Property and Civil Society in South-Western Germany 1820–1914

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1820–1914
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On the topic of families, this book is dedicated to my brother Dan.

J.S.
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The Palatinate in the Nineteenth Century
Introduction

In the year 1909, the factory worker Karl Gottfried Käfer, aged 41, married, and the father of twelve children, living in the village of Thalfröschen in the Bavarian Palatinate, began to hear voices proclaiming him God’s vicar on earth. He stood in the window of his house and preached at passers-by, to their surprise in high German, rather than in Palatine dialect. Käfer’s initial behaviour might have been just eccentric, but when he took to sleeping with an axe-handle in his bed and tried to stab his wife with a shoemaker’s knife, he was hustled off to the insane asylum in Homburg. In the due course of events, a hearing on his mental competency was held in the magistrate’s court [Amtsgericht] in the city of Pirmasens, near his home village.

Decisive for the court’s verdict was the expert opinion [Gutachten] of the asylum physician Dr Casselmann. The doctor diagnosed Käfer as suffering from paranoia; similar symptoms would today probably be classified as paranoid schizophrenia. As evidence for his diagnosis, Casselmann described his patient’s stubborn insistence on the validity of his delusions. ‘Even the mention of his family and the likelihood that his property would be lost if he continued to follow his ideas, brought forth no lasting changes in affect.’ Käfer’s indifference to his family and his property was decisive proof of his mental incompetence and inability to manage his own affairs, and so the court ruled.¹

THINKING ABOUT CIVIL SOCIETY

Dr Casselmann’s expert opinion illuminates an important but only very partially explored aspect of German history in the century preceding the First World War, namely the nature of civil society, that realm of human interaction between the family and the state, free both of the restrictions of the corporate institutions of the old regime and of the police surveillance of an absolutist government. This understanding of civil society, or, more precisely, this reformulation of a concept dating back to classical antiquity, was developed by the thinkers of the Scottish Enlightenment and reached the German cultural world as bürgerliche Gesellschaft

via the mediation of a whole group of philosophers, writers, and legal theorists, the
most prominent of whom were Kant and Hegel. In the second half of the
nineteenth century, the concept of civil society became less salient to intellectual
debate. After c.1890, and especially after 1914, the rise of large corporate enterprises
and of a massively interventionist state, whether in its social welfare, total warfare, or
totalitarian form, seemed to have brought the era of civil society to an end.²

Yet the concept was revived in the 1970s and 1980s by oppositional intellectuals
in eastern Europe and in the following decades has enjoyed a triumphant renais-
sance in the social thought of western Europe and North America. It appears in a
multitude of contexts, including the evaluation of the transformation of social
structures in post-communist Europe or in the discussion of why contemporary
Americans ‘bowl alone’.³ Historians have made use of the concept as well, and
understandings of civil society were central to one of the major scholarly projects
in Germany over the past quarter-century, the history—primarily the nineteenth-
century history—of the middle or upper middle class, the Bürgertum. In this body
of scholarship, German historians have expressed different points of view over
which social groups were the architects and pillars of civil society in nineteenth-
century Germany, although they do generally agree that civil society emerged
from the old regime, reached its high point sometime during the nineteenth
century, and was in decline by the beginning of the twentieth.⁴

Generally characteristic of this scholarship is the use of civil society as a
synonym for Jürgen Habermas’s concept of the public sphere, with that latter
notion of a realm of disinterested debate about the common weal instrumentalized
in terms of voluntary associations, public meetings, and the periodical press.⁵ This

² Norbert Wassek, The Scottish Enlightenment and Hegel’s Account of ‘Civil Society’ (Dordrecht:
M. Nijhoff, 1988); Rupert H. Gordon, Kant, Smith and Hegel: The Market and the Categorical
Imperative, and Elisabeth Ellis, ‘Immanuel Kant’s Two Theories of Civil Society’, both in Frank
Trentmann (ed.), Paradoxes of Civil Society: New Perspectives on Modern German and British
History (New York: Berghahn Books, 2000), 85–104 and 105–31, respectively; Manfred Riedel,
‘Gesellschaft, bürgerliche’, in Otto Brunner, Werner Conze, and Reinhart Koselleck (eds.),
Geschichtliche Grundbegriffe, 8 vols. (Stuttgart: Klett-Cotta, 1972–97), ii. 719–800. One of the last
major nineteenth-century uses of the concept was the very interesting if deeply reactionary work of the
journalist and folklorist Wilhelm Heinrich Riehl, Die bürgerliche Gesellschaft (Stuttgart: Cotta, 1851).

³ For a very modest sample of discussions of the concept of civil society and its use in contempo-
rary social thought and social research, cf. Ernst Gellner, Conditions of Liberty: Civil Society and its
Society’, in Trentmann (ed.), Paradoxes of Civil Society, 3–46; or Michael Edwards, Civil Society

⁴ On the relationship of the history of the Bürgertum to the concept of civil society, see Jonathan
Sperber, ‘Bürger, Bürgertum, Bürgerschaft, Bürgerschaftskultur: Studies of the German (Upper-

⁵ A model example of such historical work is Stefan-Ludwig Hoffmann, Geselligkeit und
Demokratie. Vereine und zivile Gesellschaft im trans-nationalen Vergleich 1750–1914 (Göttingen:
Vandenhoeck & Ruprecht, 2003). The collection of essays edited by Frank Trentmann, mentioned in
nn. 2–3 above, promises to bring ‘new perspectives’ to the study of civil society, but it, too, largely
identifies civil society with the public sphere. A criticism of the instrumentalization of Habermas’s
concept in Harold Mah, ‘Phantasies of the Public Sphere: Rethinking the Habermas of Historians’,
understanding is insufficient, for it fundamentally narrows our understanding of
the development of civil society in nineteenth-century central Europe in two
important ways.

Particularly in the early part of the century, this Habermasian approach leaves
out those people who were less likely to join voluntary associations, attend public
meetings, or read the periodical press: the lower classes, women, and the rural
population. In the latter part of the century, this was not so strongly the case, but
then another difficulty appears, as a consequence of the growing formalization
and bureaucratization of participation in public life. Association records give us
the voice of the executive secretary and not those of the ordinary members; newspa-
pers become profit-making commercial enterprises rather than the expression
of a ‘public opinion’. More generally, such an approach, by focusing on formally
constituted organizations and associations, omits the whole world of informal but
no less real social relations that made up so much of civil society.

This approach is also too limiting in that it omits a central aspect of civil society
in its characteristic as a body of social practices standing between the family and
the state, an aspect that the Homburg asylum physician Dr Casselmann under-
stood very well. This aspect was the free disposition of property, its acquisition
and intergenerational transmission, transactions in it, and the whole sphere of
cultural practices and representations that developed around it. Both the Scottish
theorists and their German interpreters saw property and the market transactions
in it as a major feature of civil society. According to the jurist Ernst Ferdinand
Klein, one of the authors of the 1794 Prussian General Code, the primary goal of
civil society was the preservation of property and of the right to acquire it freely.⁶

Nineteenth-century realist novelists certainly thought their contemporaries
were very interested in property. Three classics of the German realist novel, Gustav
Freytag’s Soll und Haben, Theodor Fontane’s Frau Jenny Treibel, and Thomas
Mann’s Buddenbrooks, all deal with property and its ramifications for families and
for individuals’ lives. Yet property and its place in family relations, in individuals’
life courses, in the legal system, or in the constitution of relations between social
classes is a topic relatively little studied by historians of the nineteenth century, the
golden age of individual and family property.

Of course, these aspects of property, like many other informal social relations,
are not easy for historians to study. They fly under the radar screen of the usual
sources, the periodical press and the records of the state administration. Individu-
alized material, such as diaries or family papers, can be very enlightening but suf-
fers from the problem of the lack of typicality. Phases of substantial conflict, such

deutschen Publizistik im Zeichen der Französischen Revolution’, in Rudolf Vierhaus (ed.), "Eigentum
und Verfassung: Zur Eigentumsdiskussion im ausgehenden 18. Jahrhundert" (Göttingen: Vandenhoeck &
Ruprecht, 1972), 179–92, here 185. More broadly on the relationship between property and civil
society in the late eighteenth and early nineteenth centuries, Ralf Pröve, Stadtgemeindlicher
as revolutions or other large-scale political confrontations, often throw up large
amounts of evidence, but this evidence does not necessarily bear on circumstances
during politically more peaceful periods, or on longer-term, more continuous,
and less contentious developments.

There is, however, a rather neglected source that historians can bring to bear,
namely civil court records. Paternity suits, bankruptcy and mental competency
hearings, and many other forms of civil litigation concerning, among other issues,
inheritance, property boundaries, credit, and contract, contain very rich material
on the development, evolution, and eventual decline of nineteenth-century civil
society and of the attitudes of participants in it. This use of court records for
sources follows a broader trend in recent historical studies—although these have
been more likely to make use of records of criminal rather than civil courts. Court
records have a number of virtues, perhaps more than any other the way that they
tell a story, and often a fascinating one, making them more attractive to study and
to portray than similar sorts of materials, such as notarial documents. Court
records, however, also have a number of problematic features, traps waiting for the
unwary user.⁷

One is that these records emphasize conflict. Reading them leads into a past
world seething with discord, where neighbours are constantly feuding, family
members never speak to each other, business transactions are indistinguishable
from attempts at fraud, and violence seems to be constantly lurking beneath the
surface. The problem with such a picture of the past is that only instances of
conflict came before the court. As Andreas Gestrich has observed of Utz Jeggle’s
intriguing study of the Swabian village of Kiebingen as such a maelstrom of hostil-
ity, by relying exclusively on conflict-laden court cases, Jeggle assumes that con-
flict was normal and normative, and neglects the many instances of consensus and
cooperation.⁸

⁷ Among the many historical works using criminal court records, I would mention Natalie
Z. Davis, *Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth Century France* (Stanford,
Calif.: Stanford University Press, 1987), Yves Castan, *Honnêteté et relations sociales en Languedoc
(1715–1780)* (Paris: Plon, 1974); Carolyn A. Conley, *The Unwritten Law: Criminal Justice in
Victorian Kent* (Oxford: Oxford University Press, 1991). For central Europe, two examples are Regina
Schulte, *The Village in Court: Arson, Infanticide and Poaching. The Court Records of Upper Bavaria,
Evans, *Tales from the German Underworld: Crime and Punishment in Nineteenth Century Germany*
(New Haven: Yale University Press, 1998). Histories using civil court records are less common and
seem to be confined to the English-language world. Three very good ones are Barbara Young Welke,
*Recasting American Liberty: Gender, Race, Law and the Railroad Revolution, 1865–1920* (Cambridge:
Cambridge University Press, 2001); Ginger S. Frost, *Promises Broken: Courtship, Class and Gender
in Victorian England* (Charlottesville: University Press of Virginia, 1995) and, especially, the remark-
able work of Margot Finn, *The Character of Credit: Personal Debt in English Culture, 1740–1914*
(Cambridge: Cambridge University Press, 2003), which has provided many useful ideas for my own
investigations.

Volkswunde e.V. Schloss, 1977) with Andreas Gestrich, *Traditionelle Jugendkultur und Industrialisierung*
(Göttingen: Vandenhoeck & Ruprecht, 1986), esp. 58–9 and 210 n. 16.
This is a valid objection, but a proper handling of legal records leads to an understanding of consensus as much as of conflict. All legal complaints included, at least implicitly, an evocation of the norms that were being violated. Contrasting accounts, such as one often finds in court proceedings, can bring out this shared consensus or point to different versions of it, held by different groups of individuals. Thus, I would not claim that lawsuits over inheritances show that heirs were constantly feuding, but that these suits contain expectations about divisions of property, and relations of family members to each other, particularly at times of emotional stress brought on by the death of a relative. Bankruptcy cases or legal actions concerning credit do not demonstrate that everyone failed at business, or did not pay their debts, but show the interlinked networks of debtors and creditors, customers and suppliers, family members and in-laws, that farmers, craftsmen, dealers, merchants, manufacturers, and sometimes even factory workers used in their affairs. Paternity suits do not mean that all pre-marital relations ended in a break-up, but might suggest some of the emotional and material preconditions of marriage.

This strategy of rereading is helpful with another source problem characteristic of court documents, their expression in the specialized language of the law. Strictly speaking, what was addressed in a case was the violation not of social norms but of legal ones; issues had to be reformulated in the categories of the Civil Code. Representation of the parties by attorneys only reinforced this tendency to portray both norms and the conflicts violating them as legal norms and legal conflicts.

Legal doctrines unquestionably influenced the nature of social conflict and helped shape social norms. However, in at least three different ways a reading of evidence from court records enables historians to go beyond an exclusively legal understanding of the events portrayed. First, many legal proceedings were conflictual in nature, and the same laws could be used by the opposing parties or their attorneys to endorse different and conflicting courses of action. Second, there was frequently a striking disparity between the ostensible nature of the case at hand and the actions of the parties involved. When disputes about seemingly trivial matters—the placement of windows, for instance, or the ownership of tiny pieces of property—drag on for years at ever greater expense, it becomes all too clear that the manifest, legal object of the dispute is of far less importance than an implicit, extra-legal one. Finally, not everything said in court conformed to legal norms. The testimony of witnesses, in particular, often cast the issues in dispute in a very different light from what the parties or their legal representatives would have preferred.

Some of the best historical studies using court records have involved precisely this rereading of legal disputes to ascertain underlying issues that may be articulated and sometimes even understood in terms of the law, but that go beyond the legal forms themselves. I would mention in particular the works of David Sabean and of his student Ann Goldberg. They have used legal proceedings (or, in Goldberg’s case, mental asylum case files) to illuminate, in powerful fashion, both
the common and the disputed assumptions informing past social relations. Their enquiries have helped some of the contours of the investigations in this book.⁹

A REGION AND ITS LEGAL SYSTEM

A more practical problem involved in working with court documents is that they are often very hard to locate. Particularly in central Europe, archivists seeking to maintain control over the size of their collections have regularly disposed of the bulky legal records in their holdings.¹⁰ I have found a very substantial cache of civil court records in the Landesarchiv Speyer, covering the period from 1820 until the outbreak of the First World War. Taking complete runs of smaller files and excerpts from larger ones, I have created a sample of 1,646 cases or parts of cases, a substantial body of sources for a study of the nature and development of the culture and practices of property.¹¹

All these records relate to the Palatinate [Pfalz], the region in the extreme south-western corner of Germany on the left bank of the Rhine River, just north of Alsace. Between 1816 and 1918, the Palatinate was a non-contiguous province of the Bavarian kingdom, surrounded on all sides by non-Bavarian territory. To the east of the Palatinate, across the Rhine River, lay the Grand Duchy of Baden; to the north, the Rhine Province of the Grand Duchy of Hessen, and the southern end of the Prussian Rhine Province. These regions, similar in many ways to the Palatinate, make occasional appearances in the court records. After 1918, the Palatinate was a province of the Bavarian Free State, and, since the end of the Nazi regime, part of the German Land of Rheinland-Pfalz.¹²


¹⁰ A quite interesting study that suffers from the author’s inability to find any substantial body of court proceedings is Christina von Hodenberg, Die Partie der Unparteiischen. Der Liberalismus der preußischen Richterschaft 1815–1848/49 (Göttingen: Vandenhoeck & Ruprecht, 1996).

¹¹ Cases initiated after 1914 are still generally not open for unrestricted use. For a description of the sample, please see the Appendix.

The Palatinate today has the reputation of being a provincial backwater, an image personified by the former German Chancellor Helmut Kohl. A native of the town of Ögersheim (since incorporated into Ludwigshafen, the Palatinate’s largest city), Kohl’s Palatine accent, his use of dialect expressions, his liking for rustic dishes such as *Saumagen*, have projected an image of the provincial at the end of the twentieth century.¹³ Whether this picture of Kohl is a correct one, or just reflects the prejudices of more cosmopolitan intellectuals, is a question that need not be considered here. Applying the contemporary notion of a provincial backwater to the pre-1914 Palatinate, though, would be quite misleading.

**Economy, Society, and Property**

Containing a population that grew from under 600,000 in the first half of the nineteenth century to just short of 900,000 before the First World War, the Palatine economy was, for most of the nineteenth century, largely based on agriculture. The decades before 1850, as was generally the case in central Europe, were difficult ones, with tariff and trade problems resulting from the Palatinate’s integration into Bavaria exacerbating these difficulties, and leading to a high rate of emigration. Contemporaries, well aware of these problems, still tended to compare the Palatinate favourably to other parts of Germany, and the post-1850 decades were noticeably more prosperous ones, characterized by a vigorous and diverse agricultural production.¹⁴

Particularly the eastern half of the region, the Rhine Valley and the Haardt Mountains, was home to a successful and sophisticated commercial agriculture, in which a wide variety of market crops were raised, including wheat, tobacco, sugar beets, fruits, vegetables, and especially wine, using the most modern and productive techniques. The western half of the province was mountainous and forested, and generally less prosperous, but did produce a very substantial amount of timber. Statistics from the 1880s showed that average per hectare yields across the province on a cross-section of crops, from grains to potatoes to rape-seed, to hops to clover, were substantially above the national average, sometimes as much as 30 to 50 per cent higher.¹⁵

In this setting of a prosperous agriculture, the larger cities, such as Speyer, Neustadt, Kaiserslautern, Landau, or Zweibrücken, were modest-sized market and administrative centres, none of them reaching a population of 20,000 before 1870.

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¹³ For those wondering, *Saumagen* is a rectangular chunk of bologna-like cured pork, fried and served with onion sauce. It is definitely an acquired taste.


The last third of the nineteenth century saw the development of several urban nodes of industrialization. The town of Frankenthal, towards the northern end of the Palatinate, on the Rhine River, specialized in sugar refining and mechanical engineering. Further inland and upland, Kaiserslautern also developed a manufacturing base in the production of machinery. Pirmasens, in the mountains of the south-eastern Palatinate, became Germany’s leader in shoe production, accounting for some 20 per cent of the nation’s output of shoes. The most important manufacturing centre was the city of Ludwigshafen, on the Rhine River. Originally founded by the Bavarian government as a competing harbour and rail junction to the Badenese city of Mannheim, on the other side of the Rhine, Ludwigshafen developed into a major centre of Germany’s chemical industry. The BASF works there became the largest chemical factory in the world, a distinction it retains today. Ludwigshafen grew along with its chemical industry, becoming the only city in the Palatinate to break the 100,000 mark before 1914.

The 1907 census showed the proportion of the labour force employed in industry and agriculture about equal at 38–9 per cent, with another 10 per cent employed in trade and commerce. These figures certainly could not compare with the urbanized and industrialized areas of northern Germany, such as greater Berlin, the Hanseatic cities, or the Ruhr Basin, but were substantially ahead of the Bavarian kingdom as a whole. Responsible for 40 per cent of Bavaria’s foreign trade, 97 per cent of its wine production, and 87 per cent of its area planted in tobacco, the Palatinate on the eve of the First World War was generally regarded as the most prosperous of the kingdom’s provinces. If the region has not done so well economically in the twentieth century, this is at least in part a reflection of its position near the front lines in two world wars.¹⁶

An important feature of Palatine society was the wide dispersion of property ownership, particularly of real property. Agricultural land was divided into many small parcels; there was no landed nobility and few large proprietors. According to the 1882 census, proprietors possessing less than 10 hectares owned some two-thirds of all the agricultural land, three times as great a proportion as in Germany as a whole. By contrast, large units possessing over 100 hectares of land just accounted for 2.3 per cent of the agricultural surface as against 24.4 per cent in all

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of Germany. Even workers were proprietors. Both the Bavarian statistics of the 1840s and the first German commercial and occupational census of 1882 showed that a substantial majority of agricultural day labourers also possessed their own land. Today, if one drives along the B-38, the highway leading through the Palatine wine country that the Nazis built and dubbed the ‘Deutsche Weinstraße’, one sees on the outskirts of each village a gathering of smaller, more modest homes, the houses of nineteenth-century property-owning day labourers. This pattern of property ownership was found among urban Palatines as well, and with the development of industrialization factory or railway workers continued to own small parcels of land.¹⁷

In all these respects, the Palatinate was part of a broader south-west German region, including much of the southern Rhineland, Baden, Württemberg, Hessen, and Franconia, characterized by a wide spread of property, a more egalitarian social structure, and a slower pace of economic and industrial development than was the case in the north. A study of the use of property in the nineteenth-century Palatinate will help illuminate the distinct nature of social development and social conflict in this broader region, perhaps somewhat less well studied in German social history than the north or the Alpine lands.

Within this larger area of broad property ownership, the Palatinate had a distinctive position. There, freedom in property transactions had come very early. Conquered by the French revolutionary armies in the 1790s, and incorporated into the Napoleonic Empire, the Palatinate, like other German lands on the west bank of the Rhine River, saw the abolition of the guilds and of feudal and seigneurial dues and restrictions at the very beginning of the nineteenth century. As will be seen later in this book, possessors of seigneurial rights made a last-ditch effort to regain them in the first half of the nineteenth century, and usage rights, or ‘servitudes’, the legal privilege to use or exploit the property of others, remained in effect, even after the revolutionary and Napoleonic eras. All these smaller modifications aside, the Palatinate was a stronghold of free property transactions in nineteenth-century Germany, and thus a useful site of a regional study considering the practice and culture of property transactions.¹⁸

A Distinct Legal System

The heritage of the French revolutionary and Napoleonic era was reflected in the Palatinate’s legal system. Even after the defeat of Napoleon’s forces, and the awarding of the Palatinate to Bavaria by the Congress of Vienna, the Napoleonic Code continued to be the basis of civil law in the province, as was the case elsewhere in


¹⁸ Cf. the contemporary observation of Riehl, Die Pfälzer, 249, 259–61.
western Germany. For much of the nineteenth century, French law remained a living presence in central Europe, as German jurists followed closely its developments and German legal scholars, particularly at the University of Heidelberg, taught and studied it. Changes in this state of affairs began in the 1870s, following the creation of a unified German nation-state, with the introduction of a common court structure and code of civil procedure in all of Germany. The validity of the Napoleonic Code in the Palatinate finally came to an end in 1900, with the promulgation of the all-German Civil Code, the Bürgerliches Gesetzbuch, which remains the basis of civil law in Germany today. The introduction of a new code of law was not a very dramatic break, as the German Civil Code had many similarities to the Napoleonic Code and legal actions begun before 1900 continued to be heard after that date under the Napoleonic Code. Palatine and Bavarian courts were still handing down judgments based on French law on the eve of the First World War, and even after its outbreak.

Both codes were part of the broader family of legal systems based on Roman Law, prevalent in continental Europe and differing in a number of points from the Common Law used in English-speaking countries. A number of the specific differences between the two systems will appear later on in this work, but most generally it would be fair to say that court proceedings in Roman Law systems tend to be somewhat less adversarial than in Common Law ones and decisions are supposed to be based on rational legal principles rather than on precedent.

Throughout the years 1820–1914 and across the different legal codes in force, the basic structure of the civil courts in the Palatinate remained remarkably constant. The courts were arranged in a tripartite hierarchy, each level of which had somewhat different names at points in the nineteenth century. I will use the names put in place with the imperial justice law of 1879 and still current today.


The lowest level was the magistrate’s court [Amtsgericht], in which a single judge initially heard lesser cases—according to the 1879 law, those valued at less than 300 marks. From the 1870s until the First World War, there were thirty magistrate’s courts in the Palatinate. Above this court was the district court [Landgericht], staffed by three-judge panels, which was both the initial court for cases involving greater values, and a first court of appeals for the magistrate’s courts. There were four such courts in the province. The highest court in the Palatinate was the court of appeals [Oberlandesgericht] in Zweibrücken, where panels of five judges heard appeals. That court celebrated its one hundred and seventy-fifth anniversary in 1990, and is now close to concluding two centuries of existence.²²

The term appeals is somewhat misleading, especially to readers accustomed to Common Law jurisdictions, where appeals are restricted to questions of law. ‘Appeals’ from magistrate’s courts to district courts, and from them to the appellate court in Zweibrücken, could include matters of fact as well as of law; previous witnesses could be reheard and new witnesses summoned. It was only in proceeding beyond the Palatinate itself to the final court of appeals, the Supreme Court of Bavaria [Oberstes Bayerisches Landesgericht], that appeals were limited to legal questions. Following German unification, a national Supreme Court [Reichsgericht] sitting in Leipzig was created in 1879. As a concession to Bavarian particularism, though, not only did the Bavarian Supreme Court continue to exist, but it remained in civil cases the highest court for questions of Bavarian law. After 1879, depending on the legal issue in dispute, appeals from a decision of the court in Zweibrücken would go either to the German or to the Bavarian Supreme Court as the very final legal instance.²³

The legal system also included specialized tribunals, such as probate courts [Nachlassgerichte], surrogate’s courts [Vormundschaftsgerichte], commercial courts [Handelsgerichte], or bankruptcy courts [Konkursgerichte]. These, however, were not separate courts, but the magistrate’s or district courts acting in a special capacity. Bankruptcy courts, for instance, were magistrate’s courts dealing with bankruptcy petitions, which led to the odd circumstance that a court just having jurisdiction over civil suits involving values of under 300 marks could be in charge of bankruptcy proceedings involving hundreds of thousands or millions of marks.

There are some scattered and not entirely compatible figures on caseload that nonetheless give an approximate impression of the extent of civil litigation in the


Palatinate. In the fiscal year 1847–8, the four district courts and thirty-one magistrate’s courts (then presided over by justices of the peace) issued 22,734 verdicts. Between 1882 and 1896, a yearly average of 46,616 lawsuits were brought before the four district and thirty magistrate’s courts of the Palatinate; from 1897 to 1913, the yearly average increased to 67,330, something like one case for every thirteen inhabitants. By German standards, the Palatines were not especially litigious; civil cases were filed in the province at a per capita rate slightly below the national average.

Magistrate’s courts heard most cases: about four times as many as the district courts in the 1840s, between eight and fifteen times as many at the end of the nineteenth and beginning of the twentieth century, a reflection of the increase in the maximum value of civil cases that could be heard by the lowest courts. Appeals were quite rare. Between 1897 and 1913, for instance, there was a yearly average of 589 appeals to the district courts, 272 to the Zweibrücken court of appeals, and 28 to the Bavarian or German Supreme Courts, all appeals thus amounting to 1.3 per cent of initial cases filed.²⁴

It might be helpful to flesh out this rather bare administrative and statistical overview with a discussion of the groups involved in court proceedings and a portrait of the course of legal disputes and some of their characteristic features. Some familiarity with both the formal and informal aspects of legal proceedings will facilitate the task of uncovering the social issues and conflicts that emerged in civil court cases.

We can start our survey with the judges. In the first half of the nineteenth century, magistrate’s courts were staffed by lay justices of the peace, but all higher-level courts, and after 1850 all courts, were presided over by jurists possessing a university law degree, who had passed through the rigorous German system of legal education and qualifying exams.²⁵ Verdicts preserved in the archives show that judges were well-qualified jurists, who had mastered the forms of abstract reasoning characteristic of German jurisprudence, and, for cases involving the Napoleonic Code, had kept up with the latest developments in French legal thinking. They also, on occasion, suggest a group with distinct preconceived notions about behaviour and attitudes of different social classes. One inheritance case, from the turn of the twentieth century, turned on the question of whether an office clerk had really lent his parents-in-law substantial sums of money, or whether these loans were invented for the purpose of getting a greater share of the inheritance. There was considerable doubt about whether the clerk could have come up


with this money on his modest salary, but the appeals court in Zweibrücken accepted his claim, noting that ‘it is a repeated occurrence that office clerks such as the defendant, by living modestly, bit by bit make capital investments’. Such a decision had little to do with the facts and less with the law, but a lot with judges’ ideas about the frugality and industry of salaried employees.²⁶

Parties in civil cases were generally represented by attorneys; even impoverished ones could request a court-appointed poverty attorney [Armenanwalt]. German attorneys were universal legal practitioners, both advising clients and representing them in court, in this respect closer to American lawyers than to the British system of barristers and solicitors. Lawyers admitted to practice before the Palatine courts were a small group, just 44 of them in 1882. Even the 181 practising in the Palatinate in 1911 were not all that many in view of the 76,228 civil complaints filed that year—to say nothing of criminal cases or non-adversarial civil proceedings, such as bankruptcy petitions.²⁷

Attorneys formed an element of continuity in the legal system, as they were admitted to practice before one particular court and would try cases there for decades. Specific techniques for presenting evidence and arguing a case for clients differed, obviously, from attorney to attorney, but there was a certain expressly moralizing tone in their arguments. In their written briefs and oral arguments, Palatine lawyers certainly asserted the legal basis of their client’s case, using the same abstract arguments as judges in their verdicts, but they also presented their clients’ contentions in moral terms. One example of this argument is the description by the defence attorney in an inheritance case of the late husband and father of the plaintiffs as an individual ‘whose thoughtless and spendthrift life remains proverbial in Heuchelheim today.’²⁸

Besides the obvious lawyers and judges, two other occupations whose members played an important role in legal proceedings in the nineteenth-century Palatinate were notaries and legal advisers [Rechtskonsulenten]. The work of drawing up formal contracts, writing down last wills and testaments, seeing to the division of an estate, or offering advice about ways to sell or divide property, generally performed by attorneys in Common Law countries, was (and is) done by notaries in Roman Law systems. Palatine notaries, some possessing formal legal training, some having learned their occupation as a notary’s clerk, were government appointed and closely regulated; in view of the central role they played in credit and property transactions, and in intergenerational transmission of property, they were important people in their communities.²⁹

²⁶ J6/547, Urteil, 14 Jan. 1903. As will be seen below, and somewhat surprisingly, judges had, or at least applied, fewer preconceived notions about gender-appropriate behaviour.
²⁷ Figures from Statistisches Jahrbuch für das Deutsche Reich, 5 (1882), 141–2 and 36 (1913), 312. More generally, on attorneys in nineteenth-century Germany, see the excellent work of Ledford, General Estate, passim.
They frequently appeared in legal actions, appointed by the court to divide an estate among its heirs, for instance, or being in charge of court-ordered property auctions. Their role in drawing up formal legal documents also meant that their actions could become the centre of legal dispute and subject to rigorous scrutiny. The nature of these disputes tended to emphasize instances in which notaries had not followed proper procedures, offered bad advice, ignored evident problems, and colluded in questionable arrangements. As suggested above, such examples coming from legal action should not be taken as typical of notarial practice. Still, court cases show a broad gamut of notary’s actions. At one pole there was the work of notary Schwarz in Worms, in neighbouring Rhine-Hessen, who was praised for his honesty, thoroughness, and studied impartiality. Another pole might have been the notary Fuchs in the village of Haßloch, who was getting a shave in his office one day in 1864, while his clerk wrote up a sales contract, based on what had been drunkenly concluded in a tavern the previous night, and the contracting parties arranged additional deals to which the barber was enlisted as a witness.³⁰

Less well known than the notaries were the legal advisers. These were not jurists, but business agents, a little-studied but evidently important nineteenth-century service occupation. In part, they were agents representing large but distant businesses, selling insurance or steamship tickets. More important for their work was their performance of business services, carrying out negotiations for property transactions, overseeing rental property, writing up simple contracts and rental agreements that did not require notarization, or seeing to the collection of debts. This latter task might involve obtaining a judgment against debtors, and arranging for a seizure of assets and their auction.³¹

A number of these activities involved offering legal advice and acting on behalf of a client in court. Particularly in the first two-thirds of the nineteenth century, there were conflicts between university-trained jurists and practical legal advisers over who should be representing clients. In the end, a modus vivendi seems to have been reached, in which business agents did some of the legwork for attorneys, obtaining witnesses and carrying out investigations for them, but directing clients to them for serious legal advice and leaving court appearances to the university-trained jurists. Business agents rather than attorneys were generally the


court-appointed receivers in bankruptcy cases; their reports on the debtors in bankruptcy reveal an intimate knowledge of business conditions and individuals’ economic strengths and weaknesses.³²

Without the parties themselves, there would have been no legal actions. The court records, which give the names and occupations of the parties, do show a disproportionate over-representation of the upper classes, individuals with commercial occupations, and the urban and male population, but these records also show that a very broad cross-section of the Palatinate’s inhabitants had recourse to the civil courts. Even members of the working class made use of the courts to protect their property, and cases such as the Rhine River deckhand who obtained an injunction in 1880 to prevent his stepfather from selling the family cow, or the widow of a stone-quarry worker who tried to open bankruptcy proceedings on her late husband’s estate in 1904, were very, very far from being unique.³³ In a society with widespread ownership of property, as the Palatinate was in the century before 1914, use of the civil courts was common to all elements of society.

If Palatines from all social classes, both sexes, and all religious groups did make use of the civil courts, one might want to know exactly what this use meant, what was the course of typical legal proceedings, and what went on inside—and outside—a courtroom. The following account relates primarily to cases in the district courts, for which the surviving records are most extensive; procedures were similar in the magistrate’s courts but less elaborate and more informal.³⁴

The very first point to consider is how a dispute entered the legal system. Existing cases show evidence of attempted informal mediation, sometimes performed by village mayors, brokers, or other respected or knowledgeable parties. These attempts at mediation might continue even after charges had been filed.³⁵ Of course, if they had been successful, the disputes would never have reached


³³ J6/454, decision of magistrate’s court in Speyer, 1 Sept. 1880; J20/393. A detailed breakdown of litigants by social class, gender, and religion can be found in the appendix.


the courts and we would not know about them. There were some people who were cranky and querulous, or believed that they were in the right and were determined to have their day in court, someone who ‘made it a practice to file charges and go to trial’ [gewohnheitsmäßiger Prozesser] as one party assured the court he was not.³⁶

The legal action began with a complaint, in district court and some magistrate’s court cases written up by an attorney [Klageschrift], submitted to the court and to the defendant, whose legal representative would respond with his own brief [Klagebeantwortung]. The defendant might bring a counter-suit [Widerklage] or raise charges against a third party, the defendant held responsible [Gewährschaftsklage]. These would not be heard by the courts as separate cases, but together with the initial complaint as one case. The parties would then have a court date, and they or their representatives would explain their case and the ways they could prove it, after which the court would issue an order concerning evidence [Beweisbeschluß]. At this point, or elsewhere in the proceedings, the judge or judges could propose an in-court settlement, which the parties might consider, debate, and accept or reject.

Evidence came in three forms. One was a visit to the scene [Ortsbesichtigungsprotokoll], in which a judge, along with the court clerk, the parties, and their representatives, would go to inspect an area relevant to the case—the site of a disputed property boundary, for instance, or of an accident. The judge would then draw up a very detailed description of what he had seen on the site, sometimes including an informal sketch of the scene.

The second was an expert report [Expertenbericht or Sachverständigergutachten], usually issued by a panel of three legal laymen chosen for their personal, professional, or academic knowledge of the issue in dispute. The results of this report could be an opportunity for another attempt at mediation, or could decide the case, if the experts’ opinion supported the contentions of one of the parties. There are many such reports preserved in the files, and the knowledge, expertise, and general effort involved in them—meticulously surveying property boundaries, investigating complex and tangled bookkeeping of multiple transactions, or performing a series of chemical experiments—is often very impressive. On occasion, doubts existed about the impartiality of the experts, but even when they were conscientiously striving to be objective, certain biases might well enter their deliberations. One example would be the three Frankenthal engineers named to give a report in a personal injury case brought by a worker who lost an eye in an industrial accident. One point in the case was that the employer provided no protective goggles, but the experts concluded that wearing goggles would not have protected the worker in question, but actually increased the danger of an accident—an opinion suggesting a suspiciously happy coincidence of safety concerns and manufacturers’ striving to maximize profits.³⁷

The most common form of evidence, and the most important source for this study, was, of course, the testimony of witnesses. Witnesses had to be ferreted out, a task performed by the parties themselves, their attorneys, or someone else hired or requisitioned for that purpose, and sometimes their testimony rehearsed in advance—activities we know about largely from the denials that they occurred.\(^3^8\) It may not always have been true, as was asserted in one case, that a party’s witnesses were all ‘day labourers and artisans . . . who stood in such relationships to the defendant . . . that their testimony . . . is not above suspicion’, but the selection of witnesses frequently did follow lines of social and economic dependency, family relations, business connections, or village feuds.\(^3^9\)

Testimony itself was quite different from the adversarial cross-questioning of Common Law jurisdictions. The witnesses received, in their summons, a list of matters about which they were to state their knowledge. This recital was their testimony; only occasionally did the parties, their lawyers, or sometimes the presiding judge pose additional questions, largely for the purpose of supplementing the witnesses’ depositions. Objections to such questioning could be raised, but they were extremely rare. From time to time, if different witnesses offered diametrically opposed accounts, they would be ‘confronted’, brought together on the witness stand and asked to explain these discrepancies. Usually, both stuck with their stories.\(^4^0\)

A court clerk took down the testimony and his records are preserved in the archives. Use of shorthand or typewriters is only found after 1900, so one has to wonder about the extent to which these records are verbatim transcripts. In one sense, they clearly were not, since they record the witnesses talking in high German rather than the Palatine dialect they would have used. I strongly suspect that the witnesses did not employ the legal phrases the court clerk put in their mouths, or certain stereotyped expressions, such as the unwed mothers in paternity cases, who were always recorded as having stated that the defendant ‘made use of them’ sexually. On the other hand, the transcripts contain plenty of idiosyncratic, vivid, simple, crude, and non-stereotyped expressions, even occasional dialect phrases, so I tend to think that the court clerks made an effort to take down a reasonably accurate record of what the witnesses said. Certainly, the rushed and scrawled handwriting of many of the court clerks, although making their records a headache to read, also testifies to an effort to record faithfully the words of the witnesses.

The Napoleonic Code is famed for its insistence on oral court proceedings, and witnesses did testify orally and attorneys did present oral arguments, but the

\(^{38}\) Just a few examples of this: J6/1169, Fortsetzung, 28 Feb. 1861, testimony of Wilhelm Litters, machinist in Heidelberg; ibid., Gegenzeugenverhörprotocoll, 16 Mar. 1861, testimony of business agent Eduard König of Dürkheim; J6/1171, Zeugenverhör, 7 Mar. 1862, testimony of bailiff’s clerk Carl Wendel and innkeeper Friedrich Mann, both of Grünstadt.

\(^{39}\) Cited in J6/61, Urteil, 30 May 1888.

\(^{40}\) An example of such a confrontation in J6/1180, Gegenzeugenverhör, 8 Nov. 1875.
proceedings were not entirely oral in nature. In the district court cases, the testimony was not given before all the judges who would ultimately decide the case. It would either be heard by a magistrate’s court judge, or by one member of the three-judge panel, and the judges would base their deliberations on the written transcripts of the testimony. I rather suspect that some lawyers, in their oral arguments, largely stuck to reading their written briefs.

After the evidence was all presented, the attorneys would make their closing arguments to the judge or judges in charge of the case, since civil lawsuits—unlike criminal felony cases—were not heard by a jury. The judge or judges would then issue a verdict. German verdicts are very lengthy affairs, beginning with an account of the case, giving summaries of the evidence and the attorneys’ arguments, and only then going on to the legal basis for the decision. It is interesting to note that the legal justifications often included decisions of other courts in similar cases. Since Roman Law verdicts were not based on precedent—indeed, in Chapter 4 we shall see a court, in a spectacular and well-publicized case, expressly rejecting the verdicts of other courts in similar cases—one might wonder why these cases were cited. Perhaps they were examples of particularly good legal reasoning.

Two special points should be noted about verdicts. First, rather more like the British than the American system, the loser paid the court costs and attorneys’ fees for both parties. However, the court could also apportion the costs and fees, parallel to its opinion about the relative merits of the winner’s and the loser’s case. The winner might pay one-quarter of the costs and the loser three-quarters, for instance. In complex cases involving multiple plaintiffs and defendants, fees might be apportioned out in fractions as small as fiftieths.⁴¹

Also important in verdicts was a legal practice quite unknown in the Common Law, the ‘judge’s oath’. If evidence, concerning either the case as a whole, or some aspect of it, pointed primarily but not definitively in the direction of the assertions of one party, then the verdict might include an invitation to that party to take a special oath before the court, asserting that his or her assertions were true. Were the oath taken, then the case would be decided in favour of the party taking the oath.

A cynic might be inclined to see this procedure as an invitation to perjury, since if there had been any evidence against the assertions of the party taking the oath, that party would not have been invited to swear it. Attorneys could move that the court order the opposing party to take an oath. This step, however, was widely if informally regarded as a confession of failure on the part of the attorney who made the motion. He had been unable to prove his case and was left with requiring the opposing party to swear to facts he could not disprove.⁴²

INVESTIGATING PROPERTY

After setting the time and place, and describing the sources and the legal system that produced them, we can proceed to explain the plan of the investigation. The first chapter will consider the role of property in family life, moving across a family life cycle, beginning with the importance of property for marriage and starting a family, going on to consider the role of property in relations between parents and their children, and among siblings. The second chapter will focus on property transactions, evaluating the scope and nature and implementation of transactions, considering the parties involved in such transactions, and the contractual obligations to which they agreed. This chapter will also discuss credit, including the way credit was granted, the identity of creditors and debtors, and their relationship with one another. Credit, it will be argued, was a central element linking together nineteenth-century civil society, a relationship whose significance has often not entirely been recognized by historians.

The third chapter takes on a somewhat different topic, the nature of boundaries and divisions, both as they were formally created by the legal system and as they were perceived and articulated in everyday life. An obvious theme will be the boundaries of neighbouring pieces of property, but the chapter will consider other kinds of boundaries as well: boundaries created by the law between those who were mentally competent and able to run their affairs and administer their property, and those who were not; perceptions of the division between honourable and dishonourable behaviour, between disgusting and tolerable physical sensations (an unexpected point that appears surprisingly often in the court records), and the boundaries between different social classes, between men and women, and between Christians and Jews.

Each of the first three chapters considers the years 1820–1914 as a whole. In the fourth and final chapter, the nineteenth century will be divided into four distinct epochs—roughly, 1820–55, 1855–75, 1875–95, and 1895–1914—and some characteristic features of property relations, attitudes towards property, and the legal status of property in each of them will be portrayed. Beginning with the creation of the nineteenth-century property regime out of the very different circumstances of the pre-1789 world, the chapter ends with a consideration of the extent to which that property regime was still in existence in the two decades before the First World War.

Although the assertions in the chapters and their sections and subsections are based on evidence gathered from a wide variety of cases, most of the sections also include a detailed account of one individual case that contains a particularly curious, lively, or interesting story. These cases were chosen because they illustrate in dramatic fashion important thematic points and central theses of the argument. They are also good stories that I found intriguing as I read them in the archives or on microfilm. I hope some of that interest can be conveyed to the reader of this book as well, in doing so bringing to life aspects of the past human condition.
The book concludes with a summary of its investigations, and a suggestion of how these results might reshape our understanding of civil society. Also included is a comparison of circumstances in the Palatinate with those elsewhere in central and western Europe and North America, and an attempt to place the nineteenth-century property regime delineated in this book within the broader sweep of modern German history.
Acquisition and Transmission

Sometime in 1886, the railway track warden [Bahnwart] Johann Philipp Weber of Mutterstadt is reputed to have said ‘that he would have property if his mother had left him some, but he has none, because his mother died without leaving him any’.¹ It was not entirely clear whether Weber had actually made the remark, or whether the plaintiff in the case put the words in Weber’s mouth, but in any event the statement expressed a basic truth about property relations in the nineteenth-century Palatinate. A key form of property acquisition was intergenerational transmission, so that property was inextricably linked with family life, with relations between parents and children, among siblings, and between spouses.

Weber’s statement might lead us to think of the intergenerational transmission of property entirely in terms of death and inheritance. This would be seeing the matter in far too narrow a frame. Conveying property from one generation to the next was not a one-time, post-mortem affair. Rather, the devolution of property, primarily from parents to their children, but in other intergenerational ways as well, proceeded in fits and starts across a number of years.² This chapter will follow the process, treating first the relations between spouses, then between parents and children, then among siblings, and concluding with cases in which there were no children. At each step of the way, the account will emphasize the expectations connected with property relations in the family and the ways that property relations and emotional relations in a family were closely intertwined. The chapter begins with relations between spouses, because one of the crucial first steps in the intergenerational devolution of property was providing a bride with a dowry.

DOWRIES AND MARITAL PROPERTY

Two definitions, one from the beginning and one from the end of the period under consideration in this book, make clear the relationship between a dowry,

the property brought by a wife into a marriage, and an inheritance, the post-mortem
transfer of goods from parents to children. In 1834, the estate owner Ludwig
Louis took an oath before the justice of the peace in Neustadt, maintaining that
his son-in-law (the plaintiff in the case), the miller and estate owner Wilhelm
Schiffer of Kleinkarlbach, really owed him money, both principal and interest.
Louis stated ‘that the monies Schiffer and his wife have received from me were not
[my emphasis] promised, interest free, as the dowry [Aussteuer] of Schiffer’s wife
against her future inheritance portion in my estate, and were not given to my son-
in-law, the above-mentioned Schiffer, under the conditions that they be credited,
interest free, against that inheritance portion’.³ More laconic was the complaint in
the case brought by Elisa Mappes née Valdenaire against her estranged husband
Georg, a master house painter of Frankenthal, in 1910, which noted that Elisa
brought 11,000 marks in furnishings and cash into the marriage, receiving the
sum ‘against her future right of inheritance from her parents’.⁴

A dowry, in other words, was an interest-free advance on a bride’s inheritance.
Later, on the decease of one or both of the parents, the dowry would have to be
subtracted from her share of the estate. In the meantime it was an initial transmis-
sion of assets from one generation to the next, enabling the new couple to set up
their household. It is certainly striking how often court records show that most or
all of a married couple’s assets stemmed from the dowry. Martin Knobloch,
manufacturer of combs in Kaiserslautern, ‘possessed at the time of his marriage
[in 1894] no property. His wife brought him 8831 mk., and a house in the
Theaterstrasse . . . ’ A quarter-century previously, the sewing machine manufacturer
Otto Meininger of Neustadt, as everyone in town knew, had ‘no property’;
his enterprise was funded entirely by the dowry of his wife.⁵ In more modest
circumstances, the shoemaker and small farmer Ludwig Christmann of Waldsee
brought 79 fl. worth of shoemaking tools and household furnishings into his
marriage in 1873, while his bride, Katharina Barbara Christmann, daughter of a
shoemaker, had sixteen small pieces of property paying her 297 fl. per year in rent,
475 fl. in payments outstanding to her, and 223 fl. in household furnishings plus
a cow.⁶

³ J6/1153, Eidesleistung, 31 July 1834.
Apr. 1907; ]20/1210, Auszug für die Konkursmasse, 14 Nov. 1888.
⁵ J20/358, circular of attorney Leo Blüthe in Kaiserslautern, 6 July 1906; J6/35, Zeugenaussage of
8 Oct. 1883, testimony of the business agent Levi Marx of Neustadt. Similarly, J6/626, Klageschrift,
⁶ J6/624, copy of the marriage contract, of 9 Oct. 1873; similarly, J6/1157, Zeugenverhörröffnung,
23 Sept. 1840, testimony of the vintners Heinrich Ochsenbaecker and Jacob Duppler of Ruppertsberg;
J20/378, Inventarium, 18 Dec. 1907; J6/590, Gesuch um öffentliche Zustellung eines Versäumnis-
Urteils, 4 June 1907; J6/626 Klageschrift, 17 Feb. 1910. Other evidence strongly suggests such
a disproportion in initial marital property but does not state it definitively: ]20/344, Bericht
des Konkursverwalters, 27 Mar. 1903; ]20/1251, Inventarium, 21 June 1907; J20/1262, Bericht des
Konkursverwalters, 29 Nov. 1912; J6/537, Klagebeantwortung, 4 Mar. 1894; J6/549, Klageschrift,
Men certainly expected a bride to bring them a good dowry. At the beginning of the 1870s, Carl Forschner of Meckenheim came back to Germany with a substantial sum of money from his stay in America, and invested it in building the largest house in the village. Forscher built too extravagantly, and became financially overextended. As his funds began to run out, he told the farmer Christoph Sippel, ‘if I get a wife with 6,000 fl., then once again I will be as rich as I was’.⁷ August Tirolf, estate owner and mayor of the village of Geinsheim, even attributed the marital quarrels and eventual descent into insanity of his cousin, the innkeeper and estate owner Friedrich Eisenbirgler, to the latter’s disappointment at receiving a smaller dowry from his wife than he had expected.⁸

These previous examples come from the wealthier elements of rural and small-town society in the Palatinate, but expectations of dowries were hardly unknown to the lower classes. In September 1864, Katherina Portine, widow of the teamster Christoph Roeder of Speyer, borrowed 90 fl. from the dealer Lazarus Adler, so that Portine’s daughter, living in sin in Worms, could get married. Presumably, the money was for a modest dowry for her future son-in-law, but the widow Roeder lent the money instead to her son, a teamster like his late father. The outraged daughter berated her mother for turning her marriage portion over to her brother with such vehemence that the neighbours could hear every detail.⁹ Her anger reflected the understanding common among members of different social classes and both sexes in the Palatinate that a dowry was a precondition to marriage and that such a dowry would be, at least in part, an intergenerational transfer of property.

CONTROL AND DISPOSITION OF MARITAL PROPERTY

A married couple’s property thus began with assets from the bride’s family, but what then became of it? One answer to this question comes from the legal system. Both the Napoleonic Code and the German Civil Code of 1900 stated that the assets of each of the marriage partners were brought together into a community of property that was under the administration of the husband, who also received the

80 Aug. 1901; J6/554, Zeugenverhörprotokoll, 25 Mar. 1902, testimony of the tavernkeeper Bernhard Glas of Hambach; J6/600, Klageschrift, 3 Feb. 1908; J6/611, Klageschrift 20 Aug. 1908. There are very, very few cases recorded in which the groom brought all or most of the assets into the marriage: for instance, J6/1150, Zeugenverhör, 21 Aug. 1823, testimony of the farmers Michael Schwind, Georg Lang, and Georg May of Schifferstadt.

⁷ J6/1179, Zeugen-Verhör, begun 17 Nov. 1873, continued 26 Jan. 1874, the testimony of Christoph Sippel; similar expectations, J6/1180 Gegenzeugenverhör-Protocoll, 1 Mar. 1875, testimony of smith and tavernkeeper Jakob Haag of Neustadt; Zeugenverhoer-Protocoll, 10 Apr. 1875, testimony of Margaretha Arnold of Freinsheim. For another example of this expectation, cf. J6/1169, Zeugenverhör, 16 Mar. 1861, testimony of dealer Moses Mayer of Laumersheim.

⁸ J6/1179, Zeugenverhoer, 3 Nov. 1873, testimony of August Tirolf; another expression of disappointment about a too modest dowry, J20/369, Bericht des Konkursverwalters, 29 May 1908.

⁹ J6/1173, Gegenzeugenverhör-Eröffnungs-Protokoll, 21 May 1865, testimony of Lazarus Adler, and of Elisabetha Grieder, day labourer of Speyer.
proceeds, or enjoyed the usufruct, of these assets. Feminists, both pre-1914 contemporaries and more recent historians and theorists, have pointed out the oppressive and unequal character of this legal doctrine.¹⁰

Their indictment receives additional force when we remember that the marital community of property started with the dowry, which was promptly turned over to the control of her husband. Ludwig Louis's statement in court, with which the previous section began, denied that the transaction in question was a dowry, something 'given to my son-in-law'. Although dowries, particularly of women from the lower classes, would include the bride's own savings, they were, to a considerable extent, property that passed through the bride on its way from her parents to her husband. Contemporaries understood dowries in this way, as can perhaps best be seen from their account of them in passing, when concentrating on other issues. A witness in a property boundary dispute case described the history of the disputed item: 'In his day, Sollinger received the field now in dispute as a marriage portion [Heiratsgut] from his parents-in-law ...'¹¹

We might sum up the gendered nature of the legal and cultural determinants of marital property relations in the nineteenth-century Palatinate by saying that married women had to surrender control of their property to their husbands, property that they often did not entirely possess in the first place. It is little wonder that the situation was the object of feminists' outrage, both at the time and in retrospect. On closer examination, though, marital property relations, both in their formal-legal expression, and in their actual practice, proved to be more complex than their patriarchal appearance might suggest. In particular, both the Napoleonic Code and the German Civil Code provided married women with some safeguards on the property they had to turn over to their husbands' administration, and offered a number of voluntary, contractual options to the standard regime of marital property. Married couples employed these possibilities to further their joint ends in use of property.

There were limits on the community of property. Under the Napoleonic Code, the real property a wife brought into the marriage, whether in a dowry or later,
through an inheritance, was not part of the community of property. The husband,
to be sure, retained the right to administer it and enjoy its proceeds, as he could
with the community of property, but he could not alienate it—that is, sell it, or
pledge it as security for debt—without his wife’s explicit consent. The German
Civil Code extended this requirement of consent to all property a wife brought
into a marriage, not just real estate. These provisions were designed to secure
dowries, and give married women a minor say in the administration of their prop-
erty, but they could be refashioned into an effective tool used by couples to gain
the upper hand in property transactions. Throughout 1842, the carpenter Simon
Weiler of Freinsheim had kept pressing his neighbour, the farmer Christian Huck
I, to sell to him Huck’s garden plot. Huck persistently replied, whether at home in
the presence of his wife, or in the all-male society of the Crown tavern, as witnesses
reported, ‘it would be all right with him, if it was all right with the women folk’. All
the witnesses agreed that Huck had left vague exactly what he meant by that
remark. Was it that he needed to please his wife and his two grown daughters
who liked their garden, although in the end he had the legal authority to sell the
plot, no matter what their feelings? Or did the land belong to his wife, brought
into the marriage with her dowry, or via an inheritance that she received after the
wedding, so that its sale would require her express consent? Weiler increased his
offer to make Huck’s wife happy, and in drawing up the deed of sale, the notary
added a clause stating that if the wife owned the parcel, her signature would be
required. She did not provide it, and she and her husband promptly sued their
pressing neighbour over the transaction—perhaps to retract it, since the wife
was the owner, and her signature was required on the deed, or perhaps to sweeten
the deal.¹²

This studied ambiguity was most effective in credit transactions. Creditors
might well need the real property the wife brought into the marriage as security for
their loans. When they tried to foreclose, though, it would turn out that the wife’s
consent was not quite so firm as they thought it was. The estate owner Georg Jakob
Mann II of Laufersheim sold the farmer and teamster Christoph Amlung in
Ebertsheim two horses, complete with harness and other leatherwork, for 300 fl.,
on credit, but his attempts to collect were foiled by Amlung’s wife Margaretha née
Röhl. She took an oath before the justice of the peace of the Canton of Grünstadt
in September 1834 that she knew nothing of the sale and had not declared before
witnesses that she would put up security for her husband’s borrowing. Finally, she
asserted, ‘I swear that, to be sure, I put a supplementary mark [Beizeichen] under
some writing, because my husband forced me to with threats, and that I did not
know this supplementary mark was to serve as security for him.’¹³

¹² J6/1158, Zeugenverhör and Gegenzeugenverhör, 20 Mar. 1843, testimony of all the witnesses
called by plaintiff and defendant. As is generally the case in trials begun before 1879, the verdict is not
recorded. A somewhat similar case, J6/1173, Eidesleistung, 11 Aug. 1865.
¹³ J6/1153, Eid, 9 Sept. 1834.
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creditors. There seems to have been a development in the use of marriage contracts across the nineteenth century. Found in earlier years primarily among the families of the upper classes and of the commercially more sophisticated population, such as Jewish businessmen, by c.1900, master craftsmen, small shop keepers, and their spouses had come to appreciate their use. This development was helped along by another change introduced by the German Civil Code. While the Napoleonic Code had limited marriage contracts to those entered into prior to the wedding, the new legal regulations allowed couples already married to adopt such a contractual arrangement. Thus, in 1905, the mason Otto Kropp of Kaiserslautern went into business for himself. At the same time he started his business, he and his wife Elisabetha née Neu, already married for five years, signed a marriage contract, establishing the dowry and household furnishings as his wife’s property. This prudent step came in very handy just two years later, when Kropp’s badly undercapitalized business went bankrupt.

Both legal codes contained a still more drastic step that could be taken, a civil suit filed by the wife for the separation of the marital community of property. Since this step violated the basic principle common to these codes that the husband was in charge of a married couple’s financial affairs and their property, it required extraordinary justifications. Article 1443 of the Napoleonic Code stated that legal action could only be taken when the husband’s behaviour had placed his wife’s dowry ‘in peril’; the German Civil Code’s § 1391 I noted similarly that such action was justified when the husband treated the dowry in a ‘considerably endangering manner’. The codes understood legal actions brought under these clauses as conflictual in nature, as the wife having her way against her husband’s will. These otherwise very patriarchal legal compendia sanctioned a woman’s rebellion against patriarchal authority when her property was in danger. Judicial records contain many such cases, as early as 1823 and as late as 1910, in which a wife sought a separation of the marital community of property to protect herself and her property from her husband’s generally drunken mismanagement of the couple’s finances. However, there were also many examples of the collusive rather than conflictual use of such clauses, to transfer assets away from the marital community of property into the hands of the wife, and thus away from the husband’s creditors.

The authors of the Napoleonic Code were certainly aware of this possibility, and right after Article 1443 on the separation of property followed Articles 1444–7, regulating it and prohibiting its use for the purpose of evading creditors. Similar legislation was passed in the newly united German Empire during the 1870s. Needless to say, none of these laws prevented couples from using property separation in this fashion, which is hardly surprising, since it was precisely actions of a husband’s creditors that would put his wife’s dowry in peril. The creditors would then have to take action to gain access to the property that had been separated and granted to the wife. A case from 1879 shows these legal circumstances, but also illustrates unusually well the way a dowry formed the basis of a family’s property and shows what was meant concretely by the administration of marital property, both in the application of the law and in the practice of everyday life.

**A Shopkeeper’s Wife Causes a Scene**

In 1879, the shopkeeper Philipp Losch Würz of Dürkheim was in financial difficulties, falling behind in his payments and facing growing pressure from his creditors. On 22 October of that year, the representative of one of his creditors, the banker Jacob Frank of Frankfurt am Main, came to bailiff Adam Reischel in Neustadt with a court order for the attachment of Würz’s goods. The next day, Reischel travelled to Dürkheim and started placing the court seal on wares in Würz’s store and on his household furnishings. As he was continuing his work on the 24th, the bailiff Philipp Waltz of Dürkheim appeared and announced that he was attaching goods on behalf of Würz’s wife, Luise née Grass. Bailiff Reischel remembered that when Waltz appeared, there was ‘great excitement [Aufregung] in the house and a great chaos’, as one might well imagine, with two bailiffs carrying out contradictory attachments.

Frau Würz and her adviser, legal consultant Weber of Dürkheim, announced that the property of the Würzes had been separated by court order, and that the wife was now the creditor of the husband. Reischel was confused by these assertions, as they seemed to be combining two different legal remedies, a wife claiming her dowry as a loan to her husband (hence the attachment) and an actual
separation of property. ‘I was astonished that someone would have goods attached if they belonged to her.’ Confused as the bailiff might have been, the tactics employed by Luise Würz on the advice of her legal consultant seemed to work, at least for the moment. Banker Frank agreed to suspend his attachment, if Frau Würz would guarantee his claims.¹⁹

In the end, though, the respite offered Würz would not suffice. The goods were attached again several months later; he was forced into bankruptcy, and his wife sued banker Frank, or, to be more precise, the administration of Frank’s assets, since Frank himself had declared bankruptcy in the meantime, to recover the goods. They belonged to her, she stated, as a result of the separation of property, ordered by the court the previous July, and her husband’s creditors thus had no right to them. The case turned on the validity of the separation of property. Had it just been carried out to foil the creditors? The answer, for the court, would depend on who was administering the property after its legal separation. If the husband continued to do so, as he had before, when it was part of the marital community of property under his control, this would be evidence that there was no actual separation, just a paper one, to keep the husband’s assets out of the hands of the creditors.²⁰

The defendant’s attorneys had no trouble producing witnesses who had business dealings with the Würzes, to testify that nothing changed with the separation of property. The teamster Karl Wagner and the railway freight clerk Carl Mutter of Dürkheim both insisted that it was the husband who received their deliveries. Merchants Leopold Löb of Dürkheim and Franz Heller of Ludwigshafen who delivered cigars to Würz’s store (apparently a major item in his stock) insisted that all their dealings were with the husband. Georg Werner of Mainz, another merchant who had been in correspondence with Würz for years, had always dealt with the husband, and not with the wife.

These witnesses’ testimony did contain hints that Würz was not running the business all by himself. Werner admitted that he had never met Würz; all their business dealings were by mail or through one of Werner’s travelling salesmen. Both Heller and Löb, who dealt with Würz in person, explained that they sometimes did take orders from his wife, or even his daughter, but only when Würz was away, or had other matters to attend to. This testimony all presented Würz as in charge, administering the family property corresponding to his legal position, but occasionally delegating some authority to other family members. Perhaps the largest role that any witness testifying in this vein attributed to Würz’s wife was merchant Jacob Propheter of Mannheim, who explained that Frau Würz did give him some orders on her own, namely those for ‘ladies’ articles’, but the husband always made the payments and ‘I always regarded the husband as the owner of the business.’

¹⁹ J6/1, especially testimony of bailiffs Adam Reischel of Neustadt and Philipp Waltz of Dürkheim, and Franz Ludwig Theato, acting bailiff of Dürkheim.
²⁰ Ibid., testimony of the business agent Conrad Hambrecht and of the notary Heinrich Horn of Dürkheim; undated briefs of the attorneys in the case.
The testimony of the merchant Rudolf Eberstadt of Mannheim at first appears similar to that of the other witnesses who had dealings with the Würzes. Eberstadt testified that all correspondence came from the husband and he regarded Herr Würz as the owner. Then he told a small story that cast the matter in a different light. Appearing at the Würzes’ store in October 1879, he took a small order for 32 marks worth of goods. ‘The order was made to me by the husband Würz, only the wife Würz was also present, and her husband asked her, before he ordered, what he should order. It is, namely, the custom in businesses like the Würzes’ that the wives of the merchants are asked by their husbands at the time of purchases and similar dealings before any orders are made.’²¹

Eberstadt’s account highlighted the difference between law and custom and cut across the legal issue in dispute. He made no distinction between the marital community of property regime in which the husband administered the family assets, as had existed for the Würzes until July 1879, and the subsequent separation of property, in which the partners owned and administered their assets separately. Rather, he suggested a broader state of affairs, prevailing among shopkeepers in general, where the husband was the public face of a business, signing the correspondence and making the payments, but in private acted only with the advice and consent of his wife.

This brings us back to the separation of property and its significance, not in the paragraphs of the Napoleonic Civil Code, but in the context of everyday life. The Würzes’ maid testified that in the summer of 1879 the entire town of Dürkheim was talking about the separation of property. It was an unusual event, something that stimulated gossip, undoubtedly related to the financial difficulties in which the business found itself. The separation of property also led to a little family drama. That summer, ‘the wife Würz demanded of her husband that he tie together various objects that were in the corridor next to the living room. At first he did not want to do it, but she made a scene, and then he did what she wanted. It stood [on the objects in question] “delivered” and the wife Würz said, this was her property.’²²

It helps to understand Luise Würz’s outburst of temper if we realize that the family property had been, in its origin, hers. She had inherited the store and most of the household furnishings from her aunt on the latter’s death in 1855, and brought them into her marriage with Philipp Würz in 1860. Their marriage contract limited their community property to assets acquired during the marriage. (The German legal term is *Errungenschaftgemeinschaft*.) Nineteen years later, those joint assets accumulated over the years were in danger, because her husband owed the very large sum of 12,000 marks to the banker Jacob Frank of Frankfurt, money that Philipp Würz had lost speculating in the stock market.²³

²¹ J6/1, testimony of the individuals named.
²² Ibid., testimony of the maid Anna Maria Bloh of Grethen, working in Dürkheim.
²³ Ibid., testimony of the merchant Leopold Löb of Dürkheim; briefs of the attorneys of both parties (undated).
This case brings out many of the sides of the marital property regime, as it was in the law and in everyday life, in the Palatinate during the nineteenth century. It was Luise Grass’s dowry, received via an inheritance, that provided the basis for the Würzes’ store. A marriage contract would protect her dowry from creditors and her advice, offered to her husband behind the scenes, in private, would help maintain their joint assets, while upholding in everyday life his legal authority to administer the property—both the dowry, still legally hers by the marriage contract, and the joint property, acquired in the years of the marriage. Yet these efforts had failed, due to her husband’s stock speculations, and now the business, her property, and the community property were threatened by creditors. She had to take the drastic legal step of suing her husband for a separation of property, making them the object of gossip all over the town. It is perhaps no surprise that her anger and frustration with the situation, and with her husband’s role in creating it, exploded over some merchandise for the store, annoyingly lying around the house, a painful reminder of what her marriage had done to the property with which she had begun her adult life.²⁴

PROPERTY AND MARITAL GENDER ROLES

The story of the Würz family also suggests another aspect of the marital property regime in the nineteenth-century Palatinate: the way that expectations husbands and wives had of each other, and that were essential for a successful and harmonious marriage, were tied up with the administration of property. In 1843, the farmer Georg Heinrich Freitag of Lachen stated, unfavourably and disapprovingly, of his neighbour Jacob Gross, whose heavy drinking had increasingly disrupted his marriage, that ‘as a man he is no longer in charge of his household’.²⁵ Freitag was saying no more than what the Napoleonic Code, and later the German Civil Code, prescribed. We might want to ask, though, exactly what being in charge of the household involved, or what was expected of a man to do this task successfully.

An answer in the negative came from a case the following year. The farmer Jacob Fleck of Neuhofen, another heavy drinker, spent most of his time in the tavern, converting assets into alcohol, while neglecting his family and coming home, inebriated, to beat his wife. He was once overheard shouting to her, ‘I’ll teach you; all your goods must go to the devil.’²⁶ The witnesses in this trial had

²⁴ Unfortunately, the verdict, or any evidence of a settlement, is missing, so it is unclear how the court ruled on the case.
²⁶ Ibid., Zeugenverhör, 10 Apr. 1844, testimony of Philipp Stander, mason of Neuhofen; similar and similarly disapproving testimony from the other witnesses heard that day. Another very similar example, ibid., Zeugenverhörprotokoll, 5 Aug. 1844, testimony of textiles dealer Abraham Ritter of Kerzenheim.
no difficulty describing Jacob Fleck as a violent, drunken wastrel, but his screaming fit shows that he was a self-proclaimed destroyer of his wife’s assets. Rather than conserving the property she brought into the marriage with her dowry, his legal and customary responsibility as head of the household, he was dissipating it.

Heinrich Haffner, estate owner in Großkarlsbach, expressed this point directly and positively. He lived in a childless marriage with Katharina née Kirschner, and the assets in it were very largely hers. As she lay on her deathbed in February 1885, he pleaded with her to change her last will and testament, so that on her decease the property would go to him and not to her family, ‘for I alone have done the work and cannot be the guardian [Hüter] of the property for your relatives’.²⁷ Haffner’s plea, like Fleck’s drunken ranting, specifies more precisely the expected task of a man as head of the marital household. It was to preserve the property his wife brought into the marriage, to husband it, as the now rather archaic English phrase states.

Expectations of married women’s behaviour are less apparent in the case files, perhaps because husbands found it less necessary than wives to deal with problematic spouses in the courts. We might get some idea of what expectations might be, by observing husbands’ ripostes to wives’ accusations. When Louise Flory, née Schuppert, brought suit in 1902 against her husband, the farmer Adam Flory of Otterstadt, for a separation of marital assets, he replied via his attorney, denying that his ‘drunkenness and idleness’ were responsible for the decline in the couple’s property. Rather, it was ‘the lack of any assistance’ on her part in ‘his activities [Geschäfte] for the last six years’ that was responsible.²⁸

Enquiring more closely into the nature of such assistance involves interrogating two cases that border on the grotesque. Before getting to the colourful details, it might be suggested that the assistance—or in these cases the lack of it—centred on the tasks of keeping house. In 1909 the entire village of Erpolzheim was talking about how Christina née Schmitt was refusing to do so for her husband, the factory worker Philipp Degen. In particular, she would not give him anything to eat. When he left home at 4 a.m. to take the train to Ludwigshafen, where he was employed at the BASF chemical factory, his wife would curse him out, if he took a piece of bread with him. Arriving back at 9 p.m., this enormous work-day an insupportable burden for a man ‘of the advanced age of 47’, he received no evening meal and repeatedly found that his wife and her mother had locked him out of the house. Once, they threw his clothes out into the street. Villagers saw him ‘crying like a child’.²⁹

²⁷ J6/61, Zeugenvernehmungsprotokoll, 27 Nov. 1886, testimony of notary Carl Schleiß of Zweibrücken. More generally, on inheritances when there were no children, see the last section of this chapter.
²⁹ J6/618, Protokoll, 19 July 1910, testimony of shoemaker Martin Bengel, and of Kätchen Mertel, and Dina Völbel, both without occupation, all from Erpolzheim; Urteil, 14 Dec. 1910. This author, who was himself 47 at the time he first read this file, felt a certain twinge of sympathy.
Witnesses favourable to Philipp described him as a ‘solid, sober, and frugal man’—although perhaps not too bright. This description contrasted a husband working at fulfilling gendered expectations of preserving marital property with a wife refusing to do so. If previous examples of a husband’s unwillingness or inability to perform his expected marital role were connected with drunkenness and violence, Christina Degen added sexual refusal to her lack of support for her husband. Spurning his bed, she slept with her mother instead. Her mother told her neighbour, the widow Nehrbaß, about this arrangement, ‘he’s no longer allowed to sleep with her [Christina], the old goat’.

A case from 1874, with even more grotesque details, offers another perspective on a wife’s refusal to offer support to her husband. Barbara née Blass, wife of day labourer Nikolaus Forster of Neustadt, threw her husband out of the house. The decision had been preceded by years of marital discord, but the precipitating incidents occurred when Barbara and her father, apparently on two separate occasions, had each caught Nikolaus in the stall, with his trousers unbuttoned, attempting to have unnatural relations with a goose. Barbara could not live, she maintained, with such a ‘depraved’ man.

Although Nikolaus repeatedly returned to their house, hammering on the front door, calling out ‘Babette, open up,’ and begging his wife to take him back, she remained firm in her refusal to let him into her home or her bed. The fellow residents of a boarding house in Neustadt, where Forster was living after being thrown out, advised him to give his wife a ‘thorough beating’, but instead he turned to legal remedies. Not a divorce—even if he hadn’t wanted his wife back, divorce was a long, difficult process in 1870s Germany, used very infrequently.

Rather, Forster sued his father-in-law. He asserted that his wife, living with her widowed father, was keeping house for him, and, as her husband, head of the marital community of property, he had a legal claim on her salary. As far as the law went, this claim was a valid, if tortured, response to his wife’s rejection. The law also provided a rejoinder in terms of the relationship between Forster and his father-in-law. Forster, after having been thrown out of the house (physically, by his father-in-law), turned over no money to his wife. Barbara Blass’s father was supporting her and her two children; the value of the support he provided was greater than the imputed wages of her housekeeping labours.

³⁰ Ibid., Protokoll, 19 July 1910, testimony of Maria Nehrbaß, widow of Martin Nehrbaß, without occupation in Erpolzheim; Protokoll über Zeugenvernehmung, 14 Nov. 1910, testimony of Philipp Degen, wagon master for the Bavarian state railways, and of Heinrich Rings, farmer in Erpolzheim, as well as the testimony cited in the previous note.
³¹ J6/11180, Gegenzeugen-Verhoer, 14 Dec. 1874, testimony of Philipp Schwenk, turner of Neustadt; Zeugenverhoer, testimony of Friedrich Klein, lead-worker of Neustadt.
³³ Ibid., Once again, as is typical for pre-1879 cases, neither the verdict nor the attorneys’ briefs are preserved, so the precise legal arguments and the ultimate outcome are unknown.
Nikolaus Forster had difficulty formulating a response to his collapsing marriage. Pleas and begging were unavailing; his father-in-law’s presence prevented him from taking the advice of his fellow boarders.³⁴ Divorce was impractical, even if he had wanted it, so all he could do was to emphasize before the court the material expectations of his wife’s support for him. Thirty-five years later, another case before the district court in Frankenthal would show, even more clearly, contrasting, gender-based expectations about property between spouses, and the way they could undermine a marriage.

A Failed Head of Household Lashes out at his Family

Ludwig Christmann was a shoemaker and small farmer in the village of Waldsee, near Speyer. After his marriage in 1873 to Katharina Barbara Rogenauer, he spent close to thirty years preserving the property his bride brought into the marriage. As one resident of Waldsee noted, ‘He was frugal to the point of being stingy.’ Both his sons, Johannes and Mathäus, remembered that as adolescents and young adults they worked in the family shoe business, helped in the fields without compensation, turned over their wages from outside jobs (Johannes was a factory worker) to their father, and received back, at most, 1 mark pocket money every Sunday. Their testimony on this point was delivered with a mixture of resentment at the poor treatment they had received and respect for their father’s efforts to husband the family’s resources. He was, as Mathäus explained, his language echoing witnesses in the case of Philipp Degen, proceeding through the courts at the same time, ‘frugal and solid’.³⁵

This situation changed rapidly at the turn of the century, as the family’s assets plunged downwards, destroying the Christmanns’ marriage and bringing the father into conflict with his wife, his two sons, his daughter, and son-in-law. The gendarme Ludwig Kneiss explained to the court, ‘As I heard from the thoroughly reliable former mayor Tremmel the property comes from the wife and the defendant [Ludwig Christmann] has not proven capable of preserving it. The differences [between family members] are apparently the result of the decline in property.’³⁶

What had caused this family catastrophe? Ironically, it was Ludwig’s attempt to do more than just conserve the family’s property, originating with his wife, and

³⁴ That advice certainly sounds like patriarchal oppression, although it might also have been bachelor bravado, coming from residents of a rooming house, most of whom probably lacked actual experience in married life.
³⁵ J6/624, Protokoll über Zeugenvernehmung, 28 Nov. 1910, testimony of rentier Michael Maguin of Waldsee; Protokoll über Zeugenvernehmung, 25 Jan. 1911, testimony of Johannes Christmann, bicycle dealer of Waldsee, and Mathäus Christmann, shoemaker of Limburger Hof. See also n. 6, above.
to expand it, that led to this juncture. It was an odd path to riches that he sought out. He would make the family’s fortune by affiliating with the labour movement. Abandoning his shoemaker’s shop, Ludwig joined a workers’ association in nearby Speyer, became a member of its executive committee, and in 1900 or 1901 opened a tavern in Waldsee that was to be the association’s headquarters. He needed to borrow money to do this, and Katharina Barbara agreed to offer as security some of the farmland she had brought into the marriage—her consent for the alienation of this property required under both the Napoleonic Code and the German Civil Code being introduced precisely at the time Ludwig was starting his new business. It proved to be a disaster. The Bavarian government refused to grant Ludwig a licence for his tavern. He ran it illicitly, but was immediately fined for doing so. Ludwig quarrelled with the members of the association and they withdrew their patronage. Four thousand marks worth of fields had to be auctioned off to pay the creditors.³⁷

As his tavern failed, Ludwig began to drink heavily, and turned his anger and frustration on his wife. Responding to his inability to meet the expectations of a husband, he created conditions in which she would have to fail as a wife, so he could denounce her for it. Katharina Barbara repeatedly complained to relatives and in-laws that her husband ‘wanted her to cook well, but gave her no money for it’. In 1909, he sold a wagonload of barley and gave his wife 2 marks from it, saying contemptuously, ‘with this money she can once more run the household’.³⁸

Ludwig’s violence was not purely verbal. He beat his wife black and blue, throwing a chair at her, going after her with an axe, forcing her to flee in her nightclothes, terrified, to her niece. Son Johannes was constantly calling the police to his parents’ house to protect his mother. Usually, Katharina Barbara would refuse to press charges, but she did on at least one occasion. Her husband twice served brief prison sentences for assault. The children took their mother’s side and Johannes badly beat his ageing father, now pushing 60. The children intervened financially as well. Since Ludwig refused to turn over any of the proceeds from the sale of his crops to his wife, his sons and son-in-law took his harvest and sold it, to give their mother some money. Ludwig retaliated against their fields and as a result of these opposing expropriations all the Christmanns were reluctant to till their fields and plant their crops.³⁹

³⁷ Ibid., Protokoll über Zeugenvernehmung, 25 May 1910, testimony of Johann Christmann and of Konrad Schakert, street maintenance worker in Waldsee; testimony of Mathäus Christmann, as in n. 35. It is not clear what kind of workers’ association Ludwig joined; both the social democrats and the Catholics were active in Speyer.


³⁹ Besides the testimony cited in nn. 35–8, ibid., Protokoll über Zeugenvernehmung, 25 May 1910, testimony of Karl Köchner, village policeman in Waldsee; Protokoll über Zeugenvernehmung,
Finally, Katharina Barbara took refuge with her daughter, and, on her sons’ advice, filed suit in 1910 for a separation of marital property. Ludwig responded by trying to rent out for a six-year term all the pieces of land remaining from her dowry, while he was still legally head of household and administrator of his wife’s property. Her lawyer obtained a preliminary injunction preventing him from doing so. The lawsuit went badly for Ludwig and the district court in Frankenthal found for Katharina Barbara, noting in its verdict that Ludwig was increasingly incapable ‘of heading the household in helpful fashion and through regular work at the very least preserving the existing property’. The court of appeals in Zweibrücken upheld the verdict.⁴⁰

Ludwig Christmann spent a quarter-century as a sober, tight-fisted, rigorously self-disciplined and disciplining head of household, whose devotion to preserving the property his wife brought into their marriage had extended to his harsh treatment of his sons. His aspirations to do better than that, and the failure of these aspirations, transformed him into an embittered, drunken, uncontrolled, and violent man, driving off his wife, completing the alienation of his children, and leaving him impoverished, elderly, and alone. Both his efforts to fulfil the expectations of a husband and head of household and his rejection of those expectations were destructive to him and to those around him.

Naturally, it would be false to see Ludwig Christmann’s circumstances and travails as typical for families of small proprietors in the nineteenth-century Palatinate. Most husbands and wives would attempt to fulfil their gendered marital obligations without requiring legal intervention. Nonetheless Christmann’s case shows the potential mutual difficulties and emotional stress generated by the need to meet these expectations in modest material circumstances.

