

Ruling Germany and the Empire: the thirteenth century

Martin Kaufhold

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Transregnal Kingship in the Thirteenth Century

Editors

Jörg Peltzer and Nicholas Vincent

TRANSREGNAL KINGSHIP IN THE THIRTEENTH CENTURY

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TRANSREGNAL KINGSHIP
IN THE THIRTEENTH
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Edited by
JÖRG PELTZER AND NICHOLAS VINCENT

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Ruling Germany and the Empire: The Thirteenth Century

MARTIN KAUFHOLD

I

THE THIRTEENTH CENTURY proved a formative time for kingship, in Germany as in France and England. The rules of economic and religious life changed. Tales were told of Asian empires, warriors, and wonders. Trade, economy, and population expanded. Life in the greater cities became more complex, and the winds of change increased the demand by many people for an order providing security. Religious and political authorities claimed new visibility and attention. This was the century of Francis of Assisi, Thomas Aquinas, Pope Innocent III, and charismatic rulers such as Louis IX and Frederick II. Sophisticated theories competed for validity and the brightest minds.¹ It was a time when decisions were made that would shape the face of Western Europe for centuries to come. For kingship in Germany, it was a time when one era of European pretensions ended, and a new era began.

Traditional kingship in Germany, shaped for over two hundred years by a Roman-imperial perspective, was subjected to a reality test, which it then failed. Salian and Staufen kingship, which had claimed a dominant role in Italy, reached its

¹ For generalities, see *England and Europe in the Reign of Henry III (1216–1276)*, ed. B. Weiler and I. Rowlands (Aldershot, 2002); J. H. Mundy, *Europe in the High Middle Ages* (Harlow, 2000); *Medieval Europe in Motion, III: The Circulation of Jurists, Legal Manuscripts and Artistic, Cultural and Legal Practises in Medieval Europe (13th–15th centuries)*, ed. M. A. Bilotta (Palermo, 2021); *Europa 1215: Politik, Kultur und Literatur zur Zeit des IV. Laterankonzils*, ed. M. Camillo Ferrari, K. Herbers and C. Witthöft (Vienna, 2018); M. D. Jordan, *Ordering Wisdom: The Hierarchy of Philosophical Discourses in Aquinas* (Notre Dame, IN, 1986). For thirteenth-century German kingship, see W. Stürmer, *13. Jahrhundert (1198–1273)*, Gebhardt Handbuch der Deutschen Geschichte, 10th edn (Stuttgart, 2006); *Autorität und Akzeptanz. Das Reich im Europa des 13. Jahrhunderts*, ed. H. Seibert, W. Bomm, and V. Türck (Ostfildern, 2013); M. Kaufhold, *Deutsches Interregnum und europäische Politik. Konfliktlösungen und Entscheidungsstrukturen 1239–1280* (Hanover, 2000).

limit in the time of Frederick II.² In the face of new social forces, it remained wedded to older ideals and more traditional allies. Even amid this period of transition to the later Middle Ages, whenever they appeared in Germany, kings continued to focus their attention on what by 1200 were already powerful families and institutions. In doing so, they chose a path different to that taken by the kings of France or England. It is possible that the title ‘emperor’ played an important role here. Later German rulers frequently used the traditional title ‘rex Romanorum’, adding to it the adjective ‘augustus’ or ‘semper augustus’.³ The kings of the Salian and Staufen dynasties, by contrast, continued to look backwards to Rome and took the title ‘imperator’.

When Rudolf of Habsburg made a new start to kingship in Germany, in the last quarter of the thirteenth century, he focused entirely on Germany, never visiting Rome.⁴ This was in large part due to a rapid succession of short-lived popes, preventing negotiations for the imperial crown from reaching any clear conclusion, but it was also a consequence of Rudolf’s political priorities. As a king, Rudolf of Habsburg was not drawn to Rome. He strove with some success to establish a viable basis for his kingship in Germany, and this after a period of thirty or more years in which the Germans had only rarely seen their kings. In thirteenth-century Germany, reigns tended either to be brief, commanded by competing representatives of powerful families – Philip of Swabia (1198–1208), Otto IV (1198/1208–12) – or by long-lived emperors whose home was in southern Italy (Frederick II, 1212–50). Although Frederick’s two sons, Henry VII (1220–35) and Conrad IV (1237–54), in theory ruled Germany in his name, to neither of them did Frederick grant an independent royal role. There were the attempts to force Frederick and his family out of office by rival kings supported by the papacy: Henry Raspe (in 1245–46) and William of Holland (in 1246–56). There were the elections to the German throne of representatives of powerful European royal families from Castile and England: Alfonso X (1257–81) and Richard of Cornwall (1257–72). And finally there were the elections of German candidates from families without any traditional claim to kingship: Rudolf of Habsburg (1273–91), Adolf of Nassau (1292–98) and Albrecht I (1298–1308).⁵ Within a few years of one another, Germany first had an emperor who described his place of birth as ‘our Bethlehem’, who mapped out the future of his dynasty until the Last Day, and whom contemporaries called

² The king in Germany was never styled ‘rex Alemannie/Alemannorum’. He was instead ‘rex Romanorum’, underlining the close relationship between the titles of king and emperor. In what follows, I generally use ‘Germany’s king’ for sake of clarity. For kings in Germany, see *Die deutschen Herrscher des Mittelalters. Historische Portraits von Heinrich I. bis Maximilian I.*, ed. B. Schneidmüller and S. Weinfurter (Munich, 2003); J. Rogge, *Die deutschen Könige im Mittelalter. Wahl und Krönung* (Darmstadt, 2006); D. S. H. Abulafia, *Frederick II: A Medieval Emperor* (London, 1988).

³ *MGH Const. II*, pp. 30–6 nos. 26–30 (Otto IV).

⁴ For Rudolf of Habsburg, see K. F. Krieger, *Rudolf von Habsburg* (Darmstadt, 2003); *Rudolf von Habsburg (1273–1291). Eine Königsherrschaft zwischen Tradition und Wandel*, ed. E. Boshof and F.-R. Erkens (Cologne, 1993), esp. pp. 198–215 for Rudolf and the imperial title.

⁵ For the succession of the kings in Germany, see Rogge, *Die deutschen Könige*, pp. 112–15.

the ‘wonder of the world’ (‘stupor mundi’), established at home in the Sicilian sunshine, and then a king who, in a winter skirmish, sank into the ice of a Dutch swamp, was slain and secretly buried.⁶ The first was declared ‘Antichrist’ by the highest ecclesiastical authority; the second was derided by contemporaries as a papal puppet (‘creatura et alumnus papae’).⁷ The thirteenth century thus offers a broad spectrum of possibilities for German kingship. Very different models of rule were attempted, the majority without success. The future of transregal rule, of the capacity of kings to rule beyond the border of one single kingdom, remained very far from guaranteed.

