

Frederick the Great and the Celebrated Case of the Millers Arnold (1770–1779): A Reappraisal

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“Viel Lärm um nichts”
Regierungsrat Bandel

WHAT did it mean when an eighteenth-century monarch intervened in a legal struggle between social unequals, and decided on behalf of the weaker party? How do historians interpret such an event? In the example under examination here—the cause célèbre of the millers Christian and Rosine Arnold in Brandenburg-Prussia (1770–1779)—the dominant opinion of two centuries has been that King Frederick II’s intervention violated justice and the rule of law.¹ Explaining this remarkable continuity of historical attention is easy, for the affair’s effects on state-formation in Prussia were far-reaching. On the very day that Frederick ruled in the millers’ favor, the king also sacked his chancellor (*Grosskanzler*), Carl Joseph von Fürst, as well as three members of Brandenburg’s supreme tribunal, the Chamber Court (*Kammergericht*), all for ruling against the millers. In Fürst’s place as chancellor, Frederick installed Johann Heinrich Casimir von Carmer, under whom began the process of legal reforms that resulted in the provisional *Corpus Juris Fridericianum* (1781) and ultimately the General Prussian Code (*Allgemeines Preussisches Landrecht*, or ALR) of 1794.² To some extent, then, Frederick’s intervention was the

1. For the principal literature devoted specifically to the Arnold scandal, see Karl F. F. Sietze, *Ausübung oberstrichterlicher Gewalt der Staats- und Cabinetsjustiz in wesentlicher Differenz dargestellt, nebst Beilagen zu der Geschichte des Arnoldschen Prozesses* (Potsdam, 1835); Adolf Stölzel, “Der Prozess des Müllers Arnold,” in his *Fünfzehn Vorträge aus der Brandenburg-Preussischen Rechts- und Staatsgeschichte* (Berlin, 1889), 170–82; Karl Dickel, *Friedrich der Grosse und die Prozesse des Müllers Arnold* (Marburg an der Lahn, 1891); Otto Uhlitz, “Der König als gerechter Richter: Friedrich der Grosse und die Müller-Arnold Prozesse, eine preussische Justizkrise vor zweihundert Jahren,” *Der Herold: Vierteljahresschrift für Heraldik, Genealogie und verwandte Wissenschaften* 9, no. 22 (1979): 225–36; and Malte Diesselhorst, *Die Prozesse des Müllers Arnold und das Eingreifen Friedrichs des Grossen* (Göttingen, 1984).

2. For a contemporary (and hostile) account of the transition from Fürst’s administration to

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founding act of codification. But it is more difficult to explain the unanimity: with few exceptions, historians and biographers have pronounced the intervention a “judicial catastrophe” (*Justizkatastrophe*) and declared the millers mere “troublemakers.”³ This essay will argue that such conclusions are misguided: by framing their questions within the parameters of legal and administrative history, most historians have focused on the legal merits of the Arnolds’ suit. In so doing, they have operated on the assumption that a unitary definition of justice prevailed in eighteenth-century Prussia; as a result, most historical appraisals reflect highly partisan contemporary interpretations of the case. But there were at least three distinct “discourses” on justice at work as the case unfolded, each of them corresponding to one of the principal sets of actors in the drama. By neglecting political culture, most judgments of the case have forsaken an understanding of possibilities and limitations of legal systems as ordinary subjects like Rosine and Christian Arnold conceived them. Viewed through the rationality of plebian political culture, the case suggests that Friderician legal reforms faltered as much on the rocks of popular expectations as on the ideological contradictions of absolutism in an “enlightened” mode. As a moment of political communication, moreover, the affair revealed the vulnerability of early modern appellate systems to what James C. Scott has called “the imaginative capacity of subordinate groups to reverse or negate dominant ideologies.”⁴

The case of the Millers Arnold is well enough known to elicit general recognition among Germans today, not to mention scholars who study eighteenth-century Prussia.⁵ At its center was a water-powered grain mill under heritable leasehold (*Erbpacht*), which Christian Arnold had purchased from his father Hans in October 1762 in return for 300 Taler and a retirement provision.⁶ The

Carmer’s, see Christian Ludwig von Rebeur, *Über den ungünstigen Anfang der Carmerschen Rechtsverbesserung* (Lemgo, 1789). On Carmer, see most recently Dietmar Willoweit, “Johann Heinrich Casimir von Carmer und die preussische Justizverwaltung im Zeitalter Friedrichs des Grossen,” in *Persönlichkeiten im Umkreis Friedrichs des Grossen*, ed. Johannes Kunisch (Cologne, 1988), 153–74. Frederick informed Carmer of his appointment only on the day of Fürst’s deposition; see, Frederick to Carmer, 11 December 1779, Geheimes Staatsarchiv Preussischer Kulturbesitz (hereafter GStA-PK) HA 1, 96B/79, 1205–1206.

3. See, most recently, Detlev Merten, “Allgemeines Landrecht,” in *Preussens Grosser König: Leben und Werk Friedrichs des Grossen*, ed. Wilhelm Treue (Freiburg im Breisgau, 1986), 56–69, sec. 3, entitled “Die ‘Justizkatastrophe’ von 1779 und der Reformbeginn,” 58–60.

4. James C. Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, 1990).

5. To be sure, Christian and Rosine Arnold are often confused with “Miller of Sans Souci” in popular imagination, and even in a few published accounts: cf. Hans Dollinger, *Friedrich II. von Preussen: Sein Bild im Wandel von zwei Jahrhunderten* (Munich, 1986).

6. “Erb-Kauf zwischen dem alten Pommerziger Wassermüller Hans Arnold als Verkäufern an einem und seinem jüngsten Sohne Christian Arnold als Käufern an andern Theile,” 29 October 1762, in Sietze, *Ausübung*, Beilage A, 35–36; Diesselhorst, *Prozesse*, Quellenanhang I.2, 73–74. Christian was the youngest son; the purchase contract required him to buy out the inheritance shares of his elder brothers Gottfried and Jürgen and his sister Christine. Two married sisters—Elisabeth Hilsnitz and Anna Maria Poelchen—received no indemnification.

