA, Korrespondenz, 89.

<sup>108</sup> Bartholdi to Reichshofrat, Mar. 1707, HHSTA, RHR, Decisa 636, doc. 17.

<sup>109</sup> Friedrich Karl to Lothar Franz, Feb. 1708, HHSTA, MEA, Korrespondenz, 89; abandoning their opposition was also considered in another letter of Friedrich Karl quoted in Endres, 'Die Erbabreden', 57.

ceed the case and it took them three years to present a full memorandum of defence.<sup>110</sup> The subsequent changes of regime in Vienna and Berlin caused further delay. During these years, Lothar Franz sought other ways to disturb Prussia's Franconian undertaking. In close conjunction with the vice-chancellor he secured the authority to mediate in the case of Bayreuth's margravine and in Limpurg-Speckfeld. Two additional setbacks for Prussia, but, more importantly, the margraves of Brandenburg-Ansbach and Brandenburg-Bayreuth joined the opposition. Friedrich's Hohenzollern family pact gradually crumbled and fully disintegrated when the Culmbach princes travelled to Lothar Franz in 1715. It was eight years after the last interim-judgement when the Culmbach appeal revived the dispute about the Schönberger Treaty.

In his research, Endres found out about the move of the Culmbach princes to Franconia, and Hugo Hantsch was struck by the subsequent actions of the vice-chancellor in the privy council, but neither of them studied the legal contents of the Culmbach appeal.<sup>111</sup> After receiving the news about the willingness of the Culmbach princes to appeal against the Schönberger Treaty, the vice-chancellor rapidly rallied support for their cause. Prince Eugen of Savoy – the emperor's most eminent general and minister – was immediately convinced by the vice-chancellor and drafted a memorandum outlining the strategic advantages of preventing a Prussian succession in Bayreuth. He considered it an ideal way to secure the loyalty of the Franconian-Kreis to the emperor and to prevent Prussian adjacency to Habsburg Bohemia.<sup>112</sup> Backed by Prince Eugen, Friedrich Karl von Schönborn elucidated the disadvantages of the Schönberger Treaty once more in the privy council meeting of 8 October 1715. In a persuasive speech, which he later called his 'Meisterstück', he convinced the emperor and his ministers that the Schönberger Treaty endangered the Empire's stability in general and Habsburg power in particular, and argued that with the claim of the Culmbach princes they possibly had sufficient reason to reject it.<sup>113</sup> However, to do that they had to proceed extremely careful. The Reichshofrat could only eliminate the treaty on legal grounds so all suspicion of a politically motivated decision had to be prevented. In his speech, Schönborn proposed:

Mit solcher Manier behutsam darinnen fürzugehen, daß äußerlich nichts anders als der alleinige Weg der Kläger, der Richters und der Rechten erscheine, innerlich und unter der Hand aber mit Rat und Tat aller vorschub gegeben, jedoch von seiten Ew. Kay[serliche] May[stät]t hierunter insonderheit dermaßen fürsichtig gehandelt werde, damit man Dieselbe keiner Parteilichkeit beschuldigen, folglich darab von dem König in Preußen

<sup>110</sup> Carl August's defence Memorandum, Sep. 1710, HHSTA, RHR, Decisa 636, doc. 34.

<sup>111</sup> Endres, 'Die Erbabreden', 61; Hantsch, *Reichsvizekanzler*, 223-225.

<sup>112</sup> Endres, 'Die Erbabreden', 63; P. Milton, 'Imperial Law versus geopolitical interest. The *Reichshofrat* and the protection of smaller territorial states in the Holy Roman Empire under Charles VI (1711-1740)', *English Historical Review*, CXXX (2015) 845; Prince Eugen's memorandum, 8 Oct. 1715, is not consulted for this study, but has been used by Endres and Milton and is kept in: HHSTA, RK, Vorträge, 6b.

<sup>113</sup> Hantsch, *Reichsvizekanzler*, 223; Endres, 'Die Erbabreden', 61.



kein begründeter Anlaß hergenommen werden könnte, gegen Ew[er] Kay[serliche] May[stat] in Dero Kays[erliche] oberstlehenherl[iche] und hochrichterl[iche] amt (...) befügte Klage zu führen.<sup>114</sup>

The privy council agreed on this cautious strategy and granted the troubled princes a 4000 *thaler* annuity, just as they did for Carl August, to support the princes during the process and the vice-chancellor reassured that the Franconian-Kreis would pay any additional costs of their maintenance.<sup>115</sup> Within a month after the Culmbach princes had approached Lothar Franz, the vice-chancellor had paved the way for a successful appeal to the Reichshofrat. Decision-making was running ahead of events since an official appeal still had to be drafted.