PARENTS AND CHILDREN

The reader will no doubt have noticed that conflicts over property in Ludwig Christmann’s marriage did not just pit him, dyadically, against his wife. His children were also involved; their intervention was decisive in rescuing Katharina Barbara and her property from the depredations of her husband and determining the ultimate disposition of the marital property. Their role in their parents’ disputes points out the changing uses and significance of property in a marriage, from its initial acquisition via a dowry, through its conservation over several decades, to its intergenerational transmission. As noted in the previous sections, this transmission was not a one-time affair, but occurred in fits and starts


⁴⁰ Besides the testimony cited in nn. 35–8, J6/11180, Urteil, 7 Apr. 1911; Urteil of Oberlandgericht Zweibrücken, 27 Dec. 1911; Berufungsbeantwortung, 9 Dec. 1911; Gesuch... einstweilige Verfügung betr., 26 Mar 1910.
as children grew up. Following a dowry, there were sometimes additional disbursements, often to meet financial emergencies, and then an inheritance, on the death of one of the parents. This inheritance was itself a complex matter, involving the separation of assets owned individually by the two spouses, the division of the marital community of property, and the disposition of all the property among the surviving spouse and the children. A remarriage and possible new set of children, or a guardianship for minor heirs, could make the inheritance settlement still more complicated. Continuing along the life cycle, ageing and enfeebled widows or widowers might seek to use their remaining property to secure their old age, trading their assets to their children, in a wide variety of forms, in return for physical care until their death. Naturally, the vagaries of both fertility and mortality meant that not every family went through all these stages of property devolution. Contemporaries were well aware of all of them, though, and of the expectations that were attached to them. Throughout the entire process of acquisition and intergenerational transmission, both affection and hatred, strong emotions generated within a family, were mediated by property and its disposition.

Children’s self-interest in this entire process was clear and unambiguous. They wanted to see the marital property preserved so that they might inherit it. While Ludwig Christmann’s children clearly sympathized with their mother as victim of their father’s tormenting, they were also alert to the dangers that their father’s drunken and erratic behaviour posed to the integrity of the marital community of property, and to the individual property of both their parents, all of which would eventually be passed on to them.⁴¹ This was hardly a new attitude at the beginning of the twentieth century. Back in 1838, the shopkeeper and farmer Peter Laux of Frankenthal, involved in a similar dispute with his wife to that of Ludwig Christmann and his, began selling off the marital property at drastically undervalued prices. His eldest son, on hearing of his father’s increasingly eccentric property transactions, stated, ‘he would like to slit his [father’s] throat, that he is selling the fields so cheaply and so depriving him [the son] of his property’.⁴²

Parents’ motives seem to have been more complicated, and to have changed with their age. Earlier on, their actions were designed to support or rescue their children, to make use of their property to launch their children on an independent life, and to keep them going there when misfortune struck. As the parents aged, they increasingly sought to use their property to preserve their own personal autonomy when physical decline prevented them from doing so on their own. This motive was especially pronounced when a widowed parent faced a married child, as the child’s spouse introduced another element into the relation, one often difficult for the parent.

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⁴¹ Cf. the cynical observations of the Zweibrücken court of appeals, ibid., Urteil, 27 Dec. 1911.
Financial Emergencies

One place that parental property transfers might emerge was bankruptcy proceedings. If the debtor in bankruptcy sought an agreement with his creditors by which the bankruptcy could be ended and control over his (there were just a handful of women in charge of businesses declaring bankruptcy) assets recovered from the court-appointed receiver, then financing from parents or in-laws was an almost inevitable presupposition. The father of baker Karl Heider of Kaiserslautern, farmer Mathäus Heider of Herxheim, let his son’s creditors know in 1909 that he would guarantee payment on a percentage of their claims, if they would agree to the settlement drawn up by his son’s legal adviser. Two years previously, the comb manufacturer Martin Knobloch had been rescued in a similar way by his father-in-law. Thirty-seven years before that, the coppersmith A. Neubaker of Offenbach, in nearby Hessen, received the assistance of his mother-in-law, who funded a settlement with his creditors.\(^43\)

Parents making these offers and guarantees were sacrificing their own property, which was not at risk, to save that of their bankrupt sons or sons-in-law, which was. Had the parents not intervened—and the vast majority of individuals filing for bankruptcy enjoyed no such good fortune—then the creditors would have had to take what they could get from the assets of the debtor in bankruptcy. It was less property being rescued by the parents than the reputation and social esteem of their son, or daughter and son-in-law. By reaching an agreement with the creditors, the full humiliation of the bankruptcy proceedings could be avoided: the bailiff appearing at the business and the home to attach the property, place everything under court seal, take an inventory, appraise the costs, sometimes physically seize the items and impound them, all in the glaring light of publicity. This was hard to accept. Wineshop owner Wilhelm Kremsler of Kaiserslautern, facing his imminent bankruptcy in September 1904, committed suicide. Karl Neu, estate owner and sheep dealer in Enterweilerhof, merchant Anton Frank of Dürkheim, hotel and sausage shop owner Siegmund Isenburger, and business agent Peter Schick, both of Kaiserslautern, ran off, deserting their families, and were never seen again. By guaranteeing a settlement, parents could ward off even the possibility of such a fate.\(^44\)

Just as much, parents might seek to avoid the possibility of bankruptcy by providing loans and guaranteeing debts their sons or sons-in-law had contracted.


The match manufacturer Theodor Ritterspach of Eselsfürth and his wife Emilie née Orth had repeatedly addressed his father, W. Ritterspach, a manufacturer and mayor of Kirchheimbolanden, ‘with oral and written requests, to help them out of their financial difficulties with cash advances’, which the latter had provided repeatedly between 1884 and 1887 to the tune of almost 6,400 marks. Theodor and Emilie promised to pay the loans back, but had not done so in 1887, when they declared bankruptcy.\(^4^5\)

The manufacturer Ritterspach, who tabulated his son’s debts in the course of a letter to the court, raising his claims as a creditor in his son’s bankruptcy case, was probably well enough off to afford all these expenditures. Not everyone was so affluent, and parents could be torn between helping children and preserving their own property. When, in 1861, the brewer Philipp Hört in Neustadt ran up some 30,000 fl. in debts, and the entire town was talking about his impending financial ruin, his wife’s parents, the gentleman farmer Andreas Ferkel of Neustadt and his wife Louise, faced a powerful dilemma. One of Hört’s creditors, the widow Knochel of Neustadt, was afraid that in view of Hört’s growing financial difficulties his signature no longer offered a sufficient guarantee that he could repay her loan. If Hört’s parents-in-law did not co-sign, then she would go to court and have Hört’s assets attached to satisfy her claims. The widow Knochel wanted the father-in-law to co-sign, but was particularly insistent on obtaining the signature of Hört’s mother-in-law, Louise Ferkel, since she was ‘the most capable of payment’.

In other words, the Ferkel family fortune was disproportionately constituted by Louise’s dowry and inheritances, in real property, which, in spite of Andreas Ferkel’s legal position as head of the marital community of property, and administrator of his wife’s assets, could only be alienated with her consent. Louise Ferkel was the parent with the real dilemma: let her property be threatened, or allow her daughter and son-in-law to be disgraced. The business agent Johann Hayn told the magistrate’s court in Neustadt of the ensuing domestic drama when he brought Louise this demand from the widow Knochel:

The latter [Louise Ferkel] replied that she would not sign. I pointed out to her that if she did not want to sign, then there would be no way to hold back the lawsuit, and Hört would be torn to pieces, in that still more creditors would obtain judgments against him. I explained to her the legal complaint of the widow Knochel must then be continued. The wife Ferkel said after that, ‘come here, I will sign’.\(^4^6\)


\(^4^6\) J6/1170, Zeugenverhör Protokoll, 2 July 1861, testimony of the business agent Johann Georg Hayn of Neustadt; cf. also testimony of Elisabetha Schacké, wife of ladies’ tailor Stephan Wagner, Friedrich Kalmayer, locksmith, and Daniel Christmann, joiner, all of Neustadt. In the end, Hört had to declare bankruptcy, even after receiving a large cash loan from his grandfather. J6/1171, Eidesleistung, 26 Feb. 1862.
Both of these preceding examples take us, once again, to the more affluent elements of Palatine society, but there were certainly many examples of this sort of financial aid offered by parents from more modest backgrounds.⁴⁷ Common to all of these cases, regardless of the social milieu in which they took place, was that parents were providing financial assistance for their children. This was the expected direction for the intergenerational flow of resources, and while the opposite did occur, it was met with some embarrassment. B. Vetter of Kaiserslautern, who had lost all his property in the bankruptcy of the ‘Foundry, Inc.’ [Aktiengießerei] of Kaiserslautern, wrote, wearily, to the receiver that he would not be able to satisfy his creditors.

I have tried everything possible by taking positions to pay something off to my creditors, all in vain. I am now a worker with my youngest son [a manufacturer of stoves in Ludwigshafen] and my income is such that I and my wife can just manage to live. It is impossible for me to accede to your suggestion even in the amount of 10 marks; regrettably I cannot avoid informing you of this. I would much rather that I could pay it all, but with my sixty-one years, there is no longer any possibility of this.⁴⁸

The Complexities of Inheritance

The death of one of the spouses began a further step in the process of transfer of property between generations. To understand its significance, we need to note that under the Napoleonic Code, spouses were not each other’s heirs. The central Article 731 stated that ‘successions are reserved for the children and the descendants of the deceased, for his ascendants, and for his collateral relatives in the order and according to the rules set down hereafter’. Legitimate children were intestate heirs; they were the first in line to inherit, and could not be completely cut out of an inheritance by testamentary action. None of this was true for spouses, who needed an explicit testamentary bequest in order to inherit, a basic proviso almost the exact opposite of both nineteenth-century and more recent American inheritance law.⁴⁹

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⁴⁸ J20/400, B. Vetter Sr., to Fr. Rebmann, 12 Mar. 1898. Details on the bankruptcy in this file and in J20/399.

The German Civil Code of 1900 adopted a similar position, if not quite so unfavourable to spouses. §§ 1924–9, very much as in the Napoleonic Code, made direct offspring and then collateral descendants intestate heirs. However, §§ 1931–2 allowed a spouse to inherit one-quarter of the late partner’s estate, if there were children present, and one-half, if there were just collateral descendants.⁵⁰

The legal inheritance procedure when one member of a married couple died, the ‘division and separation’ [Teilung und Auseinandersetzung], involved considering what portion of the property of a married couple belonged separately to each spouse, and what was part of the marital community of property. The property community was then separated, with the surviving spouse receiving one-half and the remaining half going to the heirs, typically the children of the deceased.⁵¹ Although sorting out who owned what and dividing it in half might seem complicated, in practice it does not seem to have been much of a problem. Affluent families would have recourse to a notary, who specialized in disentangling these property connections. If a minor child was involved in a succession, the inheritance had to go before a probate court, which sent it to a notary for final disposition. Members of the lower classes might be less likely to have either the willingness or capacity to pay a notary, but their property arrangements were correspondingly less complicated: perhaps a few strips of land and some tattered clothing and worn furniture or tools, which could be divided, privately, without the assistance of a legally trained specialist.⁵²

Rather, problems arose in two somewhat different areas. One was the timing of the division of the marital community of property, since it did not have to be divided on the death of a spouse. The wife of farmer Johannes Becker II of Schauernheim died in 1858, but the marital community of property was not divided until 1882, twenty-four years later. Delays of two, five, ten, even twenty and more years in the division of the marital community of property were far from unknown.⁵³ There could be good reasons for not going through the division procedure right away. If the inheriting children were minors, they would not be able

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⁵⁰ This and all other quotes from the German Civil Code according to Theodor Loewenfeld and Erwin Riezlar, *J. v. Staudinger’s Kommentar zum Bürgerlichen Gesetzbuch und dem Einführungsgesetze*, 9 vols., 7th–8th edn. (Munich: J. Schweitzer Verlag, 1912).


to administer their own inheritance, but would need a guardian, and the surviving spouse would have usufruct of the children's property until they reached the age of 18. Such circumstances rather militated against the time and expense of an appearance in probate court and then before a notary. The problem with this attitude was that the surviving parent might slip into the habit of continuing to enjoy the child’s property even after he or she had passed the age of majority.⁵⁴

This tendency would only be compounded if the surviving spouse remarried. Then there would be, legally, two marital communities of property, one from each of the marriages, containing different property, although the couple of the second marriage might have usufruct of the first, while not owning it.⁵⁵ This was a situation ripe for conflict of interest, particularly if there were children in the second marriage, although not just then. Property disputes could pit the children of the two marriages against each other, or the second spouse against the children of the first marriage.⁵⁶ Two cases, some forty years apart, and coming from very different groups in Palatine society, both show the conflicts that could emerge from second marriages.

The widower Johann Jacob Völker was the owner of the Swan tavern in the village of Mußbach, and in the middle decades of the nineteenth century was regarded as the wealthiest man in the village, which was saying a lot, in this prosperous viticultural region.⁵⁷ In the late 1840s, it was the talk of the village that the elderly innkeeper (he had grown grandchildren) was having an affair with Juliana Haller, née Baugel. She was seen climbing into his bedroom window at his tavern and out of it into the courtyard at odd hours. Rumours began to circulate that she was taking the old man’s linens, table silver, and cash in a sack with her, as she left. After the death of her husband, she married Johann Jacob Völker in 1856. Cash began disappearing from the tavern and Völker accused his heirs of taking it. Four years later, Völker died, and the separation and division began. To his children’s and grandchildren’s dismay, there was just four crown thaler cash in the till, although the wealthy innkeeper was known to keep several hundred gulden on hand at all times for his business. The auction of the household furnishings brought a suspiciously small sum, some 3,800 fl., although they were reputedly worth 10,000–15,000 fl., and it was reported that his second wife had carted them off and stashed them with the husband of her daughter from her first marriage, where she resided on becoming a widow for the second time. The widow tried to defend herself against the heirs’ accusations by pointing to the importance of dowries. If Völker’s furnishings were less on his decease than during his lifetime, it was because

⁵⁴ Cases cited in the previous note often show this attitude; cf. also J6/1163, Expertenbericht, 14 July 1851.
⁵⁵ On the complexities of two marital communities of property and their disposition, cf. J6/1158, the expert report in the lawsuit among the heirs of Philipp Jacob Strinbinger and his deceased first wife Anna Elisabetha, of Neuhofen [undated, but Jan. 1843], or J6/1171, Eidesleistung, 12 Feb. 1862.
he had given some of them to a daughter for her marriage; furthermore, she had
brought a considerable amount of wine into the marriage as her dowry. Her
defence once again shows the importance nineteenth-century Palatines attached
to dowries for the formation of marital property, although her assertions were not
particularly believable.\footnote{J6/1173, Zeugenverhör, 4 May 1865, testimony given 12 June 1865 by Helena Hoffmann, wife of Friedrich Reber, day labourer, and \textit{passim}; testimony given 4 July 1865 by vintner Martin Schutz, farmer Peter Reber, farmer and deputy mayor Heinrich Rust, and cooper Jakob Stahl, all of Mußbach, and \textit{passim}.}

Jacob Spoor, a furnace stoker living in Ludwigshafen at the beginning of the
twentieth century, belonged to the industrial working class of the Palatinate’s one
large city. Nonetheless, the questions raised about the disposition of his property
between the four children of his first wife and his second wife seem remarkably
similar to those occurring on the death of the mid-nineteenth-century village
notable. Spoor had an account with the Ludwigshafen municipal savings bank
that reputedly held the earnings of his son Friedrich, a machinist employed at the
BASF chemical works. When, in 1900, his son married a servant girl, Katharina
Eisenhard, Jacob made a big performance of showing the passbook to his son’s
in-laws, Swabians, who had (and still have) a reputation for being tight-fisted. He
promised the newly-weds that he would turn the account over to them.

Instead of doing so, he held on to the money and used it, in 1903, to help pay
for the construction of a little house in the nearby village of Mutterstadt. When
Jacob’s wife died in 1907, the marital community of property was not divided.
While helping Jacob out following his wife’s death, his suspicious daughter-in-
law—she was a Swabian—confronted him about the money, and he told her, ‘I
built the house so I could give it to you,’ as an inheritance. Jacob remarried shortly
before his death in 1909. Under the influence of his second wife, he wrote a testa-
ment, leaving most of the worldly goods to her, and only the legal minimum
amount (in German, the \textit{Pflichtteil}) to his four children. Friedrich brought suit
against his father’s widow, at least with the hope of getting back the money that
had been in the savings account, but the records of the savings bank proved sur-
prisingly murky, and it could not be ascertained just where the money in the
account had come from, whether it had been put there by the son, his mother, or
his father. The district court in Frankenthal rejected his complaint and left the

Both of these cases have as a common element the (asserted) manipulation of
an elderly widower by a younger, second wife. Yet they share with other, less dra-
matic or titillating, lawsuits a broader theme, the expectation that at different
points in the course of a marriage differing actions and attitudes towards property
would be dominant. At the beginning, acquisition and retention were in the fore-
ground; gradually, disposition began to creep in, whether through a dowry, or via
a loan to a child or son-in-law in financial distress. As children grew up, they took an ever-greater interest in their parents’ property transactions. The death of a spouse did not clearly divide periods of retention and acquisition from those of disposition, but it was a presupposition for a division and separation—a legal procedure that did mark the transition from an emphasis on acquisition and retention to one on intergenerational disposition. A second marriage, though, meant restarting the entire process. In law, there was a clear division between the property of the two marriages, but in practice these divisions could become blurred and give rise to disputes.

As long as Jacob Spoor did not remarry, for instance, it did not matter where the money came from in the savings account, whether he or his late wife or his son had put it there. The money was understood by family members and shown to the in-laws as part of an intergenerational transfer of assets. While using the money to build the house in Mutterstadt might have been pushing expectations a bit, especially as Friedrich Spoor was himself married with his own household, nonetheless Jacob’s explanation to his daughter-in-law, that she and her husband would inherit (at least a portion) of the house built with the money, was a plausible excuse. The second marriage and the new will drastically changed the situation, creating a new marital community of property and retrospectively bringing into dispute the origins of the money in the savings account. Was it an intergenerational transfer from the first marriage or an acquisition and accumulation of property in the second? In a similar way, although rather less successfully, Juliana Haller’s contention that she had brought a good deal of wine into her marriage was designed to blur the distinction between acquisition and intergenerational devolution across two marital communities of property.

There was one other major reason for the blurring of distinctions that could lead to discord over property in conjunction with a division and separation. While it was generally clear whether individual pieces of property, real or personal, belonged to individuals or to the marital community, the financial obligations of surviving spouses and children to the community of property were often unclear and debatable, in ways that illustrated the changing functions of property over the course of a marriage.

At a division and separation carried out by notary Machwirth in Frankenthal in 1889, a bitter dispute erupted between the merchant Ludwig Sutter in Frankenthal and Philipp Sutter, his retired father. There was no question that the family house in Frankenthal was the property of Philipp’s wife and Ludwig’s mother, recently deceased, and so would be inherited by her son. Her husband, however, claimed that he had made improvements to the house, putting in a storage shed, a garden wall, and a workshop with its own outhouse. These improvements thus increased the house’s property value; such an increase belonged to the marital community of property, which therefore owed Philipp the cost of the improvements. Furiously, the son responded that the improvements were so shabbily done that they had to be torn down, and so decreased rather than increased the value of
the property. Any remaining improvements were just for the personal use of his father and not for the marital community of property.⁶⁰

The dispute continued over several fields owned by the late mother. Her husband claimed that he had had these fields manured and improved, but his son had taken the crop. The elderly Sutter had, in 1887, hired the cabinetmaker Heinrich Ranscher and his wife Margaretha to bring in the potatoes from his field. Sutter’s wife, still alive at the time, taking over for her immobile husband (by 1893, Sutter was confined to a wheelchair), directed them to the fields. When they returned to continue the harvest two weeks later, ‘the young Frau Sutter [i.e. the wife of son Ludwig] was standing there and refused to let us dig up the potatoes, saying we had no business being there’. The son’s response to his father’s claims was that the property belonged to him, an inheritance from his maternal grandmother, and his father was continuing to enjoy the usufruct of the land, long after the son had come of age.⁶¹

The claims and counter-claims, ultimately settled by a compromise between the two parties, were related to expectations about differing uses of property at different points in the marriage. The disputed home improvements were to the father the preservation and improvement of the property his wife had brought into the marriage, but appeared to the son as sabotaging the transfer of property to him as heir. Much the same dispute between improvement and intergenerational transfer was at stake in the clash over the fields planted in potatoes. The appearance of the ‘young Frau Sutter’ to chase away the harvesters hired by her father-in-law underscored her husband’s point. He was of age, a married head of household in his own right, and his father could no longer continue to have the usufruct of his property.

It does seem clear from the Sutters’ case that emotional issues, relating to claims of autonomy—for the son from his father, for the elderly, wheelchair-bound father from his son and daughter-in-law—were articulated in terms of the use of property, had simmered along for years (think of the dispute over the potato field), and burst out into the open during the separation and division at the emotionally tense situation following the death of the wife and mother. These connections between emotional and property relations, or between the death of a family member, legal formalities concerning property, and emotional outbursts leading to legal conflicts, were hardly restricted to the Sutter family, or to their urban and bourgeois social milieu. Another example, from the Frankenthal vicinity, about a decade before the Sutters, shows a very similar pattern among members of the rural lower class.

After Magdalena Wanger, wife of the day labourer Johannes Uebel I of Moersch, died, her widower and children were unable to agree on the appropriate division of

⁶⁰ J6/528, Klage, 2 Jan. 1892, Klagebeantwortung, undated; Zeugenvernehmungsprotokoll, 27 June and 18 Nov. 1892, various witnesses.

⁶¹ Besides the sources cited in the previous note, Philipp Sutter to Landgericht Frankenthal, 3 Nov. 1893, and testimony of Heinrich Ranscher and Margaretha née Rennes. J6/535 and J6/601 are cases with similar sorts of disputes.
the marital property. Johannes and his children got into a dispute about how much of the assets of the marital community of property the children had received before their mother’s decease. Johannes claimed to have given his son Johannes, a day labourer like his father, some 377 marks, over the years, but the latter only admitted to having received 101 marks. Similarly, he claimed to have given his daughter Margaretha, wife of a shoemaker, 578 marks in cash, bedding, clothing, and potatoes (the components of a lower-class dowry), but she insisted that she had only received 266 marks.⁶²

Johannes told the schoolteacher Peter Klotz, a family friend, ‘that he had given his children and his daughter’s husband so much, but he has nothing [documenting this] written on paper’. Klotz advised him to get a household account book and write things down, so he would have something written to counter the ‘loose sheets of paper . . . in part in the hand of the wife Reich [Johannes’s other child, his daughter Eva, married to a farmer]’, which purported to show what the children had received from their parents. When the children were summoned to the village mayor’s office to sign their father’s account book, they refused, ‘because if they did they would not receive any further inheritance from their father’. They announced that ‘what they had received, they would acknowledge, but they would not sign’. Bringing the parties together before a notary for a formal division and separation did nothing to resolve the conflict—and unsurprisingly, because the conflict was not about formal title to property, the notary’s area of competence, but about expectations concerning the intergenerational transfer of property.⁶³

Margaretha had previously demanded cash from her father, perhaps for the promise of a dowry he had not paid. She had sent her sister Eva to tell their father, ‘he should give her money, and if he has none, then he should sell a cow’. A week later, her father did come up with the money and she told a neighbour, ‘last night my old thief [mein alter Spitzbube] was here and brought my money. I would not take an instalment [ich habe’s nicht abschläglich genommen], he had to sell the sow out of the stall, now I have nothing more to get from him.’⁶⁴

The most explosive confrontation that father Johannes had was with his daughter Eva, who seems to have been the instigator of legal action among her siblings, since she drew up their claims on the estate. Eva maintained that while she was still single, her father had collected the wages she had earned as a farm servant—an important component of a potential dowry among rural, working-class women—and refused to turn the wages over to her. This clash over her money was part of a larger dispute she was having with her father at the time. Even before she married her future husband, Peter Schenk, she moved all her personal possessions, her linens and clothing, out of her father’s house, getting her fiancé and her brothers-in-law to help her carry

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⁶² J6/16, öffentliche Sitzung, 2 May 1883.
⁶³ Ibid., and Zeugenverhörprotokoll, 10 Feb. 1882, testimony of teacher and former village clerk Peter Klotz of Moersch.
⁶⁴ Ibid., testimony of Heinrich Eichinger, journeyman shoemaker, and Anna Maria Landes, wife of day labourer Jakob Eichinger, both of Moersch.
her trunk. As her brother-in-law, the mason Heinrich Christmann III (husband of another sister, apparently not a plaintiff in the case), explained, when they came to the house, the widowed father Johannes said, ‘if she does that [moves out], then I will jump in the Rhine’. Christmann told the court he then ‘remarked to him that the girl can’t stand it in the house any more, because he goes too far in cursing her and baiting her’, which only caused her father to repeat his suicide threat and finally break down in tears.⁶⁵

The total value of the dispute in the Uebels’ case was roughly the same as that of the Sutters, although it represented a much larger part of the assets of a rural working-class family than an urban bourgeois one. There was a whole element of disputed written documentation among the Uebels that was missing for the Sutters. The Uebels were literate, but keeping their own written records was still a new idea to them, while the Sutters treated receipts as self-evident. For all these differences, it is the similarities that stand out: changing property functions of a marriage from retention to disposition, children reaching adulthood and asserting their independence from ageing parents, who were worried about retaining their own autonomy, combining these two elements in strong emotional tensions generated in a family expressed through property, and reaching a bursting point in the strained atmosphere following the death of a family member. Families in the nineteenth-century Palatinate had to negotiate sometimes potentially contradictory expectations about property and emotion; the failure of the Uebels and the Sutters to do so without the expensive and intrusive intervention of the legal system indicates the challenges families faced in moving successfully through their life cycles.

Ageing, Widowed Parents and Their Children

If disputes emerging from a division and separation demonstrated claims to autonomy and rejection of dependence equally balanced between parents and children, in the penultimate stage in property devolution the fears about loss of autonomy were primarily with the parents. Widows or widowers no longer able to manage on their own would be dependent on their children, whose filial piety was tied up with an interest in their parents’ property. Louise Betz, the widow Weber, of Wachenheim, was living with her daughter until, in May 1858, the latter gave her nothing to eat for two days and then threw her out of the house. Turning to her son Peter, she told his wife Catharina, ‘when you become old and feeble and no longer own anything, that’s what gets done to you’. Catharina responded that Louise and her late husband had run through their landholdings, thirteen quarter-fields, in just a couple of years, and so Louise deserved her fate.⁶⁶

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⁶⁵ Testimony of Heinrich Eichinger, as in the previous note, and of Heinrich Christmann III, mason in Moersch, 22 May 1882.

Owning property enabled the elderly to trade it to their children and perhaps avoid this fate. An agreement to do so took various forms. The most far-reaching was an exchange of property in return for food, shelter, and assistance. In 1871, Katherina née Geisel, the widow Brömer, of Hertlinghausen, signed a contract with her son-in-law, the pedlar Johann Heinrich, by which she gave him the little house she and her husband had owned, in return for which Heinrich and his wife, named Katherina like her mother, agreed to take in the elderly lady—more exactly, one assumes, to live with her in what had been her house—and provide her with food, clothing, and care until her death.

The story of rentier and widower Peter Junkert of Frankenthal was similar, if a bit more complicated. From 1885 until 1900, he had lived with his daughter Philippina, who had kept house for him. She married in 1900, and he went to live with her for three years. Then she and her husband, a brick-maker, moved away to Gaggenau in Baden. The old man did not want to leave his home in Frankenthal, but had difficulty managing without assistance, so he moved in with his daughter again in 1904 and right after his move signed a notarized agreement making her heir to his entire fortune, in return for which she would care for him until he passed away.

Rentier Junkert’s and the widow Brömer’s trade of property for care was not the only option available to the elderly. The rentier Friedrich König of Oggersheim turned over his lands to his children—a very bourgeois lot, including a doctor, industrialist, merchant, and the wife of a Protestant pastor—in return for which they agreed to pay him 10 marks per day, for the rest of his life. At a socially much more modest level, Anna Maria Boerstler née Bochles, widow of a farmer in Maudach, granted her four children in 1898 lifelong usufruct of several pieces of arable in her village, if they would each give her 75 marks per year, payable in quarterly instalments, for the rest of her life.

Assuming they were physically capable of it, trading property for fixed payments, whether in cash or in kind, made it easier for elderly widows and widowers to maintain their autonomy vis-à-vis their children and, especially, their children’s spouses, than handing over their property in return for housing and care. Peter Junkert probably suspected this, since at first he refused to leave Frankenthal to

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68 J6/6, Urteilssatz, 17 May 1885; similarly, J6/1171, Gegenzeugenverhör, 8 Mar. 1862, testimony of Louise Mann, widow of chimney sweep Philipp Wagner of Grünstadt.


stay with his daughter when she moved away. His suspicions were justified, for shortly after he moved to Baden and turned his property over to his daughter, the 76-year-old Junkert got into a conflict with his son-in-law and his granddaughter’s husband, which led to a brawl in the family dining room. After that, he took his meals at an inn, telling an acquaintance, ‘he wanted nothing more to do with them [his family], he still had money, he could still pay for things’. Eventually, he moved back to Frankenthal, living alone until his death, refusing to stay with any other family members.\(^7\)

Junkert’s connection of his money with his autonomy is revealing. Catharina Dörr, widow of day labourer Jacob Steiger of Ruchheim, who lived with her son Lorenz, had fewer options. Although her relations with her son were not perfect (she had a fight with him when he sold off a piece of cloth which she claimed as her property), they were generally much better than those with her daughter-in-law. She was lying in bed one day in the spring of 1865, when her daughter-in-law, after setting the table, asked if she wanted something to eat. She responded, ‘the old lady needs nothing’, at which her daughter-in-law had angrily yanked her out of bed with such force that she smashed up her hand. Her son had tried to calm his wife down, but clearly was fed up with his mother’s behaviour. While at the neighbour’s, he and his mother had an argument, and were so loud that a whole crowd of children gathered to hear them. ‘The widow Steiger answered then, when the son said, whether his wife didn’t take everything out of her own mouth and give to her, yes when she is in a good mood, the son continued to curse her, whereupon she said to him, it’s true, isn’t it, if I would worship your wife and have someone stick me under the bench before her.’

What was the widow Steiger to do? After her daughter-in-law threw her out of bed, she went to the village mayor to ask for his protection from the ‘people in her house’. He sent a village policeman to escort her to her neighbour, Sophie Koob. The latter, probably articulating expected behaviour, told her to accept her fate, but she replied ‘that I [the neighbour] was probably right, but when she was at home, she was afraid to leave, and when she was gone, she was afraid to come back’.\(^8\)

The widow Steiger’s fears about the loss of her autonomy and her reluctance to make herself dependent on her daughter-in-law are evident in this account. Unwilling to accept her position, as the neighbour expected an elderly widow to do, she defended herself by making sarcastic remarks, which only worsened her already strained relationship with her daughter-in-law. Relations between an aged parent and son- or daughter-in-law did not have to be bad. The elderly and ill


\(^8\) J6/1173, Zeugen-Protokoll, 20 June 1865, testimony of mayor Jakob Brenner, and of Sophie Koob, wife of farmer Johannes Sehner III, both of Ruchheim.
Vintner Andreas Georgens I of Ungstein repeatedly praised the care he received from his daughter-in-law, saying that without her, ‘he would certainly rot away’. Of course, the very nature of the praise reveals the extent to which Andreas had become dependent on his son and daughter-in-law. This contrast between an expected dependence and wish to preserve one’s autonomy was on the minds of the elderly in the nineteenth-century Palatinate and they developed several strategies to deal with the situation that did not involve trading property for support, at least not directly.

One was remarriage at an advanced age. The rentier and widower Johannes Held and Bertha née Weidner, the widow Fellhauer, met in Frankenthal in 1909. Both were in their sixties, living with their children, and getting along badly with them. Held, in particular, was locked in a bitter dispute with his son-in-law, each accusing the other of dissipating the property Held had acquired in his marriage. A witness recalled their conversation:

Frau Fellhauer told, among other things, that her son was so harsh [garstig] with her. Old man Held said, we could go together, I’m not getting it any better. Frau Fellhauer said, if I had known, I would have remarried long ago, I have had enough opportunities. Held remarked he had already had opportunities and he regretted not having done it right after the death of his wife. He would gladly marry, but now he can’t; his daughter wants to have him declared incompetent and the case is now before the court.

Marriage, for these ageing Palatines, was an opportunity to escape dependence on children and strife with in-laws, strife that, in Held’s case at least, stemmed from disputes over the appropriate relationship to marital property, and perhaps from his unwillingness to do a division and separation. Another way to avoid dependence on in-laws was to live with single children. Following the death of his wife in the 1860s, the vintner Johannes Lingenfelder of Gimmeldingen lived with his unmarried daughter Helena, who took care of the household, and his son Johannes III, who helped him in the fields. ‘Father Lingenfelder and his two children ate and lived together in the house belonging to the father and worked in a common cause.’ The elderly widower owned the house; there were vineyards that he turned over to his children, but on condition that they cultivate them, manure them, and deliver the wine to his cellar. This whole arrangement only worked because Johannes Lingenfelder was ‘healthy and active’. He worked in the vineyards and his fields until the day he died—literally with his boots on, since he keeled over while pruning his vines. The more feeble elderly could not do this.

Finally, there was the possibility of not turning property over to children but auctioning it off to the highest bidder, who might, of course, be a child of the

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73 J6/43, Zeugenverhör, 5 July 1886, testimony of the vintner Andreas Georgens III of Ungstein; most of the other witnesses who testified on this day reported similar remarks.
seller. By subjecting the intergenerational transfer of family property to the full rigours of the market place, this decision was rather pushing the limits of what was accepted and expected in property devolution. Jakob Ebel of Grethen put his stone quarry up for auction in 1892, and it was purchased by his son Karl. The arrangement quickly dissolved in a welter of claims and counter-claims that were still being worked out in 1908. Objects of the dispute included Karl's inheritance from his mother, which he claimed his father had only turned over to him after he had threatened to get a court order and send in a bailiff. His father maintained that Karl had lived with him in the early 1890s, after the sale of the quarry, and owed him for room and board. The stonecutting tools were also in dispute, among other issues whether they belonged to the father or the marital community of property.⁷⁶

Heinrich Ebel would not be dependent on his son Karl, but, instead, would be feuding with him, in and out of court, for over fifteen years. His decision shows the difficulties connected with the transfer of property acquired in marriage from one generation to the next, as strong emotions generated within families were articulated in property relations, property that individuals needed to conduct successfully their own lives. Since only a very small proportion of all the millions of inheritances passed on in the Palatinate over the course of the nineteenth century came before the courts, it is clear that the vast majority of families negotiated the difficulties of clashing expectations over emotionally charged property relations without reaching the point of legal intervention. Still, the cases where the families could not manage these issues without recourse to the legal system do show the distinct and sometimes clashing expectations raised at many points along the long and complex path by which property was transferred from parents to children.

**SIBLINGS: COOPERATION AND RIVALRY**

To note that property was passed from parents to children, in the plural, is to bring another element into the relations of family and property, that between siblings. Brothers and sisters, both by blood and by marriage, cooperated closely, demonstrating strong ties of solidarity that are difficult to understand if we imagine that they were motivated simply by self-interest. Yet, at the same time, they could be most bitter rivals, displaying a mutual hostility that became apparent following the death of a parent and the division of an estate. These seemingly contradictory behaviours were grounded in common expectations related to the acquisition of property in marriage and the passage of property between generations.

In the spring of 1843, there was a traffic accident on the outskirts of the village of Winzingen, in the heart of the Palatine wine country, when one horse-drawn

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wagon rammed another, breaking open several casks of wine. One of the eyewitnesses to this accident was Johannes Lammert of the village of Altripp, holding the reins on the wagon in front of the two that collided. Lammert was there with his brother-in-law, the tavernkeeper Conrad Weiland, helping him transport a wagonload of wine back to his tavern. Another eyewitness was Barbara Schaefer, née Funk, wife of vintner Nicolaus Schaefer of Hambach. She had been cutting and collecting grass along with her sister-in-law Anna Maria Stoeckel, the wife of Simon Funk, linen weaver of Hambach, and the two had been taking a break by the side of the road, giving them a good view of the accident.⁷⁷

This brief glimpse into the everyday life of siblings and in-laws is one of a myriad of examples of cooperation and solidarity that extended across the entire nineteenth century and through every social group. There were versions of sibling solidarity characteristic of a working-class milieu. During the Franco-Prussian War, the management of the Palatine railways had asked the repair-yard workers for volunteers who would work as brakemen in view of the greatly expanded number of trains needed for the war. The Humm and Abel brothers, working together in the yards, volunteered together. In March 1870, the farmer Jacob Hess of Schauernheim was involved in a bar-room brawl in the neighbouring village of Dannstatt. The brawl got out of hand, and in the course of it someone beat him with a lead pipe and smashed in his skull. His opponents in the brawl, who strenuously denied administering the beating, included the brothers Sebastian and Peter Magin, and Wilhelm and Jacob Brech, all farmers and day labourers of Dannstatt.⁷⁸

Business partnerships were particularly prevalent among siblings and in-laws. After the outbreak of the Franco-Prussian War, the brothers Heinrich Löb of Schifferstadt, Jacob Löb III of Mutterstadt, and their brother-in-law Aron Scheuer of Wachenheim, all dealers in agricultural products, formed a partnership to purchase cattle for sale to the army. As is clear from their names and occupations, these partners were Jews, members of a religious minority with a long history of family solidarity. Christians in the Palatinate, though, acted similarly. Following the initial victories of the German armies in the Franco-Prussian War, the pedlar Heinrich Schwarz of Riesensell learned that there were good opportunities to sell to the armies in France, and invited his brother Friedrich to form a partnership to exploit this chance. In the boom years following the war, the brothers Hermann Josef and Michael Heim, and their brother-in-law Georg Magin V, all farmers in the village of Mutterstadt near Ludwigshafen, went into business together, dealing in coal.⁷⁹

⁷⁷ J6/1158, Zeugenverhör-Eröffnungs-Protokoll, 21 July 1843; testimony, given on 28 Aug. 1843, of the individuals named.
⁷⁸ J6/1178, Gegen-Zeugenverhör, 20 July 1872, testimony of Jacob Matt, train-car maintenance worker in Ludwigshafen; Gegenzeugenverhör, 27 Apr. 1872, especially testimony of Jacob Lemmert, tavernkeeper and Wilhelm Becker, farmer, both in Dannstatt; Expertenbericht, 11 July 1872.
⁷⁹ J6/1178, Zeugenverhör, 2 Mar. 1872, testimony of Aron Scheuer; Zeugenverhör-Protocoll, 3 Jan. 1872, testimony of Karolina Wieland, wife of Jakob Wintz, shopkeeper in Bergazbern; J6/1179,
These were temporary arrangements which dissolved, acrimoniously, when the favourable circumstances of their creation came to an end. Brothers and brothers-in-law also formed more permanent business partnerships. The brothers Jakob and Georg Schiap were stonemasons and joint owners of a stone quarry in the village of Haardt in the 1850s. Georg and Johannes Leonhard ran a similar business in Annweiler two decades later. Andreas Beck of Einselthurn and his brother worked together as masons, at about the same time as the Schiap’s were cutting stones. The Schuster brothers in Stuttgart dealt in agricultural products together, as did the Dannheiser brothers of Landau. In a rather different if still agriculturally related business, the brothers Jacob and Adam Bander of Hilsenheim, near Heidelberg, were partners in herding sheep. The Goehring brothers of Frankenthal manufactured and repaired steam boilers, while the brothers Wilhelm and Simon Baader of Hambach owned a factory that manufactured starch.

Formal partnerships, extensive as they may have been, were just the tip of the iceberg of sibling business dealings. Siblings would agree to bid together at property auctions. The sisters Elisabetha and Margaretha Kron, both single, adult day labourers in the village of Hettenleidelheim, sold together the few strips of land they owned in 1864 to a group of speculators, hoping to use the property for a clay mine and pottery factory. Johannes Schreiner of the town of Carlsberg accompanied his sister Elisabetha, wife of Heinrich Zimmer, as she peddled goods from door to door in November 1874, in her eighth month of pregnancy. Ludwig Hook of Waldsee rented a house, or, more precisely, half of a house, from his brother-in-law in 1908. Philipp Karch, farmer of Altripp, sublet a piece of arable to his brother-in-law, while Johann Kappellmann of Oegersheim had his brother-in-law manure the land that Kappellman had received from his elderly father in return for supporting him.

As some of the above examples might suggest, in business dealings siblings were not always on an equal footing. In other examples, this inequality seems more explicit. Fritz Becker, linen dealer in Rheingönheim, was a wholesaler for his
brother Nicolaus. The latter purchased linen from him at a fixed price, and sold it to consumers at his own risk. In the spring of 1840, the vintner Johannes Bertram of Ruppertsberg employed his brother Heinrich as a day labourer in the vineyards that Johannes rented from his father.  

The exact nature of the relationship between Georg Peter Stumpf, baker of Ludwigshafen, and his brother Franz, also a baker, became the subject of a lawsuit between Franz and Georg Peter’s widow Rosine, née Diebold, in 1862. Was Franz, as he claimed, a business partner with Georg Peter, selling Georg Peter a house and baker’s shop in Ludwigshafen at a discounted price, in return for a share of the business? Or was he just a journeyman, as the widow maintained, working for his brother, and collecting rents from the tenants in the house, receiving for his services 2 gulden weekly wages, plus free laundry? The matter was further obscured, since Georg Peter had rented the baker’s shop to Franz and to his wife’s brother for a year before he had taken it over. In the end, the court believed the widow, who took an oath asserting the validity of her version of the story.

Even more than in business partnerships, it was in the area of debts and obligations that sibling solidarity was at its most pronounced. When, in 1906, Karl Hartung, owner of a gourmet food store in Kaiserslautern, was in serious financial difficulties, his parents asked his brother Gustav, an equipment installer [Monteur] in Berlin, to help him out. Gustav proceeded to send his life savings, 300 marks, by postal money order, only to see his brother declare bankruptcy two months later. In 1895, Katharina Kronenberger had lent her brother 600 marks, her share of their late father’s estate, to help him out in running the family tavern in Enkenbach. Five years later, her brother died, and their widowed mother declared bankruptcy. Katharina lacked the receipt Gustav Hartung had received from the post office, but even if she had had one, the terms of the bankruptcy settlement left nothing for her to claim.

In contrast to these, and similarly unhappy cases, where siblings’ assets had not prevented a bankruptcy and the generous brothers and sisters had lost their money to boot, other instances of fraternal assistance ended on a happier note. The master baker Heinrich Heinemann of Kaiserslautern, for instance, convinced

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83 J6/1171, Eidesleistung, 27 Aug. 1862. Interestingly, the court believed Rosine’s story that her late husband had rented the shop out for a year because she had refused to move with him from the village of Sausenheim to Ludwigshafen, although her refusal violated a well-known provision of the Napoleonic Code—Article 214, a frequent object of feminist criticism—that gave the husband the right to determine the family’s place of residence.

a creditor in 1903 to withdraw the motion calling for the opening of bankruptcy proceedings, by informing him that his brother-in-law had agreed to pay his debts. Some thirty years previously Heinrich Graf II, farmer in the village of Gundersweiler, was rescued from his creditors, when he requested help of his brother Caspar, and ‘the latter, in a purely brotherly way [nur brüderlich], on my request, granted me assistance to preserve my fortune from ruin’. ⁸⁵

We might well wonder just how far these expectations of brotherly assistance went, to say nothing of the willingness to provide it. Neither siblings’ help nor their patience was unlimited. In 1874, the business agent Carl Alletter implored the merchant August Schuler, both of Zweibrücken, to co-sign obligations of Schuler’s brother Adolph, a notary who had got over his head into debt, in part by co-signing notes of another Schuler brother, the bell-founder Gustav. August replied, one witness stated, ‘he could do no more for his brother; he has already done more than is in his power’. Johann Jakob Frank, a shopkeeper in Dürkheim, was downright testy with his brother Anton after repeatedly lending him money, pressing him for repayment, and getting no satisfaction. As Johann Jakob’s wife, Anna Barbara née Weitlauff, explained, ‘for a long time now, we have not been on good terms with my brother-in-law, because we have substantial claims on him, but have received nothing’. ⁸⁶

Anna Barbara’s testimony provides a clue to understanding the limits of sibling generosity. Unlike the unmarried Gustav Hartung and Katharina Kronenberger, who sacrificed their assets for their respective brothers, Johann Jakob Frank had his own marriage and property to acquire and preserve within it. Demanding his money back, as did his brother’s many other creditors, who were not relatives, he was unwilling to let his fraternal solidarity undermine his own marital property.

Two other cases show this connection between assistance for siblings and marital property. The locomotive engineer Johannes Conver of Ludwigshafen had lent his sister Christina 400 fl. in 1873, so that Christina could get married—as a dowry, in other words. However, at the insistence of Johannes’s wife, Christina had to sign a note for the loan, and agree to pay interest on it. She and her husband, the shoemaker Jacob Müller of Neustadt, were not very well off, and had never actually made payments on the loan, although they had provided free shoes for Johannes and his family. Twenty-two years later, in the course of a bitter inheritance dispute, pitting Christina against all her siblings, but particularly against

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⁸⁶ J6/1179, Gegen-Beweiszeugen-Verhör, 4 May 1874, testimony of Julius Gurlet, merchant of Zweibrücken; Beweiszeugen-Verhör, 4 May 1874, testimony of Christian Ambos, business agent in Zweibrücken; J6/1178, Hauptzeugen-Verhör, 29 July 1872, testimony of Anna Barbara née Weitlauff; and of Catharina née Helbig, wife of Anton Frank, merchant of Dürkheim.
Johannes had vehemently insisted that the loan be repaid with interest, and got the district court in Frankenthal to agree with him.

Dowries, the reader will remember, were interest-free advances on a parental inheritance. Johannes, though, was not Christina’s father, but her brother. He may have felt obligated, as her brother, to help her out, but he was not her father, expected to devolve his property to his children, starting with a dowry. Rather, Johannes had his own household, and his own property to preserve, as his wife pointedly reminded him. The issue may have simmered for over two decades, but returned in full force in the course of an inheritance dispute concerning the disposition of the property of Johannes and Christina’s parents.⁸⁷

The priority for one’s own marital household and its property against one’s siblings is revealed in the case of one Palatine who violated that expectation. Andreas Platz was a postal coachman [Postconducteur] in Neustadt, who generously bailed out his brother Adam in the 1860s, co-signing his loans when the latter’s cigar factory in Ludwigshafen went bankrupt. Actually, it was not so much Andreas who helped out his brother as Andreas’s wife Katharina née Schaefer, who took out a 600 fl. mortgage on her real estate holdings to finance her husband’s fraternal assistance. For six to eight years following the bankruptcy, Katharina and Andreas took Adam in, and provided food and lodging while Adam worked as a clerk, a job ‘that just sufficed to pay for beer’. When Adam became engaged, they even gave his fiancée room and board for five months.

Katharina was not happy with the way her husband was dissipating their marital resources—resources coming from her dowry—on his brother. Once, her landlord, the smith and innkeeper Jakob Haag, saw her with a black eye: ‘she told me she had pressed her husband to get in order the matter of the guarantees he had taken on for his brother and because of that he had hit her.’ As Andreas lay on his deathbed, Jakob Haag advised Katherina to get the matter settled before her husband passed away, but she replied that she did not have the heart to bring it up. Adam and Andreas’s uncle, the shoemaker Jakob Platz, told the court disapprovingly, ‘The late Platz was closer to his brothers than to his wife and if he had not died, they would have cost her what little remained of her fortune.’ The testimony of Katharina’s niece Barbara Schaefer confirmed and elaborated on the observations of other witnesses. ‘Uncle and aunt complained that Adam Platz paid nothing for room and board. The aunt was not allowed to say much, because the uncle was too close to his siblings... Two days before his death Andreas Platz cried, complaining that his brothers had treated him so badly and did not even visit him, he regretted that he had been so close to them and had done so much for them, he realized that his wife had always been right about it.’⁸⁸

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We may well wonder whether this deathbed conversion really took place, but even if it did not, the moral point of Barbara Schaefer’s testimony was clear. Andreas Platz had violated the expectations of a spouse, by being ‘closer’ to his brothers than to his wife, that is, by handing over to them the marital property that came from his wife. Emotional and property relationships were intertwined here, as they were in so many other aspects of nineteenth-century Palatine family life. Andreas’s angry, violent response to his wife’s reminder of what was expected of him only underscores the point.

There is another issue underlying the story of the Platz brothers important for understanding relations between siblings, the question of reciprocity and equity. When Adam got engaged, his sister-in-law told her landlord, ‘now, my brother-in-law has made a good match, now I can hope to get my money’. Instead of getting a portion of Adam’s dowry to clear his debts, Katharina ended up providing room and board to his fiancée. When the two brothers’ situations were reversed, after Adam had made his advantageous marriage and procured a good job with an insurance company, and Andreas became ill and unable to work, Adam, his wife, and his mother-in-law were tight and stingy about helping Andreas out. After his death, they demanded his widow repay a loan they maintained—and she denied—that they had made to her and her late husband. The lack of reciprocity between the brothers, and the inequity of their treatment of each other, violated expectations of sibling solidarity and mutual assistance.

It is these two limitations on sibling solidarity—the priority for one’s own marital household, and the expectation of equity and reciprocity in relations between siblings—that formed the background to the extraordinarily bitter hostilities which could emerge between siblings and in-laws in the case of disputes over an inheritance, most typically in the final settlement occurring after both parents had died. Most dramatically, these disagreements would appear in the notary’s office, as the heirs, gathered to divide up the estate, would make conflicting claims, negotiate without reaching a result, shout, scream, and finally refuse to sign the required documents and stomp out the door.

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89 Besides the sources cited in the previous note, ibid., Zeugenverhoer-Protocoll, 1 Mar. 1875, testimony of Louise Weisenstein, maid of Adam Platz. Another example of expectations of reciprocity: J6/1178, Zeugenverhör, 2 Mar. 1872, testimony of dealer Isaac Löb of Mutterstadt, Gegenzeugenverhör, 2 Mar. 1872, testimony of dealer Leopold Eppler of Mutterstadt. Two other cases involving, albeit in different ways, lack of reciprocity for assistance between siblings are J6/1170, Gegen-Zeugen-Protokoll, 4 Sept. 1861, passim; J6/1171, Protokoll, 25 Apr. 1862, passim.

Central to understanding these disputes is the question of equity, as it was reflected in inheritance customs. The Palatinate was one of the German regions whose inhabitants practised *Realteilung*, the equal division of property among heirs. Legal institutions encouraged this practice, since both the Napoleonic Code and the German Civil Code set definite limits—albeit in different ways—on the freedom of individuals to discriminate between heirs by means of testamentary disposition or by gifts to future heirs while the property owner was still alive. As a consequence of both law and custom, Palatines took equality of inheritance very seriously and would divide property equally among siblings, sometimes allowing a difference of a few marks or gulden, but sometimes maintaining equity down to the very last kreuzer or pfennig.

Disputes between siblings over their parents’ inheritance invariably concerned the violation of this expectation of equity, in the course of which it became only too clear how property relations and emotional relations, between parents and children and among siblings, were deeply and irrevocably intertwined. Sometimes, violations of equity might involve the estate of the deceased parents. At the very crudest level, some of the heirs accused the others of making off with the personal property of the deceased before a proper and legally valid inventory could be taken. Slightly more sophisticated, but still rather obvious, the deceased’s household account book would turn up with pages ripped out, and one child or group of them would claim that the vanished entries would have revealed debts or transfers of cash favouring another.

More interesting, more revealing, and more typical are cases involving broader issues of property devolution. Equity in inheritance, one must remember, was not just about dividing equally the estate of the deceased parents—that, in fact, was generally relatively easy. Rather, equity involved making sure that the total property each child received from his or her parents, adding property granted children during their parents’ lifetime to their shares of the late parents’ estate, came out equal. It was the transfers of property to children before the parents’ death, in German the *Vorempfänge*, that were often unclear and disputed and became the cause of the shouting and screaming at the notary’s.

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94 An explicit example of the need to equalize total assets in light of different *Vorempfänge*, J6/620, Klage, 20 Apr. 1910; similarly, J6/1153, Eidesleistung, 29 Apr. 1834.
The possibilities of what could be claimed as a pre-decease transfer were virtually infinite. A cash loan of 650 mk. to one son; back rent, ostensibly owed by a daughter in the amount of 90 mk. for use of part of the parents’ barn for three years, as well as 60 mk. for barley she received from her parents; 30 mk. in cash and 50 mk. worth of linen to another son, a claim of 182.70 mk. for smith works from a third son, and 600 mk. sent by the parents to a fourth who had emigrated to America: every single one of these claims comes from a single lawsuit which the children of the farmer Lorenz Wolf of Maudach brought against each other in 1897. Such a list just scratches the surface of possibilities.\(^5\)

Looking more closely at the myriad claims and counter-claims, accusations and justifications brothers and sisters hurled at each other over inequity in transfers of property during the parents’ lifetime, one theme stands out more than any other, and seems to lurk behind the individual issues in so many of these cases: an adult child living with older parents, or elderly and increasingly feeble parents—more usually, just a widow or widower—residing with one of their children. The child living with the parents maintained that he or she was not sufficiently compensated for living and working with them, and taking care of them; his or her siblings asserted that their brother or sister was taking advantage of ageing parent or parents to gain an inequitable share of their assets. Two aspects of the changing uses of property in a marriage came together in these circumstances—elderly parents using property to maintain some kind of autonomy in old age and the equal transfer of property from parents to children across the parents’ lifetime and after their decease. There were distinctly gendered versions of these disputes, depending on the sex of the caretaking child. Both male and female versions saw a similar conflict of interests and expectations between caretaking child and siblings. The nature of the care provided, the marital status of the caretaker, and the economic valuation of the care—as seen both by society and by the courts—were quite different and cast additional light on expectations of gender roles.

Female caretaking typically involved a married daughter or daughter-in-law caring for a widowed parent, or husband’s parent. The vintner and widower Wilhelm Conver owned a house in Neustadt in the 1890s. One of his tenants was his daughter Christina and her family, who took care of Wilhelm in his very difficult final illness. Some fifty years earlier, the elderly vintner’s widow Louise Weber née Betz of Wachenheim lived with her daughter Margaretha, the widow Dies, for a dozen years in the late 1840s and 1850s, until Margaretha remarried. A ferocious fight followed and Louise moved to her son Peter, whose wife Catharina née Hafier took her in, albeit very unwillingly, and cared for her until her death a

\(^5\) J6/539, Urteil, 9 July 1897. On the disputed question of whether the purchase of a substitute in the draft lottery counted as an advance against an inheritance—a question about which a considerable body of legal opinion had developed—see J6/1171, Eidesprotokoll, 9 Apr. 1862; J6/1179, Eidesleistung, 6 July 1874; J67/470, Klagebeantwortung, 10 Apr. 1880 and Urteil, 14 Apr. 1880; and esp. J6/514, Klagebeantwortung, 30 Aug. 1890, Zeugenvernehmungsprotokoll, 17 Oct. 1891, testimony of farmer Heinrich Hilbert II of Herxheim, and \textit{passim}.  

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\textit{Acquisition and Transmission}
decade later. Once again in the 1890s, Margaretha Sauer née Eschmann travelled several times a week to look after her parents, vintner Georg Eschmann and his wife Barbara née Raufer of Forst. Shortly before their death in 1900, Margaretha convinced her parents to sell their house and lands in the village and move in with her and her husband in Ludwigshafen. In these cases, and others like them, disputes emerged over the cost and nature of the care, and the effect the caretaking arrangements had on siblings’ claims to equity in the distribution of their parents’ property.\(^9^6\)

Female caretakers had specific cash claims against the estate of the deceased for the care they had provided. Christina Conver wanted 500 marks for the nursing she and her daughter had provided her father in his final illness, at a per diem of 4–6 marks. Her brother the locomotive engineer Johannes Conver (we have seen a different aspect of their dispute above, in the question of Johannes’s loan to Christina, so she could get married) was willing to accept this per diem, but only for eight weeks of care, rather than Christina’s claim for thirteen. The vintner Heinrich Hafner, Catherina Hafner’s brother, asserted that his sister’s claims for taking care of her mother-in-law were exaggerated, since the elderly in Wachenheim were often supported on as little as 60–70 fl. per year. He himself had received a mere 6 xr. per day (about 37 fl. per year) for supporting his mother-in-law, which, ‘admittedly, was too little for me’.\(^9^7\)

Complicating these claims were asserted—and denied—additional forms of compensation. Johannes Conver maintained his sister had lived rent free with their father; her witnesses noted that if the old man did not receive the rent promptly he went through the house slamming all the doors as loudly as he could until Christina or her husband paid up. Similarly, the siblings claimed that the widow Weber had transferred a small house in her possession to her son Peter, in return for the care she received from Peter’s wife. They retorted that the house was falling down and required expensive repair before it could be rented out. Yet in neither case was there any dispute about the idea that a daughter’s or daughter-in-law’s care had a cash value, ascertained at a market price. The parties involved, modestly educated peasants, workers, and craftsmen, as well as the university-trained jurists writing the decision, believed that women’s work could be evaluated in terms of a market economy.\(^9^8\)

\(^9^6\) Cases are in J6/530; J6/1178, Gegenzeugen-Verhör, and Hauptzeugen-Verhör, 3 Aug. 1872; J6/547; similar cases include J6/43 and J6/1171, Zeugenverhörprotocol, 1 Feb. 1862.


Characteristic of these inheritance disputes concerning a woman’s care of her ageing parents were differences about the nature and quality of the care. It was hard for Johannes Conver to argue this point against his sister, since their father had suffered from gangrene, so that the doctor had to amputate his leg, an operation apparently performed in Wilhelm Conver’s house. Christina and her daughters changed the bandages and washed out the wound, and put up with the unbearable stench from the necrotic flesh. The case of the widow Weber was more disputed. Peter Weber’s siblings maintained that his mother was vigorous and active until shortly before her death, earning her keep by cooking, caring for the animals, and bringing wood, grass, and leaves in from the forest. In return, however, Catharina Hafner had treated her mother-in-law badly, the latter constantly complaining that she had no clean shirts. Peter and his wife retorted that Peter’s mother was persistently ill, suffering from ‘repulsive discharges’ (hence the dirty shirts) and bed-ridden. With her feeble health, she could at most perform unimportant chores, such as watching over Peter and Catharina’s children.⁹⁹

These disputes involved questions about the nature of property devolution, about whether aged parents were really so helpless that they had to trade property for care. They were also about the quality and emotional tenor of the care. This was not so much in the attitude of the caretaker herself: Catharina Hafner made no secret of her dislike for her mother-in-law and her reluctant and grudging agreement to care for her—and she forthrightly testified about this in court. Rather, the emotional tenor of the care was expressed through its physical quality, through clean shirts, mattresses filled with new straw, adequate food and drink, and the like.¹⁰⁰

Always involved was the way that the care provided affected the interests of the other siblings. Elisabetha Walter née Fickeisen of Dürkheim took in her mother, the widow Philippina née Rapp, in the 1850s. Witnesses agreed that she provided her mother with an excellent diet, including wine-soup, veal, cheese, butter, and schnapps. When Philippina took to giving this food to the children of her son Georg, then Elisabetha’s husband lost his temper and shouted at his mother-in-law, ‘You, damn it, [Sie Donnerkeil] I have an obligation to my mother-in-law, and just for her, not for the children [of my brother-in-law].’¹⁰¹

The Eschmann case centred primarily on this issue. Following the parents’ decease, the caretaking daughter, Margaretha, produced ten IOUs in the amount

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¹⁰⁰ Ibid. Similarly, J6/1171, Zeugenverhörprotokoll, 1 Feb. 1862, passim.

¹⁰¹ Ibid., testimony of Louise Müller, day labourer in Grethen. It did not help that Georg’s children were covered with vermin.
of 2,000 marks signed by her parents, supposedly for money Margaretha and her husband had lent them. This was a reversal of the normal generational process of property devolution (parents lent money to children, not vice versa), and her siblings’ suspicions were particularly provoked since Margaretha’s husband, the office messenger Johann Sauer, barely earned enough to support his family, much less save up a considerable sum to lend to his parents-in-law.

The other siblings claimed these were fraudulent transactions, even denouncing Margaretha and Johann to the state’s attorney. They maintained Margaretha had used her position as caretaker to isolate her parents from the other siblings, making possible these dubious manipulations. Christof Sattel, husband of Margaretha’s sister Anna, asserted, ‘if the other siblings wanted to make a visit Frau Sauer kept the door locked, so that no one could negotiate with the parents.’

Word was out, in the whole village of Forst, that the mother was saying, ‘we have now [just] one child’. After Margaretha convinced her parents to sell their property and move in with her and her husband in Ludwigshafen, her mother ostensibly told her son Georg, out in the hallway, where Margaretha could not hear, that she regretted the decision. It was ‘dreadful’ and she would like to return to Forst, but her husband was too ill and it was too late.

Margaretha had, the other siblings asserted, used her position as caretaker to gain a financial advantage over them. It helps to understand the case if we realize that the person leading the charge against Margaretha was her brother-in-law Christof Sattel, whose wife, Margaretha’s sister Anna, had received 2,000 marks from her parents, apparently to help support Sattel’s wine-dealing business. One might suspect that Margaretha saw this as every bit as inequitable as her brothers and sisters viewed the claims on the estate emerging from her care for their parents.¹⁰²

Unlike the female version of the married daughter or daughter-in-law caring for aged parents, the male version of sibling inheritance disputes involved a usually unmarried son living with his parents after the other siblings had left home. During the 1850s and 1860s, Jakob Haas II of Obrigheim lived with his father and stepmother while his brothers (or possibly half-brothers), Johann Adam, Georg III, and Wilhelm, were all married and had households of their own. About the same time, Jacob Linder of Ungstein lived with his widowed father Johannes, a vintner, along with his sister Catharina, while their sister Anna Maria had married the vintner Cleophas Weihl and had her own household. As Cleophas and Anna Maria aged, they had a similar situation some thirty years later with their son Heinrich, who remained at home with them, while their other children Cleophas II, Anna Maria, Elisabetha, Margaretha, and Jacob II founded their own families.¹⁰³

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¹⁰³ J6/1179, Zeugenverhoerprotokoll, 16 May 1874, esp. testimony of Anna Maria Leim, widow of Jakob Goegd I, day labourer of Heßheim, and Gegenverhoerprotokoll, 16 May 1874, esp. testimony
In the female version of inheritance disputes, there was agreement among the siblings that the daughter or daughter-in-law was a caretaker, but disputes about the nature and quality of the care. By contrast, in the male version the question was whether the son was actually helping his parents at all. Was he supporting them with his labour? Or were they giving him room and board? When Anna Maria Weihl née Linder paid 1,430 marks for a vineyard that she turned over to her son Cleophas II, was she making him an advance on his inheritance as Cleophas II’s siblings claimed? Or did the money come from Cleophas II’s back wages for cultivating his parents’ vineyards, as he maintained? When Jakob Haas II lived with his parents in the 1850s, was he ill and largely unable to work as his siblings asserted, or was he working less in the fields, and more indoors in his craft as a saddler, as friendly witnesses stated? If the other siblings were of the opinion that the caretaking son was receiving unfair advantages, the sons living at home believed that they were being kept short, and receiving less than their married siblings. Jakob Haas II complained that his father hardly gave him any spending money; Jacob Linder and his unmarried sister Catharina were unhappy that their married sister had received a dowry, while they had no comparable compensation.¹⁰⁴

This mutual suspicion, pitting married siblings against their unmarried brothers, provided the basis for disputes bursting into the open on the death of the parents. Around this central issue—the unmarried son feeling inequitably treated versus his married siblings, the siblings suspecting that the son was using his closeness to his parents to gain advantages to which he was not entitled—there would develop a whole group of additional claims and counter-claims, as can be seen in the case of the Wolf family cited above. The courts were surprisingly unsure about how to handle these situations. In the Wolf case, the judges in Frankenthal were inclined to accept the argument put forth by the lawyer for Wolf’s siblings ‘that it is not customary when children help out longer in their parents’ household to reserve something extra for them. At least they have no claim on it.’ Since Valentin Wolf had lived with and worked for his parents for twenty-eight years, from 1861 to 1889, the court concluded that such long years of service made it plausible to assert the existence of an implicit contract between father and son, although the judges did admit that they could not set any specific wage for these services. Unlike female caretaking, which had a specific cash value which could be calculated based on market rates and even give a per diem amount, the labour sons provided for their aged parents seemed vague, indistinct, and not quite capable of being assessed at market prices.¹⁰⁵


¹⁰⁵ J6/539, Urteil, 9 July 1897.
A Peasant Patriarch Goes too Far in Preserving his Fortune

The inheritance dispute concerning the estate of the vintner Johann Georg Schott of the village of Weisenheim am Berg, towards the northern end of the Palatine wine country, offers unusually rich material concerning the relationship between a father and his caretaking son—and about the acquisition and intergenerational disposition of marital property, about relations between siblings, between spouses, and between parents and children—in fact, about almost all aspects of family and property in the nineteenth-century Palatinate. Strong emotions in the Schott family were articulated in terms of property relations, to so great an extent that the story of Johann Georg Schott, his son, daughters, and sons-in-law took on the dimensions of a Balzacian family tragedy.

Johann Georg Schott, born c. 1815–20, was a vintner and farmer from a modest background who took the property he received from his wife’s dowry and inheritances from his parents and devoted his life to conserving and expanding them. As the wine dealer Michael Mayer and the butcher and landowner Georg Hoffmann both noted with admiration, Schott ‘turned everything into money’. He sold the grapes, fruit, and grain he raised for cash, and spent as little of that cash as possible. Everyone in the village of Weisenheim agreed that Schott never went into a tavern, except, perhaps, if there was a land auction being held there.¹⁰⁶

Schott’s life of labour, frugality, and business acumen was a successful one. The village mayor of Weisenheim explained that two-thirds of Schott’s entire fortune came from his own efforts, his emphasis underscoring how extraordinary this was. Schott had not just conserved his dowry and inheritance, as was expected of an adult male head of household, but had substantially expanded on them. By the 1880s, in Schott’s old age, he had acquired enough money that he could live just from lending it out, or so he claimed. Another mark of his success was the marriage of his daughter Katharina, at the youthful age of 20, in 1880, to Philipp Sippel, son of the village notable, Adam Sippel, estate owner and member of the village council. For all these successes, Schott continued, in spite of increasing poor health, to work in his vineyards and fields as best he could up until just before his death in 1891.¹⁰⁷

Schott’s industriousness and frugality in pursuit of property could shade over into questionable actions. The same wine dealer who praised his abilities refused to do any more business with him after Schott went back on his word in a transaction.


¹⁰⁷ Ibid., Klagebeantwortung, 19 Oct. 1892; testimony of Michael Mayer as in n. 106; Zeugen-Vernehmungs-Protocoll, 14 Jan. 1892, testimony of Johannes Gemmlich, estate owner and mayor, of Adam Sippel, estate owner and village council member, and of Georg Friedrich Blaufuss, grove warden [Schlaghüter], all of Weisenheim a.B.; Zeugen-Vernehmungs-Protocoll, 21 Mar. 1892, testimony of Georg Klingemayer, estate owner and village council member in Weisenheim a.B.
Schott’s sister Anna Maria claimed he had cheated his siblings out of some fields they should have inherited. The relatives who suffered worst from Schott’s pursuit of property were his children. His daughters worked for him on his land, of course, but Schott insisted they continue to do so after they were married and had property and households of their own. His elder daughter Elisabetha, wife of farmer Jakob Kohl, was working in her father’s vineyards even after she had two or three children. It was only with the death of their mother Elisabetha in 1884 (who, perhaps, had mediated between the father and his daughters) that Schott’s girls ceased working for their father.

Johann Schott’s son Jacob, his only son and eldest of his children, lived with his parents and worked for them from the time he left school in the late 1850s onward. He did not marry until after his mother’s death, when he was about 40 years old, and even following his marriage he continued to live with his widowed father and help him with his farming and his business transactions. When he was single, Jacob did not receive a penny from his father: no wages, not even any pocket money. Sometimes he did odd jobs for his uncle, a shoemaker in Neustadt, who paid him in kind. His aunt gave him a few marks so he would have some cash.¹⁰⁸

Johann’s single-minded pursuit of the preservation and acquisition of marital property continued after his wife’s death should have marked another stage in property relations, the devolution of the marital property to his children. Johann refused to have a separation and division of his marital community of property. His sons-in-law pressed him for such an action. He offered them some property in usufruct, but they were not satisfied. His stubborn refusal angered his sons-in-law to the point that they began encouraging their children to throw rocks at the old man when he walked by. Finally, in 1889, Johann agreed to the division, but he took back the property he had given in usufruct and demanded his daughters and sons-in-law immediately reimburse him for the property taxes he had paid on the land they inherited in the four years between his wife’s death and the separation and division.¹⁰⁹

This turn of events only encouraged Johann to cling more firmly to his remaining property. His thoughts turned to the contrast between his faithless daughters and their husbands on the one hand, and his loyal son Jacob on the other, who had worked for him so hard and so long for so little. At about that time, he told the farmer Jacob Betz III, ‘he must rely on his son to do the work, he must reward him for it, his daughters had married and worked for themselves’. His well-to-do sons-in-law ‘drove horses’; he announced several times that it would not be fair for his

¹⁰⁸ Ibid., Klagebeantwortung, 19 Oct. 1892; testimony of Anna Maria Schott, wife of Jakob Körber, shoemaker of Dürkheim; 28 Mar. 1892, testimony of Peter Georgens, farmer in Weisenheim a.B.; Motivirter Antrag, 14 Feb. 1893. It is not entirely clear from the documents, but it does seem that the son and two daughters were Johann’s only children.

¹⁰⁹ Ibid., Zeugenvernehmungs-Protocoll, 14 Jan. 1892, testimony of Johannes Gemmlich, estate owner and mayor of Weisenheim a.B.; Zeugenvernehmungs-Protocoll, 21 Mar. 1892, testimony of tax collector Philipp Defroy of Kallsstadt; Zeugenvernehmungs-Protocoll, 21 Mar. 1892, testimony of Lorenz Bitz, farmer and vintner in Weisenheim a.B.
son ‘to push a wheelbarrow’—a revealing statement from a man who always ploughed his fields with a cow, in spite of his accumulated wealth. Johann made the point more explicit by asserting that he would arrange things so that his son would be better off than the village mayor. Summing up all these feelings—hostility to his daughters and their husbands, guilt at all he had demanded of his son for so little compensation, and a fierce desire to maintain his remaining property—he told the vintner Lorenz Bitz: ‘They [his daughters and their husbands] wanted to get hold of his property. They had divided, what remained belonged to him. Jacob had done the work for so long and has had nothing for it. Kohl and Sippel [the sons-in-law] would get nothing more, he would keep it away from them [ein Käppchen davorlegen].’

Writing a testament, Johann left to Jacob the maximum allowed by the law, but the Napoleonic Code guaranteed that his daughters would still be entitled to a portion of his property. He rewrote the IOUs on the various loans he had made as obligations to his son rather than to him. Finally, he sold Jacob all his property in two separate transactions for 5,000 marks cash. This was about a quarter of the appraised value of his goods, suspicious enough; but where did his son, kept so short all those years, get the money to pay for them? Rather than go to the notary in Dürkheim, where the villagers usually had their major transactions recorded, Johann chose two separate notaries in Grünstadt, where he and most villagers of Weisenheim am Berg were unknown.

In 1891, Johann Schott died and these financial transactions were revealed as the heirs gathered at the notary’s in Dürkheim to settle the estate. When Jacob’s sister Elisabetha and his brothers-in-law (the other sister Katharina had died in the meantime) asked what had happened to the 5,000-mark purchase price, Jacob replied that his father had gone to Karlsbach and thrown the money in the brook. Word of this remark ran through the entire village—Jacob repeating it several times, to his evident enjoyment—and became a major topic of conversation. Almost all the villagers were convinced that the sales were fraudulent: the old man had given his son the cash with which to purchase his property, so as to disinherit his daughters and their husbands.

In a powerful demonstration of Palatines’ strong feelings about equity in inheritance, the villagers formed a Greek chorus of disapproval of Johann’s

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111 Ibid., Streitprotokoll, 22 Aug. 1891; Klageschrift, 31 Aug. 1891; Zeugenvernehmungsprotocoll, 14 Jan. 1892, testimony of wine dealer and cooper Johannes Schmal, grove warden Georg Friedrich Blaufuss, both of Weisenheim a.B.; Zeugenvernehmungs-Protocoll, 21 Mar. 1892, testimony of wagon-wright Jacob Franzreb, wagon-wright and farmer Jacob Gemlich, farmer Johann Weber, teacher and village clerk Jacob Silzer, and estate owner and village council member Georg Klingenmayer, all of Weisenheim a.B., and Jacob Völckel, acting notary in Dürkheim. These and virtually every other witness testified that the whole village was talking about the sales and the suspicion that they were fraudulent.
actions. The cooper and wine dealer Adam Holz told the court, ‘After the death of the father, we heard that the defendant [son Jacob] had everything and the daughters nothing. I think it is right that the defendant received more than his sisters, because he worked for his father and cared for him. I do not think it is right that the defendant was favoured in the way he was.’ When Johann Schott told the village mayor, Johannes Gemlich, of his plans to cut out his daughters, the mayor replied, ‘but these were his children and they had a claim on his fortune’. Johann Weber asked the son Jacob, on his father’s death, ‘Is it right that you are doing the children of Philipp [Sippel, husband of the late Katharina Schott] out of their goods?’ Jacob answered that he had ‘the money and the land and everything his father had had. The others had not done the father's will.’

The siblings sued and the court proceedings did not go well for Jacob. Particularly difficult for him was the question of where he had obtained the 5,000 marks to purchase his father’s goods. He offered two sources, both of which resonated with Palatines’ expectations of family property. On the one hand, he claimed the money came from his wife’s dowry: she had sold her properties so that he could buy his father’s. On the other, he asserted that his father recognized he was due 4,000 marks back wages for all the uncompensated work he had done for him. The district court in Frankenthal was having none of it. Openly sceptical of the idea that a caretaking son like Jacob even deserved cash wages, much less a fixed (and substantial) amount, the court found the transactions fraudulent. The brothers-in-law had called on the court to revoke Jacob’s share of the entire estate, a punishment established by the Napoleonic Code for such fraudulent transactions, but the court ruled that the fraud was committed by the father, so that Jacob could keep his equal share of the estate. Johann Schott’s attempt to preserve his property beyond the grave by transferring it to his faithful son had ended in a disaster.

The actions of Johann Schott invite comparison with those of Ludwig Christmann of Waldsee, discussed earlier in this chapter. Both came from modest backgrounds, were frugal and stingy, treated their children harshly, and ultimately unleashed wild discord, complete with verbal and physical violence and bitterly disputed legal action, by their efforts to conserve and increase the family property. Christmann created this state of affairs because he was a failure at his expected role as male head of household, Schott because he was a success. Indeed, Schott was so good at preserving and accumulating property that he could not stop, he could not bring himself to take the next step in the life cycle of family property and devolve the marital assets on his children. This unwillingness to transfer property became the focal point for powerful emotions, which emerged into the open.

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¹¹² Ibid., Zeugenvernehmungsprotocoll, 14 Jan. 1892, testimony of Holz and Gemlich; Zeugenvernehmungsprotocoll, 28 Mar. 1892, testimony of Weber. Similarly, Zeugenvernehmungsprotocoll, 21 Mar. 1892, testimony of estate owner Jacob Kirchner V, and of Jacob Gemlich, wagon-wright and farmer, both of Weisenheim a.B.

¹¹³ Ibid., Klagebeantwortung, 19 Oct. 1892; Ergänzungs-Klagesschrift, 12 Sept. 1892, Einstweilige Verfügung, 23 Nov. 1892, Motivirter-Antrag, 14 Feb. 1893; Urteil, 4 May 1893.
following the death of Johann Schott’s wife Elisabetha: resentments of Schott’s daughters and their husbands for the way Schott had exploited his daughters, guilt Schott felt at the way he had treated his son. He made his faithful, hard-working, caretaking, and possibly somewhat handicapped son Jacob into the instrument of his efforts, in doing so violating both strong cultural expectations and legal norms of equity among siblings and equal treatment of children in inheritance.¹¹⁴ The lives of Johann Georg Schott and his children were a testimony to the potentially destructive effects of the expectations of property treatment in family life of the nineteenth-century Palatinate and the explosive coupling of property and emotion in families.

INHERITANCE WITHOUT CHILDREN

Most of this chapter has been concerned with property relations in the lives of married couples and their children. Naturally, this was not a universal experience: some people remained single; some marriages were childless or had no children surviving until adulthood. People in these domestic arrangements also acquired property and had to pass it on to survivors. Sometimes the forms of property devolution and the relations with relatives stemming from them were very similar to those between parents and children.

Philipp August Bätz, rentier in Neustadt, and his wife Philippina née Ochsner were a childless couple. Philipp died in 1877 and Philippina three years later, leaving as her heirs her brothers and sisters. Philippina had been under the care of her sister Elisabetha, wife of Heinrich Gennheimer, and Elisabetha’s daughters. The other siblings complained that Elisabetha and her husband had used this situation to obtain property, inappropriately, from Philippina. Elisabetha retorted that her sister had suffered from ‘a repulsive female illness’, and that she and her daughters had cared for her for fourteen years. She promptly claimed 8,687 marks, or 1.07 marks per day, as compensation for this care. The childless Philippina Bätz’s sister and her nieces cared for her as the daughter or daughter-in-law of a mother would have; the disagreements between the caretaker and her siblings were the same as those between a daughter caretaker and her brothers and sisters, involving expectations about equity between siblings.¹¹⁵

These expectations, though, were not quite so strong when the siblings were inheriting from someone other than their parents. A childless person might not leave his or her assets intestate, but could well write a testament favouring one heir over

¹¹⁴ Mysterious mentions of Jacob’s disability, in which he was described as unable to take the reins or unable to guide a plough, although other witnesses contradicted these assertions, in ibid., Zeugenvernehmungs-Protocoll, 14 Jan. 1892, testimony of Johannes Schmal, wine dealer and cooper in Weisenheim a.B., and Zeugenvernehmungs-Protocoll, 21 Mar. 1892, testimony of Jacob Kirchner V, estate owner in Weisenheim a.B.

another. Of course, preference was not always that simple. The very old and childless widow Anna Maria Dietz of Haßloch was on bad terms with all of her relatives and so had trouble finding someone to name as her heir.¹¹⁶ Expressing a preference in this sort of inheritance was an expected and valid action, but the preference had to be free and not coerced. Court cases in which the wills of childless individuals were in dispute generally centred around the issue of coercion or misdirection, by which one heir, prevailing on the usually elderly or ill testator, got his or her way over the other.¹¹⁷

At the beginning of the twentieth century, it was a common sight in the municipal hospital in Worms for dying patients to summon a notary to write up their last will and testament. The hospital’s porter Peter Wendel, repeatedly asked to serve as an official witness for such testaments, observed the habits of many different notaries. He praised notary Schwarz, who made it a practice to demand that all the relatives leave the room before the dying person expressed his will.¹¹⁸ With this request, Schwarz recognized both the legitimacy of childless individuals making distinctions among heirs, but also that such choices were only valid if they could be freely expressed, without even the tacit coercion of relatives listening in while a will was being formulated.