mill was located just outside the village of Pommerzig, not far from the Oder river, in the Krossen district of Neumark province, on an estate belonging to the well-connected but struggling royal Oberjägermeister and Rosicrucian, Count Gottfried Heinrich Leopold von Schmettau. According to the original lease contract of 1710, Christian Arnold and his wife, Rosine, were required to make an annual payment of three *Malter* of grain plus a total of 10 Taler in cash.⁷ In September 1778, however, the Arnolds were dispossessed of their mill for falling in arrears on lease payments to their seigneur in the course of a water-rights dispute with a neighboring seigneur, Count Georg Samuel Wilhelm von Gersdorf, the most powerful noble in the area. Since 1770, the Arnolds claimed, Gersdorf had been diverting water from their millstream to supply three new carp ponds. For several years, this diversion had rendered their mill all but inoperable, especially during the dry summer months. This, in turn, threatened the millers' livelihood. In response, the Arnolds suspended lease payments to Count Schmettau until a regular water supply was restored. The matter simmered until 1773, when Schmettau finally sued Christian and Rosine Arnold in his own patrimonial court for back payment on the dues. In June 1773, one Johann Friedrich Schlecker—Schmettau's *Justitiarius*, or patrimonial assessor—ruled against the Arnolds, instructing them to pay up or face expulsion. But they resisted. To coerce payments from them in 1774, Schlecker temporarily confiscated the Arnolds' five milk cows and on two occasions imprisoned Christian Arnold for seven and three weeks, respectively.⁸ After resuming his proceedings in patrimonial court against the Arnolds in 1777, Schmettau finally confiscated the mill in September 1778 and auctioned it for 600 Taler to a front man, who promptly resold it to the very pond-building Count Gersdorf who had diverted the mill water way back in 1770. Finally, in February 1779, Gersdorf sold the mill for a tidy profit of 200 Taler to a "Widow Poelchen," who in all likelihood was Christian Arnold's sister, Anna Maria.

By the time of confiscation and sale in 1778, however, the dispute was no longer a local affair. The case had been wending its way through the Prussian court system ever since 7 March 1774, when the Arnolds filed a complaint against Count Schmettau before the Neumark provincial court in Küstrin, demanding suspension of lease payments until the original water supply was restored. But the Arnolds did not place all their hopes solely on the prospect of a favorable ruling. Instead, they began in 1775 to circumvent the court system by sending petitions directly to King Frederick, begging his protection and

7. Heritable Lease Contract dated 15 January 1710, in Sietze, *Ausübung*, Beilage A, 37–38; Diesselhorst, *Prozesse*, Quellenanhang I.1, 71–72.

8. Dickel, *Friedrich der Grosse*, 3. The site of Christian Arnold's incarceration was a certain "Hundeloch"; the Arnold's claimed that Christian's second imprisonment occurred in the dead of winter, at Christmastime.

requesting him to authorize a royal commission to investigate the matter.⁹ As it turned out, the Arnolds' suspicions were well placed: at each stage of judicial review, verdicts favored Schmettau. After almost two years' deliberation, the Neumark tribunal threw out the Arnolds' complaint on 22 January 1776, arguing that Schmettau could not be held responsible for the actions of another. If anyone, the Arnolds should sue Count Gersdorf. The Arnolds appealed to the Kammergericht in Berlin, but the tribunal upheld the lower court's decision on 18 September of the same year.

After she and her husband were expelled from the mill, Rosine Arnold launched a veritable barrage of petitions. By mid-August 1779, these had convinced Frederick that the millers' cause was just. Christian Arnold received an audience at Potsdam on 21 August, and Frederick granted his request for special investigation on the very next day.¹⁰ The investigation was headed by a royal appointee, one Colonel von Heucking, accompanied by a member of the Neumark tribunal, Regierungsrat Johann Ernst Neumann. But Heucking and Neumann could not agree on a common judgment: Colonel von Heucking found in favor of the Arnolds, while Neumann (not surprisingly) upheld the previous decisions of his colleagues in Küstrin. Thus the commission produced two reports, and in the subsequent legal battles, Frederick treated Heucking's report as definitive, while his judges considered Neumann's to be the normative decision.

In the meantime, Rosine and Christian Arnold complied with the Neumark tribunal's resolution of 1776 and sued Count Gersdorf for diverting water from the millstream. The Küstrin court heard the case on royal orders, but on 28 October 1779, it once again decided against the Arnolds. In response to yet another petition, however, Frederick ordered that the case be referred to the Kammergericht in Berlin, which functioned as the supreme appellate court for provinces inside the old Margraviate of Brandenburg. Against the king's clear wish, however, the Kammergericht upheld the lower court's decision, and it was this seeming act of defiance that provoked Frederick's ferocious response. On 11 December, the monarch summoned Fürst and the three Kammergericht justices charged with adjudicating the appeal—Friedel, Gaun, and Ransleben—to the royal palace in Berlin. There, the king charged the justices with cruel abuse of his good name and reversed their decision. When Fürst tried to intervene, the king barked "March! Your post has already been given to someone else!"¹¹

9. Petition of Rosine Arnold to King Frederick, [March] 1779, GStA-PK -PK, HA 1, 9, Lit. Y 2f, Fasz. 1, 1r-2v; Diesselhorst, *Prozesse, Quellenanhang*, no. II.1, 75-76. For simplicity's sake, I will refer to the documents bearing this archival signature (HA 1, 9, Lit. Y 2f, Fasz. 1) as "GStA-PK Arnold Akten."

10. "Actum Potsdam den 21ten August 1779," GStA-PK Arnold Akten, 26r-v; Frederick to Neumark Regierung, 22 August 1779, *ibid.*, 25r-v.

11. "Marsch! Seine Stelle ist schon vergeben!"; Friedrich Ludwig Carl Finck von Finckenstein,

The “someone else,” of course, was Carmer. In a published protocol of his royal fiat, Frederick described the act as an admonition to all judges who failed to prosecute cases speedily and who, by perpetrating injustices (*Ungerechtigkeiten*), profaned justice and the equality (*égalité*) of all social classes before the law.¹² After their audience with the king, Fürst and the Kammergericht justices were packed off to prison in Spandau fortress; for good measure, Frederick also imprisoned four members of the Neumark tribunal (Scheibler, Busch, Neumann, and Bandel), the provincial president, Count Finck von Finckenstein, Schmettau’s patrimonial assessor (Schlecker), and Count Gersdorf. The king also removed Gersdorf from his office as Landrat in Züllichau.¹³ Finally, Frederick restored the mill to the Arnolds and forced his new captives to compensate the Christian Arnolds for costs incurred along their path to justice. In March 1780, Gersdorf was required to indemnify the Widow Poelchen.¹⁴ Although Count Schmettau was spared imprisonment, royal antipathy continued to the end of Frederick’s life; the king even refused Schmettau’s request for emergency relief when the Oder flooded in 1783.¹⁵

At the time, the cause célèbre provoked lively discussion throughout Europe. In Berlin, polite opinion tended to favor Schmettau, Gersdorf, and the legal “wigs.”¹⁶ According to Thomas Carlyle, writing some fifty years later,

Berlin Society was . . . obliged to pronounce the claim of Miller Arnold a nullity, and that no injustice whatever had been done him. Mere pretences

“Geschichte des vor der Neumärkischen Regierung geführten Arnold-Gersdorfschen Prozesses und der Folgen derselben (verfasst von dem bei dieser Rechtssache beteiligten Präsidenten Grafen Finck von Finckenstein);” ed. J. D. E. Preuss, *Zeitschrift für Preussische Geschichte und Landeskunde* 1 (1864): 129–55, here 144.