II

Rule across frontiers posed special challenges. Different traditions of law and culture had to be respected. The German kings had to handle the enormous differences between Germany and Italy.⁸ The world of the Italian cities remained for the most part alien to the Staufen rulers, as did many aspects of those cities’ dynamic urban markets.⁹ Of course, kings could learn – if they were willing, and lived long enough. German kings of that period, however, made little attempt to do so. Over the century, Germany had no fewer than twelve rulers. This was an impressive number, significantly higher than the total of kings of England and France combined.¹⁰ The situation was not made easier by the fact that various of the German rulers sought to rule simultaneously with one another.

Eight out of the twelve German kings might be considered relevant to our wider search for transregal rule, albeit with clearly contrasting profiles. First the rivals, Philip of Swabia and Otto IV; then Frederick II, his sons Henry VII and Conrad IV;

⁶ For Frederick II (‘Bethlehem nostra’), see *Historia diplomatica Friderici Secundi*, ed. J.-L.-A. Huillard-Bréholles, 6 vols in 12 (Paris, 1852–61, reprinted 1963), v part i, p. 378; (‘Stupor mundi’) Paris, *Chronica Majora*, v, p. 196. For William of Holland, see *Jüngere Staufer 1198–1272. Die Regesten des Kaiserreichs unter Philipp, Otto IV, Friedrich I, Heinrich (VII), Heinrich Raspe, Wilhelm und Richard*, ed. J. H. Böhmer, J. Ficker, and E. Winkelmann (Innsbruck, 1881–1901), vol. 1 part ii, no. 5286b. For a more fantastical account of William’s death, see Paris, *Chronica Majora*, v, pp. 549–51.

⁷ For Frederick II as ‘proditionis filius, Antichristi similis et precursor’, see *Historia diplomatica Friderici Secundi*, vi part 1, p. 397. For ‘creatura papae’, see Paris, *Chronica Majora*, v, p. 551.

⁸ In this ‘transregal’ survey, I refer neither to Burgundy, which was still part of the empire, nor Arles. Burgundy played no significant role in German politics until after 1273. For Rudolf of Habsburg thereafter, see B. Resmini, *Das Arelat im Kräftefeld der französischen, englischen und angiovinischen Politik nach 1250 und das Einwirken Rudolfs von Habsburg* (Cologne, 1980).

⁹ For the Italian cities in the thirteenth century, see A. Poloni, ‘Italian Communal Cities and the Thirteenth-Century Commercial Revolution: Economic Change, Social Mobility, and Cultural Models’, in *Social Mobility in Medieval Italy (1100–1500)*, ed. S. Carocci and I. Lazzarini (Rome, 2018), pp. 353–72.

¹⁰ For overviews of the kings of France and England in these years, see J. Bradbury, *The Capetians: Kings of France, 987–1328* (London, 2007); *The Kings and Queens of England*, ed. W. M. Ormrod (Stroud, 2001).

then Frederick's later (and lightweight) opponent, William of Holland; and then the two 'foreigners', Alfonso and Richard. Yet the 'transregnal' qualifications of various of these eight rulers were slight or even non-existent. For Philip, Otto IV, and William of Holland, the combination of the German throne with a rule elsewhere proved decisive in winning or losing the German crown.¹¹ Transregnal issues had less effect on the actual course of their reigns. Philip of Swabia was not by birth a candidate for the German throne, being a younger son. His original destiny had been a career in the Church. He received the crown because the designated heir, young Frederick II, was absent from Germany when his father, King Henry VI, died.¹² Frederick was only four years old, and thus in no position to defend his claim against the self-confident opposition to the Staufens, coalescing around the archbishop of Cologne. So, Philip of Swabia, the younger brother of the late emperor, was elected king and then crowned by Staufens supporters. The opposition princes and great men who wanted to put an end to Staufens rule raised to the throne young Otto, from the Welf family, who was also supported by his uncle, the English king, Richard the Lionheart.¹³

Otto, count of Poitou and grandson of the English king Henry II, then emerged as principal candidate when Philip was assassinated by a Wittelsbach in 1208, following a family vendetta. But Otto's success was short-lived. He succumbed to the temptation to pursue independent imperial authority in Italy, ignoring his promise to Pope Innocent III that he would have no Italian ambitions of his own.¹⁴ Otto's reign lasted hardly long enough for him to gain proper recognition in either of his kingdoms. Likewise William of Holland, who as a young count was promoted by the pope and the German archbishops as an alternative to Frederick II, left barely a footprint in Germany itself. He died a chilling death in Friesland, having outlived the charismatic Staufer by only six years. His rule as king in Germany was undisputed, but did not last long. To be ruler in Germany he had first to consolidate his position in his homeland. Without undisputed rule in Holland, as a newcomer to the German throne he had little chance with the German princes, who by birth were of higher rank than their new king. In Holland, William failed in the winter of 1256,

¹¹ For the rule of Philip, Otto IV, and William of Holland, apart from titles already cited, see *Philipp von Schwaben: Beiträge der internationalen Tagung anlässlich seines 800. Todestages, Wien 29–30 Mai 2008*, ed. A. Rzhacek and R. Spreitzer (Vienna, 2010); *Philipp von Schwaben: ein Staufer im Kampf um die Königsherrschaft*, ed. K.-H. Rueß (Göppingen, 2008); P. Csendes, *Philipp von Schwaben. Ein Staufer im Kampf um die Macht* (Darmstadt, 2003); B.-U. Hucker, *Otto IV: der wiederentdeckte Kaiser; eine Biographie* (Frankfurt, 2003); I. Würth, *Regnum statt Interregnum: König Wilhelm, 1247–1256* (Wiesbaden, 2022).

¹² For a brief overview, see Stürner, *13. Jahrhundert*, pp. 156–62.

¹³ Stürner, *13. Jahrhundert*, pp. 159–60; Rogge, *Die deutschen Könige*, pp. 36–8, and see also M. Kaufhold, *Die Rhythmen politischer Reform im späten Mittelalter. Institutioneller Wandel in Deutschland, England und an der Kurie 1198–1400 im Vergleich* (Ostfildern, 2008), pp. 21–57.

¹⁴ For Otto, see Hucker, *Otto IV*, pp. 143–80. For the murder of Philip and Otto's brief reign, see Stürner, *13. Jahrhundert*, pp. 170–90; Csendes, *Philipp von Schwaben*, pp. 189–94.

with fatal consequences, dying in battle against the Frisians.¹⁵ His was not the last such story in the saga of thirteenth-century German kingship.

In all of these cases, transregnal reigns indeed proved fateful. But more fateful still was the attempt by Frederick II and his sons to extend their rule across more than one realm, as indeed was to prove the case for the later claimants, Alfonso and Richard.