The two most common issues arising in disputes over inheritances of the childless stemmed from their lack of children. One issue pitted the survivor of a married couple against the late spouse’s siblings. Remember that under the Napoleonic Code spouses were not intestate heirs of each other; if there were no children, the heirs of a deceased husband or wife were that person’s brothers and sisters. The wife of the sculptor Franz Marchand of Grünstadt died childless, in the middle of the nineteenth century, ‘and the relatives [of his wife] wanted to inherit’. To satisfy them, Marchand was forced to auction off his house, which, presumably, his wife had brought into the marriage.¹¹⁹

The luckier survivors of such childless marriages might have had spouses who wrote a testament, making them their ‘universal heir’, or, at the very least, granting them lifelong usufruct of their property and marital community of property. Of course, the siblings might well dispute this testament. The farmer Johann Ebel of Obrigheim took clever pre-emptive action to vitiate such a challenge. On bad terms with his ‘dear relatives’, he named his widow as sole heir, but also gave 1,000 marks to the village’s Protestant church, thus encouraging the pastor to testify to Johann Ebel’s mental capacity when his relatives challenged the will.¹²⁰

¹¹⁶ J6/47, Zeugenvernehmungsprotocoll, 15 Nov 1884, testimony of the farmer and deputy mayor Daniel Bardé of Haßloch.
¹¹⁷ Ibid., also J6/40, passim; J6/47, passim; J6/606 passim.
¹¹⁸ J6/597, Protokoll über Zeugenvernehmung, 27 Sept. 1907, testimony of porter Peter Wendel of Worms; Protokoll über Zeugenvernehmung, 25 Oct. 1907, testimony of Alois Körper, notary’s clerk of Osthofen. Worms was not in the Palatinate, but in neighbouring Rhine-Hessen, whose social circumstances and inheritance customs were very similar to those in the Palatinate.
¹²⁰ J6/68, Klageantwortung, 15 Jan. 1886, Zeugenvernehmungsprotocoll, 15 Apr. 1886, testimony of Protestant pastor Wilhelm Federschmitt of Obrigheim, Urteil, 13 Mar. 1889, and Urteil of
Beleaguered widows might take direct action. Early in the nineteenth century, following the death of Lorenz Sturmissen of Schifferstadt, his relatives and heirs wanted the hay in his fields. His widow Catharina Deutsch had the hay bound and transported to her house, locked the doors, and refused to let the relatives in. Also in Schifferstadt, some decades later, when the farmer Georg Mayer III died, his childless widow Catherina née Fischer wrapped up at least 500–600 gulden in silver and gold coins in two scarves, and gave them to her neighbours to wrap around their waists and wear under their skirts, the very same morning her late husband’s relatives procured a court order to place an official seal on the property for an inventory. Perhaps her neighbours did this out of female solidarity with Catherina, who had suffered at the hands of her drunken and brutal husband, or perhaps because they were the wives of day labourers and were promised compensation for hiding the cash.¹²¹

Lacking children also meant for married couples that the streams of property flowing into their marriage from their respective families lacked a common destination in a couple’s offspring. Ultimately, the property of the childless couples could revert back to their families of origin, a situation encouraging competing claims between the relatives of the respective spouses. Gertrude née Sommer lived in a childless marriage with the forest warden Georg Beck of Iggelheim. In 1867, her parents engaged in a fraudulent transaction, selling a piece of property to Gertrude’s brother Franz Anton, giving him a receipt, but not actually taking any money from him. They did it because they were afraid that when they died, the property would be inherited by the childless Gertrude, and ultimately end up in her husband’s family. The spectre of the loss of family property moved Gertrude’s parents to violate the very strongly held expectations about equity in property transmission to siblings.¹²²

The wealthy dealer in agricultural products Jakob Mayer of Haßloch lived in a childless marriage with Elisabetha née Kehr. In their final years, Jakob’s niece Bertha Simon, widow of Jakob Donau, spent a lot of time in their house caring for them. Jakob died and left his wife as his sole heir; on her decease, shortly thereafter, Bertha Simon claimed that the estate owed her 12,000 marks. The wife’s relatives vigorously resisted this claim. Although there were elaborate financial records available, the elderly couple had kept their books in Hebrew letters, which even


¹²² J6/18, Urteil of the Zweibrücken court of appeals, 4 Feb. 1885, öffentliche Sitzung, 24 Apr. 1884. Another example of disputes between husband’s and wife’s relatives of a childless couple, containing useful illustrations of the distinctions of property ownership under the Napoleonic Code, is J6/602, Klage, 6 Mar. 1908 and Urteil 14 Nov. 1908.
younger Jews were unable to read. This was a case about the claims of a caretaker not unlike those occurring when the elderly individuals being cared for had children. Those caretaking cases, though, pitted a caretaking child against his or her siblings and dealt with the issue of equity among siblings in inheritance. Without children to receive the joint inheritance of Jakob Mayer and Elisabetha Kehr, the underlying issue in this dispute was the contrasting claims of the two families from which the married couple stemmed and to which their assets would return since they had no offspring.¹²³

A Childless Widow Lets her House and Barn Fall into Ruin

Elisabetha Riede of Oppau was the widow of the farmer and tavernkeeper Martin Riede. The couple had no children, and by testament Martin left his property, especially his house and barn, to his wife in lifelong usufruct, but also named the farmer Friedrich Eisinger I in Oppau as his heir. Martin Riede died in 1865, and two decades later his heir went to court, complaining that the widow was letting his property fall apart. Built in the seventeenth century, the house and barn needed considerable repair and upkeep, which they were not receiving. The barn, in particular, was a ruin. Roof tiles, installed incorrectly in the first place, had been replaced by new ones of a different size and shape. The roof leaked; grain stored in the barn suffered water damage; the roof, bulging out, was about to collapse. The house was little better: the plaster façade was coming off, windows were broken, and the wooden shutters in an advanced state of deterioration. The chimney was collapsing; the main room, which had been used as a dance floor when Martin Riede ran the tavern, was being employed to store wood and coal and was full of holes. Such repair and upkeep as had been done was cheap, shoddy, and unsatisfactory. Nothing had been painted for decades.¹²⁴

Elisabetha Riede made no secret of her willingness to let the property fall into ruin. She asserted, and more than once, ‘I’m not going to have any roof tiles put in. As long as I live, it will hold and when I’m dead, the stinker [i.e. Friedrich Eisinger, her husband’s heir] can do with the house whatever he wants; he’s had enough given to him.’¹²⁵ Living with Elisabetha Riede in the broken-down house was her niece Elisabetha Hahn, who had resided with her aunt and uncle as a child,

¹²³ J6/511, Klageschrift, 1 Apr. 1890, Erwiderungsantrag [undated, but 1890], Zeugenvernehmungsprotokoll, 14 Mar. 1890, testimony of merchant Ludwig Loeb, of Haßloch. Ultimately, the court found Simon’s account had the preponderance of evidence: Bedingtes Endurteil, 11 June 1891.


¹²⁵ Ibid., Zeugenvernehmungs-Protocoll, 20 Jan. 1883, testimony of Sophie née Rickert, widow of Heinrich Walier, and of farmer Ferdinand Steiner, both of Oppau.
and returned to live with her aunt after her marriage had ended in divorce. Together, they had a small business baking cakes, which they sold on feast days and at parish fairs—although the collapse of the oven and the chimney meant they had to bake most of their cakes at a neighbour’s. It was Elisabetha Riede’s brother-in-law, a man named Hahn (perhaps her niece’s father?), who stored the wood in the former dance floor.¹²⁶

The courts ultimately held that Elisabetha was doing all the repairs that a usufructor legally needed to, and the frustrated Eisinger had no recourse but to wait for her death. Her behaviour demonstrates that without children as heirs to hold a marital community of property together, it would dissolve into the two different family properties from which it had originated. Clearly unimpressed with her husband’s choice of heir (perhaps a distant relative of his?), Elisabetha Riede did her best to foil this choice while helping out a member of her own family, possibly her brother’s daughter. After reading in this chapter the many examples of disputes over property between parents and children and among siblings, the reader might have wondered about the negative results of child-rearing. By the absence of children in this case, we can see their virtue for family property, incorporating the union of two families’ property in a marriage. Without their presence, this union might well fall apart.

A REGIME OF EXPECTATIONS

Property and family in the nineteenth-century Palatinate formed what might be called a regime of expectations. Every aspect of family life came with expectations about appropriate use of property. Men expected a good dowry from their future wives; wives expected their husbands to preserve the property they brought into the marriage. Children expected a timely and equitable devolution of property from their parents, and support and reciprocity from their siblings. Emerging from the intersection of regional culture and codes of law, these expectations were widely shared across the boundaries of gender and social class, and maintained their force throughout the nineteenth century. Conflicts could emerge when these expectations were not met, or when two expectations clashed, as in the case of Johann Georg Schott, whose paternal roles as preserver of the family property and equitable disposer of the property to his children came into conflict.

Family life in the nineteenth-century Palatinate thus involved negotiating these different expectations of property relations and use of property. There is certainly a tendency both in common sense views of the world and in social science theories to contrast self-interest, which can be articulated in property, with the emotions

said to underlie a family life, characterized by altruism, sacrifice, and solidarity.\textsuperscript{127} Sometimes these contrasts can be played off against each other, with suggestions, for instance, that peasant or lower-class family life was characterized by self-interest and not by emotion and affection, in contrast to a more affect-laden middle-class family life, or that these two approaches to the world are gendered, with men showing self-interest and women emotion and affection.\textsuperscript{128}

These contrasts seem less helpful for understanding the ties of family and property considered in this chapter. Rather than seeing property and emotion as opposites, it makes more sense to see emotion in nineteenth-century Palatine family life as being articulated through property and property relations. Married couples’ mutual affection was seen in their—gender-distinct, of course—acquisition and preservation of their marital property. Siblings’ solidarity, as well as their rivalries and hostility, appeared in their mutual property transactions and their attitudes towards their joint inheritance. Perhaps most strongly in the devolution of property from one generation to the next, emotional ties—of affection, but also of animosity—between parents and children came to the fore. Although, of course, not the only way that emotion could be expressed in the family, this expression through property, and through property that was so crucial to individuals’ life chances, was a characteristic feature of the nineteenth century, perhaps a high point in European society of the place of property in the lives of individuals and their families.


Transactions

In the previous chapter’s accounts of family-related uses of property, there are repeated hints that these occurred within a broader world of property transactions: the requirement of the Napoleonic Code that a wife consent to any alienation of real property that she brought into the marriage, the history of past dealings with suppliers and creditors that debtors in bankruptcy brought with them into the bankruptcy proceedings, the stock speculation of Philipp Würz, the property sales of Ludwig Christmann, or the moneylending of Johann Georg Schott. In this chapter, such property transactions will take centre stage. An initial discussion of the economic space of nineteenth-century Palatine property transactions will be followed by a consideration of the agents of transactions—in this case, partners and representatives—and the contractual obligations connected with transactions. The account will then turn to credit, a central and underappreciated feature of property transactions, but one, arguably, that had an even broader significance. The granting and taking of credit formed a network linking together individuals and families in nineteenth-century civil society. Throughout the account, we will see how rational calculations of profit and loss, credit and debit, and legal distinctions of contract, proprietorship, and agent status were interwoven with individual aspirations to independence, forms of family solidarity, and personal relationships of promise, trust, and responsibility.

THE UNIVERSE OF TRANSACTIONS

One way to study the geography of transactions in the nineteenth-century Palatinate is to consider bankruptcy records. Once bankruptcy proceedings were opened, a court-appointed receiver [Konkursverwalter] drew up a list of the assets and debits of the bankrupt business. Debits primarily took the form of money owed to suppliers (to a much lesser extent money owed lenders), so that the geographic spread of debits corresponds to the area in which businesses made purchases or borrowed money. I have tracked these debits for fifty-two separate bankruptcy cases, involving a total of 2,554 debits, coming before the magistrate’s court in Kaiserslautern, in the years 1887 to 1919. Over 80 per cent of the transactions responsible for these debits occurred in a roughly quadrilateral area, whose
vertices were Mulhouse in the south-west, Saarbrücken in the north-west, Frankfurt am Main, in the north-east, and Stuttgart in the south-east. There were only four cases in which less than half of the transactions fell inside this area, just fourteen in which less than three-quarters did. This locus of transactions delineates a south-west German economic space in which the inhabitants of the Palatinate carried out their dealings.¹

Naturally, this economic space was not hermetically sealed off. The bankruptcy records reflect the practices of small and medium-sized business in Kaiserslautern and vicinity. Larger enterprises (admittedly, still unusual at the beginning of the twentieth century), such as the Palatine railways or the BASF chemical works in Ludwigshafen, operated in a wider arena. Even the firms recorded in the bankruptcy records purchased items from more distant regions, according to their economic specialities: steel from the Ruhr Basin (where manufacturers could often deliver more cheaply than their competitors in the closer Saar Basin), tropical goods via the port of Hamburg, speciality textiles, paper goods, or toys from Saxony, cash registers from Berlin. Still, even purchases of such specialized goods might come via wholesalers in Mainz, Mannheim, or Frankfurt, within the south-west German economic space.

There are three further points to make about the economic space in which Palatines carried out their transactions. First, the bankruptcy cases, on which these calculations are based, all come from the end of the nineteenth and the beginning of the twentieth centuries, a time when transportation and communication networks were very highly developed. If most transactions around 1900 still took place in a regional space, then this must have been even more the case sixty years previously, before there were rail lines, telegraphs, or steamships in operation.²

Second, there is a striking omission in this economic universe, namely the rest of the kingdom of Bavaria, to which the Palatinate belonged as a non-contiguous province. Palatines may have paid taxes to Munich, been governed by appointees of the royal government there, and elected deputies to the Bavarian parliament, but they did not have much in the way of business relationships with the contiguous provinces of the kingdom to the east of the Rhine River. The one debit to contiguous Bavaria frequently found in the bankruptcy proceedings was money owed to the south German regional office of the German industrial accident insurance

¹ Calculated from the following files in J20: 332, 366, 371, 399, 1206, 1206, 1209–10, 1215, 1217–18, 1226, 1225–6, 1228, 1230, 1235–8, 1241, 1243, 1244 I, 1247–51, 1253–4, 1257–8, 1260–2, 1264, 1266, 1268–70, 1272, 1274–6, 1278, 1281, 1285, 1286 I, 1288–9, 1292–3, 1296. The mean percentage of transactions in this south-west German economic space is 80.3%, the standard deviation is 22.2%. This calculation is based on the number of transactions, not on their cash value, but bankrupt businesses did not have unusually large transactions outside south-western Germany that would produce a different result if averages were calculated on that basis.

² J6/1153, Protokoll über eine Zeugenverhör, 5 May 1834, testimony of Nicolaus [Eppel?], octroi and excise collector in Speyer, shows the purchase of sugar by a Speyer merchant from a Mannheim wholesaler.
system, placed in Munich by the legislation of the imperial government. While there were certainly many individual instances of commerce between the Palatinate and contiguous Bavaria, as will become apparent from the examples in this chapter, this trans-Rhenan, contiguous Bavaria was not a favoured commercial partner for the Palatines, whose trade did not follow the white and blue Bavarian flag.

Finally, there were a considerable number of business dealings that Palatines had with the inhabitants of north-eastern France. In the period covered by the bankruptcy records, Alsace-Lorraine was part of the German Empire, and there is no way to know for sure whether these commercial ties pre-dated the annexations of 1871. Still, there are hints from earlier court cases, suggesting frequent business dealings between Palatines and Alsatians or Lorrainers. Perhaps the most significant was that as early as the 1820s and as late as the 1860s prices for horses and cattle in the Palatinate were quoted in French gold coins, louis d’or.³ Both the commerce with north-eastern France and the lack of it with Bavaria show that the south-west German economic space in which the Palatines carried out their transactions was noticeably different from the political and administrative one in which they lived.

TRANSACTIONAL AMBIGUITIES: PARTNERS AND AGENTS, WRITTEN AND ORAL AGREEMENTS

We might think of a property transaction as a contract, a mutual agreement between two separate parties—whether explicitly stated, or implicit in the situation—to trade assets or resources. Before we consider the content of such transactions, and the obligations connected with them, we need to realize that the nature of nineteenth-century Palatine society created ambiguities about the parties to the transaction and the form that their agreement might take.

Together and Apart: Partners and Agents

One of the parties to a transaction could be a partnership, an enterprise in common [gemeinschaftlich]. The dealers Simon Kahn of Dirmstein and Isaak Kuhn of

Bisschersheim agreed, in 1839, and repeatedly asserted to each other and to third parties, that they would buy a house and fields and then resell them ‘in common’, sharing equally in the expenses and in the profit or loss. When the brothers Heinrich and Jacob Löb and their brother-in-law Aron Scheuer formed a partnership to deal in cattle during the Franco-Prussian War, they also agreed to a ‘common trade’ [gemeinschaftlichen Handel]: ‘when one went off [on a business trip], they emptied their pockets and put the money together.’ Money owed to one party in a partnership could be paid to his associates.

The very fact that Kahn and Kuhn had to insist on the common nature of their partnership should be a clue that common partnerships might contain uncommon elements. The individuals who made up the partnership brought into it both past and current dealings outside the partnership that became entangled with the partnership’s transactions. Keeping the transactions of the partnership separate from the transactions of the individuals composing it was not always simple or straightforward. The stonemasons Johannes Stolleis and Johann Emmel of Gimmeldingen were partners, one might say subcontractors, delivering stones for the construction of the village hall and schoolhouse of Lingenfeld in 1860. Yet they also delivered cut stones separately for this project, and were paid on a different basis than for their jointly cut stones. The two stonemasons hired their workers separately but sometimes Emmel’s workers cut stones in the quarry Stolleis had rented out, albeit separately from Stolleis’s workers there, although in the end the stones they cut were all thrown together. While the joint contract work with Emmel was going on, Stolleis was also having stones cut and delivered to another project in Winzingen.

At a quite different level of economic sophistication, the dealers Emanuel Strauss, Leopold Joseph, and Marx Adler, all of Ludwigshafen, formed a partnership in 1874 to carry out arbitrage operations [Differenzgeschäfte] in the Parisian grain futures market. The speculators, perhaps excessively emboldened by the victories of German armies in France a few years previously, quickly found themselves out of their league. As the losses mounted, Joseph and Adler became convinced that Strauss, rather than buying and selling on behalf of the joint [gemeinschaftlich] enterprise, was using their money for deals on his own account. Their attempt to end the partnership dissolved into a welter of claims and
counter-claims about the tallying of profits and losses and the forming and breaking of partnerships in such complicated financial transactions.\(^7\)

In both these cases, the boundaries between the joint transactions of a partnership and the individual transactions of the parties within it were blurred because the partners were in the same kind of business. Partnerships could be formed, though, between individuals who brought different forms of expertise and different assets into the arrangement. The ambiguity arose in this case over the way these different partners functioned within the partnership.

Such partnerships often involved individuals with technical skills or production expertise, getting together with others possessing commercial experience and, generally, money to bring to the business.\(^8\) The estate owner Raphael Emmanuel of Obrigheim formed a partnership in 1864 with the clay mine owner Johannes Schwalb III and the farmer Johannes Kaiser IV, both of Hettenleidelheim, to manufacture fire-resistant bricks. Emmanuel would advance the cash, the considerable sum of 10,000 fl., interest free, the lack of interest showing he was a partner and not just a financier. He would be repaid from the proceeds of the partnership. Schwalb and Kaiser, both coming from a village known for its clay mining, would build and run the factory. Finance and expertise were thus separated, but Emmanuel became convinced his partners were spending far too much of his money to purchase the factory machinery—once again a distinction appearing between partnership transactions and the transactions of the partners. These disagreements between Emmanuel and his partners on this point caused the partnership to collapse.\(^9\)

Failures or difficulties in the partnership business were particularly likely to lead to such disagreements, as the partners sought to jump off the sinking ship of their partnership, trying to assign the debits of the partnership to their partners and the assets to themselves.\(^10\) It was probably involvement in these sorts of disputes that led the brewer Johan Georg Weiß of Frankenthal to announce that 'he had had so many [bad] experiences and had paid his dues so often, that he would never again

\(^7\) J6/1180, Gegenzeugenverhör, 18 Oct. 1875, testimony of Karl Georg, commercial clerk of Ludwigshafen; Zeugenverhör, 18 Oct 1875, testimony of merchants Salomon Stein, Abraham Kahn, and Benjamin Tuteur, all of Ludwigshafen.


tie himself down and go in on a partnership’.¹¹ Yet setbacks and reverses only brought to the surface what had always been present: the way that the common character of a partnership was awkwardly juxtaposed with the individual dealings of the partners composing it. This may help explain some of the virtues of partnerships among siblings. Their mutual solidarity, and, perhaps even more, their common interest in their parents’ inheritance, helped bridge the gap between the interests of the partnership and the interests of the individuals composing it.

If partnerships were one way that the identity of the parties in a transaction might become blurred, another was provided by the networks of agents and middlemen running through the Palatinate and the entire south-west German economic space. A particularly illustrative example concerns the business arrangement in the autumn of 1860 by which the fruit dealer Franz Wagner of Dürkheim agreed to supply a very large quantity of walnuts to the dealer Andreas Biffart of Deidesheim. For this purpose, Wagner turned to a person with whom he had previously done business, the dealer Adam Vorherr of Mauchenheim, in the far northern tip of the Palatinate, right near neighbouring Rhine-Hessen, an area where walnut trees were widely cultivated.¹²

In October and the first half of November 1860, Vorherr travelled around the area, buying up nuts. He also had the dealer Joseph Guthmann of Münsterappel purchase nuts for him, promising him a commission of 8 kreuzer per hundredweight—provided the nuts were of good quality. The dealer Michael Decker of Kirchheimbolanden also purchased walnuts on Vorherr’s behalf from other dealers. Michael was a partner in the agricultural goods trade with his brothers Simon and Abraham. Acting on behalf of the partnership, Simon purchased four sacks of nuts, which Michael then sold to Vorherr. Moses Friedmann, a broker in the village of Niederwiesen in neighbouring Rhine-Hessen, who ‘had been making business deals for Adam Vorherr for the past 13 years’, also purchased walnuts on his behalf.

By all these means, Vorherr gathered up 143 hundredweight sacks of walnuts. Before he carted them, with the help of his brother, to the railway station in Mainz, to send them on to their destination in the Palatinate, they were inspected, but not by Wagner, the party with whom Vorherr had the contract. Rather, it was ‘a finely dressed gentleman with glasses’, the ultimate purchaser, Andreas Biffart of Deidesheim, who turned up unexpectedly in Mauchenheim to have a look at the goods.

Notable in this example were the variety of purchasing arrangements. The path leading from the peasant proprietors and gatherers to the dealer Biffart of Deidesheim went through a considerable number of middlemen and a thicket of different forms of economic agency. Vorherr purchased directly from the peasants, but also employed agents, some of whom worked on commission, while others may have purchased at their own risk. The Decker brothers, linked in their

¹¹ J6/1173, Zeugenverhörungs Protokoll, 23 Mar. 1865, testimony of merchant Carl Paron of Frankenthal. The more informal arrangement into which Weiß entered, as a result of his bad partnership experiences, did not prevent him from being sued.
¹² For this and following paragraphs, J6/1169, Zeugenverhör-Protokoll, 18 Mar. 1861, passim.
partnership, acted both as Vorherr’s agents and also as independent proprietors selling to him. Biffart dealt directly with Vorherr, the agent of his supplier Wagner, whose relationship with Vorherr is not entirely clear from the documents. Just as the line between partners transacting on their own behalf and on behalf of the partnership could easily be blurred, so could the line between individuals acting as independent proprietors and acting as agents of another, as could the forms of payment that an agent or an independent contracting party might receive. The Napoleonic Code, which allowed agents to be designated in both written and oral form, tacitly encouraged this blurring of lines.¹³

To take an example from the early part of the nineteenth century, the miller Jacob Dehl of Lobloch agreed to buy up rape-seed in his vicinity during the harvest season of 1822, process it into rape-seed oil and rape-seed cakes, and deliver them to the dealer Moritz Marx in Worms. Marx maintained that Dehl was an independent contractor, who would purchase, process, and transport the rape-seed and its products at his own risk and expense, while Marx had agreed to purchase the product from him at a fixed price. Dehl admitted that part of their transaction had been on this basis, but maintained that he was also acting as Marx’s agent, and would receive a commission on a portion of the rape-seed he purchased. Similar disagreements in this early period can be found in transactions concerning tobacco and strong spirits, perhaps helped along by sharp fluctuations in the prices of farm products, which could make previously agreed upon arrangements suddenly quite unprofitable.¹⁴

These sorts of relationships were not limited to agricultural products. Between 1846 and 1852 the furrier Martin Herding of Dürkheim was in business with the joiner and cap dealer Johann Philipp Strieby of Grünstadt. The former sent the latter caps, which he sold on commission, returning those he could not market. During the revolution of 1848, when there was a big demand for caps and uniforms on the part of the Grünstadt civic guard, Strieby ordered caps from Herding at his own risk, no longer acting as an agent but as an independent proprietor. Herding claimed this was true for cockades as well, but Strieby denied it.¹⁵

Two Tobacco Manufacturers have a Complicated Business Relationship

As the court-appointed mediator observed, Strieby and Herding were ‘simple artisans’, whose mutual dealings were unsophisticated and not up to even modest standards of business practice. The same cannot be said about participants in the

¹³ Articles 1984–2010 of the Napoleonic Civil Code deal with agents and their powers and responsibilities. Note particularly Art. 1985, delineating how someone could be designated an agent.

¹⁴ J6/1150, expert opinion in the case of Marx vs. Dehl, 18 Aug. 1823; testimony of Karl Hermann, oil miller of Darmstadt, before the grand-ducal municipal court, 11 Mar. 1823; testimony taken in Mannheim, 12 Feb. 1823, from Hayum Mayer and from the clerk Sigmund Lewino, on 13 Feb. 1823 from the master wagon-wright Carl Haffner, on 5 Mar. 1823 from the master butcher Franz Haffner, all of Mannheim; Gutachten, 7 Jan. 1823. All these cases involve individuals from the Palatinate acting as agents or independent contractors for wholesalers from Worms, Frankfurt, or Offenbach, larger cities in the south-west German economic space.

¹⁵ J6/1164, Gutachtlicher Bericht des … Schiedsrichters, 18 June 1852.
cigar-making trade that developed during the nineteenth century in the region, using one of the Palatinate’s more important speciality crops.¹⁶ The dispute between the manufacturers Orth of Oggersheim, in the Palatinate, and Hermann, just across the Rhine in Mannheim, that came before the courts in 1865 (records do not give their first names) shows that porous boundaries between agent and independent proprietor and the differing and varied forms of payment involved in being an agent were not just a result of naivety in commercial affairs.

Orth owned a ‘factory’ in Ludwigshafen—really more of a workshop, since cigar-making was craft work, involving no powered or specialized machinery—in which workers he employed rolled cigars. Orth’s business, however, for all the workers it employed, was not entirely an independent enterprise, but belonged more to the world of outworking. Orth received tobacco from manufacturers in Mannheim, had his workers process it into cigars, and returned it to the manufacturers, who paid him a fixed price per cigar.¹⁷

For most of 1863, Orth manufactured cigars exclusively for Hermann in Mannheim and, increasingly, the latter seemed to be running Orth’s business. Hermann or his clerk, a man named Sauer, were constantly in Oggersheim, inspecting production, measuring out the tobacco for the workers, and weighing their finished product. Eventually, Hermann started his own factory in Oggersheim, while continuing to do business with Orth, and Sauer ordered the workers to move raw tobacco from one facility to the next.¹⁸

Hermann’s control was particularly apparent when it came to the workers’ wages. On Saturdays, Sauer crossed the Rhine with rolls of money, to pay the workers. Sometimes Sauer was short, and Orth would either announce that the workers would have to wait for their pay, or grudgingly dig into his own pockets to make up the difference. When the workers demanded a rise from Orth, he told them that he supported their demand, but they would have to speak to Hermann about it, since he had the money. The workers later surrounded Hermann in the factory courtyard, vociferously insisting on a rise, until he agreed to give it to them. Afterwards, Hermann told Orth not to meddle with the workers’ wages; after all, Orth had his ‘commission’ [Provision].¹⁹

¹⁶ An excellent introduction to tobacco cultivation, the tobacco trade, and cigar-making in the Palatinate can be found in Frank Swiaczny, Die Juden in der Pfalz und in Norbaden im 19. Jahrhundert und ihre wirtschaftlichen Aktivitäten in der Tabakbranche (Mannheim: Institut für Landeskunde und Regionalforschung der Universität Mannheim, 1996), 87–146. Reliable sources inform me that Palatine tobacco was and is harsh and not of very good quality, compared to that grown in the southern part of the USA.


¹⁸ J6/1173, Zeugenprotokoll, 10 Jan. 1865, testimony of 18 Feb. 1865 of the cigar-makers Adam Löcher, Johannes Dantrimont, Peter Eberle, Johann Philipp Peters, Johann Rauschkolb, Sebastian Schick, and Johann Sachs, cigar manufacturer Franz Anton Bausch, all of Oggersheim.

¹⁹ Sources cited in the previous note and ibid., Zeugenprotokoll, 2 Aug. 1865, testimony of Johannes Dantrimont, Daniel Herboth, and Sebastian Schick, cigar-makers in Oggersheim.
All these circumstances made Orth seem to be just Hermann’s agent. Yet there were two areas in which the relationship between the two manufacturers was not quite so simple. Frequently accompanying Sauer and Hermann when they came to Orth’s factory was a third gentleman from Mannheim, Isaak Hirschbach. He would issue instructions to the workers and cut the rolls of tobacco used for the outer layer of the cigars [Deckblatt]. Most of the workers in Oggersheim thought he was Hermann’s business partner or employee. Hirschbach denied this, insisting that he was a broker, who had brought Orth and Hermann together, when the former had 80,000 cigars to sell and no one to purchase them. It was then that Hermann asked Orth if he would manufacture cigars for him on a regular basis, and Orth replied, ‘it’s all the same to me, whom I work for, as long as I earn something at it’.

Hirschbach maintained that he was entitled to a commission for brokering this deal, but Orth refused to pay him, claiming he was not receiving enough from Hermann to do so, and Hermann told him he would not pay Orth any more. Hirschbach went to Orth’s factory, he asserted, in the hope of increasing its efficiency, so that there might be enough money earned to pay his commission. Doing so implied Hirschbach thought that Orth was not just earning a commission, but was engaged in an independent enterprise, whose rate of profit could be increased. Indeed, he claimed to have been present when Orth and Hermann settled accounts, with Orth receiving the difference between the price Hermann charged him for raw tobacco, and the price he charged Hermann for cigars.

Orth’s cigars, once manufactured, were shipped to Hirschbach in Mannheim, to his ‘packaging room’ [Packstube], where they were sorted, inspected for quality, and then packed up. This was a service, Hirschbach claimed, that he provided for a number of manufacturers, not just for Hermann. Hirschbach’s packaging service, though, and Hermann’s warehouse were located in the same building.²⁰

In Hirschbach’s version of events, Orth was not Hermann’s agent, but an independent contractor—one perhaps not entirely well treated by Hermann—not unlike Hirschbach himself. Sometimes Orth did seem to act that way. Tobacco was often in short supply, perhaps a consequence of the US Civil War, and Orth sometimes ran out of raw materials. He would ask Hermann’s clerk Sauer to send more, but the latter was not always forthcoming, and then Orth would go to Mannheim to procure the tobacco himself. He would give the suppliers a three-month note in payment, and tell them that Hermann would cover the obligation. Hermann would indeed pay, but after he and Orth had broken off their business relationship, he refused to make good on one note, claiming it was Orth, 

as an independent proprietor, who owed the money, creating the legal strife between the two.²¹

This problem of shortages continued when Orth had cigars rolled for other Mannheim manufacturers, and he found that he had to purchase tobacco on his own account again. The manufacturer Samuel Simon, for whom Orth worked after he broke off with Hermann, simply paid Orth the same price per cigar, plus what Simon would have had to spend on tobacco for it, thus passing the profits or losses of price fluctuations on to Orth.²²

Orth’s relationship with Hermann and with other Mannheim manufacturers was ambivalent and unclear. Orth never tried to market directly the cigars his workers produced, either to the public or to wholesalers, but always went through a Mannheim manufacturer. Sometimes his relationships with an individual manufacturer were exclusive, as with Hermann in most of 1863; sometimes he worked for more than one, as was the case with Simon and others the following year. Orth’s connections with Hermann went beyond just working exclusively for him. While other Mannheim manufacturers may have come around occasionally to Orth’s factory, Hermann and his clerk Sauer, by their persistent visits, their supervision of the production process, and their handing out the workers’ wages, certainly gave the impression of being completely in charge, of reducing Orth’s position to that of a glorified foreman. A foreman, though, would not have gone and purchased tobacco on his own account, when the supply ran out.

According to some witnesses, Orth was paid a commission by Hermann, getting so much for each cigar his workers produced. Orth certainly acted as though this was the case, telling his workers and the broker Hirschbach to go to Hermann for their money. Yet witnesses also testified that Orth and Hermann were two independent parties transacting with each other, Hermann selling the raw tobacco to Orth and purchasing it back in the form of cigars. It is not impossible, and perhaps even likely, that both these views were correct, that Hermann called the difference in price per cigar Orth’s commission.²³

The broker Isaak Hirschbach’s role in the relationship is also unclear. He brought Orth and Hermann together, at a time when Orth apparently had no Mannheim manufacturer to purchase his product, and 80,000 cigars on hand. Hirschbach claimed a commission for the deal, yet no one wanted to pay him one. Hermann may have been in charge in Orth’s factory, yet it was Hirschbach who did the quality control for him in his ‘packaging room’. Hirschbach denied being Hermann’s employee or his partner, but he was constantly accompanying Hermann to Oggersheim, and Hirschbach’s business was located in the same building as Hermann’s in Mannheim.

²¹ Ibid., Zeugenprotokoll, 2 Aug. 1865, testimony of the cigar manufacturers Heinrich and Georg Biundo of Mannheim, as well as all the other witnesses heard on this occasion (cited in the previous notes); Zeugen-Protokoll, 20 Jan. 1865, testimony of 18 Feb. 1865, of tobacco dealer Johann Schmitt of Mannheim.
²² See n. 17.
²³ This was the practice in the admittedly very different business of swine dealing, J6/1180, Haupt-Zeugen-Verhör, 12 July 1875, testimony of Heinrich Martz, butcher in Metz.
Throughout the entire business relationship there was no clear distinction between Orth (and, for that matter, Hirschbach) as an independent party, transacting with Hermann, and Orth as Hermann's agent. Being an agent and being a proprietor were thoroughly mixed, as might be expected, in the nineteenth-century Palatinate, and perhaps in south-western Germany more generally, where the ownership of property was as widespread as the wish to act as an independent proprietor. Individuals who were agents might simultaneously act as independent proprietors, or carry out their work as agents as if they were independent proprietors.²⁴

Orth and Hermann, while they were doing business together, seem to have been concerned to create a situation preserving the appearance of Orth's independence, in the face of Hermann's financial superiority. The commercial credit Orth obtained to purchase tobacco, while telling the vendors to go to Hermann for payment, perfectly characterized this state of affairs. It lasted until both parties took actions demonstrating Orth's lack of independence—Hermann opening his own workshop in Ludwigshafen and transferring tobacco between it and Orth's; Orth encouraging his workers to ask Hermann for a wage increase. Only following these events, which caused the collapse of their business relationship, could the question arise of whether Orth was an independent proprietor, contracting with Hermann, or Hermann's agent. It only arose because of an item left over from their previous relationship, the 140 fl. note issued by Orth to pay for tobacco when his supply from Hermann ran out. By applying criteria such as control over production, or the nature of payment, the legal system attempted to draw a retrospective distinction—one that had not existed when the two manufacturers were in business together—between proprietor and agent in order to determine who should pay the debt. The legal system lacked a category for a central element of Hermann's and Orth's contractual relationship: the preservation of the appearance of Orth's independence—an important matter in a society of property owners.

Written and Verbal Agreements

In following the business dealings between Orth and Hermann, and the other accounts in the previous section, the reader may have been struck by the lack of written records and the prevalence of oral agreements. The imprecise and transitory nature of such agreements certainly magnified any pre-existing ambiguities and introduced new ones. One has to wonder why these agreements had not been put down in written form. The nineteenth-century Palatinate was not an illiterate society. Just an unsystematic and casual glance at the signatures of witnesses on the transcripts of their testimony shows that literacy, even among the poorer rural

population, was already common in the first half of the nineteenth century and illiteracy virtually unknown for Palatines born after about 1840. There was plenty of writing connected with property transactions, especially those involving credit, where the debtor would sign an IOU [Schuldschein] acknowledging his or her obligations. These might be little more than a simple scrap of paper, but they were already being used at the very beginning of the nineteenth century, in the era of French rule.\(^\text{25}\)

Notarial and government registration fees were considerable, a reason to avoid having a contract drawn up by a notary and formally registered with the government.\(^\text{26}\) One could write a contract without formal registration, though. When Raphael Emmanuel went into partnership with Johannes Schwalb III and Johannes Kaiser IV to erect a factory manufacturing fireproof bricks, the partners wanted to keep the matter secret, so that potential competitors would not know about their plans. The notary informed them that registered contracts were legally matters of public knowledge; he could, however, draw up an unregistered, ‘private deed’ [Privat-Akte] that was just as legally binding as a notarized contract. One did not need a notary to write a private deed; notary’s clerks, bailiff’s assistants, business agents, or, in one instance, a linen weaver would undertake the task.\(^\text{27}\)

Sometimes, it was simply the custom to do business orally. Agricultural wholesalers dealt in large quantities of grain, valued up into the millions, on nothing but a handshake. (Admittedly, both parties usually wrote down in their own notebooks what they had just agreed to.) Futures trading was also done on a verbal basis, without written acknowledgements of orders. Smaller transactions in farm products could also involve verbal agreements.\(^\text{28}\)

Demanding written documents was a way of demonstrating mistrust. Elisabetha née Hubert, the widow Langenstein, an innkeeper in the village of Merthesheim, had a lengthy dispute with her neighbour, the miller Sebastian Koch, over a wall to be built separating their respective properties. Part of their feud was that the two would arrange to meet to finalize arrangements for the construction of the wall.

\(^{25}\) J6/1150, oath of 20 Aug. 1823. More on credit transactions later in this chapter.

\(^{26}\) On registration, see Heintz, ‘Das pfälzische Gerichtswesen’, 143–4.

\(^{27}\) J6/1173, Zeugenverhörprotokoll, 4 Mar. 1865, testimony of notaries Saladin Machwirth and Jacob Jeck, of Grünstadt and Rheinzabern, respectively. In explaining the legal validity of private deeds, the notary was probably referring to Article 1985 of the Napoleonic Code. Examples of such cost-saving private deeds: J6/1169, Gegenzeugenverhör, 14 Jan. 1861, testimony of Johannes Völkel, notary’s clerk in Grünstadt, Fortsetzung des Zeugenverhörs, 15 Jan. 1861, testimony of Carl Wendel, bailiff’s assistant in Grünstadt; J6/1173, Zeugenverhör-Protokoll, 18 Feb. 1865, testimony of the day labourer Jacob Huber of Haßloch; J6/1178, Zeugenverhoer, 13 Dec. 1871, testimony of business agent Johann Jacob Spatz of Speyer. Transactions involving real property required notarization, so that private deeds were not valid for them.

and then one of the parties would not show up. One day in January 1860, when the widow Langenstein, flanked by her three grown sons, was standing in a cold rain waiting for miller Koch, the farmer and dealer Wilhelm Drescher appeared in his place. Langenstein refused to deal with him unless he presented a written power of attorney.²⁹

Inversely, refusing to write down an agreement was a way of demonstratively showing trust in the other party. In the autumn of 1864, wine dealer Leopold Kaufmann of Neustadt agreed to purchase the must of the white and the Gewürztraminer grapes from the vineyards of the starch manufacturer Jacob Neubauer of Winzingen. The broker Salomon Deutsch, who had brought the two together, explained: ‘After the parties resolved their differences, I called on them to note down their agreement, but they laughed at that and said it was not necessary for them.’ Since Kaufmann and Neubauer eventually ended up in court, one might wonder if their mutual trust, so loudly demonstrated to a third party, was actually a way of articulating their mutual distrust.³⁰

There were certainly occasions on which oral agreements were consciously chosen to mislead or at least to preserve a state of ambiguity. A particularly outrageous example was the actions of Georg Betz, who had a large farm on the outskirts of Speyer. Facing a forced sale of his property at the beginning of 1875, he received a purchase offer from the farmer Valentin Müller II of Otterstadt. During the negotiations in the Angel tavern, Müller repeatedly asked if the sale included all of the land on the farm and Betz replied it included everything in the newspaper—that is, in the announcement of the forthcoming forced sale. Later that day, after oral agreement had been reached, Betz’s neighbour, the farmer Johannes Koob, came in and asked Betz if it meant he had sold all his land—including the property not part of the forced sale. Betz replied, ‘yes he has all of it,’ and stepped on Koob’s toes under the table, took him aside, and told him not to mention those other pieces of property.³¹

Georg Betz was pretty crude about covering up the discrepancy between an oral and written agreement. Other Palatines went about it in subtler fashion. Elisabetha Fletscher, the widow Büg, estate owner in Altleiningen, negotiated in 1840 with the dealer David Mayer about ‘ceding’ two claims she had, that is, giving him two IOUs in her possession together worth about 800 fl.—a substantial sum—in return for a cash payment. A few days later, having found another way to

²⁹ J6/1169, Gegenzeugenverhör, 17 Jan. 1861, testimony of Wilhelm Drescher, as well as of other witnesses heard in the Zeugenverhör of that date. Another connection of mistrust and written documentation, J6/1173, Gegen-Zeugen-Protokoll, 18 July 1865, testimony of bookkeeper Johann Martin Kinzle of Ludwigshafen.
³¹ J6/1180, Protokoll über das Zeugenverhör zur Gegenbeweisführung, 5 June 1875, testimony of the broker Andreas Gross of Otterstadt; Protokoll über das Hauptzeugenverhör, 5 June 1875, testimony of the farmer Johannes Koob of Speyer. Similarly misleading tactics in the sale of urban real estate, J6/1171, Eidesleistungs-Protocoll, 12 Dec. 1862.
get the cash, she demanded the notes back, claiming that the deal had not been ‘definitively concluded’ \(\text{fest abgeschlossen}\)—i.e. it had not been put in writing. Mayer refused, and after some dispute, they went together to have the arrangement notarized, but ‘the acceptance \(\text{Aufnahme}\) of this cession had found difficulties, because of a registration that had not been executed’, so they drew up a private deed, instead. None of this stopped them from going to court over the transaction.\(^{32}\) In this transaction, we can see the widow Büg trying to keep her options open, by moving through various levels of formality in this transaction, from oral agreement to notarized one and then back to one that was written but not notarized.

If there was no intent on the part of one or both of the parties to mislead, if there were no contrasting interpretations of an exchange of statements, sealed with a handshake or a ceremonial glass of wine, if there were no discrepancies between the written and oral record—in other words, if verbal agreements demonstrated the openness, simplicity, and mutual trust they were supposed to—then the result of the agreements would never come before the court, as, of course, they usually did not. Instances in which verbal agreements became a source of dispute expose both the assumptions with which parties entered into these agreements, and the ease with which these assumptions could be twisted or subverted. Just as contractual disputes involving the nature of proprietors and agents show the high value Palatines placed on the appearance of personal independence, so disputes emerging from verbal agreements demonstrate the significance they attached to personal trust in their business dealings.

**CONTRACTS IN DISPUTE**

Having considered the parties and the circumstances of contracts, we might want to move to the nature of contracts themselves, and the disputes that arose from them. The great bulk of the numerous surviving contractual disputes (some 88 per cent) fall under four broad rubrics: (1) delivery of goods; (2) transactions in agricultural products and livestock; (3) quality of construction; (4) quality of manufactured goods. The first two issues have a good deal in common, as do the last two, so the account will take these issues two at a time. Besides their individual specific content, these contractual issues were shaped more generally by the culture of transactions previously considered—the prevalence of the ideal of the independent proprietor and the interaction of trust and mistrust in oral and written agreements

**Records, Responsibilities, Promises**

It was quite common for contractual disputes to deal with the question of whether an item ordered or purchased had ever been delivered, or, if delivered, only in part.

\(^{32}\) J6/1157, Zeugenverhör, 19 Aug. 1840, \textit{passim}.
One might wonder how such cases were possible, since they involved eminently tangible items—coal, skins, barrel staves, textiles, barrels of wine, and wooden boards and planks—which would be hard to overlook. Of course, the goods themselves were not missing; what was missing, ambiguous, or disputed was the records of their delivery and the acknowledgement of that delivery.

The dispute between the furrier Martin Herding of Dürkheim and the joiner and cap dealer Johann Philipp Strieby of Grünstadt, discussed above, primarily concerned deliveries of caps Herding claimed to have made to Strieby, which the latter denied having received. It was the chaotic and contradictory record keeping of the two craftsmen—lack of receipts for goods sent or returned, acknowledgement of receipt of goods, without amounts or values, belated acknowledgement of receipt of shipments—that was at issue, not the shipment of the caps themselves. Similar sorts of cases from the earlier part of the nineteenth century involving the exact kind of wines or exact amounts of flour or of cut stones delivered point to similar questions of keeping records.³³

The presence of middlemen and the prevalence of small, independent contractors—and, as noted above, the difficulty in telling them apart—in the Palatinate could contribute to the problems of record keeping. The dealer (probably pedlar) Jacob Eberstadt of Frankenthal ordered textiles during the 1830s directly from the wholesalers Sons of the Late Tobias Wöhrle in Kaufbeuren, in trans-Rhenan Bavaria, but also from the firm’s representative in Frankenthal itself, the merchant Ludwig Steinhofer. Wöhrle Sons’ and Steinhofer’s books showed the same order at very different dates; other orders were noted as paid by the representative but not by the firm. In these circumstances, Steinhofer’s contention that he had delivered goods to Eberstadt, which Eberstadt had not paid for, was rather less plausible than the latter’s assertion that no such delivery had been made.³⁴

The construction and expansion of the rail net in the two decades after 1850 increased enormously the possibilities for commerce, but probably expanded even more the problems of record keeping in delivery.³⁵ At the end of 1871, the wood dealer Philipp Munzinger in St Ingbert, in the heavily forested region on the Palatinate’s border with the Prussian Saarland, had the teamsters Adam Kohler and Georg Wagner—both independent contractors and also brothers-in-law—deliver some twenty Klafter (one Klafter = 3.58 cubic metres) of wood to the railway station in St Ingbert. After lying around for several months, some four Klafter were

sent to Speyer, and the rest in two railway cars to the wood dealer and tavernkeeper Friedrich Hochweiler in Neustadt. Only when Hochweiler had the wood unloaded at the railway station there, he found about two Klafter missing.\footnote{J6/1178, Zeugenverhör, 18 Mar. 1872, testimony of the teamsters Adam Kohler and Georg Wagner and the railway workers Philipp Morgenstern, Carl Jung, and Kilian Enderes of St Ingbert; Gegenzeugen-Verhör, 22 Apr. 1872, testimony of the track wardens Johann Schuster and Carl Lindy of Iggelheim; Nachträglicher Zeugenverhör, 18 June 1872, testimony of carpenter Nicolaus Fulda of Lachen. A very similar case, also involving a shipment of wood, J6/1180, Zeugenvernehmung, 30 Jan. 1875; Zeugen-Verhoer, 1 Jan. 1875, Protokoll in Sachen Lingg gegen Merld.} Rather more amusing was the shipment in 1873 of fifty sacks of beans to the wholesaler Joseph Hirsch in Mannheim, which somehow turned into forty-one sacks of beans and nine sacks of wheat on the way, with those nine sacks undergoing various adventures in the railway station in Palatine Friesenheim, before becoming the object of legal action.\footnote{J6/1179, Zeugenverhör, 17 Mar. 1874, esp. the testimony of the porters Heinrich Ricker of Friesenheim, and Friedrich Ritscher and Meinroth Wissener of Mundenheim; Zeugenverhör, 28 Feb. 1874, testimony of the merchant Isaac Loeb and railway freight office administrator [Güterexpeditionsverwalter] Heinrich Biederwolf, both of Ludwigshafen. On the special problems of keeping track of rail shipments during the Franco-Prussian War, see the discussion in Chapter 4.}

In these sorts of cases, it is hard to untangle the elements of casual or incompetent record keeping, the passage of goods through many different hands, some belonging to small proprietors and others to large bureaucracies, and the bad faith and questionable intent of one or both of the parties to a transaction. These elements also appeared in cases centreing on a different issue of transaction, acknowledgement of deliveries. Sometimes buyers claimed they had never ordered the goods, or had just placed a trial order. Typically such disputes stemmed from differing interpretations (whether in good faith or not) of discussions between a travelling salesman and a potential client.\footnote{J6/1157, Eidesleistung, 13 Feb. 1840, 5 Mar. 1840; J6/1173 Eidesleistung, 18 Mar. 1865; similarly, J6/1171, Eidesleistung, 2 Dec. 1861; J6/1178, Eidesleistungsprotocoll, 6 Sept. 1872.}

More interesting are cases in which both parties agreed that there was a contract for delivery but the dispute centred on the act of acknowledgement of delivery. In the summer of 1860, the wood wholesaler Adam Schneider of Edenkoben had contracted to deliver barrel staves to the tobacco dealer and dyestuff manufacturer Casimir Lichtenberger Sr. of Speyer. Lichtenberger grew increasingly dissatisfied with the quality of the delivery, finding the staves too narrow and not conforming to standard. Schneider was also not delivering the complementary top and bottom pieces needed to make barrels. Lichtenberger contacted an alternative supplier, the sawmill owner Mausshardt of Wilgertswiesen. Getting wind of this Schneider came to confront his client, and a shouting match ensued. Responding to Lichtenberger’s assertion that Mausshardt delivered a cheaper and better product, Schneider screamed, ‘so now you’re going to have Mausshardt deliver the staves; he lives in the valley and I have to first get the wood out.’ Lichtenberger counted out the money due Schneider on the table and said, ‘there is your money and now we’re done; I don’t want any more such garbage and Mausshardt will now...
deliver my staves.' Yet even after that altercation, Schneider continued to send barrel staves to Lichtenberger, via his teamsters, independent contractors as usual. They had no papers with them, also a usual procedure. Lichtenberger's workers, and Lichtenberger himself, apparently under the impression that the wood was from their new supplier, let at least one wagonload in and had it unloaded, although complaining that the wood was not up to Mausshardt's usual standards.

Thirteen years later, the German Rubber Factory of Ludwigshafen contracted with the wholesalers Raab Karcher & Company to deliver regular monthly loads of coal. Clerks at Raab Karcher asserted that they had the January 1874 load all ready to deliver, but in spite of their repeated requests, no one at the factory would talk to them about taking delivery. Factory employees claimed that Raab Karcher had run out of coal and been unable to make the promised December 1873 delivery, so that they had had to look elsewhere for their supply.

The factory's story was suspicious. Its doorman denied having told a teamster from Raab Karcher that the director was out, when he really was in, so as to prevent a date for delivery from being set up. He admitted, however, that he had told the teamster just such a story on another occasion to avoid paying him for a delivery. More likely at issue was the contract that called for the wholesaler to deliver the coal at a fixed price, unless its suppliers, the Bavarian state coal mines, chose to increase it. As the inflationary economic boom of the early 1870s gave way to the severe recession and deflationary years after 1873, the German Rubber Company, probably under financial pressure, began looking for a cheaper supplier for its furnaces.

In both these cases, disputes about delivery were a way of expressing discontent with transaction prices and perceived unfair treatment, whether via Adam Schneider's unscheduled delivery or the German Rubber Company's refusal to schedule one. Admittedly, the tactics of Schneider, the small dealer, were cruder and less sophisticated, seemingly more motivated by anger and less by calculated self-interest than the elaborate run-around the factory employees and director would offer in the following decade, but both cases stemmed from a similar motive.

A different but related issue in disputes over delivery was the question of products delivered in damaged condition or of lesser quality than ordered. Both kinds of cases would be initiated in the same way, by the recipients' refusal of the shipment. If the products were damaged, the refusal would touch off an orgy of

39 J6/1169, Gegenzeugenverhör-Eröffnungs-Protokoll, 7 Apr. 1861, testimony, on 29 Apr. 1861, of gardener Jacob Fischer of Speyer. The valley Schneider mentioned was the valley of the Queich River, a heavily forested area (it still is today), where the village of Wilgertswiesen was located. Becker, Die Pfalz und die Pfälzer, 423–4.
40 Ibid., testimony of the day labourer Jacob Lauterer and the mason Carl Schilling of Speyer; Zeugen-Verhör-Eröffnungs-Protocoll, 6 Apr. 1861, testimony of 29 Apr. 1861 by the teamsters Philipp Stauter and Georg Walter of Edenkoben.
41 J6/1179, Zeugenverhör, 13 July 1874, testimony of the clerk Johann Baptist Ney, the foreman Carl Motz, and the teamster Franz Flick of Ludwigshafen; Gegenzeugenverhör, 13 July 1874, testimony of the factory doorman Adam Gutfrucht of Ludwigshafen and the factory production manager [Werkführer] Jacob Gerber of Mannheim.
finger-pointing among the supplier and the transporters. When the brothers Adolf and Gustav Haffner of Speyer received a shipment of rape-seed cakes in 1861, they found that a number of them were suffering from water damage. The cakes had reached the Palatinate from Württemberg via the Neckar River. The shippers, Friedrich Rödel and Christoph Zwirn of Horkheim near Heilbronn, two hard-driving Swabians with a dubious reputation, denied being responsible and tried to shift the blame onto the teamster who had driven the freight overland from Ludwigshafen to Speyer. However, the broker Adam Sebastian of Mundenheim, who had met the ship dockside at Ludwigshafen, testified that the cakes showed signs both of water damage, and of efforts to cut away the mouldy portions.\(^\text{42}\)

The shippers’ insinuations rather pale when compared with the imbroglio that could emerge when goods were damaged in rail transport. Water was a major culprit here as well. Wooden boards arrived soaked and swollen; barley sprouted through the sacks in which it was shipped and became unsuitable for brewing; sacks of flour were soaked through and unsuitable for anything. Especially when several different railways were employed, with differing regulations about freight transport and incompatible rolling stock, determining responsibility was a difficult matter.\(^\text{43}\)

Combining the railways with the customs authorities could produce an even more complicated bureaucratic entanglement. An accident in 1861 revealed a systematic lack of responsibility. A railway car being pushed by workmen, as a dark December afternoon was fading into night, from the customs yard in the Ludwigshafen harbour to the rail junction directly outside the yard, banged into another car. The rear door flew open and four casks of oil fell out and broke on the ground. It turned out the Palatine railways would only guarantee shipments of goods if its employees loaded the freight, but railway workers were not allowed to load rail cars inside the customs yards. Loading goods that had gone through customs could only be done by the workers of the state-run harbour administration, although casual day labourers, employed by the harbour administration, the shipper, or the freight forwarder, could help. A railway employee was usually present when rail cars were being loaded with goods that had cleared customs, but he had no authority to direct the labourers loading the cars. The ‘crane-master’, the harbour official who was the labourers’ supervisor, was generally too busy with other duties to supervise them. The railway employee, rail warden \([\text{Bahnwart}]\) Fuchs,


was supposed to supply cushions and braces for casks loaded onto rail cars, only he
told the workers ‘he wasn’t going to drag any more cushions from the railroad
station’ that day, since it was so late in the afternoon—and near his quitting time,
one suspects. Even without the cushions and braces, the barrels might have sur-
vived the collision, were it not for the fact that the open freight car into which they
were loaded was old and worn. The sides bulged outward so that the clasp on the
rear door would not close and lock properly.\textsuperscript{44}

These chaotic conditions in the Ludwigshafen harbour, which were still
chaotic, albeit in different ways, two decades after this incident, show that the
addition of large, bureaucratic organizations, with their own complex system of
paperwork, did not end the ambiguities in responsibility for transport and delivery
occasioned by the prevalence of informal, oral agreements and the presence of
middlemen in the process of transport and delivery. Rather, the formal organiza-
tion of the bureaucracies themselves resulted in a new layer of informal, oral
agreements and middlemen to the process, leading to more rather than fewer
ambiguities.\textsuperscript{45}

A different problem emerging from delivery occurred when the goods delivered
were spoiled or of inferior quality. The customer might angrily reject them, and
send them back to the supplier, as the merchant Wilhelm Riegler of Speyer did,
when he ordered linen cloth from the Lieser Brothers in Fulda. Promised first-
quality hand-spun goods by the firm’s travelling salesman, he received wares
that were far inferior.\textsuperscript{46} Yet, surprisingly often, receipt of inferior goods did not
provoke this reaction, but instead initiated a process of negotiation.

The cheese dealer Franz Michel of Hettenleidelheim placed an order for eighteen
crates of Limburger cheese with the firm Notz & Burger, of Alpine Bavarian
Sonthofen, in the spring of 1871. On its arrival in Speyer, via Albert Otto, Notz &
Burger’s agent in Mannheim, Michel found it was rotten. Since it was Limburger
cheese, one might wonder how anyone could tell, but the cheese had turned soft
and runny, and worms were found in several crates. Michel refused to accept the
cheese, and demanded it be sent back to the supplier, but he also went to
Mannheim to discuss with the agent Otto purchasing the cheese at a discount.
The negotiations fell through, because Notz & Burger, encouraged by the rising
price of cheese, demanded too much for the spoiled goods.\textsuperscript{47}

Such negotiations for a discount in price, sometimes initiated by the purchaser,
sometimes by the supplier, were a common and almost expected feature of the

\textsuperscript{44} On this case, see the very rich and extensive testimony in J6/1171, Zeugenprotokoll, 1 and 3
\textsuperscript{45} J6/963 has very interesting material on conditions in the Ludwigshafen harbour at the beginning
of the 1880s. More on the Palatine railways and their bureaucratic organization in Chapter 4, below.
\textsuperscript{46} J6/1180, Eidesleistungsprotocoll, 5 Mar. 1875.
\textsuperscript{47} J6/1178, Zeugenverhör-Protocoll, 4 May 1872, testimony of Michael Pfisterer and of Johann
Michael Winswieser, grocer [Spezereihändler], both in Speyer; Zeugenverhör, 8 May 1872, testimony
of agent Albert Otto of Mannheim.
delivery of inferior or damaged goods.\textsuperscript{48} Just as disputes over the acknowledgement of delivery or about the fulfilment of a contract could be a way of articulating disagreements about prices, so complaints about damaged or inferior goods could transform a broken promise or a failed commitment into an offer of or demand for a discount on price. This transformation of a promise or responsibility into a cash value is important to keep in mind while considering disputes about transactions in agricultural products or livestock, because they were virtually all about questions of quality.

Indeed, reading litigation about agricultural products is to plunge into a litany of complaints: wine that was ‘stinking and undrinkable’, or chemically adulterated, bushels of dark, low-quality tobacco hidden behind the milder, light-coloured product, grain that had sprouted and was unsuitable for milling, flour that could not be baked into bread, a horse incapable of pulling a cart, or a cow that kicked during milking.\textsuperscript{49} Characteristic of these, and many, many very similar cases, was a complaint about goods that did not perform, or not perform well enough, their natural function, to nourish, stimulate, or labour for human beings. One could say that these cases were about a violation of the natural order and a call for its restoration. On closer examination, and not entirely surprisingly, the natural order proved to have been—at least in part—socially constructed.

Cash payments could make up for part of this violation. When the brewer Jacob Walter of Haßloch complained that the malt delivered him by the dealer Salomon Fiebelmann of Rülzheim would produce poor-quality beer, the latter’s son-in-law replied, ‘he [Walter] should just accept the malt, he would make it up to him with the price’.\textsuperscript{50} In 1875, the dealer Baudoin Kaufmann of Ludwigshafen sold the brewer Emil Metzner of Frankenthal, for 500 fl., a horse that could not pull Metzner’s wagon. Its inability to do so became a large and embarrassing spectacle on Frankenthal’s Rhine promenade. Kaufmann proposed substituting another horse, and accompanied Metzner to Mainz to purchase one, but its owner insisted on a higher price than Metzner was willing to pay. Finally, Kaufmann suggested that he take the horse back for 300 fl., ‘so that each party would lose 100 fl. on the deal’.\textsuperscript{51}

\textsuperscript{48} An informative example: J6/1173, Verhandelt zu Kirn, Kgl. Friedensgericht, 15 Feb. 1865, testimony of the factory director Adolf Diel of Monzingen.


\textsuperscript{50} J6/1179, Zeugenverhör, 15 June 1875, testimony of dealer Wolf Heene of Haßloch. J6/1179, Gegenzeugenverhör, 19 Oct. 1874, testimony of the dealer Simon Löb of Frankenthal, seems to refer to a similar sort of offer.

Both Kaufmann’s suggestion that he buy the horse back, and his willingness to consider offering a purchased replacement—but only at the right price—demonstrate the transformation of natural qualities into cash values. There was another aspect to his case, the guarantee he purportedly offered that the horse in question was no more than six years old, although it was, in fact, twenty-seven, and just mustered out of its long-term service with the Badenese army. Particularly in the sale of livestock, but with other farm products as well, oral guarantees would be offered: that a cow was not lame, for instance, or that grain or flour was first quality. Negotiations between wholesalers over the purchase of rape-seed broke up over the question of whether the sellers would guarantee that their product was ‘green’ or just ‘fresh’.

It was a characteristic of transactions in agricultural goods that these guarantees were not totally arbitrary; there were recognized ways to test them. Especially in the case of livestock sales, which were regulated by Bavarian law, disputes about the health or quality of livestock could, ultimately, be subject to a court-ordered inspection by veterinarians. Their investigations demonstrate considerable care and a scientific approach, in the early part of the century, rather more so than those of contemporary medical doctors. This sort of analysis was less frequently possible to resolve disputes about the quality of crops, although wine dealer Matheus Schoenkopf of Zweibrücken did hire a pharmacist in 1874 to conduct a chemical analysis of the wine he had purchased, to test for the presence of adulterating agents.

To move beyond verbal promises in grain or flour sales, the seller might provide a sample, guaranteeing that the delivered wares would correspond to it. The broker Michael Franz of Speyer, representing the agricultural products dealer Liebermann Würzweiler of Mannheim, sold 100 sacks of barley to the Schultz Brothers brewery in Speyer, on the basis of a sample. At the conclusion of the deal, he divided the sample in half, giving one part to the customer and keeping one himself. This very effort to avoid the subjectivity of verbal promises showed its own limits, since the Schultz Brothers claimed that the barley delivered did not correspond to the sample, while the dealer who sold it to them insisted

52 Besides the sources in the previous note, J6/1180, Zeugenverhör, 13 Dec. 1875, testimony of the travelling salesman Adolph Stützer of Chemnitz; Zeugenverhör, 18 Sept. 1875, testimony of Simon Lüb, flour and grain dealer in Frankenthal.


55 J6/1179, Gegenbeweiszeugenverhör, 14 Dec. 1874, testimony of the pharmacist Dr Carl Hermann Steinan of Zweibrücken. This and other cases show provincial pharmacists with an impressive knowledge of both chemistry and the scientific method.
that it did. As the miller Jacob Müller of Sihl near Zurich said, ‘Deals are done with samples, but often words replace the sample.’ A sample was, ultimately, an expression of a verbal promise, just as the natural qualities of an animal or crop in a transaction became an expression of the market’s cash nexus.

**Two Dealers Differ about the Quality of Asparagus**

The fruit and vegetable dealer Franz Wagner of Dürkheim, whom we met above, providing walnuts via middlemen in Mauchenheim, had a similar arrangement for asparagus, fourteen years later. He contracted in 1874 with the tavernkeeper Georg Scherer of Kriegsheim in neighbouring Rhine-Hessen to receive ‘first-quality vegetable asparagus’ during the spring growing season, and the latter made the rounds of the farmers in his village, purchasing their crop—grown there and in many other villages of the German south-west, as is still done today. Wagner became convinced Scherer was cheating him, packing the top of his crates with high-quality asparagus, and leaving underneath poor-quality, ‘soup asparagus’. He repeatedly rejected Scherer’s shipments, sending them back by rail. Scherer, for his part, was convinced that Wagner was taking the good-quality asparagus he was sending and selling it to his customers, while returning poor-quality and spoiled vegetables that Wagner grew himself or got from other sources. Scherer rejected the rejections, sending them back to Wagner. After repeated round trips by rail in warm weather, the vegetables were good for nothing but compost or the slop-pile for swine.

One might say this case involved judgment against judgment on the quality of the asparagus, but both parties offered evidence for their position. Wagner maintained that his customers, luxury restaurants in northern Germany, had rejected the asparagus Scherer sent him as inferior. The farmers of Kriegsheim stood solidly behind Scherer, ‘one of the leading men of our village’, insisting that he had been very exacting in his selection of asparagus, and that the gourmet foods dealer Müller of Frankfurt am Main had paid premium prices for vegetables of the same quality as those rejected by Wagner.

Both positions involved reinforcing subjective opinions with the voice of the market, measuring quality by the decisions of wealthy purchasers. By the beginning of June, Wagner began refusing to accept any of Scherer’s shipments and ceased payments to him. Scherer, accompanied by his housekeeper, travelled to Dürkheim to

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57 J6/1171, Auszug aus dem Civilprotocoll des Bezirksgerichts Zürich d.d. 9 Apr. 1862, testimony of miller Jacob Müller.

58 J6/1179, Zeugen-Verhör, 22 Aug. 1874, testimony of Wagner’s son Philipp, the day labourer Friederike Fuchs, and Magdalena Orth, single, without occupation, all in Dürkheim; Zeugenverhör und Requisition, 10 Sept. 1874, testimony of Georg Bart, railway cashier, Caspar Görisch, railway freight assistant, and housekeeper Elisabetha Heiser, all of Monsheim.
urge Wagner to accept his asparagus, even if the latter found it inferior, and sell it at a
discount. Here too, we can see the transformation of quality into cash prices.⁵⁹

An interesting feature in this case is that the court appointed a panel of experts to
state their knowledgeable opinions. While in other cases experts could sometimes
make definitive statements about the quality of farm products, here they just deliv-
ered the Solomonic judgment that 'the dividing line between soup and vegetable
asparagus is difficult to draw with any certainty, because it depends, from case to
case, on business or personal distinctions [Gestaltungen] and opinions'.⁶⁰ If the
experts themselves rejected the idea of a definitive measure of quality, how can we
appraise the dispute over quality in this case? We could say that Wagner, shocked by
his customers' rejection of the asparagus he sent them, had overreacted, pushing his
standards so high that virtually nothing Scherer delivered could satisfy him. Or we
might suggest, following the experts' disavowal of any easily ascertainable differ-
ences, that the quality of the asparagus was socially constructed in the contrast
between the gourmets of the large cities of northern Germany, the wholesaler in the
smaller Palatine commercial town, and the villagers of Rhine-Hessen.

Wagner's and Scherer's dispute about the quality of asparagus demonstrate two
elements central to transactions in agricultural products in the nineteenth-
century Palatinate: the natural functions of the products being transacted, and the
personal guarantees of the transacting parties—nature and culture, so to speak.
Both elements in the transaction were potentially incommensurable, and we have
seen above the many ways that natural qualities of agricultural commodities and
the personal assurances of the transacting parties could become blurred or placed
in dispute. These transactions, however, took place in a free market, and the prices
set by the market provided one possibility for resolving the incommensurable
aspects of the transaction, replacing them with prices scaled and quantifiable in
just one dimension. We can take this observation about the place of the market one
step further. The natural and cultural elements of transactions in agricultural com-
modities did not exist independently of the market, but were, in part, constructed
by its relationships.

Records, Responsibility, and Quality

The issue of quality was also central to disputes about construction or about the
functioning of machinery, but was different in two distinct ways from disputes
about farm products. Unlike asparagus, barley, or livestock, quality in newly built

⁵⁹ Besides the sources cited in the previous note, Zeugenverhör und Requisition, 10 Sept. 1874,
testimony of farmer Jacob [Kiesbart?] II of Kriegsheim, Forsetzung, 11 Sept. 1874, testimony of
Jacob Schlüsser, farmer in Kriegsheim. The many farmers of Kriegsheim who testified on 10 and 11
Sept. 1874 all praised Scherer as an honest and upright man who had extremely strict standards in
selecting asparagus.

1875. For more definitive judgments, ibid., Expertenbericht, 21 Sept. 1875, and An die Königl.
Handelsgerichts Kanzlei Frankenthal, 11 Mar. 1875.
houses, steam engines, waterwheels, or musical instruments (to take some objects of dispute) was not transmutable into cash. There are no recorded instances of a contractor, manufacturer, or wholesaler offering or of a customer demanding a discount for a poor-quality product. Quite the opposite, the aggrieved customer insisted, often repeatedly, on replacement or repair.

This refusal to trade cash for quality did not mean that the monetarized market for construction or manufactured goods was less developed than that for agricultural products. Particularly when it came to construction, a contractor could negotiate a definitive price with his client. Probably more commonly, construction was done in Akkord, the German phrase also referring to piece-work. That is, the construction would be priced by the cubic metre built. Repairs or additional work could be appraised accordingly.\(^{61}\)

The second major difference with contracts about farm products was that the quality of the objects in dispute was the result of human labour; ultimately, it was the labour itself that was at issue. To be sure, the quality of labour might lurk in the background of disputes about farm products. In the asparagus lawsuit discussed above, the farmers of Kriegsheim understood Dürkheim dealer Wagner’s rejection of his contractor Scherer’s asparagus shipments as an aspersion cast on their farming abilities, and they indignantly rejected the notion, insisting that they grew top-quality asparagus. However, Wagner himself never cast such aspersions. He had no doubt that the farmers of Kriegsheim were perfectly capable of growing good asparagus; he just thought that Scherer, in violation of his contract, was selling this good asparagus to another dealer and shipping him poor-quality product.\(^{62}\)

By contrast, the quality of human labour stood at the very centre of court cases involving construction and manufactured goods: whether a building ‘violated the rules of the art of construction’ [Regeln der Baukunst], whether the construction or repair of industrial machinery was ‘carried out as a master [of his craft] would’ [meisterhaft ausgeführt].\(^{63}\) Filing a lawsuit, of course, implied that the construction was not quite so masterful, and more often than not, there was clear physical evidence of this fact, in the form of cracked and sunken walls or defective machinery. Consequently, cases revolved around fixing blame, the client alleging poor-quality work, the manufacturer or contractor trying to turn the accusation back on the client.


\(^{62}\) For a similar example, involving a dispute over whether a cow sold was intractable, or just being treated improperly, see J6/1173, Gegen Zeugenverhörprotokoll, 18 Feb. 1865, testimony of Barbara née Boell, wife of the farmer Jacob Muth VI of Obrigheim, of Friedrich Jost, tavernkeeper and farmer, and of Simon Leopold, broker and dealer, both in Grünstadt.

Most building complaints centred on that chronic construction issue, foundation problems. These were particularly apparent when the problems threatened the structural integrity of the building in question, when basements were in danger of collapse, exterior walls were bowing outwards, ceilings, floors, and interior walls were deeply cracked, and windows and doors did not fit.\footnote{For an example of a smaller foundation problem, see the testimony in J6/1169, Zeugen-Verhör-Eröffnungs-Protocoll, 5 Dec. 1860, Gegen-Zeugen-Verhör Eröffnungs-Protocoll, 5 Dec. 1860.} It might seem difficult to maintain in these circumstances, as did the construction foreman Sebastian Schläfer in 1874, in a case concerning structural problems and delays in the building of a malt factory in Berghausen, that the masons' work was 'well and masterfully executed'.\footnote{J6/1179, Hauptzeugenverhör-Protocoll, 1 June 1874, testimony of Sebastian Schläfer, construction foreman in Neukirchen.} The problems, Schläfer suggested, were the fault of the construction engineer who drew up the plans. In other cases the problems were blamed on the clients, who, in their rush to get the structures built in time, had insisted that construction be carried out in the damp and wet winters, when construction work usually ceased, and as a result of which sinking of the foundations was unavoidable.\footnote{J6/1170, Eidesabnahme, 23 Aug. 1861; J6/1179, Expertenbericht, Speyer, Nov. 1874.}

In these, and in construction contract disputes not involving foundation work, we can observe a tendency to blame the client or, at times, other contractors.\footnote{J20/383, Attorney Blüthe to Amtsgericht Kaiserslautern 19 Apr. 1908; Zeugenverhör-Protocoll, 17 Aug. 1874, \textit{passim}; J6/1156, Expertenbericht, 1 Sept. 1838.} Similarly to livestock disputes, construction cases were frequently resolved by expert opinion, in which a court-appointed panel would consider the building debacle and apportion blame in the light of the best construction practice. This procedure was inherently problematic for the builders, since it brought to the fore their simultaneous claims that their work was masterful and that the construction problems were someone else's fault. As the experts noted in their report on the Berghausen malt factory dispute, if the masons were as expert as the contractor and his foreman claimed, then they and their supervisors should have recognized that the construction engineer's plans were seriously flawed.\footnote{J6/1180, Experten-Protocoll, 31 Dec. 1874. Other such reports, containing revealing discussions of workmanship: J6/1157, Experten-Bericht, 11 Nov. 1840; J6/1169, Experten. Protocoll, 13 May 1861; J6/1180 Experten-Gutachten, 16 July 1875.} The ideal of masterful work clashed with the capitalist realities of the construction business—the client's money, the division of labour with other contractors—in particularly sharp fashion in the Palatinate, a German region in which the guilds, conservers of the ideals of craft mastery, had been abolished since the days of the French Revolution.

This clash between supplier and customer was also characteristic of disputes over manufactured goods, although with a twist. Construction customers were the passive consumers of their contractors' products; their asserted fault lay in how they carried out the building transaction. By contrast, using a piece of machinery
meant maintaining and repairing it, and manufacturers were not shy about asserting that the purported defects in their devices were the result of the ignorance and incompetence of their customers. Such legal cases became a confrontation between two social milieux: the manufacturer and his skilled workers against the customer, his often unskilled labourers, and the local artisans who serviced and repaired the equipment. Court-appointed experts frequently served as referees, although their decisions might highlight the differences between the two social milieux as much as they apportioned blame.

These sorts of legal disputes occurred over many different kinds of problems with manufactured goods, but conflicting assertions between two different social milieux were most pronounced, most evident, and most tangled in a legal genre that I would call lubrication cases. In 1859, the machine factory Hemmer Heft & Company in Frankenthal built and installed a new water-works for the associated cloth manufacturers of Lambrecht-Grevenhausen, west of Neustadt. From the moment of its installation, the machinery worked poorly. When the water in the Speyerbach, the stream that drove the waterwheel, was low, the machinery did not work at all; during high water, the factory was regularly flooded. The cast-iron transmission shaft carrying power from the waterwheel to the factory looms and spindles broke in two. The manufacturer replaced it but the replacement broke as well. The plug connecting the transmission shaft to the bearings became stuck in the bearings so that they could not move at all. The struts holding the scoops of the waterwheel onto the wheel broke off; the scoops themselves were wobbly and shook, until they were fastened to each other with iron braces and screws. Because of these persistent problems, the cloth factory was out of commission for weeks at a time.

Adam Hübel, an industrial equipment maker in Lambrecht who built the waterwheel under the direction of the Frankenthal manufacturers, told them that the struts would not hold the scoops, but Philipp Hemmer ‘explained to me that I should make it exclusively according to the plan’. He and other craftsmen of Lambrecht, who had made some of the repairs, insisted that the machinery was fundamentally defective, the first transmission shaft, for instance, being installed even though there was a large crack in it.


70 A brief contemporary description of the manufacturing there in Becker, Die Pfalz und die Pfälzer, 151–2.

71 J6/1169, Fortsetzung, 23 Feb. 1861, testimony of the factory workers and day labourers Friedrich Schugert, Johann Schmahl, Georg Schöning, Anton Detscher, Ferdinand Sperling, Johannes Streb, Joseph Braun, Jakob Leidner, Friedrich Knoll, and Lorenz Davidshöfer, all residing or at least working in Lambrecht-Grevenhausen.

This was not the case according to the machinist Wilhelm Litters, who was in charge of the installation of the machinery. ‘I was commissioned to make everything solid and good; every screw and in fact every part went through my hands and I was proud of the works.’ Why, then, did everything go so badly? When he was summoned to make repairs, ‘On closer investigation I saw that the plugs had eaten into the metal bearings. The lubrication channel was completely filled up with resin so that I had to poke my way through it with a firm piece of wood. For six to eight weeks, not one drop of fat had got into the channel, although I had strongly recommended that the machinery be lubricated.’ He noted some smaller problems, such as excessive water being let into the waterwheel, and recommended that the manufacturers hire someone competent to oversee the machinery, since the factory foremen evidently understood nothing about it.⁷³ The cloth factory workers, ironically, called as witnesses by the attorney for the machine manufacturers, hotly denied this accusation, and insisted that they had lubricated the machinery extensively, with a wide variety of lubricants.⁷⁴

This same situation repeated itself almost exactly fifteen years later in technologically more sophisticated form, with a steam engine built by Dingler’s machine shop in Zweibrücken (a pioneering Palatine manufacturing establishment) and installed in the grain mill of the firm Bernhard Correll and Sons in Neustadt. The steam engine bucked and shook to such an extent that windows in the mill fell out, arches in the building crumbled, walls developed cracks, and passers-by could hear the rumbling and shaking in the distance. Correll’s stokers complained that the engine consumed wildly disproportionate amounts of coal and the bearings became so hot that they started smoking, and it was necessary to pour cold water on them to prevent a fire. Dingler’s installer, sent to make one in a long series of repairs, asserted that ‘The old cylinder was in a condition that I have never seen, due to the passage of time and, presumably, because of the neglecting of lubrication, it was eaten through.’ In addition, he claimed, sand pumped in with the water to make steam had thoroughly fouled the works. Correll’s workers insisted that they lubricated, extensively, and had to do so more frequently than required in the written instructions. They lubricated so much that they did not always have time for their other tasks. The Neustadt craftsmen, who carried out some of the repairs, denounced the engine for its faulty construction. Summoned by the court to evaluate the situation, a panel of experts discreetly refused to apply blame to either party.⁷⁵

⁷³ J6/1169, Fortsetzung, 28 Feb. 1861, testimony of Wilhelm Litters, machinist in Heidelberg.

⁷⁴ Calling the cloth factory workers to testify was a deliberate strategy of the attorney for the machine factory (ibid.) and it backfired to such an extent that he tried, unsuccessfully, to prevent his own witnesses from testifying.