12. “Erstlich: Dass alle Prozesse schleunig geendigt werden. Zweytens: Dass der Nahme der Justitz durch Ungerechtigkeiten nicht profaniert wird. Drittens: Dass mit einer Égalité gegen alle Leute verfahren wird, die vor die Justitz kommen, es sey ein Prinz oder ein Bauer, denn da muss alles gleich seyn”; “Von Sr. Königl. Majestät Höchst Selbst abgehaltenes Protocoll, den 11ten December 1779 ueber die drey Cammer-Gerichts-Räthe Friedell, Graun und Ransleben”; *Berlinische Nachrichten von Staats- und Gelehrten Sachen*, no. 149 (14 December 1779), 812–14; reprinted in *Acta Borussica: Die Behördenorganisation und die allgemeine Staatsverwaltung Preussens im 18. Jahrhundert*, ed. Peter Baumgart and Gerd Heinrich (Hamburg, 1982) 16/2:575–77, no. 450.

13. “Schriftwechsel zwischen dem König, dem General-Directorium, der Neumärkischen Kammer und dem ehemaligen Kammerpräsidenten von Luck,” 14 December 1779–29 February 1780, *Acta Borussica: Behördenorganisation*, 16/2:578–80, no. 451.

14. King Frederick to Justice Department, 12 March 1780, GStA-PK Arnold Akten, 127r. Gersdorf resisted this; on 20 March 1780 he petitioned the king from Spandau prison for protection against the Widow Poelchen, GStA-PK Arnold Akten, 134r–137v.

15. Matthias G. Graf von Schmettow, *Schmettau und Schmettow: Geschichte eines Geschlechts aus Schlesien* (Büderich bei Düsseldorf, 1961), 232.

16. According to Regierungsrat Neuman, among the most annoyed with Frederick were, reportedly, his state minister von Münchhausen and his brothers, Princes Henry and Ferdinand; *Aus der Festungszeit Preussischer Kammergerichts- und Regierungsräte auf Spandau 1780: Tagebuch des Regierungsrates Neumann, geschrieben während der von Friedrich dem Grossen über die Richter im Müller-Arnold-Prozess verhängten Festungshaft* (Berlin, 1910), 32–35, 47–48.

on [the miller's] part, subterfuges for his idle conduct, for his inability to pay due rent, said Berlin Society . . . In which condemned state, Berlin Society almost wholly disapproving it . . . and, I think, pretty much continues so still, few or none in Berlin Society admitting Miller Arnold's claim to redress, much less defending that onslaught on [chancellor] Fürst and the wigs.¹⁷

During their confinement at Spandau, the "wigs" received a steady procession of well-wishing notables and philosophers—including Friedrich Nicolai—weighted down with food and drink.¹⁸ All this traffic prompted an Austrian emissary to wag that "in other countries, everyone rushes off to [visit] newly installed ministers; here, I see, [one visits those] who have been dismissed in disgrace!"¹⁹ Thus as eighteenth-century incarcerations went, this was hardly onerous; Schlecker even found time to cavort with the jailer's daughter. But as biographer Reinhold Koser noted long ago, the judges' "martyrdom" received little sympathy beyond the city gates.²⁰ Empress Catherine the Great, for example, "sent to her Senate a copy of Friedrich's *Protocol of December 11th*, as a noteworthy instance of royal supreme judicature."²¹ The salons of Paris also lauded Frederick's deed.²² In 1780, one Vincenzo Vangelisti allegorized the event in Paris with a copperplate etching entitled "Balance de Frédéric," which shows an enthroned and cuirassed Frederick receiving the humble miller and his wife, holding aloft the scales of justice, even as a purging angel (decorated with Hohenzollern emblemata) drives off a clutch of cowering, black-robed magistrates. By most accounts, popular opinion throughout Europe concurred with the Parisian verdict. A Neapolitan priest composed a sonnet to Frederick's love of justice, and news of the intervention was favorably received as far away as Lisbon and Morocco.²³

17. Thomas Carlyle, *History of Friedrich the Second, called Frederick the Great*, 6 vols. (New York, 1861–1866), vol. 6, ch. 8, "Miller Arnold's Lawsuit," 470–93, here 491.

18. Neumann, *Aus der Festungszeit*, 23, 25–26, 29, 40–46, 63–64, 81–84, 95–103, passim.

19. Franz Kugler, *Geschichte Friedrichs des Grossen* (Leipzig, 1840; repr. Leipzig, 1940), 494.

20. Reinhold Koser, *Geschichte Friedrichs des Grossen*, 4th ed., 3 vols. (Stuttgart, 1921; repr. Darmstadt, 1963), 3:416–17. On the other hand, the Neumark justices enjoyed the sympathy of nine representatives for the provincial "Stände," who on 19 December 1779 indicated to Frederick that they had never had the least suspicion of the Küstrin government's "Droiture"; "Extracte für die Kabinets-Vorträge," 19 December 1779, GStA-PK, HA 1, 96B/153, 656r–v.

21. Carlyle, *History of Friedrich*, 6:490.

22. In a letter dated 29 February 1780, for example, Jean-le-Rond d'Alembert praised the king's work, noting "Que feriez-vous, Sire, de tant de juges français bien convaincus, non pas seulement d'avoir vexé, comme ceux de Cüstrin, un malheureux paysan, mais d'avoir fait périr des innocents dans les supplices? Aussi me revient-il que quelques-uns de nos cannibales parlementaires trouvent bien *rigoureuse* . . . la punition que V.M. a faite de ces magistrats prévaricateurs. Leur censure est un éloge de plus"; *Oeuvres de Frédéric le Grand*, vol. 25, *Correspondence de Frédéric, Roi de Prusse* (Berlin, 1854), vol. 10, no. 214, 140–42 (emphasis in original).