III

Before we turn to the last of the Staufen rulers and the kingship of Richard of Cornwall and Alfonso X the Wise, we should ask what expectations the ruled may have had of their rulers. What did people in thirteenth-century Germany expect from their king? Moreover, did these expectations require the personal presence of the ruler among his subjects? At first glance, the answer seems clear. ‘Volumus personaliter iudicio publice presidere’: such was the promise made by the young King Henry VII to the German princes in 1234.¹⁶ For at least four days a month, he would personally judge the disputes brought before his court.¹⁷ His father, the emperor Frederick II, would have understood this. In the following year, Frederick wrote to the archbishop of Trier to explain that, since other public affairs had kept him away from Germany, he had left his son in Germany, ‘ut absente patre, presentiam filii debita honorificentia foueritis’: the son was to replace the absent father, and to receive whatever was due to him.¹⁸ Royal hopes here were disappointed when the son rebelled, seeking a role of his own. Bitterly, Frederick stated that: ‘Since this became known to us, we ... could not bear it patiently without taking upon ourselves the personal sacrifice of coming to Germany. But he (Henry) appeared before us, and we gave him fatherly reprimand. He had to make sworn assurance to us, following the advice of the princes who were themselves in attendance.’¹⁹ Here, Frederick’s idea of imperial order was at stake.²⁰ His son Henry, who owed him gratitude, had risen up against the rule of the emperor, against the very seat of justice. In the event, Frederick’s rule as king and emperor survived the crisis. Yet in recounting the subjugation of his rebellious son, the presence of the king, the presence of the defeated son, and the presence of the princes are each in turn specified.

¹⁵ For a new and more positive assessment of William of Holland, see Würth, *Regnum statt Interregnum*. For a more traditional view, see Kaufhold, ‘Die Könige des Interregnums’, in *Die deutschen Herrscher*, ed. Schneidmüller and Weinfurter, pp. 327–32.

¹⁶ *MGH Const. II*, pp. 428–9 no. 319, at p. 429 c.3.

¹⁷ Stürmer, *13. Jahrhundert*, pp. 238–41.

¹⁸ *MGH Const. II*, pp. 236–8 no. 193.

¹⁹ *MGH Const. II*, pp. 236–8 no. 193, esp. pp. 237 line 33–238 line 3 (‘laborem circa fines Alemannie veniendi’).

²⁰ B. Weiler, *Kingship, Rebellion and Political Culture: England and Germany, c. 1215–c. 1250* (Basingstoke, 2007), pp. 3–10; W. Stürmer, *Friedrich II. Teil 2: Der Kaiser 1220–1250* (Darmstadt, 2000), pp. 296–316; Abulafia, *Frederick II*, pp. 225–48.

It was thus, at least in the furious mind of Frederick II, the physical presence of the forces of order supplied by God that overcame the crisis of Staufen rule in 1234.

That the presence of the ruler was an ideal for royal rule had been stated by Frederick before this, in the great collection of laws for his kingdom of Sicily known as the ‘Constitutions of Melfi’. Here, in a significant paragraph on the so-called ‘defensa’ – more wishful thinking than a reflection of reality – the ‘Constitutions’ declare that a subject of Frederick might defend himself against an aggressor by invoking the name of the emperor. The aggressor, it was supposed, would then back off, knowing that the victim was now under imperial protection, and that any assault upon him might be severely punished.²¹ The ‘defensa’ applied to the kingdom of Sicily, but it was issued by Frederick under his title as emperor. So was the imperial ‘Peace of Mainz’, issued in 1235, to set a base-line for the handling of important legal issues in the various German lands.²² For contemporaries it was less clear than it seems to have become for modern historians to know in which particular role Frederick was acting. As a ruler, he wished to be present for his subjects. Over the many decades of Staufen kingship, the ideal ruler was a present ruler. Similar ideals also applied to Richard of Cornwall and Alfonso of Castile.²³ The strong king was the present king, as Alfonso of Castile clearly stated in a letter in October 1259 when he announced that he would visit the realm ‘powerfully and with a strong arm’.²⁴ The strong king was a present king: from the king’s own lips, this seems clear. But was it an ideal regularly realised? And was royal ‘presence’ achievable through means other than the king’s personal attendance at events?

King Alfonso boasted of being about to make an imminent and impressive appearance, but then never came to the empire. Nor did he visit Rome to receive the imperial crown. Nevertheless, he held on to his title as Roman-German king for many years.²⁵ Richard of Cornwall visited his German kingdom on four occasions: for an extended stay of over a year after his coronation, and then three more times for a few months each. During his fourteen years as German king, Richard spent less than three years in Germany.²⁶ Thus his kingdom had to do without his presence for roughly three-quarters of his reign. This corresponded more or less to

²¹ *Die Konstitutionen Friedrichs II. für das Königreich Sizilien*, ed. W. Stürner, *MGH Const. II*, Supplementum (Hanover, 1996), pp. 165–72 nos. I.16–19.

²² *MGH Const. II*, pp. 241–7 no. 196. For Frederick’s personal rule in Sicily, see Stürner, *Friedrich II. Teil 2*, pp. 201–10 (Frederick II as legislator); Abulafia, *Frederick II*, pp. 202–25.

²³ I. Schwab, ‘Richard von Cornwall und Alfons von Kastilien: Parallelen und Differenzen ihres Königtums’, in *Richard von Cornwall: römisch-deutsches Königtum in nachstaufischer Zeit*, ed. A. Neugebauer (Kaiserslautern, 2010), pp. 117–40.

²⁴ *Die Urkunden Alfons’ von Kastilien*, ed. I. Schwab and A. Gawlik, *MGH DD 19.1* (Wiesbaden, 2016), pp. 67–8 no. 35: ‘et tunc in adventu eorundem proponimus partes imperii Romani potenti et virtuoso brachio visitare’. For Alfonso as German king, see Kaufhold, ‘Die Könige des Interregnums’, in *Die deutschen Herrscher*, ed. Schneidmüller and Weinfurter, pp. 332–5.

²⁵ *Jüngere Staufer 1198–1272*, ed. Böhmer *et al.*, vol. 1 part ii, nos. 5527–8, and see also B. Roberg, ‘Die Abdankung Alfons’ X. als deutscher König’, *Historisches Jahrbuch*, 84 (1964), 334–51.

²⁶ Stürner, *13. Jahrhundert*, pp. 302–5.

the record in Germany of the last Staufen emperor, Frederick II. During the thirty-eight years of Frederick's reign, he was in Germany for a little more than nine years, and thus absent for just under twenty-seven years.²⁷ Indeed, given medieval communications, roads, and speed of travel, royal presence was much promised, but rarely achieved. How great were the problems thus posed, either to the ruler or the ruled?