⁷⁵ J6/1180, Gegenzeugen-Verhoer, 12 June 1875, esp. testimony of Ludwig Schneider, installer of Bubenhausen, and Johann Bernhard Strauss, mill-wright of Neustadt; Zeugen-Verhoer-Protocoll, 7 June 1875, testimony of Karl Wentz, court clerk of Neustadt, Friedrich Dachtler, day labourer in Kaiserslautern, Nikolaus Larch, factory worker in Gleisweiler, and mechanic Adam Hillenbrand of Neustadt, Fortsetzung, 12 June 1875, testimony of mechanics Michael Haenfner and Carl Wiesser of Neustadt; Experten-Bericht, 25 Oct. 1875.
A Village is Humiliated by its Fire Engine

28 November 1870 was a festive day in Freimersheim, when the village received its new fire engine. The village mayor personally sent his team out to bring the engine into the village, and it received an elaborate tryout, with horses pulling it at the gallop, and water shot out in horizontal and vertical streams. Supervising the test, an important event, since fire was an ever-present danger in villages, was the district construction inspector Georg Maxon from Speyer and the mechanics teacher Thoma of the Landau industrial institute [Gewerbeschule]. They attested, in writing, that the product of the engine’s manufacturer, master mechanic Johann Adam Hillenbrand of Neustadt, met all the contractual requirements of good and solid construction.⁷⁶

Or, perhaps not. Small complaints emerged at the initial trial. The two pump handles on either side of the engine were too short and not properly curved, making it difficult for the villagers to man the pumps effectively. The iron connecting piece, bringing together two sections of fire hose, leaked badly. Water spurted out of one of the pistons. These relatively small problems were repaired, but as time went on, it became ever more difficult to work the pumps. The engine had to be sent to Neustadt for repairs. Returned to Freimersheim, it was tried out the following Sunday, when everyone in the village could watch, and the repaired engine did well on this test, except for a fire hose that continuously leaked.⁷⁷

The patience of the Freimersheimers, already a little tried, came to the boiling point on 22 June 1873, another festive day. The villagers of Venningen came to Freimersheim with their fire engine to test it against their hosts’ engine. Also present were the volunteer firemen of the nearby town of Edenkoben, who would direct the villagers in their exercise. As chimney sweep Ludwig Bonn, commandant of the volunteer fire brigade of Edenkoben, was leading the Freimersheimers in their pumping, setting the pace for them to move the handles, and a stream of water was beginning to emerge from the hose, there was a loud crack, and the top of the air chamber gave way and flew off to one side, and all the water poured out, bringing the festivities to a sudden and embarrassing conclusion. Although mechanic Hillenbrand did repair the air chamber, it meant yet another absence of the fire engine from the village, and on its return it still did not work well, so the village finally sued for breach of contract.⁷⁸

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⁷⁸ Besides the sources cited in the two previous notes, Hauptbeweiszeugenverhör, 21 Mar. 1874, testimony of Ludwig Bann, chimney sweep, and Jakob Nufer, mechanic, both of Edenkoben.
The issue in the trial, as should now be familiar to the reader, was the responsibility for the problems with the engine. Adam Hillenbrand’s teenage son Julius, who had been sent by his father to investigate the initial complaints, explained that he found the engine ‘full of dirt, for in the air chamber as well as in the cylinder there was a lot of sand and dust, which can easily get into the engine from the street’. Not only that, but he was informed that the village blacksmith had lubricated the engine with inappropriate ‘ordinary oil’. All of these measures had produced cracks in the cylinder and the pistons. In addition, as Julius and other defence witnesses pointed out, the villagers stored their engine in the village hall, just closed off with a screen door from the tobacco measuring room and a coal storeroom. If that were not bad enough, they let the hoses dry out while lying on the dirty, dusty floor, so it was no surprise that the engine was not working well.\(^7^9\)

This account did not explain the explosion of the top of the air chamber, but master smith Walter Becker of Neustadt knew why that had happened: ‘this could only have been caused if an unskilled and clumsy [ungeschickt] man had closed the valve [connecting the water chamber to the hose] instead of opening it.’ To the skilled craftsmen of Neustadt, the problems with the fire engine occurred because Hillenbrand’s customers were peasants, a bunch of yokels who did not understand the difference in lubricants, were careless and filthy, and awkward, clumsy, and rather stupid to boot. Although Hillenbrand had built his engine especially for them, making it larger and more durable than those used in cities, in view of the expected rural mishandling, the villagers of Freimersheim had still ruined it. Not just that, but they were greedy and corrupt as well. One of Hillenbrand’s witnesses, a villager evidently at odds with his fellows, claimed that a village official had requested Hillenbrand increase his bill for the fire engine by 100 fl. and kick back the amount to him. The lawsuit was his revenge for Hillenbrand’s insistence on fair and honest dealing.\(^8^0\)

The villagers were not going to let that characterization of them sit. They maintained that they carefully dried their hoses, hanging them out of the window of the village hall or from hooks, after first cleaning them. As directed by the village blacksmith, they regularly cleaned and lubricated the engine and stored it carefully covered with a cloth, to keep dirt and dust off it. The village blacksmith himself was just as competent as the Neustadt craftsmen, and could ensure that the engine was well maintained, while recognizing the defects in manufacturing. The villagers certainly knew which way to turn a valve, and since water had been coming out of the hose before the cover of the air chamber blew off, the valve must have been in the right position, as the volunteer firemen of Edenkoben, who had been leading the trial of the fire engine, could testify.\(^8^1\)

\(^7^9\) J6/1179, Fortgesetzt, 2 July 1874, testimony of Julius Hillenbrand, pupil at the industrial institute in Neustadt, as well as the witnesses cited in nn. 76–7.

\(^8^0\) Ibid., testimony of Georg Schrink, day labourer and broker in Freimersheim, and the witnesses cited in nn. 76–7, 79.

\(^8^1\) Ibid., Hauptbeweiszeugenverhörs, 21 Mar. 1874, testimony of Michael Weber, dyer of Freimersheim, and of the witnesses cited in n. 78.
The court did order a panel of master mechanics to investigate the engine. They found it was solidly constructed and worked well. They did find a maintenance problem: the valves, through which water was directed into the hoses, were filled with resin and dried out, making them very difficult to turn, and suggesting that they had not been properly lubricated. In addition, the key used to turn the valves was inserted incorrectly, upside down or backwards, so that it would be easy to turn the valve in the wrong direction. The experts’ findings thus rather supported the assertions of the Neustadt craftsmen that the peasants of Freimersheim were clumsy, awkward, and not very knowledgeable about machinery. Yet Hillenbrand, his son, and his workers, in all their repairs of the fire engine, had not noticed this problem either.⁸²

Once again, we have a confrontation between outside manufacturers and their customers backed up by the local craftsmen. Ironically, master mechanic Hillenbrand, the manufacturer in this case, asserting the quality of his construction and the ineptitude of his customers, played the opposite role in the legal dispute between the Dingler workshop in Zweibrücken and the Correll mill, where he was one of the local Neustadt craftsmen who questioned the quality of Dingler’s steam engine. In contrast to that and other cases involving industrial applications of manufactured goods, the problems with the fire engine were not a constant everyday problem involving production and profit; they were more symbolic and only emerged on individual, festive occasions—not at fires, incidentally. Pride of the affluent village of Freimersheim, symbol, perhaps, of its masculinity, as sixteen strong peasants laboured on its pumps, the fire engine became a source of humiliation when it failed under the eyes of the neighbouring villagers and the knowledgeable volunteer firemen of Edenkoben.⁸³ Precisely because the element of profit and productivity present in other cases of this nature is missing, we can see the contrasting assertions of mechanical competence and masculinity that were present in contractual disputes about industrial products.

If cases about agricultural products show that scalable and quantifiable market relations were embedded within personal relationships and the natural functions of agricultural commodities, these lubrication cases show the opposite side of the coin of property transactions. Embedded within the contractual relationships, the market price, and the careful calculations of profit and loss characteristic of the sale of manufactured goods were unscalable and incommensurable ideals of masculinity, assertions of mechanical competence, and social differences between industrial cities and small towns or villages. This interpenetration of the scalable and the incommensurable, and of market and non-market elements, was a typical feature of the way property changed hands in the nineteenth-century Palatinate.

⁸³ Readers who wish to engage in Freudian speculations about the stream of water are free to do so.
CREDIT

Credit transactions might seem to be very abstract and specialized, involving payment schedules, interest, and amortization, with credit granted primarily by banks and other financial institutions designed for precisely that purpose. While this may be true today, it was definitely not the case in the nineteenth-century Palatinate. The features delineated above in the discussion of transactions in physical commodities were also apparent in credit transactions. These transactions were far from abstract, specialized, or precisely delineated; they were integrally linked to dealing in concrete, physical items and to close relationships between individuals. Financial institutions were distinguished by their absence.

The court files used in this book contain two systematic records of the granting of credit. First there are foreclosure proceedings before the district court in Frankenthal in the years 1831 and 1832. The 200 foreclosures of loans guaranteed by mortgages on real property counted 195 creditors, of whom 190 (97.4 per cent) were individuals. The remaining five creditors were institutions, but not financial ones: the village of Lambrecht, for instance, the poor funds of Oggersheim, or the treasury of the cathedral church of Speyer.84

One might argue that these examples come from the early part of the century when banking services were just used by governments and the very wealthy, but the second group of records, bankruptcy proceedings before the magistrate’s court of Kaiserslautern in the years 1887–1919, shows that at the end of the nineteenth century financial institutions were still not primary providers of credit. Of the 192 files I sampled, 155 included enough information to identify all the creditors of the debtor in bankruptcy.85 In just 37 per cent of these cases were there any financial institutions at all—commercial banks, savings banks, or credit unions—among the creditors. Even when financial institutions were creditors, their claims never reached as much as half of the total debt, and were frequently for meagre amounts, as was the case in the bankruptcy proceedings of the steam-boiler manufacturer Ludwig Hermann of Kaiserslautern in 1899. He owed all his creditors, both secured and unsecured, some 69,800 marks, of which just 225 mk. was to a bank, the Kaiserslautern branch of the Rhineland Credit Bank.86 Indeed, the presence of large bank debts in a bankruptcy case was grounds for suspicion. When the firm Moses Köster of Kaiserslautern, a dealer in textiles and linens, sold by a staff of pedlars—all independent contractors—went bankrupt in 1902, the presence of 28,916 mk. in debt to the banking house Mann & Loeb of Frankenthal (out of about 113,000 mk. total debits) was reason for the receiver to launch an investigation.87

84 J6/1151–2, all records of foreclosures.
85 Sampled files: J20/296–400, 1200–96. A few numbers are missing so the total cases tally 192.
86 J20/1244 I, Inventarium, 20 May 1899.
87 J20/370, Konkursverwalter Dohrn to Kgl. Amtsgericht 3 Nov. 1902, Inventarium 2 Apr. 1903.
The lack of bank credit is perhaps not surprising, since banking in the Palatinate, even c. 1900, was not very well developed. The few private bank houses in the province were small and not all that active; businesses needing bank credits, or, later, wishing to issue shares of stock, went to urban centres in the south-west German economic space, such as Mannheim or Frankfurt. Banking spread through the Palatinate at the end of the nineteenth century largely through the cooperative movement, and most banking services, even for businesses, were provided by credit unions and savings banks. ⁸⁸

Of course, the fact of bankruptcy proceedings shows that debtors had borrowed money—more than their assets, otherwise they would not have been bankrupt—so if the loans were not coming from financial institutions, then who was granting the credit? One answer, as we saw in the previous chapter, was family members and in-laws. In the Moses Köster bankruptcy, the curious receiver found out that the owners of Mann & Loeb were relatives of the debtor in bankruptcy’s mother. They funded her husband, who had begun the business, and continued to do so after his son took it over. Worried about their credit, they were trying to reduce their commitments, which ‘no doubt would have happened if they had not had to take into account their relations with relatives, especially with the mother of the debtor in bankruptcy’. ⁸⁹

The other major group of creditors was suppliers. As the bankruptcy records show, they generally demanded payment in three months, with a small discount for the immediate provision of cash. ⁹⁰ The bankruptcy records also show that the businesses in bankruptcy had granted credit in turn to their customers. Before the very late twentieth-century introduction of widespread consumer credit in Germany, running a tab with a retailer had something of a proletarian connotation, but there were plenty of instances in which an eminently bourgeois clientele did this as well. When the shoe-store owner Josef Reiland in Kaiserslautern went bankrupt in 1906, customers who owed him money included the industrialists Jakob Holmsänger, Heinrich Lehmann, and Heinrich Münzinger, the attorneys Herdel and Dr Wertheimer, the business agent and legal adviser Georg Mohr (frequently named by the court as a receiver in bankruptcy cases), several physicians, a brewery director, schoolteachers, an estate steward, senior salaried employees, and a large number of master craftsmen and government officials. ⁹¹

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⁸⁹ As in n. 87.

⁹⁰ This credit might take the form of the customer paying with a three-month note [Wechsel], which the supplier could discount at a bank for cash, so that financial institutions could be involved indirectly in the granting of credit. However, individuals could discount such notes as well. Cf. J6/1179, Zeugenverhör, 11 Apr. 1874, testimony of the gentleman farmer Carl Tillmann of Mutterstadt.

There are three aspects of credit transactions that emerge from these observations stemming from the two systematic groups of legal records concerning credit, and supported by the very frequent references to credit transactions scattered throughout court records. First, and most important, credit typically involved a transaction between individuals. This transaction might have been personal and face to face, as was the case in rural society, among the lower classes, in retail, and in dealings of Palatine businessmen with each other; or it might have been more distanced, as would have been the case for credit granted by outside suppliers to their Palatine customers.

Second, credit was both ubiquitous and diverse. Money was constantly being borrowed in the nineteenth-century Palatinate in many different ways and for equally many purposes. Granting credit might form a transaction in and of itself. Loans were made in large and small amounts; the loan money might be paid out all at once or in instalments; the loan could be secured or unsecured, with a fixed repayment schedule or callable at the wish of the creditor; it could have been contracted directly from a lender or brokered through a middleman, to mention just a few variations. The granting and taking of credit, however, also occurred in conjunction with other transactions: commercial credit granted by suppliers in the bankruptcy records, running a tab with a baker, butcher, or innkeeper, real estate purchases, at auction or otherwise, where the purchase price was paid to the seller in yearly instalments plus interest, sales of livestock on credit, once more to mention just a few examples. Indeed, so common were sales on credit that expectations of cash payment, particularly in larger transactions, were noted explicitly. At times, it could be difficult to differentiate the credit from the purchase to which it was attached.

Finally, while credit transactions certainly involved expectations and calculations, whether explicit or implicit, of profit and loss, and of risk and security, these occurred within a context created by family ties, the meeting of social milieux, and the customs and culture of transactions, as outlined earlier in this chapter. In all these respects, credit formed a dense network running from individual to individual, from family to family. Not just a financial transaction—although certainly that—credit was an essential part of the connective tissue of nineteenth-century civil society.

It is difficult to overstate the involvement of the legal system with credit transactions. Most directly, and at the lowest level, this involvement occurred when debtors did not make their expected payments. As the legal historian Christian Wollschläger has shown, about two-thirds of the civil cases coming before the justice of the peace in Xanten, in the northern part of the Prussian Rhine Province (an area, like the Palatinate, of the civil validity of the Napoleonic

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Code) during the years 1826–30 dealt with cases in which debtors did not make their payments, most of them involving sales on credit.⁹³ Comparably preserved records from the Palatinate are lacking, but both fragmentary remains of the magistrate’s court of Neustadt from the middle of the nineteenth century and the official published statistics from the turn of the century suggest a similar state of affairs.⁹⁴ These courts of first instance dealt with debt-related seizures and repossessions, the most important way that credit transactions left traces in the legal records. Higher-level district courts, and magistrate’s courts acting in their capacity as bankruptcy courts, did not take up with these matters directly, making impossible a statistical analysis of the sort Wollschläger performed; nonetheless, cases coming before these courts illuminate the nature of credit as a network connecting civil society.

A Transaction between Individuals

Confidence or trust [Vertrauen] was necessary for one individual to grant another credit. In 1833, the dealer Alexander Kahn of Speyer went to Mannheim to pick up a load of sugar from the wholesaler Wilhelm Bodani, but the latter informed him he no longer had ‘confidence’ in Kahn and would not extend him three months’ credit but would insist on cash. Although the master mason Friedrich Sander of Speyer had declared bankruptcy in 1868, the iron goods dealer Peter von der Heydt had ‘confidence’ in Sander’s willingness and ability to pay off his debts and continued to extend him additional credit.⁹⁵

This notion of trust or confidence implied a personal, face-to-face relationship, in which the creditor could assess both the personality and the property of the debtor. The validity of such an assessment was important. The flour dealer Johann Paul Heck of Frankenthal went bankrupt, because he placed ‘too much

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⁹³ Christian Wollschläger, ‘Streitgegenstände und Parteien am Friedensgericht Xanten 1826–1830’, in Gerhard Köbler and Hermann Helsen (eds.), Wirkungen europäischer Rechtskultur: Festschrift für Karl Kroeschell zum 70. Geburtstag (Munich: Beck, 1997), 1425–51. Wollschläger’s description of these cases as being about ‘consumer credit’, however, seems to me to be anachronistic, imposing twentieth-century categories on nineteenth-century society.


⁹⁵ J6/1153, Protokoll über eine Zeugenverhör, 5 May 1834, testimony of Balthasar Mannhardt, master mason of Speyer; J6/1179, Haupt und Gegenverhoer Protocoll, 23 Mar. 1874, testimony of iron goods dealer Peter von der Heydt. Similar ideas, although sometimes expressed in somewhat different language, J6/1157, testimony given 27 May 1840, by carpenter Heinrich Wahl of Rödersheim; J6/1179, Fortgesetzt, 18 Nov. 1873, testimony of Ludwig Gluck the elder, gentleman farmer of Meckenheim; J6/1180, Eidesausschwörung, 29 Oct. 1875; J6/545, Protokoll, 3 July 1900, testimony of the leather dealer Ludwig Moos of Neustadt. There is a brief mention of this kind of trust in Ute Frevert (ed.), Vertrauen. Historische Annäherungen (Göttingen: Vandenhoeck & Ruprecht, 2003), 43–4, but in general the results of the researches of Professor Frevert’s team, as documented in this volume, are not very relevant to the role of trust in granting credit.
confidence’ in his customers, and extended them credit that they could not repay. The dealer Aaron Berg of Obrigheim, receiving via a middleman a request for credit from the brick-maker and coal dealer Berthold Dullens of Dirmstein, replied that he did not know Dullens personally, so that he would only lend if a third party would guarantee the debt.

Lacking immediate personal knowledge, a potential creditor might need an investigation to obtain the confidence needed to lend money. The obsessively accumulating peasant paterfamilias Johann Georg Schott, whom we met in the last chapter, encountered in the fields one day the farmer Heinrich Noll, originally from neighbouring Leistadt. Schott immediately enquired about the assets of several inhabitants of the village to whom he had lent money or who had requested loans from him. The cheese merchant Max Notz of Sonthofen, appearing earlier in this chapter, making deals on spoiled Limburger cheese in 1871, took a trip to Mannheim three years later, in the course of which he developed a business relationship with the tavernkeeper Michael Franz of Maxdorf, who specialized in retailing spoiled cheese at a discount. At first Franz paid Notz for the cheese in cash, but when he wanted to purchase on credit, Notz made enquiries in Oggersheim, after which he would only grant Franz credit if his wife would co-sign the note. The merchant Friedrich Strumpf of Mannheim, who was not so careful, got stuck with a three-month note from Franz that could not be redeemed when it was due.

Trust thus involved a critical attitude about evidence gathered from experience or investigation; it was not to be confused with granting credit from good-natured naivety [Gütmuthigkeit], to someone who could not pay. Investigations might lead to the conclusion that a potential borrower needed a guarantor, or co-signer. In a peculiar incident in 1874, once again involving cheese sales, the cheese manufacturer Josef Greif of Kaufbeuren in Alpine Bavaria enquired of the dealer Isaak Allenberg in a tavern in Hettenleidelheim about the finances of the cheese dealer Karl Spanier. Allenberg said something to the effect that Greif could send Spanier cheese. Was Allenberg verbally guaranteeing for Spanier or just vouching for his credit-worthiness?

The enquiries of Greif and Notz, both outsiders from trans-Rhenan contiguous Bavaria, point to the fact that a creditor's trust in a debtor, whether gained from evidence gathered from experience or investigation; it was not to be confused with granting credit from good-natured naivety [Gütmuthigkeit], to someone who could not pay. Investigations might lead to the conclusion that a potential borrower needed a guarantor, or co-signer. In a peculiar incident in 1874, once again involving cheese sales, the cheese manufacturer Josef Greif of Kaufbeuren in Alpine Bavaria enquired of the dealer Isaak Allenberg in a tavern in Hettenleidelheim about the finances of the cheese dealer Karl Spanier. Allenberg said something to the effect that Greif could send Spanier cheese. Was Allenberg verbally guaranteeing for Spanier or just vouching for his credit-worthiness?

The enquiries of Greif and Notz, both outsiders from trans-Rhenan contiguous Bavaria, point to the fact that a creditor's trust in a debtor, whether gained from

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personal experience, enquiries, testimony of a third party, or the accumulated 
expertise of a business agent, was primarily the result of knowledge of a locality 
and of face-to-face dealing; it was not much help to suppliers and wholesalers in 
Berlin, Hamburg, or even Mainz in deciding whether to advance credit to their 
customers in the Palatinate. To be sure, by the beginning of the twentieth century 
there were agencies, such as the ‘Credit Reform Association’, that provided assess-
ments of the credit-worthiness of businesses. To judge by the way that unsecured 
creditors got stuck in bankruptcy proceedings, often recovering 10 per cent or less 
of their claims, these agencies did not work entirely effectively. A gap remained 
between the knowledge of credit-worthiness, stemming from the face-to-face 
dealings of individuals, and the broader scope of German commerce.¹⁰¹

This idea of credit as a personal transaction between two individuals also 
influenced attitudes of debtors. Over and again, one finds debtors claiming, with-
out ever being able to produce any written evidence, that their creditors had 
offered them easier terms. Almost a complete summary of debtors’ wishes comes 
from Valentin Schneider, state registrar \[Registrator\] of Speyer, who maintained 
that his creditor Jacob Werner Sr., estate owner of Harschbach, had agreed to 
let him pay his debts in several instalments. These payments would be easier, 
because Werner had renounced interest on the debt, so that Schneider would just 
have to repay the principal and that ‘as his circumstances permit, without becoming 
as a result \[financially\] embarrassed’.¹⁰² These three points, the rescheduling 
and stretching out of obligations, the renunciation of interest—and sometimes, of 
portions of the capital—and the accommodation of the loan to the personal cir-
cumstances of the debtor, were typical of this genre of debtors’ claim, or perhaps 
one should say, fantasy.

The whitewasher \[Tüncher\] Heinrich Walter of Dürkheim maintained that his 
creditor had offered him a one-year moratorium on the payment of capital, after 
frost destroyed the grapes in his vineyard in 1851. The contention of the farmer 
Philipp Hass of Haßloch, that his creditor, farmer Peter Müller of the same village, 
had agreed not to charge him interest for twenty years, was particularly feeble. 
Much more ingenious was the assertion of the farmer and innkeeper Joseph 
Nieser of Otterstadt, who had borrowed money from the road maintainer 
\[Wegwart\] Philipp Engels, money that Engels was administering as a guardian. 
Nieser claimed that Engels told him he should pay the loan back to his ward, but 
only when the latter came of age.¹⁰³

¹⁰¹ Mention of the Credit Reform Association in J20/328–2, claim of Peter Mingen in 
Kaiserslautern. An example of suppliers’ granting extensive credit to a questionable Palatine customer, 
J20/1262, Bericht des Konkursverwalters, 29 Nov. 1912. ¹⁰² J6/1158, Eid, 6 Nov. 1844. 
¹⁰³ J6/1171, Eidesleistung, 12 Sept. 1862; J6/1170, Eidesleistung, 10 Aug. 1861; J6/1173, 
Eidesleistungs-Protocoll, 14 Aug. 1865. Similarly, J6/1157, Eid, 7 Apr. 1840, Eid, 17 Aug. 1840; 
J6/1158, Eidesabnahme, 9 July 1843; J6/1169, Eidesleistung, 5 Apr. 1861; J6/1171, Protokoll über 
1862, J6/1171, Protokoll über Ausschwörung eines Eides, 5 May 1862; J6/1173, Eidesleistung, 
8 Sept. 1865; J6/1173, Eidesleistungsprotocoll, 3 Feb. 1865; J6/1178, Verhandelt beim Königlichen
In some of these cases, there may have actually been discussions of new terms. Creditor Werner Sr., for instance, had agreed to suspend temporarily the court order he had obtained for the seizure of his debtor’s assets, but this was a far cry from debtor Schneider’s much more far-reaching and improbable assertions. Rather, these debtors’ claims made use of the prevalence of verbal transactions in the Palatinate, and the mutual trust implied by them (as we have noted earlier in this chapter), to attempt to realize their wishes for a lifting of the burden of debt. There was also, in these debtors’ claims, a constant reference to credit as an interpersonal relationship, in which creditors would recognize debtors’ hardships and grant them the necessary concessions so that they might work their way out of their hard times.

Palatine debtors, in making these assertions, did have a point. Credit was a person-to-person transaction. Terms of credit and the current state of a loan could be extremely vague, and open to interpretation. Particularly in lending money to family members, as happened so often, creditors were willing to make concessions and show understanding for debtors’ difficulties. None of these points, however, could negate the fact that lending money was a business transaction, involving calculations of profit and loss. Just as there was a gap between the personal knowledge needed to place trust in a debtor and the business practice of supplying distant customers on credit, so there was a gap between the interpersonal form of credit and its rational, calculated content.

An Innkeeper and his Co-Signer Make a Deal for Wine

Martin Benz of Diedesfeld was a wine broker, one of the many middlemen in the Palatine economy of the nineteenth century. In Ludwigshafen on business during Easter week of 1874, he was approached by an acquaintance, the teamster Emil Werner, who informed him that Christian Machwürth, newly arrived in town, and having just opened a tavern, was looking for wine to purchase. Benz agreed to take them to Diedesfeld to speak to the gentleman farmer Jacob Wassemer, who had wine to sell. When Benz informed his brother-in-law, a ticket taker at the Ludwigshafen railway station, as the latter told the court, ‘I reproached him for getting involved with a man like Machwürth, whom he could not know, for he was just here for a short time, to which Benz answered, Werner is coming along and he


is good for it.’ In this brief exchange between Benz and his brother-in-law, we can see the role of confidence in credit transactions, based on personal knowledge of a potential debtor and the importance of having a guarantor.

In Diedesfeld the following day, Machwürth and Wassemer quickly came to agreement about the wine, only Machwürth had no cash with him. As Benz explained in court, ‘In the wine trade, at least when dealing with unknown parties, it is customary to pay in cash.’ Wassemer told broker Benz that he was acquainted with Werner but not Machwürth. He would need a guarantee from the former. Benz went to Bossung’s tavern in Diedesfeld, where Werner asked him how things were going, and Benz replied that everything was fine, except for the question of payment, rubbing his thumb and forefinger together in a reference to the need for money. Werner said he was good for it, although the question later arose of his mental state at the time he made the remark. Some witnesses maintained that he was perfectly sober; others asserted he was so drunk that when he left the tavern he fell over onto the ground several times.

Benz having obtained this guarantee, Wassemer sold Machwürth the wine, taking in payment the latter’s two-week note. When the note came due, Machwürth could not pay. There was the danger that his other creditors would seize Wassemer’s wine. Machwürth’s wife Elisabetha née Dieder approached Benz and asked him if he would sign a contract purchasing the wine, thus taking on the debt, but rendering the wine immune to Machwürth’s creditors. Machwürth and his wife could then sell it for Benz in their tavern on commission. Benz, very sensibly, refused this proposal, which blurred the distinction between an agent and an independent proprietor; instead, he took Frau Machwürth to see Wassemer. There, she told Wassemer’s sister Maria, who lived with him, ‘that she would cover it [her husband’s note], that the money is not lost, I am good for it, you can take the clothes from my back’. As she explained to Maria Wassemer, and later to Maria’s brother and to Benz, she was her husband’s second wife and had signed a marriage contract with him, so that her property was safe from his creditors. Even better, she had not received her property yet (presumably her share of an inheritance), so that she could guarantee her husband’s debt. In the end, neither she nor her husband paid—in fact, they both seem to have skipped town—leaving Wassemer no choice but to take the guarantor Werner to court and litigate the validity of his verbal guarantee.

Distant suppliers of Palatine businessmen had to grant them credit without any personal knowledge of their credit-worthiness. In this case, we can see how Palatines did business with each other, via informal networks of personal acquaintance and

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¹⁰⁶ Besides testimony cited in previous note, ibid., testimony of Josef Georg, tavernkeeper of Ludwigshafen, and Johannes Mohr, butcher of Mittelhembach.

¹⁰⁷ Besides sources cited in two previous notes, ibid., testimony of Maria Wassemer, single, without occupation, in Diedesfeld.
relations by marriage through which transactions were made and credit was granted. The trust a creditor needed to lend money was generated by personal experiences in and investigations made through these networks. Information in this way—from a not entirely sober guarantor in a tavern or from a wife defending her husband’s interests—might not always be ideal for the calculations of profit and loss involved in lending money.

Credit and Multiple Transactions

The lack of clarity about the terms of a loan or the state of its repayment was only increased when the granting of credit, as was very often the case, was part of a broader group of transactions. Most generic was the contrast of claims and counter-claims. Philipp Sutter of Frankenthal owed Georg Baumgärtner of Frankenthal 178 marks for seed potatoes, as well as additional sums for spreading manure on his fields, but because Sutter ‘has a counter-claim [Gegenrechnung] on me, for that reason I have demanded nothing [for the past six years]’.¹⁰⁸ This mutual granting and taking of credit, or reckoning of goods and services against a debt, was a characteristic of transactions in the Palatinate, found from the 1820s through to the beginning of the twentieth century, in smaller, informal transactions among neighbours and between shopkeepers and their customers, in larger dealings among merchants and estate owners, and in loans made among family members.

Looking more closely at multiple transactions connected with credit, we can observe a pattern, in which a creditor purchased goods or services from a debtor, and deducted the amount from the debt. The brick-maker Jacob Schreiner of Grünstadt owed the rentier Philipp Kurz of Eisenberg in 1838 some 25 fl. that remained to be paid on a note [Wechsel], plus 12 fl. back interest, costs from the court action Kurz had taken to ensure payment, as well as various other obligations. Kurz had taken part of the money owed in the form of building supplies. During the 1840s, the farmer Wendel Postel of Haßloch tended the fields that Elisabetha Postel had received from her father in usufruct. She deducted the wages for his service from the interest on the 876 fl. she had lent him.¹⁰⁹ A variation on


this form of transaction involved an affluent estate owner-debtor, at the request of his farmer-creditor, using the money he owed his creditor to pay off the obligations his creditor had contracted to third parties. After a number of such payments, often over a period of years, the roles of debtor and creditor were reversed.¹¹⁰

This last example suggests something of the problematic features of multiple transactions involving credit. If a debtor, instead of making payments in cash, paid in goods or services, these first had to be assigned a price, a process involving negotiations between debtor and creditor, in which the latter would naturally have the upper hand. The farmer Adam Deutschel of Altripp tried to pay his 475 fl. in debts to the dealer Salomon Löb Sondheimer of Mannheim in kind following the harvest of 1839, but as Sondheimer told him, while the two were standing on the Planken, then as today the main street of Mannheim, ‘the thousand bundles of straw and the seventy Malter of barley which you have brought me do not suffice for the debt’. All Deutschel could reply was, ‘if they do not suffice, then we must settle accounts with each other, Herr Sondheimer’.¹¹¹

There was an additional problem with paying off debts with goods and services, namely that these could not then be sold for cash. If debtors wanted to pay in kind, it was, presumably, because cash was in short supply in the first place. A year before his conversation with Sondheimer, farmer Deutschel came to the storehouse of the army contractor Adolph Haber in Mannheim, and asked Haber’s worker if he would purchase oats. Deutschel admitted that he should bring his oats to Sondheimer, but if he did that, ‘then he would get no money for it’.¹¹²

In the broadest sense, multiple transactions between two individuals, involving a grant or multiple grants of credit, paid off in part with goods and services, offered an advantage to the wealthier and better-educated party, whether the latter was formally debtor or creditor. It was the merchant/dealer, estate owner, or rentier who kept the best, or the only, books, who made payments for the farmer or craftsman to third parties, arranged for the writing up of deeds of sale or liens on property, had them registered with the court, and more generally kept track of the multiple transactions, and the interest payments involved in some of them. They were the only ones who could state just what debts had been contracted, and to whom, whether a delivery of wine or oats had been credited against a debt or paid

for in cash, whether cash they had collected had gone into their own pockets or had been used to pay debts contracted to third parties.¹¹³

The inequity implicit in these situations of complex mutual transactions over a longer period of time between parties with differing amounts of property and education, or access to business services, came to the surface in the transactions continuing for at least five years, from 1833 to 1838, between the vintner Johann Michael Koehler of Gimmeldingen, and the estate owner and village mayor Johann Friedrich Beitz. Approached by Koehler and asked for a balance of their complicated mutual dealings, to see the current state of their mutual debits and credits, Beitz refused. More subtly, the dealer Alexander Löb of Deidesheim, who had repeated dealings with the teamster Johannes Daum of that village over the course of a decade, would only send a partial balance—and would do that in just a few years, rather than on a yearly basis—stating the money Daum owed him for purchases of oats, guano, and harness-work, plus interest, but not Daum’s counter-claims for hauling services or sale to Löb of cattle.¹¹⁴

In American history, the continuation of mutual transactions over a longer period of time without a balance being struck is taken as evidence of an egalitarian, pre-capitalist world view and system of exchange in the late eighteenth and early nineteenth centuries.¹¹⁵ As these previous examples suggest, the practice of not striking balances occurring about the same time in south-western Germany would be difficult to interpret in this way. Rather, it demonstrated the presence of capitalist market relations, albeit ones carried out in a cultural context determined both by the registration requirements of the legal system and by the prevalence of informal, often oral agreements between independent parties, and the distinctly non-egalitarian ability of the more affluent elements of Palatine society to take advantage of market transactions in which granting credit and the sale of goods and services were closely intertwined.

A Creditor and his Debtor have a Love-Hate Relationship

The sculptor and gravestone-maker Fritz Krämer of Grünstadt, known to everyone in town as Marchand, was, in the 1840s and 1850s, constantly involved in credit-related transactions with the dealer Joseph Leopold. Marchand bought from Leopold on credit; Leopold purchased from Marchand at a discount claims Marchand had on his customers that had not yet come due. There were additional transactions. Marchand borrowed money from Leopold via third parties and at

one point Marchand sold a field he owned, and had the purchaser pay the price to Leopold.¹¹⁶

Marchand had ambivalent feelings about his creditor. On the one hand, he was grateful, constantly praising Leopold to his drinking buddies, to the point where it became a standing joke with them. Replying to their ribbing, Marchand stated, ‘No, Leopold is a decent guy [recht ordentlich], he helps me when I need something.’ Another version of this remark had Marchand saying he could not run his business, if Leopold were not there. On the other hand, Marchand clearly resented his dependency on Leopold. He told the surveyor’s assistant Johann Becker, ‘if I were for once just free of this clamp and no longer owed him anything’. The bailiff of the Grünstadt magistrate’s court and his assistant, who were well acquainted with these matters, testified that at times Marchand and Leopold were on good terms, and other times very hostile to the point that Marchand would go around issuing threats against Leopold.¹¹⁷

A considerable reason for Marchand’s alternating feelings about Leopold was that he never knew the balance on their mutual transactions. He told the bailiff’s clerk Carl Wendel, ‘I’m still dependent on him [Leopold]; I have paid but do not know where I stand with him.’ At least three times, Marchand hired people ‘who could do better at writing and calculating than he could’ to go over his records and determine his balance with Leopold. Carl Wendel told Marchand twice that he still owed Leopold a large amount of money, while some years later the surveyor’s assistant Johann Becker informed him that he had paid Leopold over 1,200 fl. too much, ‘provided Marchand’s statements were correct’. And this was a problem, because Marchand’s statements were only partly based on written receipts and partly on his verbal assertions. He once said, ‘If I only had my old receipts again, then I could catch Leopold.’ Perhaps emboldened by the balance Becker drew up for him, Marchand told Leopold, while they were in a tavern, in earshot of a large crowd, that he could prove in writing he no longer owed him any money. In response, Leopold mocked Marchand, saying, ‘You could still become a rich man, what shall I give you as a present today; when you have nothing more and are dead, then you won’t owe me any more money.’¹¹十八

Marchand’s anger at his dependence on Leopold crystallized around the status of Marchand’s house on the Jacobistraße, at the edge of town. At some point around 1850 (the exact date, as will be seen, is unclear) Marchand’s wife had died


¹¹⁷ Testimony of Friedrich Mann, as in the previous note and ibid., Gegenzeugenverhör, 8 Mar. 1862, testimony of surveyor’s assistant Johann Adam Becker, chimney sweep and market master Valentin Ried, bailiff David Baumgaertner, and assistant bailiff August Gardé, all of Grünstadt.

¹¹十八 Testimony of Johann Adam Becker and his wife, the saddler and innkeeper Friedrich Mann, and the bailiff David Baumgaertner as in the two previous notes; ibid., Gegenzeugenverhör, 8 Mar. 1862, testimony of the bailiff’s clerk Carl Wendel and locksmith Heinrich Schreiber of Grünstadt.
childless, and the house she had brought into the marriage was auctioned off at a forced sale. One witness claimed Leopold, acting on behalf of his brother-in-law, was responsible for the sale; another mentioned that Marchand’s in-laws, his late wife’s intestate heirs, ‘wanted to inherit’. (Needless to say, these reasons were not mutually exclusive.) At the auction, Leopold purchased the house. Six months later, he sold Marchand another house, on credit, making a further, rather larger, link in their chain of transactions.¹¹⁹

Marchand never ceased wanting his original house back. In 1859, he even sent his housekeeper round to look at the garden and inform Leopold’s current tenants they would not be there long. He claimed that Leopold had cheated him, asking people before the auction on his original house not to bid on it, so that Leopold could buy it for the lowest price possible and sell it back to Marchand at cost. Then, Leopold had turned around and kept the house. He had openly mocked Marchand, telling a third party about the house, in Marchand’s presence, ‘Marchand owes me money, I calculate the interest. I am just the lord protector, like the Emperor of Austria, the house belongs to Marchand.’ Other witnesses maintained Leopold had said, ‘you will see what a role I am playing with Marchand, as no one else has, so far as the sky is blue. When Marchand has paid and paid, and thinks he has two houses, he won’t even get one.’¹²⁰

Marchand had no written proof that Leopold had promised to sell the house back to him at cost, and his initial efforts to bring suit were met with scepticism. On the day of Leopold’s death, Marchand rejoiced, ‘Now the Jew has croaked, now the oath is worth nothing, now he can no longer swear [that he made no promise to Marchand about resale of the house], now witnesses count in the law, now I have witnesses.’ His legal action was brought against Leopold’s widow Jeanette née Berg, who had carried on her husband’s business, and their minor children.¹²¹

At the trial, the defence sought to impeach the honesty of Marchand’s witnesses, portraying them as his drinking buddies, or people with scores to settle against Leopold and his widow, but it also presented the transactions between Marchand and Leopold in a different light. Speaking for a number of defence witnesses, the saddler and innkeeper Friedrich Mann reported having asked Marchand, if he wanted his house on the Jacobistraße back, why did he not finish paying off the other house he had bought from Leopold? Then, a trade could be arranged. At the auction where the house was sold, Mann and others insisted, Marchand should have brought in someone—perhaps his brother-in-law—to bid

¹¹⁹ Testimony of the saddler and innkeeper Friedrich Mann as in the previous note, ibid., Zeugenverhör, 7 Mar. 1862, testimony of Daniel Zobel II, whitewasher, and of Friederica Lang, wife of rope-maker Valentin Kaub, both of Grünstadt.

¹²⁰ Testimony of Johannette [Allhöhn?] and Daniel Zobel as previous notes, and ibid., Zeugenverhör, 7 Mar. 1862, testimony of broker Gottfried Dreuer and rope-maker Friedrich Kaub, both of Grünstadt (quotations), also, testimony of dealer Isaac Hanf of Kaiserslautern, of journeyman knife-smith Peter Grimm of Neustadt, rope-maker Valentin Kaub, and cabinetmaker Peter Kirch, all of Grünstadt.

¹²¹ Testimony of Johannette [Allhöhn?] as in the previous note and August Gardé as in n. 117, above.
on his behalf, raising the price of the house, so that Leopold could not have acquired it so cheaply.¹²²

Still more revealing was the defence’s explanation for why there were no other bidders than Leopold. The chimney sweep Philipp Wagner, named by Marchand as a potential purchaser, had no need for a house. He had his mother-in-law’s in usufruct, taking over her late husband’s business and living rent free in her house, in return for which he and his wife Louise née Mann would take care of the old lady and give her a gulden in cash every week.¹²³ If the defence thus presented Wagner’s refusal in terms of an intergenerational transfer of property, it had another explanation for the refusal of the neighbour, the roofer Fehringer, to bid. The auction took place, Fehringer said, ‘during the time of the volunteer militias [die Freischaarenzeit]’, the spring of 1849, when the Palatinate was ruled by a revolutionary government. Fehringer did not even attend the auction. He had ‘enough with his own house’, since the revolutionary regime, desperately trying to raise money, had imposed a real estate tax and forced loan, both immediately collectable.¹²⁴ In those circumstances, it would not have required any manipulation on the part of Leopold for few bidders to appear at a real estate auction.

The truth of this last claim is quite unclear, since other witnesses favourable to the widow Leopold placed the auction a few years later in the early 1850s, well after the defeat of the revolutionary movement. The court’s verdict has also not been preserved. Still, the case illustrates the strong personal connections between debtors and creditors that were multiplied by a history of repeated transactions, going on for decades. Marchand’s alternating feelings of gratitude and hatred toward his creditor were the opposite sides of the same coin of dependence, caused by his chronic need for cash to run his craft workshop and his inability to keep his own books. His attempts to break his dependence were met with his creditor’s public mockery, although Marchand’s anti-Semitic outburst in response was only expressed after Leopold’s death. It is not clear whether Leopold actually said that Marchand would pay and pay, but never own a house, or whether Marchand put these words into the mouths of his witnesses, but in either case the sentiments expressed fit precisely the feelings of a debtor enmeshed in multiple transactions with someone who controlled both the capital and the record keeping. Even if no one transaction was inequitable or involved fraud, the impact of repeated multiple credit-related transactions would seem to the debtor as inherently unfair and fraudulent.

¹²² Testimony of Friedrich Mann and Johannette [Allhöhn?], Heinrich Schreiber, August Gardé, and Carl Wendel, as in previous notes; ibid., Gegenzeugenverhör, 8 Mar. 1862, testimony of the saddler and innkeeper Friedrich Mann of Grünstadt.

¹²³ Ibid., Gegenzeugenverhör, 8 Mar. 1862, testimony of Louise Mann, widow of chimney sweep Philipp Wagner

Culture and Social Structure of Credit

The relationship between Marchand and Leopold points to the differences between takers and purveyors of credit. As we have seen from the bankruptcy cases, suppliers and relatives were two major sources of credit. The 1830–1 foreclosure proceedings provide us with information about other kinds of creditors, information that tends to reinforce the discussion just above concerning multiple transactions containing credit. Table 2.1 provides a breakdown by occupation of creditors and debtors. Borrowing money against a mortgage was the practice of a narrow range of social groups, primarily farmers but also craftsmen, these two accounting for about 80 per cent of all borrowers. While a bourgeois element—rentiers, estate owners, merchants, dealers, and state officials—did predominate among creditors, a strikingly wide group of occupations engaged in the practice. Farmers, craftsmen, labourers, and servants accounted for almost a third of those lending money. The foreclosure records, unfortunately, do not give the cash value of the loans, but they must have been considerable enough sums to have been secured by a mortgage and worth the expense and difficulty of registering that mortgage and going through a foreclosure proceeding.

What made a creditor was not just social standing but possession of cash. The cloth manufacturer Jacob Wagner of Lambrecht Grevenhausen had cash in the spring of 1850 and he sought to lend it, against an IOU, or to purchase a loan or accounts receivable [Ausstände] held by someone else.¹²⁵ Less bourgeois Palatines also had cash. Of Johann Georg Schott, the accumulating peasant, ‘Everyone said, the bequeather [Erblasser, i.e. Schott] was a man of money [Geldmann], you could

Table 2.1. Debtors and creditors, according to the 1830–1831 mortgage foreclosures

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Creditors</th>
<th></th>
<th>Debtors</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>No.</td>
<td></td>
<td>%</td>
</tr>
<tr>
<td>Rentier or estate owner</td>
<td>18.5</td>
<td>(36)</td>
<td>1.5</td>
<td>(3)</td>
</tr>
<tr>
<td>Merchant or dealer</td>
<td>24.6</td>
<td>(48)</td>
<td>6.5</td>
<td>(13)</td>
</tr>
<tr>
<td>Official of state or local government</td>
<td>13.3</td>
<td>(26)</td>
<td>0.0</td>
<td>(0)</td>
</tr>
<tr>
<td>Professional</td>
<td>2.1</td>
<td>(4)</td>
<td>0.0</td>
<td>(0)</td>
</tr>
<tr>
<td>Miller or innkeeper</td>
<td>3.1</td>
<td>(6)</td>
<td>4.5</td>
<td>(9)</td>
</tr>
<tr>
<td>Craftsman</td>
<td>11.3</td>
<td>(22)</td>
<td>15.6</td>
<td>(31)</td>
</tr>
<tr>
<td>Farmer</td>
<td>13.8</td>
<td>(27)</td>
<td>64.8</td>
<td>(129)</td>
</tr>
<tr>
<td>Labourer or servant</td>
<td>5.1</td>
<td>(10)</td>
<td>2.0</td>
<td>(4)</td>
</tr>
<tr>
<td>Institution</td>
<td>2.6</td>
<td>(5)</td>
<td>0.0</td>
<td>(0)</td>
</tr>
<tr>
<td>Other, unknown</td>
<td>5.6</td>
<td>(11)</td>
<td>5.0</td>
<td>(10)</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>(195)</td>
<td>99.9</td>
<td>(199)</td>
</tr>
</tbody>
</table>


¹²⁵ J6/1162, Eidesleistung, 5 Oct. 1850.
borrow money from him.'

Even Wilhelmina née Schreiber, the ageing, impoverished, divorced wife of railway worker Georg Herbold of Ludwigshafen had cash, some 700 marks, which she took out of her savings account and lent in 1908 to women in her neighbourhood. This sign of seeming affluence led her husband to petition the district court in Frankenthal to reduce his alimony payments. Wilhelmina’s choices of debtor, though, were poor, in more than one sense of the word. They welshed on most of her loans, leaving her ever more deeply mired in poverty.

Palatines possessing cash lent money directly, but they provided indirect forms of credit as well. Particularly prevalent was the practice of the ‘cession’, by which a person of money would pay cash for an obligation due at some point in the future. A 12.5 per cent discount for longer-term loans was a figure commonly cited. Such cessions were not limited to loans, but included accounts receivable, sales proving difficult to collect, even future rental income from real estate. In this indirect fashion, or, as economists would say, in a secondary market, granting credit, once again from person to person, spread even further through Palatine society.

Credit thus went from those Palatines in possession of cash to those lacking such liquid assets. Usually, this involved handing cash from creditor to debtor down the social scale, or at least horizontally along it. Exceptions to this rule were cause for considerable embarrassment. In 1841, Josephine Countess Bergheim, wife of Albert von Abel, royal Bavarian master forester, borrowed 400 gulden from Georg Hessdörfer, a Rhine boatman in Speyer. It is not clear from the sources whether Hessdörfer was a boat owner or a simple deckhand, but in any event he lent the cash against a signed IOU, making it impossible for the countess to deny her debt to such a social inferior. Her husband, discreetly through a third party, the law student Fränuff, paid Hessdörfer’s wife 200 fl. on the debt. Supposedly Fränuff was ready to pay her another 50 fl., ‘but because of her impudent behaviour


dismissed her’. Abel denied having sent his housekeeper to tell Hessdörfer ‘he should be quiet [ruhig], the debt would be paid by him [the debtor’s husband]’. Because of the reversal of the usual social relationship between debtor and creditor, the latter’s demands for repayment of the debt were hard to distinguish from blackmail.¹²⁹

Less blatant was the dilemma of the merchant Friedrich Jahrans of Speyer and his wife Eva née Frommer. They had a shop selling textiles and branched out in 1873 into garment manufacturing, apparently employing outworkers for that purpose. Following standard commercial practice, they paid their suppliers with notes [Wechsel] probably, as was also standard commercial practice, of three months duration. When the notes came due, though, they often had no cash with which to pay. They turned to the municipal pawnshop, pawning off stock from their store to raise money. This was not standard commercial practice, and Jahrans was clearly ashamed of Resorting to a form of credit with proletarian implications. Hiding his patronage of the pawnshop from the town, he employed the municipal messenger Georg Morgenstern to bring the items in to be pawned. Morgenstern was pledged to ‘strictest silence’, and had to slip out of the rear door of Jahrans’s shop with the packets of clothing, and was instructed not to inform the appraiser in the pawnshop whose objects were being pawned. Once he had the cash, he had to hurry to the bailiff and pay off Jahrans’s notes before his creditors attached his possessions.¹³⁰

Morgenstern explained in his testimony that the Jahranses were far from being the only people for whom he performed such services. The municipal messenger’s secret rounds took him from the rear door of a business to the pawnshop, but also straight through the intersection of rational calculation, personal interaction, and social relationships that made up credit transactions in the nineteenth-century Palatinate.

**Hiding Assets from Creditors**

The ultima ratio of any credit transaction was the creditor’s seizure of assets when a debtor could not make payments on the debt. Keenly aware of this possibility, debtors facing the prospect of default tried to hide their assets, so that their creditors would have nothing, or nothing substantial, to attach. Both the prevalence of these actions in civil court cases, and the knowing and appreciative observations about them made by witnesses and bystanders, suggest that hiding assets from creditors was a major nineteenth-century participant and spectator sport. The forms it took provide further information on the nature of credit transactions.

¹²⁹ J6/1158, Eid, 13 June 1843. Another, if different, example of a socially inappropriate creditor, J6/1153, Eidesleistung, 31 July 1834.

¹³⁰ J6/1180, Protokoll über die Zeugenverhör zum Gegenbeweisführung, 1 May 1875, testimony of Eva Frommer and of Georg Morgenstern. Another example of the scandal of using a pawnshop, ibid., Zeugenverhör-Protocoll, 14 June 1875, testimony of vintner Michael Münch of Wachenheim.
Debtors could literally hide their goods. Farmer Johann Gerhard Schreiner of Tiefenthal loaded a wagon one night in 1838, just as a creditor was about to attach his assets, and shipped his personal possessions, including a grandfather clock and a windmill, to the houses and barns of other villagers, including his brother Jacob and deputy mayor Philipp Schöneberger. Four years later, the shoemaker Philipp Koehl of Germersheim packed his tools and household possessions onto a wagon, with the help of his journeyman, and fled town late one night, after the bailiff had been at his shop that afternoon.¹³¹ These examples come from earlier in the nineteenth century, but in 1898, when creditors attached the assets of the firm Deppert & Jacob in Trippstadt, outside Kaiserslautern, August Deppert quickly hid twenty-five double hundredweight worth of shoes in the cellar of his father-in-law’s tavern.¹³² Debtors did not just hide their assets but themselves as well, and flight to America was a popular last resort. Jakob Kinzer of Kirrweiler, heading for America in 1864, was caught by his creditors in Weissenburg, just over the border into Alsace, where they had him arrested and thrown in jail.¹³³ Kinzer’s flight shows the problem with such crude measures. Creditors could find hidden assets, and physically hiding assets was of no use when it came to real property, known in German as ‘the immovables’ [Immobilien]. A more sophisticated and effective way to hide assets was to leave the physical objects where they were but to change the title to them. Assets could be given away, but the law looked with suspicion on such transactions. Articles 30 and 31 of German bankruptcy law [Reichskonkursordnung], in particular, declared invalid gifts made to relatives for the purpose of evading the claims of creditors.¹³⁴

To transfer title, assets had to be sold, and one might think that the problem would remain, since the creditors could then attach the proceeds of the sale. A clever debtor, though, could make these proceeds disappear, through the connection of credit and multiple transactions. The quarry owner Adam Hocke II of Kaiserslautern, facing severe financial difficulties in 1906, sold his house to another quarry owner, Jakob Kneller of Kottweiler, for 20,500 mk., of which 16,500 went to pay the mortgage and the remaining 4,000 to satisfy a claim Kneller ostensibly had on him, leaving nothing for the other creditors.¹³⁵ August Müller, cigar dealer of Kaiserslautern, made his assets disappear in simpler fashion. He sold them to his wife for 800 mk., used that and other cash he had on hand to

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¹³² J20/1253, Otto Volmer Lederfabrik-Lager (Cologne) to Kgl. Amtsgericht, 19 Nov. 1898.


¹³⁴ J20/1228, Klageschrift, 9 Sept. 1902.

¹³⁵ J20/328–2, attorney Dr Wadlinger to Amtsgericht Kaiserslautern, 19 May 1906; similarly, J20/1215, Klageschrift, 2 Sept. 1913.
Müller’s actions demonstrate the two key features of hiding assets from creditors. One was to turn assets into cash. Possessing cash, as noted in the previous section, was what made someone a creditor. Debtors, by contrast, had no cash, which is why they were borrowing money. But cash was a form of property uniquely suited to the purposes of a debtor about to default, because cash could vanish. It could not be seized, attached, traced, or found. When the dealer Lazarus Neu of Freinsheim swore in 1861 that ‘the deed of sale...between me and Lorenz Metzger and his wife was neither a semblance [zum Schein] nor with the stipulation they could repurchase, and just as little was it to put money in the hands of Metzger and foil the access of creditors to the objects purchased’ his denial only emphasized the virtues of the possession of cash for hard-pressed debtors. The same point was made in a case on the eve of the First World War, in a commercially and financially much more complex world than that of Lazarus Neu and Lorenz Metzger, and whose protagonists were on a much higher level of affluence and sophistication. The plaintiff, the bank house J. L. Finck of Frankfurt, was seeking to freeze the assets of the defendant, Eugen Abresch of Neustadt, estate owner, investor, and deputy in the Bavarian parliament. The bank’s attorney asserted: ‘Through these transactions [Abresch selling off his assets] the defendant has, in a word, made himself unattachable [pfändlos]. If the defendant, as cannot be known, may still dispose of bank deposits, in cases of seizure of assets [Zwangsvollstreckung] it is virtually impossible to get at those, because one can scarcely investigate banks and then the defendant is in a condition to dispose of these accounts with the stroke of a pen and to shift them around.’ Another way to foil creditors was by a lease-back arrangement, in which a craftsman sold tools, or an innkeeper furniture, to a third party and then rented it back. The rent would handily dispose of the cash assets of the sale and the creditors would not be able to attach the property. The spirit into which such contracts were entered can be seen from a case in Speyer, concerning the brewer Heinrich Moos, whose debts had mounted to a dangerously high level by 1867. Among his creditors was the merchant Johann Gerard, to whom he owed back rent, as well as payments on a cash loan and on goods Gerard had sold Moos on credit. To secure Gerard’s claims against other creditors, Moos sold him the furniture in his tavern and rented it back from him. Four years later, Gerard took Moos to court, claiming he was owed

\[136\] J20/1205, Protokoll, 7 Sept. 1911.


\[138\] J6/258, Arrestgesuch [undated, but 1912]. More on the dealings of Eugen Abresch in Chapter 4. Another later, complicated and elaborate example of turning assets into cash to evade creditors, J6/165, Klageschrift, 7 May 1910, Schriftsatz, 7 Nov. 1910, and Dr M. Mayer to Landgericht Frankenthal, 2 Mar. 1911.

\[139\] J20/342, Inventar, 10–23 Feb. 1907, Inventarium undated but Mar. 1913. In this last case the purchaser renounced the agreement after the receiver threatened him with legal action.
1,000 fl. At the hearing in the magistrate’s court in Speyer, Moos pulled out of his pocket the purchase and lease-back agreement, to which Gerard said ‘that his claim was still legally valid, the sale of the furnishings was just simulated, for their mutual security’. Called to testify, the business agent Johann Jacob Spatz, who drew up the contract, asserted to Gerard, ‘You did not tell me that the deed was supposed to be just for show; rather I wrote the deed as you told me,’ whereupon Gerard declared, ‘I have been duped,’ and stalked out of the courtroom.¹⁴⁰

Gerard and Moos shared a common interest, namely in securing Moos’s assets from his other creditors, but their interests diverged when it came to Moos’s property and Gerard’s claims on it. This case points to the second major feature of hiding assets from creditors. Debtors were best off disposing of their assets to someone whose interests were closely aligned with theirs, which meant, more than anyone else, family members.

At the beginning of the 1820s, the dealer Adolph Wilhelm Burbach had purchased wine from his son just before the latter’s creditors attached his assets. Some eighty-five years later, Eugen Schlich of Kaiserslautern, owner of a factory that manufactured bakers’ ovens, in severe financial difficulties, sold his accounts receivable to his mother, and told one of his creditors: ‘You may as well have sent money up the chimney. You too will get nothing.’¹⁴¹ It was not just parents, but siblings, occasionally cousins, and parents and siblings by marriage who assisted this way as well. As the actions of August Müller, noted just above, or those of Philipp and Luise Würz, discussed in the first chapter, demonstrate, spouses could also perform such a function, provided they had engaged in a separation of marital property beforehand.¹⁴²

There were two more virtues to using relatives to hide assets from creditors. First, property transactions between spouses and parents and children that were, as seen in the previous chapter, an expected part of family life provided opportunities to hide assets. Elderly parents would sell their children their assets, in return for a commitment to caring for them. Conveniently, such a sale would leave the parents’ creditors with no property to attach.¹⁴³

¹⁴³ J6/1164, Experten-Bericht, 4 Aug. 1852; a somewhat different version of such a transaction, but still for the purpose of evading creditors, J6/1169, Gegenzeugenverhör, 14 Jan. 1861, testimony of assistant bailiff August Gardé of Grünstadt.
Inheritances could be used to outwit creditors as well. A particularly elaborate example was that of Jakob Lorentz, an affluent private tutor [Privatlehrer] of Grünstadt, and his wife Elisabetha née Klein. Elisabetha wrote out a will, granting her husband, on her death, a house and vineyard from the marital community of property, while requiring him to compensate the community of property (and thus their four children who could claim half of it) for the value of the house and vineyard. She also gave him a quarter of her own property as an inheritance and another quarter for his usufruct during his lifetime. Elisabetha died in 1876, but the estate and the marital community of property remained undivided for the next six years—until the widower Jakob Lorentz borrowed 2,000 marks in cash, with the house and vineyard as security. Jakob then formally announced before the court that he was renouncing the inheritance from his wife; two weeks later, he and his grown children divided the marital community of property. Having renounced his wife’s assets, Lorentz ended up owing the marital community of property more than the value of the house and vineyard, so that they passed into the hands of his children and Lorentz’s creditor had no way to satisfy his claims.¹⁴⁴

The other reason relatives were to be favoured for hiding assets was that they were more likely to stand up and assert in court the validity of the transaction than people lacking family ties. The brothers Christoph and Georg Vautz, who worked at farming, dealing, and as teamsters, sold part of their assets to the saddler and innkeeper Friedrich Mann of Grünstadt (the same person as was involved in the credit dispute between Marchand and Leopold, discussed above), and another part to their retired father Johannes. Both sales were made for the purpose of evading their creditors. While deeds of sale were made out, it was all just for show. Mann received the cash for his purchase of the goods of the Vautz brothers from their father Johannes and returned the money to him after the transaction took place. Of the two brothers, Christoph seems to have been a difficult person. After Christoph borrowed additional money from Mann and refused to pay him back, the saddler-innkeeper developed cold feet about the fraudulent sale, asserting that ‘he did not wish to get into any unpleasantness’. Father Johannes also did not get along well with his son. When the latter came home drunk one night, the former screamed at him: ‘you thief, you have drunk up 2,000 fl. in one year, haven’t you done enough?’ Yet Johannes continued to insist on the validity of the transaction and made several others to the same end, and, when the case went to court, was represented by the same attorney as his son.¹⁴⁵ Just about everyone involved in


¹⁴⁵ J6/1169, Gegenzeugenverhör, 14 Jan. 1861, testimony of the assistant bailiff August Gardé, of Johanna née Mann, wife of dealer Ludwig Michel, of innkeeper and saddler Friedrich Mann, all of Grünstadt; Fortsetzung des Zeugenverhörörs, 15 Jan. 1861, testimony of assistant bailiff Carl Wendel of Grünstadt; Zeugenverhör, 12 Jan. 1861, testimony of baker Jacob Ranschkolb of Grünstadt. A similar case, in which an unrelated party in a transaction to foil creditors got cold feet, when pressed
this particular case—plaintiff, defendants, and most of the witnesses—had a history of dubious dealings, and Mann’s tavern seems to have been the gathering place of the demi-monde of Grünstadt, but it is worthwhile noting the way that family economic solidarity extended into the realm of such questionable transactions.

An Unusually Well-Behaved Horse and Wagon

Jacob Roeder of Speyer farmed a plot of land, but also owned a horse and wagon, which he used, as a small independent contractor, to haul loads and to pull sailships upstream on the Rhine River, following the same occupation as his late father. In August 1864, Roeder approached the dealer Lazarus Adler of Speyer, who had previously lent some smaller sums to Roeder’s widowed mother, and asked him for a loan of 25 fl. On Adler’s negative reply, Roeder offered his wagon as security, to which Adler said, ‘Yes, and what happens if you sell it, then I have nothing!’—a remark showing succinctly the way that creditors had no access to their debtors’ cash. Somewhere about that time, Roeder purchased on credit a horse for 120 fl. from the dealer Lehmann Mayer of Neustadt. Johannes Schuster of Speyer, perhaps another teamster, agreed to guarantee the loan. By 1865, Roeder had defaulted on the loan and Mayer obtained a court order to seize Roeder’s horse and wagon. When the bailiff Dohrle came to attach these items, Roeder’s mother proclaimed that she had purchased the horse and wagon from her son and showed him a bill of sale to that effect. Replying that she should take legal action, Dohrle carried out his task and the widow Roeder did indeed take creditor Mayer to court.¹⁴⁶

The question the court had to decide was whether the sale of the horse and wagon was genuine. The widow Roeder produced witnesses such as the day labourer Elisabetha Grieder, who proclaimed, ‘I have heard from Jacob Roeder that he sold his mother the horse and wagon, because he owed her too much money; I also know that he came home [Roeder and his wife lived with his mother] and brought his mother four gulden, which he had received from the teamster Mack for transporting iron, and that his mother often enquired among customers for whom her son had transported things, asking how many barrels they had given him.’¹⁴⁷ As might be imagined, the plaintiff’s witnesses told a different story: either they had no knowledge of the sale, or maintained that it had been made after the court order attaching the horse and wagon, or that Jacob was


¹⁴⁶ J6/1173, Gegenzeugenverhör-Eröffnungs-Protokoll, 21 May 1865, testimony on 13 June 1865 of dealer Lazarus Adler of Speyer.

¹⁴⁷ Ibid., testimony of Elisabetha Grieder, widow of shoemaker Jacob Breche in Speyer; similarly testimony of Peter Kessler, shopkeeper and transport supervisor [Wegmeister] in the coal depot of the Waghäusel sugar factory in Speyer, or of Franz Greibhaber, boatbuilder in Speyer.
the actual owner of the horse and wagon and ‘the deal was a sly deal to lead the creditors on’.¹⁴⁸

When the teamster Jacob Mack told his story directly to the court, it differed from the version given by Elisabetha Grieder and deserves to be cited in some detail, for it reveals more of the relationship between the mother, her son, and his creditor, and also the way that such relationships were public knowledge:

Five or six weeks ago, when I knew nothing about the trial now taking place, I placed an order with Jacob Roeder. He was carting coal from here to Waghäusel, so I asked if he could cart iron for me on the return trip, which he did twice. I encountered him once on such a trip and I remarked to a boy standing there, Roeder is a hard worker! The boy answered, yes the horse and wagon no longer belong to him but to his mother. The following Monday I paid him in the Three Kreuzer tavern his wages, four gulden and a few kreuzer, and asked him at that time what the story was with his horse and wagon, to whom they belonged, I had heard they belonged to his mother. There he said to me: they are mine, but also not mine; my mother has lent me 150 gulden and when I give her the money again, then they are mine again. At my remark: that’s what I would call a well behaved horse and wagon [das ist mir aber ein artiges Fuhrwerk]! he laughed. Later I met Schuster, who is the guarantor for Jacob Roeder with Mayer, and we came to speak about Roeder. I told him what Jacob Roeder had informed me about the ownership of the horse and wagon, and said also that the deals appeared to me to be suspiciously well behaved and Schuster told me that he was a guarantor and this sneaky deal [Schleichhandel] was costing him his property, and that’s how it seems to me too.¹⁴⁹

Like most pre-1879 cases, there is no information on how this one turned out, but certain features of it were typical of many credit transactions in the nineteenth-century Palatinate. Credit transactions and personal relations were intertwined; items were sold on credit; trust, based on personal knowledge of a potential debtor and his guarantors, was crucial to a credit transaction; family solidarity was a part of doing business, whether above-board transactions or sneaky deals. From Jacob Mack’s testimony, it does seem that a lot of people in and around Speyer—even a boy he met at the side of the road—knew about the arrangement between Roeder and his mother and had an opinion about this arrangement as a legal work of art and as a moral quandary.

CALCULATION AND PERSONAL RELATIONSHIPS

In the previous chapter, it was suggested that the dichotomy between emotion and self-interest among family and property was a false one, that emotional relations in family life were articulated through the use of property. A similar observation could be made about calculation and personal relationships in the transactions

¹⁴⁸ J6/1173, Zeugenverhör-Protokoll, 24 May 1865, testimony of 12 June 1865 by the dealer Samuel Cramer I (the quotation), dealer Lion Mayer, and Daniel Schüle, farmer and ship-tower, all of Speyer.
¹⁴⁹ J67/1173, ibid., testimony of teamster Jacob Mack of Speyer.
considered in this chapter. Nineteenth-century Palatines certainly bought and sold property, made contracts, and lent or borrowed money in a free market. They dealt and haggled, exploited loopholes, calculated closely their best interests, and were not shy about skirting close to the edge of the law in pursuing these interests. Yet they did all these things in a regional market place, from person to person, often relying on someone’s word and making oral agreements, making use of family solidarity and of networks of friends and relatives in their dealings, and bringing sentiments of personal independence and manly dignity into their business affairs. The first group of activities are all examples of rational self-interest in a free market place; the second group are more difficult to fit under that rubric and often involve actions taken directly against an individual’s rationally calculated self-interest.

It might be helpful to understand these activities as more complementary than contradictory. In the Palatinate during the century before the First World War, self-interested property transactions were carried out in a free market legally regulated by the Napoleonic Code and, after 1900, by the German Civil Code. Yet these market transactions, based on the self-interest of the parties involved, were carried out via ambiguous personal relationships between partners, principals and agents, buyers and sellers, or debtors and creditors; they wove around a multitude of cultural assumptions about trust, independence, competence, manhood, and family expectations about the uses of property. In institutional terms, the nineteenth century was a high point for the free disposition of property in a market, between the corporate and mercantile society of the old regime, and the government regulations and market-dominating monopolists of the twentieth century, but the terms of that nineteenth-century property market were set by personal and family relations that were not determined exclusively by the calculus of economic self-interest. This was the nature of civil society, the intermediary realm between the family and the state.
Boundaries

Making distinctions, drawing up divisions, and demarcating differences seems inherent to the legal enterprise, so it is not surprising to find that many of the cases coming before the courts in the nineteenth-century Palatinate dealt with questions of boundaries. Delineating the borders of two adjoining pieces of real property was the most frequent example of boundary questions, and, more generally, a very common reason for legal action. Another form of drawing boundaries was proceedings concerning individuals’ competence to run their own affairs, to manage their property. In effect, such cases involved distinctions between people allowed to participate in civil society, and those, who would be designated as incapable of doing so, because of mental illness or alcoholism.

Boundaries between adjacent pieces of property and between competent and incompetent individuals were the object of legislation and administrative action, as well as being the subject of legal proceedings. Court cases also offer evidence of the social perceptions of other kinds of boundaries. Contemporaries perceived quite keenly differences between honourable and dishonourable behaviour, and definitions of what was honourable and what was not appeared frequently enough in testimony or expert opinion, so that we can gain a good idea of understandings of the distinction between honour and dishonour in the nineteenth-century Palatinate, at least as this distinction bore on property relations. There was another, rather less familiar contemporary perception of boundaries appearing in court proceedings, between that which was repulsive or nauseating [ekelhaft] and that which was not—a distinction, as will be seen, that marked the boundaries of the human body and its secretions.

Finally, there were boundaries both perceptible to nineteenth-century contemporaries, and also of interest to today’s scholars devising understandings of society and social structure—distinctions of social class, of gender, and of religion. I do not claim that the evidence provided in court cases will overthrow dominant accounts of relations between workers and capitalists, men and women, or Jews and Christians in nineteenth-century Germany. Still less would I attempt to develop a new general social theory based on these court cases. Much more modestly, I would suggest that the records of civil litigation offer additional insights into these sorts of relationships insofar as they related to the ownership of property and into the way they were practised in a south-west German society where property ownership was widespread.
Before proceeding to the empirical analysis, I need to make one further initial remark. Over the past two decades, the observation has been endlessly repeated in literary studies, historical research, and much of the social sciences that the sort of boundaries and borders discussed above are arbitrary and constructed, with the construction usually attributed to impersonal social or discursive structures, lacking in human agency. The deconstruction of these boundaries has become a common scholarly practice, almost an intellectual parlour game. Admitting this point, I would say that the focus of this chapter is less the deconstruction of these boundaries than their reconstruction, the way that distinctions made in law were undermined and then reformulated in the practice of everyday life, the way that challenging distinctions led to their being reinforced.

REAL PROPERTY AND ITS BOUNDARIES

Custom and law in the nineteenth-century Palatinate combined to place a high premium on the distinction and demarcation of neighbouring pieces of real property. In part, this was a result of the system of partible and equal inheritance characteristic of the region. At first glance, the opposite might seem to be the case, as the continuing parcellization of property from one generation to the next would have the effect of blurring boundaries. This was certainly true in another one of Germany’s regions of equal inheritance, Swabia, where farm utensils, sometimes physically cut in pieces, were parcelled out to heirs, and houses divided between them, so that actions for trespass on the wrong side of a divided room in a divided house were a real possibility.¹

Partible inheritance worked differently in the Palatinate. We can observe this in inheritance cases involving minors where the courts asked appointed experts—typically, local notables—for advice on how to divide an estate. Invariably, they would suggest that unbuilt land—arable, meadows, forest, and vineyard, owned by both peasants and townpeople—be divided into parcels [Loose] of equal value and distributed among the heirs. By contrast, a house would almost never be divided in this way. Instead, it would be placed at auction and the cash proceeds divided up.²

¹ Sabean, Neckarhausen, 278–9, 282, 289–91, 294–5.
² J6/1150, Experten-Berichte, 22 June, 10 Oct., 11, 21 Dec. 1822, 4, 16 Feb., 1, 8, 23 Mar., 5, 8, 19, 23 Apr., 16 May, 3, 18, 21, 30 June, 2, 7, 11 July, 4, 25 Aug., 15 Sept. 1823; undated but Aug. 1823; Experten-Protocoll, 22 May 1823; Güter-Abschätzungs-Protokoll, 14 July 1823. In a few instances, the unbuilt land was so small, the number of heirs so large, or the land so closely connected to a house that the experts recommended auctioning the land off as well: ibid., Experten-Berichte, 3 Mar., 21 Apr., 18 Aug. 1823. There is no comparable, systematic documentation from later years, but a few similar scattered examples include J6/1158, Expertenbericht, 16 June 1843; J6/1160, Armensache 2974, 2 Aug. 1848; J6/64, Expertenbericht, 19 Aug. 1885; J20/1220, Auszug für die Konkursmasse, 14 Nov. 1888; J6/522, Zeugenvernehmungsprotokoll, 12 Feb. 1891, testimony of notary Otto Geul of Freinsheim. Cf. also Petersen, ‘Die bäuerlichen Verhältnisse’, 243–4.
This practice did not necessarily exclude the heirs from coming into possession of a house or other property, since one or more of them could bid at the auction.³ It did, though, bring property onto the market, helping to commercialize real estate, and increasing the number of transactions as well as the granting of credit. It also helped to distinguish between pieces of property, since farmland was sold in blocks, and houses usually went to just one party. Even when houses were divided up, as did sometimes happen, a wall would be built between the halves of the divided house, physically demarcating the newly created pieces of property.⁴ More broadly, the refusal to divide up houses among heirs was part of a broader insistence on a tangible demarcation of real property. Property boundaries were solid, marked by walls, fences, stakes, ditches, or stones. Villages had their ‘field jurors’ [Feldgeschworene], who watched over the placement of such tangible signs of the limits of a piece of property.⁵

This insistence on physical division of real property fitted well with important aspects of the civil law. Articles 537 and 544 of the Napoleonic Code, defining property as an individual’s absolute control over a thing, and right to its free disposition, subject only to the constraints of the law, made it particularly important to delineate the boundaries of property. To do so, registers of land transactions and of mortgages were created, recording changes in ownership of real property and mortgages placed on them. In conjunction with these, a cadastre or land register was to be established, a survey of all parcels of property. Measurements for such a register were begun, but never concluded, in the era of Napoleonic rule. The Bavarian government took up the task in 1830, completing it a decade later.⁶ In this way, the physical representation of property boundaries would have corresponding legal mappings, in the form of entries in the land register, and on notarized deeds of sale, recorded and publicly available in the transaction and mortgage register.

Law and custom thus set out sharply demarcated spaces, in the midst of which their owners were in sovereign, full control. Disputes between owners of neighbouring pieces of property emerged when what should have been such definitive lines of separation wandered, sagged, and were blurred. There were three major causes for these disputes, three sources of blurred boundaries of property: action of water, attempts at usurpation and encroachment, and uncertainties of the system of registration and measurement.

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³ For instance, J6/64, Licitation, 12 Mar. 1885; testimony of notary Geul as in previous note.
⁴ J6/44, Klageschrift, 24 Sept. 1883, Plan, Ludwigshafen, June 1884; on the need for such a wall, see J6/1158, Expertenbericht, 16 June 1843.
⁶ Erwin Hammer, *Die Geschichte des Grundbuches in Bayern* (Munich-Pasing: Verlag Bayerische Heimatforschung, 1960), 91–3, 120–5, 136–9, who notes that the French registers were complicated and hard to use, but were valid in the Palatinate until the creation of a unified German registry of deeds [Grundbuch] at the end of the nineteenth century. Interesting insights into the work of creating a cadastre, J6/59, Technisches Gutachten, 17 Oct. 1888, and J6/1180, Experten-Gutachten, 7 Apr. 1875.
Water, in its flow, has the annoying characteristic of not respecting boundaries created by human action. Water flowed down the terraced hillside of the Haardt Mountains, in the Palatine wine country, its pace accelerated by deforestation and, later, by road and house building, creating more impervious surface area for run-off. In 1843, Georg Spindler of Forst dug ditches and put in pipes to divert water from his house and garden, sending it into the cellar of his neighbour Catharina Steinmetz. Almost forty years later, the smith Jacob Buchert II installed pipes to divert water from his vineyard into a ditch put in by the village for run-off, in doing so crossing the property of his downhill neighbour, the estate owner Xaver Adolf Eugen Nicolay, and allowing, via the pipes, access onto his neighbour’s walled-off property. ⁷

Water was a particular problem both in towns and in the Palatinate’s densely nucleated villages, where houses sat right next to each other. Water dripped down from roof overhangs onto neighbours’ property. Rainwater flowed into storm gutters and through downspouts—some broken, some working well—once again, onto neighbours’ property. Storm and waste water flowed into ditches, troughs, and pipes through a neighbour’s property into a sewer outlet—or not, when the outlet was blocked, and it was unclear who was responsible for clearing it. Perhaps most of all, water swished through dung heaps and cesspools, bringing unpleasant effluvia and nasty odours into a neighbour’s courtyard or cellar. ⁸

Discussions of water use law often centre on questions of riparian water rights, pitting upstream users against adjacent property owners over dams and diversions controlling access to scarce water. ⁹ While these questions may have been crucial for the inhabitants of arid regions, such as Spain, or the western United States, in the damp climate of central Europe, there was almost always enough water to go around. Legal disputes stemming from the damming and diversion of streams, for use in mills and in creating pastureland with lush grass, were rarely about the deprivation of water. Rather, they concerned its excess: backwash from mill dams causing flooding, water used for irrigating pasture pouring onto neighbouring fields and drowning crops. ¹⁰

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One of the few examples of a complaint that an upstream property owner was diverting water is an exception that proves the rule. In 1844, the royal salt-works in Dürkheim sued the weapon-smith Peter Correll of Hardenberg, claiming that his diversion of the Isenach brook to power his hammer-works was lowering the water level in the brook, preventing the salt-works’ waterwheels from functioning. Court-appointed experts did find some truth in this complaint, but they also found ten mills, two paper factories, and two hammer-works all drawing power from this one small brook, from its origins in the Jägertal, an hour’s walk above Hardenberg, to the salt-works in Dürkheim. This very proliferation of water-powered enterprises shows the ubiquity of water in the Palatinate and its persistent flow across boundaries of property.¹¹

Turning away from natural to human-made causes of property boundary disputes, usurpation and encroachment, edging one’s way into possession of a neighbouring piece of property seems to have been an accepted part of rural life. Following an auction of farmland within the boundaries of the city of Neustadt in 1836, ‘all the plots without exception had their widths written down [on a map of the property sold] to deal with the expected moving of the stakes driven in the ground between them’. Sure enough, over the next two years Christoph Wanger had moved the stakes between 2.5 and 2.9 metres along a 16.5-metre line, gaining not quite half an are of land from the owner of the neighbouring strip of property, Thomas Klehr.¹²

The possibilities for this sort of usurpation were endless. There were boundary stones placed between two properties in Oppau after measurements by the district surveyor in 1864. When the barriers along the Rhine gave way, and the village was flooded in 1883, one of these stones, between the house of farmer Adam Sauvage and that of his neighbour Christoph Kraft, ‘disappeared in an incomprehensible way’. The flood damage to Kraft’s house was repaired by his brother, a master mason in nearby Ludwigshafen, who built across the property line and knocked holes in Sauvage’s barn, so that rain came through the walls and spoiled the grain stored in it.¹³

Perhaps the most ingenious usurper was the schoolteacher Peter Wilhelm, in the village of Schauernheim. Having acquired from the village a parcel of meadow in 1817, separated from the common cattle path by a ditch, he proceeded to broaden and deepen the ditch, so that the weight of the passing cattle or the effect of winter frost would push earth from the path into the ditch, which Wilhelm could then take out and put on his fields. Over four years, he had reduced the width of the cattle path by one to two feet.¹⁴ Wilhelm had usurped common

¹¹ J6/1158, EXPERTENBERICHt, 1 Aug. 1843. Three other examples of disputes emerging from claims that upstream property owners were taking water: J6/54 (although the settlement—Vergleich, 3 Oct. 1885—does not suggest that shortage of water was the problem in this case); J6/988 and J6/1156, Zeugenverhör, Gegenzeugenverhör, and Ortsbesichtigung, all 4 Aug. 1838.