23. On the Neapolitan priest, see Neumann, *Aus der Festungszeit*, 40–44. At Lisbon in 1780, a Prussian ship's captain, Joachim Nettelbeck (1732–1824), observed a kind of tableau vivant allegorizing king Frederick's intervention bearing the title (in Portuguese) "Preservation of justice by the

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In view of its sensational consequences, most of Frederick's biographers have felt obliged to pass judgment on the case, as have many historians of Prussia's institutional development.²⁴ But with few exceptions, their pronouncements have remained within the interpretive parameters of legal history and have assessed its significance in the context of Prussia's progress toward the rule of law. As such, their findings are constructed to resolve the awkward contrast between Frederick's putative "violation" of his own enlightened principles and the crucial historical role his interposition played in the chain of events that ultimately produced a unified Prussian code. By hook or crook, Frederick's integrity as the enlightened initiator of legal codification must be rescued from the despotism of his behavior in the Arnold affair. The simplest solution is to dismiss Frederick's fiat as a kind of temporary, gout-induced lapse of sanity or as an isolated betrayal of his otherwise unbroken devotion to the teachings of Montesquieu. For Detlev Merten, a betrayal of enlightened principles gave the last and decisive impetus to the project of codification.²⁵ Not surprisingly, this is the interpretation of textbooks and reference works.²⁶

A subtler strategy might be described as an exercise in "damage control." Its exponents note Frederick's laudable devotion to the principle of social equality before the law and praise his watchfulness for signs of corruption or sloth in the

king of Prussia" and "Arnold." On learning that Nettelbeck was Prussian, the gathered crowd hailed him with cheers of "Glory to the king of Prussia!," "Hail to him!," "Hail to stern justice!," and "Vivat the just kings!"; Gustav Berthold Volz, ed., *Friedrich der Grosse im Spiegel seiner Zeit*, vol. 3, *Geistesleben, Alter und Tod* (Berlin, 1901), 178–81.

24. For example see (in addition to Carlyle), J. D. E. Preuss, *Friedrich der Grosse: Eine Lebensgeschichte* (Berlin, 1832–1834), vol. 3, book 5, *Friedrich der Grosse nach dem siebenjährigen Kriege als Landesvater*; Koser, *Geschichte Friedrichs*; Gerhard Ritter, *Friedrich der Grosse: Ein historisches Profil*, 3rd ed. (Heidelberg, 1954); translated by Peter Paret as *Frederick the Great: A Historical Profile* (Berkeley, 1968). For exemplary judgments by historians of Prussian institutions, see Friedrich Holtze, *Geschichte des Kammergerichts in Brandenburg-Preussen*, 4 vols. (Berlin, 1890–1904); Eberhard Schmidt, "Rechtssprüche und Machtsprüche der preussischen Könige des 18. Jahrhunderts," in his *Beiträge zur Geschichte des preussischen Rechtsstaates* (Berlin, 1980), 210–46; Walter Hubatsch, *Friedrich der Grosse und die preussische Verwaltung*, 2d ed. (Cologne, 1982); C. B. A. Behrens, *Society, Government, and the Enlightenment: The Experiences of Eighteenth-Century France and Prussia* (New York, 1985); and Werner Ogris, "Friedrich der Grosse und die Justiz," in *Friedrich der Grosse in seiner Zeit*, ed. Oswald Hauser (Cologne, 1987), 47–92. A few of Frederick's biographers pass over the event in silence, among them Pierre Gaxotte, *Le roi déserteur: Frédéric II* (Paris, 1938), translated by R. A. Bell as *Frederick the Great* (New Haven, 1942); Theodor Schieder, *Friedrich der Grosse: Ein Königtum der Widersprüche* (Frankfurt am Main, 1983); and Robert B. Asprey, *Frederick the Great: The Magnificent Enigma* (New York, 1986).

25. Merten, "Allgemeines Landrecht," 58. The "gout" theory, so to speak, goes back to the public uproar in December 1779. Carlyle repeated it, too: "Friedrich's horror at the Fürst-and-Company Phenomenon (horror aggravated by gout) had its highly respectable side withal," *History of Friedrich*, 6:491–92.

26. See, for example, Karl Luig, "Das Justizwesen," in *Panorama der Fridericianischen Zeit: Friedrich der Grosse und seine Epoche—Ein Handbuch*, ed. Jürgen Ziechmann (Berlin, 1985), 375–85, here 385.

administration of justice. But they also observe that this left him vulnerable to manipulation by crafty malcontents (Christian and Rosine Arnold) or their confederates (Heucking). All that remains is to deny that Christian Arnold had any legitimate complaint and was nothing more than a “quarrelsome and litigious individual” (Gerhard Ritter), or even an outright “liar” (C. B. A. Behrens).²⁷ The same idea informs Günter Birtsch’s generous observation that Frederick’s sense of justice did not always protect him from error. In Birtsch’s estimation, only a “one-sided report”—Heucking’s, of course—caused the king to violate the law.²⁸ Needless to say, the judges’ reports are never portrayed as “one-sided.”

The most skillful champion of this view was the eminent legal historian, Eberhard Schmidt, for whom the whole affair was a regrettable but temporary detour along Prussia’s progress toward the “enlightened” rule of law.²⁹ In a series of articles published during the 1950s and early 1960s, Schmidt sought to show how, for the most part, Frederick’s royal jurisprudence (*Kabinettsjustiz*) and royal fiats as supreme justiciar (*Machtsprüche*) helped adapt the administration of justice to the enlightened expectations of the age. There was, however, an inescapable psychological tension between Frederick’s dual concerns to protect the independence of his judiciary and to reserve ultimate powers of legal oversight as a means of preventing abuses. In addition, Schmidt noted that, like all eighteenth-century monarchs, Frederick was dependent on the grievance petitions and supplications of his subjects “as a means . . . to remain informed” of judicial abuses as they arose. Time and again, the king’s legitimate “worries about the judicial system” caused him to take supplications seriously. As a result, the well-ordered administration of justice was constantly exposed to extraordinary dangers: “judicial catastrophes” could result if a petitioner succeeded in provoking sovereign mistrust of his judges through “*falsa narrata* . . . and other tricks.”³⁰ Of course, Schmidt allows that a “supplication could emerge from real legal need.”³¹ But the decline of provincial estates and the intensification of royal absolutism exacerbated the hazards that supplications posed to the rule of law. To rescue Frederick the enlightened First Servant, therefore, Schmidt portrays him as a well-meaning victim of belligerent and manipulative rustics: he con-

27. Ritter, *Frederick the Great*, 156; Behrens, *Society, Government, and the Enlightenment*, “Appendix: The Famous Scandals in France and Prussia in the Second Half of the Eighteenth Century; The Cases of Jean Calas and of the Miller Arnold,” 110–15, here 113.

28. Günter Birtsch, “Der preussische Staat unter dem Reformabsolutismus Friedrichs II., seine Verwaltung und Rechtsverfassung,” in *Friedrich der Grosse: Herrscher zwischen Tradition und Fortschritt*, ed. Karl Otmar von Aretin *et al.* (Gütersloh, 1985), 131–38.

29. Schmidt, “Rechtssprüche und Machtsprüche”; see also Ogris, “Friedrich der Grosse und das Recht,” 86. As an indication of Schmidt’s influence, C. B. A. Behrens bases her interpretation entirely on Schmidt’s assessment; see her *Society, Government, and the Enlightenment*, 113.