Here as in other cases, Goethe helps us towards an answer. 'I like to see him sometimes and take care not to fall out with him', he has the Devil say in *Faust's* Prologue in Heaven, here with reference to God, the highest authority of all.²⁸ With regard to their king, many German princes might have thought likewise. They were conscious of their position as powerful members of the empire. This position meant much to them, and they had it confirmed by the emperor in a series of famous privileges. In 1235, they required the personal presence of the emperor to discipline a son whose government displeased them. But how much did they need the emperor to settle their own concerns? For the most part, such concerns involved family matters at issue between the princes themselves. In the letter just quoted, on the deposition of his rebellious son, Emperor Frederick describes the princes as 'membra imperii nostri', the limbs of our empire.²⁹ For a functioning body, it was necessary that there be suitable distance between head and arms, hands and feet, brain and stomach. Without such distance, the body itself could neither move nor function.

So for successful royal rule in Germany, both rulers and ruled depended on there being a correct distancing of the king from events and from actors. If the king were too far away from the action, he risked losing his grip, but if he were too close, he might himself be endangered. 'He who puts himself in danger perishes by it': so declares scripture (Ecclesiastes 3:27). Of the twelve German kings across our period, five died unnatural, mostly violent deaths. It could be dangerous to ripple the surface of the pond in which the powerful imperial princes swam. In 1254, the annals of Stade report that 'a serious dispute arose between King William and the archbishop of Cologne in Neuss, because the archbishop set a strong fire in the house where the legate was with the king, with which he wanted to suffocate them both, so that they barely escaped'.³⁰ The archbishop apparently did not fear the consequences of such an attack on king and cardinal. Frederick II was perhaps therefore wise to distance himself from the places where his fate as ruler was decided: from the Battle of Bouvines (1214), for instance, which early on secured his rule, or from the Council of Lyon (1245), at which the pope declared him deposed.³¹ Frederick

²⁷ For a detailed account of Frederick's rule, with the relevant chronology, see Stürmer, *13. Jahrhundert*, pp. 190–285.

²⁸ Johann Wolfgang Goethe, *Faust Part One: A New Translation*, trans. David Luke (Oxford, 2008), p. 12.

²⁹ *MGH Const. II*, pp. 236–8 no. 193, at p. 237 line 4.

³⁰ 'Annales Stadenses', ed. I. M. Lappenberg, in *MGH SS 16* (Hanover, 1859), p. 373 lines 38–9.

³¹ For Bouvines, see G. Duby, *Le Dimanche de Bouvines: 27 juillet 1214* (Paris, 1997). For the Council of Lyon, see Abulafia, *Frederick II*, pp. 366–80.

preferred a higher vantage point, reserving a presence for himself in law, as we have seen, but only seldom in the flesh. Frederick II, let it be noted, despite his many enemies, died a natural death, by no means old but of disease rather than by violence.

The right distance was therefore a significant element in successful government. The powerful families of the realm must bear the king in mind when they dealt with matters affecting the realm. However, the king did not necessarily have to be present for such dealings. The central question remained, how closely could and should the king be involved in the decisions made by the powerful? Germany was a kingdom without a capital. Thus, the royal court had no fixed location, even when the king was north of the Alps and east of the Rhine (itself, as we have seen, a relatively rare occurrence). In the over sixty years marked by royal absenteeism between 1212 and 1273, the king was in Germany for only a dozen years.³² There were basically two ways of maintaining order in a kingdom that accepted a king who was frequently absent. One was to delegate rule to local officials, as the kings of England and France did with sheriffs and stewards, *baillis* and *senéchaux*.³³ The other was to leave the maintenance of order to the ecclesiastical or secular authorities in whose territory action was required, hoping that these powerful players would respect the general interests of the realm, to a greater or lesser extent. In the affairs of thirteenth-century German, both alternatives were tried.

IV

‘The governance of the empire and the business of the various lands and territories demand detailed care.’ Thus Frederick II initiated a provision of the imperial Land Peace of Mainz in 1235, to supply justice in his absence: ‘That the cases of the plaintiffs in which we cannot ourselves preside shall be decided by a man of proven fidelity and noble reputation, who shall preside over the court in our stead.’³⁴ The appointment of such a justiciar by Frederick II in 1235 is considered a landmark in the history of the royal court of Germany, although its effects were initially very modest.³⁵ Such modesty was inevitable since, despite its high tone, the imperial measure stipulated that all important cases, in practice meaning all complaints by

³² For a brief overview from 1212 to 1273, see the articles in *Die deutschen Herrscher*, ed. Schneidmüller and Weinfurter, pp. 272–339, 583–7.

³³ For France, see J. W. Baldwin, *The Government of Philip Augustus: Foundations of French Royal Power in the Middle Ages* (Berkeley, CA, and Oxford, 1986), pp. 137–75. For England, M. T. Clanchy, *England and its Rulers, 1066–1307*, 3rd edn (Oxford, 2006), pp. 105–7, 178–82.

³⁴ *MGH Const. II*, pp. 241–7 no. 196, at pp. 246–7 (c. 28): ‘querelancium causas, quibus personaliter presidere non possumus, per virum probate fidei, opinionis honeste, prepositum iudiciis loco nostri volumus terminari’.

³⁵ For the king’s court of justice, see for example *Urkundenregesten zur Tätigkeit des Deutschen Königs- und Hofgerichts bis 1451*, ed. B. Diestelkamp: Vol. 1: *Die Zeit von Konrad I. bis Heinrich VI. 911–1197* (Cologne and Vienna, 1981), pp. vii–xxxvii; Vol. 2: *Die Zeit von Philipp von Schwaben bis Richard von Cornwall 1198–1272* (Weimar and Vienna, 1994); O. Franklin, *Das Reichshofgericht*

the princes of the empire, had to be heard before the emperor or king in person. This regulation remained in force even after the end of Staufen rule. The actual number of judgments delivered in the imperial court over what was left of the thirteenth century remained entirely manageable.³⁶ The solemn words with which King Albrecht I commissioned the king of Bohemia to protect the Mark of Meissen in his name, at the end of the century, did not hide the fact that the German king had hardly any lordly ambitions in those regions.³⁷ The king of Bohemia could govern and defend Meissen *better* ('*melius*'), even though Albrecht was aware that the ruler of Bohemia himself might be preoccupied with other concerns.