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The much-anticipated appeal reached Vienna in December and the Reichshofrat devoted a session to it in February 1716.<sup>116</sup> The vice-chancellor did not attend, but Reichshofrat-president Ernst Friedrich von Windisch-Grätz had been present in the privy council when the vice-chancellor gave his crucial speech.<sup>117</sup> Windisch-Grätz was, according to Prussian observers, inclined to disadvantage 'mächtigen Reichs-Stände' and, in 1714, he passed the Reichshofrat-dossier of the Schönberger Treaty into the hands of another *Referent*.<sup>118</sup> The Referent prepared the legal considerations on a particular case and summarised the dispute and his thoughts on it before deliberations began, limiting himself to only the core of the matter.<sup>119</sup> The most important steps in interpreting imperial law, pieces of evidence and arguments were thus made by the Referent. Windisch-Grätz entrusted the Schönberger Treaty to a close confidant of his, Count Johann Wilhelm von Wurmbrand-Stuppach.<sup>120</sup> Although Wurmbrand had been nominated by Prussia for the Reichshofrat in 1697, he was no longer favourably inclined to the king. On the contrary, he was married to Juliana Dorothea Luise von Limpurg-Gaildorf, who was – oddly enough – one of the claimants in the Limpurg-Speckfeld case and she was still litigating against Prussia when her husband judged the complaints of the Culmbach princes.<sup>121</sup>

<sup>114</sup> Quoted after: Hantsch, *Reichsvizekanzler*, 224; and Endres, 'Die Erbabreden', 63.

<sup>115</sup> Endres, 'Die Erbabreden', 63.

<sup>116</sup> Reichshofrat Gutachten, Feb. 1716, HHSTA, RHR, Decisa 636, doc. 36.

<sup>117</sup> *Ibidem*.

<sup>118</sup> The Resolutionsprotokolle mark the initials of the Referent, revealing that the case was transferred to Wurmbrand in 1714, right after Windisch-Grätz was appointed Reichshofrat-president. Assigning cases to a Referent was the president's prerogative; Quoted after: Schenk, 'Reichsjustiz im Spannungsverhältnis', 112; Gschliesser, *Der Reichshofrat*, 326-327.

<sup>119</sup> W. Sellert, 'Beschleunigung des Verfahrens am Reichshofrat', in: C.H. van Rhee, ed., *The law's delay. Essays on undue delay in civil litigation* (Antwerp, 2004) 269-272.

<sup>120</sup> H. Zwiadineck von Südenhorst, 'Wurmbrand, Johann Wilhelm Graf von', in: *Allgemeine Deutsche Biographie*, XLIV (1898) 335-338, <https://www.deutsche-biographie.de/gnd120709023> (accessed Nov. 2016); Gschliesser, *Der Reichshofrat*, 335-336; C. Wurzbach, 'Windisch-Grätz, Ernst Friedrich', in: *idem*, ed., *Biographisches Lexikon des Kaiserthums Oesterreich* (60 Vols; Vienna, 1856-1891), LVII, 47.

<sup>121</sup> Schenk, 'Reichsjustiz im Spannungsverhältnis', 142.

No wonder that Prussia protested against Wurmbrand as Referent on its cases, right after the unfavourable judgement was issued in February. Prussia's agent in Vienna talked to Windisch-Grätz about Wurmbrand's conflict of interests, but Windisch-Grätz defended the Reichshofrat's integrity.<sup>122</sup> The Schönborns probably knew that Wurmbrand was fully entangled in the Franconian controversy; the vice-chancellor maintained informal contact with individual Reichshofrat-councillors and Lothar Franz arbitrated in the Limpurg-Speckfeld case.<sup>123</sup> In 1726 at least, after the Bayreuth case was settled, Wurmbrand would be admitted to the Franconian college of counts.<sup>124</sup> Whatever the exact constellation, Windisch-Grätz, the vice-chancellor, and the entire Schönborn family were in Berlin considered 'sehr suspect', while Wurmbrand was regarded as Prussia's 'offenbahrer Feind'.<sup>125</sup>

Prussia started a campaign to bribe Reichshofrat judges, but it was too late to hinder the Culmbach appeal.<sup>126</sup> On 14 February 1716, Wurmbrand presented the case in the Reichshofrat, which unanimously agreed that the circumstances under which the Culmbach princes had renounced their rights provided enough reason for a *relaxatio à juramento ad effectum agendi*. This was a formal legal procedure, which temporarily lifted the princes from their oath of renouncement until their full memorandum of complaint would be assessed.<sup>127</sup> The princes still handed in their full memorandum of complaint six months later, but it was already clear that the Schönberger Treaty was no longer feasible.<sup>128</sup> Deliberately misinforming minor stakeholders to secure their renouncement was a serious offence. The judgement was sent to the emperor who signed: 'Placet in toto Carl VI'.<sup>129</sup> The king could impossibly deny the solid claim of the Culmbach princes in the face of *Kaiser und Reich* and accepted his loss.