30. Schmidt, “Rechtssprüche und Machtsprüche,” 233.

31. *Ibid.*, 232.

cludes, astonishingly, that “back then, all the circumstances were exceptionally advantageous for the quarrelsome supplicant Arnold.”³² The coup de grâce of such narratives is to suggest that in pardoning his judicial victims, Frederick recognized the error of his ways. Here, too, Schmidt’s argument is the most ingenious. He notes that on 27 December 1779, the king commanded his justice minister, von Zedlitz, to open criminal proceedings against the deposed judges. But Zedlitz and the Kammergericht’s criminal senate refused; through their open defiance, they forced the king to condemn them on his own supreme judicial authority. By letting Zedlitz’s disobedience go unpunished, Frederick brought Prussia one step closer to the *Rechtsstaat*.³³

As progressive narratives often do, this one operates with fairly uncomplicated and unitary standards of historical good and evil, justice and injustice. By itself, this quality proves nothing true or false—lawsuits *can* be frivolous, after all. Still, interpreting the affair within the parameters of a progressive legal history seems to allow no alternative to impugning the Arnolds’ motives and rejecting the merits of their case. Thus, most assessments hinge on the narrow question of whether the millers had a legitimate complaint and have rested for evidence primarily on the contemporary testimony of Frederick’s detractors in the affair, including several of his judicial victims, for whom the whole ordeal was “much ado about nothing.”³⁴ Among the latter were two accounts by imprisoned members of the Neumark regime: Regierungspräsident Friedrich Ludwig Carl Finck von Finckenstein and Regierungsrat Karl Friedrich Bandel.³⁵ A third flowed from the pen of Christian Ludwig von Rebeur, president of the civil senate in the Berlin Kammergericht, whose decision Frederick overturned on 11 December.³⁶ Not surprisingly, most elements of the narrative can be traced to the Spandau memoirists or to the disparaging opinion of “Berlin Society.” The courtier Dieudonné Thiébault—who claimed to have spoken with Frederick immediately after the notorious audience—was among the first to suggest that absolute power, combined with Frederick’s concerns for equality before the law, enabled a manipulative petitioner to lure the king into a gross violation of

32. *Ibid.*, 236; see also Schmidt, “Staat und Recht in Theorie und Praxis Friedrichs des Grossen,” in *Beiträge*, 150–209, here 191–94. Friedrich Holtze suggested the same in his *Geschichte des Kammergerichts*, 3:272–73.

33. Schmidt, “Rechtssprüche und Machtsprüche,” 226–27; *idem*, “Kammergericht und Rechtsstaat: Eine Erinnerungsschrift,” in *Beiträge*, 267–304, here 290–91; and *idem*, “Staat und Recht,” 194.

34. Karl Friedrich Bandel, “Geschichte des Arnoldschen Prozesses gegen den Landrath von Gersdorf und der Folgen desselben,” printed in F. Graner, ed., “Aus den hinterlassenen Papieren des im Müller Arnoldschen Prozess zur Festungsstrafe verurteilten neumärkischen Regierungsrats Bandel,” *Forschungen zur Brandenburgischen und Preussischen Geschichte* 38 (1926): 77–100.

35. Finck von Finckenstein, “Geschichte des vor der Neumärkischen Regierung geführten Arnold-Gersdorfschen Prozesses”; and Bandel, “Geschichte des Arnoldschen Prozesses.”

36. Rebeur, *Über den ungünstigen Anfang*.

justice.³⁷ Similarly, Thiébault and Regierungsrat Neumann were the first to relate the story that Frederick came to regret his “error” upon reading an account of it in Linguet’s *Annales politiques, civiles, et littéraires* in 1780.³⁸

As a form of “damage control,” finally, the narrative enjoys an equally venerable pedigree. In view of the near-universal condemnation it elicited among Prussia’s elites, those who profited personally from Frederick’s despotic act had every reason to anticipate social or political rejection. This circle of beneficiaries embraced Grosskanzler Carmer and his assistant, Carl Gottlieb von Svarez, the great codifiers of Prussian law.³⁹ Once Frederick was dead and gone, Svarez carefully distanced himself and the codification project from the dubious circumstances surrounding its inauguration. In a lecture delivered in late 1791 or early 1792 on the basic foundations of law, Svarez addressed the subject of *Machtsprüche*. Laying out the constraints on royal authority, Svarez noted that throughout his long reign, Frederick had respected the superiority of law over royal will, with one exception: the Arnold case, in which the king allowed himself to be deceived by an ill-informed “*Offizier*” (Heucking). But Frederick’s “burning hatred for all injustice” was sound, Svarez asserted; fortunately for the codification process, Frederick soon recognized his “departure from his own principle . . . that in matters of justice there can be no royal interpositions.”⁴⁰

In view of such continuities across two centuries, is it any wonder that the historiography of the Arnold affair is suffused with the social biases of legal “wigs”? Ironically, the “damage control” narrative resembles nothing so much as a modern inversion of what Yves-Marie Bercé called the popular topos of “the king deceived.” Psychologically unable to blame the king for their misfortunes, argues Bercé, early modern peasants instinctively regarded the king “as the epitome of all that was just and good.” But calamity still demanded some explanation, and peasants found it in the “concept of evil ministers” who, by deceiving him, maneuvered the king into acts of injustice.⁴¹ Thus narratives

37. Dieudonné Thiébault (1733–1807), *Mes souvenirs de vingt ans de séjour à Berlin, ou, Frédéric le Grand, sa famille, sa cour, son gouvernement, son académie, ses écoles, et ses amis littérateurs et philosophes*, 3rd rev. ed. (Paris, 1813); translated into German as *Friedrich der Grosse, seine Familie, seine Freunde und sein Hof, oder: Zwanzig Jahre meines Aufenthaltes in Berlin* (Leipzig, 1828), 104–5. Since 1765, Thiébault had served as a linguistics professor at the *Académie des nobles*; he claimed to have spoken with Frederick immediately after the sacking of Grosskanzler Fürst.

38. *Ibid.*, *Friedrich der Grosse*, 111; Neumann, *Aus der Festungszeit*, 47–48.

39. On Svarez see Eberhard Schmidt, “Carl Gottlieb Svarez,” in Schmidt, *Beiträge*, 331–39. For the negative initial opinion of polite society for Chancellor Carmer, see Neumann, *Aus der Festungszeit*, 32–35.

40. “Kronprinzenvorträge,” in *Vorträge über Recht und Staat von Carl Gottlieb Svarez (1746–1798)*, ed. Hermann Conrad and Gerd Kleinheyer (Cologne and Opladen, 1960), 228–306.