To compare such a ruling by the German king at the end of the thirteenth century with the unconditional determination of the French king, Louis IX, in his great reforming ordonnance of the 1250s, reveals striking dissimilarities. The intensity of the French royal grip on the realm of France is clearly spelled out. King Louis demanded of his officials at all levels an unconditional commitment to serve justice and protect his subjects from wrongdoing.³⁸ At an entirely abstract level, such ideas are echoed in various of the commands issued by Frederick II. But as the fountainhead of royal law, the last of the Staufen remained largely aloof from the day-to-day messiness of imposing justice. From his Sicilian eyrie, Frederick only rarely flew down to tend to the needs of his subjects in Germany. Richard of Cornwall delegated many of the labours of kingship, for instance, to the archbishop of Cologne.³⁹ Such delegation transferred royal authority to actors of merely princely rank, albeit their power was already great, and thereby was only strengthened. Moreover, delegation did nothing to create any effective apparatus of courts or judicial assemblies. It merely employed existing power structures and their various actors. As a result, royal justice remained dependent on princely cooperation, which an archbishop of Cologne or Mainz could easily deny to a king of Germany from Cornwall or Castile.

This remained true of royal rule, in nearly all the parts of Germany where the king lacked a personal or family power base. In most such places, the king's strong

im Mittelalter, vols 1 and 2 (Weimar, 1867–69); H. Wohlgenuth, *Das Urkundenwesen des deutschen Reichshofgerichts 1273–1378. Eine kanzleigeschichtliche Studie* (Cologne, 1973); P. Moraw, 'Zum königlichen Hofgericht im Spätmittelalter', *Zeitschrift für die Geschichte des Oberrheins*, 121 (n.s. 82) (1973), 307–17; U. Rödel, *Königliche Gerichtsbarkeit und Streitfälle der Fürsten des Reiches 1250–1317* (Cologne, 1979); B. Diestelkamp, *Reich und Gericht im Heiligen Römischen Reich* (Frankfurt am Main, 1999).

³⁶ For an overview, see the introduction to *Urkundenregesten zur Tätigkeit des Deutschen Königs- und Hofgerichts bis 1451*, Diestelkamp, vol. 1, pp. ix–xxxiv.

³⁷ *MGH Const. IV.1*, pp. 16–17 nos 18–20.

³⁸ *RHF*, xx, pp. 392–8, esp. p. 396: 'Ne vero baillivi nostri vel inferiores officiales contra justitiam subditos nostros gravent.' See also W. C. Jordan, *Louis IX and the Challenge of the Crusade: A Study in Rulership* (Princeton, 1979), pp. 158ff.

³⁹ For Richard of Cornwall and the archbishop of Cologne, see J. P. Huffman, 'Mitravit me et ego eum coronabo: The Archbishop of Cologne and Richard of Cornwall. An Interregional Perspective on *Regnum* and *Sacerdotium* in the Thirteenth Century', in *Medieval Germany: Associations and Delineations*, ed. N. Van Deusen (Ottawa, 2000), pp. 71–92.

arm functioned only through the willing (or unwilling) fingers of his princes and counts. The irony here is that royal justice itself retained a high reputation. In part this reflected ancient tradition: a tradition in which justice had not always been done, but in which the king's subjects knew few alternatives to the king himself as a potential source of equity. As long as general conditions in the empire remained tolerably stable, royal justice went unquestioned. In general, it took the form of conflict resolution, widespread during the decades of royal absenteeism.

V

In September 1250 the archbishop of Cologne concluded a treaty of friendship with one of his neighbours and rivals, the count of Jülich.⁴⁰ Even among friends, disagreements could arise, and this particular neighbourhood had already witnessed many disputes. In the event of future conflict, the archbishop and count declared, 'si aliquam contigerit suboriri discordiam vel questionem', then a court of arbitration would be established, in which two panels, of three men each, would seek resolution. If this did not succeed, a seventh arbiter would be called upon to make the final decision.

Here we find a process of conflict resolution involving one of the highest (ecclesiastical) princes of the empire. The parties sought justice ('iusticia') with no mention of any king. This was hardly surprising, since the archbishop at that time was an opponent of the Staufens Frederick II and his son Conrad IV.⁴¹ Under more normal circumstances, an archbishop would be expected to bring his complaints in person before the king's court. In 1250, two months before Frederick II's death, Archbishop Conrad of Cologne and the count of Jülich chose a different pathway to justice: one that was already by no means unique to Germany, but widely used across thirteenth-century Christendom. In Anglophone scholarship, dispute resolution has long been a significant focus of attention. However, the focus there has been chiefly 'early' rather than 'high' medieval.⁴² This despite the fact that arbitration procedures remained a crucial feature of political society, long into the thirteenth century and beyond.

⁴⁰ *Urkundenbuch für die Geschichte des Niederrheins*, ed. T. J. Lacomblet, 2 vols (Düsseldorf, 1840–46), ii, p. 191 no. 361. For the circumstances, see Kaufhold, *Deutsches Interregnum*, pp. 272ff.

⁴¹ For the archbishop of Cologne and Frederick II, see M. Kaufhold, *Interregnum*, 2nd edn (Darmstadt, 2007), pp. 252–6; S. Schätzle, 'Papstreue oder Königsverräter? König Konrad IV und die beiden Erzbischöfe Siegfried von Mainz und Konrad von Köln', in *Konrad IV (1228–1254): Deutschlands letzter Stauferkönig*, ed. K.-H. Rueß (Göppingen, 2012), pp. 49–70; M. Groten, 'Miravit me, et ego eum coronabo: Konrad von Hochstaden und die Wahl Richards von Cornwall', in *Richard von Cornwall*, ed. Neugebauer, pp. 25–54.

⁴² As in the work of the so-called 'Bucknell group', including the classic collection of essays edited by W. Davies and P. Fouracre, *The Settlement of Disputes in Early Medieval Europe* (Cambridge, 1986), carried forward to the twelfth century by C. Wickham, *Courts and Conflict in Twelfth-Century Tuscany* (Oxford, 2003).

After 1258, the English king Henry III had been obliged to permit baronial oversight of royal decision-making. The end of Staufeu rule a few years earlier had created new opportunities for the Plantagenets. Henry's brother, Richard of Cornwall, had been elected king of Germany, and Henry's younger son, Edmund, was briefly appointed king of Sicily.⁴³ Both these promotions met with opposition from the barons of England, who feared that it was they who would bear the chief financial burden. The outcome, in the consequent Provisions of Oxford and Westminster, was to place the crown itself under a degree of baronial control.⁴⁴