Carl August's arguments had been too farfetched. His appeal enabled the opposition to delay the confirmation, but never provided a serious option to get the Schönberger Treaty rejected. The decisive factor was therefore the Culmbach appeal. The claim of the Culmbach princes differed from Carl August's earlier claim because they were the direct first-in-line heirs in Bayreuth. The Reichshofrat had already been worried about their situation when they renounced their rights as minors and they did not need complicated interpretations of the house rules such as Carl August. They simply

<sup>122</sup> Ibidem, 142-143.

<sup>123</sup> Friedrich Karl to Lothar Franz, Feb. 1708, HHSTA, MEA., Korrespondenz, 89.

<sup>124</sup> Südenhorst, 'Wurmbrand', 335-338.

<sup>125</sup> Schenk, 'Reichsjustiz im Spannungsverhältnis', 142.

<sup>126</sup> Ibidem, 133-143.

<sup>127</sup> The Reichshofrat granted the *relaxatio à juramento ad effectum agendi* to give litigants time to demonstrate that their oath was illegitimate, which could thereafter lead to a full rejection, see: J.J. Moser, *Einleitung zu dem Reichs-Hof-Raths Proceß* (4 Vols; Frankfurt a.M.-Leipzig, 1734-1755), I, 656-657, 699, 703; Reichshofrat Gutachten, Feb. 1716, HHSTA, RHR, Decisa 636, doc 36.

<sup>128</sup> Georg Friedrich Carl mentions the memorandum in a letter to the *Reichshofrat*, 18 August 1718, HHSTA, RHR, Decisa 636, doc. 47.

<sup>129</sup> Reichshofrat Gutachten, Feb. 1716, HHSTA, RHR, Decisa 636, doc. 36.

reclaimed their rightful position. The privy council decision of 1716 was a clear political move, but was only possible because a sufficient legal opportunity had finally emerged.

## Conclusion

As members of the Empire's high nobility (*Reichsunmittelbarem Adel*) all scions of the Hohenzollern dynasty could directly appeal to the imperial supreme courts to request arbitration and legal protection. Rights of inheritance were fundamental to the Empire's political structure and needed legal protection to secure the continuity and stability of territorial governance. Moreover, Bayreuth was an imperial fief and to change the order of succession Prussia needed the emperor's confirmation. The *Samtbelehrnung* connected a broad range of relatives with Bayreuth and the king had to demonstrate that the Schönberger Treaty guaranteed their rights. Prussia's agents talked the Culmbach family into a renouncement of rights and convinced the members of the Brandenburg-Ansbach and Brandenburg-Bayreuth branches to acknowledge the Schönberger Treaty, but one outspoken opponent threw a spanner in the works and appealed to the Reichshofrat. This was a typical problem of dynastic politics in the Empire. The rights of individual stakeholders troubled Prussia's ambitions in Tecklenburg and Limpurg-Speckfeld as well, causing endless disputes before the Reichshofrat. The effort Prussia put into demonstrating the Schönberger Treaty's lawfulness shows the importance of imperial confirmation. To legitimately acquire new territories and the imperial privileges attached to them, such as Reichs- and Kreistag votes, the emperor's confirmation was essential. To assess the Schönberger Treaty, the Reichshofrat not only checked imperial charters and privileges, but also the Hohenzollern house rules. The house rules had been confirmed by every successive emperor and were thus embedded in the Empire's constitutional order as imperial 'Lex Publica'.<sup>130</sup> Hence, the Reichshofrat forced King Friedrich to adhere to his own Hohenzollern house rules to secure his dynastic and political goals.

The Hohenzollern dispute over the succession in Bayreuth offered opportunities for Prussia's political opponents. To disturb Prussia's ambitions, the Schönborns developed a clear political strategy aimed at interfering in Hohenzollern family affairs. They prepared Carl August's Reichshofrat appeal and asked other Hohenzollern scions to join the opposition. By supporting the Reichshofrat appeals of Carl August, Wilhelm Friedrich, Georg Wilhelm and, eventually, Georg Friedrich Carl and his brother, the opposition was using the imperial judiciary to frustrate Prussia. Many Franconian counts and princes supported the Schönborns and provided crucial information and financial aid. Collectively, the opposition maintained Carl August for several years, paid for the Culmbach princes after they travelled to Franconia, and caught the king

<sup>130</sup> Reichshofrat Gutachten, Feb. 1716, HHSTA, RHR, Decisa 636, doc. 36.

by surprise by disbursing a staggering 500.000 thaler to Georg Friedrich Carl to compensate Prussia and secure Bayreuth's independence. Prussia's expansionist pressure thus promoted cooperation amongst the small Franconian counts and princes.