41. Yves-Marie Bercé, *Histoire des Croquants: Étude des soulèvements populaires au XVII^e siècle dans le sud-ouest de la France* (Geneva, 1974), translated by Amanda Whitmore as *History of Peasant Revolts: The Social Origins of Rebellion in Early Modern France* (Ithaca, 1990), 248–49. See also Celina Bobinska, “Les mouvements paysans en Pologne aux XVIII^e et XIX^e siècles: problèmes et méthodes,” *Acta Poloniae Historica* 22 (1970): 136–57.

based on the topos of the “king deceived” always contain three dramatic roles: the injured subject, the well-meaning but ignorant or misinformed king, and the conniving deceiver.⁴² Bercé assigned this topos to the domain of popular political culture, but as the present example shows, the rhetorical constructs of “naïve monarchism” were sufficiently elastic socially to embrace the articulation of nearly any grievance, be it the complaint of a powerful minister or that of a lowly miller. For better or worse, most accounts written since have reproduced the version originally devised by Frederick’s judicial victims, with Christian Arnold in the role of conniving deceiver.

Again, none of this necessarily disproves the prevailing consensus. But there are plenty of substantive reasons why the judges’ verdict should not be accepted uncritically. Assessments of the case are typically most nuanced among the minority of historians—such as Karl Sietze, Karl Dickel, or Malte Diesselhorst—who have not limited their evidence to the self-serving accounts of Frederick’s judicial victims but explored the documentary record of the case, fragmentary though it is. Dickel and Diesselhorst, for example, concluded that for a variety of procedural and circumstantial reasons, the Arnolds’ grievances were so badly handled in the first instance that no unequivocal judgment on the merits could have been rendered at the time, or can now be reached. For historians, two circumstances warn against accepting the courts’ decisions uncritically. First, the crucial question of whether the Arnolds had suffered material damage was at first handled in the most superficial fashion and then ignored until very late in the process of judicial review. As Thomas Carlyle put it, the “soul of the matter” was

whether Schmettau had the duty to indemnify Arnold . . . that is not touched upon: nor, singular to say, is it anywhere made out, or attempted to be made out, how much of water Arnold lost by the Pond, much less what degree of real impediment, by loss of his own time, by loss of his customers (tired of such waiting on a mill), Arnold suffered by the Pond.⁴³

Crucial material facts of the case were investigated tardily and sloppily, if at all. As a result, it is impossible in retrospect to say conclusively how much water the millstream may have lost, or with what effect. Secondly, when the question of damages finally surfaced in 1779, the appellate tribunals rejected the Arnolds’ claim on the grounds that virtually all witness testimony in their favor was tainted by conflict of interest. There is no longer any means to test this conclusion. But it *is* clear that the justices employed a double standard.

42. For a contemporary German and Austrian parallels, see David M. Luebke, “‘Naïve Monarchism’ and Marian Veneration in Early Modern Germany,” *Past and Present* 154 (February 1997): 71–106; and Georg Grüll, *Bauer, Herr und Landesfürst: Sozialrevolutionäre Bestrebungen der oberösterreichischen Bauern von 1650 bis 1848* (Graz, 1963).

43. Carlyle, *History of Friedrich*, 6:474–75.

As far as the judges in the first and second instance were concerned, it was a matter of irrelevance whether the millstream had actually lost water to Gersdorf's carp ponds or not. Assessor Schlecker admitted under interrogation in December 1779 that his sole concern in the patrimonial court proceedings had been to restore lease payments on the mill—not to establish the truth or falsehood of the millers' claim.⁴⁴ By 1773 at the latest, it appears, Schmettau and Schlecker had determined that whatever harm Gersdorf's ponds had caused did not oblige him to abate the Arnolds' annual lease payments, thus obviating the need to assess *actual* damages. Once defined as a question of liability, so it remained until the king intervened. Thus no hydrological expert inspected the millstream until 1779—almost a decade after Christian Arnold first refused to make his lease payments. Even then, the inspection occurred at the instigation of Frederick's appointed "military commissioner," Heucking, over the resistance of his coinvestigator, Neumann, who feared that the colonel would intimidate an inspector to report in the Arnolds' favor.⁴⁵ In the end, a pond inspector named Schade finally inspected the pond on 13 October 1779; but his report seems to have left open the question whether Gersdorf's carp pond could have diminished the Arnolds' millstream. Even this inspection was flawed: Schade measured only the ponds' surface area, for example, not their volume.⁴⁶ Subsequent inquiries yielded a host of additional inadequacies. In any case: by the time of Schade's report, local witnesses were claiming that after the first few years, the water loss had been seasonal, worst during the summer months; and the Arnolds themselves now asserted that the millstream water had been fully restored since 1778.⁴⁷ No hydrological inspection conducted during the rainy season could prove either statement true or false. An additional inspection conducted by one Kriegsrat Senff on 13 December 1779 left open the possibility that Gersdorf's carp ponds could create a water shortage during dry months.⁴⁸ Another speculated that if the sandy soils underneath the ponds were porous enough, filling them might indeed have reduced the millstream's flow, especially during the first years after 1770.⁴⁹

44. Auszug aus dem Protokoll der Vernehmung des Hoffiscals Schlecker vom 24. December 1779; in Sietze, *Ausübung*, Beilage A, 33–34; Diesselhorst, *Prozesse*, Quellenanhang IV.20, 149–51.

45. Deposition of Regierungsrat Neumann (Excerpt), December 1779, in Sietze, *Ausübung*, Beilage A, 7–18, here 10–11.

46. "Ohmassgebliches Gutachten über die mathematische Lage der Sache der Krebs-Mühle," 15 December 1779; in Sietze, *Ausübung*, Beilage A, 28–32; Diesselhorst, *Prozesse*, Quellenanhang IV.9, 120–23.

47. Petition of Rosine Arnold to Frederick, [March] 1779, GStA-PK Arnold Akten, 1r–2v. See the summary of eyewitness testimony in "Relationen des Kammergerichtsrats Ransleben," 8 December 1779; in Sietze, *Ausübung*, Beilage C, 69–80; Diesselhorst, *Prozesse*, Quellenanhang III.5, 100–13.

48. "Gutachten des Kriegsrats Senff," 22 December 1779, in Sietze, *Ausübung*, Beilage A, 38–42; Diesselhorst, *Prozesse*, Quellenanhang IV.19, 145–49.