¹² LAS J6/1156, Expertise, 6 Sept. 1838; similarly, J31/208, verdict of the district court of Zweibrücken, 11 Nov. 1911.

¹³ LAS J6/41, Klageschrift, [undated but autumn 1883].

¹⁴ J6/1150, testimony before the justice of the peace of Canton Mutterstadt, 19, 26 Oct., 2 Nov. 1821. Another case of the usurpation of village property, J6/544, Urteil, 3 Apr. 1901 and passim.
village property for his personal use, but the opposite could take place as well. In 1881, the village of Erpolzheim built a 3-metre-wide common path through meadowland that had been auctioned off to private parties by the Bavarian government a half-century previously. As the brickworks owner, Heinrich Wanner I, one of the affected property owners, noted bitterly, the trees and bushes cut down to make the path were sold, quite profitably, by the village.¹⁵

The line separating usurpations from disagreements over measurements at the meeting places of pieces of property is, like many of these property boundaries themselves, somewhat blurred. One property owner’s usurpation might be a neighbour’s legitimate claim on a disputed piece of property. Still, we can point to a difference between these groups of disputes, in the subjective feelings of the participants. Usurpers did not feel that they had a legitimate right to the property they were exploiting. Of course, in court proceedings, no party would make such an admission, but the frequently clandestine proceedings of usurpers—secretly moving stakes and stones, tunnelling underneath ditches—stood in contrast to the open and aggressive way that disputants laid claim to pieces of property.

They could do so because of the gap in the legal system between its requirement for a precise separation of property and the reality of its physical demarcation and legal representation in land registers and notarial documents. The authorities certainly tried to keep all the records, and the maps of disputed property boundaries created by district surveyors and preserved in court files—drawn both elegantly and painstakingly to scale, with beautiful, multi-coloured markings, almost works of art—are a vivid testimony to official skill at property demarcation. Yet in practice, difficulties intervened, making precise measurement impossible and exposing differences between physically delineated boundaries and their legal representation.

The coexistence of customary, metric, and Bavarian measurements could make it difficult to follow property transitions. In 1884, Johann Pfeiffer, master machinist of the Bavarian Steam Towboat Company, sued his neighbour, the merchant Carl August Exter in Ludwigshafen, claiming that the latter had put up a new warehouse on his property, containing windows that were not the legally required 1.9 metres away from the boundary. The exact location of this boundary was in dispute, part of the problem being that when the parcel was subdivided and built up in the 1860s, the plaintiff and the previous owner of the neighbouring property had traded a few small parcels of land, running at an oblique angle to the street. The documents of sale and exchange of property only gave approximate dimensions, and some were listed in metric measure and some in rods of Nuremberg, the official Bavarian state measure.¹⁶ Even when the borders were


clearly marked on the cadastre, the latter’s scale might be too crude to decide an area in dispute. In 1885, the frustrated district surveyor Wagner had to inform the district court in Frankenthal that he could not tell on which of two neighbouring pieces of property a building’s front wall [Giebelmauer] stood, because ‘neither the cadastre plan...nor the cadastre area calculated from it [emphasis in original] provides a sufficiently certain basis to decide such small differences’.¹⁷

There was not just the potential for a gap between physical boundaries and their legal representations, but also between different forms of legal representation. This gap is nicely demonstrated in an incident from the village of Hettenleidelheim. As a witness explained:

Frau Zengerle told me that the surveyor Tretsch had previously measured the boundary already in the year 1863...but her father, old man Kaiser, had not accepted this measurement. Rather, he brought with him his deed, to which the surveyor said he doesn’t measure according to the deed, but according to the [cadastre] plan, whereupon old man Kaiser went to Koppersberg and said he would not accept the exchange [of pieces of property]; he would stay with his deed.¹⁸

This distinction between property as delineated by a deed of sale and property as demarcated in the land register would sometimes appear at auctions, when participants and spectators would shout out the difference between the two, to the embarrassment or even anger of the notary directing the proceedings.¹⁹

These uncertainties in property boundaries could be converted into disputes between neighbours in a number of different ways. One possibility involved roads and rights of way, in disputes over whether an individual’s property jutted out into a road or pathway, or vice versa. Also asserted in roadway cases were claims to access property across the land of a neighbour, rather like the Common Law concept of an easement.²⁰ Another issue was the presence of windows. Articles 675–8

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¹⁷ J6/42, Bezirksgeometer Wagner, Speyer, to Landgericht Frankental, 2 June 1885; similarly, J6/1179, Expertenbericht, 16 May 1874.


¹⁹ J6/30, Zeugenvernehmungsprotokoll, 26 Oct. 1884, testimony of day labourer Johann Sauvage VI in Oppau and blacksmith Ludwig Gögel; J6/70, Zeugenvernehmungsprotokoll, 13 Nov. 1886, testimony of farmer and village councillor Jacob Voll and farmer and innkeeper Georg Fink, both of Bobenheim.

of the Napoleonic Code regulated the placement of windows, requiring them, among other things, to be at least 1.9 metres from a neighbour’s house. Use of this clause had an almost Foucauldian justification to it, a rejection of the neighbour’s intrusive gaze. Or perhaps Foucault’s ideas about the gaze came from a culture containing Articles 675–8. If the neighbours were gazing, though, they were generally gazing at a disputed property boundary, and the relevant articles of the Napoleonic Code were a legally sanctioned way of asserting the ideal of an individual’s property within unambiguous and recognized boundaries.²¹

The most interesting of this genre of uncertain property boundary cases involved a liminal space, a small strip of land, lying right on the border of two pieces of property, which Palatines called a ‘corner’ [Winkel] or for which they used a dialect expression, Reul (also spelled Rail, Reil, and Räul), meaning a narrow alley between buildings.²² Given their small size, and the uncertainties in measurement of the land register, these corners or alleys were the very epitome of disputed territory, to the point where, in one case, the judge noted that, exceptionally, there was no disagreement about which of the parties owned such a piece of land.²³ These corners and alleys served a useful function in the Palatinate’s densely populated towns and villages. As the court-appointed expert master mason Philipp Andressohn of Dürkheim explained, between a stall and an adjoining building, there always ought to be such a strip of land, or the walls of the adjoining structure would eventually become ‘damp and imbued with saltpetre’, no matter how thick they were.²⁴ Yet corners were, more than anything else, questionable spaces. Situated under roof overhangs and the receiving area of water from downspouts, they were damp, dank, and sometimes full of sewage. They were also a favoured site for outhouses, dung heaps, and cesspools. As the merchant Karl Haffner of Dürkheim explained, testifying in an unusually complex case revolving around such a liminal piece of property: ‘I always regarded the spaces between both houses as dubious, because privies from one side and the other extended into them.’ He also recalled that as a boy, some 35–40 years before his testimony, he had particularly enjoyed playing in those spaces.²⁵


²⁴ J6/4, Expertenbericht, 5 Nov. 1887.

Corners and alleys were poorly measured, liminal, dirty, and nasty-smelling, in all little known and obscure, a not entirely surprising choice for an object of dispute. Yet their existence, like that of the other causes of property boundary disputes, was, in the closely built towns and nucleated villages of the Palatinate, anything but unusual. Most neighbours did not engage in property disputes, or at least not to the point of hiring an attorney and going to court. Besides the many possible objects of strife between neighbours and the clauses of the Civil Code that could be used to transform these objects into subjects of legal proceedings, we need to consider the reasons why owners of adjoining pieces of property would seize on these objects of strife, exploit the clauses of the Civil Code, create the dispute in the first place.

This kind of dispute is often portrayed today as the clash of two cranky, querulous, stubborn, and rustic individuals. Feuding over a period of decades, they are each firmly convinced of being in the right, and are determined to get their way with no compromises. This conviction of being, legalistically, in the right is frequently seen as a German national character trait, although it would hardly be difficult to point to people with similar attitudes in other countries.²⁶ Cases of this sort certainly came before the courts in the nineteenth century. The farmer Philipp Adam Lentz in Neuhofen and his neighbour, master mason Peter Scheffel III, had feuded for years. Each accused the other of dumping wet sand on their respective property borders, causing water to leak into their barns, each tacitly justifying his action as retaliation for his neighbour’s initiative and each constantly complaining to the village mayor and the police. It was against this background that Lentz brought suit against Scheffel, accusing him of encroaching on his property with his newly rebuilt hog-sty.²⁷

However, the vast majority of property infringement cases recorded in the records used in this book did not fit that pattern. Rather than being the result of long-term feuds between strong-minded neighbours, they were the consequence of changes in some aspect of relations between the owners of two neighbouring pieces of property. The simplest reason was construction. The merchant Theodor Oessener in Speyer and his wife Anna née Leschmann owned a house whose rear wall was in common with the neighbouring structure. The exact ownership of the wall was obscure, and could have remained that way, had the merchant Ernst Knabe not purchased the neighbouring house in 1883 and added a third storey to it. In the course of the construction, workmen unintentionally (at least so Knabe asserted) bricked up one of the Oessners’ windows.²⁸ The testimony cited above, concerning the uncertain property boundary between two neighbours in the

²⁶ On this sort of conviction, cf. Margaret Lavinia Anderson, *Practicing Democracy: Elections and Political Culture in Imperial Germany* (Princeton: Princeton University Press, 2000), 278, and writers cited there. Over the years, I have had many conversations with Germans, who have described this attitude as a national characteristic.
²⁸ J6/42, Klageschrift, 29 Nov. 1883, Erwiederungs-Antrag, 23 June 1884.
village of Hettenleidelheim, described circumstances twenty years before the legal action was taken. In the interval, one of the houses had been torn down and rebuilt at a ninety-degree angle to its previous location, and then one of the property owners tore down a wooden fence between the two parcels and had it replaced with a stone wall.²⁹

Changing the use of a piece of property could also bring boundaries into dispute. Sophie Klamm, wife of farmer Philipp Jakob Braun IV of Neuhofen, was owner of half of a substantial farmhouse that had been divided sixty years previously. Her husband was able to drive a cart into the courtyard and unload goods into their half of the cellar, until the owner of the other half of the house erected a smithy to make horseshoes, blocking their way. The smith and construction materials dealer Samuel Levy of Thaleischweiler possessed an easement, dating from an 1863 deed of purchase, to drive his cart through one of the fields of his neighbour, farmer Daniel Nagel, to his storage area, which was otherwise inaccessible from the street. In 1902, Levy expanded his house and added an additional storage for a new product line, acetylene tanks. This expansion made it necessary for him to drive his cart across another one of his neighbour’s fields. The latter responded in 1908 by putting in a gate and building a drop-off between his land and Levy’s so that the latter could no longer drive a wagon from Nagel’s field into his yard.³⁰

As Levy’s new line of business suggests, a good deal of the changing use of property was driven by economic development. Construction of a rail line could divide up fields, obscuring boundary lines. The building of a railway viaduct in Ludwigshafen led to a lengthy legal dispute between the Palatine railways and the Benkiser chemical factory about access rights to factory property.³¹ Expanding roads to deal with more traffic or new housing construction would make evident lack of clarity in property boundaries that had long existed.³² In 1882, the village of Hardenburg had an iron railing put in place, to make it easier to cross a crude bridge of wooden planks across the Isenach brook. From there, a path along a forested hillside to the ruins of the Hardenburg castle had been built up by the ‘beautification association’ of the nearby town of Dürkheim for the growing

numbers of hikers and weekend excursionists. The fact that the village mayor owned a tavern on the path, frequented by the hikers, did not impede the decision to put in the railing. That decision did annoy, considerably, the mill owner, Ludwig Jonas, who needed the brook to power his mill, since the new railing made it difficult for Jonas and his workers to raise and lower the mill dam.\(^3\)

The reader may have noticed that in a number of the previous cases, the expansion of buildings, or the new uses to which property was put, were connected with a change in ownership. Just a change in ownership, by itself, was sufficient to create a dispute. Long-term discrepancies between physical and legal boundaries, or between property as described in deeds and in the land register, could come to the fore during an auction, pretty much ensuring that the new owner would take legal action.\(^4\) A malicious (if understandably so) variation on this action came from the farmer Sebastian Gerhard, whose house in Weisenheim am Sand was subject to a forced sale in 1824. Before the sale, Gerhard sold to his neighbour and creditor farmer Jakob Langenwalter—making sure to write up a deed of sale—the right Gerhard possessed to direct water dripping from his roof overhang, waste water from his kitchen, and run-off from his cesspool through a stone trough in Langenwalter’s yard into the street. Langenwalter immediately closed off the openings in the wall of his courtyard through which these fluids had flowed, meaning that whoever took advantage of Gerhard’s financial difficulties by purchasing his house at the forced sale would have no convenient way to get rid of this waste water.\(^5\)

**Two Brothers Brick up a Neighbour’s Kitchen Window**

Naturally, these different causes could be combined, and often were, when, for instance, a new owner of a piece of property expanded it or changed its use.\(^6\) A particularly peculiar, complex, and oddly amusing case, involving changing ownership by sale, changing ownership by inheritance, and changing uses of a piece of property, will show how these different elements became embodied in a lengthy legal dispute over nebulous property boundaries in a dubious and questionable space. Even more, it demonstrates how such legally vague boundaries were drawn

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\(^3\) J6/969, Klage, 1 July 1884, Protokoll über die Vornahme eines gerichtlichen Augenscheines, 29 May 1885, Antrag, 5 Aug. 1889 and *passim*. On beautification associations and their work, see Applegate, *A Nation of Provincials*, 63–5.


\(^5\) J6/1153, Zeugenverhör, 28 Sept. 1834, testimony of farmer Sebastian Gerhard and his wife Katherina née Biebinger, of Weisenheim am Sand.

\(^6\) One example of this, J6/1157, Zeugenverhör, 22 Sept. 1840 and Gegenzeugenverhör, 23 Sept. 1840.
and redrawn in the practice of everyday life. Although the legal action itself concerned two houses in the town of Dürkheim during the years 1880–3, its ramifications reached fifty years into the past and off to North America.

On 26 April 1880, the brothers Heinrich Barth III and Carl Barth, co-owners of the Barth Brothers Brewery, had the kitchen window of their neighbour, the merchant Ludwig Bender Jr., bricked up and a bird cage placed in it. The irate neighbour went to court and sued, successfully, for the removal of the bird cage and the restoration of his window. It just took a few months to obtain this judgment, but in September 1880, the brothers then sued their neighbour in turn, claiming they had the right to brick up the window, because the building wall in which it was placed was jointly owned by them and by Bender. The case, including the appeal to the provincial court of appeals in Zweibrücken, took over three years. Careful architectural sketches and plans of the two buildings and the intervening property were drawn up; dozens of witnesses on each side were heard; depositions were even taken before the German Consul General in Cincinnati, Ohio.³⁷

Two broader considerations shaped the Barth brothers’ gesture and the legal actions stemming from it. First, the kitchen window overlooked an alley or Rail, one of those liminal spaces mentioned earlier, whose ownership was unclear. When the suit was filed, neither defendant Bender nor the Barth brothers had direct access to this space; it was walled off from the rear by the two buildings and could only be reached from a locked gate in the street, to which the defendant had the keys. Second, the action emerged from a long-term history of changes in ownership of the two neighbouring houses. Bender’s house had previously been owned by Christian Haffner, Dürkheim’s mayor, 1840–6 and 1850–63, who had lived there for decades, at least since the 1830s. After his death, the house was sold to Bender, who had moved to Dürkheim from Kirchheimbolanden, in 1871. The house of the Barth brothers had been acquired in 1866 by their father Joseph, the deputy mayor, who had purchased it from its previous long-term owner, the baker Hepp.³⁸

It was this purchase by the plaintiffs’ father that formed the basis of their claims. They asserted that in 1866, when he acquired the house, he had given the mayor permission to knock a hole in the wall and place a kitchen window there. This was only possible because their father had remodelled his house, demolishing a part of it that had stood against the wall where the window was to go. From these claims, they asserted their co-ownership of their neighbour’s building wall.³⁹ Evidence given at the trial centred on this kitchen window, since it was key to the disputed

³⁷ The file for the case is J6/3.

³⁸ Particularly useful for the particulars of this case are ibid., Urteil, 2 May 1883, Schriftsatz [undated but 1883], Schriftsatz, 11 Mar. 1883. Mayors of Dürkheim according to Matthias Nathal, Bad Dürkheimer Stadtgeschichte(n) (Bad Dürkheim: pro Message, 2000), 154.

³⁹ Besides the sources cited in the previous note, see Zeugenvernehmungsprotokoll, 25 June 1881, testimony of Marie née Frank, Joseph Barth’s widow of Dürkheim, and Katharina née Barth, wife of Heinrich Paul, senior district judge [Landgerichtsdirektor] in Mainz, sister of the plaintiffs.
ownership. Predictably, witnesses for the plaintiffs asserted that there was no window present before 1866; those for the defence asserted that there was. Most interesting was the testimony of witnesses for the plaintiffs, who were related to the former mayor or had lived in or frequented his house. They remembered there had been something in the kitchen wall before 1866, a niche or an opening of some kind that was somehow different from what was there in later years, but were not entirely sure what it had been.⁴⁰

To see what was there, we need to remember that corner of property the opening overlooked. Mayor Haffner had the keys to the gate to it. As one witness put it, an elderly mason who had worked for the previous owners of both houses, those keys were his ‘sacred possessions’.⁴¹ He kept them carefully shut away in a chest, and if people from the neighbouring building wanted to get into that space from the street, they needed to ask him for the keys. With these keys, Haffner laid claim to the space between the buildings. He had iron hooks fastened into his wall, and hung from them ladders he used in his business. At least some witnesses remembered that the neighbours had recognized this claim, and not placed any objects in the alley against Haffner’s building wall.⁴²

On one side of the property boundary was a town’s notable, proudly and ostentatiously asserting his ownership. What was on the other side? For one thing, there were Jews. At least throughout the 1850s and probably earlier, baker Hepp rented the house to Lippmann Maas, who lived there and ran a tavern. Hepp had also put in an addition, a rickety two-storey structure, connected by a precarious wooden staircase that rested on poles set in the little piece of property between the two houses. The staircase came out over the alley right next to the mayor’s kitchen window. Originally, the upper storey of the addition had been used for storage of flour, and the lower storey, the ‘baker’s room’ [Backstube], had an oven which some of Dürkheim’s Jews rented to bake their bread on Friday before the Sabbath.⁴³

Besides Jews, there were the lower classes. After c.1850, the addition was no longer used for baking. It was rented out to tenants, generally poor ones, since

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⁴⁰ Witnesses for the plaintiffs, ibid., Zeugenvernehmungsprotokoll, 14 May 1881, for the defendant, Zeugenvernehmungsprotokoll, 18 Mar. 1881. The more nuanced view is particularly apparent in the testimony of Christine née Haffner, wife of municipal tax collector Friedrich Resch of Dürkheim and sister of the deceased mayor, 14 May 1881, and the testimony on 25 June 1881 of the merchant Karl Haffner, the deceased mayor’s nephew and heir, and of the brewer Wilhelm Bernhardt, who, as a boy, had helped his father paint the kitchen in question.

⁴¹ Ibid., Zeugenvernehmungsprotokoll, 14 May 1881, testimony of Johann Georg Helwig, and deposition taken at the German consulate in Cincinnati, 12 July 1881, of Philipp Peter Sr., formerly master mason in Dürkheim.

⁴² Ibid., Zeugenvernehmungsprotokoll, 2 Feb. 1881, testimony of Katharina née Stauffer, widow of vintner Lorenz Freuntsch of Dürkheim, Zeugenvernehmungsprotokoll, 18 Mar. 1881, testimony of the mason Johann Georg Helwig, and deposition taken at the German consulate in Cincinnati, 12 July 1881, of Philipp Peter Sr., formerly master mason in Dürkheim.

no one else would want to live up those rickety stairs. The people living on the top floor may not have owned any property they could have stored in the alley, but they used the alley in their own way, throwing garbage out of their window into it. The garbage also hit the mayor’s kitchen window, which was then covered with an iron grillwork to protect it. Various kitchen items were piled up in the interior window frame, making the mayor’s kitchen dark and dreary, but also keeping the garbage-strewn site from view.  

For at least twenty years, the mayor, one of the town’s notables, could proudly claim ownership of the legally vague, liminal piece of property. He had the key, the ladders, and the hooks in the wall. The neighbours recognized this claim and stored nothing of theirs in the alley; they would deferentially ask the mayor for the keys to enter it. But they could also toss their trash into it, and force the mayor to hide his kitchen from the scene. All he could do (and did) was to pay someone to clean out the alley periodically.

This social equilibrium was disturbed when the deputy mayor Joseph Barth purchased the Hepp property in 1866. He had the rickety addition torn down and the structure rebuilt. The now former mayor Haffner was delighted that he no longer had to hide his kitchen from his neighbour’s garbage. As he told his nephew and heir, Karl Haffner, a few years afterwards, shortly before his death, ‘through all the construction [of Barth] the kitchen had become very bright and he took me into the kitchen, saying that the kitchen had gained in brightness, which was of value’. One may suspect that the mayor was not just pleased about the light, but about the new neighbour as well, who can only have improved the value of his property. The Barths were also a family of Dürkheim notables, among the wealthier of the town’s inhabitants. Between 1869 and 1874, one Philipp Barth (also spelled Bart) had been mayor. At the time of the dispute between the Barth brothers and their neighbour, Heinrich Barth I, possibly Heinrich III’s grandfather or godfather, but certainly a relative, was the town’s chief executive. The family dynasty would be completed with the long-term mayor (1892–1920) Rudolph Bart, the most decorated official in the town’s history. Among his many accomplishments was the construction of the inter-urban electric line, the Rhein-Haardtbahn, connecting the renamed Bad Dürkheim with the Rhine Valley metropoles of Ludwigshafen and Mannheim. This rail link is still in operation today; the idea for it had been first put forth by Heinrich Barth I, in 1883, the same year that his younger relatives’ property dispute reached its climax.  

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44 J6/3, Zeugenvernehmungsprotokoll, 14 May 1881, testimony of the day labourer Andreas Krebs of Dürkheim, Zeugenvernehmungsprotokoll, 18 Mar. 1881, testimony of the widow Anna Maria Siedenstrickler of Dürkheim (a number of other witnesses heard on that date corroborated her story, in less detail); Zeugenvernehmungsprotokoll, 27 June 1881, testimony of the vintner Heinrich Hausch; deposition of Philipp Peter Sr., as in n. 42.

45 Testimony of Karl Haffner, as in n. 40.

46 Nathal, Bad Dürkheimer Stadtgeschichte(n), 35, 49–50, 154; J6/14, Klagebeantwortung (undated, but 1882).
On former mayor Haffner's death, his nephew sold the house to the merchant Bender, an outsider from Kirchheimbolanden. It was one thing when Dürkheim's long-serving mayor ostentatiously kept the keys to that intermediary strip of property, and the town's lower-class and/or Jewish inhabitants respectfully asked him for it. However, the same behaviour from an outsider was not appreciated by the Barths, coming, as they did, from one of Dürkheim's notable families. Symbolic gesture and practical convenience were combined when Joseph Barth's sons started their brewery in the house their father had purchased. The only way that they had access to the cellar of their house was through the alley, so that they found themselves constantly having to beg their neighbour for the keys to the gate.47 It is easy to see why they would not have been happy with this state of affairs, and how they might have been led to express their contempt for their new neighbour and gain control over that strip of land between them.

Before 1866, control over the liminal, legally unclear space between the two houses had been a matter of both social deference—the neighbours asking Haffner for the keys to the gate leading to the alley—and a tacit rebellion against it, by throwing garbage into that alley and onto the kitchen window overlooking it. The changes in ownership and in use of the two properties over the following fifteen years had upset this situation and brought the ambiguity in ownership to the fore, leading to a lawsuit. Ironically, both the district court in Frankenthal and the appeals court in Zweibrücken ruled that while ownership of the alley itself was vague and disputable, the kitchen window and the building wall in which it was set were the unquestioned property of former mayor Haffner and his legal successor, the merchant Bender.48

This case sums up in a number of different ways the nature of property and its boundaries in the nineteenth-century Palatinate. Both regional custom and the Napoleonic Civil Code encouraged the division of property, constantly creating and recreating property boundaries. The code also generally encouraged a legal understanding of property ownership as giving owners very broad, almost absolute, control over their property. Custom and law thus created the need for firm, tangible, yet also mappable and legally representable boundaries between different pieces of property. If boundaries were supposed to be clear in theory, they were blurred in practice, by acts of human chicanery, by the flow of water, by economic change, by discrepancies between physical markers and their abstract, cadastral, and legal representation, and by the interaction of any of these factors. As a consequence, boundaries had to be constantly constructed and reconstructed in the social relations of everyday life. In this process, they became borders, not just of houses or parcels of land, but of class or religion, of deference and self-assertion, of the constant flow of social practice.

47 This point is noted in the defendant's brief (ibid., Schriftsatz, undated [1883]), in which his attorney specifically presented his use of the keys as that of the legal successor to mayor Haffner, former owner of the property.

48 Ibid., Urteil, 2 May 1883 and Urteil of the Oberlandgericht Zweibrücken, 17 Dec. 1883.
Managing one’s own affairs and disposing of one’s own property presupposed the mental competence to do so. Articles 489–512 of the Napoleonic Code and § 6 of the German Civil Code regulated the circumstances in which an individual could be declared incompetent. In effect, these clauses delineated a boundary between recognized participants and non-participants in civil society. The law codes drew this line based primarily on the ability to be rational, calculating, and to preserve property. Article 489 described as incompetent anyone in a ‘chronic condition of imbecility, dementia, or [uncontrollable] rage [fureur]’. § 6 of the German Civil Code noted as grounds for a declaration of incompetency mental illness making an individual unable to manage his own affairs, but also wastefulness [Verschwendung] or alcoholism [Trunksucht] to the point that it brought a family to danger of impoverishment [Nothstand].

Cases concerning an individual’s competence to manage his or her own affairs, and on related issues, such as a wife suing for a separation of marital property because her husband was not demonstrating the necessary competence in administering the joint community of property (often as a result of drinking or mental illness), involved attempting to draw such boundaries between the rational and the irrational in thought and action. In the course of these cases, the boundaries set in codes of law were interpreted and redrawn in the interplay between medical expertise, judicial interpretation, and the everyday understandings of relatives and neighbours.

The Dangers and Temptations of Drink

As one of Germany’s viticultural regions, production and consumption of alcohol was a major feature of the economy and culture of the Palatinate. Teetotallers, not especially prevalent anywhere in central Europe, were not to be found at all, and heavy drinking was common. Court proceedings involved distinguishing between individuals who drank heavily, but were still in control of their affairs, and those whose alcoholic consumption made them incapable of managing their property. There was certainly plenty of drunken behaviour that came to light in these cases. Vintner Daniel Roeder of Dürkheim, for instance, came home from the taverns in a drunken rage, and assaulted his wife and children, so that his wife fled their house at midnight, just dressed in her nightshirt, taking her two small

49 While most of the court cases deal with male drinkers, heavy drinking among women was not unknown, although more likely to occur in private (a similar point, in Sabean, Neckarhausen, 130). Cf. J6/1158, Enquête, 6 Apr. 1844, testimony of cabinetmaker Philipp [Duman?] and teamster and vintner Philipp Spatz II, both of Dürkheim, and esp. J6/608, a case that will be discussed in the next chapter.
children to the protection of her neighbours. Cooper Michael Münch of Wachenheim gave new meaning to the phrase ‘falling-down drunk’. In a state of extreme intoxication he lurched into the pit under the outhouse and was buried up to his neck in excrement.\textsuperscript{50}

Beyond these many individual instances of alcoholic behaviour, hardly limited to the nineteenth-century Palatinate, there were three characteristics of heavy drinking persistently noted by witnesses and cited in legal decisions and present throughout the entire period under consideration, from the 1820s to the eve of the First World War, that exemplify Palatines’ understanding of the problematic features of too much drinking, especially as they related to the use of property. Conversely, these condemnations also reveal some of the personal characteristics Palatines admired that were suppressed by the effects of alcohol.

One issue emerging in testimony was that heavy drinkers did not work, or did not work regularly and systematically. During the harvest in the summer of 1864, the farmer Conrad Schmitt of Haßloch ‘made the round of the taverns and performed no physical labour [\textit{nichts schaffte}]’. The violent drunk Daniel Roeder ‘tends to his fields very poorly; at times they have just been spaded up [\textit{gehackt}], when others’ fields have already been worked over three times’. Not only did Roeder tend to his fields meagrely and poorly, but he had it done for him by day labourers: ‘he himself does little work.’\textsuperscript{51} Sued by his wife for a division of their marital property in 1902, the farmer Adam Flory of Otterstadt produced witnesses who testified that while he may have drunk more than was appropriate, and was never a particularly hard worker, he was nonetheless not given to ‘drunkenness and idleness’.\textsuperscript{52}

When, at the end of the 1820s, Philipp Stump of Sausenheim married a woman of Weisenheim am Berg and moved there, he was ‘quite all right [\textit{recht ordentlich}] and industrious. Since 1834, though, he has been given to drink and things have got ever worse.’ The farmer and day labourer Jakob Lorenz of Grossfischlingen had been an ‘industrious and dedicated [\textit{tüchtiger}] worker’, even if he did occasionally drink to excess. ‘As his passion for drink increased [after c. 1907],

\textsuperscript{50} J6/1158, Enquête, 17 July 1843, testimony of teamster Valentin Weismann of Dürkheim; J6/1180, Zeugenverhör-Protocoll, 14 June 1875, testimony of the servant Margaretha Pfirrmann and of the vintner Georg Münch, both of Wachenheim.


\textsuperscript{52} J6/553, Klagebeantwortung, 26 Feb. 1902, Protokoll, 4 Apr. 1903, esp. testimony of farmer and deputy mayor Friedrich Hillenbrand, farmer Konrad Berthold, brick manufacturer Jakob Müller, gentleman farmer Peter Hillenbrand, and village policeman Valentin Spindler, all of Otterstadt. A similar sort of denial, J6/1158, Gegenzeugenverhörprotokoll, 7 Aug. 1844, testimony of farmer Michael Schuhmacher of Ramsen.
his willingness to work [Arbeitsfreudigkeit] declined...in the most recent past, he does not work at all. If he does go to work on occasion, he quickly gets tired of it and transfers his field of endeavours to the tavern.\(^{53}\) This pairing of drinking and idleness, this opposition of industriousness and excessive alcohol consumption, points to the virtues Palatines saw in a life of hard physical labour [Schaffen], at least for workers, craftsmen, and peasants. Drinking involved the temptation of rejecting this life, of veering away from the path of physical toil needed to preserve an individual’s or a family’s property.

Another negative consequence of alcoholism that Palatines observed was the tendency for heavy drinkers to make bad deals, showing their lack of ability to calculate their self-interest. A good example would be the farmer Jacob Fleck of Neuhofen during the 1840s. One witness explained that Fleck ‘hangs around in the taverns all day and wastes more money than, in my opinion, a man of his standing can bear’. The witness went on to explain that Fleck bought a cow for 36 gulden, which he fattened, and then sold to a butcher for only 32, ‘although a fat cow is worth more than a thin one’. Fleck also rented out his fields for six years, and then sold the right to collect the rent at a substantial discount, to get cash for his drinking.\(^{54}\)

This condemnation of alcoholic behaviour implied a certain calculation about whether a deal was a possibly reasonable one, or an example of lack of self-interest due to intoxication. One whole court case turned on this issue. Was the sale by Conrad Schmitt, farmer in Haßloch, of his fields to the dealer Salomon Gebhard, at a bargain price, the result of Schmitt’s heavy drinking, or of a justified interest in acquiring liquidity to pay for passage to America? Connecting the two potential motives was that at the time of the sale Schmitt’s relatives had begun court proceedings to declare him incompetent because of his drinking.\(^{55}\) It would be interesting to read the verdict, but, as with most pre-1879 cases, it is not preserved. Whatever the decision, the case testified to the high regard in Palatine society for calculated dealing and for obtaining the best possible result in a transaction.

The third frequently mentioned fault of drunkards, in many ways the most revealing of Palatines’ attitudes towards individuals and their property, was that alcoholics paid for other people’s drinks. The retired farmer Johannes Held, living, on visibly bad terms, with his daughter and son-in-law in Frankenthal, went the rounds of the taverns in early 1909, not just drinking expensive bottled vintages and sparkling wines, but ‘treating third parties to whom he had no closer

\(^{53}\) J6/1157, Zeugenverhör, 1 June 1840, testimony of farmer Wilhelm Saur of Wiesenheim am Berg; J15/208, Beschluss, 1 June 1908.

\(^{54}\) J6/1158, Zeugenverhör, 10 Apr. 1844, testimony of locksmith Daniel Siebert of Neustadt. An almost identical judgment on another drunkard ibid., Zeugenverhör, 2 Jan. 1843, testimony of estate owner and mayor Johannes Meck, farmer Georg Borden, and Christoph Hoos, all of Lachen.

\(^{55}\) J6/1173, Zeugenverhör-Protokoll, 18 Feb. 1865, esp. testimony given 20 Feb. 1865 of farmers Gottlieb Eisenmayer and Lorenz Dambach, servant Catharina Grün, and day labourer Jacob Huber, all of Haßloch; Gegenzeugenverhör, 18 Feb. 1865, testimony given 20 Feb. 1865 of notary’s clerk Lazarus Löb and village policeman Ludwig Keller, both of Haßloch.
acquaintanceship'. This was evidence for the district court in Frankenthal that his drinking had made him incompetent to manage his own affairs. In 1835, the day labourer Franz Hoffmann had treated others spectacularly in a tavern in Göllheim. Starting by drinking strong spirits at 9 a.m., he had gone on to pay for food and drink for everyone in the tavern the whole day, and then concluded in the afternoon by hiring musicians and purchasing jugs of wine to parade to Ramsen where his estranged wife lived. The parade never made it, because Hoffmann passed out on the way.

Inversely, refusal to treat others was evidence of an individual’s competence, even if he did imbibe. Christoph Schwan of Kallstadt, who was an extremely heavy drinker, to the point that he could physically no longer work, and spent much of the day unconscious from too much alcohol, defended himself in a competency hearing by producing witnesses who testified that he never paid for anyone else to drink. In the case involving the sale of the fields of Conrad Schmitt of Haßloch, a witness testifying to the validity of the transaction noted about Schmitt, ‘He was known for never giving anything away, when he was sober.’

One should understand what was reprehensible about this practice. It involved, of course, a waste of money, a dissipation of property that an individual had to conserve for himself and his family. But there were lots of ways that alcoholics ran through their property, more effectively impoverishing themselves and their families than by treating others, and plenty of evidence of them doing this, running from the 1820s to the eve of the First World War. The particular problem with paying for others to drink was that it was not just a dissipation of property but also, oddly enough, a perversion of the experience of consuming alcohol, an attempt to purchase the male friendship and solidarity of the tavern. In doing so, the drunkard degraded himself. The former soldier Jacob Rettinger testified in 1875 about the drinking habits of the cooper Michael Münch, of Wachenheim, from a well-off peasant family, who was the defendant in competency proceedings. Rettinger’s testimony linked the practice of treating others in the tavern with

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57 J6/1158, Zeugenverhörprotokoll, 5 Aug. 1844, testimony of cabinetmaker Philipp Bescher of Göllheim and textiles dealer Abraham Ritter of Kerzenheim. Another such episode, three years later, was described in the testimony of road repairman Johannes Mayer of Mertesheim and teamster Georg Linder of Quirnheim.
59 Testimony of village policeman Ludwig Keller, as in n. 55.
the physical deterioration, property dissipation, and social and moral degradation of heavy drinking.

I pointed out to him [Münch] the detrimental effects of drinking, using the example of Jakob Stoffel, who had also gone through all his goods. Defendant then gave me the answer: I no longer know what money is. I said to him: when you have no more, then you will know what money is. To which he replied, when I have no more, I will take a pistol and shoot myself dead. I was already present in Schuster’s tavern in Wachenheim, when the defendant was very drunk, as drunk as you can be. He fell to the ground, so you thought his head would be smashed; when he got up, he went a little way and fell to the ground again. His buddies [Kameraden] said to me that they had already carried him home on his back, which had frequently occurred. Once I saw the defendant so drunk that the children [of the village] ran after him. You were ashamed to go around with him, because he wore filthy outfits, which were inappropriate for someone who owned property as he did, and when you sat down with him, then people thought you wanted him to pay for your wine and beer.⁶¹

Alcohol, in this account, was depriving Münch of his property, his dignity, his social standing, as measured by his property ownership, and his ability to experience friendship and camaraderie. It was destroying characteristics in life that nineteenth-century Palatines cherished, in doing so expelling Münch from his participation in civil society.

The Presences and Absences of Madness

While attitudes towards and consequences of excessive alcohol consumption stayed largely the same across the nineteenth century, opinions about, treatment for, and experience of insanity changed greatly in that time. During the first decades of the century, the idea of mental illness, of a specific disease of the mind, a state differing from normal mental functioning and deserving of medical attention, including treatment in asylums created specifically for that purpose, was new in German-speaking countries and not yet fully assured. Even among those who accepted such a view—medical professionals, state bureaucrats, and, more generally, the educated public—the etiology of mental illness was hotly debated. Among the less educated population, and the insane themselves, ideas of madness as the result of divine punishment or supernatural affliction remained common. By contrast, at the beginning of the twentieth century, insanity was widely recognized as a malady with specific physical causes, usually understood as hereditary in nature. Diagnoses of different sorts of mental illness had been developed, and specialized physicians treated them in hospitals for the mentally ill. If popular scepticism of such a view had not entirely died out—and been supplemented by a new, ‘educated’ criticism of the whole concept, devoted to liberating the insane from

⁶¹ J6/1180, Zeugenverhör-Protocoll, 14 June 1875, testimony of the pensioned soldier Jacob Rettinger.
the asylums in which they were imprisoned—nonetheless, acceptance of a medical understanding of insanity had become the dominant way of thinking.\(^6^2\)

Two cases, one from 1823, and the other from 1910, show how these changing concepts of mental illness were experienced in Palatine society. Each case concerns a young mother married to a mid-level Bavarian state official. The women were both extremely schizophrenic, experiencing large-scale delusions, hearing voices, becoming catatonic, and setting fires. Although their symptoms and personal and social conditions were remarkably similar, their treatment, by neighbours, relatives, physicians, and the state, was very different.

Margarete Aloys née [Haulf?] had been married to Andreas Fuchs, Bavarian district tax collector in Kaiserslautern. They were divorced, and a 2-year-old child, presumably an offspring of their marriage, was living with the mother. She resided in Speyer during the early 1820s, renting rooms from various individuals in town. Her behaviour—repeatedly setting fires and almost burning down the residence of her landlord, barking like a dog at night so that all the other dogs in the neighbourhood joined in, and imagining that a journeyman mason named König (German for king) was the king of Bavaria—made her quite distinctive. Her neighbour Anna Maria Faupel commented disdainfully on ‘Fuchs’s farce’ [die Füchische Comödie] she performed with mason König, in treating him like the Bavarian monarch.

What her neighbours noticed most about Margarete and what distinctly angered them was her treatment of her small child. She refused to feed the child or let others give it food; she left it ‘naked and freezing’, locked in the room for hours at a time. One of her neighbours, the messenger Nicolaus [Klopp?], ‘reproached her’ about this behaviour. Another, Christian Müller, commented, ‘She treated her child in an especially pitiless [unbarmherzig] way, and if people had not come to its aid, she would have allowed it to die of hunger and starvation.’ Müller summed up his opinion of her by saying that ‘she behaved like a foolish and crazy [thöricht und wahnsinnig] person’.\(^6^3\)

The inhabitants of early nineteenth-century Speyer perceived Margarete Fuchs as different and not normal, but the categories in which they expressed their judgments were not medical ones at all, but those of moral opprobrium. They saw her

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\(^6^3\) J6/1150, testimony before the justice of the peace in Speyer, 15 Sept. 1823, by messenger Nicolaus Klopp, schoolteacher Michael König and his wife Anna Maria Faupel; testimony on 16 Sept. 1823 by farmer Philipp Jacob Müller, his brother, without occupation, Christian Müller, Theresia Müller, daughter of day labourer Moriz Müller, and Anna Wolnitzer, wife of saddler Paul Gartlein, all of Speyer. A similar contemporary attitude, actually expressed by a physician, in Kaufmann, *Psychiatrie in Deutschland*, 279.
as a heartless and uncaring mother, and as a person given to ridiculous and absurd behaviour. These categories of understanding were, in some ways, shared by the legal system. To be sure, the testimony just cited was given in a mental competency hearing, to determine whether Margarete Fuchs had the capacity to be a defendant in a civil lawsuit. However, it is striking that she had custody of her small child following her divorce, and nobody found this inappropriate, in spite of her evident inability to take care of the child.

Quite different was the story, ninety years later, of Berta Wadlinger née Katzenberger, the estranged wife of Nikolaus Wadlinger, director of the state property office [Rentamtmann] in Blieskastel. The two issues in the court proceedings concerning her were the question of the appropriate treatment of her mental illness and her request for visitation rights with her 7-year-old daughter (unnamed in the court records) from her marriage. Everyone involved in the case agreed that Berta Wadlinger was mentally ill, and that she needed treatment in an asylum. Her parents had sent her to private clinics, a water-cure hospital in Bendorf, and the very expensive establishment of a Dr Wehsarg in Eschau, in a resort area of trans-Rhenan Bavaria. By contrast, her husband felt that the state insane asylum in Klingemünster was good enough, and in view of Dr Wehsarg’s description of his therapy, he may have had a point.⁶⁴

While Margarete Fuchs could retain custody of her small child, custody of Berta Wadlinger’s daughter, following her divorce, went to her husband. Berta herself, and her parents, who pressed her legal case, in view of their daughter’s incapacity to handle her own affairs, did not dispute the custody arrangement, nor did they argue that Berta, in view of her illness, had treated her child all that much better than Margarete Fuchs had treated hers, but they argued that Berta should at least be able to see her daughter. The physician Dr Michael Bayersdörfer of Neustadt, giving an expert opinion to the court, recommended against visitations. He stated that ‘in view of the hereditary burden on the mother’s side, in addition to which the father’s nervousness may well play a role...extended relations of the mother to the child will necessarily lead to a health risk for the child, especially in regard to her development’.⁶⁵

The contrast with Margarete Fuchs could not be more complete. Berta Wadlinger’s condition was understood in medical rather than in moral terms. Clinical diagnoses, usually psychosis or ‘hysterical psychosis’, were couched in a hereditary understanding of mental illness. The Frankenthal district court did hear testimony from lay people—friends, servants, and family members—about Berta Wadlinger’s mental conditions as the Speyer justice of the peace had done in

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⁶⁴ J6/164, Klage, 2 July 1910; Schriftsatz, 19 July 1910; Protokoll, 3 Sept. 1910, testimony of Dr Reinhard Wehsarg, physician in Sommerau, and Dr Wehsarg to Dr Michael Bayersdörfer in Neustadt, 9 June 1909 (Abschrift).

1823 concerning the mental state of Margarete Fuchs, but the jurists of the early twentieth century relied in their judgments primarily on the medical diagnoses expressed in the expert opinions of specialized physicians.⁶⁶

Between these two very different understandings of madness there was an intermediary period that appears in court cases of the 1870s and 1880s. Then, madness was understood as a mental illness, but its etiology and characterization was vague and unclear, and its relationship to individuals’ competence to run their own affairs debated and disputed. Both doctors and lay people testified as to individuals’ mental states. Court judgments, while taking physicians’ opinions into account, were formulated less in clinical terms than in terms of individuals’ activities in civil society.⁶⁷

A self-understanding as well as a practical legal understanding of insanity are apparent in the 1886 testimony of the farmhand Peter Sattel of Schifferstadt. The opposing attorney demanded that, as prescribed by the code of civil procedure, his testimony not be heard under oath, because he was ‘mentally ill \([\text{geistig krank}]\)’. Sattel’s reply to this reproach was, ‘It is, to be sure, correct, that I am ill and the pains often overcome me \([\text{die Schmerzen mich oft übernehmen}]\) but I know quite well what I say and what I have to do.’ The court reserved judgment on the motion. After hearing Sattel’s testimony, the presiding judge stated that ‘the witness testified calmly and securely \([\text{ruhig und sicher}]\) and definitely did not make on us the impression of a mentally ill person’, so he had Sattel take the oath, swearing that in his testimony he had told the truth.⁶⁸

Mental illness, in this court interchange, was neither defined as a moral failing, nor as a hereditary physical condition, to be diagnosed by a medical expert, but as a state of mind, characterized by the absence of calmness and certainty. In this view, a mentally ill person was like a raging lunatic. Testimony in the 1872 mental competency hearing of the former mechanic Franz Lieberich described just such a person. Originally from the village of Winzingen, Lieberich had emigrated to the United States in 1850, where an acquaintance from the Palatinate had found him ‘totally bewildered and wayward \([\text{verwahrlost}]\)’, spending the whole day standing in a corner, spitting. Relatives arranged to have him shipped back to Germany, and on his arrival in Rotterdam ‘he looked like a wild man’, with his clothing in disarray and his hair uncut. Back in Winzingen, living with his brother, he would run through the house, slamming the doors behind him, terrifying the children, screaming at his sister, and cursing and scratching his brother.⁶⁹

⁶⁶ Examples of similar legal and medical attitudes in the early twentieth century, J31/202, testimony of expert witnesses Dr Karl Eggert, district physician, and Dr Adolf Kahn, physician, both in Pirmasens, 12 May 1902, and Urteil, 13 May 1902, Urteil, 1 May 1902; J31/208, Ärztliches Gutachten, 21 Sept. 1910, and Urteil, undated; J31/210, Aertzliches Gutachten, 7 May 1912, and Beschluß, 18 May 1912; J31/211, Protokoll, 22 Nov. 1913 and Beschluss, 15 Dec. 1913.

⁶⁷ On the extent to which medical psychiatry itself was in a state of flux at the time and quite unsure about origins and diagnosis of mental illness, cf. Engstrom, *Clinical Psychology*, chs. 1–4.

⁶⁸ J6/63, Zeugenvernehmungsprotokoll, 12 Apr. 1886, testimony of farm servant Peter Sattel.

Contemporaries sometimes linked this state of mental disability to other family members, although these connections were only sometimes expressed as a line of descent. Attacking, in 1883, the mental competence of the late Sophie Breitwieser, in particular, the last will and testament she had written, the plaintiffs’ attorney stated, ‘in the Breitwieser family traces of highly limited or disturbed mind are not unusual. The mother of the bequeather suffered from mental disturbances and her brother Jakob Breitwieser, declared incompetent... has lived for over 40 years in mental darkness.’ This certainly sounds like some recognition of a hereditary model of mental illness, but the very following year, attacking the mental competency and testament of the late Anna Maria Dietz née Weinmann, an attorney noted, ‘The very elderly Frau Weinmann was incapable of giving a declaration of her last will, because for many years she was no less mentally disturbed than her husband, who had been declared incompetent and who died last January in the poorhouse and hospital in Frankenthal.’ Whatever connection between the husband’s and the wife’s mental state was implied in this pre-trial brief, it was not one of heredity.

This understanding of the distinction between the sane and the insane, the mentally competent and the mentally incompetent, left a good deal of room for doubt and dispute, which could be resolved by emphasizing criteria of rational and calculating behaviour not entirely different from those used to judge the competence of alcoholics. This search was particularly apparent in two cases from the 1880s, in which plaintiffs tried to get a testament or other intergenerational disposition of property overturned, on the grounds that their elderly authors were mentally incompetent. Looking at the testimony as to their mental condition, it seems likely that both individuals concerned, the vintner Andreas Georgens I of Ungstein and the innkeeper’s wife Katharina Haffner née Kirschnor of Großkarlbach, were suffering from Alzheimer’s disease, or another form of senile dementia. Both wandered off, no longer recognized long-term acquaintances, and had periods of total confusion and disorientation.

Yet in both cases the court rejected the idea that Haffner and Georgens were mentally incompetent. The judges were clearly more impressed with other testimony affirming their mental abilities down to the end of their lives. An important point in this testimony was that both individuals were up on their property, worked at it, and conducted transactions in it to the best result. The broker

70 J6/40, Erwiderungsschriftsatz, undated [1883].
71 J6/47, Klageschrift, undated [1884].
Abraham Betzner told of how the elderly Georgens had bargained hard to reduce Betzner’s commission on the sale of Georgens’s wine from 4 to 2 per cent. The butcher Philipp Gattermann, negotiating the purchase of farm animals for slaughter, was impressed by how the elderly Georgens insisted on getting the highest price. ‘That he was then feeble-minded [geistesschwachsinnig] was something I couldn’t notice.’ Still other witnesses noted that Georgens conversed with them about farming methods, viticulture, and agricultural prices, or saw him returning from the fields with a spade on his shoulder, announcing he would work hard [schaffe] as long as he could.⁷³

Witnesses in Katharina Haffner’s case provided a female version of these accolades, emphasizing her hard work and ability to evaluate and assist in her husband’s transactions. The broker Philipp Clauss of Großkarlbach proclaimed, ‘Frau Haffner was active and capable [tüchtig] in her housekeeping.’ A long-time family friend, the farmer Georg Puder, told how Haffner explained that she had brought debts from her first marriage into her second, and she had worked hard to pay them off. As the owner of an inn, she had gone into the cellar to get the wine that every single customer had ordered. The midwife Elisabetha née Breitenstein, who treated Haffner for physical illnesses, testified that the elderly lady told her she approved her husband’s sale of some fields she owned, ‘because there’s no return on them, the workers cost so much money’.⁷⁴

Naturally, one could not expect doctors to make a diagnosis of Alzheimer’s disease some twenty years before Alois Alzheimer carried out his research into the brain lesions of victims of senile dementia. But the two physicians’ testimony, particularly in Katharina Haffner’s case, was little different from that of lay witnesses, both offering, in terms of everyday experience, their opinions of Haffner’s rationality. The court decision about Haffner’s mental competence gave no special weight to the doctors, but sought to explain away the many examples of dementia witnesses recounted by asserting, in aggressively common sense terms, that they were just the result of poor eyesight, failing memory, sleepiness, fever, or consumption of too much wine.⁷⁵ In these cases, the boundary between the mentally competent and the mentally incompetent was rather like that drawn in both legal

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⁷⁵ Ibid., Zeugenvernehmungsprotokoll, 23 Oct. 1886, testimony of physicians Carl Valentin Fleischmann and Adolf Georges, both of Freinsheim; Urteil, 30 May 1888. J6/47 is probably a very similar case, but much of the testimony about the behaviour of the individual in question is missing; J6/588, Aertzliches Gutachten, 25 June 1907; Urteil, 26 Nov. 1907 and pasim involves similar legal reasoning at an unusually late date.
and popular judgments on alcoholics, a line between those who were hard-working and calculating, and those who were not.

*Crazy Maria Eva Makes her Will*

On 15 Dec. 1875, the notary Ludwig Wenner of Waldfischbach was summoned to the bedside of Maria Eva Weilbrenner in Ellerstadt, for she wished to make her last will and testament. Single and childless, Maria Eva left all her worldly goods to her nephew, the vintner Philipp Jacob Weilbrenner, and his wife Gertraud née Weiss, who had taken her in and cared for her during her final illness. She pointedly rejected leaving anything to her siblings or their heirs, for they had ignored her and treated her badly. Following her death, these siblings sued to overturn the validity of the will.⁷⁶

At first glance, this situation was a typical inheritance dispute, of the sort discussed in the first chapter, pitting the caretakers and beneficiaries of the will, who claimed to have treated the testatrix well, while her other relatives ignored or mistreated her, against the intestate heirs, who accused the beneficiaries of exploiting their position as caretakers of an elderly or ill person to get all of her money. However, in this instance, there was an unusual element involved. Maria Eva Weilbrenner, at the time she expressed her last will and testament, was mentally incompetent. She had been declared so about thirty years previously; ever since then, a conservator had managed her property.⁷⁷ The testimony in the case dealt at some length with Maria Eva’s mental condition and her place in the village of Ellerstadt.

Witnesses for the defence, upholding the validity of the testament, pointed to the rationality and industriousness of the late Weilbrenner. The vintner Jacob Kesselring described her as ‘sensible and decent [vernünftig und anständig]’. Other witnesses noted how rationally she spoke. ‘It was as if I were talking to my wife’, said the vintner Heinrich Baum, of the nearby village of Seebach. In addition, these witnesses described her as very devout, regularly going to church, singing hymns, and taking communion.⁷⁸ Weilbrenner was as hard-working as she was rational. She never begged but worked at cutting grass, gathering fallen wood in

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⁷⁶ J6/1180, Zeugenverhör Protocoll, 8 Mar. 1875, esp. testimony of notary Ludwig Wenner of Waldfischbach; Fortsetzung, 15 Mar. 1875, testimony of Anna Maria née [Knoll?], wife of day labourer Georg Jacob Magin II, and of gentleman farmer Michael Damian, both from Ellerstadt.


⁷⁸ Ibid., Zeugenverhör Protocoll, 8 Mar. 1875, testimony of innkeeper and wagon-wright Ludwig Meinhard III and of vintner Jacob Kesselring, both of Ellerstadt; Fortsetzung, 15 Mar. 1875, testimony of Catharina née Diesinger, wife of day labourer Georg Kesselring, and farmer Georg Ludwig Schneider II, both of Ellerstadt; testimony of Heinrich Baum, vintner in Seebach; testimony of Georg Blaul as in the previous note. This conflation of piety and rationality, which can be found in other cases at the time (cf. J6/61, Urteil, 30 May 1888 and Zeugenvernehmungsprotokoll, 28 June 1886, testimony of Protestant pastor Johann Unger of Großkarlbach, and Engstrom, *Clinical Psychiatry*, 84–5), is quite different from circumstances described by Goldberg, *Modern Madness*, 35–82, in which rationalist state officials and psychiatrists took the religious enthusiasm of the insane as evidence of their madness.
the forest, and fetching water from the well, three typical female agricultural occupations. She even earned some money by carrying wine from nearby Dürkheim to one of the village’s innkeepers.\(^{79}\)

Crucially, the defence witnesses described Maria Eva as rational in her transactions and well aware of property. They praised her financial acumen, noting how she carefully counted out her change, wrapped loose coins in paper, ‘as peasants usually do’, so that they would not get lost, and observed that she could distinguish groschen pieces—Prussian currency—from south German kreuzer. She knew of the arrangement by which her conservator had rented out her fields, carefully collected the annual rent from him, and wanted, after the lease ran out, to cultivate the land herself. The wagon-wright and innkeeper Ludwig Meinhard III, one of the witnesses to her testament, even stated that she understood the proceedings better than he did: ‘she was no dummy.’\(^{80}\)

Defence witnesses also described the conflicts emerging out of the property relations between Maria Eva and her siblings. Her brother Wendel had taken from her the 100 fl. in cash she had received in the property settlement following her parents’ death, and later mocked her about it, saying that no one would believe her charges, since she was a crazy person [Narr]. Above all, they attributed the legal recognition of her madness to an incident in the mid-1840s, when she had run away with a man. Her brother and brothers-in-law had brought her back, beaten her, and had her declared mentally incompetent, so that she could not get married, and turn over her property in a dowry, sell the property, or ‘deal it away to a Jew’.\(^{81}\) Indeed, Maria Eva Weilbrenner was unusually sensitive to the gendered nuances of property. Talking to the gentleman farmer Michael Damian, one of the richest men in Ellerstadt, about her inheritance plans:

She asked me how she should do it, if she can give it all to Philipp Jacob [Weilbrenner, her nephew] so that Gertraud [née Weiss, his wife] can also have a part, for she has washed and mended all her clothes. I said, when it is bequeathed, it belongs to one as much as to the other; she should bequeath it to him. To which she said, Gertraud should receive 200 fl. more than Philipp Jacob. She is poorer than Philipp Jacob and has deserved it. Philipp Jacob works in the vineyards and earns so and so much money, but Gertraud does not.\(^{82}\)

In spite of all the efforts of defence witnesses to portray a rational, calculating, hard-working woman, well aware of her property, exploited by her conniving relatives, rather different elements of Maria Eva’s life appeared in their testimony. After some sharp questioning by the plaintiffs’ attorney (itself a rather unusual occurrence) one witness admitted that Maria Eva was a madwoman [Narrin]. Then there was the matter of the way that the young men in the village would

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\(^ {79}\) As noted by the witnesses cited in the three previous notes.

\(^ {80}\) Ibid., Fortsetzung, 15 Mar., 1875, testimony of Elisabetha Meinhardt of Ellerstadt; testimony of Ludwig Meinhard III, Jacob Kesselring, Georg Blaul, and Michael Damian as in the previous notes.

\(^ {81}\) Ibid., testimony of Jacob Kesselring, Georg Blaul, and Anna Eva Knoll, as in previous notes.

\(^ {82}\) Testimony of Michael Damian, as in n. 76.
mock her in the street, and she would become lost and disoriented, unable to respond to them, or to know what to do in any way.  

These admissions were clarified by the testimony of the plaintiffs’ witnesses. Everyone in the village, they said, called Weilbrenner ‘crazy Maria Eva’. Admitting that at times she talked quite sensibly [gescheut] and was very devout, at other times, they explained, she would stand for days and say the same sentence over and over again. The villagers’ response to this sort of behaviour was to tell her to stop, because her sentences were lies. Usually this worked and she seemed rational again, but once she then stood for days repeating, ‘now I know my false witnesses’. She saw spirits coming from the underworld, her sister (who had emigrated to America) in a cesspool, and ‘she lived in fantasy, and her expressions were sometimes in America, sometimes in the overworld in heaven and sometimes in the underworld’. Her running away with a baker at the age of 18 was attributed to her mental instability, and for years when the boys and young men of the village would tease her about it, and she became confused, ‘she would have a fantasy about males’.

The opposing testimony of the plaintiffs’ and defendants’ witnesses adds up to a single picture of Maria Eva Weilbrenner and her place in the village of Ellerstadt. She was sensible and industrious, and knew the value of money and property, but also heard voices, saw visions, and lived in a world of fantasy. The villagers knew her as ‘crazy Maria Eva’ and understood that she was not right in the head, but saw this neither as a moral failing nor as a hereditary pathology. No physician testified about Maria Eva’s mental condition, and while Maria Eva’s caretakers did call a doctor for her physical ailments, the illness that led to her death, there is no evidence of any medical treatment for her mental problems. Rather, the inhabitants of mid-nineteenth-century Ellerstadt treated her mental illness as a state of mind that could be countered by sharp admonitions to stop her nonsense and be rational again. In the extreme case, when, as a teenager, she ran off with the baker, beatings would reinforce the verbal command.

Maria Eva was a recognized part of the village society. She was often cruelly treated, by her siblings, who wanted nothing to do with her and took her property, or by the young men and boys who made fun of her. There were more sympathetic people too: her nephew Philipp Jacob and his wife Gertraud, or the wealthy and influential gentleman farmer Michael Damian, whose wife was related to Maria Eva’s first conservator. Damian acted as Maria Eva’s patron, welcoming her as a

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83 Testimony of Heinrich Uhrliech, Ludwig Meinhard III, and Michael Damian, as in the previous notes.
84 Ibid., Gegenzeugenverhör-Protocoll, 3 May 1875, testimony of gentleman farmer and mayor Conrad Braun, vintner Philipp Merz I, shoemaker Johannes Lauer II, farmer Philipp Jacob Weilbrenner II, cabinetmaker Philipp Jacob Diehl, farmer Johannes Weilbrenner, Magdalena Acker, wife of factory worker Michael Weilbrenner II, distiller and day labourer Georg Merz, vintner Jacob Kesselring II, and vintner Philipp Müller, all of Ellerstadt. The defendants’ witnesses, cited in n. 78 above, also explained that they would order Maria Eva to stop having her irrational episodes.
visitor in his house, offering her advice, and ordering the young men of the village to stop their cruel fun. The legal treatment of Maria Eva’s mental condition was clearly connected with the property she owned, a small bit, but important in the poor Weilbrenner family. (Both parties in the case received court-appointed poverty attorneys.) Her condition and its legal ramifications were also tied up with controlling her sexuality, whose unbridled—although probably also delusional—expression threatened the family property. The declaration of mental incompetency meant that she would never marry, as Maria Eva herself understood, this being one of the many things she told the sympathetic Michael Damian. Both the young men’s mockery and her ‘fantasies about males’ that followed reflected this state of affairs.

There is no question that nineteenth-century Palatines placed a high value on rationality, labour, and sensible uses of property, and there is also no question that they judged individuals’ mental competence in terms of these characteristics. Such judgments about madness, both in law and in popular culture, coexisted with other ways to understand insanity—in particular a biological-medical approach, struggling for acceptance in the early part of the nineteenth century against religious and moralizing attitudes, and triumphant in the years after 1900. In the middle decades of the century, religion and morality played a lesser role in the judgments about insanity—as we can see from the villagers’ conflation of piety and rationality in thinking about Maria Eva Weilbrenner—and medical opinion about insanity differed little from common sense attitudes. No one thought to consult a doctor about Maria Eva’s mental illness and, as a result, there was no medical testimony about her state of mind.

While property-related judgments strongly determined the way the villagers of Ellerstadt perceived and treated Maria Eva Weilbrenner, it would be inappropriate to reduce her madness to her family’s or the village’s response to her sexuality and the threat this sexuality might have posed towards her and her family’s property. Pre-marital sexual relationships were far from unknown in the nineteenth-century Palatinate, and they generally did not result in the young women involved hearing voices or seeing images of their sisters in cesspools. Her madness was not created by a society that valued highly rationality, labour, and the sensible use of property; if anything, these characteristics made it possible for crazy Maria Eva to carve out a place for herself in the village of Ellerstadt, marginal and unpleasant as that place often was.

85 Maria Eva’s treatment in Ellerstadt seems similar to, although rather kinder than, what was meted out to the insane in the county of Warendorf in Westphalia, in the first half of the nineteenth century. Kaufmann, *Psychiatrie in Deutschland*, 236–60.


87 This against Goldberg who, ibid. 7–10, 98, 104, 124–5, 132–5, 139–40, while asserting an agnostic attitude about the etiology of mental illness, in her individual case studies often describes mistreatment and social marginalization as the cause of insanity. On results of pre-marital sexual activity, see the discussion of paternity cases in the next chapter.
DISGUST AND DISHONOUR

Certain physical conditions brought forth powerful feelings of nausea and disgust \([\text{Ekel}]\) among those who saw, felt, or smelled them. A closer examination of the circumstances in which these feelings emerged shows their connection with violations of the boundaries of the human body and its secretions. The elderly vintner Andreas Georgens I of Ungstein, whose senility was discussed just above, was incontinent, and his clothing and bed linens were constantly stained. Asked by Georgens’s daughter-in-law whether she would wash the old man’s clothes, Annamaria Pye, wife of linen weaver Karl Wendel in Grethen, indignantly rejected the offer. As she told the court, ‘the underwear stank; filth made it dirty in such a nauseating \([\text{ekelhafter}]\) way that I responded to the enquiry of the wife of Lorenz Georgens whether I would wash the things, by refusing, with the remark, “not for 100 gulden.”’ ⁸⁸

Lorenz Georgens was well off, while Annamaria Pye was not: the wife of a linen weaver—a notoriously impoverished occupation—earning extra money delivering newspapers, which was when Frau Georgens showed her the clothing. The exaggerated rejection of the offer, since a washerwoman might not have earned 100 fl. in a whole year’s work, emphasized Annamaria Pye’s refusal to do, literally, the dirty work of the more affluent. Frau Georgens, however, whose faithful and dedicated care of her father-in-law was considered in the first chapter of the book, had the same feelings of disgust, to the point that she was sick for days at a time. ⁸⁹

The repugnant odours coming from the incontinent old man might make this nausea seem self-evident, but other witnesses noted that part of the way Lorenz Georgens cared for his enfeebled father was to collect manure and use it to fertilize his vineyards. Dung heaps were an important part of agriculture, and the property boundary cases discussed in the first part of this chapter show their ubiquity, along with cesspools and privies. Yet in only one of these cases, which often dealt with the obnoxious effluvia emerging from them, was there any mention of even the potential for feelings of disgust. ⁹⁰

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⁹⁰ This one exception is J6/1160, Expertenbericht, 5 Aug. 1848. On the welcome prevalence and significance of manure, cf. Manuel Frey, Der reinliche Bürger. Entstehung und Verbreitung bürgerlicher Tugenden in Deutschland, 1760–1860 (Göttingen: Vandenhoeck & Ruprecht, 1997), 320–3, although, regrettably, the author’s discussion only deals with trans-Rhenan Bavaria, and he does not use the comparable materials available for the Palatinate.
Disgust arose not just from obnoxious odours but from the inappropriate ways that fluids crossed bodily boundaries. Just as productive of nausea and disgust as Andreas Georgens’s incontinence was the ‘repulsive [eckelhaft] female illness’ of the widow Philippina Baetz, whose symptoms included ‘bleeding and evil-smelling, filthy discharges’. Because of the repulsion this condition generated, no one would take care of the widow Baetz for pay, so her sister and her daughters did it for fourteen years, although they, apparently, were able to hire someone to clean her soiled undergarments. This was not the only instance in which irregular female discharges, outside the monthly menstrual cycle or the age of fertility, evoked powerful feelings of disgust.⁹¹

The physical illness of Maria Eva Weilbrenner, for which she received such admirable care from her nephew’s wife, also involved bodily fluids crossing boundaries, spitting and persistent vomiting, which stained her bedclothes, and which Gertraud née Weiss cleaned carefully and persistently. Praising this care, Anna Eva Knoll, wife of a day labourer, noted that although she was a poor woman, she could not have cared herself for someone with an illness provoking such nausea and disgust [eckelerregende Krankheit]. When the notary came to record Maria Eva’s last will and testament, her sickroom was aired out in advance, to reduce the unpleasant odour, and Getraud dumped sand on the floor, to contain the vomit there. Nonetheless, the notary admitted to a ‘feeling of disgust’ [eckelhaftes Gefühl] as he stood on the sand. His boots would have been between him and the sand, so he would not have come into physical contact with Maria Eva’s bodily outpourings. (One must suspect that at times his boots came into contact with manure without provoking such feelings.) Just the evidence of their crossing of boundaries was enough to cause his feelings of disgust.⁹²

Although crossing of personal boundaries with bodily fluids was the chief way that nineteenth-century Palatines experienced such powerful disgust, it was not the only one. Henriette Schaaf’s guardian, her late stepmother’s father, made her wear the clothing of her step-aunts, who had died of consumption, and the touch of their clothing on her skin provoked in her feelings of ‘genuine revulsion’ [wahrhafte Eckel]. Hers was not a precocious concern with infectious disease, since she gave the clothes away to her aunt, her late father’s sister, ‘just to get rid of them, no longer to have to wear them’.⁹³ Here, it would seem, crossing the boundaries between the living and the dead brought forth feelings of nausea and disgust.

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⁹³ J6/57, Testimony of Margaretha née Schaaf, wife of Gottlieb Peter Ingle, taken at the Königliches Amtsgericht in Wittlich, 11 Nov. 1885.
Finally, we can sometimes observe a moral element in feelings of disgust, particularly in the condemnation of heavy drinkers, whose rejection of a sober, calculating, and industrious life went along with a physical violation of their personal integrity. In its decision, declaring the farmer and day labourer Jakob Lorenz mentally incompetent, the magistrate’s court of Edenkoben announced that ‘Physically he [Lorenz] is so far deteriorated, that he is no longer master of his bodily organs, suddenly can no longer hold himself upright or seated on a chair, falls to the floor and fouls it in a nauseating way’. If the condition of the sick aroused revulsion, they could not help themselves; the perception of Lorenz’s condition as the result of his own failings only increased the feelings of disgust.

Dishonour was, of course, an entirely moral failing. Studies of honour in nineteenth-century Germany have associated it with concepts of manhood, as demonstrated in the act of duelling. The American scholar Kevin McAleer has described the practice and the concept of honour associated with it as examples of the strength of archaic, feudal ideas and institutions. By contrast, German historian Ute Frevert has argued, probably more convincingly, that duelling was an integral expression of the ideals of honour of nineteenth-century German Bürger, and, as such, an integral part of civil society. The duelling men of honour Frevert studied, however, were mostly reserve army officers, state officials, attorneys, physicians, and professors, members of the professional middle class, while ‘honourable’ capitalists were few and far between. One might wonder how relevant such a concept of honour would have been in the eminently commercial society of the nineteenth-century Palatinate.

The court records reveal a different concept of honour prevalent there, one directly related to property transactions. To be honourable was to keep one’s word, to perform the obligations into which one had entered. Along with many phrases meaning honourable—ehrlich, redlich, rechtschaffen, brav—Palatines also used the French word réel (sometimes Germanized to real), in the sense of someone who keeps his word, a meaning that in France itself had become archaic in the nineteenth century.

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In view of the many transactions carried out on a verbal basis, it is easy to understand why keeping one’s word would be an attribute of honourable behaviour.

Being honourable had an additional connotation, namely keeping one’s word, and performing one’s obligations, even if it meant not acting in one’s own best self-interest. The debtor in bankruptcy dental technician Jacob Schmitt of Kaiserslautern wrote to the magistrate’s court in 1900, declaring that he believed he had ‘obligation to my honour’ to offer his creditors ‘a respectable settlement on their claims’. Some four decades previously, the merchant Martin Marx of Frankenthal described his fellow townsman Johann Paul Heck, who had failed in his flour-dealing business and gone bankrupt, as ‘an entirely honourable man... who, in his business, never had the intention of evading his creditors’. In a similar sense, the dealer Isaak Kuhn of Bissersheim asserted in 1839, ‘he was not the man who would not keep his word; the agreement [for a business partnership] would remain, whether profit or loss came from it’. ⁹⁷

This commercial honour, unlike the one expressed in duelling, was not limited to men. Women, as well, could enter into obligations, or pledge and keep their word in property transactions. The married couple Heinrich Zimmer and Elisabetha née Schreiner of Carlsberg were both pedlars; their marital property, however, had been separated, so that each of them could conduct a business independent of the other. This was necessary, because Heinrich had developed a reputation for not paying his debts. Elisabetha, on the other hand, was ‘an honourable woman who keeps her word [eine ehrliche und reale Frau]’. The village school-teacher noted that Elisabetha ‘enjoys the reputation of being an honourable woman and it is to be wished that her husband had the same reputation’. ⁹⁸

If being honourable meant keeping one’s word and fulfilling one’s obligation in a property transaction, it also meant knowing how to distinguish between acts based on property transactions and those based on non-commercial principles. When the business arrangement, discussed in the second chapter, between the furrier Martin Herding of Dürkheim and the cap dealer Johann Philipp Strieby of Grünstadt broke down in 1852, the court appointed a mediator to sort out the claims the two had on each other. The mediator’s lengthy report is filled with calculations and negative comments about the two parties’ insufficient bookkeeping, but at one point its author dropped his analytical language and expressed a forthright moral judgment:

Finally, in regard to the subsequently submitted claim of Strieby for room and board, which Herding and his family received from him during various markets in Grünstadt, the undersigned cannot suppress the remark that this desire [Begehren] makes him most deeply

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⁹⁸ J6/1180, Gegenzeugenverhör, 3 July 1875, testimony of teacher Heinrich Klein and baker and innkeeper Johann Adam Reith, both of Carlsberg, and of merchant Nicolaus Schmitt of Wattenheim.
indignant. In countless letters, Strieby invites Herding and his family to room with him, to come days before [all emphases in original] the market to rest; while it is apparent from many letters that Strieby himself, his wife, and children made visits to Herding for shorter or longer periods of time… for which, as is self-evident, Herding even now never raises any claims; while it is apparent from the letters that a very intimate relationship existed between the parties, which only seems to have been disturbed because Herding wanted more money from Strieby, the latter exposes himself by submitting a bill for 96 fl. 22 xr. Only a man lacking all shame and honour… could act in such a way.⁹⁹

Strieby was dishonourable because he attempted to profit from friendship, applying principles of rational self-interest and calculation to relations based on altruism and emotion. But the property-oriented and transactional part of Herding and Strieby’s relationship, based on contractual obligation and payment for goods and services received, was evidently difficult to separate from the ‘intimate’, emotional part, based on mutual generosity. When Herding began demanding more money from Strieby—an action entirely justified by the contractual, calculating, and profit-oriented aspect of their relationship—one could hardly expect the emotional part to have remained unaffected. The concept of honour proposed by the mediator insisted that it do so. His indignation at Strieby’s bill highlights a broader context, the fact that a substantial portion of nineteenth-century Palatines’ property transactions, linked as they were to family ties or to face-to-face relationships and verbal assurances, contained a mixture of self-interested, calculating, and emotional, altruistic elements.

A Claims Adjuster Reflects on Human Depravity

Not content with the compensation offered him by the Leipzig Fire Insurance Company following a devastating fire in September 1860, the gentleman farmer Johannes Renner of Maudach filed suit against it. In an ultimately unsuccessful attempt to avoid a lengthy trial, the district court in Frankenthal appointed a mediator, an experienced claims adjuster named Ehrhard, to propose a settlement.¹⁰⁰ As he explained in his expert opinion, the central issue of the case was the compensation to be paid for the loss of the recently harvested crops. Renner’s policy paid the market price on grains, up to a maximum figure, only the market price at the time of the fire for the different grains was some 25–70 per cent higher than the policy’s maximum.

Renner wanted to be compensated at the market price; the insurance company offered the maximum set by the policy. Claims adjuster Ehrhard had no doubt about who was right and presented the issue as a question of honour and morality:

In my opinion, the victim of a fire in such a case has no claim on a larger compensation sum than one according to the plaintiff’s own figures on the value of his possessions as

¹⁰⁰ The case was lengthy and complicated, and interwoven with the claims of Renner’s son, brewer Hartmut. Material on it is scattered through J6/1169–71.
given in the proposition of the policy . . . only so can the relevant clauses of the policy be understood, because the conditions of any honourably concluded contract must be permeated with the spirit of morality. Otherwise, the door would be opened to dishonour and dishonesty [ Unredlichkeit ] and opened all the wider as in these days egoism and greed, these two components of so much evil, unfortunately dominate the conscience of so many people in a very regrettable way. In my twenty-four-year-long experience . . . in the adjustment of so many fire damage claims in the different parts of the Bavarian Palatinate I have been sufficiently convinced that in the course of this long period of time over 90 per cent of the victims of fire have attempted to profit illicitly from their compensation claims.¹⁰¹

Claims adjuster Ehrhardt, like many people working in finance, was a convinced adherent of a free market economy. He also noted in his opinion that the terms might seem unfair. Had the market price been lower than the maximum, Renner would only have been paid that smaller sum; but he did not receive a larger sum when it was higher, leading to a painful economic setback. However, he was free ‘ before [emphasis in original] signing the policy to review its conditions and, if they did not suit him, by not accepting them he could easily have avoided the calamity in which he currently finds himself’. The free market and the freedom of contract Ehrhardt endorsed were based on the principle of economic self-interest. Yet the search for self-interest also had its limits—not those of equity, because the claims adjuster admitted Renner’s relationship with his insurance company was inequitable. Rather, the limits were set by the idea of honourable behaviour, in which individuals, having freely given their contractual word, agreed to hold to it. For Ehrhardt it was a sign of moral corruption and human sinfulness that such honourable behaviour was in decline and that Palatines were seeking their self-interest beyond the bounds of their contractual obligations. In this way, the concept of honour, precisely by the limitations it set on self-interest, was a necessary part of a free market in property transactions, whose participants were driven by their self-interested calculations.

DISTINCTIONS OF CLASS IN A SOCIETY OF PROPERTY OWNERS

The wide spread of property ownership tended to blur class distinctions in the nineteenth-century Palatinate. Occupational titles such as ‘farmer and day labourer’ or ‘estate owner and innkeeper’, to mention two common ones, frequently appearing in the occupational designations of witnesses or parties to a case, underscore this lack of distinction. They point to individuals earning their living across the boundaries of

social class by receiving wages from others and exploiting their own property, or by collecting rents and serving customers. As noted in the previous chapter, master construction craftsmen negotiated with their customers for payment by the cubic foot. Itinerant brick-makers, engaged in a rather more proletarian occupation, negotiated similar contracts with their employers for payment by the brick, while their employer would provide equipment, raw materials, and lodging at the work site.¹⁰²

The introduction of larger enterprises in the Palatinate, such as railways and steam-powered factories, particularly in the last third of the nineteenth century, contributed to the development of a more distinctly proletarian population. Bismarck’s social insurance system, with its payroll taxes and legal delineation between workers and employers, might have been still more important in this process. Yet even there, elements of the mixture of worker and small proprietor continued to be prevalent—railway track wardens who also farmed small parcels of land, for instance, or the activities of Johann Sutter, an ‘independent machine tender’, who contracted out his services running and repairing steam-powered machinery to various paper manufacturers.¹⁰³

If clear distinctions between employers and employees, and between workers and property owners, were frequently blurred, this is not to say that social distinctions did not exist. Rather, they ran along somewhat different lines from those separating property owners from the propertyless. Probably the greatest difference was between those Palatines who could accumulate property, or aspire to do so, and those who were limited to preserving what they had. Having cash on hand, as discussed in the section on credit in the previous chapter, was potentially one sign of successful accumulation. But cash was not the only way that wealth could be accumulated and social distinction made apparent. Another marker of accumulated wealth, particularly but not exclusively noted by women, was linens. Testifying about the household of the innkeeper Johann Jacob Völker, the richest man in the village of Mußbach, Amalie Stiefel was almost rhapsodic about his sheets and towels: ‘I have never encountered so great an amount anywhere’.¹⁰⁴

The wife of Christoph Vautz of Grünstadt, a dealer, teamster, and generally shady character, sought to evade paying for shoes she had ordered from their fellow house tenant, shoemaker Georg Distler. When Distler’s wife Katharina née Mayer demanded her husband’s money, Frau Vautz snapped back at her, ‘you Güstie in

¹⁰⁴ J6/1173, Zeugenverhör, 4 May 1865, testimony on 4 July 1865 of Amalie Stiefel, wife of day labourer Christoph Chanier of Mußbach, similarly, ibid., testimony of pump-maker Conrad Bassler of Mußbach.
rags [Lumpengüste], I have more linen in my chest than your whole fortune,’ thus showing her contempt for someone so poor that her claims were worthless.¹⁰⁵

Going hunting was yet another form of social distinction. Long an aristocratic prerogative in central Europe, provoking peasant resentment and poaching, hunting rights in the nineteenth-century Palatinate were part of village common property but were not exercised in common by the villagers. Instead, they were rented out to a more substantial clientele, who were certainly interested in recreation, but also paid close attention to the value of the animals they might shoot.¹⁰⁶

The paving contractor Jacob Haffner of Dürkheim was one of the three men who rented the hunting rights of the village of Leistadt from 1872 to 1874. Unable to get out himself as frequently as he might have wanted, Haffner arranged to have one of his workers, the day labourer Johannes Krämer, do his hunting for him. When Krämer came to the village mayor to get the necessary permit, the latter said ‘this was nothing for him’, to which Krämer replied, ‘how can this harm me, whether I break stones for Haffner or go hunting for him?’ Krämer agreed that the sport of hunting was inappropriate for a poor man, such as himself; shouldering a rifle for his employer was just part of his job.