Politics in England during these years were dominated by mistrust and mutual recriminations between king and barons. At the same time, the English king was negotiating with Louis IX over the future status of his family's lands in the kingdom of France. Both the situation and the interests of the parties involved were complex. There was no immediately acceptable superior power that could settle disputes between the king and his barons, albeit that in due course both the pope and Louis IX were to be called in as referees. In this situation, 'unde ortum est schisma inter ipsum [Henricum] et proceres', with violence a constant threat, the king and the barons sought arbitration: 'tandem post multas altercationes compromiserunt in arbitros', as the chronicler Thomas Wykes reports of 1261.⁴⁵ Initial attempts having failed, the disputants tried again, this time with each side providing three 'arbitri'.⁴⁶ Should their deliberations fail, then Germany's king was to be called upon as seventh arbiter. If that too failed, Louis of France was to serve as eighth and final judge. In the event, mediation could not resolve the conflict, or prevent what spiralled into full-scale civil war against the king. Mediation by arbiters was not always the king's path, but in England, for a while at least, it was chosen as the way of kings. Just so elsewhere, and in particular in Germany. Indeed, we must question whether the barons of England in 1261 were themselves aware, perhaps via King Richard, of what, a decade earlier, had been attempted at Cologne. Arbitration offered a means to find tolerable solutions and to avoid the violence of the battlefield, itself invariably a dangerous throw of the dice. In the

⁴³ For the Sicilian business, see B. K. Weiler, 'Henry III and the Sicilian Business: A Reinterpretation', *Historical Research*, 74 (2001), 127–50; Kaufhold, *Deutsches Interregnum*, pp. 48–56; H. Marc-Bonnet, 'Richard de Couraille et la Couronne de Sicile', in *Mélanges d'histoire du Moyen Âge dédiés à la mémoire de Louis Halphen* (Paris, 1951), pp. 483–9; F. M. Powicke, *Henry III and the Lord Edward*, 2 vols (Oxford, 1947), i, pp. 343–409.

⁴⁴ For the Provisions of Oxford, see *Documents of the Baronial Movement of Reform and Rebellion 1258–1267*, ed. R. F. Treharne and I. J. Sanders (Oxford, 1973), no. 5. The volume contains a selection of the more important sources for the baronial rebellion, for which more generally, see *Baronial Reform and Revolution in England, 1258–1267*, ed. A. Jobson (Woodbridge, 2016); D. A. Carpenter, *Henry III*, 2 vols (New Haven, CT, 2020–23), i, pp. 675–99; D. A. Carpenter, 'What Happened in 1258?', in *War and Government in the Middle Ages: Essays in Honour of J. O. Prestwich*, ed. J. B. Gillingham and J. C. Holt (Woodbridge, 1984), pp. 106–19; R. F. Treharne, *The Baronial Plan of Reform, 1258–1263* (Manchester, 1932).

⁴⁵ *Annales Monastici*, ed. H. R. Luard, 5 vols, Rolls Series 36 (London, 1864–69), iv (Thomas Wykes), p. 125.

⁴⁶ *Annales Monastici*, iv (Osenev), pp. 128–9.

event, the English barons were obliged to resort to arms, and the killing fields of Lewes (1264) and Evesham (1265). Clear and powerful resolutions such as these could prove fatal for one side or the other. And as the case of Simon de Montfort proves only too clearly, no manner of cause or conviction could guarantee the life of the losing side. Likewise in Germany, courts of arbitration were by no means always successful. In Germany, too, not only was the throne something for which men were prepared to fight, but the very highest might perish on the battlefield.

Indeed, as well as obvious contrasts, remarkable similarities can be observed between the elite politics of Germany and England, as here after 1258. In many such conflicts there were powerful actors with mutually irresolvable interests. Moreover, there existed no superior authority, no ‘vis coactiva’, by which the parties could be compelled to settle, short of trial by battle. Most often, it became a matter of saving face, generally by the intervention of respectable mediators. Even in England, with its powerful and long-established royal judicial machinery, it was found necessary to appeal to outside mediation, as after 1261 by the kings of Germany and France, neither of whom, in the event, proved capable of breaking the deadlock. In his communications with the princes in Germany, Frederick II had employed sonorous words to emphasise their special role in the ruling order of the empire. Such figures attached great importance to the recognition of their imperial standing, to what we can only term their ‘rank’.⁴⁷ Within this elite but sensitive milieu, arbitration served as an appropriate means by which to seek justice tolerable to all. Adam Marsh, Franciscan friar and one-time correspondent of the great bishop of Lincoln, Robert Grosseteste, clearly formulated the advantages of such procedures: ‘Confirmator virtus, honorabilior compositio pacificat.’⁴⁸ For all longer-lasting resolutions in German politics, it remained essential to guarantee princely rather than royal involvement.

The use of the ‘compositio amicabile’ in dispute resolution was by no means restricted to the aristocratic elite. We find precisely these procedures in use by towns and cities. Moreover, our sources reveal the wider stage upon which the individual actors moved. Collectively, they knew which procedures might work, and which were certain to fail.⁴⁹ The moves they made demonstrate their familiarity with the realities, not merely the theory of medieval law-making. The town of

⁴⁷ For the importance of rank with the princely milieu, see the project directed by Jörg Peltzer, as in *Rank and Order: The Formation of Aristocratic Elites in Western and Central Europe, 500–1500*, ed. J. Peltzer (Ostfildern, 2015); J. Peltzer, *Der Rang der Pfalzgrafen bei Rhein: Die Gestaltung der politisch-sozialen Ordnung des Reichs im 13. und 14. Jahrhundert* (Ostfildern, 2013); J. Peltzer, ‘Rang und Performanz: Die Signifikanz des Tuns und Lassens für den eigenen Rang’, in *Die Performanz der Mächtigen: Rangordnung und Idoneität in höfischen Gesellschaften des späten Mittelalters*, ed. K. Oschema, C. Andenna, G. Melville, and J. Peltzer (Ostfildern, 2015), pp. 55–72.

⁴⁸ ‘Adae de Marisco Epistolae’, in *Monumenta Franciscana*, ed. J. S. Brewer and R. Howlett, 2 vols, Rolls Series 4 (London, 1858), i, p. 168 no. 59; *The Letters of Adam Marsh*, ed. C. H. Lawrence, 2 vols (Oxford, 2006–10), i, p. 156 no. 58.

⁴⁹ For the Wetzlar case, see *Urkundenbuch der Stadt Wetzlar*, ed. E. Weise, vol. 1 (Marburg, 1911), no. 192; Kaufhold, *Deutsches Interregnum*, pp. 341–4.