49. Ohmassgebliches Gutachten über die mathematische Lage der Sache der Krebs-Mühle, 15 December 1779.

What about conflicts of interest? Were they all on the Arnolds' side? In his judgment against the Arnolds of 28 October 1779, Regierungsrat Neumann threw out all witness testimony to the effect that the millstream had indeed run dry. His reasons were two: first, the Arnolds' witnesses were, by their own confession, customers of the mill.⁵⁰ Neumann reasoned that they all "had an interest in claiming [the existence of] a water shortage," and therefore disqualified their testimony.⁵¹ In November the Kammergericht upheld Neumann's determination.⁵² The second reason was that the testimony of other millers using the same millstream contradicted the Arnolds' complaint. Specifically, the proprietor of a sawmill located upstream from the Arnolds claimed that his water supply had never diminished. In his verdict, Neumann noted the fact that this sawmill-owner was a subject of Count Gersdorf, but decided that this did *not* constitute grounds for conflict of interest. Incredibly, Neumann *allowed* the Widow Poelchen's testimony that the water supply was adequate—even though she possessed the mill only by virtue of the Arnold's expropriation and Gersdorf's sale and was in no position to comment on circumstances before 1778.⁵³ Finally, Neumann ignored Pond Inspector Schade's ambiguous conclusions and interpreted his data unequivocally in Gersdorf's favor. Thus the same criteria were *not* employed to dismiss testimony that was favorable to Schmettau and Gersdorf. Taken as a whole, the local eyewitness testimony was ambiguous and contradictory. The only consistent thing was Neumann's double standard.

Left out of all the verdicts, finally, was evidence of conflict of interest at the court of first instance. For one thing, Schmettau had every interest in ridding himself of the quarrelsome Arnolds, if that would help place his finances on a securer footing. Like so many others of his class, Schmettau was bankrupt: by 1777, a series of natural and man-made disasters had ruined the Junker. He had inherited Pommerzig in 1762 already burdened with 85,269 Taler in debts; then the estate was badly damaged during the Seven Years' War; a fire in 1774 destroyed seventy-eight of its peasant buildings. In 1777, another seven cottagers' farmsteads burned down. This last disaster bankrupted Schmettau, who was able to keep his estate afloat only through a massive injection of funds from the fortune of his father-in-law, General Friedrich Bogislav von Tauentzien.⁵⁴ After the bankruptcy, the district nobility (*Ritterschaft*) took over the administration of Pommerzig estate in December 1778; captain (Landrat) and representative of the district nobility was none other than Gersdorf. Not only had

50. Deposition of Regierungsrat Neumann, December 1779, 17–18.

51. Urteil der Regierung zu Küstrin in Sachen der Eheleute Arnold gegen den Freiherrn von Gersdorff, 28 October 1779, in Diesselhorst, *Prozesse*, Quellenanhang II, 10, 84–93.

52. "Relationen des Kammergerichtsrats Ransleben," 8 December 1779.

53. The Widow Poelchen's testimony was decisive for Regierungsrat Bandel, too. See his "Geschichte des Arnoldschen Prozesses."

54. Schmettow, *Schmettau und Schmettow*, 227–29. Schmettau's wife was Charlotte Louise von Tauentzien.

Gersdorf's 1778 purchase of the Arnolds' mill given Schmettau a much-needed infusion of cash, the powerful count was also in the role of Schmettau's de facto receiver. Needless to say, the district nobility were united behind their colleagues, and petitioned Grosskanzler Carmer for Gersdorf's release on 20 December 1779.⁵⁵ The very least one can say is that Schmettau's financial troubles disposed him well toward any outcome that involved the restoration of rent payments on the mill. Of course, Schmettau's financial emergency need not have determined Schlecker's decisions. Ever since the introduction of state examinations and minimum educational requirements for patrimonial assessors in 1755, the choice of a *Justitiarius* had not been entirely subject to an estate-owner's control. In addition, Chancellor Cocceji had introduced numerous reforms intended to increase the independence of judges, such as a schedule of regular salaries. Yet even after the ALR forbade the practice, landlords still found ways to evade such reforms by appending secret codicils to public employment contracts, which substituted the salary with a guarantee of payment through court fees.⁵⁶ Most *Justitiarii* were only semidependent on landlords. But almost twenty years after the Arnold affair, King Frederick William II observed that landlords were still appointing patrimonial assessors of their own choosing, whom they also retained as legal counsel.⁵⁷ As for Johann Schlecker, the evidence suggests that he was only too happy to serve his master's needs. In its only judgment that favored the Arnolds, the Neumark tribunal castigated Schlecker for excessive harshness on Schmettau's behalf, and as we have already seen, the assessor of Pommerzig was by his own admission solely interested in restoring lease payments to his employer.⁵⁸ In light of this, it begs credulity to think that Schlecker's justice was impartial.

Parenthetically, the disappearance from the archival record of key evidence favorable to the Arnolds also complicates the historian's task. The final report of Frederick's appointee, Colonel Heucking, appears to have been lost in World War II. The only historian to inspect it was Karl Dickel, who concluded that

55. Petition of the Züllichau Ritterschaft to Grosskanzler Carmer, 20 December 1779, GStA-PK Arnold Akten, 88r-v. Frederick dismissed the petition out of hand; King Frederick to Züllichau Ritterschaft, 28 December 1779, GStA-PK HA I, 96B/79, 947; Frederick to Gersdorf, 28 December 1779, *ibid.*, 1246. As a result of the Arnold affair, Gersdorf was the sole Landrat to have been removed from office on royal authority, against the wishes of the nobility. The nobles of Züllichau treated Gersdorf's successor so shabbily that he was forced to conduct business out of a local orphanage; see F. L. Carsten, *A History of the Prussian Junkers* (Aldershot, 1989), 41-42.

56. Sabine Werthmann, *Vom Ende der Patrimonialgerichtsbarkeit: Ein Beitrag zur deutschen Justizgeschichte des 19. Jahrhunderts* (Frankfurt am Main, 1995), 31.

57. Quoted in Gerd Heinrich, "Das Dorfgericht," in *Die Schöppenbücher der Mark Brandenburg, besonders des Kreises Züllichau-Schwiebus*, ed. Bernhard Hinz (Berlin, 1964), 30, n. 71.

58. "Auszug aus dem Protokoll der Vernehmung des Hoffiscals Schlecker," 24 December 1779; in Sietze, *Ausübung*, Beilage A, 33-34; Diesselhorst, *Prozesse*, Quellenanhang IV.20, 149-51.

the Arnolds' case was legitimate.⁵⁹ This documentary gap, together with ambiguities contained in the evidence that *does* survive, undermines unequivocal statements on the merits of the millers' case, let alone totalizing macrohistorical narratives built upon them that contextualize the affair in *any* process of legal or administrative evolution. Needless to say, this applies every bit as much to the Arnolds' posthumous defenders.