Krämer, though, began to enjoy hunting, making it a practice to go regularly after he finished work at the stone quarry, or sometimes even to take time off from work for that purpose. Once, when his employer called on him to join him at the hunt, Krämer was reported as having said, ‘yes, when you pay me’, to which Haffner answered, ‘if I were to pay you each time you went hunting, we could go begging together.’ The other villagers became increasingly hostile to Krämer, a poor man enjoying the privileges of the affluent. Krämer’s sister defended him by insisting that his employer was paying him for the hunt, thus reiterating the distinction between hunting as recreation and hunting as employment. Such a flagrant transgression of class lines could only end badly, and it did, when Krämer accidentally shot and seriously wounded one of the other three leasers of Leistadt’s hunting rights, in May 1873.¹⁰⁷

These class distinctions all originated in affluence as accumulated property, whether expressed in terms of cash, linens, or free time to shoot game. To be effective, though, in a society in which most people owned at least a little property, the distinctions stemming from property accumulation needed to be recognized and

¹⁰⁵ J6/1169, Gegenzeugenverhör, 14 Jan. 1861, testimony of Katharina Mayer, wife of shoemaker Georg Diestler of Grünstadt; similar testimony from another tenant, the junk dealer Johanna Mann, wife of the elderly and infirm Ludwig Michel of Grünstadt.

¹⁰⁶ On hunting, cf. Hans Wilhelm Eckardt, Herrschaftliche Jagd, bäuerliche Not und bürgerliche Kritik (Göttingen: Vandenhoeck & Ruprecht, 1976) and Schulte, The Village in Court, 121–4. The practice of renting out hunting rights, the lesers of these rights, and the economic values attached to the rights can be seen in a trial concerning this rental: J6/1171, Zeugen-Verhör-Eröffnungs-Protocoll, 15 Jan. 1862 and Gegenzeugenverhör-Eröffnungs-Protocoll, 11 Jan. 1862, and the testimony given there.

¹⁰⁷ J6/1179, Zeugenverhör, 21 Mar. 1874, testimony of estate owner and mayor Georg Friedrich Freyermuth I, farmer Andreas Freiermuth, day labourer Carl Schwaab, all of Leistadt.
acknowledged. This need for recognition and acknowledgement characterized social interactions concerning property as well, taking the form of an interplay between patronage and accommodation. The wealthy miller Correll of Neustadt owned a vineyard on the outskirts of the city in the Haardt Mountains. Just uphill from him was the property of the vintner Linkenköhl, their two parcels separated by a loose pile of stones, falling onto Correll’s land. Carefully evading the question of just who owned the stones or the exact boundary between the two parcels, Correll offered to take the stones away, and use them on his land, in return for which he would have a proper wall built. His neighbour replied, ‘if you will put a wall there for me, you can take the stones for yourself’. It was all done informally and nothing was put in writing, because the two neighbours of distinctly different social standing were on good terms with each other. Linkenköhl used the new, more secure, uphill wall to expand his property, adding more earth and planting additional grape-vines. Admiring his work, Correll told him, ‘if I had known that you were so good at masonry, I would have let you build the wall’. At the same time, Correll was insistent that the wall have holes in it, for water run-off. Linkenköhl did not want to allow it, but Correll told him, ‘the water has to flow out’.

With this nice mixture of familiarity (the two addressed each other with the German ihr, the second person plural familiar), flattery, condescension, and firmness where necessary the bourgeois miller got his socially more modest neighbour to agree to his wishes, avoiding a clash over property ownership. By contrast, in similar circumstances, the pharmacist Carl Lipps of Freinsheim treated his farmer neighbours more coldly and correctly, with negative consequences. The direct connection between Lipps’s house and yard and the garden and vineyard he purchased ran right between the property of two of his neighbours. He alienated the neighbour to his left, the farmer Haas, at the end of the 1850s, by closing up a wall opening that let water flow from his yard into Haas’s, which the latter had used to irrigate his garden. Haas responded by narrowing the path Lipps could take to his vineyard, so that he could barely ‘slip through’. Haas’s daughter, the heir to the property, still angrily remembered Lipps’s actions twenty years later. She refused entirely to let Lipps go across her property to his vineyard and garden, insisting she needed every inch for the beans planted there, taking the matter to the courts to prevent his passage. Lipps then turned to his right-hand neighbour, the vintner Philipp Harn II, and reached an informal agreement by which Harn would grant him passage through his land into the garden, if Lipps would let Harn use his courtyard wall to build a storage shed. Lipps promptly reneged on the agreement, refused the mayor’s office of mediation, and Harn responded by barring his way to the garden.


109 Ibid., Zeugenvernehmungsprotokoll, 10 Mar. 1883, testimony of Katharina Linkenköhl and of Paul Linkenköhl, vintner in Haardt.

In both cases, a bourgeois landowner, using his property for enjoyment and recreation, had to deal with socially more modest neighbours, who earned a living employing physical labour to farm their land. While miller Correll made the necessary concessions and showed the right degree of camaraderie to gain recognition of his bourgeois interests from his hard-working neighbours, pharmacist Lipps demanded concessions from his neighbours and offered them nothing in return, except perhaps legal actions. They responded by harassing him and refusing to let him have even a sliver of their farmland to reach his garden. In a society of property owners, being bourgeois was a status that needed to be negotiated; it could not simply be asserted.

A refusal to recognize these social distinctions was employed in a dispute over property between two bourgeois estate owners. Otto Satorius and Joseph Kraetzer were two very wealthy estate owners in Mußbach, with assets running into the hundreds of thousands of gulden. They were also brothers-in-law, locked in a lengthy legal struggle over land that had belonged to Satorius’s wife, Kraetzer’s late sister, Marie Louise and the daughter—also deceased—from her marriage with Satorius.¹¹¹ While their dispute was in the courts, the two men were co-owners of some of the land in question, containing a mill, connected to irrigation ditches, that watered meadows each of them owned separately. No longer on speaking terms with each other, their co-ownership of the mill was more warfare than cooperation.

The mill’s overseer, Wilhelm Kehrt, had been fired by Satorius and kept in place by Kraetzer. Kehrt ordered the irrigation ditches leading to Satorius’s land dug up, to prevent his meadows from receiving water. He regularly cursed out Satorius’s workers, calling the vintner and day labourer Heinrich Fischer, cutting grass in the meadow, ‘a hunchback, he could throw ten of him into the ditch’. Kehrt did just that, knocking Fischer down and shoving him into the ditch. When Satorius himself appeared, asking Kehrt for the key to the storeroom to get some wine for his day labourers, and reminding him that Kehrt needed ‘to obey his commands as well as he does Kraetzer’s’, Kehrt refused to turn over the key and stalked off, muttering, ‘another one I don’t need to ask’. Returning later, Kehrt told Satorius’s workers, ‘he [Satorius] can’t get any decent workers; all he can get are hunchbacks’. Kehrt’s brother Heinrich, overseer of Satorius’s workers, and witness to this scene, refused to speak to his brother, ‘since he has treated my master with such bad manners’, and refused to follow his orders.¹¹²

It seems obvious that overseer Kehrt’s contempt both for Satorius, his ostensible employer, and for Satorius’s workers (themselves mostly small proprietors, as well as day labourers) was a way for Kehrt’s employer, Kraetzer, to carry out his property

¹¹¹ On the relationship between the two, Satorius’s political ambitions in Bavaria, his past as a high state official in Hessen-Darmstadt, and his attorney August Metz, one of the leaders of the Nationalverein, J6/472, Urteil, 19 Mar. 1880 and passim.

¹¹² J6/9, Öffentliche Sitzung, 14 July 1881; Zeugenvernehmungsprotokoll, 17 Nov. 1881, testimony of vintners Heinrich Kehrt, Christian Frank, and Heinrich Fischer, and of Johann Schönig, son of the widow Schönig, all of Mußbach.
disputes with his brother-in-law. Adding to his physical damage of Satorius’s property, by ordering his irrigation ditches dug up, Kehrt refused to treat him as the wealthy, bourgeois estate owner he was, not following his orders, walking off, and denying he could hire anyone capable of working, just hunchbacks. Kehrt’s actions involved a refusal to recognize the bourgeois status of Satorius, in spite of his very substantial amounts of accumulated property that he could use to hire other people’s labour. Satorius might have been an employer of sorts, but Kehrt’s actions were designed to show that he was no master, a paternal employer as an estate owner should have been, since he could neither physically protect his workers nor treat them to wine.

A substantial amount of accumulated property was a necessary precondition for bourgeois status in a society of property owners. Accumulation, though, was not enough; owners of this accumulated property had to act in ways that would lead to the recognition and acknowledgement of their position as respected property owners. In this way, as in many others in the nineteenth-century Palatinate, personal relations and social practices—in this case, the masculine, paternalist, but also respectful attitudes of a bourgeois proprietor—were incorporated into property and property relations.

BOUNDARIES OF GENDER

The polarization of gender characteristics in nineteenth-century Europe and North America, in general, and Germany in particular, has become a settled assertion of historians. Women were associated with domestic life, with the family, with the realm of the emotions; men with public spaces, the world of work, and activities involving calculation.¹¹³ These assertions are generally drawn from dictionary definitions or prescriptive literature and refer especially to the lives of the middle class. From court records we can see that lived gendered roles among different social groups of the nineteenth-century Palatinate had both similarities to and differences from this more general, theoretical picture.

An unsystematic consideration of the sex of witnesses in different kinds of legal procedures provides a first approximation. Trials concerning large-scale commercial transactions, use of agricultural land—boundaries between different strips of

field, or disputes over irrigation, for instance—or problems with industrial products or construction tended to have a distinctly male group of witnesses. Women were more frequently called as witnesses when family and household were at issue, but were also found in trials involving retailers, transactions with the agricultural population, and matters relating to title to property or to inheritance, although male witnesses generally testified in such trials as well. Women were involved disproportionately in the household and family, but by no means exclusively. Additionally, the household, in view of the property vested in it, through marriage and inheritance, was far from an exclusively private institution.

The crafts in particular were distinctly male domains, in which female intrusion was unwelcome—at times, to the exclusion of caution and common sense. In 1842, while an addition was being made to the house of innkeeper Carl Andres in the fishing village of Roxheim, the master carpenter David Bräun set up a crane right on the spot where the masons had just finished digging out and roofing over a new cellar. Andres was out in his fields, but his wife warned Bräun, and suggested he might want to move his crane. The latter responded, as a journeyman mason reported, ‘what does she, some wench [Weibsbild], understand, this is my business’. Almost immediately after he said that, the cellar roof gave way under the weight of the crane, and the crane and Bräun himself fell in, followed by the building wall that had been resting on the cellar roof.¹¹⁴

As was noted in previous sections of this chapter, Palatine society valued highly rationality and calculation, particularly as they related to property transactions. There was certainly a tendency in court proceedings to represent women as emotional and irrational, or at least as less good at rationality than men. Discussing the effects of loud noises coming from a neighbouring starch factory, the court-appointed expert, physician Wilhelm Zöller, noted that they would be much greater for a ‘nervous female’ [nervöses Frauenzimmer], with a ‘tender organic nature’.¹¹⁵ Rhetorically, women appealed to their own ignorance, as did Gertraud Stecker of Grethen. Testifying in 1840 about economic relationships within a family, she asserted that its circumstances were obvious even to ‘my stupid understanding’. In a personal injury case, thirty-five years later, Dorothea née Riebel of Dirmstein, after watching an accident at a construction site, said, ‘I am a stupid women; that could have happened to me.’ Challenged in court about her appraisal of the estate of a wealthy innkeeper for whom she had been a washerwoman, Catharina née Seibald of Mußbach was careful to attribute her figures to the innkeepers’ male servants, one of whom was her cousin, and who had given her this information.¹¹⁶

¹¹⁴ J6/1158, Gegenzeugenverhör, 11 Feb. 1843, testimony of journeyman mason Jacob Führy of Bobenheim. Similar testimony from the blacksmith Carl Bäuschinger of Roxheim and ibid., Zeugenverhör, 10 Feb. 1843, testimony of Andres’s servant Conrad Pink, the day labourer Joseph Mensinger in Dürkheim, and the innkeeper Carl Andres of Roxheim.
The legal system hampered women’s rational and calculating activities from another direction. While both the Napoleonic and German Civil Codes granted to single or widowed adult women wide latitude in performing transactions and entering into obligations, this was not the case with married women, who could only engage in these activities with their husbands’ consent. German jurists had developed an interesting exception to this rule, the so-called ‘power of the keys’ [Schlüsselgewalt]. The keys in question were those to cupboards and chests, where items essential to running a household were stored. According to this legal doctrine, husbands granted their wives authority to run a household, so that married women entering into obligations and contracting debts for the purposes of running a household—and for that purpose alone—already had their husband’s implicit consent and did not need to have it explicitly reiterated. Of course, this exception, legally confining female economic agency to the household, rather confirms the rule of separately gendered roles and spheres.

Women did have their distinct spaces of activity, within these limitations. Midwives with their knowledge of childbirth outcomes, and their practice of calculating according to a lunar calendar, formed a distinctly female domain. Certainly, sewing was women’s work. Henriette Kaschan of Mannheim turned this into a lucrative and skilled occupation, owning a store that sold linens, and sewing and knitting machines. She was an expert on the use of knitting machines and demonstrated them to the public during the 1870 Mannheim industrial exposition. This enabled her to testify as an expert witness, something most unusual for women, at a trial concerning the quality of such a knitting machine. Kaschan was very much an exception. The young women who were employed on the knitting machine in question had no such esteem or affluence, and, at best, earned enough to help supplement their parents’ income. Supporting oneself as a seamstress, even one who did fancy work, was pretty much impossible. The wife of an

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119 Zeugenvernehmungsprotokoll, 5 Nov. 1910, testimony of the midwife Elise Becht née Hermann.


121 Ibid., testimony of Clara Albrecht, living with her parents in Neustadt, servant Helena Bechtold of Neustadt; Fortgesetzt, 25 Mar. 1872, testimony of worker Clara Hartmann of Neustadt;
employee of the state telegraph office could not even supplement her husband's income by sewing, because his bureaucratic superiors (admittedly while he was stationed in trans-Rhenan Nurenberg) strongly disapproved of her working outside the home.¹²²

Women in the nineteenth-century Palatinate certainly lent and borrowed money. In the 1830–1 mortgage foreclosure records, discussed in the previous chapter, some 23 per cent of the creditors were women, as were 9 per cent of the debtors—and an additional 39 per cent of the debtors were married couples borrowing money jointly. Seventy years later, Karolina Guth, née Wagner, continuing her late husband's business in iron wares and tropical goods, agreed to grant a 1,500-mark line of credit to Wilhelmine Rheinheimer née Fenger, who ran a grocery store in Weilerbach, and whose assets had been legally separated from those of her bankrupt husband. This was probably a variant on the common practice of a supplier granting a customer credit, although the widow Guth was less trusting than most suppliers, since she required a lien on Wilhelmine Rheinheimer's house, as a guarantee against her not making payments. Her precaution was eminently sensible, for Rheinheimer filed for bankruptcy protection three months after the credit agreement had been finalized.¹²³

That the two parties involved were a widow and a wife whose property had been legally separated from that of her husband does point to the central place in women's economic activity of marriage and the family. In that area, some of the legal restrictions and cultural conceptions of proper female roles seemed to fall away. Widows continued running their husband's businesses, whether farming, retailing and wholesale trade, inns and hotels, the crafts (perhaps a bit less commonly), or even a metalworking factory—albeit often with the assistance of their sons or of hired male help.¹²⁴ Married women were actively involved in their husbands' business, perhaps particularly so in retail shops and taverns. An innkeeper's wife was expected to run 'the wineshop, the household and do part of the fieldwork'. Elisabetha Zitt, wife of the rural shopkeeper Jacob Etsch of Mundenheim, always counted out the money her husband lent. The wife of the owner of the Plough tavern in Meckenheim could even lend money in her husband's absence.¹²⁵

Gegenzeugenverhör, 23 Mar. 1872, testimony of Maria Huber, factory worker in Mannheim. A general account of the seamstress's lot, J6/545, Protokoll, 12 June 1900, testimony of Christine née Korn, wife of teamster Joseph Bruch of Blieskastel.

¹²² J6/600, Berufungsschrift, 4 Dec. 1908.
¹²³ J20/1257, Credithypotheke, 30 Apr. 1900 and Protokoll, 1 Aug. 1900.
¹²⁵ J6/1179, Zeugenverhör, 3 Nov. 1873, testimony of August Tirolf, estate owner and mayor of Geinsheim, Fortgesetzt zu Meckenheim im Gemeindehause, 16 Feb. 1874, testimony of Philipp Rheinwald, farmer and innkeeper in Meckenheim; J6/1169, Eidesleistung, 5 Apr. 1861. Other
Legally, the husbands were in charge of the marital fortunes and had the final say in property transactions. One wonders how this legal doctrine was implemented in practice. The mason Karl Vetter of Neustadt testified in 1892 that he could not say anything about his past relations with his landlord, since ‘as a rule, my wife and not I paid the rent’, and, perhaps, ran the family finances. In the same city, but from a rather different social group, the sewing machine manufacturer Otto Meininger ‘made no secret of the fact that he had to do everything [in his business] the way his wife would have it’. Admittedly, he had started the business with her dowry and run it and her assets into the ground, before she insisted on taking control.¹²⁶

There is no way of knowing how typical these instances were or the extent to which the actual administration of family property conformed to the legal norms. Two legal statements, issued about fifty years apart, provide a clue about expectations in this regard. In 1862, Louise née Mann, widow of chimney sweep Philipp Wagner of Grünstadt (carrying on his business after his death), told the court that her late husband had had no plans to purchase real estate, adding, ‘My husband always informed me of such matters.’ In 1910, the Frankenthal district court, in its verdict, described how the wife of the farmer and later rentier Johannes Held had ‘held the purse’ [führte die Kasse] and kept the marital property together. She kept the family assets with her, literally, on her deathbed, handing out the money to her husband to make the appropriate payments. As long as he lived, the court noted, Held ‘was in point of fact not in condition to do as he wished with the available assets’.¹²⁷

At the risk of over-interpreting these remarks, Louise née Mann seemed to be asserting that it was not self-evident for a husband simply to inform his wife about his property dealings, to say nothing of asking her consent to them. By contrast, the judges in Frankenthal found nothing peculiar—or in Held’s case even objectionable—about a wife having de facto charge of a family’s property in spite of the position granted her husband by the German Civil Code. These different observations may (or may not) reflect the different times they were made, and the different social groups and genders of their authors, but they certainly point to the way that social practice both articulated and reformulated gender norms.

A Village’s Well Water Develops a Strange Taste


on marital property relations, offers a picture of gendered spheres and actions in
the everyday life of the rural Palatinate. At issue was the effect of the actions of the
stonecutter Kasimir Unger, who, in 1881, had dug up his yard that had backed
onto the mountainside, regrading it, and turning it into a farm courtyard contain-
ing a stall. In and of itself not a problem, a by-product of this construction work
also affected the other inhabitants of Grethen. There was a spring in Unger’s yard
that was fed into a pipe through a small structure in the yard, and carried by the
pipe out of his yard and across the road to the ‘three pipe well’, a source of water
available to the whole village.

With the construction, the water in the village well became discoloured, and,
after the stall was built, both discoloured and with a distinctly bad odour and
questionable flavour. The village government became involved, first filing criminal
charges against Unger, and later, after his acquittal, civil ones. In an increasingly
scientific and technological era, the facts were not really in dispute. Chemical
analysis of the water showed that it was contaminated by dung. Contractors,
reviewing the amateurish construction, carried out by Unger and his brothers-in-law,
found that foundation of the stall had altered the course of the underground
spring, bringing it into contact with the manure from the animals in the stall.
What is of interest and reveals gender distinctions is the way these changes led to a
dispute among villagers and how the law proposed to deal with it.¹²⁸

The dispute was carried out in public by women, who got the water from the
well and used it for cooking and cleaning. It was one of Unger’s neighbours,
Margarethe née Kiefendorf, wife of mason Franz Löhner, who mobilized the vil-
lage, complaining that the water tasted of manure, and that her two sons had got
sick from drinking it. She demanded the village authorities take action, but she also
acted on her own, warning villagers and strangers against drinking the water, even
snatching water jugs out of their hands and spilling the water to the ground. She
was opposed by other women in the neighbourhood, who claimed that the water
tasted just fine. They maintained that Löhner herself took water from the three
pipe well, when she thought nobody else was looking, and asserted that her true
motive was a long-term feud she had, not with Unger himself, but with his wife.¹²⁹

An interesting point about these clashing assertions was that it was primarily
the women who seemed able to taste the water at all. Most of the men had rather
different responses to it, or at least claimed to. The vintner Georg Bauer told the
court that he did not drink much water. Stonecutter Jakob Elsässer could not taste

1882; Zeugenverhör-Protocoll, 28 Apr. 1883, testimony of district physician Veit Kaufmann and
construction contractor Ludwig Becker, both of Dürkheim.
¹²⁹ Ibid., Zeugenverhör-Protocoll, 28 Apr. 1883, testimony of Margarethe née Kiefendorf; and of
Sofie Priester, wife of day labourer Jakob Flecksner of Grethen, Zeugenverhör-Protocoll, 13 July
1882, testimony of Elisabetha Hahn, wife of vintner Lorenz Hoffmann, Christine Heidemauer, wife
of vintner Karl Albach, Maria Huber, widow of shoemaker Adam Schmehrer, and Katharina Koober,
widow of Fr. Kirsch, vintner, all in Grethen; Zeugenverhör-Protocoll, 28 Apr. 1883, testimony of
mason Konrad Behrens of Grethen.
anything wrong with the water, although his wife no longer got the family’s water from the well in question, but another one. ‘Why she does this, I do not know.’ The mason Konrad Behrens only noticed a strange taste when his wife told him about it, and made him try the water. The first time he drank it, he noticed nothing, but when he took another sip, several minutes later, then ‘I could taste the manure.’¹³⁰

The conflict in this case emerged from the household- and family-centred sphere of women’s activities—getting water, cooking with it, being concerned with the well-being of their children, and managing relations with neighbours. But there was nothing particularly private about this female activity. The well was very much a public place in the village and the energetic actions of Margareth Löhner were directed to the general public and succeeded in making the situation a matter of municipal concern. The legal resolution of the case also involved different gender roles, this time in relation to property.

Both the district court in Frankenthal and the appeals court in Zweibrücken agreed that while the spring was on Unger’s property, the village had customary usage rights (a ‘servitude’) to the water coming from it, and a legitimate concern about its purity. However, the land was not Unger’s at all, but belonged to his wife Katharina née Weber, presumably as part of her dowry. Unger was, legally, the administrator and usufructor of his wife’s property, so the original legal action was directed against him. The village had no claims on the property as such, just on its administrator, and the civil suit was an attempt to force him to repair the situation by safeguarding the water supply—in practice, by extending the pipe back towards the mountain, behind the stall. In the course of the lawsuit, Unger passed away; this meant that his widow was now both owner and administrator of the property. Since the lawsuit was not aimed at the owner of the property, the courts ruled, but its administrator, and because administration of property, unlike title to it, was not inherited, the widow was not the legal successor to her husband as administrator of the property and she could not be required to take any action on it.¹³¹ A legal action that had begun over a distinctly female sphere of sociability ended because of the law’s gendered conceptions of the use of property. Her legal inability to administer her own property had served Katharina née Weber well, protecting her from the consequences of her husband’s clumsy construction work and her own feuding with her neighbours.

Men and women in the nineteenth-century Palatinate did, at least in some ways, inhabit separate spheres. Some aspects of their separation are familiar—male rationality versus female emotionalism, better-paying occupations reserved for men. Others, though, such as gender-distinct tasting of water, seem more unusual. The oft-asserted distinction between a male public sphere and a female private realm does not seem too helpful as an analytical category as the dispute in

Grethen shows. This is at least in part a reflection of the nature of property that contained both ‘private’ and ‘public’ elements, and involved men and women. More generally, the Palatine public and the legal system showed a willingness to suspend these distinctions, at least tacitly, to undermine the usual gender distinctions, for the purpose of the preservation of and transactions in property.

JEWS IN CIVIL SOCIETY

On the evening of 16 November 1880, the peasant woman Margaretha née Bersch was travelling by train to her home in the village of Albersweiler, near Landau. In the portion of her trip leading out of Pirmasens, she met a fellow villager, ‘an Israelite named Weil’, and the two continued their journey together. At one point, the conductor, Philipp Becker, came up to them and complained to Weil, in a very agitated voice, that two Jewish passengers had tried to swindle him. At their destination, they asserted he had not informed them about a previous station, where they claimed they had wanted to leave the train, and demanded 25 marks compensation each.

Now when Becker made this reproach he was not in a rational state of mind, either because, as he maintained, he was delirious with a high fever, or, as the other passengers and the railway company thought, upheld in their opinion by the Frankenthal district court, because he was dead drunk.¹³² Becker’s temporary state of mind aside, this train trip shows in miniature the position of the Jewish population in the nineteenth-century Palatinate. On the one hand, the presence of Jews was a familiar and expected part of everyday life. Margaretha née Bersch recognized Weil as a fellow villager and journeyed with him. One might even suspect that she found his presence reassuring, in what otherwise could have been a daunting experience—a middle-aged peasant woman travelling alone on the railway, after dark. Yet Jews were also distinctive and suspicious. The conductor Philipp Becker had no difficulty recognizing Weil as a Jew, attributing to him in some way the responsibility for the alleged misdeeds of his fellow Jews, and implying that Jews were given to twisting rules, engaging in sharp practices, and ruthlessly pursuing, in questionable ways, their self-interest.

Becker’s statement was an example of the drawing of boundaries between Jews and Christians in the everyday life of the nineteenth-century Palatinate, a procedure quite relevant to the study of nineteenth-century German history, both in its own right and in view of what would happen in the twentieth century under Nazi rule. There exists an enormous literature on attitudes towards Jews, relations between Jews and Christians, and anti-Semitism, although much of it is concerned with ideology, or with political movements, and rather less with the experiences of

everyday life. Works concerning everyday life frequently draw on memoirs written after 1933 or interviews conducted at a later date. Such retrospective evaluations are not always free of a nostalgic perception of a pre-1914 world, contrasted to a much more unhappy twentieth century, or, conversely, perceive the decades before the First World War in the light of its aftermath. The great virtue of judicial records for approaching the question of boundaries between Jews and Christians—perceptions of difference and relations between members of two groups perceived as different—is that they involve contemporary understandings and actions, as experienced in everyday life.

One perhaps neglected arena for the drawing of boundaries was the legal system itself. Its contribution to the creation of distinctions between Jews and Christians was profoundly ambiguous. In one respect, the principles of equitable treatment and of equality under the law underlying both the Napoleonic and German civil codes worked against any invidious comparisons. Frequently appearing in the court records as parties to cases, witnesses, and, by the later nineteenth and early twentieth centuries, as notaries, lawyers, and judges, Jews made full use of the system of civil litigation. There is nothing in the voluminous legal records consulted for this study to suggest that Jews were treated unfairly or in discriminatory fashion. Occasionally, we can even see the civil courts rebuking actual or potential anti-Semitism. One of the strategies employed by the attorney of the widow Babette Stern née Eskales to defend her in a civil suit in 1875 was to discredit some of the plaintiffs’ witnesses by claiming they described her as a ‘dirty Jewess’. The witnesses in question hotly denied this and insisted that it was a crucial witness of the plaintiff who had made denigrating remarks about the widow Stern. It is unclear who actually said what, but everyone seemed aware that making such anti-Semitic remarks damaged one’s credibility.

The dismissal of the train conductor Jacob Goldhammer by the Palatine railways in 1879 for his rudeness to a Jewish passenger—and a Polish Jew, to boot—was upheld in the Frankenthal district court and at all levels of appeal, through to the German Supreme Court.

Until the end of the 1860s, though, the legal system also systematically separated Jews from Christians and stigmatized them while doing so, via the requirement for the swearing of the ‘Jews’ oath’. This oath in question was not the one to tell the truth, sworn by witnesses to a trial; rather, it was the oath ordered by a court to decide a legal proceeding, when the preponderance of the evidence pointed to one of the parties. That party would be required to read a prepared statement giving his (or her) version of the matters at issue, or denying the other party’s version of them. Christians taking the oath would recite the required passage

133 A good introduction to the topic is Marion Kaplan, ‘Friendship on the Margins: Jewish Social Relations in Imperial Germany’, *Central European History*, 34 (2001), 471–501.
134 J6/1180, Gegenzeugenverhör, 8 Nov 1875, testimony of municipal policeman Johann Griesbauer and municipal employees [Dienstmann] Jacob Lones and Andreas Eswein, all of Ludwigshafen. Stern was represented by the Jewish attorney Hugo David, then at the beginning of his long career before the Frankenthal district court.
135 J6/960, passim.
in court before the judge and the opposing party (who was at least invited, but did not always appear), and conclude by swearing that their remarks were true, ‘so help me God and His Holy Gospels’, or ‘His Holy Apostles’, or ‘His Holy Word’. Jews, by contrast, took the oath in the synagogue, in the presence of the rabbi, as well as the presiding judge and opposing party. The rabbi was required to remind the oath-taker of the moral flaws of perjury, as the judge did of the legal ones. Men taking the oath were decked out in prayer shawls, phylacteries, and white robes. Holding one hand on the Torah they swore the oath, ending with a formulation, like one recited in 1838, ‘if I swear falsely, may I be struck by all the curses the Torah places on false oaths’.¹³⁶

The legal system was generally quite flexible about religious differences, when it came to ceremonies. Mennonites could affirm, rather than swear an oath, and Jews themselves, when giving testimony, did not have to sign the official record, if the testimony occurred on the Sabbath.¹³⁷ Supporters of the Jews’ oath claimed it was about religious differences, about confessionally appropriate rituals of truth-telling, and the parliamentary and courtroom confrontations over the oath always centred on this question of religious difference. The flexibility of the legal system in other respects strongly suggests this question was a pretence. The Jews’ oath was a ceremony of mistrust and degradation, implying that Jews were fundamentally deceitful, requiring special measures to ensure their honesty before their word could be taken as legally valid.

Jews in the Palatinate, as was true elsewhere in western Germany, strongly resented this assumption. In the 1840s, encouraged by the new district rabbi Aron Merz of Dürkheim, Jews began opposing the ceremonies, asserting that an oath before the court would satisfy the requirements of their religion. Sometimes the opposing parties would accept such an assertion, but sometimes they would continue to insist on the swearing in the synagogue, with full religious regalia.¹³⁸ In the 1850s, following the victory of reaction over the revolutionary movement of 1848, and its effort to create a German nation-state in which all confessions would be equal before the law, the full form of the Jews’ oath was reimposed in Bavaria. Jews responded with a kind of guerrilla warfare. Governing committees of synagogues refused to open the doors of the temple for such ceremonies, on the grounds that the Jew ordered to take the oath was not a member of their

¹³⁶ J6/1156, Eid, 19 Oct. 1838. There are many similar examples in the records: just a sampling would include J6/1150, Eidesleistung [undated but May or June 1823]; J6/1157, Eidesprotokoll, 20 Nov. 1840; J6/1171, Protokoll über die Ausführung eines Eides, 14 May 1862. Jewish women who took such an oath also had to wear a special religious costume, although it is not clear exactly what it was: cf. J6/1158, Eidesleistung, 1 Oct. 1844.


congregation. This refusal required the sanction of the Bavarian county commissioner, in his role as supervisor of the property of religious corporations; the authorities’ consent to the requests of the synagogue committees suggests a tacit sympathy on the part of state officials with the Jews’ grievances. The special Jews’ oath was not legally abolished in Bavaria until 1869, after which Jews got to swear, like everyone else, to tell the truth, with the help of God and His Holy Word, a formulation theologically appropriate to both Christians and Jews. The results of decades of legal stigmatization could not be so easily erased.¹³⁹

It would be inaccurate to attribute perceptions of Jewish distinctiveness exclusively to the legal system. Jews, in the Palatinate and elsewhere in central Europe, were not just religiously different from the Christian population, but had a distinctive occupational structure, heavily over-represented in commerce and finance (in the professions as well, although only in the later nineteenth century, and to a much lesser extent in the Palatinate than elsewhere in Germany) and under-represented in the crafts, agriculture, and the emerging working class.¹⁴⁰

Following contemporary observers, historians have often commented on the contrasting attitudes, particularly prevalent in rural areas and small towns, between a calculating, market-oriented, and commercial Jewish population, well aware of the uses of credit and the profits to be obtained from granting it, and their Christian counterparts, living an ethic of physical labour, fair dealing, and producerism, sceptical of the value or legitimacy of moneylending, middlemen, and, perhaps more generally, of exchange in the free market. Indeed, these contrasts are often seen as the basis for the development of nineteenth-century anti-Semitism. Recently, the historian Helmut Smith has put a different twist on this argument. He has suggested that a commercial, market orientation was more a matter of large cities and industrial areas, while Christians and Jews living in villages and small towns, in spite of their very different religions and occupational profiles, shared a non-capitalist ideal of fair dealing, distant from the incentives of the free market.¹⁴¹


Jews in the Palatinate certainly did engage very vigorously in market transactions. Hard bargaining was no Jewish prerogative though, and negotiations between Jewish dealers and brokers on the one hand, and peasants on the other, could take the form of a mutual theatre of refusal, as either party might reject the other’s final offer and ceremoniously leave, only to return later and continue bargaining. Jews were also middlemen, active as brokers and wholesalers. These were activities—demanding a commission on other peoples’ transaction, or buying low and selling high—that might well attract suspicion. But middlemen had their advantages, as well. Jewish dealers or business agents acted as go-betweens for hostile parties trying to conduct negotiations, as was the case with the two feuding estate owner brothers-in-law, Kraetzer and Satorius, discussed earlier in this chapter. One way that two Christians could resolve differences over the appropriate price for a sale was to bring in a Jewish middleman who was familiar with the market and could name the going rate.

Jews were unquestionably involved in lending money to a rural population chronically short of cash. At the beginning of the twentieth century, it was Jews, perhaps particularly immigrants from eastern Europe, who seem to have pioneered the practice of instalment sales to the growing working-class population in the industrial cities of south-western Germany. Indeed, Jews and credit could be seen as identical. The merchant Johannes Krauss asserted in 1862 about dealing in farm products: ‘If you have no cash on hand for this business, you must borrow from the Jews.’ As the account in the previous chapter of the sculptor Marchand and his creditor Joseph Leopold showed, the need to borrow money, the interaction of credit with other transactions, and the creditor’s control of transaction records created resentments that could easily take anti-Semitic forms. Yet Krauss’s statement, ironically, also points out how lending money was not an exclusively Jewish matter. Since most farmers were short of cash, selling to them was done on credit and purchasing from them with cash. Hog dealers, 


J20/1262, Bericht des Konkursverwalters, 29 Nov. 1912. The novelty in instalment buying was not purchasing on credit, since many retail and peddling sales were conducted on a credit basis, but in having a fixed repayment schedule.

engaged in a distinctly Gentile occupation, always had lots of cash, because they needed to pay farmers.¹⁴⁶ More broadly, as noted in the previous chapter, creditors were people with cash, and their ranks were by no means limited to Jews. Of the 195 creditors demanding foreclosure on a mortgage in 1830–1 (see Table 2.1), about 15 per cent had Jewish names, a proportion some six times that of the Jews in the general population. Jews were thus heavily over-represented among creditors, but a very large majority of creditors in mortgage-backed loans—85 per cent of them—were not Jews. Indeed, the Jewish dealer Jakob Mayer, supposedly the richest man in Haßloch, actually borrowed money from affluent peasants to finance his business. His widow noted, ‘we are nowhere near so rich as people think we are’.¹⁴⁷

Although this was an exceptional circumstance, it nonetheless pointed to a more general state of affairs. Nineteenth-century Palatines, both men and women, coming from a wide variety of social groups, lent money, bought and sold, bargained hard over prices, calculated their self-interest, and pressed it in their property transactions. Far from scorning such activities, they had a good opinion of them, seeing them as appropriate for participants in civil society.¹⁴⁸ In these circumstances, distinctions between Christians and Jews, in terms of their attitudes and actions on property and property transactions, particularly invidious ones, were less easy to draw.

Critical attitudes towards Jews centred less on the fact of their dealing and bargaining than on the way they engaged in these deals. Four comments found in court records express different facets of this criticism. When in 1871 the dealer Alexander Reiss III was accused of selling poor-quality grain to a miller, he responded to the accusation by ‘stating, as Jews have the habit of doing, “the grain is good”’.¹⁴⁹ This observation drew a line separating a Jew verbally misrepresenting his wares, before and after he sold them, and a Christian deceived by his promises—a serious charge in a society where transactions were often oral in nature. Jews were accused of selling poor-quality leather as high-grade raw materials, or of proffering flour that could not be baked into bread. Such accusations were especially common in regard to livestock. Playing a dominant role in the Palatine livestock trade, as was the case in much of central Europe, Jews were accused of selling a sick horse while asserting it was healthy, or a cow that kicked and could not be milked, claiming it was docile.¹⁵⁰

¹⁴⁸ A contemporary observation on this point, Riehl, Die Pfälzer, 31.
¹⁵⁰ J6/1173, Verhandelt zu Kirn, 15 Feb. 1865, testimony of factory director Adolf Diel of Monzingen; J6/1179, Zeugenverhör, 15 June 1875, testimony of dealer Wolf Heene of Haßloch; J6/1180, Gegenzeugenverhör, 8 Feb. 1875, testimony of the seamstress Elisabetha Baier of
Precisely because these were oral transactions, the accusations were not easy to prove. Remarks might have been ambiguous or remembered differently by different witnesses—perhaps that, too, was part of Jewish malevolence. Ironically, the position of Jews as middlemen could weaken the dichotomy between false Jewish promises and Christian gullibility. As an expert investigation showed, the flour the Weil brothers of Mannheim sold to baker Georg Hoffmann of Ludwigshafen in 1874 was not of poor quality, but an unfamiliar kind from northern Germany that could be baked into bread if one had the appropriate experience in dealing with it. The questionable horse or cow a Jewish dealer sold to one farmer was an animal he had recently purchased from another, who would naturally assert that the animal was just fine.¹⁵¹

A second relevant comment came from flour dealer Jacob Dietrich of Zurich: ‘I have always been of the opinion, with the Hebrews it is better to have it in writing than just orally.’¹⁵² This was a reproach similar to the previous one, but it proposed as a remedy fixing the promise in written form. Jews, however, were accused of trying to wriggle out of this limitation. The broker Abraham Loeb of Altleiningen gave the farmer Philipp Sauer of Weisenheim am Berg a form to sign, but refused to show him or anyone else exactly what he was signing. This was less of a problem for the dealer Simon Löb Neugass who had the shoemaker Georg Hafener of Mundenheim sign a deed of sale, although he was almost blind.¹⁵³

A common accusation, stated in Napoleon’s ‘infamous decree’ of 1808, limiting Jews’ commercial activity, and repeated in anti-Semitic accusations throughout the nineteenth century, was that Jews put down one figure in a written IOU, but actually lent their debtors less money, either directly, or by such devices as deducting an origination fee from the loan.¹⁵⁴


The third relevant remark came from Maria Eva Weilbrenner’s relatives, when they had her declared mentally incompetent: the fear that she would deal her property off to a Jew. Here the point was related to the previous one, namely that Jews would take advantage of the discrepancy between formal-legal and actual circumstances. Just as a written contract would be legally valid, but would not conform to verbal promises as they were actually made, so an individual might legally be able to manage his or her own affairs, but actually be unable to do so. ¹⁵⁵ Although this might seem like an elaborate formulation to describe dealing with someone in a world of delusions or a drunken stupor, a very interesting case from 1840 shows the broader connotation of this reproach. The case attracted public attention because the behaviour of the dealer Adam Simon of Altleiningen so outraged the retired Protestant pastor of the mountain village of Weidenthal that he attempted to press criminal charges against him. ¹⁵⁶

Simon owed money to Anna Barbara Laubscher, widow of the farmer Philipp Haag of Weidenthal. He kept promising to pay and putting it off, claiming not to be liquid at the moment. Finally, he did pay some cash, but offered to settle the rest of the debt of 200 gulden, a considerable sum for peasants of a poor village like Weidenthal, by giving Laubscher a court judgment for money owed him by a third party. The widow Laubscher signed a receipt, which Simon produced in court, although—and this is one of the things that angered the pastor—she was almost blind, and it was unclear whether she had ever learned how to read. (Simon’s witnesses claimed he had read it out loud to her.)

Payment in this form was not unusual, and such judgments could be sold for cash at a discount, although this transaction might have been a bit sophisticated for the widow Laubscher. What made the matter a swindle [**Prellerei**] to the pastor was the identity of the third party, Johannes Laubscher, a relative of the widow’s to whom she had made over her entire fortune in return for his promise to care for her until her death. Although formally, Simon had paid her, in reality the claim on Laubscher he turned over to her was worthless, since she had already agreed that any assets she had would go to Laubscher. Even more galling was that the transaction took place right after an auction of property belonging to Laubscher and his wife. Cash from that transaction went from Johannes Laubscher to Simon but instead of flowing on to the widow Laubscher, she received a legally valid but personally problematic obligation. ¹⁵⁷


¹⁵⁷ Ibid., testimony of village employee Jacob Müller of Weidenthal, blacksmith Wilhelm Kirsch of Frankenstein, and notary Carl Werner of Neustadt; Gegenzeugenverhör-Eröffnung, 22 Sept. 1840, testimony of merchant and butcher David Kaufmann and teacher and cantor Bernhard Einstein, both of Frankenstein. The contrast between the exclusively Christian and exclusively Jewish witnesses called by the two parties (actually not typical for such cases) only underscores the tensions in the situation.
Boundaries

The anger felt by the pastor, and probably by a number of the villagers in Weidenthal, was over the way that Simon had illicitly mixed personal obligations and property transactions, transmuting the former into the latter. This reproach relates to the fourth revealing quote from the court records. In September 1864, the farmer Johann Kaiser IV of Hettenleidelheim was negotiating the sale of a field to his fellow villagers, Georg Langenstein and his wife Elisabetha. In the course of their talk, Kaiser noted that Jews had approached him about brokering a deal for the property, but that he would not make a sale if Jews were involved. Elisabetha Langenstein replied, ‘we hardly need Jews; after all, we’re friends’.¹⁵⁸

If we remember that one of the functions Jewish brokers served was to set a price when two parties could not agree, we will see the force of that remark. Friends would not argue over prices and try to get all they could out of a transaction; ties of solidarity and altruism would enable them to reach agreement. As was noted in the previous chapter, property transactions in the nineteenth-century Palatinate often took place between friends and relatives, or via their mediation: self-interest and altruism were mixed together in a potentially contradictory way. The situation between Kaiser and the Langensteins exemplifies this state of affairs. For all their friendship, they bargained very hard over the property and ended up in court over the exact terms of their agreement. One way to negotiate such contradictory expectations was to displace all the self-seeking and self-interest in the situation onto the Jews. They became the people who turned everything into money, whose word could not be trusted, who used their (evidently extensive) capacity for self-interested negotiation to defy and undermine in unscrupulous ways the ties of friendship and family solidarity inherent in property transactions. Christian Palatines did not then have to think about the extent to which such behaviour and attitudes applied to them.¹⁵⁹

A Jewish Dealer Fights for his Honour

Every time, the dealer attempts to make a profit; otherwise, he would not make a deal.

(Benjamin Kahn, broker and iron dealer of Eppstein, 1834)

A businessman cannot do right by everyone.

(Philipp Jakob Seiberth III, day labourer of Meckenheim, 1874)¹⁶⁰

The reader may have noticed the similarity between characteristics negatively ascribed to the Jews and those typical of dishonourable behaviour, particularly the placing of self-interest beyond the limits set by the relations of civil society.

¹⁵⁹ A similar sentiment expressed in Milton Mayer, They Thought They Were Free: The Germans 1933–1945 (Chicago: University of Chicago Press, 1955), 140, although the American author, his mind on other matters, did not understand what his German interlocutor was telling him.
The travails of the dealer Abraham Friedheim of the village of Meckenheim demonstrate the difficulties a Jewish businessman had in confronting accusations of dishonourable behaviour.

Friedheim’s problems came from a Christian fellow villager, the innkeeper and butcher Carl Forschner. Returning from a stay in the United States at the beginning of the 1870s with a considerable sum of money, Forschner set about building the largest house in the village—which was saying a lot in affluent Meckenheim. Quickly overextending himself, and contracting considerable debts, he began toying with the idea of leaving again. He let out that he was considering starting a business in newly annexed Alsace-Lorraine, but suddenly, on the night of 2–3 Feb. 1872, he sneaked out of Meckenheim and went off to the United States. Before he left, though, he sold all his assets to Friedheim for 3,500 fl. cash, leaving his creditors in the lurch.

They did not take kindly to this, and on the initiative of Carl’s brother Ludwig, himself a creditor, criminal charges were filed against Friedheim. He was arrested and spent seventy-three days in jail, before the case against him was dismissed by the appeals court in Zweibrücken. Once again on Ludwig’s initiative, bankruptcy proceedings were begun on Carl’s estate and the receiver filed civil charges against Friedheim, to recover the property he had purchased, at what the receiver claimed was a dishonestly low price.¹⁶¹

The trial itself became a test of Abraham Friedheim’s honour. The plaintiff, relying heavily on Forschner’s relatives, particularly brother Ludwig, a member of the Protestant diocesan synod, and a picture of rectitude, described a conniving and unconscionable swindler. Friedheim manoeuvred the suspicious Ludwig away on a false pretence, so he could negotiate secretly with Carl about the purchase. Then he sneaked off to Neustadt to register the deed of sale as quickly as possible. Appearing triumphantly at Ludwig Forschner’s on the afternoon of 3 February, he proudly proclaimed that Carl had evaded all his creditors, ‘he’s already fled the coop [er patschelt schon]’. The creditors would have to settle for half their claims, or receive nothing. As for Carl Forschner’s largest creditor, however, in for some 2,100 fl., the wine dealer Isaac Mayer of Neustadt ‘little Ikey [der Isäacel] gets nothing’. Ludwig Forschner claimed that Mayer, on hearing the news, burst into tears, which may have been overdoing the story a bit.

When Ludwig asserted that he would be ashamed to be seen on the street with Friedheim, the latter replied that he should go through the garden into the barn, and he would give him the necessary papers in secret. Friedheim departed on that remark, ‘with a laughing mouth’. Later on that day, Ludwig appealed to Friedheim to renounce his purchase of the house way below its market value that had damaged

¹⁶¹ There are exceptionally extensive transcripts of testimony on this trial in J6/1179. The basics of the case can be seen from Fortgesetzt zu Meckenheim im Gemeindehause, 16 Feb. 1874, testimony of merchant Carl Günther of Meckenheim, and Zeugen-Verhoer, 17 Nov. 1873, testimony of farmer Ludwig Forschner of Meckenheim. On the affluence of Meckenheim, Becker, Die Pfalz und die Pfälzer, 132.
the other creditors. Friedheim reportedly replied, ‘you are always going on about your honour; be content that he [brother Carl] left an extra 200 fl. for you with me. As far as I am concerned, people can say about me that I am a bad guy, a thief; when I am dead, I will not have it any more, if I just have it.’ Finally, the Forschner family claimed to have received news at Easter time from Carl in America, condemning Friedheim as the source of his misfortunes.¹⁶²

In all this testimony, Friedheim appeared as the self-interested Jew, unashamed, even proud, of the way his actions, though perhaps formally and legally correct, evaded verbal obligations and ruptured ties of family and friendship. Responding to the plaintiff’s charges of dishonourable behaviour, the defence called as character witnesses a galaxy of notables in Meckenheim and its vicinity. They presented Friedheim as a model of honesty and industriousness. Beginning in modest circumstances, he had worked his way up, from brokering deals for others to dealing himself, first in grain and then in livestock. They all agreed that he was honest and honourable, that he kept his given word in his dealings, and that he paid promptly.¹⁶³ Even a number of the plaintiff’s witnesses joined in this judgment; perhaps the most glowing comments came from the gentleman farmer and deputy mayor Jakob Biffard of Meckenheim:

Abraham Friedheim is a neighbour of mine; I have known him for a long time. He is an energetic, capable businessman. I have often dealt with him and just on his word, with nothing in writing; I have never been swindled by him and have never heard something like that from others. He is regarded as an honourable dealer, who knows his business. Anyone who is swindled has let himself be swindled; my experience though is that Friedheim is not out to swindle people.¹⁶⁴

Biffard’s testimony in effect erased the boundaries that Ludwig Forschner and other plaintiff’s witnesses had drawn separating the Jewish dealer from the honourable participants in civil society. Yet the very nature of Friedheim’s business and the way he had become successful in it invariably brought the line back into appearance, as can be seen from the sympathetic and perceptive remarks of two other plaintiff’s witnesses. The farmer Christoph Sippel, who had dealt with Friedheim for thirty years, explained that Friedheim was ‘a precise dealer [genauer Handelsmann], that means he pays a few kreuzer less than others but he pays

¹⁶² Testimony of Ludwig Forschner as in previous note, and ibid., Zeugen-Verhoer, 17 Nov. 1873, testimony of Sebastian Garhoefer, registration office clerk in Germersheim, Isaac Mayer, wine dealer in Neustadt, Sophia née Forschner, wife of innkeeper Carl Friedrich of Eisenberg, Philipp Jakob Heilberg, estate steward in Meckenheim, Fortgesetzt, 18 Nov. 1873, testimony of farmer Ludwig Gluck II, and gentleman farmer and mayor Johann Langfinger of Meckenheim; Fortgesetzt, 26 Jan 1874, testimony of Anna Margaretha née Groß, wife of Ludwig Forschner.

¹⁶³ Ibid., Gegenzeugen-Verhoer, 18 Nov. 1873, testimony of farmer and mayor Johannes Boehl of Niederkirchen, notary Joseph Bommann of Deidesheim, estate owner Franz Engelhard Wolf of Königsbach; Fortgesetzt, 16 Feb. 1874, testimony of gentleman farmer and village councillor Johann Dornberger and innkeeper Philipp Rheinwald, both of Meckenheim.

¹⁶⁴ Ibid., Fortgesetzt, 18 Nov. 1873, testimony of Jakob Biffard; similarly testimony of farmer and tavernkeeper Carl Bried and gentleman farmer and mayor Johann Langfinger, both of Meckenheim.
honourably, and if you say you need money, he pays in advance, before he receives
the grain’. We can usefully supplement his remarks with those of the Meckenheim
village policeman, Philipp Keller, who observed that many in the village saw
Friedheim as an honest man, while others felt he had made deals he should not
have. ‘So far as I can tell,’ Keller continued, ‘these were deals which people regretted
after making them and about which they said that they had acted too hastily.’¹⁶⁵

Friedheim paid promptly, even in advance, to farmers in need of cash, as they
usually were. In return for which, he paid a bit less than he could make in resale, or
the farmers could have made, had they had enough cash to wait and sell them-
selves. Such a transaction angered the original sellers, seeing Friedheim’s gains as
exploitation of them, as dishonest and dishonourable—as something a Jew would
do.¹⁶⁶ Probably his dealings with Carl Forschner were on a similar basis. Friedheim
purchased Forschner’s large and still unfinished house at a discount, giving Forschner
the cash he needed to escape his creditors by fleeing to America. Friedheim’s subse-
quent legal difficulties stemmed from the actions of Forschner’s chief creditor, the wine
dealer Isaac Mayer, and from the actions of Forschner’s brother Ludwig, also a creditor, possessing a well-developed (some might say Pharisaical) sense of honour and morality, as a result of his piety. After hearing all
the testimony, the district court in Frankenthal appointed a panel of experts to
appraise the price of the property Friedheim had purchased from Forschner; their
finding on whether the former had paid a fair market price would have decided
the case. Unfortunately, the experts’ report is not preserved, although an appendix to
it is, which suggests that they might have agreed with Friedheim’s contentions.¹⁶⁷

Abraham Friedheim’s legal difficulties throw a distinct light on both relations
and distinctions between Jews and Christians in the nineteenth-century
Palatinate. Friedheim’s case did not stem from a dispute between adherents of two
different religions. Many of the notables—as well as other Christians of less
exalted social standing—in Meckenheim and vicinity were supporters of
Friedheim, while Ludwig Forschner developed his case against Friedheim in
cooperation with the latter’s Jewish competitor, Isaac Mayer. It would also be hard
to argue that the case represented a conflict between Jewish capitalist entrepre-
 neurialism and Christian anti-capitalist producerism. Nor was it an instance of rural
Christians and Jews rejecting market logic. Everybody, on both sides of the issue,
was operating with full consciousness of the market and carefully calculating their
profits and losses.

Rather, Abraham Friedheim’s travails show the way that similar activities
among Christians and Jews could be interpreted in different ways. Whatever the
experts’ opinion about the value of Carl Forschner’s property, and whatever the

¹⁶⁵ Ibid., Fortgesetzt, 18 Nov. 1873, testimony of Keller; Fortgesetzt, 26 Jan. 1874, testimony of
Christoph Sippel.

¹⁶⁶ For a description of this practice as a perfidious example of usury, Riehl, Die Pfälzer,
272.

¹⁶⁷ Ibid., Experten-Ernennung, 16 Feb. 1874; Nachtrag zu einem Expertenberichte, 30 June
1874.
ultimate legal outcome of the case, Abraham Friedheim’s honour would never be completely restored. As a Jew, the very virtues of keeping his word and paying promptly, which made him to some an honourable fellow villager and businessman, made him to others a dishonourable outcast from civil society.

**DRAWING AND REDRAWING BOUNDARIES**

Reflecting on the many different forms of drawing boundaries discussed in this chapter, I would have to say that the act appeared as natural and self-evident to nineteenth-century Palatines. There was a broad understanding that men were different from women, Jews from Christians, the wealthy from the poor, the sober from the drunk, the sane from the insane. One person’s property was clearly distinct from the neighbour’s; honourable behaviour was different from dishonourable, bodily fluids belonged in some places and not others. These understandings were, in part, written down in the law, in the sections of the Napoleonic Code on ownership, or on the position of a husband in marriage, for instance. They were also cultural understandings, some of which were specifically Palatine—as was the case with the practice of partible inheritance—while others, such as the distinctions between social classes, probably belonged to a broader south-west German region of widespread property ownership. Still others, like distinctions between men and women or Jews and Christians, were shared with much of central Europe, although they may have taken on a distinct and particular form in the Palatinate, in view of its legal institutions and social structures.

These distinctions gave rise to many and varied legal disputes, in the course of which a wide variety of opinions concerning the distinctions came to the fore, whether expressed by the parties and their attorneys, the judges, or the witnesses. Yet all these disputes, far from calling into question, challenging, or reformulating the distinctions established by the drawing of boundaries, invariably reinforced them. The one good example of such a challenge came in the controversy over the Jews’ oath, as Jews in the Palatinate, in common with their co-religionists elsewhere in western Germany, attempted to reformulate the distinction between Jew and Christian, to portray the oath as a degrading violation of the equal rights of citizens of different religious confessions, not a recognition of religious difference. If the Jews were ultimately successful in this effort, it is less clear whether they could banish from people’s attitudes the invidious moral distinction originally articulated in the oath.

Yet the boundaries that seemed so clear to nineteenth-century Palatines kept getting obscured. Borders of neighbouring pieces of property were hard to fix; the insane could act quite rationally; property transactions required both a focus on self-interest and its renunciation at the same time. There were many causes for this blurring of boundaries, from the introduction of the metric system to the flow of water down hillsides, but if one were to be named as the most prevalent and
significant, it would have to be the free movement of property in a society of property owners: changing uses of property parcels and bringing obscurities in their boundaries into focus, erasing distinctions between honourable and dishonourable behaviour, between altruism and solidarity, between Christian and Jew. Even in forms of boundary setting that seem far removed from property, such as the distinction between the sane and the insane, or the borders of persons and their bodily fluids, the use of property or its inheritance turns out to have played an important role.

A significant part of civil litigation was devoted to redrawing and recreating these boundaries: ascertaining who owned disputed pieces of land, handing down judgments about mental competency, evaluating the legitimacy of property transactions between Jews and Christians. In doing so, the law always had to take into account the way that these boundaries had been redrawn in everyday life, sometimes ratifying these redrawings and sometimes contradicting them. This interplay between civil law and everyday life in the redrawing of boundaries was a major element of nineteenth-century civil society.
Changes

There was a remarkable continuity of the entire complex of family, property, and the law in the Palatinate during the century from the end of Napoleonic rule to the outbreak of the First World War. Society, economy, and technology naturally did change over the course of those ten decades. Legal disputes between neighbours concerning cesspools in the 1820s might be contrasted with those about acetylene storage tanks in 1905. In the early nineteenth century, siblings quarrelling over an inheritance might have been vintners or shoemakers, while by 1900 the disputing parties could have been labourers at the BASF chemical plant or railway workers (Needless to say, there were still shoemakers bringing their concerns before the courts in the decades before the First World War, and dung heaps or cesspools continued to cause disputes among neighbours then as well.) But the basic issues of equity among siblings, or the strict separation of parcels of property and the rights of their owners, as well as the doctrines and legal practices by which such questions came before the courts, had changed relatively little. Matters that had evolved considerably in the course of the century, such as the legal and popular perception of madness, were far more the exception than the rule.

For this reason, previous chapters treated the entire period 1815–1914 as basically one unit. If large changes across these years were relatively few, smaller and subtler ones did occur and the following pages will consider some characteristic aspects of the interaction of property, family, and the law in four different periods of the nineteenth century. First will be the years 1815–55, and the major theme will be the winding up of the old regime, the way that the courts translated questions left over from a past and different socioeconomic and legal order. Then the years 1855–75 will be considered, a period of prosperity and economic growth that saw the beginnings of industrialization and the building of a rail network in the Palatinate. Palatines also found themselves in those years just behind the front lines of the Franco-Prussian War, and that war’s effect on civil society will be considered as well. Between 1875 and 1895 the hold—relatively precarious in any event—of laissez-faire on intellectual life and public policy in central Europe was greatly weakened. To some extent, this was also the case with jurisprudence, and a consideration of two very lengthy and extensive forest use lawsuits will follow the interplay of peasant practices, actions of the Bavarian state forest officials, and changing legal doctrines on the nature of property as they contributed to the decline
of the ideas and practices of laissez-faire in the Palatinate, one of its central European strongholds. The final segment, on the Wilhelmine era, will discuss the effects of new forms of property, particularly corporations and banks, and of new demands for emotional intimacy on the part of some women on the structure of expectations connected to property as they had existed in the nineteenth century. A brief epilogue on the First World War rounds out the chapter.

**WINDING UP THE OLD REGIME, 1815–1855**

While various issues stemming from the period before the onset of French revolutionary rule came before the courts after 1815, this segment will focus on the way that old regime property relations were reformulated to fit the new legal and conceptual world of the post-Napoleonic era. One excellent example of this reformulation was the legal treatment of former seigneurial dues. Jurists, particularly German ones, but their French counterparts as well, developed a predilection for redefining some kinds of dues as voluntary rental agreements. They thus became examples of the free disposition of property enshrined in the Napoleonic Code, rather than the abolished seigneurial restrictions on these free dispositions. Even in the Napoleonic era, possessors of these old regime entitlements had tried their luck at collecting them again, under the title of rental contracts, and the end of French rule in 1814/15 was only an additional encouragement to press their claims.¹

The town of Grünstadt, as administrator of the progymnasial funds, the legal successor (among others) to the claims of the former monastery of Höningen, seems to have been particularly energetic in its demands. While the beleaguered rural property owners could not count on much sympathy from the courts for their claims of freedom from feudal dues, they were able to exploit another difference between the old regime and the post-revolutionary age, discrepancies in systems of measurement. Painstakingly comparing old regime property surveys with the abortive French cadastre and the Bavarian one in progress or recently completed, and noting the lack of old regime records of the transfer of property, the court-appointed experts often concluded that they could not tell who owned what property, and when they had acquired it, or whether the lands in possession of the current owners were the same as those parcels listed in eighteenth-century charters of dues. Adding to the confusion was the use of localized old regime measures,

such as the rod of Herxheim, which was only eight-tenths as large as the official Bavarian state measure, the rod of Nuremberg. In addition, the names of the fields in which the parcels were located changed from register to register, and sometimes parcels were listed separately for each field, and sometimes as one item across several fields.²

The reformulation of seigneurial dues as rental payments was an attempt to transfer old regime legal circumstances and legal understandings, in which real property could have more than one kind of owner, to the post-revolutionary system of exclusive, individual ownership and control over a piece of property. The attempt was, in this particular case, thwarted by another aspect of the different conceptions of property ownership. Perhaps with the tacit collusion of the local notables appointed by the court as experts, it proved impossible to translate the old regime’s local, particular, and casual approach to the recording of property ownership and property transactions, into the Napoleonic system of detailed, universal, and systematic registration.

Old regime ideas about third party claims on a piece of property lived on in another area—that of usage rights for non-owners. The Napoleonic Code made an exception to its rule about the absolute power of proprietors over their property for usage rights, if they were exercised on the basis of a written title or had been in force for at least thirty years (Articles 690–1). In the early part of the nineteenth century, such a clause in effect guaranteed old regime usage rights in the new, post-revolutionary regime of property ownership.³ It might be objected—and strongly pro-free-market writers have done so—that usage rights do not just limit property ownership but destroy it, altogether, with pernicious consequences.⁴ This objection assumes that usage rights were unlimited, which was generally not the case. In fact, it was precisely the limitations on usage rights that gave frustrated early nineteenth-century property owners, trying to gain the full control over their property promised them by one article of the Napoleonic Code, and revoked by another, an opportunity to press their case.

The innkeeper Franz Adam Schaefer of Meckenheim had, on his property, a well, to which villagers had undisputed usage rights. Fed up with them trooping onto his land to draw water, Schaefer proposed to dig a new well for public use in another location. The inhabitants of Meckenheim refused, because his proposed well was too close to the former location of the outhouse of the village schoolhouse and the present site of cesspools. They feared—not disease in this pre-bacterial era—but the bad taste of the well water. Schaefer then turned to another,

⁴ The classic example is Garrett Hardin, The Tragedy of the Commons (Washington, DC: American Association for the Advancement of Science, 1968).
more oblique tactic. He beautified his well, by building a structure topped with a roof over the well opening. This was the impetus for the village to file suit, calling for the removal of the structure.

The action was a result of the way water was drawn from the well, by lowering a bucket held on iron rods with hooked tips. In the summer, when the water in the well was at its lowest point, and the longest iron rod would be needed to reach the water, this rod could not be inserted into the well, because it was longer than the distance between the well opening and the roof. Iron being unbendable, there was no way to insert the rod into the well opening and lower it into the well. In this way, the Meckenheimers’ usage rights would be made irrelevant.⁵

This all might seem like a silly village feud, but it exposed contrasting old regime and nineteenth-century civil society understandings of property, and the ambivalent position of the Napoleonic Code mediating between them. Schaefer’s well, in old regime conception, was his property, but the villagers also had rights to use it—rights seemingly unlimited, but actually restricted by the uncomfortable and awkward procedure of lowering a bucket on a hooked rod. Unwilling to accept this state of affairs, insisting that he should have full control over his property, the innkeeper first offered a substitute to the villagers. After their—quite understandable—refusal, he proceeded to exploit the implicit limitations in the usage rights to make their exercise more difficult and force the villagers to yield to his demands. Both of these actions were governed by one clause of the Napoleonic Code (probably the legal basis of the case, although none of the attorneys’ briefs or the verdict have been preserved), Article 701, which both prohibited property owners from doing anything to hamper third parties from exercising their usage rights, but also allowed proprietors to offer possessors of usage rights an alternative possibility to exercise them, which, provided it was equal to the original, they were required to accept.

The court-appointed experts, a master mason and two state officials involved in construction and property management, took a (perhaps intentionally?) obtuse approach to the dispute, dealing with the ostensible issues and not the underlying conflict over property. The structure with its roof could remain, they asserted, if Schaefer would just install a pump, or put the buckets on a rope, turned by a crank. Schaefer could have his roof and the villagers could have their water, more conveniently than ever—which was, of course, the opposite of what Schaefer wanted. While contravening the innkeeper’s wish for control over his property, the experts’ solution was also not in accordance with old regime usage rights, since it would have ended the limitation on them imposed by the awkward use of hooks and buckets to draw water. The experts were no more capable of resolving the clash between two eras’ interpretation of the nature of property than was Article 701 of the Napoleonic Code.

⁵ J6/1163, Expertenprotokoll zu Sachen der Gemeinde Meckenheim gegen Franz Adam Schaefer Wirth zu Meckenheim [undated, but 1851].
A Mysterious Stranger Seeks his Heritage

If cases centring on feudal dues and usage rights testify to the difficulties in translating old regime conceptions of property—conceptions by no means unfamiliar and applied within living memory—into terms usable in a post-revolutionary civil society, the story of Franz Anton Geisweiler shows the problems of interpreting the attitudes and actions of an old regime society of orders in a world of equality under the law.

When Franz Anton Geisweiler’s story began, he was not Franz Anton Geisweiler. Around 1801, a teenaged boy from Mannheim, named Franz August Bergheim, appeared in Neustadt, claiming that his mother, one Philippina Baader, was refusing to recognize him as her son and had even thrown him out of her house. Summoned to the mayor’s office, Baader at first stuck with her refusal, but then changed her mind and told a strange and fantastic tale. The boy was indeed her son, and a legitimate one, by her marriage to Anton von Geisweiler, performed in the Catholic church of the village of Altdorf not quite twenty years previously. His family’s opposition had caused them to keep the marriage secret and when her son was born, in her Neustadt house in 1787, he had been spirited out of town and sent off to Mannheim. Following Philippina Baader’s account to the mayor, Bergheim, now with her encouragement, began calling himself Franz Anton Geisweiler, and that was the name by which he was known.⁶

The legal validity of this story came to be tested over thirty years later, when Philippina Baader died intestate in 1834, leaving no direct heirs, and Geisweiler filed suit, claiming her inheritance as her legitimate son. Testimony at the trial provided rich evidence about the relationship between Philippina Baader and Anton von Geisweiler on the one hand, and between the two and Franz Bergheim/Geisweiler on the other. It was, as it turned out, no secret in Neustadt that Baader and Geisweiler were romantically linked. Everyone knew about their liaison and quite a number of witnesses testified that on Franz Anton’s birth he was, indeed, taken in a basket by a man named Koerper, the servant of the Neustadt city council [Ratsdiener], first to the Protestant pastor in the nearby village of Iggelheim, and then to Mannheim, where Geisweiler’s sister-in-law arranged for him to be adopted. Franz Anton was not the only offspring of the relationship between Baader and Geisweiler; he had two sisters in Mannheim, who were known as Fräulein von Geisweiler, and had died, as teenagers, of consumption. One witness even maintained that Philippina had seven children by Anton, of whom only Franz Anton had survived to adulthood.⁷

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⁶ J6/1153, Zeugen-Verhör, 14 Nov. 1834, esp. testimony of bailiff Franz Joseph Fleischbein of Bergzabern.
⁷ Ibid., testimony of attorney Justus Heinrich Siebein of Zweibrücken and of his maid Maria Elisabetha Hauswirth; Fortsetzung, 20 Nov. 1834, testimony of bookbinder Joseph Eder of Neustadt; testimony on 21 Nov. 1834 of Anna Margarethe Gieser, widow of Justus Degner of Neustadt.
A relationship certainly existed, but was it a marital one? Most in Neustadt thought that ‘Boppel-Grete’, as Philippina was known, was Geisweiler’s mistress. She asserted that ‘it was very wounding to her dignity to be universally regarded as the mistress of Herr von Geisweiler, when she was his lawfully wedded wife, married to him in the church in Altdorf’. She produced what she claimed was a church marriage certificate and demanded, on the return of her son, that his father provide for him financially. Some years later, Geisweiler married another woman, and in 1818 Philippina got in touch with her, suggesting that she file charges of bigamy against her husband. Geisweiler flew into a panic when he found out, telling his confidant, the vintner Bartholemeus Gummertheimer, ‘Gummertheimer I have done something really stupid, in marrying Frau von Geisweiler, because I am already married to Mlle Baader of Neustadt.’ The bigamy proceedings never came to trial, because Geisweiler died shortly thereafter.⁸

It would seem that Franz Anton had a good case for his mother’s marriage to Anton von Geisweiler, but other aspects of the situation did not quite fit. For one, there was no Catholic church in the Protestant—Calvinist, actually—village of Altdorf. Supposedly pages had been torn from the parish register during the French Revolution, but a court investigation of the register, by 1834 in the keeping of the mayor of the village, found it quite intact, with no evidence of the marriage in question. The purported church marriage certificate had been registered with the civil authorities in Neustadt after Franz Anton had returned from Mannheim, but no one seemed to remember a registration and there was no proof of it. In fact, after Geisweiler’s wife had brought charges of bigamy against her husband, she grew frustrated and annoyed with Baader for never producing the written evidence she claimed was in her possession. There were letters from Geisweiler to Baader and a written promise of marriage from the 1770s, but one witness testified that neither the promise nor the signature was in Geisweiler’s handwriting.⁹

The story of Franz Anton Geisweiler is about the transition from an old regime society of orders to a civil society of property owners. In the 1780s, it was hard to imagine a Herr von Geisweiler, coming from a noble family, complete with a coat of arms, marrying a common—and not particularly well-off—Demoiselle Baader, as contemporaries referred to them. His family, certainly, did not allow it. There was undoubtedly a close, intimate relationship, producing children, perhaps a promise, and maybe even a ceremony—but nothing leaving any evidence, even in the context of the lax record keeping of the old regime. Certainly, there were no documents good enough for the world of civil marriage, and state registration of vital events, introduced by the French Revolution. This would explain

⁸ Ibid., Fortsetzung, 19 Nov. 1834, testimony of Rosina Finck, widow of tax collector Wilhelm Assweiler and wife of cooper Johannes Zickngraf of Haardt; Fortsetzung, 20 Nov. 1834, testimony of vintner Bartholomeus Gummertheimer of Neustadt.

⁹ Ibid., Fortsetzung, 20 Nov. 1834, testimony of the verifier of weights and measures, Johann Georg Weekesser, of the royal property administrator (Kontenmeister) Johannes Noessel, and especially of Johann Jacob Schoppmann, dealer and rentier, all of Neustadt, Fortsetzung, 21 Nov. 1834, testimony of business agent Martin Schneider of Neustadt; Compulsorium, 3 Nov. 1834.
both why Geisweiler felt free to marry later on, and also why he was in a panic when he heard that Philippina Baader was in touch with his wife. Even if the charge of bigamy could not be proved, his reputation and marriage would have been at stake. By 1818, a nobleman keeping a commoner mistress in the now bourgeois society of the Palatinate was not quite the same thing it had been thirty or forty years previously.

The life of Franz Anton himself was a symbol of this transition. An embarrassment to his parents, he was shipped off to Mannheim where he led a meagre existence, apprenticed at several trades, but apparently too weak to perform them properly, earning a living gathering and selling scrap-wood he found on the banks of the Neckar River. At one point, his mother had tried to send him down the Rhine to Holland, with some raftmen, taking a load of wood. But Franz Anton would not accept his place in a society of orders; he wanted to be a recognized and legitimate son, with a claim on his parents’—at least his mother’s—property, and he seems to have convinced his mother to treat him that way, and also to have rethought her own relationship with her noble lover or husband.

When Franz Anton filed his lawsuit in 1834, contemporaries would have been familiar with the story of Kaspar Hauser, the strange young man who had mysteriously appeared in the streets of Nuremberg six years before. According to widespread rumour, Hauser was really the heir to the throne of the Grand Duchy of Baden, kidnapped from the royal nursery and held prisoner for years in a cellar.¹⁰ Franz Anton Geisweiler was a Kaspar Hauser-like figure, with his mysterious appearance in Neustadt and the strange story of his birth and subsequent disappearance. It was not royalty he was claiming, though, but entry into a civil society of property owners, equal under the law, in which distinctions of order no longer existed and property transactions and family formation all had their proper, legally registered documentation. Franz Anton’s story, as well as the legal battles of opponents of feudal dues, testify to the crucial importance of a system of public registration of documents in ending old regime distinctions of order and creating this civil society of legally equal property owners.

FLUSH TIMES, c. 1855–c. 1875

The third quarter of the nineteenth century was a period of rapid economic growth in central Europe, stemming from the onset of the industrial revolution there, a development closely linked to the building of a rail network. From the mid-1850s onwards, standards of living and real wages rose, along with farm prices. Trade and commerce flourished, as restrictions on the free market were abolished, yet even the previously protected craftsmen profited from this economic progress. The rising tide

¹⁰ Although not entirely satisfactory, a recent account of the Kaspar Hauser story is Martin Kitchen, *Kaspar Hauser: Europe’s Child* (Houndmills: Palgrave, 2002).
lifted all boats, including those taken by the one million Germans—many of them from the Palatinate—who left Europe for the United States in the 1850s, as their departure made a large contribution to the improvement of the labour market.¹¹

There were echoes of this rapid development in the Palatine civil courts. The building of a railway from Monsheim to Alzey in neighbouring Rhine-Hessen led contractors to engage in a bidding war for the services of the stonecutters of the village of Grossbockenheim during the winter and spring of 1864–5, bringing the price of a cubic metre of cut stones from 32 xr. up to 52 xr. in the course of three or four months. The stonecutters, small independent operators (many farmers practising the craft in the cold-weather agricultural dead season), as one might expect in south-western Germany, took unprecedented action to exploit the situation. The farmer and teamster Johann Philipp Lang II of Leidenheim reached an agreement with them, two weeks before Christmas of 1864, to purchase all the stones they cut that winter for 32 xr. per cubic metre. He gave them a good cash advance to secure their work. Only, as the price steadily increased, the stonecutters turned around and made a more advantageous deal with a competitor. They even returned Lang’s cash advance, astonishing his competitor who testified, ‘For in my entire life I have not yet heard that money given to stonecutters is received back from them.’ The stonecutters regarded this return of the advance as annulling their verbal agreement, but Lang did not think so and took them to court.¹²

In this little episode—whose legal outcome, as typical for cases from the period, is unknown—we can see how an economic boom was interfering both with the regime of oral agreements between economically independent parties, common to south-western Germany, and also with the more subtle relations of social hierarchy in a society of property owners between those possessing cash and those needing it. The flush times reached their peak in the Gründerjahre, the frenzied economic boom between the founding of the German Empire following the French defeat in the Franco-Prussian War and the financial crisis of 1873–4. This was an inflationary period, with a wage–price spiral, and Palatines noted as unusual the rapid increase in construction workers’ wages between 1871 and 1873.¹³

Problems with this inflationary boom were particularly apparent in construction. As prices for construction materials, especially wood, increased, builders began using lesser-quality materials with, at times, unhappy results.¹⁴ Particularly in the

¹¹ A good general introduction to economic development in this period, with appropriate references to the literature, is Friedrich Lenger, *Industrielle Revolution und Nationalstaatsgründung (1849–1870er Jahre)* (Stuttgart: Klett-Cotta, 2003), 31–128.

¹² J6/1173, Zeugenverhörprotocoll, 20 May 1865, esp. testimony of business manager Peter Saass of Kriegsheim, farmers Johann Philipp Lang and Jacob Weber, and farmer and innkeeper Carl Seyb IV, all of Leidenheim.

¹³ J6/1179, Fortgesetzt, 18 Nov. 1873, testimony of gentleman farmer and deputy mayor Jakob Biffard of Meckenheim.

boom town of Ludwigshafen, river port, rail junction, and burgeoning industrial centre, contractors began getting into the business who knew nothing about it. The dentist Zahn, for instance, tried his luck at building houses. He did not bother employing an architect, telling people, ‘construction is no art; he can do it himself’. Zahn’s multi-family houses, built on speculation, featured low-quality materials, and were constructed, not just without an architect, but generally without a blueprint or construction plan. Zahn’s payment practices were as casual as his construction ones, so that his construction sites would stand empty for weeks at a time, and when he had workers, they were far from being the most skilled. The resulting structures were notorious for the speed with which they collapsed into uninhabitability.¹⁵

Zahn was probably exceptional in the shabbiness of his practices and finished product, but one might suspect he was not entirely unusual. The master carpenter Nicholaus Eichler testified that his father Friedrich, a tavernkeeper turned construction carpenter, had a business in the 1870s drawing up ‘little cross-sections [Grundrissel]’ for people needing a building plan.¹⁶ It is hard to believe that such plans were ideal guides to building, and this business suggests the existence of a low-quality sector of construction that flourished during the boom years in the early 1870s, helping to undermine, at least for a time, the ideal of masterful workmanship in the construction trades.

A Textile Factory and its Problematic Practices

Industrialization proceeded more slowly in the Palatinate than in northern Germany and was only present in a relatively few urban centres during this period. This modest pace of development involved a gradual modification of attitudes about property and social hierarchy rather than a dramatic transformation of them. Such modifications became apparent in civil court proceedings as the legal system attempted to adapt existing principles to deal with these new developments. Two specific examples from the early 1860s, which also reflect more general issues, come from the workings of a well-known pioneer of Palatine industrialization, the Ludwigshafen Mechanical Cotton Spinning and Weaving Mill.¹⁷

Located in Ludwighafen’s suburb of Oggersheim, the firm was an integrated operation, taking in raw cotton and producing finished cloth, a production process that included dyeing the textiles. Waste products from the dye-works were diverted out of the factory through an underground tunnel into a stream flowing


¹⁶ Ibid., Zeugenvernehmungsprotokoll, 23 Dec. 1883, testimony of Nicholaus Eichler. Of course, Friedrich Eichler might have been a carpenter before he became a tavernkeeper.

¹⁷ On this firm, see Pfälzische Geschichte, ii. 137.
north from Oggersheim past Frankenthal, eventually to reach, in the fishing village of Roxheim, the ‘old Rhine’, that portion of the Rhine bypassed when a new channel had been cut in the river earlier in the century to make it navigable further upstream. The water in the stream had turned bluish-black from the dyeing chemicals, which included iron and copper vitriol, Prussic acid, and, at least at times, other acids and chlorinated lime. The villagers of Roxheim claimed that these discharges were killing the fish, which were the basis of their livelihood.