Wetzlar, for example, where the resolution between Cologne and Jülich was hammered out, was a medium-sized settlement within the wider orbit of Frankfurt.⁵⁰ In the thirteenth century, this region, the so-called Wetterau, was one of the few parts of Germany where kings might personally appear and act.⁵¹ Wetzlar had adopted a reserved approach to Richard of Cornwall. Its citizens gave their oath of allegiance only on condition that Richard's kingship was not rejected by the pope.⁵² In the event, and given the pope's lukewarm acceptance of Richard as king, the provost of the collegiate church of St Mary, Wetzlar, Arnold, became protonotary in Richard's German royal chancery. Arnold accompanied King Richard to the negotiations for the Peace of Paris in 1259. He travelled to Rome as Richard's envoy, and he also joined the king on his return to England, amid the political storms now raging. In 1264, Arnold was a witness to the Mise of Amiens, in which Louis IX, as mediator, attempted unsuccessfully to resolve the strife between barons and king.⁵³ The provost of Wetzlar was with Germany's king on almost all the chief occasions of Richard's troubled reign. When, during Richard's later years, the dean and chapter of St Mary's on one side and the citizens of Wetzlar and their priest on the other became entangled in a dispute ('*gravis verteretur materia questionis*'), they agreed to resolve their differences by arbitration.⁵⁴ Each side was to send three representatives to the arbitrating tribunal, so that six '*arbitri*' would settle matters. Since the issues at stake were so serious, and given human weakness ('*Quoniam vero homines sunt ad dissentiendum faciles ...*'), it was nonetheless conceivable that the arbitrators would fail to agree a solution. In such case, it was agreed that a seventh arbitrator should be invoked, whose determination was to be considered binding. In other words, neither side was to have the final say. Yet who was to oversee the ultimate overseer? For this, a sovereign power, most obviously a king, was required. Such was the opinion of many contemporaries, and such indeed was the attitude adopted in the *Siete partidas*, the legal codex that King Alfonso X, Richard of Cornwall's rival for the throne of Germany, sought to impose upon his kingdom of Castile.⁵⁵ A king exercised power. And power, according to Max Weber's classic definition, is the assertion of 'one's own will within a social relationship, even

⁵⁰ For the town of Wetzlar, see H. Hahn, *Untersuchungen zur Geschichte der Reichsstadt Wetzlar im Mittelalter* (Darmstadt, 1984).

⁵¹ See K. P. Decker and D. Wolf, *Terra Imperii: Wetterau und Vogelsberg. Stätten einer Königslandschaft aus staufischer Zeit* (Friedberg, 2001).

⁵² *Urkundenbuch zur Geschichte der Mittelrheinischen Territorien*, vol. 3 (1212–1260), ed. L. Eltester and A. Goerz (Koblenz, 1874), no. 1416.

⁵³ For the sources for Arnold's service to the king, see Kaufhold, *Deutsches Interregnum*, pp. 342–4. For Arnold and the Mise of Amiens, see *Royal and Other Historical Letters Illustrative of the Reign of Henry III*, ed. W. W. Shirley, 2 vols, Rolls Series 27 (London, 1862–66), ii, no. 609. For the conflict between Henry III and the English barons see above nn.43–44.

⁵⁴ *Urkundenbuch der Stadt Wetzlar*, ed. Weise, i, no. 192.

⁵⁵ *Las Siete Partidas des Rey Alfonso el Sabio*, ed. Real Academia de Historia (Madrid, Real Academia de Historia, 1807), ii, p. 9.

against opposition'.⁵⁶ It was at this point that the concept of arbitration by majority vote collided with the realities of royal power.

VI

Alfonso was Richard's rival for the German throne, and in that dispute, also, opinions differed as to who was the rightful king. There was no accepted authority to settle this question, not even the papacy, itself changing hands at this time with bewildering rapidity, and in practice accepted by neither side as unchallengeable judge. The rivals did not meet on the battlefield, as other opponents for the German throne were sometimes to do. In the longer term, due election process supplied the only route to legitimate German kingship, short of violence. Yet even here, what particular procedure was to be adopted, and under what ultimate oversight? In 1356, events in Germany finally led to the establishment of an agreed electoral college, consisting of seven 'electors' choosing a king by simple majority.⁵⁷ Seven electors promised a firm decision: a final resolution to the question of electoral sovereignty.⁵⁸ Meanwhile, the arbitration procedures of the thirteenth century remained predicated on the ultimate vote of only one 'arbiter of arbiters': a resort to pseudo-royal means of dispute resolution that disputants were often keen to adopt, as indeed was true at Wetzlar in the case described.

Even so, there were limits to the effectiveness of such procedures, even when the parties involved explicitly invoked the power of a king. One such case involves the Rhenish town league of 1254, of which Wetzlar had been a founding member.⁵⁹ The league involved a union of towns and powerful lords along the Rhine, from Lake Constance to the North Sea. It was intended to secure order in a time of weak royal power: 'quasi destitute regia defensione', because King William, at war with the countess of Flanders and the Frisians, was incapable of offering protection. The towns combined into a union ('societas'), thereby achieving a hitherto unknown peace ('pacem ... optimam et hactenus inauditam'), as Abbot Hermann of Niederaltaich reported, specifically comparing this confederation to the earlier Lombard League.⁶⁰ The confederates then invited the king's justiciar to

⁵⁶ M. Weber, *Wirtschaft und Gesellschaft. Grundriss der verstehenden Soziologie*, 5th edn (Tübingen, 1985), p. 28.

⁵⁷ For the election of the German king, finally regulated by the so-called 'Golden Bull', see W. D. Fritz and E. Müller-Mertens, *Die Goldene Bulle: Das Reichsgesetz Kaiser Karls IV. vom Jahre 1356* (Weimar, 1978).

⁵⁸ For a brief overview with additional literature, see Kaufhold, *Deutsches Interregnum*, pp. 458–78.

⁵⁹ For the sources for the short-lived Union of Rhenian Towns (1254), see *MGH Const. II*, pp. 474–5 no. 371, pp. 477–8 no. 375, pp. 579–96 nos. 428–37. See also G. Bönnen, 'Der Rheinische Bund von 1254/1256: Voraussetzungen, Wirkungsweisen, Nachleben', in *Städtebünde – Städtetage im Wandel der Geschichte*, ed. F. Felten (Stuttgart, 2006), pp. 13–36; Kaufhold, *Deutsches Interregnum*, pp. 168–215.

⁶⁰ 'Hermanni Altahensis Annales', ed. P. Jaffé, in *MGH SS 17* (Hanover, 1859), p. 397, lines 16–23.

their meeting, asking King William to confirm their statutes.⁶¹ When the king died six months later, in battle against the Frisians, the league urged the royal electors to reach a unanimous choice of successor.⁶² Should the princes instead elect two or more rival candidates ('si in discordia plures electi fuerint'), the league threatened to cease supplying the electors with either food or support.⁶³ Whoever violated this decision was to be considered an enemy of state, an 'inimicus publicus'.⁶⁴