Friedrich Karl von Schönborn used his position in Vienna to advance the opposition's interests. He lobbied for Carl August's and, later, Georg Friedrich Carl's cases and convinced the privy council that a Prussian succession in Bayreuth had to be prevented. Yet, he could not induce the Reichshofrat to accept Carl August's claim. The Reichshofrat concluded that Carl August's arguments were insufficient and that the Schönberger Treaty respected the Hohenzollern house rules. Zooming-in on the privy council deliberations revealed that the emperor and his ministers were willing to counteract Prussia. The privy council granted annuities to Carl August and the Culmbach princes, but the Reichshofrat's advice was taken seriously. The emperor was not in a position to impose whatever verdict he liked, and Carl August was a too unlikely candidate for the succession in Bayreuth. Particularly because the Culmbach family, initially, kept supporting the king. The Reichshofrat judgement kept the emperor's hand tied; he was constrained by the imperial rule of law.

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The opposition could only secure some additional delay, mainly because Prussia was reinforcing its military strength in Franconia. This delay eventually proved crucial. During these years, the Reichshofrat designated Lothar Franz von Schönborn to arbitrate in the case of Bayreuth's margravine and in Limpurg-Speckfeld. Designating the *Kreis*-director as commissioner was formally justified, but it clearly favoured the opposition and hindered Prussia. Changing Hohenzollern relations, subsequently, enabled Lothar Franz to find the support of the Margraves of Brandenburg-Bayreuth and Brandenburg-Ansbach and eventually the opposition was able to convince the Culmbach family to join their ranks. The Culmbach appeal carried serious weight because they were the main signatories of the Schönberger Treaty and the first-in-line stakeholders for Bayreuth. The princes complained about the circumstances under which they had renounced their rights and reclaimed Bayreuth. Finally, a sufficient opportunity had emerged to reject the Schönberger Treaty and the privy council decided to support the princes. The decision was taken into account by the Reichshofrat, which acknowledged the Culmbach complaints. Hence, the emperor could use the Reichshofrat to secure political goals only when acceptable legal opportunities were available.

Moreover, a settlement still had to be reached through mutual negotiations. The king realised that the Schönberger Treaty had become untenable and accepted his loss, but only in return for a considerable compensation. The Culmbach princes were restored to their rights of succession and Georg Friedrich Carl succeed Margrave Georg Wilhelm in 1726. The Franconian-*Kreis* paid the compensation to prevent Prussian influence in Bayreuth and it took the margraves until 1784 to pay off their dept.<sup>131</sup>

The inheritance rights of the Empire's high nobility were not just family internal af-

131 Endres, 'Preußens Griff', 73-74.

fairs. They were a central topic in the power struggle between the Empire's great rulers and its numerous small princes and counts. The emperor and the supreme courts guaranteed the rights embedded in the imperial constitution and posed a serious obstacle to the expansionist ambitions of the grand princes. These institutions safeguarded a largely peaceful coexistence between great and small political entities up until the Empire's dissolution in 1806. Or, as a contemporary observer put it in 1717:

Die beyde hohe Reichsgerichte sind eigentlich noch die Ketten, welche sowohl die grose als kleine Reichsstände in der Reichsfaßungsmäsigen verbindung zusammen halten. Sollten diese aufhören, so würde auch die Freyheit der kleinen Stände mit einmal verschwinden.<sup>132</sup>

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132 J.M. von Loën, *Des Herrn von Loën gesammelte kleine schriften* (Frankfurt-Leipzig, 1717) 16.

Quinten Somsen

## Prussia's Franconian undertaking

Dynasty, law, and politics in the Holy Roman Empire (1703-1726)

In the early eighteenth century, the question of succession in Bayreuth caused a Hohenzollern internal dispute. King Friedrich I in Prussia wanted to add Bayreuth to his numerous possessions, but a distant cousin made objections and appealed to the emperor's *Reichshofrat* (Imperial Aulic Council). The appeal required the Reichshofrat to arbitrate between members of one of the Empire's most distinguished noble families. The king's ambitions, moreover, prompted opposition of Franconian princes and counts who feared Prussian aggrandisement. This opposition actively lobbied against the king and supported every Hohenzollern scion willing to challenge Prussia. This article enquires how the Reichshofrat guaranteed the inheritance rights of the Empire's high nobility even when the political stakes were exceptionally high.

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