Court-appointed experts carefully examined the water, taking samples at different points between the factory and the old Rhine, and subjecting them to chemical analysis. They then carried out experiments, placing fish in water with chemical content similar to those that they had ascertained. Carefully performed in scientific fashion, including the observation of a control group of fish swimming in plain Rhine River water, the experts’ investigations showed the fishermen’s complaints were thoroughly justified. The discharges polluted the water to such an extent that fish swimming in chemically similar solutions were quickly killed.¹⁸

As Franz-Josef Brüggemeier has shown in his very interesting study of air pollution in the nineteenth century, court cases dealing with similar early forms of industrial pollution were quite common in central Europe at the time. Courts generally dealt with them as a species of property boundary dispute, similar to the sort that might emerge from an overflowing cesspool, although they seem to have been somewhat less strict with industrial polluters than with less mechanized producers of annoying substances.¹⁹ The Roxheim fishermen, however, took a different tack. They did not sue the factory, but the Bavarian government, to whom they paid fees for their fishing rights, which the pollution had made worthless. State authorities did not oppose their complaint but turned around and sued in turn the factory as the responsible party (the Garantiebeklagte). One has to wonder if the fishermen might have had more success with this tactic than complaining directly about the damages caused by the factory. Unfortunately, neither the lawyers’ briefs nor the verdict in this case have been preserved.

The underground tunnel through which the run-off from the dye works exited the factory had only recently been built; a cave-in during construction had cost the life of the day labourer Johann Michael Münch of Oggersheim. His widow sued the factory, which, in a legal move rather like that of the Bavarian government in the pollution case, asserted that the responsible party was a former employee, the engineer Ernst Mendius, at the time of the lawsuit working in Thuringia. The case revolved around the organization of the labour process on the construction site and showed how the social distinctions existing in a society of large and small proprietors, where transactions were carried out in personal,

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face-to-face fashion, were transposed to the setting of a factory with an administrative hierarchy and a division of labour.

When the tunnel was being built, Mendius was the factory’s technical director, or, as we might say today, its production manager. A graduate of the Karlsruhe Polytechnic, where he had studied mechanics (similar to today’s mechanical engineering), he had been the assistant to the previous technical director, Friedrich Wilhelm Keller, until the latter took another position—without, however, giving up his shares of stock in the company. Business matters were the province of the factory’s director, the appropriately named Friedrich Kaufmann. The line of authority ran from Kaufmann to Mendius to the foremen or to craftsmen contracting their services to the factory, and from there to the workers. This was how a more sophisticated observer saw it, such as the business agent Jacob Batter, who had previously been in charge of the factory’s storeroom.²⁰

The workers, both in the factory and on the construction site, as well as craftsmen who were contractors in the factory, did not perceive this hierarchy of power. For them, authority rested in the person who gave them their orders, to whom they posed their questions, and who gave them the definitive answer. The dyer Melchior Kampeich testified that when Keller left the factory, ‘he introduced us dyers in the dye-works to Herr Mendius as the person to whom we should turn when something occurs in the dye-works’. Philipp Müller of Oppenheim, who had contracted to do the whitewashing in the factory for the previous six years, stated, ‘When something was to be done, I was summoned and Mendius gave me the job. As long as he was director, I went to him and received instructions from him, when I had something to ask about my work.’²¹ Other workers and craftsmen had different experiences, though. The locksmith Jacob Henn received his orders from the storeroom supervisor Batter; the plumber Wilhelm Zimmer did repair work after receiving assignments from the various production managers, but also from the director Kaufmann and from the storeroom supervisor as well.²²

Workers and craftsmen articulating this opinion understood that factory management had other functions, particularly consultation and oversight, but these were not perceived as linked to giving orders and making definitive statements. The cabinetmaker Christoph Mathes ran a workshop in the factory for five and a half years, carrying out the necessary tasks in his craft. ‘When something was to be done, both gentlemen [Herren] Mendius and Otto [Mendius’s assistant] often discussed it, but Mendius gave the orders. Kaufmann was next to Mendius [Neben Mendius


²¹ Ibid., testimony of dyer Melchior Kampeich of Oggersheim and of Philipp Müller, whitewasher of Oppenheim; similarly, Zeugen Verhoer Protokoll, 24 May 1862, testimony of construction carpenter Carl Deffron of Mannheim.

²² Ibid., testimony of plumber Wilhelm Zimmer of Ludwigshafen and locksmith Jacob Henn of Oggersheim.; similarly, testimony of bookbinder Johann Becker of Oggersheim.
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And the former came into the factory every day, and, from time to time, into my workshop, but he looked on [nachgesehen] without giving me work to do and I never received an assignment from him in regard to my work.'\textsuperscript{23}

The lines of authority in regard to the construction of the tunnel were particularly unclear. Production manager Mendius had not studied construction engineering and, as the construction engineer Wilhelm Neu testified, it was not necessarily the case that a factory’s production manager was in charge of construction as well.\textsuperscript{24}

At least some of the workers did not see Mendius as being in charge of construction. The mason Georg Voltz II explained that ‘In construction inside the factory Mendius asked us construction people [Bauleute] if this and such was the right way to do a certain piece of work and when we agreed, the work was done that way, according to the opinion we expressed.’\textsuperscript{25} If answering questions was a sign of authority, a version of giving orders, asking them was almost the opposite.

At the tunnel construction site where the fatal accident occurred, a few witnesses had Mendius giving orders as to where the tunnel should be dug and how deep. Most, however, had another perception. ‘Mendius just looked at the work and never spoke with anyone.’ Director Kaufmann frequently accompanied him ‘and equally gave no orders, but just looked after the work to make sure it was progressing appropriately’. Managerial personnel were not the only ones who looked. During their lunch hour, the factory workers themselves came to watch the construction in progress.\textsuperscript{26}

If the factory’s director and its technical director were just looking on and giving no orders, then who was in charge? The answer was the foremen or lead workers, the master mason Scherer, who gave orders to the bricklayers, and one Georg Wentz, who commanded the ditch-diggers. ‘No one gave the workmen their orders but Scherer and Wentz. Mendius, to be sure, came to the construction site but never spoke with the workmen and never gave them orders.’ Mendius, and sometimes Kaufmann, did speak to Scherer and Wentz, but the workers observing the scene were not quite sure what was happening. Were the directors consulting with the foremen, or giving them their assignments? As one ditch-digger noted, from twelve feet under ground he could not tell. Lacking the idea of an internal bureaucratic hierarchy of a firm, and seeing consultation as evidence of lack of authority, the workers generally perceived the two foremen as being in charge.\textsuperscript{27}

\textsuperscript{23} Ibid., testimony of cabinetmaker Christoph Mathes of Oeggersheim.

\textsuperscript{24} Ibid., Gegenzeugen Verhoer Protokoll, 27 May 1862, testimony of construction engineer Wilhelm Neu of Kaiserslautern.

\textsuperscript{25} Ibid., testimony of mason Georg Voltz II of Oeggersheim, similarly, testimony of mason Heinrich Christmann of Oeggersheim.

\textsuperscript{26} Ibid., Zeugen Verhoer Protokoll, 24 May 1862, testimony of day labourer Mathias Vellen and of mason Adam Scherer, both of Oeggersheim; Gegenzeugen Verhoer Protokoll, 27 May 1862, testimony of mason Georg Spohrer of Oeggersheim.

\textsuperscript{27} Ibid., Gegenzeugen Verhoer Protokoll, 31 May 1862, testimony of day labourers Friedrich Schumann II and Johann Gottlieb, both of Maudach; Zeugen Verhoer Protokoll, 24 May 1862, testimony of Franz Wentz, field watchman, and Mathias Vellen, both day labourers in Oeggersheim,
Wentz, the foreman of the ditch-diggers, was an office messenger \([\text{Bureaudiener}]\), with no knowledge or experience of construction. He provided beer for the grateful ditch-diggers and masons, but took a casual attitude towards the placing of supports for the tunnel as it was being dug—especially necessary, as the tunnel was being excavated right up against the factory’s overhead coal shoot that rested on pillars—which led to the fatal accident. At the time of the accident, director Kaufmann was off on a business trip and production manager Mendius was busy in the dye-room, trying out different kinds of dyes. Neither was present to keep an eye on the foremen, although in view of their lack of construction expertise it is not clear whether their presence would have helped. Wentz, as the perceptive storeroom supervisor Batter observed, ‘had a certain authority, because he hired and dismissed the workmen and gave them their individual tasks. One might say he played at being a construction foreman… I kept my distance from the construction, because I saw that Wentz had appropriated for himself an authority that he did not deserve, because he was given to drink… he was not the man… to direct such an enterprise, and it is no surprise when things did not go well.’\(^{28}\)

It is hard to know whether the Ludwigshafen Spinning and Weaving Mill was run in unusually slovenly fashion, or whether it was typical of an early industrial enterprise, in the Palatinate or more broadly in central Europe. In either case, one can see the way a continuation of previous practices related to property and social hierarchy in the context of a factory could lead to different results. Putting noxious substances in the water supply and affecting property rights of others was far from unknown, but manure was one thing, copper vitriol and Prussic acid another. The factory’s production and construction workers and its contracting master craftsmen interpreted its functional administrative hierarchy in terms of the social interactions between larger and smaller property owners with which they were familiar. Office messenger Wentz acted like an estate owner, hiring and firing, giving his workers beer to drink—as well as taking some for himself. The personal authority he arrogated to himself may have allowed the construction to go smoothly, while his superiors busied themselves with other tasks, but this was not the safest way to dig a tunnel right next to an overhead coal shoot. This combination of a formal bureaucratic hierarchy with the practices of informal social relations taken from smaller units of production ended with the death of one of the construction workers.

**Railways in Civil Society**

The Ludwigshafen Mechanical Spinning and Weaving Mill, or any other, perhaps better-run, individual manufacturing establishment, was far less typical of the age

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\(^{28}\) Testimony of Heinrich Christmann as in n. 25 above, of Melchior Kampeich as in n. 21 above, and of Jacob Batter as in n. 20 above.
of the industrial revolution in the Palatinate than the advent of the railways there. The different railways corporations, merged in 1870 into the United Palatine Railways, were the prime example of a complex form of business enterprise in the Palatinate during the third quarter of the nineteenth century. The railways were also an important element shaping the evolution of civil society. Coming to terms with the railways, dealing with their physical presence, and learning to relate to their bureaucratic organization was an important feature of both social relations and legal practice in this period.

It may seem odd to pose railways as a problem, for they have been widely portrayed in a positive light, both in the published writings of German contemporaries and in the later judgments of historians. Railways were mainstays of prosperity, avatars of economic growth, and both symbols and creators of national unity.²⁹ There is no reason to disagree with this judgment, but evidence from the Palatine civil courts suggests the existence of other, less positive features. Railways were physically disruptive; railway corporations were arrogant and bullying, particularly, but not exclusively, to their workers; the bureaucratic organization of railway enterprise was, at first, an unfamiliar element in a society of property owners, used to personal transactions, in which individuals pledged their word.

Construction and expansion of the railways required expropriation of private property. As regulated by the Bavarian law of 7 Nov. 1837, property owners were to receive compensation for their expropriated property, with the exact amount to be fixed in civil court proceedings. A number of such cases appear in the materials used for this study, and they leave the impression that property owners quickly learned to exploit the legal regulations by spinning out negotiations with the railways and holding out for more money. Particularly galling to the railway corporations, property owners began demanding greater compensation, based not on the current value of their property, but on what it would be worth after the railway was built.³⁰

Expropriation for the purpose of railway construction was less disruptive than the physical consequences of this construction. Farmers were cut off from their fields; viaducts blocked water run-off and caused flooding. Physical inconvenience was coupled with a decline in property values.³¹ The introduction in 1882 of a new, heavy freight train service leaving Ludwigshafen for points west caused


whole houses to shake, plaster to drop from the ceilings, windows to come loose, and dishes to fall out of shelves onto the floor. The whitewasher Christian Grüner and his wife Stephanie née Stahlberger were holding a night-time vigil in their apartment for their small child who had just died. Passing freight trains caused the little corpse to bounce on its straw bed.\textsuperscript{32}

The Palatine railways were a private stock corporation and were not taken into public ownership until 1909, one of the very last rail lines to be nationalized in central Europe. They were, however, subject to the close administrative oversight of the Bavarian government and the corporation’s director was always a senior Bavarian state official.\textsuperscript{33} This arrangement of the ownership and control of property was, for the railway workers, the worst of both worlds, combining the rigid bureaucratic procedures of public administration with the lack of job security in private employment. Several arbitrary dismissals suggest the nature of employment with the Palatine railways. It was perhaps not surprising or even unjustified that the conductor Jacob Goldhammer was dismissed in 1879 after his rude remarks to a passenger were ventilated in the press. To have dismissed him literally a few hours before he would have completed the three years of service that would have vested his claim to a pension, though, seems like a gratuitously nasty act.\textsuperscript{34}

The track warden and switchman Johann Wittmann of Edenkoben, by contrast, had an excellent service record. His sudden and arbitrary dismissal by his superior, the district engineer Carl Willett, in 1871 was ostensibly due to rumours—nothing more than tavern gossip—that Wittmann had fathered an illegitimate child in his warden’s shed. Other workers with personal and political antagonisms to Wittmann had spread these stories for years, and Willett had employed them to spy on Wittmann, attempting, in vain, to get actual evidence of his immoral actions—as opposed to observations of villagers of both sexes taking a break from their fieldwork to have a drink of water in Wittmann’s shed. After Wittmann filed suit against the railway, Willett attempted to intimidate other subordinates into testifying they had knowledge of Wittmann’s immoral actions.\textsuperscript{35}

This thoroughly unappetizing episode shows the way that personal, informal hostilities could be combined with official bureaucratic hierarchies to poison labour relations on the railway. A similar combination often lay behind problems with railway safety. Under German liability law, railways were in a less favourable

\textsuperscript{32} J6/32, Öffentliche Sitzung, 19 Apr. 1883, Zeugenvernehmungsprotocoll, 6 Oct 1883, testimony of grave-digger Friedrich Griel and of his wife Sophie Hetticher, of whitewasher Christian Grüner and his wife Stephanie née Stahlberger, and of cabinetmaker Philipp Fuld, all of Ludwigshafen.


\textsuperscript{34} J6/906, Klageschrift, 23 Jan. 1880.

Changes

position than other employers in legal action stemming from industrial accidents. At least until Bismarck’s creation of a compulsory, state-run industrial accident insurance system removed the matter from the civil courts, it was more tempting for accident victims, or their survivors, to file suit against railways than would have been the case elsewhere in the workforce.⁶⁶ Resulting court cases suggest that railway accidents emerged from the gap between formal-bureaucratic rules and informal procedures.

A particularly good example was the grave accident of Christian Adam, who was working in the construction of a railway tunnel near the village of Enkenbach in the north-western Palatinate. On a dark and foggy December morning in 1874, Adam fell from damp and icy steps that had been crudely cut into the cliffs above the tunnel, breaking a foot and damaging his spine. He was carried back to the house of the parents of his deceased wife, where he had been living, and could not get out of bed for the next three months. Almost a year later, he was still walking with a cane, all bent over, and constantly coughing and spitting up blood.⁶⁷

Adam worked as a day labourer in the entrance to the tunnel, drilling holes in the rock into which blasting powder would be inserted, so as to widen the tunnel entrance. The drills used quickly became dull, and they were sent to the smithy in the village of Enkenbach to be resharpened. Adam fell as he was on his way down the steps, carrying some newly sharpened drills. Lengthy and extensive testimony revealed that the railway’s overseers had prohibited the workers from using the steps cut into the cliff, at least before it was full daylight. However, reaching the village from the construction site in any other way was inconvenient. The most direct route would have been the tunnel, the path the trains would take. At the time of the accident, it had been roughly cut through, but workmen were still blasting in its length, making it impossible to use. Workers could have gone around, but it was a lengthy hike, at least half a mile over hilly terrain. Consequently, everybody climbed up the steps, even the foremen who had prohibited the workers from using them; some workers maintained that they had never been informed about the prohibition on using the steps, at least not until Adam had his near fatal accident.⁶⁸

⁶⁷ J6/1180, Fortgesetzt, 26 Oct. 1875, testimony of Catharina Schütze, wife of tailor Daniel Schrom of Sembach; Fortgesetzt, 17 Nov. 1875, testimony of barber Philipp Schuler, barber Peter Schuler, and smith Daniel Strohm, all of Sembach; Fortgesetzt, 26 Oct. 1875, testimony of the mason Peter Pfeffer and the day labourer Johannes Lorenz, both of Enkenbach; Fortgesetzt, 6 Nov. 1875, testimony of physician Andreas Müller of Enkenbach. An unusually large number of witnesses were called in this case and the individuals cited in this and subsequent notes are just a selection of those who testified.
⁶⁸ Ibid., Zeugen-Verhoer, 9 Oct. 1875, testimony of day labourers Heinrich Kayser and Balthasar Lanz of Hembach; Fortgesetzt, 26 Oct. 1875, testimony of farmer Jakob Welker of Sembach; Gegenzeugen Verhör, 25 Oct. 1875, testimony of foreman Philipp Lorenz of Enkenbach; Fortgesetzt, 26 Oct. 1875, testimony of railway overseer Carl Ihl of Bergenhauheim; Fortgesetzt, 6 Nov. 1875, testimony of railway overseer Paul Bartschner of Enkenbach.
The workers were in a hurry to get to the village, so they could get the resharpened drills, because they were doing piece-work, paid by the number of holes they drilled into the rock. When the teenage boys, working for the village smith, brought the drills to the top of the cliffs and announced their presence, there would be a wild stampede up the crude stone stairs to get a sharpened drill. The boys did bring the drills down to other workers, not the gang working at the entrance with Adam, but those in the tunnel itself. The latter, however, gave the boys tips to do so.39

The accident occurred in the gap between the formal bureaucratic regulations of the railways and the informal practices the workers used in actually building the tunnel. By employing labourers for piece-rates, the railway corporation was pretty much ensuring that the workers would violate its safety rules. Similar situations appear to have been present in other railway accidents.40 Social democrats claimed this gap was a deliberate practice, the railways creating lengthy rulebooks, impossible to follow or even to know. When an accident occurred, railway attorneys could assert it was the worker’s fault for not following the rules, thus absolving the railways of any liability. This was not quite the case with Adam, since the foremen’s orders were not part of a written rulebook. The overseers’ actions following the accident demonstrated a strong desire to avoid any suggestion of liability, but in such a way as to suggest that they were afraid of being held liable. When Adam was lying in agony on the ground, one of the foremen reproached him for having violated the rules about using the steps. Foremen later demanded workers sign an affidavit stating that they knew of the prohibition on using the stairs on the cliff, and threatening those (the vast majority) who would not sign. Two days before the court was to carry out an inspection of the scene of the accident, the foremen had that upper portion of the cliffs where the accident had happened blasted away.41

Christian Adam’s unfortunate experiences with the differences between formal written rules or official orders on the one hand, and informal practices on the other, had a relatively happy ending, as eleven months after his accident, and


40 J6/1179, Gegenzeugenverhör, 17 Dec. 1873 and Protokoll über das Zeugenverhör zur Gegenbeweisführung, 30 Nov. 1874 and J6/1180, Expertengutachten, 27 Mar. 1875 (concerning a fatal accident in the Landau railway station in May 1873); Protokoll über das Zeugenverhör zur Beweisführung, 8 June 1874, continued 9 July 1874 and 5 Apr. 1875, Ortsbesichtigungsprotokoll, 8 June 1874, Protokoll über die Zeugenverhör zum Gegenbeweisführung, 8 June 1874, continued 9 July 1874 (concerning a less serious accident, also in Landau, in Nov. 1871).

41 Brüggemeier, Das unendliche meer der Lüfte, 214 and n. 59; J6/1180, Fortgesetzt, 25 Oct 1875, testimony of day labourer Carl Weidenbach of Alsenborn; Fortgesetzt, 26 Oct. 1875, testimony of Andreas Neu, day labourer in Sembach, and of brick-maker Carl Müller of Sembach, Fortgesetzt, 6 Nov. 1875, testimony of railway worker Heinrich Herbrandt of Alsenborn, as well as the testimony of Peter Pfeffer and Johannes Lorenz cited in n. 37 above, and of Paul Bartschner, cited in n. 38 above.
following six weeks of testimony, the railway agreed to recognize his claim to compensation for his injuries.⁴² Although the consequences for him were very unpleasant, it could certainly be argued the situation he experienced was typical of all large or bureaucratic organizations and hardly limited to mid-nineteenth-century Palatine railways. This is undeniably true, but such a trans-temporal sociological observation overlooks the unfamiliarity of mid-nineteenth-century Palatines with these sorts of organizations, outside government at least. For them, dealing with railways was quite different from other sorts of property transactions. The different experiences of two cattle dealers from Sembach with the railway show the difficulties of learning to deal with its bureaucratic hierarchy.

On 3 February 1872 cattle dealers Isaak Strauss II and Berg (his first name is not given in the records) both came to the Sembach railway station, a stop on the recently built Alsenz Valley rail line, and paid a deposit to reserve a cattle wagon for the sixth, so that they could bring their livestock to the Neustadt cattle market, to take place on that day. The Sembach station manager, Joseph Ramsch, sent a letter requesting the cars to the main station in Kaiserslautern (there was no telegraph line in Sembach) and waited for the wagons to arrive. By the last train of 5 February, none had come. It was then that the two dealers took quite different actions.

Strauss showed up at the railway station at 4 a.m. the following day, waiting to see if a cattle wagon would come with the first train. The train arrived promptly at 5.13 a.m., without a cattle car. Angrily shouting, ‘for heaven’s sake, what shall I do, to whom shall I turn,’ Strauss threatened to sue the station manager. Ramsch replied that he had done his duty; it was not his fault that no wagon had come, and he offered to refund Strauss’s 1 thaler deposit. Strauss responded that he would not take 50 thaler and stalked off with his cattle. By contrast, Berg, on hearing that there were no cattle cars in Sembach, took his cattle on a night-time march to the railway station in Hochspeyer. A freight train, passing through from Neustadt to Kaiserslautern, contained an empty coal car from the Badenese state railways, which the station manager in Hochspeyer decoupled and turned over to Berg, to load his cattle, so they could be brought to Neustadt with the first train the next morning.⁴³

Perhaps unfamiliar with the organization of the recently built rail line in the area, Strauss dealt with the railway as though it were an individual with whom he was conducting a property transaction. The station manager in Hembach had given Strauss his word and taken his deposit, and then not fulfilled his promise. He was responsible and Strauss would sue him. Strauss had not quite understood that the station manager was acting as part of a large organization, in

⁴² As noted in a brief annexe to the testimony of 17 Nov. 1875. This is one of the very few pre-1879 cases whose outcome is even partially known.
which individual responsibility was diffused across an entire bureaucratic apparatus. As far as Joseph Ramsch was concerned, he had done his duty, writing to Kaiserslautern for a cattle car, and even gone beyond it, by writing a second time and telling the train masters of trains stopping at his station on the way to Kaiserslautern to remind the railway officials there of the need for a cattle car. None of this, of course, helped Strauss get his cattle to market in time.

Berg, who had a larger operation than Strauss and ran it in more sophisticated fashion, knew the proper way to deal with a bureaucracy. He understood that it was useless to hold station manager Ramsch personally responsible. When the formal bureaucratic procedures failed him, he turned to informal ones, driving his cattle to the larger station on the main line in Hochspeyer. Whether he offered the railway officials there any special gratification for fulfilling his wish is not revealed in the testimony, but even if they were willing to do him the favour for free, it was only possible because he was able to distinguish between dealings with a bureaucracy and dealings with an individual. This was a lesson Palatines would need to learn.

A Civil Society at War

The Franco-Prussian War of 1870–1 came very close to the Palatinate. If the French Emperor Napoleon III had had any capable generals in his service, the region would have become a combat zone, as it was during the French revolutionary wars in the first half of the 1790s, and as was widely expected in July 1870. However, the French officer corps demonstrated a truly breathtaking strategic and tactical incompetence, so that the Palatinate became a staging area for Prussian troops, on their way, by rail, to their victorious encounters in nearby Alsace and Lorraine.

Close to the battlefields, but far from the fighting, Palatines seized the opportunity to make money, by selling goods and services to the troops. The banker Theodor Hirsch in Kaiserslautern set up a syndicate, with some of the leading merchants in the city, to purchase food with which to provision the German armies. Dealers throughout the region took the opportunity to provide livestock, grain, flour, coffee, and sugar to the soldiers in the field. In Bergzabern, very near Alsace, there was a positive rush into commercial pursuits, as ‘many people follow the army into France as dealers and do a good business that way’.

44 A comparison of the two dealers and their operations in ibid., Gegenzeugen-Verhör, 22 July 1872, testimony of postman Philipp Schmidt and farmer Heinrich Schläfer, both of Sembach. A contemporary example of a more sophisticated merchant holding either individuals or the railway responsible, J6/1178, Gegen-Zeugenverhör, 11 Nov. 1871, testimony of merchant Gustav Stoll of Ludwigshafen.


46 J6/1178, Zeugenverhör-Protocoll, 3 Jan. 1872, testimony of Karolina née Wieland, wife of shopkeeper Jacob Wintz of Bergzabern (quotation); Haupt-Zeugenverhör, 13 Jan. 1872, testimony of clerk...
The army needed clothing as well as food. Merchant Berthold Flogenheimer of Mannheim was a contractor who placed an order with Jacob Dochnal, proprietor of a knitting business. The socks Dochnal’s workers produced were not very well made, and it was the last time Flogenheimer would do business with him, but the goods sufficed for the soldiers: ‘then no one was very particular’. Peasants participated in this bonanza as well, selling their carting services, either directly or via their village councils.47

It was the railways, though, that shouldered the main burden of transportation. The mobilization plans of Helmuth von Moltke, the celebrated chief of the Prussian general staff, relied heavily on moving troops by rail; during August 1870, the Palatine railways were under the command of the Prussian army.48 Then, and throughout the war, the greatly expanded use of the railways meant that there was a shortage of personnel. Workers were summoned from the repair-yards in Ludwigshafen to work on the trains headed to the front as brakemen and wheel and axle maintenance men [Wagenwärter]. This was a command, ‘there was no mention of an objection, and no one thought of it, because we were railway workers and had to obey’. Payment for working on a train was higher than in the yards, and the workers received a travel allowance, ‘so in general the workers were glad to do this job’. Interestingly, there was never a mention of patriotism as a motive.49

It might seem that the railway workers were thus able to participate in the more general rush to profit from the war. Their experiences, though, were more difficult and disillusioning than those of independent proprietors. Yard workers were simply placed on the trains and sent off. Their superiors expected them to learn on the job, for workers received no written documentation about their tasks, which the railway did not make available to brakemen in any event. Georg Kärchner, one of the men called out of the workshop, had these written rules, but only because he insisted on it and kept asking the train master until he gave him a copy of them.50


50 Besides the testimony cited in the previous note, ibid., Fortgesetzt, 30 July 1872, testimony of rail workshop worker Georg Kärchner of Ludwigshafen.
The workers received no verbal instructions either, and were very unsure about the exact nature of their duties or basic safety matters, such as whether they were allowed to leave their brakemen's station, perched on the top of a car, while the train was in motion. All brakemen were supposed to carry a signal horn, with which they could call attention to possible problems without having to leave their perch, but the wartime recruits never received one.⁵¹

These circumstances were an accident waiting to happen. Thomas Heinrich, a twelve-year veteran of the repair-yards, regarded by his colleagues as sober and industrious, in wartime service as a brakeman, fell from his perch on a cold and snowy day in December 1870 as his train was passing through the village of Rohrbach, between Wissembourg in Alsace and Landau. He died shortly afterwards in the Landau railway station. The railway produced witnesses who maintained that Heinrich had been drinking, which may have been the case. Still, it is hard to avoid the impression that his death was at least in part a result of that gap between formal, bureaucratic instructions and informal practices characteristic of the administration of the Palatine railways, sharpened and extended by the emergency wartime circumstances.⁵²

The transfer of the Palatine railways into the control of the Prussian army at the outbreak of hostilities raises a question about the relationship of the Franco-Prussian War to the total wars of the twentieth century. The mobilization of the entire population of the combatant nations in those wars involved state control over or perhaps even incorporation of civil society and its institutions. Taking control of the railways might seem like a step in the direction of total war, just as historians have sometimes seen the clashes in 1870–1 between German occupying forces and French partisans or franc-tireurs in that light.⁵³

However, the rapid emergence of efforts to profit from the war, efforts driven by the civilian population of the Palatinate itself, and not by any centralized governmental direction, suggests a different story. While, in theory, civilian traffic was not allowed on the Palatine railways during August 1870, in practice businessmen arranged to have freight cars attached to military trains headed for or passing through points in the Palatinate. Palatine and Badenese railway officials allowed them to place their shipments in this way, while explicitly rejecting any of the

⁵¹ Besides the testimony cited in the two previous notes, ibid., Zeugenverhör, 20 July 1872, testimony of locksmith and mechanic Wilhelm Schmidt of Ludwigshafen; Gegen-Zeugenverhör, 20 July 1872, testimony of acting wheel and axle maintenance man Jacob Matt, of Ludwigshafen; Fortgesetzt, 30 July 1872, testimony of train master Franz Joseph Bueler of Ludwigshafen.

⁵² Besides the testimony cited in the three previous notes, ibid., Gegenzeugenverhör-Protokoll, 23 July 1872, testimony of station administrator Wilhelm Geissler, Friedrich Sturtz, track warden, and of his wife Katharina née Deutsch, all of Rohrbach.

⁵³ Stig Förster and Jörg Nagler (eds.), On the Road to Total War: The American Civil War and the German Wars of Unification 1861–1871 (Cambridge: Cambridge University Press, 1997). In spite of the book's title, most of the authors in this volume are sceptical about the extent to which these conflicts can be understood as total wars, and the following account rather underscores this scepticism.
usual guarantees for their safe arrival. At their destination, these cars could be offloaded, or even sometimes decoupled from the trains.⁵⁴

The officers in charge of the rails acted like stereotypical Prussians and would hear nothing from the Palatine railway officials about potential civilian uses of the lines. Captain von Hüser, deputy to the army’s rail-line commissar, drew his sabre and told the railway officials, ‘I am in charge; no one can give me orders.’ Major Rudolph Freiherr von Kratzler, rear area commandant in Kaiserslautern, absolute monarch of the railway station in August 1870, was given to responding to complaints of railway officials by shouting, ‘What do I care about these Jews and their speculations? This is war!’—a rather unfair statement, since these Jewish speculators were supplying flour to the military bakery in Kaiserslautern.⁵⁵ Yet the same Major von Kratzler also allowed food supplies into Kaiserslautern to feed the civilian population. He even permitted, or at least did not prevent, a load of coal from the Saar Basin and of iron from Ludwigshafen to reach the city’s machine shops, thus keeping them in business and preventing layoffs among their workforce.⁵⁶

Most interesting about this situation is that when a rail car full of supplies went astray, its sender saw nothing peculiar about suing the railway for compensation. This was the case with the Kaiserslautern syndicate, at whose behest a carload of flour was dispatched to that town from Mannheim, arriving on 7 August, in the wake of a major rail accident that had halted traffic for a day, the battle of Spichern in Alsace, and the passage by train through Kaiserslautern of the king of Prussia with his general staff, on their way to the front. The Kaiserslautern railway station was turned upside down on that day and the wagon with the flour was never unloaded but sent off towards Saarbrücken. Only the empty car came back, and the fate of its contents could not be determined.⁵⁷ The very fact that such a suit


⁵⁵ Testimony of Ludwig Braun as in the previous note; ibid., Haupt-Zeugenverhör, 13 Jan. 1872, testimony of clerk Adolph Rosenbaum, grain dealer Leopold Neuberger, and porters Philipp Wolf and Konrad Heil, all of Kaiserslautern; Gegenzeugenverhör, 13 Jan. 1872, testimony of Ernst Carl, railway administrator in Kaiserslautern; Zeugenvernehmungsprotocoll, 29 Aug. 1872, testimony of station administrator Philipp Kraft of Rockenhausen. Kratzler presented himself in retrospect as indifferent to what happened to freight shipments, as long as they did not interfere with troop movements by rail. His testimony is ibid., Gegen-Zeugenverhör, 29 Jan. 1872.

⁵⁶ Testimony of Ludwig Braun and Jakob Heger as in n. 54; ibid., Haupt-Zeugenverhör, 13 Jan. 1872, testimony of merchants Leopold Frank and Hermann Herz and of porter Michael Eicher, all of Kaiserslautern, testimony of Heinrich Bitterwolf, as in n. 54. Cf. also Schneider, ‘Die Rheinpfalz bei Kriegsausbruch’, 307.

was brought—it was by no means the only one of its kind—and that the courts should consider it at length is evidence that the Franco-Prussian War was very far from a total war and that civil society retained its independent position between family and state, even in wartime.

Palatines responded to the new developments of the third quarter of the nineteenth century—the coming of the railways, the beginnings of industrial production, the initial instances of the bureaucratic organization of economic life, phases of rapid economic growth, and a major war involving very large-scale troop mobilization—with the intellectual and legal categories of a society of property owners. They treated individuals in a bureaucratic hierarchy as if they were responsible individuals giving their word, conceived the social relations between managers and factory workers as those between large and small property owners, and used the Prussian general staff’s plans for military mobilization as another opportunity to carry out their business. The relatively slow pace of social and economic change meant that the basic structures of a society of property owners could remain intact, with some smaller changes at the margins, in, for instance, the ideal of honourable craftsmanship, and made possible a process of gradual adaptation to new circumstances.

RETHINKING PROPERTY: TWO FOREST LAWSUITS

Historians usually understand the last quarter of the nineteenth century as a period in which Germany moved away from laissez-faire and the free market. This era saw the introduction of protective tariffs, the reinstatement of the guilds, the creation of a compulsory social insurance system, and the implementation of industrial health and safety legislation. Intellectual life moved in parallel with politics, as social scientists, philosophers, theologians, and social reformers rejected market solutions and embraced corporatist and statist doctrines.58

This was perhaps less the case in jurisprudence than in other areas. In particular, the twenty-five-year-long process of drawing up a unified civil code for the entire German Empire, which eventually went into force in 1900, was dominated by legal positivists. Influenced by ideas of Roman Law and possessing a strong penchant for understanding legal doctrine as a system of abstract reasoning, the positivists developed a Civil Code embodying the ideal of individual agents freely


transacting their property in a marketplace, without any consideration of the actual power or influence over that market that the wealthy and powerful might possess. There were prominent dissenters from this view, adherents of a jurisprudence limiting the rights of property owners and the powers of the free market. Their intellectual leader was the University of Berlin professor Otto von Gierke. In his writings, he developed the idea of an associationist and cooperative tradition in German law, rooted in early Germanic and medieval practices. Although Gierke’s strong opposition to the Civil Code as it was drafted proved fruitless, his ideas were increasingly influential.⁵⁹

We can see this influence in two separate, but equally enormous, decades-long forest use lawsuits. Plaintiffs were in one case the village of Weidenthal, and in the other the villages of Grethen and Seebach; both were claiming usage rights to the Limburg-Dürkheim forest, against the owners of the forest land, the city of (Bad) Dürkheim, and the Bavarian state. The cases were very complex, involving real and imagined medieval and old regime customs, the legal regulations of the French revolutionary, Napoleonic, and Bavarian regimes, the activities of the Bavarian state forest administration, and the attitudes and actions of the villagers and their urban counterparts in Dürkheim. In the end, the inhabitants of Weidenthal, who had, essentially, no basis for their claims, triumphed in court. By contrast, the villagers of Grethen and Seebach, who did have good written evidence supporting their assertions, technically won their lawsuit, but, in terms of what they really wanted to do with the forest, actually lost. Connecting these two circumstances were legal decisions demonstrating a concept of property strongly influenced by Gierke’s corporatist ideas and his scepticism about the market economy, in the course of which judges reinterpreted peasant practices in terms of a romanticized Germanic and medieval cooperative comradeship.⁶⁰

Particularly in its western half, the Palatinate was a very heavily forested area. Most of these woodlands, as was the case with the Limburg-Dürkheim forest, were owned by the state or by municipalities. Entitlements [Berechtigungen] of non-owners to use the forest lands, stemming from old regime limitations on owners’ absolute control over their property, were very common, in spite of their strict regulation in the Napoleonic Code and the hostility towards them demonstrated by French and Bavarian government officials. In the years around 1850, Bavarian authorities counted 13,005 different entitlements for the pasturing of livestock in the woods. A decade later, they recorded no less than 17,870 entitlements

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⁶⁰ Dossier on the Weidenthal case is J6/51; the main dossier for Grethen and Seebach is J6/86, with supplementary material in J6/485, J6/976–78, J6/983, and J6/996.
to gather or cut wood, grass, leaves, weeds, and wild ground cover.\footnote{Usage rights according to Brend-Stefan Grewe, ‘Der versperrte Wald. Vorindustrieller Waldressourcenmangel am Beispiel der bayerischen Rheinpfalz (1814–1870)’, dissertation (University of Trier, 2000), 143, 149; more generally on law and administration of the Palatine forests, 58–105. My very special thanks to Dr Grewe, not just for supplying me with a copy of his thesis, but also for taking me on a tour of today’s Palatine forests, complete with his incisive commentary.} These entitlements, as one might imagine, were a seemingly inexhaustible source of civil lawsuits, pitting possessors of entitlements, typically village communities, against owners of the forests—sometimes private parties, but primarily urban and rural municipalities and the Bavarian state. Although the evidence is on the scanty side, for much of the nineteenth century, the courts, while generally upholding usage rights, remained noticeably sceptical of the infringement of the unfettered use of property that these rights implied.\footnote{Ibid., 87–8; Bauer, ‘Das Appellationsgericht der Pfalz’, 168–9, esp. 169 n. 14.}

In 1884, the poor mountain village of Weidenthal filed suit in Frankenthal district court seeking recognition of its inhabitants’ traditional usage rights to pasture their animals in the Limburg-Dürkheim forest, to gather grass there, to cut weeds and wild ground cover with a sickle, to collect firewood in the form of windfall and other wood on the forest floor, dried branches, and tree crowns [Raff- und Leseholz, Ab- und Gipfelholz], to collect leaves, and to chop down dried-out tree trunks. Finally, the rural municipality demanded that the villagers receive free lumber for the purposes of construction.\footnote{J6/51, Klageschrift, 22 June 1884.} Both the complaint drawn up by the village’s attorney and the testimony of elderly villagers consistently described how long-held customary rights were being abrogated by the arbitrary actions of government foresters.

The story the elderly witnesses told—and told quite consistently—came in five parts. First was their unlimited access to the forest. The 79-year-old widow of a stonemason, Elisabetha née Unterfänger, testified, ‘We have had, as long as I can remember, the right to go wherever we want in the Limburg-Dürkheim forest.’ Katharina née Laubacher, 71, widow of a track warden, asserted that ‘The Weidenthalers exercised their entitlements in the entire Dürkheim forest; there was not the slightest place where they could not go.’\footnote{Ibid., Zeugenvernehmungsprotokoll, 23 June 1884, testimony of Elisabetha née Unterfänger; Fortsetzung, 11 July 1884, testimony of Katharina née Laubacher, both of Weidenthal.} Not only could the villagers exercise their usage rights in the entire forest, they could do pretty much anything short of actually cutting down whole, large, and live trees. Carl Knoth, a day labourer in his seventies, explained that ‘As long as I was here and can remember, Weidenthalers have gotten leaves and grass in the Limburg-Dürkheim forest...I myself got a wagon full of broom and leaves in the Steinbach nineteen years ago...If one cut down a tree as wide around as your leg, the foresters had nothing against it...windfall was collected and dry branches chopped from trees...The grass was used to feed the cattle. The ground cover was cut with the sickle...No firewood was distributed to us, you only got what you yourself brought in.’ Other
witnesses told a similar story, adding that the villagers could pick up tree supports, pieces of wood used to prop up the laden branches of fruit trees, and that the villagers brought their bounty back from the forest on their backs, and in sacks, wheelbarrows, sleds, or even horse-drawn wagons.⁶⁵

The third point in this narrative was that the villagers acted openly with the consent of the Bavarian government foresters. The widow Margaretha née Rohr explained, ‘The foresters said nothing when the Weidenthalers exercised their rights in the Dürkheim forest.’ Maria Eva née Goeccker, widow of a day labourer, asserted similarly, ‘The foresters often saw us, while we were exercising our entitlements. But we had nothing to fear.’ In particular, they, like many other witnesses, denied having received a ‘citation’ [Protokoll], a written summons to appear in forest court for violating state forest use regulations. If these were handed out at all, it was only for egregious violations of the rules on forest cultivation, such as cutting down green trees, or gathering and cutting in a grove of newly replanted trees.⁶⁶

Fourth was the justification the villagers offered for their use of the forest. The switchman Daniel Lieser asserted about his gathering wood in the 1840s and 1850s, ‘It was my right, because I was a Weidenthaler.’ He elaborated, ‘we had the right. We had always heard this previously from the old folks; my grandfather said so 500 times.’ The shoemaker Matthias Baumann, sixteen years older than Lieser (who, at 58, was one of the youngest witnesses), reiterated the point: ‘We went into the forest, because we saw it as a right. The right was always there [von jeher da], I heard that from my father.’ Usage rights were justified by oral tradition, and long years of practice across generations. The one mention of written documentation, far from contradicting this basis of justification, confirmed it. The grove warden Karl Henz testified, ‘From my father I heard that the Weidenthalers used to receive wood for construction; he said the Weidenthalers had a right to it, only no one knew where the charter [granting this right] might be.’⁶⁷

The final point in the story was the expulsion from paradise, the sudden insistence on the part of the forestry officials that the Weidenthalers had no rights. Daniel Lieser put a name on the change in policy: ‘For the last three years, since Senior Forester Kelling has been in charge, more citations are written up and my daughter received one, for the first time, three years ago for gathering grass...Before, there was no talk of citations; we were entitled.’ The day labourer Johann Göb saw it as a more recent development. ‘That is, you get citations.

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⁶⁵ Ibid., Zeugenvernehmungsprotokoll, 23 June 1884, testimony of Carl Knoth, switchman Daniel Lieser, and shoemaker Matthias Baumann, all of Weidenthal; Fortsetzung, 11 July 1884, testimony of day labourer Wilhelmine Klein and of Margaretha née Rohr, widow of linen weaver Bernhard Schwenck, of Wiedenthal, as well as witnesses cited in the previous footnote.

⁶⁶ Ibid., Fortsetzung, 11 July 1884, testimony of Maria Eva née Goeccker, widow of day labourer Johann Herz of Weidenthal; similarly, testimony of Magdalena [Wienand?] widow of linen weaver Johann Mathäus Dohm of Weidenthal, as well as witnesses cited in the previous two notes.

⁶⁷ Ibid., Fortsetzung, 11 July 1884, testimony of Karl Henz. Testimony of the other witnesses as in n. 64.
That is, in the last year. You take out a little chopped off piece no thicker than a sewing needle and you already get a citation.\(^{68}\)

Not entirely surprisingly, the testimony of the state foresters, based on their experiences reaching back into the 1820s, told a very different story. The only usage rights the villagers of Weidenthal had were for pasturage of their animals. If they were caught with wood, leaves, or ground cover, they received citations. When caught, the villagers never remonstrated that they had any rights to the forest. Far from acting openly in full view of the foresters, they sneaked into the woods early in the morning, late at night, and when the foresters were having their midday meal. Going back over the forest court registers, Bad Dürkheim's attorney found many citations issued to witnesses who claimed never to have been bothered by the foresters. Even Weidenthal's lawyer admitted that between 1853 and 1878, over 1,000 citations had been issued against the Weidenthalers for using the Dürkheim forest.\(^{69}\) Other witnesses spoke of regular brawls between inhabitants of Dürkheim and those of Weidenthal over the latter's use of the forests, assertions that were confirmed, albeit rather vaguely, by witnesses from Weidenthal. In 1832, a year of forest disturbances throughout the Palatinate in the wake of radical political agitation culminating in the famous Hambach Festival, the mayor of Dürkheim even created a security watch of his town's burghers to keep the Weidenthalers from plundering the forest.\(^{70}\)

The differences between the villagers' picture of benevolent foresters endorsing their usage rights, and the foresters' picture of state officials vigorously combating the depredations of wood thieves, are not difficult to reconcile. Family relations played an important role. Early in the nineteenth century, some grove wardens, the lowest level of the forestry hierarchy, married women from Weidenthal. They turned a blind eye to their 'relatives, in-laws, and friends', marching into the forest. Drunken and incompetent foresters—witnesses mentioned a certain Ingolt, known to the Weidenthalers as 'Stinkolt'—were not always sober enough even to bother looking the other way.\(^{71}\) Finally, it was probably the case that the forestry officials were simply overwhelmed. There were some 300 households in Weidenthal. If each household went into the Limburg-Dürkheim forest once a

\(^{68}\) J6/51, Schluß, 14 July 1884, testimony of Johann Göb; testimony of Daniel Lieser as in n. 65.


\(^{71}\) Testimony of Peter Georgens and Karl Bergner as in the previous note; ibid.; Fortsetzung, 17 Jan. 1885, testimony of vintner Balthas Stumpf of Dürkheim and business agent Franz Krenz of Landstuhl; some tacit confirmation in Zeugenvernehmungsprotokoll, 23 June 1884, testimony of track warden Andreas Schmitt of Weidenthal.
week, that would make 15,000 incursions in a year, or 375,000 in a quarter century—so many that the 1,000 citations given out between 1853 and 1878 would hardly be noticed.

The actual behaviour of the villagers seems rather at odds with their own testimony about their traditional rights. The village of Weidenthal possessed, as the veteran forester Karl Ludwig Fries observed, its own ‘large, nice forest’. Weidenthalers treated their property quite differently from the Limburg-Dürkheim forest. Very strict limits were set on what individuals could gather on their own. The village forester directed the gathering of grass and leaves and the cutting of firewood, which was then distributed on a carefully rationed basis to every household of the village. If there was a surplus, it was auctioned off, with the proceeds going to the village treasury. Villagers could also apply to the village forester for large pieces of wood for construction purposes.⁷²

The substantial amount of wood, grass, and leaves the Weidenthalers received from their own forest casts their use of the Limburg-Dürkheim forest in another light. As the Weidenthalers themselves admitted, much of what they gathered in that forest they sold: grass to Adrian Pletsch, the ‘richest man in the village’, leaves in similar quantities to Matthias Leonhard, another well-off villager. Leonhard’s statements, supporting the entitlements of the inhabitants of Weidenthal, were a disappointment to the defendants in the case, the Bavarian state and the city of Dürkheim, who had called him to testify in the expectation that as a substantial property owner himself, he would support their property rights.⁷³

The actual extent of the commercial dealings of the villagers of Weidenthal with what they took from the Limburg-Dürkheim forest becomes clear with the testimony of the widow Katharina née Laubscher:

The branches and tree crowns… the Weidenthalers were allowed to take and the poor people [of the village] tied them together and dragged them off. Then the peasants came with their wagons from different villages, from Erpolzheim, Lambenheim, Brindensheim, Nadelsheim, from Klein- and Großkarlsbach [i.e. from wealthier, viticultural, or Rhine Valley villages] and got this wood and paid the poor people who had brought it to them. For them it was an earning. The Dürkheimers knew about this and the Weidenthalers did not permit any disturbance, for they had a right to it.⁷⁴

We might understand the peasants’ story of their usage rights as a largely fictitious narrative of traditional, non-market-oriented practices, with a (perhaps unexpected?) appeal to an intellectual audience, steeped in corporate and anti-laissez-faire notions. In retrospect, the fictitious character of their narrative is apparent: the

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⁷² J6/51, Fortsetzung, 17 Jan. 1885, testimony of royal forest councillor Karl Fries of Speyer; Fortsetzung, 11 July 1884, testimony of village forester Jacob Roos of Weidenthal.

⁷³ Testimony of Matthias Baumann as in n. 65; ibid., Zeugenvernehmungsprotokoll, 23 June 1884, testimony of Katharina née Laubscher, widow of track warden Paul Hanssler of Weidenthal; Schluß, 14 July 1884, testimony of rentier Matthias Leonhard of Weidenthal.

⁷⁴ Testimony of Katharina née Laubscher, as in the previous note; similarly, testimony of Maria Eva Goeckler, as in n. 66, above.
lack of any documentation, the very different treatment of their own forest property from that belonging to Bad Dürkheim and the Bavarian state; the commercial utilization of their wood. An intriguing additional example came from the testimony of the shoemaker Matthias Baumann, who explained that grass less than 1 metre tall had to be plucked by hand, but if it was taller, it could be cut with a sickle. One wonders how traditional rights came to be expressed in metric measure.

However, the audience of this narrative, the judges on the Frankenthal district court, took it very seriously. In its 1910 decision of 204 double-spaced typed pages, the court largely accepted the claims of the Weidenthalers, although insisting that they only exercise their entitlements without the use of iron tools to cut, chop, or rake—in effect, creating old regime-style usage rights, on the eve of the First World War. Admitting that Weidenthalers were unable to produce any charter or written document confirming their entitlements, the court saw them as originating in the ‘primeval Germanic state’, characterized by the ‘almost complete equality of all free citizens’. The very fact that there were no written records, just the recollections of the oldest inhabitants, was evidence of the antiquity of the villagers’ claims.⁷⁵

Appealing this ruling after the First World War, the defendants described it as a ‘monstrosity’, violating the principle of owners’ free control over their property. The verdict, they asserted, ‘followed a pre-determined opinion about the phantom of the comradeship of the mark [Markgenossenschaft]’, i.e. Otto von Gierke’s corporatist ideas about the medieval origins of German legal principles. In the end, a settlement was reached in 1931, forty-seven years after the original suit was filed, in which the village of Weidenthal was able to exercise its entitlements but only within the limits of the ‘forest use plan approved by the [Bavarian government] ministry’.⁷⁶

The villages of Grethen and Seebach (today part of the city of Bad Dürkheim) started a very similar lawsuit to that of Weidenthal at a much earlier date, in 1849. Like the Weidenthalers, the inhabitants of Grethen and Seebach were seeking recognition of their entitlement to pasture livestock, collect wood, grass, leaves, and wild ground cover, and receive wood for construction from the Dürkheim-Limburg forest. In addition, they maintained that they had the right to the delivery of firewood from the forest, and the right to wooden stakes for their vineyards. Their case, which had many ramifications, lasted even longer than that of the Weidenthalers, with the final verdict being delivered in 1912.⁷⁷

Most of this lengthy history was not taken up with the merits of the case. Mobilizing a wealth of written records, dating back to the fifteenth century, and not just the

⁷⁶ Ibid., Schriftsatz, 28 Feb. 1922, Vergleichsvorschlag, 18 Feb. 1925, Protokoll, 10 July 1930 and Beschluss of the Zweibrücken court of appeals of 17 Apr. 1931.
⁷⁷ J6/86, Öffentliche Sitzung vom 3 Juni. 1912, of the Bavarian Supreme Court, which also contains a very useful history of the entire case, with brief summaries of the important verdicts.
assertions of the elderly villagers as was the case with Weidenthal, the inhabitants of Grethen and Seebach had obtained within twenty years of the initial filing—relatively rapidly, one would have to say, in view of the glacial pace of forest lawsuits—verdicts basically recognizing their claims to entitlements and ordering the forest owners to pay them compensation, with interest, for forgone usage rights.

This certainly all seemed favourable to the villagers, and at one point their attorney began totting up the compensation claims. Demonstrating an inventiveness that need not fear comparison with the schemes of contemporary American personal injury lawyers, he included compound interest on back damages over decades and came up with some impressive six-figure sums, one so high that he seems to have had trouble calculating it.⁷⁸ Yet, in the end, the great expectations were reduced to a much more modest level. To see why, we need to look at the original claims.

Quite unlike the circumstances in Weidenthal, the inhabitants of Grethen and Seebach made no secret of their commercial exploitation of usage rights. Members of the Hust family of Grethen went into the forests daily and used the results of their expeditions to furnish a veritable lumberyard in front of their house, to which people came from Dürkheim to select the wood they needed. Other villagers mixed the leaves, grass, and ground cover they gathered with manure to make fertilizer, which they sold, and in quite considerable amounts. The estate owner Jordan of Deidesheim, from one of the wealthiest families of the Palatinate, famous for the quality wines the family produced, purchased no less than 2,500 hundredweight of such fertilizer from the villagers of Seebach and Grethen between 1858 and 1865. At that time, there was even a broker, named Goltz, who earned his living setting up these purchases of fertilizer.⁷⁹

Villagers from Seebach and Grethen came regularly to Dürkheim bringing wood from the forest—on their backs, in sacks, baskets, wheelbarrows, and wagons—which they then offered for sale from door to door or in public squares. They sold their wood in front of the city hall, in the Fleischschwamm, where the Bart family house, featured prominently in the previous chapter, stood, and in front of the Four Seasons Hotel, one of the finer establishments of its kind in the Palatinate. One witness recalled in 1877, ‘The people stood there with their wheelbarrows in rows, just as they do now with their butter.’⁸⁰

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⁷⁸ Ibid.
⁷⁹ Ibid., Zeugenvernehmungsprotokoll, 14 Jan. 1908, testimony of gardener Jean Koch and vintner Johann Hauer, of Bad Dürkheim. Similar testimony from all the other witnesses and those heard the following day.
This commercial exploitation was not incidental to the usage rights. The original complaint of 1849 explicitly demanded that the villagers have the right to collect wood themselves, cut it for construction, and also sell it to the inhabitants of Dürkheim.\footnote{J6/86, quoted in Motivierter Antrag, 17 Dec. 1902.} Unlike the case with the Weidenthalers, the actions of the Bavarian government foresters were not designed to prevent the inhabitants of Grethen and Seebach from using the forest as such, but rather to prevent them from marketing the results of exercising their usage rights. Foresters and even gendarmes lay in wait for villagers coming to Dürkheim with loads of wood or fertilizer for sale. Forestry officials began systematically cutting up wood themselves, making it into boards and planks, leaving the villagers with little that was commercially useful.\footnote{Ibid., Zeugenvernehmungsprotokoll, 13 Jan. 1908, testimony of vintner Wilhelm Spatz I of Bad Dürkheim; Fortsetzung, 25 July 1877, testimony of grove warden Wilhelm Mohr of Dürkheim; Fortsetzung, 27 July 1877, testimony of field watchman Johann Berger of Hardenburg; Fortsetzung, 28 July 1877, testimony of grove warden Johann Bassemir of Hardenburg and of Caroline née Feierbach, widow of vintner Johann Hoetsch of Seebach; testimony of Anna Maria Müller as in n. 80.} Finally, they began to regulate the collection of leaves, grass, and ground cover, only allowing the inhabitants of Grethen and Seebach to do so on certain days, or in specific districts of the forest—but often not explicitly informing them of these limitations. Even when the villagers knew of the districts assigned to them, they found that they were inconveniently distant, so that only small amounts could be brought back.\footnote{Ibid., Hauptzeugenverhör-Protokoll, 6 Oct. 1877, testimony of vintners Karl and Valentin Altvater, Georg Storck, Jakob Molle, all of Seebach, Hauptzeugenverhör-Protokoll, 4 Mar. 1878, testimony of vintners Johannes Früh and Jakob Mesel, field watchman Wilhelm Lorenz, all of Grethen; Fortsetzung, 9 Mar. 1878, testimony of Anna Maria Meyer, widow of stonecutter Ludwig Cremen, and mason Johannes Feuerbach of Grethen.}

The legal victory of the two villages in no way changed this situation. The courts recognized the villagers’ right to wood from the forest, but just to the extent that it sufficed for their personal and non-commercial needs. They could gather and cut the wood themselves, but only in ‘accord with proper forestry’ \([\text{forstmäßig}]\). The state forestry service promptly decided that nothing could be gathered and cut in accord with proper forestry, except the scraps and chip left over from woodcutting \([\text{Scheitholz}]\), to which the Gretheners and Seebachers were, in any event, not entitled. Instead, the villagers could only exercise their entitlements by registering their needs with the forest service, and receiving the wood appropriate to these needs, after paying the relevant fees for having it chopped and cut. They had to transport the wood themselves, from the most distant parts of the forest, and could not even leave it there to rot, on pain of being fined. The villagers could gather leaves and grass, but only in the areas assigned to them by the foresters, and these remained distant and inconvenient.\footnote{J6/485, Klageschrift, 8 Feb. 1888 and Urteil, 11 July 1889; J6/996, Klageschrift, 17 July 1890.}
the negative decisions all the way to the Bavarian Supreme Court, the villagers’ attorney tried to argue that their rights stemmed from the original comradeship of the mark, but the courts coolly noted that the membership of the two villages in the medieval mark was unproven, and that ‘in the course of time, [the prerogatives of membership] have suffered many limitations’. Attempting to gain commercially useful forest products with arguments stressing pre-capitalist precedents was not a promising strategy.

The compensation to which the villages were entitled proved disappointing as well. The six-figure sugar plums dancing in the heads of the villagers, or at least their municipal governments, gave way to a more sober figure, reduced steadily at each level of appeal, until in the final verdict of the Bavarian Supreme Court, it was just a little over 20,000 marks. Compound interest, the courts ruled, could not be levied on compensation. Because the villagers had insisted until 1875 that they be allowed to chop and cut the wood themselves, damage claims from earlier periods were rejected. Finally, the experts appointed by the court to determine damages found that leaves, grass, and ground cover could only be gathered for the personal use of those possessing the entitlements and in the land of their villages, and might not be sold under any circumstances.

The movement away from laissez-faire in central Europe, the revival of corporatist ideas, and the development of a more ‘social’ conception of jurisprudence, limiting proprietors’ absolute control over their property, certainly found expression in the two forest use cases just discussed. However, it did so largely by misrepresenting the ways that usage rights were exercised and understood. Jurists may have been willing to interpret the actions of the villagers of Weidenthal, Grethen, and Seebach in terms of a medieval or early Germanic comradeship of the mark, involving pre-capitalist association and collective ownership, and to validate medieval and old regime charters of entitlement, and foresters to insist that leaves, grass, and ground cover could be gathered, but not sold. The villagers by contrast, seemed distinctly interested in cash sales of the material they brought home from the forest—whether their entitlement to gather that material was based on centuries-old documents, oral traditions, or nothing at all. Their firm attachment to their usage rights did not imply a different, ‘pre-capitalist’, understanding of property—as can be seen from the Weidenthalers’ very different attitudes towards the forest lands their village owned and those it did not, or the frustrations of the Gretheners and the Seebachers at the very success of their legal action. The collision between a juridical re-evaluation of property rights in the light of a (perhaps imagined or romanticized) Germanic and medieval world, with the persistent conflicts of peasants and foresters, villagers and townspeople in the woods, produced at times somewhat perverse results.

NEW DIRECTIONS FOR CIVIL SOCIETY? THE WILHELMINE ERA

Historians generally agree that the ‘long’ nineteenth century ended in 1914. The First World War fundamentally transformed the nature of politics, economy, and society in Europe and, arguably, in the entire world. Yet the question remains of what to make of the previous quarter-century, the belle époque, or, as it is known in central European history, the Wilhelmine era, after Germany’s eccentric ruler Wilhelm II. Was it a period in which previously existing structures remained, and trends already well under way continued? Or were long-existing socioeconomic structures and intellectual assumptions being undermined even before the upheaval of the Great War? These questions are very appropriate for a discussion of the interrelationship of property, family, and law analysed in this book. In the end, their answer remains ambiguous. Changes do seem to have been under way, particularly in regard to the way property relationships were used to express emotions within the family, and also with regard to new forms of property, connected to banking and corporations, but these newer developments had not yet upset the practices and mentalities developed over the course of the nineteenth century.

Intimacy and Property

Legally, the twentieth century began in Germany in the last year of the nineteenth, with the promulgation of the new Civil Code, or Bürgerliches Gesetzbuch, on 1 January 1900. This code replaced the twenty-odd systems of civil law existing in the territories that had been brought together to form the German Empire in 1871, with a single body of law valid for the entire German Reich, which remains in force in the Federal Republic today. The transition from the Napoleonic Code to the German Civil Code seems to have gone quite smoothly in the Palatinate, and post-1900 cases do not show great differences from their pre-1900 counterparts.

There was one group in German society for whom the Civil Code was a great disappointment: the feminists. They had hoped that the new legal codification would enhance women’s rights, and launched a vigorous petition campaign to this end, attempting to influence the Reichstag in the second half of the 1890s, as it voted on the final version of the Civil Code. This very first public campaign in Germany in support of women’s rights ended with the feminists’ defeat on all the issues in which they were engaged. A particular concern of feminists was the legal status of married women. Rather than granting both spouses an equal say in the household and the administration of marital property, the new Civil Code retained husbands’ position as the head of household, having, legally, the final say in child-rearing and determining the family’s place of residence, controlling and enjoying usufruct of their wives’ property. In other aspects of women’s rights
as well, the feminists suffered defeats. Single mothers, for instance, were not, as feminists wished, their own children’s guardians; their illegitimate offspring would have a guardian appointed by the court. ⁸⁷

Indeed, in the decisive Reichstag debates, the only party to support feminist demands for women’s equality was the social democrats; all the other parties were opposed. Interestingly, there was one very conservative deputy sympathetic to the feminists, the Saarland steel manufacturer Karl Ferdinand Freiherr von Stumm. A notorious reactionary, known for his violent opposition to trade unions, industrial health and safety, and social welfare legislation, Stumm surprised everybody with his support for women’s rights. It helps to understand his point of view that he had four daughters and he spoke quite openly on the floor of the Reichstag about his frustrations in seeing the way their husbands used or misused the dowries he gave them. In this respect, we can see the continued significance of the devolution of property in marital life. ⁸⁸

If the legal conditions of marital relations thus largely remained the same, there is some reason to think that their emotional context was beginning to change. One piece of evidence we can note comes from a legal novelty in the Palatinate, the possibility of filing paternity suits. Before 1900, Article 340 of the Napoleonic Code, with its celebrated formulation, ‘La recherche de paternité est interdite’, had prohibited paternity suits. Although ingenious legal minds had found workarounds, such as suing for damages occasioned by childbirth, or for breach of promise, these were, at best, second-rate substitutes. ⁸⁹

Largely retaining the approach of the 1794 Prussian General Code, the new German Civil Code did allow for paternity suits, and by 1901, just a little over nine months from the implementation of the new code of law, the first of these were being filed in the Palatinate. I have found 125 cases from two separate courts, covering the period for the years 1901–14. About three-quarters of the cases were filed in the magistrate’s court of Pirmasens, Germany’s shoe manufacturing centre in the south-western Palatinate, while the remainder came from the magistrate’s court of Edenkoben, covering a largely agricultural area of viticulture, grain, and tobacco cultivation, as well as fruit and vegetable raising, in the south-eastern part of the province. ⁹⁰

These cases went strongly against the accused fathers; 80 per cent of the time they were required to pay child support. Of interest here are the circumstances in which the paternity occurred. There were hardly any mentions of a promise of

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⁸⁷ See the sources cited above, Chapter 1 n. 10. A sober discussion of the differences between 1890s’ feminist demands and contemporary ones is in Brigitte Lehmann, Ehevereinbarungen im 19. und 20. Jahrhundert (Frankfurt am Main: Peter Lang, 1990), 76–7.


⁹⁰ The paternity cases for Pirmasens are contained in the files J31/201–13; the Edenkoben cases are J15/203–11, 217–29, 225–6, 228, 237–8, 240, 246–7, 250, 253–8, 263–6, 268–9.
marriage, as an inducement to sexual relations.\(^91\) Instead, there were two fairly well-differentiated ways that the couples, generally young people from the working class, with a few lower-middle-class individuals (mostly the men) thrown in, came to be intimate.

One version, most prevalent in the countryside, involved a quick, chance encounter, often at a market or fair. The roofer Valentin Sold, on leave from the army, was walking in the hills above St Martin on Palm Sunday, 1912, where he met Anna Ziegler. Shortly after their meeting, they were engaging in relations in a ditch next to the highway between St Martin and Edenkoben.\(^92\) By contrast, women in the factory town told of having a ‘love-relationship’ \([\text{Liebesverhältnis}]\), a meeting, often at work, followed by a longer period of mutual acquaintance and then repeated sexual intercourse.\(^93\) There is a nice description of this process by the shoe sewer Katharina Bopp of Pirmasens, who worked for her brother in his probably quite modest workshop. The merchant Karl Hirsch supplied her brother with the soles for his shoes:

during which I had occasion to make his acquaintance. After that, he frequently took me to the theatre and we also went for walks. One evening, it was in December 1906, as we were going along the Riechstraße, where the apartment of the defendant is located, he invited me up to his room, it was so nicely furnished. At first, I did not want to, but I finally gave in to his importuning, especially as he promised we would come right down. When we were upstairs, he knew how to convince me to permit him to have relations. Then, once it had happened, I came to him repeatedly in his apartment, where sexual intercourse occurred between us. This was in the time from December 1906 to February 1907.\(^94\)

Katharina Bopp was explaining how she and Karl Hirsch were developing an emotional intimacy as a predecessor to sexual relations, an intimacy seen by both parties, but particularly by the female one, as something desirable in and of itself. This is a familiar twentieth-century courtship scenario, leading up to a marriage.


\(^{93}\) J31/202, Protokoll, 15 Mar. 1902, testimony of the factory worker Maria Luise Kaelble of Sontheim. Similarly, ibid., Urteil, 8 Dec. 1902; J31/206, Protokoll, 4 May 1908, testimony of store-room worker Peter Ullmer of Pirmasens; J31/207, Protokoll, 1 June 1909, testimony of factory worker Maria Sperling; J31/207, Urteil of Landgericht Zweibrücken, 14 July 1910; J31/207, Protokoll, 17 Jan. 1910, testimony of servant Anna Hafter of Nünschweiler; J31/211, Protokoll, 21 Nov. 1913, testimony of Elise Stark, shoe sewer \([\text{Stepperin}]\) in Pirmasens; and Protokoll, 29 Dec. 1913, testimony of Paula Schmidt, shoe sewer in Pirmasens. Just two women claimed their pregnancies were the result of rape. In both cases, the court believed their assertions. J31/206, Protokoll, 9 Mar. 1908, testimony of factory worker Maria Auer of Pirmasens; J31/208, Protokoll, 30 May 1910, testimony of the factory worker Katharina Lebzelter of Klausen.

\(^{94}\) J31/205, Protokoll [undated but 1907], testimony of Katharina Bopp.
understood as a forum of emotional intimacy. What happened to disrupt this outcome? We cannot know for sure, but I would suspect that the merchant Karl Hirsch was not about to marry a woman who could not provide a dowry for him. The interest in emotional intimacy increasingly expressed by young women from the urban working class of the Palatinate in the twentieth century coexisted uneasily with the still prevalent importance of marriage as a form of intergenerational transfer of property, begun with the bride’s dowry.

We might want to condemn Karl Hirsch as a cad and a bounder, but a look at a more open-hearted contemporary of his shows the logic of Hirsch’s actions. Ernst Kettenring sold his share of the inheritance of the family farm in Waldfischbach to his brother in 1911 and took the proceeds, some 5,000 marks, and rented a farm with an attached tavern on the outskirts of Kaiserslautern. Just about the time he was beginning this venture in 1912, he got a young woman, Johanna Hespohl, pregnant, and did the right thing by marrying her. She brought at best a very small dowry; instead, her family came to live with them. Some six months pregnant, Johanna caught her foot in a threshing machine, and was laid up in bed for ten weeks, by which time Kettenring, having run through his entire fortune, had to file for bankruptcy.95 As long as property maintained a significant place in determining individuals’ life chances, giving priority to emotional intimacy in marriage could be a potentially hazardous course.

A Wife Changes her Will and Dies in Suspicious Circumstances

The young people involved in paternity suits generally did not have much property to begin with, but there is reason to think that women’s interest in emotional intimacy as something separate and distinct from the property relations in the marriage, and not just expressed in them, was becoming prevalent in more bourgeois circles as well. A case from 1908, in which a recently married woman died in circumstances reminiscent of an Alfred Hitchcock movie, turned on the question of the appropriate emotional tenor of relations between spouses.

Johanna Hinsch was a childless, but still youthful widow, and also a woman of considerable means, whose assets, including vineyards in the Haardt Mountains, were valued in six figures. At the beginning of October 1907, she married the former railway station manager Anton Hoffmann. Some ten weeks after their marriage, she changed her will, to make her husband her sole heir. Seven months later, at the end of June 1908, she died. Supported by the other siblings, her brother, a Hamburg manufacturer, brought suit against the widower. The legal action was based on § 2339 of the German Civil Code, ‘unworthiness to be an heir’. This was the nuclear weapon of German inheritance law, prohibiting, among its other clauses, someone responsible for an individual’s death from enjoying the

95 J20/352, Kettenring to Amtsgericht Kaiserslautern [undated but probably late 1912]; receiver Mohr to Amtsgericht Kaiserslautern, 2 Dec. 1912, Berichterstattung, 12 Dec. 1912; notary in Waldfischbach to Amtsgericht Kaiserslautern, 17 Mar. 1913, and passim.
inheritance of the deceased. In that respect, the case had much in common with a Common Law wrongful death lawsuit.⁹⁶

Now, the plaintiff could not claim that Hoffmann murdered his wife. Her demise was the result of her long-term and severe drinking problem. Rather, he attempted to condemn his former brother-in-law’s behaviour as cruel and unfeeling. Plaintiff’s witnesses maintained that Hoffmann had engaged in physical acts of cruelty. His wife appeared with bruises on her neck. Hoffmann had locked her out of the house and forced her to spend the night on the terrace. She felt that his mistreatment of her had caused her to have a miscarriage.

The bulk of Hoffmann’s misdeeds, though, were portrayed as more subtle. The relatives accused Hoffmann of neglecting his wife’s health, by encouraging her to drink and refusing to send for a physician as her condition became worse. At least as bad was his emotional cruelty. Hoffmann dismissed the maid, his wife’s female confidante, to isolate her. He was constantly badgering her and continuously quarrelling with her. He tried to keep her family members away. As she lay on her deathbed, he played noisy and lively piano music, and made loud and nasty remarks in her earshot. The manufacturer Jakob Leberich asserted Hoffmann told him that ‘he has nothing but disgust [reinen Ekel] for his wife’.⁹⁷

Another story was heard, though, and not just from the defence witnesses, but from the plaintiff’s witnesses as well, sometimes even from the ones who offered negative testimony. Far from encouraging his wife to drink, Hoffmann gave her temperance tracts and pushed her to have fruit juice and coffee. She refused, insisting not just on feminine wine, but also avidly consuming brandy, cognac, and strong spirits. He would have called a doctor, but his wife, who was a fervent adherent of natural, organic medicine, refused to have one. Most witnesses would have disagreed with the occasional house guest Heinrich Keiper who found the couple living in ‘the most beautiful harmony’, but other observers put down the couple’s frequent and sometimes vehement quarrels to Hinsch’s drinking, her strife-filled personality (she had a long history of disputes with her neighbours), and, as the origin of their biggest fight, her hostility to her mother-in-law. The servant testified that it was these disputes, in the course of which Hoffmann and Hinsch would give her different and opposing orders, that drove her out of the house, not any attempt of Hoffmann to isolate his wife.⁹⁸

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⁹⁷ Protokoll über Zeugenvernehmung, 16 Nov. 1908, testimony of notary’s clerk Franz Herfel and manufacturer Jakob Leberich of Neustadt; physician Emil Gottschalk of Gimmeldingen and merchant’s widow Auguste Thomas née Hinsch (Hinsch’s sister) and magistrate’s judge Dr Wohlwill (Auguste Thomas’s son-in-law), both of Hamburg.

⁹⁸ Ibid., Protokoll über Zeugenvernehmung, 16 Nov. 1908, testimony of the piano dealer Johann Rebholz and railway administrator Heinrich Keiper, both of Landau; Protokoll über Zeugenvernehmung, 30 Nov. 1908, testimony of vintners Anna Müller née [Kremrey?] and
The favourable testimony did not just counter the negative suggestions; it also described the many ways that Hoffmann was concerned about his wife’s emotional well-being. The notary’s clerk Franz Herfel, a beneficiary of the previous will and so expected to be hostile to Hoffmann, explained that in a ‘confidential conversation’ about ‘marital relations’ the latter told him, ‘he always took care of his wife as was appropriate; he had even once, on her request, done it to her for a quarter of an hour from behind.’ The piano playing, as Hinsch lay on her deathbed, was to cheer her up, and done at her express request. Most to the point was the testimony of the midwife who attended Hinsch in her final illness:

My impression was that her husband was very concerned about her and always treated her in an appropriate way. He was always there when she asked for him and he scarcely got away from his wife, because she always wanted to have him with her and when he finally got the chance to leave the room, she would ask for him and say he should be with her. He then always had to sit in bed next to her and pay court to her. She constantly demanded that he kiss her, so that it was repulsive to me [mir selber ganz zuwider] and I once told Susanna Schaaf [the seamstress] or the servant girl that I could no longer look when Herr H. was in the room.¹⁰⁰

Just as the countrywomen in the paternity cases showed less interest in emotional intimacy and a ‘love relationship’ than their urban, working-class counterparts, here we have the midwife from the village of Haardt articulating her disgust at a bourgeois marriage in which partners were expected to express affection and to show emotional intimacy. This portrait of Hoffmann as a concerned, loving husband made the contention that he was an unworthy heir seem ever less plausible, and the plaintiff was forced to withdraw his charges.¹⁰¹

It is interesting to compare this case with that of Katharina Haffner and her husband Heinrich, discussed in Chapter 3. Both involved bourgeois, childless couples, with a history of loud marital strife, and a will in favour of a caretaking husband, disputed by the intestate heirs, the late wife’s relatives. The Haffner case took place twenty-three years before the Hoffmann–Hinsch one, but Katharina Haffner was a considerably older woman than Johanna Hinsch, born some fifty-sixty years before her. Frau Haffner had praised her husband’s care for administering her property well—not for being kind and tender. She had also summoned him to her sickbed, not with implorations but with a bell—and not to hug and kiss

Friedrich Linkenköl of Haardt, chauffeur and vintner Hermann Köhler of Haardt, servant Anna Riehm of Mannheim, seamstress Susanna Schaaf of Haardt; Protokoll über Zeugenvernehmung, 13 Feb. 1909, testimony of Anna Roiderer née Fischer, owner of a sawmill in Bad Dürkheim.

⁹⁹ Testimony as in the two previous notes. The defence had demanded that Hertel not be heard under oath, because he was an interested party, as a beneficiary of the previous will. After his testimony, the defence attorney had no objection to the retrospective administration of an oath to tell the truth, a sign that Hertel’s testimony was favourable to Hoffmann’s case.

¹⁰⁰ Ibid., Protokoll über Zeugenvernehmung, 30 Nov. 1908, testimony of the midwife Susanna Sprenger née Maas of Haardt; the testimony of the chauffeur Köhler, n. 98, has a similar picture of the scene.

¹⁰¹ Ibid., Protokoll, 9 Mar. 1909.
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her, but to empty her chamber-pot. In her marriage, product of earlier nineteenth-century assumptions, emotions between spouses were expressed through property relations and practical assistance, rather than via verbal declarations and physical affection. By the Wilhelmine era, these attitudes to marriage may well have persisted more in the rural population, as can be seen from the midwife’s response to Hoffmann’s expressions of affection, than among city folk, whether from the working or capitalist class.

It is not that property had ceased to be of importance in Wilhelmine marriages. Quite the opposite, the entire Hoffmann–Hinsch case was about property: the claims of the late wife’s relatives that Hoffmann was only interested in Johanna Hinsch for her money, and the counter-claim by Hoffmann that the same was true of the relatives. One of the plaintiff’s best witnesses, with the most damaging testimony against Hoffmann, the manufacturer Jakob Leberich, was discredited, when it turned out that Hoffmann had refused to let his wife lend Leberich money, unless he got a co-signer for the note, at which point Leberich broke off relations with the couple.

In such actions, Hoffmann was being a good husband by preserving his wife’s property. But that was not all or even most of what this case suggested a good husband should be. Johanna Hinsch wanted a husband who was understanding, affectionate, and emotionally intimate—characteristics that had little to do with the administration of family property. As was true of the relationship between the merchant Karl Hirsch and the shoe sewer Katharina Bopp, property relations and emotional relations sat together rather uneasily in the brief marriage of Anton Hoffmann and Johanna Hinsch.

The increasing expectations of emotional intimacy in relations with men apparent among pre-1914, urban, Palatine women, while perhaps foreshadowing later developments, did not replace or supersede the property nexus of marriage. Instead, these two criteria came to exist side by side. If anything, this coexistence seems to have increased the vulnerability of women in their relations with men and done nothing to resolve the problems the world of gendered expectations concerning marital property had created for them.

NEW FORMS OF PROPERTY AND CREDIT

Throughout the nineteenth century, the Palatinate had been a society of independent proprietors, engaging in transactions, granting credit, or forming partnerships,


103 For an evocation of the inarticulateness of love in the rural population of south-western Germany at this time, Gestrich, Traditionelle Jugendkultur und Industrialisierung, 131.
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frequently on a verbal basis, and as a result of personal acquaintance, after the parties gave each other their word. The Wilhelmine era saw the growing use of new forms of property ownership in the Palatinate, such as limited liability corporations, and the development of a network of financial institutions that systematized the granting of credit. The coexistence of these new forms of property and property transactions with existing personalized practices could prove problematic.

Banking in the Palatinate was largely the province of savings banks and credit unions, part of the broader cooperative movement developing in German society in the last third of the nineteenth century. With some 750 agricultural cooperatives, the Palatinate was the German region containing the greatest density of such organizations. Over 600 of these cooperatives were savings banks or credit unions, usually known as *Vorschuss-Vereine*, associations for making credit advances. The granting of credit, as analysed in Chapter 2, was a ubiquitous element in transactions and an important form of connection for civil society. It was also limited to those individuals, generally, although not exclusively, wealthier ones, who had the cash to do so. Via credit unions and savings banks, the possibility of making such advances, as well as receiving them on more favourable terms, would be more widely spread. These voluntary associations were not civil society itself, but they were a way to expand the scope of participation in it.

Bringing together these new elements in civil society—limited liability corporations and financial institutions—with the older practices of transactions based on an individual's given word, and credit granted on the basis of personal trust, could create a potent mixture, which would tend to undermine some of the practices of civil society, as they had existed throughout the nineteenth century. A good example of the possibilities so generated can be seen in the bankruptcy proceedings opened on 29 October 1913 against a sawmill and forest products firm, 'Wood Industry, Inc.' [Holzindustrie G.m.b.H.], whose production facilities were in the small northern Palatine town of Rockenhausen, but whose formal seat of business was the city of Kaiserslautern.