This was supposed to signal firmness, yet fine words here lacked any real hope of enforcement. When the princes finally voted, 'in discordia', electing both Richard of Cornwall and Alfonso of Castile as kings, the Union of Rhenish Towns simply dissolved.⁶⁵ This outcome was hardly surprising, given how the league reached its decisions. For it had no strong leadership, nor had it set up arbitration procedures to establish a majority capable of decision-making.⁶⁶ Although in theory combined, each member retained the option to go its own way.⁶⁷ Thus, this Rhenish alliance offered no real substitute for a regulatory power. Nor was it capable of withstanding even the weakest of kingships exercised by Richard and Alfonso. Such was the situation when Richard and Alfonso were elected kings in Germany. Only after Richard's death, in 1272, do we begin to see signs of change. In the summer of 1273, the German princes, set to elect a king, concluded various treaties. In these, decision-making in the event of stalemate was expressly entrusted to a mediator.⁶⁸ Thus the electors finally generated a consensus sufficient to ensure the election of Rudolf of Habsburg as sole German king.⁶⁹

The path to justice through arbitration ('compositio amicabile') was necessarily a path involving negotiation between adversaries.⁷⁰ It threatened to be long and laborious, but in the end it ensured a balance of power in Germany. It was a path towards justice that for the most part disposed of any need for kings. Even so, it could consider the interests of kings and the empire when necessary. Calm and stasis underpinned the king's government, even if he himself had no decisive part in creating such conditions. It made sense, nonetheless, to adapt the loud lordly rhetoric of the Staufens to these new realities. Rudolf of Habsburg's popularism was likewise tailored to the requirements of justice and security amid a time of change.

⁶¹ *MGH Const. II*, p. 592 no. 432.

⁶² *MGH Const. II*, pp. 593–4 no. 434 (c. 3).

⁶³ *MGH Const. II*, pp. 593–4 no. 434 (c. 4).

⁶⁴ *MGH Const. II*, pp. 593–4 no. 434 (c. 5).

⁶⁵ Kaufhold, *Deutsches Interregnum*, pp. 187–215.

⁶⁶ For this question, see Kaufhold, *Deutsches Interregnum*, pp. 191–9.

⁶⁷ *MGH Const. II*, p. 590 no. 428 part i.

⁶⁸ *MGH Const. III*, pp. 7–12 nos. 1–6, esp. p. 10 no. 4 (c. 2): 'Si vero predicti quatuor arbitri cum mediatore predicto nos per amorem non poterunt concordare, extunc pars, cui Wildegravius predictus in dicendo et pronunciando iure adhererit, prevalebit et tam nos quam predictus dux consanguineus noster pronunciacionem eiusdem partis inviolabiliter tenebimur observare.'

⁶⁹ See Krieger, *Rudolf von Habsburg*, pp. 89–102; Rogge, *Die deutschen Könige*, pp. 52–3; Kaufhold, *Deutsches Interregnum*, pp. 433–57.

⁷⁰ For further discussion of such 'compositiones', see the chapter in this volume by Barbara Bombi.

VII

Even as the tectonic plates of society shifted beneath them, kings and kingship remained significant. In Germany, kings for the most part remained excluded, or absented themselves, from the politics of the elite. To this extent, comparisons might be drawn between the elite politics of thirteenth-century Germany and the supposedly ‘anarchic’ or ‘destabilised’ circumstances of England at times of crisis: in the 1050s, for instance, or again under King Stephen, or again in the later years of King John’s reign, when agreements and coalitions negotiated between earls and other major barons, with little or no reference to royal authority, had signalled the breakdown of ‘normal’ cohabitation between ruler and ruled.⁷¹ Even so, circumstances differed between England and Germany. Germany’s kings offered legitimisation to political action on a wider imperial stage. The empire itself had been, and remained, a confederation between princes and a few powerful cities, with a king only nominally at its head. It was by no means a centrally governed kingdom. By comparison with England and France, it lacked most of the apparatus by which royal power could be exercised.

Even so, as John Gillingham has long argued, royal justice was not the only way of establishing an order that was perceived as just by the subjects of the realm.⁷² In Germany, as in large parts of England, a working order rested to a greater extent on local or regional courts or power structures, seigneurial in Germany, in England under various degrees of royally deputed authority, from the county and hundredal courts through to the greater semi-independent franchises such as Cornwall, Chester, or the Marches. While in Germany such procedures and due processes were mostly carried out by regional actors, they remained embedded within an imperial framework – clearly visible in the German cities and courts of the late Middle Ages – itself underpinning the perception of royal or imperial justice at work.⁷³ On their own devices, German kings and their courts could not ensure the implementation of royal justice. They lacked the power and the presence necessary for such a task within an empire of such scale. But this does not mean that their subjects suffered an intolerable degree of injustice.⁷⁴

Justice existed, as long as realpolitik triumphed over the obstinacy of the greater families. The princes and the powerful sought to combine their interests with those of empire and king. This could prove successful, as was demonstrated by the election of Rudolf of Habsburg in 1273. Consensus among the long-squabbling electors

⁷¹ See here D. Crouch, ‘Baronial Paranoia in King John’s Reign’, in *Magna Carta and the England of King John*, ed. J. S. Loengard (Woodbridge, 2010), pp. 45–62.

⁷² See J. Gillingham, ‘Elective Kingship and the Unity of Medieval Germany’, *German History*, 9 (1991), 124–35.

⁷³ For the perception of imperial acts and various other forms of German self-perception see L. Scales, *The Shaping of German Identity: Authority and Crisis, 1245–1414* (Cambridge, 2012), esp. pp. 526–38.

⁷⁴ Although for a contrary thesis here, emphasising kleptocracy and the localised seigneurial expropriation of what would otherwise have been public authority, see J. Lyon, *Corruption, Protection and Justice in Medieval Europe: A Thousand-Year History* (Cambridge, 2023).

was pragmatically ensured by arbitration procedures agreed before the election. These procedures, by which Rudolf was elected, borrowed in turn from similar devices by which the princes had sought and sometimes found a just balance of power in preceding decades. Thus, the new start for royal politics in Germany after 1273, following decades of royal absenteeism, emerged in large part from the realities of an empire whose chief actor had for many decades remained a stranger to his German subjects. The search for justice, meanwhile, had produced means by which alternatives were now found to the formerly powerful Staufen. They offered a pathway to justice that provided for and supported an appropriately distanced king. Without the thirteenth-century tradition of royal absenteeism, it is doubtful whether such a pathway could have been found. Rudolf and his successors – the kings of later medieval Germany – could build upon the fundamental princely willingness to serve realm and empire, provided they accepted the basic rules of the game.

To do this, Germany's kings had to maintain an appropriate distance from events, day by day and case by case. How much proximity was permitted for a king to govern? How much distance was required, if the princes were not to be provoked into rebellion? Upon the answers to such questions depended the success and even the survival of kings in thirteenth-century Germany. Given the modest means available, such answers were always hazardous. Roughly every other thirteenth-century German king, half of our sample, broke the rules or failed the test. Kingship across national or geographical frontiers – what for the purposes of this collection of essays we are describing as 'transregal' rule – was never easy. In the thirteenth century it remained, if not impossible, then a very difficult road to travel.