The bankruptcy proceedings proved to be quite difficult, as a result of the actions of the firm's director [*Geschäftsführer*], Rudolf Dietz of Rockenhausen. Also one of the firm's proprietors [*Gesellschafter*], Dietz first attempted to avert a bankruptcy declaration by trying to foist off on a persistent creditor completely worthless stock in a Berlin corporation. After that failed, he fought the opening of proceedings, forcing the creditors to bring their case to the district court on appeal, which granted their request. The start of the formal proceedings, though, was just the beginning of the

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105 Dossier is J20/332.

battle. The court-appointed receiver found it very difficult to ascertain the firm’s assets. They included (or perhaps did not include) ‘a flying machine in a hangar near Rockenhausen; its legal status is unclear’. Then there was the motor car, about which the receiver wrote: ‘There was previously an automobile present, which suddenly disappeared. The owner seems to have been the forest products corporation. As of yet, there are no definitive details.’ The firm’s books were very confused, and it was not at all clear if Dietz had ever actually made the payments for his share in the company.¹⁰⁷

The firm’s creditors began their legal actions against this forest products corporation a little more than a year after the final court decision in the forest usage lawsuit of the villages of Grethen and Seebach and while the Weidenthalers were still battling with the Bavarian state forestry service over their usage rights, in and out of court, two confrontations in which real or imagined medieval and old regime usage rights were being painfully integrated into nineteenth-century concepts of individual private property. By contrast, the circumstances of the legal action against Dietz and his firm are suggestive of a characteristic, if distinctly negative, aspect of twentieth- and twenty-first-century business life, the confusion of individual and corporate property, and the appropriation of firm assets for uses far from the business—in this case, in the form of a ‘flying machine’, whose value to a forest products firm is hard to imagine. Such personal exploitation of the assets of a limited liability corporation involved an attitude and a behaviour very far removed from creditors’ trust in their debtors, and the latter’s responsibility for their debts, so characteristic of nineteenth-century civil society.

The story of this bankruptcy is somewhat more complicated. Rudolf Dietz was not just an inventive—perhaps too inventive—entrepreneur. He was also the cashier and a member of the board of the credit cooperative [Vorschussverein] of Rockenhausen. At his recommendation, the cooperative lent his firm very large sums, some 200,000 marks, the board claimed. Locked up in legal charges and counter-charges, court filings and appeals, the cooperative’s money was in danger of vanishing. Then the First World War broke out, Dietz was called up and sent to the front, and there were still more delays. As a result of these delays, ‘a great mistrust’ against the cooperative developed among members. These ‘angered and excited’ members engaged in ‘demonstrations of mistrust’ against the cooperative and its board.¹⁰⁸ After ten years and twenty-three different trials, a final settlement was reached. The cooperative received about 5 per cent of its claims; as a result of the great post-war inflation, the remaining assets under receivership did not suffice to put the standard notice in the newspaper.¹⁰⁹

¹⁰⁷ Dossier is J20/332, Vorläufige Bilanz, 28 Nov. 1913.
¹⁰⁸ Ibid., Receiver to Amtsgericht Kaiserslautern, 15 Apr. 1915, 23 Aug. 1917, and 2 Jan. 1918; Justizrat Schmidt to Amtsgericht Kaiserslautern, 27 Oct. 1917 and marginal comments of receiver, Justizrat Wadlinger; Vorschussverein Rockenhausen to Amtsgericht Kaiserslautern, 20 Oct., 11 Dec. 1917. Dietz also borrowed money in a more old-fashioned way, from his father, who was also an important creditor.
¹⁰⁹ Ibid., Receiver to Amtsgericht Kaiserslautern, 10 Feb. 1919; regular reports to the court of the receiver, 1920–3, esp. 13 Dec. 1922, and Ausgaben, 30 June 1923.
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Rudolf Dietz was very adept at using other people’s money for his own purposes and escaping the consequences of his own actions. In one sense, this was nothing new. Throughout the nineteenth-century, debtors had been busy hiding their assets from their creditors. Yet Dietz’s case also indicates one way that a characteristic feature of nineteenth-century civil society was coming to an end, a development that can best be seen in the titles of the two business entities involved in the affair. Dietz’s firm was a ‘Gesellschaft mit beschränkter Haftung’, a society with limited liability, while the credit cooperative was a ‘Genossenschaft mit unbeschränkter Haftpflicht’, a cooperative with unlimited liability obligations. Dietz exploited his position in the credit cooperative, an outgrowth of nineteenth-century property relations, and the giving and taking of credit largely on trust, where personal and business liability were synonymous, for the limited liability corporation he had created. As such forms of limited liability businesses became ever more significant, personally granted credit, for which debtors took personal responsibility, could no longer hold civil society together. The First World War and the wartime and post-war great inflation played a large role in destroying the claims of the creditors of the Holzindustrie G.m.b.H. However, the clever actions of Rudolf Dietz, working at the intersection of older and newer forms of business enterprise, suggested that a crucial form of nineteenth-century property transaction would become increasingly problematic in this new legal and economic environment.

The Business Deals of Eugen Abresch

Many of the characteristics of Rudolf Dietz’s business operations can be found on a much larger scale in the enterprises of his contemporary Eugen Abresch. Born in 1867 into a family of Neustadt notables—his grandfather had carried the black-red-gold German tricolour at the famous Hambach Festival of 1832—by the Wilhelmine era, Abresch was an estate owner and investor, as well as a politician. Beginning in the National Liberal Party, he had switched over to the radical-conservative Agrarian League, for whom he represented the Neustadt constituency in the Bavarian parliament. His antecedents and activities made him a typical member of the elite element of Palatine civil society, a prominent proprietor in a society of property owners. Court proceedings, though, cast a shadow on Abresch’s activities and suggest that many aspects of his life testify at least as much to the dissolution of nineteenth-century civil society as to its culmination.¹¹⁰

Abresch came to his substantial fortune, as the Zweibrücken court of appeals would later assert, in ‘very peculiar circumstances’.¹¹¹ As a young man, working as

¹¹⁰ On Abresch and his family, Osmond, Rural Protest, 21; Gerhard Berzel, ‘Der Fahnenträger Johann Philipp Abresch. Ein Familienbild’, Die Pfalz am Rhein, 55 (1982), 245–8, and Thalmann, Die Pfalz im Ersten Weltkrieg, 374–5. None of these authors made use of the court records concerning Abresch’s business dealings.

a secretary for the very wealthy attorney Alexander von Harden, he had sold to Harden, for the astonishing sum of one million marks, the rights to an ostensible inheritance of a distant ancestor of Abresch, who had died in Dutch Guyana in 1795. There was no inheritance, and the legal validity of the sale came before the courts some years later. The Frankenthal district court found that the sale was valid, and that Harden had really believed in the existence of this very dubious inheritance. However, the Palatinate’s social democrats, pursuing their capitalist enemies by spreading scandalous stories about them, loudly announced that Harden had paid the money to Abresch to keep him from associating with his wife. By the time the case came to court, the Hardens were divorced, and the former Frau Harden did testify that she was strongly attracted to Abresch, but denied anything dishonourable had gone on between them. On appeal, a settlement was reached, by which Abresch repaid to Harden’s creditors about an eighth of the money he had received and it was agreed that the results of the testimony ‘fully preserved the honour’ of Abresch.¹¹²

With his newly gained fortune, Abresch became very active in the promotion of mining. He developed interests in coal mines in Upper Bavaria, near Munich, and in copper mines in the Palatinate, the nearby Nahe Valley, as well as in Italy and Bohemia, and sold shares in these mines to wealthy investors at very high prices. He found an extraordinary range of purchasers for these shares: the Frankfurt banker J. L. Finck, the Berlin banker Friedländer-Fuld, the Nuremberg manufacturer Ernst Faber, the Munich baron Cramer-Klett, a member of the Bavarian house of lords, or Count Tauffkirchen, each of whom invested hundreds of thousands of marks. Other investors included Prince Friedrich Karl zu Hohenlohe-Öhringen, Count Berckheim, and the diplomatic attaché Josef von Radowitz.¹¹³

Abresch’s ambitions to gain investors reached still further. He sent a letter in 1908 to Duke Karl Theodor of the Bavarian royal family, pointing out to him that an investment in Abresch’s Palatine copper mines would aid the economic development of one of Bavaria’s provinces, and also provide Germany with raw material self-sufficiency in case of war. A direct conference with the duke followed. Turning to a more modern variety of royalty, Abresch attempted to sell his Palatine mines to the Rockefellers, who even sent a German-American mining engineer to investigate the enterprise. In the end, the duke would not invest and the Rockefellers decided not to purchase, but these efforts show the scope of Abresch’s ambitions.¹¹⁴


¹¹⁴ On connections with Duke Karl Theodor, J6/257, Protokoll über Zeugenvernehmung, 4 Nov. 1912, testimony of rentier Ernst Faber, with letter attached (a copy is also in the verdict cited in
At first glance, one might see in Abresch an aggressive entrepreneur, transcending the regional limitations of nineteenth-century Palatine business customs, mobilizing capital well beyond the narrow limits of family connections, breaking out of the south-west German economic space, and putting to profitable use the Palatinate’s political connections to Bavaria. Abresch did do all these things, but the way he did them was rather outside the realm of orthodox business practices.

When selling shares, Abresch or his agents made it a practice to tell the investors that they were getting a one-time only offer, and at a very low price. They needed to decide right away, and once they put their money down, they were sworn to secrecy. The choice of agents was not without its peculiar features as well. They included Hans Freiherr von Seldeneck, an impoverished Badenese aristocrat, whose father was an important official at the grand-ducal court, and who provided a useful entrée for Abresch, a provincial bourgeois, into the circles of the nobility and the very wealthy bourgeoisie. But Abresch also had in his service a certain Philipp Moser, a former porter [Sackträger] of Ludwigshafen, who had a long record of what we might today call racketeering activities. Abresch, to be sure, denied that Moser worked for him, but was never able to explain convincingly why he paid him a commission for selling shares in one of his mining operations.¹¹⁵

The mines themselves were equally peculiar affairs. There was never any mining carried out—unless investors were there to see it. Then, all of a sudden a flurry of action would take place. In one of Abresch’s copper mines, miners used explosives to uncover a seam of ore, which was left there to oxidize and turn green, so that potential investors might be impressed. Of all Abresch’s mines, only the copper mines in Insbach, in the Palatinate, ever went into actual production. They never ran at a profit; when the smelter, processing the ore, collapsed and fell apart, these too went out of business.¹¹⁶ After a while, the investors began to realize that they were not making any money, and were in danger of losing their six- and seven-figure investments. Abresch always retained a majority of shares in his mining operations, so that angry investors could not seize control of them from him. Some investors were too embarrassed to take action, but others were not and eventually seventeen different investors filed lawsuits against him.¹¹⁷


¹¹⁷ Once again, besides the verdict cited in n. 111, J6/256, Protokoll über Vernehmung von Zeugen und Sachverständigen, 26 June 1913, testimony of Eugen Abresch.
By the beginning of the second decade of the twentieth century, the estate owner, politician, and investor found himself in considerable legal trouble. He did his best to try to implement in-court or out-of-court settlements, in which he paid off his irate investors in one of his mining enterprises with shares in another one, of comparable value.¹¹⁸ This did not always work, and Abresch did have to go to trial. He was always able to call witnesses who could vouch for him: the Badenese state geologist Dr Hans Thürach, who consistently proclaimed Abresch’s mines were very valuable, quite in contrast to what other experts asserted. His agents, such as the above-mentioned Freiherr von Seldeneck, would naturally testify on his behalf as well. Abresch’s employees also testified for him, although some of them met an unhappy fate, such as the Bavarian mining official Seel, who was dismissed from the state mining service, or Abresch’s legal director [Syndikus] Wilhelm Teusch, who was convicted of perjury and sentenced to eighteen months in prison.¹¹⁹

These legal actions were fought out in many different courts, and at different levels of appeal, but with consistent results. Abresch lost in the district court in Düsseldorf and in the cameral court in Berlin; his appeals to the German Supreme Court had little success, and the court of appeals in Zweibrücken looked on his contentions with a jaundiced eye, even when it found in his favour. But the Frankenthal district court persistently supported him, in its verdicts praising him as a bold and daring businessman, and explicitly rejecting the judgments made in other venues. In the continental legal system, unlike a Common Law one, the court was not bound by the precedent of other court decisions.¹²⁰

As a last line of defence, Abresch adopted the old nineteenth-century practice of hiding assets to new, twentieth-century forms of property. He had previously formed a holding company for his mines, the ‘German Mining and Smelting Society’, a corporation of which he was, as of 1909, the sole owner. In 1911 he turned over to it the rights to the mines he possessed, in return for which the firm owed him one million marks. As the Zweibrücken court of appeals explained in its verdict:

In this way a peculiar legal situation has been created. On the one hand, Abresch has alienated from himself almost his entire domestic assets that might be subject to court

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judgment, except for his cash bank account. On the other hand, the German Mining and Smelting Society, a different legal subject, has paid him no compensation for the values it has taken over, but voluntarily pays all the considerable expenses of his business enterprises (insofar as he has not foisted them off on the mining exploitation society), so that Abresch appears as the society’s sole creditor.¹²¹

It was Abresch’s political activities that brought his business affairs to wide public notice. His abandoning of the National Liberals for the right-wing Agrarian League was not taken kindly by his former political associates and during the 1912 election campaign to the Bavarian parliament they denounced him in the press, in flyers, and in stump speeches as a dishonourable individual, a swindler, and a fraud. The constant repetition of these denunciations forced Abresch to sue for libel, which meant that his business affairs were dragged through the court, as the defence called his one-time investors to testify about his practices.¹²²

In this case, the Frankenthal district court exceptionally did not find in Abresch’s favour. The appeal his attorney filed contained an interesting passage commenting on Abresch’s habit of lending or outright giving money to people who testified in his favour. ‘If someone has a friend who is temporarily in difficulties and at his request makes him a loan, he would certainly not restrain that friend from being heard as a witness. It would be the furthest thing from the mind of any decently and honourably [anständig] thinking man, who sees in his friend only a decent and honourable [anständiger] man, that this favour [Gefälligkeit] could be seen as anything else.’¹²³ In this quote, we can see a distinct break from the nineteenth-century concept of honourable commercial behaviour as involving a renunciation of self-interest and a separation of personal from business considerations.

Oral arguments in the case were to begin before the Zweibrücken court of appeals on 25 April 1918, but the parties, responding to a patriotic appeal of the presiding judge to bury their party differences in the wartime moment of danger, agreed to a settlement, by which the defendant dropped his charges and Abresch his lawsuit. For the Palatinate, the moment of danger continued after the war, as the region came under French occupation. Abresch was part of a group of notables who entered into negotiations with the French military authorities, while simultaneously denouncing the new, revolutionary Bavarian government in Munich as being composed of traitors, wanting to sell out German interests to France. Abresch’s legal troubles continued into the 1920s and beyond. Surviving them, the Nazi regime, and the Second World War, he died in Neustadt in 1952.¹²⁴

¹²¹ Verdict, as cited in n. 111. On Abresch’s bank account, see the quote cited above, Chapter 2 n. 138.
¹²² J6/260, passim, esp. the pamphlet, ‘Meine Erfahrungen im Wahlkampfe gegen die “Volkskandidatur” Eugen ABRESCH!’ and Schriftsatz, 17 Sept. 1914, for the denunciation of Abresch and its legal ramifications.
¹²³ Ibid., Schriftsatz, [undated but 1916].
¹²⁴ Ibid., Protokoll, 25 Apr. 1918; Thalmann, Die Pfalz im Ersten Weltkrieg, 373–84. On post-1918 legal issues, J6/256, Mecklenburg-Schwerinisches Landgericht to Landgericht Frankenthal, 28 Oct. 1930. According to the register of the record group Landgericht Frankenthal in the Landesarchiv Speyer, a number of cases in the 1920s, whose records are still closed, involved suits brought against Abresch.
In Abresch’s business deals, we can see the dissolution of many of the practices and values of nineteenth-century property transactions. Abresch certainly conducted oral agreements and gave his word, as property transactions were conducted in the nineteenth-century Palatinate, but his corporate enterprises ensured that he would not have to be held to what he said. He hid assets, as had been common for the previous hundred years, but doing so through new legal forms, new kinds of business enterprises, and new versions of property. His attorney’s brief defending his honour replaced the concept of business honour, which involved individuals keeping their obligations even if they rebounded to their detriment, with a scarcely concealed cynical defence of favouritism. Admittedly, Abresch was exceptional. In the quarter-century before 1914, there were relatively few Palatines who operated on Abresch's scale or with his complex corporate arrangements; most followed paths set in the nineteenth century.

New concepts of emotional intimacy being developed by urban Palatine women before 1914, without replacing property-based expressions of marital emotions, rather rebounded to women’s detriment. By contrast, Palatine early adopters of new forms of business enterprise, new understandings of commercial honour, and new forms of property transactions found the coexistence of these with their older counterparts to be to their distinct advantage. In the very presence of an Eugen Abresch and his property transactions, we can see signs of the end of an era.

**EPILOGUE: THE FIRST WORLD WAR**

The First World War and its aftermath, bringing in their wake inflation, shortages, state controls on the economy, and the black market, would ultimately end the nineteenth-century world of property transactions and property relations. At least as much as other Germans, Palatines experienced these epochal and very unpleasant changes. Yet contemporaries were slow to realize their broader implications. This was certainly true in the civil courts, which strove to conduct their business in wartime and after with as much continuity to pre-1914 circumstances as possible.¹²⁵ Lay people as well seem to have continued to use the courts after the outbreak of the war, much as they had before. One case in particular shows legal continuities in a very different social and economic situation.

**A Black Marketeer Asks the Court for Protection from his Creditors**

On 23 May 1919, the merchant ‘Heinrich Völker’, owner of a firm specializing in the manufacture and wholesaling of ‘chemical products, oils and fats’, wrote to the magistrate’s court in Kaiserslautern, asking that his firm be placed under court

¹²⁵ Thalmann, *Die Pfalz im Ersten Weltkrieg*, is an excellent study of the impact of the war on the Palatinate. For two rather different evaluations of the wartime and post-war situation and the civil
supervision. This was a special wartime measure that had replaced filing for bankruptcy, but occurred for the same reasons: more debits than assets and an inability to meet the demands of the creditors. Völker explained that he had previously worked for a merchant in Heilbronn, across the Rhine in Swabia, and had gone into business for himself in mid-November 1918. His business, he explained further, was actually flourishing but in view of post-war transportation problems and the occupation by foreign troops of the left bank of the Rhine he was having difficulties receiving monies due to him, both in the occupied and in the non-occupied portions of Germany. Since he could not pay, creditors had begun to attach his assets.¹²⁶

The date Völker gave for the founding of his business, just a few days after the armistice ending the First World War, made the magistrate’s court suspicious. The judge asked the police for information about Völker. He received the answer that Völker was a problematic character, who had engaged in suspicious activities in his previous post as a travelling salesman and was strongly suspected of black-market dealings [Schleichhandels- und Schiebergeschäfte], especially as the products in which he dealt, fats and oils, were only obtainable in illicit ways.¹²⁷

Völker was almost certainly a black-market operator, someone profiting illicitly from the wartime controlled economy. We usually think of such operators as trench-coated figures lurking in darkened alleyways, an image that does not seem to apply in this particular case, considering that Völker had a business letterhead giving his office address, telephone number, telegraph address, and bank accounts. Perhaps the very openness of someone engaging in an illicit trade was testimony to the novelty of an age of government controls and illegal transactions. At the beginning of this new era of property transactions, there were still traces of the nineteenth century to be found in Völker’s career and dealings. His business career had been in the south-west German economic space and his lists of creditors and debtors also ranged around that region. By June 1919, he had succeeded in finding money to pay off his creditors and withdrew his application for court supervision. His brief intersection with the courts shows Palatine proprietors entering into what would prove to be a new and very difficult era making use of practices, connections, and ideas they had developed in the previous century.¹²⁸

¹²⁶ J20/1221, ‘Heinrich Völker’ to Amtsgericht Kaiserslautern, 23 May 1919. Since this is a post-1914 case, I have chosen to use a pseudonym instead of the actual name of the individual. On court supervision, see Martin Alexander Armasow, ‘Schuldner- und Gläubigerschutz während des Ersten Weltkrieges und der Nachkriegszeit’ dissertation (University of Heidelberg, 1981), 46–62.

¹²⁷ Ibid., Pol.-Serg. Forst, to Amtsgericht Kaiserslautern, 31 May 1919.

Conclusion

THE PERVERSIVENESS OF PROPERTY

One way to sum up the material presented in this book would be to say that in the nineteenth-century Palatinate, property was in everything. Possession of property, transactions of property, as well as widely shared assumptions about them, loomed large in everyday life. Attitudes about the use of and control over property and expectations of its possession pervaded family life, in the way husbands and wives lived with each other, in parents’ dealing with their adult children, and in the cooperation and conflict of siblings. The delineation of and control over property was a major part of relations between neighbours or among inhabitants of the same town or village. Mental capacity, honourable behaviour, sobriety, and industriousness were understood in terms of property and its use.

Generalizing, we can point to three broader features of the insertion of property into the everyday life of this corner of south-western Germany across the decades between 1820 and 1914. Strong emotions, particularly, although not exclusively, those arising in family life, were expressed in terms of property relations. Conflicts, whether among family members, or between different inhabitants of the same village, between insiders and outsiders, between individuals or groups and the state, could also be expressed in terms of the control over property or the exercise of rights to the use of property. Finally, judgments and distinctions could be made in terms of property. Such property-based distinctions could take the form of articulating social norms, designed to be universally applied: a life of hard work, sobriety, and calculation, for instance, or the mutual assistance and reciprocity of siblings, or the honourable behaviour of giving one’s word and staying with it, in spite of the consequences. But property also provided a way of making evident social distinctions and differences: between the upper and the lower classes—ironically, in a society in which ownership of at least a little property was very widespread—between women, expected to provide the property in a marriage, and men, expected to preserve it, so it could be passed on to a subsequent generation, or between Christians and Jews, who might have shared quite similar attitudes about property, but whose actions on these attitudes were judged very differently.

If property was in everything, it is also true that everything was in property. Both property ownership and property transactions were defined and delineated in a legal system. In a formal sense, this legal system was the one constituted by the great codifications, the Napoleonic Code and German Civil Code, with their insistence on the exclusiveness of ownership and the powers of proprietors over
their property (albeit with exceptions, such as usage rights) or the precise delineation of property boundaries, their definitions of transactions or partnerships, their rules of inheritance, or the ideal they upheld (albeit with exceptions, such as actions for the separation of marital property) that married women should be subordinate to their husbands. The legal system, however, was not just a code of law and the ideas expressed in that code. It was also the everyday practice of judges, attorneys, notaries, business agents, bailiffs, parties to civil cases, and witnesses in these cases. Sometimes in concordance with the legal codes, sometimes rather against their intent, these practices also shaped property.

It is particularly in property transactions, contractual obligations, and the granting and taking of credit that we can see how property was permeated with cultural understandings. Such transactions and obligations concerned very tangible things—houses or fields, casks of wine, baskets of asparagus, a railway car full of timber, livestock, sacks of wheat, steam engines, or a quantity of gold coins carefully counted out and wrapped in paper. They involved equally tangible actions, including delivery, construction, and payment or repayment, sometimes written down, sometimes verbally articulated, and sometimes customary or just assumed. Yet contained within such tangible and definite objects and actions were abstract ideals and attitudes: creditors’ confidence in their debtors, but also the latter’s resentment of their indebtedness, individuals’ given word of honour, Palatines’ belief in the virtues of economic independence, villagers’ sense of their dignity and masculinity, craftsmen’s ideals of masterful workmanship. Equally, these property transactions and contracts contained within themselves social relations and social conflicts: the informal and personalized credit market, the bureaucratic organization of labour on the Palatine railways, information networks formed from family members, in-laws, and drinking buddies, the low opinion skilled industrial workers had of small-town craftsmen, the mutual suspicions of country folk and townspeople, or of Christians and Jews, the mixture of paternalism and camaraderie with which the Palatinate’s bourgeois notables treated the region’s small proprietor lower classes.

Another way to put it would be to suggest three broader forms of the content of property in the nineteenth-century Palatinate. One was formalized and bureaucratic organization, found primarily in the state, in four different areas. There were those aspects of bureaucracy relating to land ownership: the cadastre with its property boundaries, and the land and tax registers. Two were more specialized aspects of state administration, the Bavarian state forest service, with its lists of usage rights and procedures needed to exercise them, and the customs service, and the harbour it ran in Ludwigshafen. The fourth area was the court system, complete with its summonses and oath taking, its judgments against debtors and seizures of their assets, its bankruptcy proceedings and civil litigation between opposing parties. For much of the nineteenth century, the state was the primary and at times the sole example of such formal bureaucratic organization. The last third of the century saw the rise of a railway bureaucratic and, in a few instances,
the development of the administration of business corporations and financial institutions—but to a relatively modest extent in the Palatinate, especially when compared with the industrial regions of northern Germany.

Property was also constituted by informal social relations. These could exist within bureaucratic institutions themselves, in the way the forest service applied in practice the official rules on usage rights, or in the connections of kinship and faction apparent in the parties’ choice of witnesses in civil lawsuits and the testimony these witnesses gave. Such informal social relations also existed by themselves and in their own right; they were crucial to the drawing and redrawing of property boundaries, for instance, to the granting and taking of credit, or to the way partnerships were formed, agents appointed, and transactions carried out. These relationships could involve either consensus or conflict, or both one and then the other—as happened with the cigar manufacturers Orth and Hermann, who at first cooperated to maintain the fiction of the former’s independence, and then were embroiled in a dispute over it. Such relationships could involve consensus and conflict simultaneously, as seems to have frequently been the case between Jewish dealers in agricultural products and the peasants who were their suppliers, customers, and debtors all at the same time.

Finally, property was constituted by widely held social conceptions. The ideal of independence, the belief that individuals—or, perhaps more exactly, households—should be independent proprietors freely disposing of their property was pervasive in the nineteenth-century Palatinate and shaped property relations and property transactions. Another example was the idea that individuals needed to be rational and calculating in their transactions, with an eye to their self-interest, but should also hold to their given word, even if this meant acceding to an outcome damaging to self-interest.

Bringing together the way property was in everything and everything was in property, it is possible to suggest three characteristic features of the position of property in the society of the nineteenth-century Palatinate. First, property was central or, at the very least, highly significant to individuals’ chances and possibilities in life and to their course through life. Adult lives, from the establishment of children’s independence from their parents, through marriage, to the maintenance of elderly parents’ independence from their children, were determined and shaped by the ownership and intergenerational transmission of property. Three analytically distinct but in practice interrelated features of successful adult lives—economic prosperity, or at least subsistence, emotional satisfaction, and effective cooperation of family members—were all closely and directly related to property.

Second, nineteenth-century property was something material and substantial. Property was, perhaps above all, pieces of land, generally coming complete with crops, grapevines, trees, or houses. It was also livestock, machines, a craftsman’s tools, a wholesaler’s or retailer’s store of goods, coins, and banknotes. Property certainly existed in more abstract forms, such as bank accounts, government bonds, or stock shares, with these becoming more common in the quarter-century before
the First World War, but the material and substantial form of property remained the dominant one.

This quality of being substantial and graspable applied to property relations as well. Transactions, partnerships, agents working on commission, and the granting and taking of credit were all primarily personal relationships between distinct individuals, imbued with all the emotional and social content contained in these relationships. There were more abstract forms of property relationships, particularly those involving transactions across a broader distance: the sales, with payment due in three months, that suppliers made to Palatine wholesalers, retailers, and craftsmen. These were more common than the corresponding abstract forms of property and existed throughout the entire nineteenth century. Nonetheless, here as well, the sensuously perceptible prevailed over the abstract.

Finally, both possession of property and property relations were persistently dogged by the gap between an expectation of clarity and self-evidence and a reality of ambiguity and uncertainty. Children were to receive equal—absolutely equal—shares of their parents’ property, only the intergenerational devolution of this property over the course of years and in different circumstances of both the children’s and the parents’ lives made this equity difficult to realize, and created many circumstances in which it could be disputed. Property and credit transactions were to involve self-interested calculations of profit and loss, but they were frequently carried out between and among friends and relatives, whose relationships were to be ruled by solidarity and mutual assistance rather than self-interest. Property owners controlled their property absolutely and their property was clearly distinguished from that of others, yet usage rights limited proprietors’ control and natural causes, administrative arrangements, and social and economic developments blurred the clarity of property boundaries.

This regime of property was a demanding and challenging one for the Palatines who lived it. At least for that substantial majority of the population possessing just a small amount of property, it was an invitation to a life of physical labour and mental calculation, of a very careful balancing of the possibilities for consumption with the needs of preservation of family property. The complex and shifting emotional undercurrents of property ownership and property transaction, whether in the family or in buying, selling, and taking or granting credit, had to be negotiated and renegotiated on different terms—these negotiations often occurring between unequal parties, estate owners and small farmers, for instance, or men and women.

**PROPERTY AND ITS IMPLICATIONS**

The book opened with an evocation of civil society as an intermediary realm between the family and the state. At this point, it seems reasonable to return to this evocation and consider how the investigations of the nature of property and property relations might change our understanding of civil society. Proceeding
from there, we can also see how the book’s investigations of property and civil society relate to law and its place in society, to market transactions and the calculated self-interest that purportedly propelled them, and to the nature of social hierarchy and social relations, particularly as they pertain to class and gender.

To begin with civil society, the questions with which this book began can now be answered in the affirmative. Property was a major feature of nineteenth-century civil society; informal social relations were important for property as a feature of civil society and participation in the ownership, use, and transactions of property was common to people who were less likely to be involved in the Habermasian public sphere, the world of voluntary associations, public meetings, and the periodical press. While this public sphere underwent considerable change in the course of the nineteenth century, the aspect of civil society as property relations—at least in the Palatinate—changed much less over the hundred years from the post-Napoleonic period to the eve of the First World War. In light of these different developments, it might be appropriate to reconsider the whole idea of a public sphere, of an arena of debate about the common welfare, when we remember that participants in this debate had distinct ideas about the value of property ownership and property transaction, as well as experiences with them in their own lives. This is a point that does not just apply to nineteenth-century history. An evaluation of civil society in post-communist Europe lacking a consideration of property ownership and property transactions would be incomplete indeed.

The law is often seen as a vehicle for conflict resolution. In this respect, the system of civil law in force in the Palatinate during the century before 1914, whether under the Napoleonic Code or the German Civil Code, seems to have been reasonably successful. It provided relatively quick justice at a reasonable price (there were exceptions, of course, such as the forest usage lawsuits), contained opportunities for mediation, and was surprisingly open to members of less favoured groups, such as the poor, and women, even if men and the upper classes—and especially men from the upper classes—were likely, in the end, to be better treated. The system’s record in dealings with Jews is perhaps more mixed, yet civil law was certainly no less favourable to them than central European society and government as a whole.

It is important to note that the legal system was at least as much a vehicle for conflict creation as it was for conflict resolution. In part, this was a result of the juxtaposition of abstract legal concepts with the concrete and sensuous realities of property and property relations in the nineteenth-century Palatinate. A particularly good example of this was the contrast between absolute control of proprietors over their property and the explicit separation of parcels of real property demanded by the legal code with the actual circumstances of the use of property, transactions in it, and the drawing of its boundaries. The legal system also served as a vehicle through which conflicts could be channelled, fought out, and brought to a new level. Articles 676–8 of the Napoleonic Code concerning the placement of windows made it possible for feuding neighbours to take their dispute to court; both law codes’ attribution to husbands of control over their wives’ property, and
the exceptions to this control delineated by the codes, made it possible for debtors to use the civil court system in an attempt to evade their creditors.

In another sense, civil law was profoundly permeated by civil society. This was above all apparent in the everyday life of the law—the selection of witnesses to advance a case, their testimony, the lawyers’ written briefs and oral arguments, and the judicial verdicts. In all these aspects of a civil trial, social conflicts or village feuds, intellectual preconceptions about appropriate behaviour and attitudes of particular social groups, real or invented understandings of usage rights, or attitudes about Jews’ commercial dealings (to name just a few points), came to the fore and helped shape the outcome of a case. Legal history, particularly of the Roman Law countries of continental Europe, but to a considerable extent of English-speaking Common Law countries as well, all too often neglects this everyday life of the law in favour of the consideration of abstract legal theories or appellate court decisions. At the very least, such an approach needs to be supplemented with an appreciation of the everyday life of the law and the way that civil society permeated the legal process.¹

This book is not an economic history; it is focused more on the cultural meanings and practices of property than on the use of property to create social and individual wealth. Still, the discussions of property do suggest something about markets and market relations. The period under consideration in this book was a golden age of the free market in European history, between the mercantilist and corporate restrictions of the old regime and the welfare state and extensive governmental regulation of the twentieth century, continuing in central Europe, albeit with some changes, into the twenty-first. Admittedly, traces of the old regime could be found in the first half of the nineteenth century and beginnings of closer governmental regulation in the last quarter of the nineteenth, but overall this was a period in which individuals were free to dispose of their property in the market place.

Nineteenth-century Palatines did dispose freely of their property and took part quite vigorously in market transactions. They bargained hard and acted resolutely in favour of their self-interest. Many of the decisions they took, though, required a rather extended definition of self-interest. The way parents and parents-in-law rescued offspring and their spouses from the worst consequences of bankruptcy are not entirely possible to square with material self-interest. Louise Ferkel, who put her property at risk so that her son-in-law not be ‘torn to pieces’, or the Frankenthal banking house Mann & Loeb that continued to grant credit to relatives by marriage of its proprietors in spite of the debtors’ poor business prospects, are just more evident examples of a common practice and understanding. Nor can we write these instances off as exceptions or emergencies. Relatives and in-laws were a major source of credit for Palatines from different social groups and occupations.

In an age in which businesses were typically family businesses, credit was not entirely a business proposition.

Beyond the granting of credit or the co-signing of a loan, transactions occurred among and between friends and relatives, who were not expected to press their self-interest against each other, as that would have been dishonourable. Implicit within contractual arrangements were such conceptions of honour, but also of masterly craftsmanship or, as the travails of the villagers of Freimersheim and their fire engine show, of masculinity. Exaggerating only slightly, it could be asserted that the nineteenth-century free market in property transactions among self-interested parties only worked because an important element in the parties’ motivation was not self-interest.

It is striking how widely these conflicting motivations were shared among the population of the Palatinate, as attitudes towards property seemed to be quite similar across lines of social class, religious confession, and gender. Although civil court cases are all about conflict, and certainly reveal many different forms of social, gender, religious, and even occasionally political conflict—think of Eugen Abresch’s legal actions or the unhappy employment consequences of the political engagement of the track warden Johann Wittmann—these conflicts occurred against the background of common understandings about property and common interests in its possession. The forest usage lawsuits might seem to have involved peasants with quite different, pre- or non-capitalist conceptions of property and property rights, but on closer examination it appears that these conceptions were more attributed to the peasants by judges and lawyers than actually held by them. The one major conflict of principle found in the legal record during this period, the struggle over the Jews’ oath, was about the efforts of Jews to obtain recognition of the legal validity of their given word. They were thoroughly in agreement with the Christians of the region about the significance of an individual’s word in property transactions.

Is this common agreement on the importance of property entirely surprising? The Palatinate was, after all, very largely a society of property owners. It was also a region of vigorous social and political conflict through much of the nineteenth century from the Hambach Festival of 1832 and the revolution of 1848–9, through the nationalist agitation of the 1860s, to the developing mass politics of the German Empire, with its challenges to the rule of the liberal notables embodied in the Roman Catholic Centre Party, the social democrats, and the rural conservatives of the Agrarian League. In the course of these controversies, alternative ideas about property and property ownership emerged, yet in the end none of these really seems to have had much of an effect on the consensus about property existing in everyday life—another example of the disjunction between civil society understood as the public sphere, and civil society understood as the uses of property.²

² On nineteenth-century Palatine politics, see Cornelia Foerster, Der Preß- und Vaterlandsverein von 1832/33 (Trier: Verlag Trierer Historische Forschungen, 1982); Fenske, Kermann, and Scherer (eds.), Die Pfälzische
For all their commonality of viewpoints about property, social classes clearly did exist in the Palatinate, although the Marxist version of defining them in terms of their ownership of the means of production does not seem very helpful, in view of the widespread property ownership. Social stratification centred on other markers—the ability to accumulate property versus the need to preserve it, for instance (often demonstrated by possibilities for consumption), or the possession of enough cash to lend it out. In the later nineteenth century, the development of large-scale corporate enterprises, such as the United Palatine Railways, or the BASF chemical works, and the delineation of the regulatory categories of the state social insurance system, created a different version of social stratification—with more familiar twentieth-century distinctions of workers, salaried employees, managers, and owners—that did not so much replace the existing form of social stratification as become superimposed on it.

Some of the same points about class distinctions in the nineteenth-century Palatinate can be made about gender distinctions as well. Men and women had distinctly differentiated social roles and the court cases present little evidence of any disagreement with them, of the sort articulated by German feminists in their campaign to change the clauses of the Civil Code about marriage and family. Maria Eva Weilbrenner’s insights might be one example of such a disagreement in everyday life, but she was mentally ill and not taken seriously by her fellow villagers. There was a certain feminist tone to the accusations levied against Anton Hoffmann by the siblings of his late wife, Johanna Hinsch: the condemnation of Hoffmann for treating Hinsch with physical and especially emotional brutality and for trying to isolate his wife from her trusted female servant. The instrumental character of these accusations became clear at the trial, but their use is suggestive of a climate of opinion, although perhaps more of its existence in Hamburg, where Johanna Hinsch’s siblings resided, than in the Palatinate. In this case and in many others, there was evidence that physical violence was a part of marital relationships, but also evidence that neighbours, relatives, and the local authorities disapproved of such (typically drunken) brutality and found it proof of the failure of a husband’s patriarchal authority rather than an expression of it.

The lived gender roles themselves present certain similarities to the sharp, bipolar distinctions between women and men often asserted by feminist historians to have been characteristic of the nineteenth century, but on closer examination these polarities get rather blurred. Men may have been public and women private, but the peasant women of Grethen could carry out a very public dispute about the quality of the village’s well water. Law granted men control over marital property, and it was widely accepted that preserving this property was a husband’s...
responsibility, but there were many legal exceptions to this rule, and couples used them to further their common interests against their creditors. Men may have had legal control over marital property, but that property stemmed from their wives’ dowries, so that married women exercised a distinct and occasionally even predominant influence—and were expected to exercise such an influence—over the administration of marital property.

There were certainly distinct differences between men and women in the kinds of physical labour that each did, and even more so in the kinds of wage labour that each might perform. It is perhaps also the case that women were expected to demonstrate emotion more than men, at least without the assistance of alcohol, or perhaps to be less instrumental in the expression of their emotions. It might be that by the first decade of the twentieth century these differences were becoming more pronounced and beginning, at least among the Palatinate’s townsfolk, to raise questions about the connection between emotional expression and intimacy and property in marriage.

THE PALATINATE IN A BROADER WORLD

Authors of regional studies invariably face questions about the typicality of their findings. Since this book investigates topics that have not been well or widely studied, it is difficult to provide even a tentative answer to such questions. Still, scattered through many different genres of historical scholarship, there are examples of individual aspects of the relationship between property, family, and the law in nineteenth-century central and western Europe and North America that seem quite similar to those found in the Palatinate between the end of Napoleonic rule and the outbreak of the First World War.

The place of credit in the nineteenth-century Palatinate—its pervasiveness, its nature as a transaction between individuals and not as the product of specialized financial institutions, and the way it was embedded in the civil law—is hardly limited to it. Gilles Postel-Vinay, in his study of farm credit in nineteenth-century France, has found that French peasants very frequently borrowed money, but almost never from banks. Instead, they turned to individuals possessing cash, with connections to these individuals obtained via intermediaries, especially notaries. Edward Belleisen’s study of bankruptcy in the antebellum United States has sketched out a world of the extensive use of credit, mediated by personal and family ties, and the important role of bankruptcy courts in regulating the outcomes of such a pervasive credit system. The author’s contention that both the pervasiveness of this credit and the handling of it via a relatively lax bankruptcy law were

examples of an exceptional American development are not borne out by the evidence about the Palatinate.⁴

Margot Finn’s very rich and insightful study of the legal and credit systems in the United Kingdom during the eighteenth and nineteenth centuries also reveals circumstances with strong resemblances to those studied in this book. Her discussion of the Victorian county courts, and the extent to which their caseload was dominated by creditors trying to recover from their debtors, conveys a state of affairs very similar to those in magistrate’s courts on the left bank of the Rhine River. Finn’s account of property transactions, ostensibly based on individuals’ calculations of their rational self-interest, yet including elements of mutual solidarity not entirely compatible with these calculations, her discussion of the importance of trust for credit, are reminiscent of findings established in this book. Finn also describes the British legal doctrine of the ‘law of necessaries’, which enabled married women, legally unable to contract debts or obligations without the consent of their husbands, to do so for household purchases, a juridical concept very similar to the central European ‘power of the keys’.⁵

The use of this legal doctrine, which, as noted in Chapter 3 above, had a French counterpart as well, raises questions about gender roles in the use of property and the place of property in family life. There is a well-known historical argument, going back to the works of Philip Ariès, Lawrence Stone, or Edward Shorter, drawing a contrast between older forms of marriage based on interest in the preservation and accumulation of property and new forms, arising in the eighteenth and nineteenth centuries. Generally, this new form of companionate marriage is seen as connected to the development of bipolar gender roles, contrasting public, rational men, and private, emotional women.

Rebekka Habermas, in her very interesting study of bourgeois families in Nuremberg from the middle of the eighteenth to the middle of the nineteenth centuries, has criticized quite forcefully this idea, and especially its application to central European history, pointing out that emotional relationships existed in pre-1750 marriages, as well as the continued interest in property in post-1850 ones.⁶

The suggestion advanced in this book, that emotional relationships between adult family members could be expressed in terms of property, would certainly fit well with Habermas’s criticisms. Of course, if one rejects the dichotomy between older, instrumental marriages and more recent emotional ones, then one faces the question of whether anything changed in marital relations, and if so how to articulate such changes. Perhaps this book’s suggestion of growing expectations among the German bourgeoisie of an open expression of emotional intimacy in marriage,


⁶ Habermas, *Frauen und Männer des Bürgertums*, 259–69, an unusually convincing survey and critique of the scholarly literature.
as something independent of property relations—without, therefore, property becoming irrelevant to marriages—might be useful as a way of understanding changes in the relationship between property and family.⁷

The interaction between family and property has been a central concept for studies of the peasantry, although most of the historical literature focuses on the old regime. David Sabean’s massive works on the Swabian village of Neckarhausen, spanning the seventeenth to the nineteenth centuries, suggest close connections between family life, the emotions expressed therein, and the accumulation and intergenerational transmission of family property. Particularly the concluding section of Sabean’s _Kinship in Neckarhausen_, in which the author attempts to generalize the results of his very intensive local study and compare them with other works on nineteenth-century Europe, offers perspectives not entirely dissimilar to those suggested in this book.⁸

The construction and operation of railways also generated legal disputes similar to those seen in the Palatinate. Both in Great Britain and the United States, railway companies, outfitted with the power of eminent domain to acquire property for their building projects, very much like the Bavarian law of 1837, found themselves engaged in lengthy negotiations with tenacious landowners, determined to get every bit of value from their land. British landowners were particularly successful in such dealings, no surprise in view of the large proportion of land in the United Kingdom owned by the aristocracy. Railway accidents were also an important source of civil litigation, although the emphasis in Common Law countries was on accidents suffered by passengers, rather than by railway workers, as legal doctrines on employers’ liability were much less favourable to injured railway workers in the United States and the United Kingdom than in central Europe. Whatever the legal doctrines, railways in English-speaking countries generally showed themselves to be even more ruthless and intimidating in pursuing their interest in legal disputes than their Palatine counterparts.⁹

Scattered and unsystematic as a consideration of such similarities might be, attempting to ascertain differences is even more problematic. I would point—extremely tentatively—to three differences between the nineteenth-century Palatinate and other parts of Europe and North America. One such difference involves a comparison of the Palatinate with Swabia, another south-west German region of equal inheritance. In the nineteenth century the two regions were

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⁷ Similar observations in Marion Kaplan, _The Making of the Jewish Middle Class: Women, Family and Identity in Imperial Germany_ (Oxford: Oxford University Press, 1991), esp. ch. 3. A good deal of what Kaplan says about property and family in the Jewish middle class of central Europe applies to their Christian counterparts as well.

⁸ Sabean, _Neckarhausen_, chs. 20–3. The studies of Andreas Gestrich and Utz Jeggle on rural life in nineteenth-century Swabia, cited above, Introduction n. 8, point in a similar direction.

reasonably similar in social and economic structure, although they have diverged considerably in the last hundred years.

The tangible nature of property was common to both regions. But, at least to judge from David Sabean’s studies of the village of Neckarhausen—which, admittedly, tend to emphasize the pre-1815 era—there seems to have been a strong tendency for Swabians to interpret equal inheritance as meaning physically equal amounts of property. Physical divisions of fields, houses, and even agricultural implements were a characteristic of inheritance practice.¹⁰ In the Palatinate, equality of inheritance could imply an equal distribution of tangible things, but it could also mean an equality of monetary value. This might suggest a social and legal order more comfortable with commercialized property transactions than was the case in Swabia—or at least in Swabia under the old regime.

For all their possible differences, both the Palatinate and Swabia were regions of equal inheritance, while the northern and Alpine portions of central Europe followed a very different inheritance regime, in which one child received a disproportionate share of parents’ property. Historians and anthropologists have developed quite elaborate dichotomies of these two inheritance regimes, pointing to their creation of fundamentally different kinds of family structures. The most recent works on regions of impartible inheritance have been somewhat more sceptical of these dichotomies, particularly in considering the nineteenth century, when codes of law generally required non-inheriting children to receive compensation from their inheriting sibling.¹¹ Nonetheless, it does seem likely that emotional ties and emotional tensions related to property played out in quite different ways in regions of impartible inheritance as opposed to equal ones. Regine Schulte’s excellent study of criminal court cases in rural nineteenth-century Upper Bavaria, a region of very pronounced unequal inheritance, finds persistent tensions between inheriting and non-inheriting siblings, tied into tensions between widows and the wives of their inheriting sons, expressed in the extreme by the proclivity of the non-inheriting children to set fire to the farm of their more fortunate brother.¹² In an egalitarian Palatine society, where siblings expected to receive an equal inheritance, and parents to grant it to them, such behaviour would have been impossible. Ties of kinship and emotion were linked to property and to the law throughout the rural world of the nineteenth century, but probably in different ways in regions of different inheritance customs.

¹⁰ See the sources cited above, Chapter 3 n. 1.
¹² Schulte, The Village in Court, 45–57.
Historians of the central European family have often stressed differences in family structure between families of different social classes, as a result, among other things, of their differential access to property.¹³ This seems to have been less the case in the nineteenth-century Palatinate, where attitudes towards family and property among railway, shoe factory, or chemical industry workers do not seem to have been fundamentally different from those held by small proprietor peasants and artisans—and those containing noticeable similarities to attitudes held by the region's merchants, manufacturers, rentiers, and estate owners. It remains to be seen whether such cross-class similarities are unique to the Palatinate, characteristic of the entire south-west German region of partible inheritance, widespread property ownership, and slower pace of social and economic change, or whether the idea of strong class distinctions in family life is more generally a bit too rigid.

Possibly the single largest difference to be observed was the one between the English-speaking Common Law countries and the continental European realm of Roman Law, including the Napoleonic and German Civil Codes. Legally, the position of married women in regard to property ownership was worst under Common Law, for which property always had to have an individual person as owner, so that the Roman Law concept of a marital community of property did not exist. Husbands owned all property brought into the marriage by the parties or acquired within it. The only exception was real property wives brought in or received in inheritance, which was under the control of their husbands, but, as in continental Roman Law, could only be alienated with their consent. If a husband died intestate, his widow received nothing from the estate, but just had ‘dower rights’ to lifelong usufruct of a third of the estate’s real property.¹⁴

This legal situation began to change in the third quarter of the nineteenth century, with the passage in Great Britain and many American states of married women's property acts, permitting married women to own their own property and to dispose of it by testamentary bequest. They also generally guaranteed wives a minimum portion of the estate as intestate heirs. Ironically, both proponents and opponents of these laws pointed to the Napoleonic Code—so heavily criticized by continental European feminists—as an example of a legal system offering married women better property ownership rights. These married women's property acts certainly owed some of their impetus to women's rights efforts occurring decades before similar ones were under way in continental Europe, but also to the desire


to protect married men from their creditors, by allowing their wives to keep a portion of the family’s assets secure from seizure. As we have seen, in continental Europe marriage contracts performed the same function.¹⁵

These legal changes may have both accompanied and been caused by different attitudes towards gendered roles in family and property. Women, as an oft-cited 1742 English court decision stated, were expected to ‘better themselves’, through marriage, to be supported by their husbands, rather than financing them. This was certainly the expectation in breach of promise lawsuits, quite common in nineteenth-century Great Britain and the United States, where it was men’s inability to provide the assets needed for a marriage that led to a termination of the relationship, and courts generally ordered compensation to female plaintiffs for both the emotional damage of being jilted and the loss of prospects for support in life.¹⁶ Breach of promise lawsuits were also possible under the Napoleonic Code, but they seem to have had a more material orientation towards compensation for damages caused by the bride’s loss of reputation, by childbirth as the result of pre-marital relations, or, in one Palatine case from the beginning of the twentieth century, for the cost of purchasing a wedding dress that was never used.¹⁷

Another example of the changes in marital property relations in the English-speaking, Common Law world was that in the nineteenth-century United States, it became steadily more common for married people to write their own testaments, and in these testaments they were both more likely to treat their children equally and to provide a greater share of the estate to their spouses.¹⁸ In all these respects, we might see a distinct pattern of development in Common Law countries during the nineteenth-century, differing from their continental counterparts, in which the acquisition, preservation, and intergenerational transmission of wealth came to be less salient in marriage, and women in particular were less expected to provide the basis for family fortune, while emotional intimacy between spouses gained a greater significance.¹⁹


¹⁸ Shammas, Salmon, and Dahlin, Inheritance in America, ch. 5.

¹⁹ These suggestions rather differ from the assertions in the classic account of Leoreon Davidoff and Catherine Hall, Family Fortunes: Men and Women of the English Middle Class, 1780–1850 (Chicago: University of Chicago Press, 1987), but Davidoff and Hall’s work lacks a comparative dimension and their treatment of property relations (chs. 4–6) while very detailed is quite unsystematic.
ERAS IN THE HISTORY OF PROPERTY

A classicist colleague with whom I was discussing the research going into this book reminded me that in ancient Athens people sued each other over property issues. His observation leads to the question of what was uniquely nineteenth-century about the attitudes, behaviours, and legal frameworks discussed in the previous chapters. Although I would be reluctant to make any cosmic distinctions, including the ancient world or non-European civilizations, it does seem possible to distinguish between at least some of the links between family property and the law in the nineteenth-century Germany on the one hand, and early modern and twentieth-century central Europe on the other.

Many aspects of property relations in the old regime seem very similar to those in the nineteenth-century Palatinate. The tangible nature of property, for instance, the close connections between family and property, the interweaving of kinship, emotion, and property, the handling of property transactions through informal, family networks, or the way that credit came from individuals rather than specialized financial institutions, were not all that different before 1789–1815 from after. One could almost say this book is a study in late early modern European history.²⁰

Such an assertion would overlook three features of the old regime that differed fundamentally from the post-revolutionary era. First, while close connections between family and property existed, these were, for the rural population, in part determined by seigneurial rule, which limited potential choice of marriage partners and played a role in determining inheritances—as well as expropriating a portion of these inheritances. This seigneurial rule was part of a broader society of orders, in which members of different social groups had different legal status and different property rights—a very different state of affairs from the society of legally equal property owners existing under the Napoleonic Code. Finally, the legal nature of property itself was different: the absolute control of proprietors over their property enshrined in the great legal codifications of the nineteenth century was not characteristic of the old regime, where usage rights, seigneurial privileges, sumptuary laws, estate entails, and other limitations on the control of and free disposition over property were in force. Naturally, many of these old regime circumstances survived to a lesser extent into the nineteenth century, as has been discussed in the fourth chapter of this book, but the differences in the legal status of property between the pre- and post-1789–1815 eras seem greater than the similarities.²¹

²¹ For a few examples of these features of old regime central Europe, cf. Rainer Beck, Unterfinning, ländliche Welt vor Anbruch der Moderne (Munich: C. H. Beck Verlag, 1993), 386–467; Thomas Robisheaux, Rural Society and the Search for Order in Early Modern Germany (Cambridge: Cambridge University Press, 1989), 81–2, 95–116; William W. Hagen, Ordinary Prussians: Brandenburg Junkers
Looking into the twentieth century, we can see an even clearer disjuncture; to be more precise, two quite different kinds of disjunctures. One developed gradually and involved a number of different, long-term socioeconomic and legal changes that added up to a decentring of property in individuals’ lives. Social insurance payments, collective bargaining agreements, educational credentials, and civil service employment rules became significantly more important in determining individuals’ life chances for a much broader segment of the population. Receiving a state old-age pension, for instance, meant that parents no longer needed to bargain with their children about supporting them in their old age. Conversely, children could establish their own household and family without needing to receive a substantial portion of their parents’ property.²²

This gradual and long-term development was accompanied and greatly reinforced by the sudden and discontinuous impact of the age of total war, a period involving a drastic break with both the legal and socioeconomic continuity of the previous century. The years 1914–49 (in some ways continuing in East Germany until 1989) were characterized by social, legal, and political disorganization, rampant inflation, and a state that was more likely to confiscate property than to protect it. In making this observation, I do not mean to revive the now rather stale neo-Marxist assertion that rigid and uptight petit bourgeois, terrified about threats to their property, turned to the Nazis for salvation. Recent scholarship has demonstrated that both in Germany as a whole and the Palatinate in particular there were plenty of propertyless proletarians who endorsed fascism, and Catholics, the most rigid and uptight of the petit bourgeois, were the least likely to support the Nazis.²³

Rather, we might consider the place of property and expectations about property in family and emotional life, as they had developed across the nineteenth century, or the way that credit transactions were a network tying together civil society, and wonder about the effects of the age of total war on them. What good was the expectation of a dowry or the effort to transmit property to one’s children, confidence in a debtor, a person’s given word in a property transaction, when inflation

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²² For a juridical reflection on some of these changes, see Christoph Becker, ‘Generationssolidarität in Deutschland zwischen öffentlicher Altersversorgung, Unterhaltpflicht und Testierfreiheit’, Zeitschrift für neuere Rechtsgeschichte, 22 (2000), 425–50.
destroyed most of the value of property, taxation confiscated a good deal of the rest, and much of the physically graspable property was destroyed in the Second World War? The upheaval brought about by the decades of total war in central Europe has long been recognized by historical scholarship; against the background of the relationship of property and civil society in nineteenth-century Germany, this upheaval seems even more all-encompassing and overwhelming.

At the end of this era of total war there appeared an influential sociological study of the family in Germany, Helmut Schelsky’s *Wandlungen der deutschen Familie*.²⁴ Based on the empirical observations of his research team at the end of the 1940s among families of refugees, and those bombed out of their homes, the author argued that as a result of both the upheavals of the age of total war and the more gradual, long-term changes discussed above, the nature of the family and of society had been fundamentally transformed. Acquisition, preservation, and transmission of property were no longer a goal of family life, because property ‘offers absolutely no security, but in modern society and its dynamics—war, revolution, political discriminations and sanctions, inflations, tax burdens, etc.—is always most strongly subject to risk’. Interest in owning property was restricted to consumer goods. Economic aspirations—both those held by married couples for themselves and those they wished for their children—would be achieved through positions in the workplace, which were reached via training and education. As a result, Schelsky suggested, West Germany had become, in his celebrated phrase, ‘a flattened out middle class society’ [*nivellierende Mittelstandsgesellschaft*], one in which distinctions of property ownership no longer played an important role in social stratification.

Schelsky did see an exception to this development among families of farmers and master craftsmen, for whom property continued to be important to their members’ life courses and life chances. However, he regarded them as an increasingly marginalized and archaic group, outside the mainstream of social and economic development. Schelsky even suggested that an orientation towards the preservation of property could be counter-productive in an age of total war, observing that refugee farmers spent all their time mourning their lost family property, rather than, as other refugees did, devoting their efforts to making a place for themselves in their new environment, by seeking out better jobs or training and educational credentials to obtain these positions.

Schelsky observed that a change in the emotional nature of family relations went along with a change in the importance of property for the family. As basic units needed for survival in an age of severe upheaval, families had become much

more important for their members, and their social relations and emotional energies were focused on them. One might almost say that families had become a replacement for civil society. However, Schelsky suggested, the family as a place of intense emotional intimacy, as it had developed earlier in the twentieth century, was giving way to the family as a group held together not by emotional ties but by the struggle for economic and sheer physical survival.²⁵

Although generally not understood in this way, these observations are demonstrative of both the dramatic, discontinuous, and the more subtle and gradual changes that in the first half of the twentieth century had brought the nineteenth-century relationship between family and property analysed in this book to an end. The family’s focus on the preservation and intergenerational transmission of property was gone, and a transition to the open expression of emotional ties in family life had already occurred, and was in danger of being replaced by purely instrumental orientation of family life. By the early 1950s, the age of property was over—and this in a capitalist Federal Republic, to say nothing of a communist East Germany, whose government was busy confiscating private property.

Yet in the past half-century, property has made a remarkable comeback in Germany. Particularly the generation in adult life during the ‘economic miracle’ of the 1950s has accumulated a considerable amount of property and is in the process of passing it on to its children. While, as late as 1988, only 10 per cent of household assets in the Federal Republic came from inheritances—the parents of adults still being the generations who had lost everything in the age of total war—the situation has changed very rapidly. Total inheritances in the 1990s amounted to about 2.3 trillion marks and are expected to reach almost double that amount—4.4 trillion marks, or 2.26 trillion euros, an amount about equal to Germany’s gross domestic product—in the first decade of the twenty-first century. With increasing cutbacks in the generous German welfare state, and problematic conditions in the job market, the intergenerational transmission of property has once again become more important to individuals’ life chances.²⁶

Yet the growing salience of property is occurring in quite different circumstances from those in the nineteenth-century. Parents in Germany do still transfer wealth to their children, both during their children’s lifetimes and through inheritances.


and adult children continue to assist their elderly parents. But aged parents and adult children no longer live together and make no explicit contracts trading property for care; instead, both parents and children understand their relationship in terms of their mutual emotional ties. Looking more carefully at the times in adult children’s lives when parents make gifts to them, the sociologist Marc Szydlik has found that such transfers of wealth occur most commonly when children are students or industrial apprentices. In other words, intergenerational property transfer remains supplementary to education and the job market rather than the means to improve economic prospects in and of itself. Social standing and economic position continue to be transferred intergenerationally primarily through education and the job market and not through property.²⁷

The material character of property, so important in the nineteenth century, has continued to dwindle, as more assets are placed in increasingly abstract form, such as stock shares, mutual funds, or electronically accessible bank accounts. This development has had its ramifications in the practice of law as well. At least at the height of the stock-market boom in 2000, a growing number of German lawyers saw their future in mergers and acquisitions, rather than ‘mess[ing] around in a small practice with criminal cases and neighbours’ quarrels’.²⁸

Such neighbours’ quarrels still exist and neighbouring property owners in Germany continue to sue each other over them in considerable numbers. But attitudes about them have changed. At the end of the 1990s, the TV cable channel Sat 1 had a weekly programme, Liebe Nachbarn, böse Nachbarn [Dear Neighbours, Wicked Neighbours], which documented such disputes of neighbouring property owners. The fast-talking moderator used each episode to make fun of the quarrelling neighbours, all of whom were presented as eccentric rustics. In contrast to the moderator, who spoke impeccable high German, the neighbours would describe their feuds in heavy dialect. The all too apparent basis for the show was the contrast between an urban, sophisticated world, with no time for silly conflicts arising from concrete forms of property, and a backward, provincial one that revelled in them.

Dear Neighbours, Wicked Neighbours was not the only show of this sort on Sat 1, and on another one, A Case for Barbara Salesch, one of the feuding neighbours appearing on it, Regina Zindler of Auerbach in Saxony, became a sort of national celebrity. Stephan Rabb, the pop-music parodist, even did an English country song about her, which quickly rose to the top of the charts. Visitors came to Zindler’s house, she was bombarded with requests for newspaper interviews, she appeared in a programme on RTL, Sat 1’s competitor, and she basked in the limelight for a while, until it dawned on her that the joke was at her expense, that the whole country was laughing at her.²⁹

In the nineteenth century, by contrast, no one was laughing. Feuding neighbours were not pathetic provincials but local notables, such as the Barth family of Bad Dürkheim. Property was crucial to individuals’ life chances and played a central role in mediating family and social relations. In a twenty-first-century world, where property remains important, and is perhaps even becoming more significant, but is increasingly detached from tangible material surroundings, and where education, the labour market, and social welfare systems are central to individuals’ lives and to family ties, these former property relations are present largely as shadows or parodies of themselves.
Appendix

COURT-CASE STATISTICS

Doing research in legal records is frustrating, because they contain both too much and too little. In contrast to administrative records, legal ones are very voluminous. Even ignoring standard phrases, postal return receipt coupons and the like, there remains more than can be read. Consequently, it is necessary to take a sample, but doing so leads to the discovery that the records have been very erratically preserved, with few or no complete runs of files and very different material available from different times and places. In this Appendix, I will indicate which materials I have chosen to use and provide some simple indicators of their extent and scope. None of the materials can be regarded as statistically representative random samples of the tens of thousands of civil cases brought before the Palatine courts each year.

All the court records used in this book come from the Landesarchiv Speyer. To understand the choices made in selecting files one needs to know something about the filing procedure for civil court cases, which changed very drastically in 1879. After that date, all the material from a case is filed together. Each individual record contains all the relevant material on one case (as well as other items, such as postal return receipts)—the lawyers’ written briefs, the verdict, and the evidence, including testimony, expert reports, and court visitations of the scene.¹ For pre-1879 cases, though, the files were arranged quite differently. Each file contains one kind of material for a large run of cases: all the testimony, for instance, in all the civil cases heard by a court in, say, the year 1861. Verdicts or lawyers’ briefs would be in another file, and because the material has been only sporadically preserved it is not possible to bring these different files together to recreate whole cases. Consequently, pre-1879 materials are invariably fragmentary. That is not to say that they are always very small. A fragment might contain pages and pages of testimony, with a good deal more material of interest to the historian than is available in a later complete case, but these pre-1879 materials are all case fragments.

In general, by far the richest material of the civil court cases in the Landesarchiv Speyer is to be found in the records of the Landgericht Frankenthal (record group J6), which extend from the Napoleonic era to the eve of the Second World War. In the pre-1879 period of fragmentary records, this record group contains the most useful material. No verdicts seem to have been preserved, so I have chosen to use files that contain primarily evidence—testimony, expert reports, and visits to the scene. These files also contain the transcripts of the administration of the judge’s oath, the oath taken by one of the parties to decide a case when the preponderance of the evidence was in favour of that party. Although verdicts and lawyers’ briefs are missing, so, with very few exceptions, outcomes are not known, it is generally possible from the available material to figure out what the case was about and sometimes even the relevant paragraphs of the Napoleonic Code that were central to the legal questions involved.

¹ In the record group Amtsgericht Pirmasens, a number of smaller cases are contained in one record, but even there, all the records of each individual case are grouped together.
I took a sample of the relevant files, choosing every single instance for the decades before 1860, when the records are scantiest, and a selection for the subsequent decades. J6/1150 (1823), J6/1153 (1834), J6/1156 (1838), J6/1157 (1840), J6/1158 (1844), J6/1160 (1848), J6/1162–4 (1850–2, but just expert reports and oaths, no testimony), J6/1169–70 (1861), J6/1171 (1862), J6/1173 (1865), J6/1178 (1872), J6/1179–80 (1874–5). Also within this group of records were two somewhat different files, J6/1151–2, which contained portions of the records of foreclosure proceedings in 1831 and 1832. All in all, there were 1,098 case fragments for this period.

For the later period I went through 198 case files of the Landgericht Frankenthal concerning legal actions begun from 1879 to 1913. The filing system is odd, combining a chronological with a subject-oriented arrangement, so I will not give the individual numbers. Other useful post-1879 records include those of the Amtsgericht Kaiserslautern (record group J20) bankruptcy files, arranged alphabetically and covering the years 1887 to 1919. I chose 192 files J20/296–400 and 1200–96, roughly Gö–Lo and Me–Sch. I also read through all the available files in the record groups Amtsgericht Pirmasens (record group J31) and Amtsgericht Edenkoben (record group J15), which covered the years 1900–14. Some 80 per cent of these files consisted of paternity cases.

All in all, there were 1,646 cases or case fragments, of which 1,296, or 79 per cent, came from the records of the Landgericht Frankenthal, 192 or 12 per cent from the records of the Amtsgericht Kaiserslautern, 126 or 8 per cent from the records of the Amtsgericht Pirmasens, and 32 or 2 per cent from the records of the Amtsgericht Edenkoben. The cases provide good coverage of a wide geographical swathe of the Palatinate, and include material from wine-growing, grain- or tobacco-growing, and forested upland rural areas, commercial towns, and industrial cities. The major gaps of coverage are in the north-western Palatinate and in the south-east of the province. This latter gap is particularly to be regretted as it included the city of Landau, the major centre of the wine and tobacco trade, although available material from the cities of Neustadt, Speyer, and Bad Dürkheim, which were secondary centres, helps make up for the gap.

Table A.1 provides a chronological distribution of the cases. The year in which the case fell was determined by the year the case was filed, or, if the filing date was not clear, by the

<table>
<thead>
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<th>Years</th>
<th>%</th>
<th>Number</th>
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<tbody>
<tr>
<td>Before 1830</td>
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<td>64</td>
</tr>
<tr>
<td>1830–9</td>
<td>16</td>
<td>268</td>
</tr>
<tr>
<td>1840–9</td>
<td>11</td>
<td>189</td>
</tr>
<tr>
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<td>39</td>
</tr>
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<td>1860–9</td>
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<td>237</td>
</tr>
<tr>
<td>1870–9</td>
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<td>201</td>
</tr>
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<td>1910 and after</td>
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<td>190</td>
</tr>
<tr>
<td>Total</td>
<td>99</td>
<td>1,646</td>
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first year in which records for the case exist. Not surprisingly, the most recent decades are the best represented, and there are considerable lacunae for the 1850s and 1890s, but, overall, there is a good balance across the decades. Forty-seven per cent of the total number of cases and case fragments come from before 1870, the approximate midpoint, and 53 per cent from after that time.

It is possible to draw up a list of the types of cases contained in this material. The designations are just rough approximations, but they do give some idea of what business came before the courts—or, to be more precise, what has been preserved of the business that came before the courts (Table A.2). We can bring together these many individual types into three larger groups and one smaller one. The single largest group was cases concerning the granting and taking of credit and its ramifications, including bankruptcies, foreclosures, and seizures. Thirty-five per cent of the cases in the sample dealt with these topics. Closely related to these cases were complaints about the non-fulfilment of other forms of contractual obligation, making up one-fifth of all the cases. Family matters—inheritance, paternity, and other issues of family life and family property, such as divisions of marital property or alimony or child custody disputes following a divorce—amounted to a little over a quarter of all the cases.² A smaller group consisted of disputes over property boundaries and over the expropriation of property, in conjunction with the building of railways, which were not quite one-twelfth of the cases. All in all, these four groups made up almost 90 per cent

<table>
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<th>Type of case</th>
<th>%</th>
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<tr>
<td>Insurance</td>
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<td>Bankruptcy</td>
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<tr>
<td>Foreclosure</td>
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<td>Seizure</td>
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<tr>
<td>Personal injury</td>
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<td>30</td>
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<tr>
<td>Damages</td>
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<td>19</td>
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<tr>
<td>Competency</td>
<td>1.3</td>
<td>21</td>
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<tr>
<td>Tariffs and taxes</td>
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<td>9</td>
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<tr>
<td>Usage rights</td>
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<tr>
<td>Seigneurial obligations</td>
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<td>9</td>
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<tr>
<td>Slander</td>
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<tr>
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<tr>
<td><strong>Total</strong></td>
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<td>1,646</td>
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</table>

² Although there are cases dealing with the ramifications of a divorce, regrettably the files include no divorce cases as such.
of the cases. Other causes for civil dispute more prevalent in Common Law countries, such
as suits for compensation for property damages or personal injuries, were much less com-
mon. There were just thirty of the latter, two of which were filed on behalf of a horse.
Given the very erratic preservation of cases, the extent to which the material in the sample
accurately reflects the business of the nineteenth-century Palatine civil courts is not
entirely clear, but they do give some idea of what was taken up in them.

Coming from the cases to the parties in them, I have divided the parties into three
groups: plaintiffs, defendants, and others. The latter appeared in cases where there was no
formal dispute: petitioners for bankruptcy, for instance, or deceased individuals whose
estates were being appraised by court-appointed experts. There were more parties than
cases, because in some cases there was more than one plaintiff or defendant. Table A.3 gives
the breakdown of parties by gender and by religion. There is not much difference in the
extent to which men and women or Christians and Jews appeared in the courts in different
roles. About two-thirds of the parties were men and one-third women; about 90 per cent
Christians and 10 per cent Jews. Men were obviously over-represented in legal actions, as
were Jews, who made up only about 2 per cent of the Palatinate's population.³

It is also possible to produce figures about the litigants by social group. Here, the insecurities
and inexactitudes are clearly much greater than was the case in the breakdown by gender and
religion. I have divided the many occupational designations into five broader groups:

1. the upper classes, composed of nobles, army officers, estate owners, gentleman farmers,
rentiers, manufacturers, merchants, bankers, professionals, and state officials;
2. a commercial middle class of millers, innkeepers, retailers, agents, brokers, dealers,
and contractors;
3. a salaried middle class of clerks, foremen, and other salaried employees as well as
schoolteachers;

Table A.3. Parties by gender and by religion

<table>
<thead>
<tr>
<th></th>
<th>Plaintiffs</th>
<th></th>
<th>Defendants</th>
<th></th>
<th>Others</th>
<th></th>
<th>All parties</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
</tr>
<tr>
<td>Male</td>
<td>63</td>
<td>1,130</td>
<td>69</td>
<td>1,716</td>
<td>73</td>
<td>191</td>
<td>67</td>
<td>3,037</td>
</tr>
<tr>
<td>Female</td>
<td>37</td>
<td>664</td>
<td>30</td>
<td>750</td>
<td>26</td>
<td>67</td>
<td>32</td>
<td>1,481</td>
</tr>
<tr>
<td>Unknown</td>
<td>1</td>
<td>10</td>
<td>1</td>
<td>32</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>45</td>
</tr>
<tr>
<td>All</td>
<td>101</td>
<td>1,804</td>
<td>100</td>
<td>2,498</td>
<td>100</td>
<td>261</td>
<td>100</td>
<td>4,563</td>
</tr>
<tr>
<td>Christian</td>
<td>88</td>
<td>1,588</td>
<td>90</td>
<td>2,248</td>
<td>90</td>
<td>236</td>
<td>89</td>
<td>4,072</td>
</tr>
<tr>
<td>Jew</td>
<td>10</td>
<td>177</td>
<td>8</td>
<td>212</td>
<td>7</td>
<td>17</td>
<td>9</td>
<td>406</td>
</tr>
<tr>
<td>Unclear</td>
<td>2</td>
<td>39</td>
<td>2</td>
<td>38</td>
<td>3</td>
<td>8</td>
<td>2</td>
<td>85</td>
</tr>
<tr>
<td>All</td>
<td>100</td>
<td>1,804</td>
<td>100</td>
<td>2,498</td>
<td>100</td>
<td>261</td>
<td>100</td>
<td>4,563</td>
</tr>
</tbody>
</table>

³ Two points about these figures. First, when men were only parties because they were husbands,
whose wives could not take legal action without their consent, I have not included them as parties.
Including them would, obviously, have increased the percentage of litigants who were men. Second,
the distinction between Jews and Christians is based primarily on individuals' names, so there is some
margin for error. The 'unclear' figure represents individuals whose surnames and family names could
have been borne by either Jews or Christians.
4. a group of small producers and proprietors composed of peasants, artisans, teamsters, and Rhine boatmen;
5. a group of workers, composed of day labourers, servants, railway, factory, craft, and service workers;
6. finally, two residual categories: minors, and those with other, unknown, or no occupation.

Wives and widows have been categorized under their husbands’ occupations, unless they are listed as having separate ones.

There is plenty of overlap among these groups, and undoubtedly there were modest merchants and manufacturers closer to the commercial middle class, and innkeepers or dealers who were wealthy and affluent. As usual in German social classifications, it is hard to tell whether artisans were masters or journeymen, and I have only included among workers those specifically designated as journeymen or apprentices. To judge from the material in the cases, most of the artisans were probably property-owning master craftsmen, although in the Palatinate, where the guilds had been abolished at the beginning of the nineteenth century, the distinction between master and journeyman was not hard and fast (Table A.4). Parties in the cases came from all walks of life and represented a broad cross-section of nineteenth-century Palatine society. It is clear that the upper classes and, more generally, urbanites were over-represented among litigants, and the lower classes and the rural population were under-represented. Still, small producers and workers made up 44 per cent of litigants, and when we consider that these groups were probably strongly over-represented in the residual categories—children, parties with other occupations (such as travelling musicians), and those with no occupation or no designation—it seems likely that over half the parties appearing in court belonged to the lower strata of the population. Defendants were a bit more likely to be small producers than plaintiffs, while the opposite was true of the commercial middle strata, a state of affairs that reflects the role of the civil

Table A.4. Parties by social group

<table>
<thead>
<tr>
<th>Group</th>
<th>Plaintiffs</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td></td>
</tr>
<tr>
<td>Upper classes</td>
<td>19</td>
<td>341</td>
<td>17</td>
<td>417</td>
<td>17</td>
<td>45</td>
<td>18</td>
<td>803</td>
<td></td>
</tr>
<tr>
<td>Commercial Middle class</td>
<td>21</td>
<td>371</td>
<td>15</td>
<td>387</td>
<td>32</td>
<td>84</td>
<td>18</td>
<td>842</td>
<td></td>
</tr>
<tr>
<td>White collar Middle class</td>
<td>1</td>
<td>26</td>
<td>1</td>
<td>34</td>
<td>2</td>
<td>4</td>
<td>1</td>
<td>64</td>
<td></td>
</tr>
<tr>
<td>Small producers</td>
<td>32</td>
<td>581</td>
<td>40</td>
<td>994</td>
<td>30</td>
<td>79</td>
<td>36</td>
<td>1,654</td>
<td></td>
</tr>
<tr>
<td>Workers</td>
<td>10</td>
<td>179</td>
<td>7</td>
<td>184</td>
<td>7</td>
<td>18</td>
<td>8</td>
<td>381</td>
<td></td>
</tr>
<tr>
<td>Minors</td>
<td>7</td>
<td>134</td>
<td>10</td>
<td>253</td>
<td>0</td>
<td>0</td>
<td>8</td>
<td>387</td>
<td></td>
</tr>
<tr>
<td>Other, none, unknown</td>
<td>10</td>
<td>172</td>
<td>9</td>
<td>229</td>
<td>12</td>
<td>31</td>
<td>9</td>
<td>432</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>1,804</td>
<td>99</td>
<td>2,498</td>
<td>100</td>
<td>261</td>
<td>98</td>
<td>4,563</td>
<td></td>
</tr>
</tbody>
</table>

⁴ A contemporary observation on this point, Riehl, Die Pfälzer, 171.
courts in enforcing contracts and dealing with debt. Still, in a society of property owners, access to the civil courts was not just reserved for the elite.

A final point about court parties is that not all of them were individuals. Businesses, institutions, municipalities, and the Bavarian state appeared as parties in court cases. Table A.5 gives the role of these sorts of parties, who appeared in the records exclusively as plaintiffs or defendants. The civil courts were primarily for individuals, who outnumbered organizations as litigants by about fifteen to one. Corporations, as can be seen from the figures on railways and insurance companies, were noticeably more likely to be defendants in litigation than plaintiffs.

### A Note on Citation

All the files used in this work, at least when I consulted them, were completely unpaginated and unfoliated. Simply citing the file for a particular reference would be very inexact, in view of the considerable size of many of the files. To provide a better idea of the location of a citation, I have cited the record group, the file number, the specific procedure of the case from which the citation came, and the individual (if relevant) who was the author of the information. A typical citation: J6/1180, Zeugenverhör-Protocoll, 14 June 1875, testimony of the pensioned soldier Jacob Rettinger. This citation refers to the record group Landgericht Frankenthal (J6), file number 1180. It quotes a statement taken from the record of the testimony (Zeugenverhör-Protocoll) given on 14 June 1875 by one of the witnesses, namely the retired soldier Jacob Rettinger. Although cumbersome, this method of citation provides as precise a reference as is possible without being able to quote individual pages or folios. The mostly handwritten records can usually be deciphered, albeit often with some effort. Individual names, though, could be hard to make out with certainty. When I was not sure, I cited the name by putting it, followed by a question mark, in brackets.

### A Note on Currency and Money Values

From 1816 until 1875, the official currency in circulation in the Palatinate was the south German standard gulden (abbreviated fl.), divided into sixty kreuzer (xr.). The creation of

<table>
<thead>
<tr>
<th>Kind of organization</th>
<th>Plaintiffs</th>
<th></th>
<th>Defendants</th>
<th></th>
<th>All parties</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
<td>%</td>
<td>No.</td>
</tr>
<tr>
<td>Railways</td>
<td>15</td>
<td>20</td>
<td>31</td>
<td>48</td>
<td>24</td>
<td>68</td>
</tr>
<tr>
<td>Insurance companies</td>
<td>2</td>
<td>2</td>
<td>6</td>
<td>9</td>
<td>4</td>
<td>11</td>
</tr>
<tr>
<td>Other businesses</td>
<td>44</td>
<td>58</td>
<td>29</td>
<td>45</td>
<td>36</td>
<td>103</td>
</tr>
<tr>
<td>Institutions</td>
<td>8</td>
<td>11</td>
<td>6</td>
<td>9</td>
<td>7</td>
<td>20</td>
</tr>
<tr>
<td>Municipalities</td>
<td>21</td>
<td>27</td>
<td>17</td>
<td>26</td>
<td>18</td>
<td>53</td>
</tr>
<tr>
<td>Bavarian government</td>
<td>10</td>
<td>13</td>
<td>12</td>
<td>19</td>
<td>11</td>
<td>32</td>
</tr>
<tr>
<td>All</td>
<td>100</td>
<td>131</td>
<td>101</td>
<td>156</td>
<td>100</td>
<td>287</td>
</tr>
</tbody>
</table>
a united German nation-state brought with it a German central bank and a standard nationwide currency, the mark (mk.). Each mark was worth five-sevenths of a gulden. Before the creation of a national currency, Prussian money, the thaler, divided into thirty groschen, and each groschen into twelve pfennig, also circulated in the Palatinate. The thaler was converted into the all-German currency at the rate of one mark = one-third of a thaler, making a gulden seven-fifteenths of a thaler. French coins also circulated in the Palatinate. One gulden was worth two and one-seventh French francs. On the eve of the First World War, a regularly employed, male, urban unskilled labourer might have expected to earn something on the order of 800 to 1,000 marks per year, and somewhat less if employed in agriculture. In the first half of the nineteenth century, earnings for someone in a similar occupation would have been about one-third of what they were in the years before 1914.


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