* * *

What gets lost in debates over the parties' honesty or dishonesty is a consideration of the ideas of justice on which they operated, and what these assumptions suggest about political culture in eighteenth-century Prussia. Impugning motives cuts two ways; it is no more valid to gainsay the judges than the millers. Instead of second-guessing sincerity, a more productive approach would be to inquire into the organizing concepts the actors employed. At least three distinct "discourses" on justice framed the participants' thoughts and actions as the case developed—corresponding, respectively, to the justices, the millers, and the king himself.⁶⁰

To read between the lines of their arguments of self-justification and defense, the judges—from Neumark president Finck von Finckenstein to the overworked Kammergericht justice Ransleben, perhaps even the bon-vivant patrimonial assessor Schlecker—operated with a notion of justice that was fundamentally procedural. For them, adherence to the letter of civil process was the best guarantee of enlightened judicial goals, including equality before the law. It may well be that the architects of Frederick's legal system cannot be "reckoned as apostles of Enlightenment."⁶¹ Nevertheless, it is clear that what irked Regierungsrat Bandel most was the suggestion that his court had treated Count Gersdorf preferentially on account of social rank. Rather, he and his colleagues did everything "by the book," as it were: they had rejected his suit against Schmettau, for example, because under existing law, the terms of its lease classified the mill as Christian Arnold's private property (*Eigentum*), notwithstanding

59. See Dickel's description of the document in his *Friedrich der Grosse*, 9–10. Diesselhorst suspects that the Heucking report was lost during World War II; see *Prozesse*, 9 and n. 48. Another, albeit hostile source on the Heucking report's contents is Finck von Finckenstein, who summarized it in his "Geschichte des vor der Neumärkischen Regierung geführten Arnold-Gersdorfischen Prozesses," here 137–39.

60. I take my understanding of "discourse" from Keith M. Baker, "On the Problem of the Ideological Origins of the French Revolution," in his *Inventing the French Revolution: Essays on French Political Culture in the Eighteenth Century* (Cambridge, 1990), 13–27.

61. Behrens, *Society, Government, and the Enlightenment*, 90. See also Eckhart Hellmuth's critique in his *Naturrechtsphilosophie und bürokratischer Werthorizont: Studien zur preussischen Geistes- und Sozialgeschichte des 18. Jahrhunderts* (Göttingen, 1985), 255–78.

his obligation to pay annual seigneurial *banalités*. Therefore Schmettau was under no *public* obligation as Arnold's lord to protect him, a private property-holder, from the hydrological consequences of Gersdorf's ponds. The parties' social status did not enter into their equation. Similarly, Bandel defended himself against the charge that he and his colleagues had given insufficient attention to the question of damages by asserting, first, that it did not arise as long as the lawsuit remained a matter of competence to sue. Even if it had, he explained, the Prussian code of legal procedure did not in most cases require appellate tribunals to conduct first-hand investigations.⁶² Secondly, when the question *did* arise at royal instigation, the justices did exactly what civil procedure required—no less, and no more, namely: a visual inspection (*Augenschein*) of the mill and its vicinity, but no measurement of the water in Gersdorf's pond or the mill-stream. This was consistent with the broader aim of introducing some order and system into the administration of justice, free of direct royal interference, in order to enhance a "more efficient functioning of autocracy"—what Otto Hintze described as "patriarchal equity-justice."⁶³ "Who cannot see . . . that the Neumark tribunal was completely unbiased in this matter?" asked Bandel. Surely no one who measured social equity by the standard of procedural rigor.⁶⁴

Is it possible to describe the ideas of Rosine and Christian Arnold? To be sure, the documentary evidence of their worldview is "tainted": no verbatim interrogation transcripts survive, and their legal briefs and petitions were composed with professional help. Needless to say, no personal letters from the Arnolds survive, let alone writings that offer firsthand testimony of their motives. We must consider the possibility that the Arnolds' words were not their own, but those of their attorneys. Yet the Arnolds were anything but passive clients. In their initial suit against Counts Schmettau and Gersdorf, a court-appointed attorney named Freund represented the couple, but the Arnolds were unsatisfied with him and complained to Grosskanzler Fürst on 9 August 1779.⁶⁵ From mid-August to October they are reported to have engaged the services of one Auditor Bech of the Natal Regiment in Züllichau; from October on, another court appointee named Klöber represented them.⁶⁶ Despite the fre-

62. Bandel, "Geschichte des Arnoldschen Prozesses"; Finck von Finckenstein, "Geschichte des vor der Neumärkischen Regierung Arnold-Gersdorfschen Prozesses," 129–55: "überdem auch nach der Prozess-Ordnung ein solches Gutachten zum Beweise nicht notwendig war."

63. "Patriarchalische Billigkeitsjustiz"; Otto Hintze, "Preussens Entwicklung zum Rechtsstaat," *Forschungen zur Brandenburgischen und Preussischen Geschichte* 22 (1920): 385–451.

64. President von Finckenstein's justification is substantially the same as Bandel's; "Geschichte des vor der Neumärkischen Regierung geführten Arnold-Gersdorfschen Prozesses," 141–42.

65. Freund charged the Neumark court 22 Taler, 5 Groschen, 6 Pfennig for his services; "Allerunterthanigste Anzeige," 12 August 1779, GStA-PK Arnold Akten, 13r–14v. On the Arnolds' dissatisfaction with Freund, see Petition of Christian and Rosine Arnold to Fürst, 9 August 1779, GStA-PK Arnold Akten.

66. On Auditor Bech, see Finck von Finckenstein, "Geschichte des vor der Neumärkischen Regierung geführten Arnold-Gersdorfschen Prozesses," 136; on Klöber, "Relationen des Kammergerichtsrats Ransleben," 8 December 1779.

quent change of attorneys, however, the Arnolds' arguments remained remarkably consistent.

The Arnolds' persistence generated a wealth of textual material that offers a glimpse of the cultural rationality that informed their behavior. After the Arnolds were fined, imprisoned, and threatened with expropriation for refusing to accept the assessor Schlecker's ruling, Rosine Arnold delivered a petition to Frederick in person in August 1775, when the king passed through nearby Krossen on his way to an inspection of Silesia.⁶⁷ After Schmettau confiscated the mill and sold it to Gersdorf, the Arnolds renewed their supplications to Frederick. Another petition reached the royal desk in March 1779.⁶⁸ In August 1779, Rosine Arnold's brother, a soldier stationed in Frankfurt an der Oder, enlisted his commanding officer, Prince Leopold of Braunschweig, to deliver yet another petition to Fürst while the latter was on visitation in Küstrin.⁶⁹ Still another petition arrived at the Justice Department on 14 August.⁷⁰ On 21 August, finally, Christian Arnold received his hearing in Potsdam. All this activity succeeded in drafting the king's part in their dispute with Schmettau and Gersdorf.⁷¹ The royal interposition followed five months later; here again, a final petition dated 15 November seems to have influenced Frederick's timing.⁷²

From these documents emerge notions of justice profoundly at odds with those of Prussia's legal bureaucracy and a rationality that offered powerful justifications for resistance and perseverance despite the often crushing cost and duration of lawsuits. In their supplication to King Frederick of March 1779, the Arnolds' complaint was directed primarily against their own judicial overlord, Count Schmettau, and only secondarily against Count Gersdorf. From mid-1771 to June 1778, they alleged, the diversion of water into Gersdorf's carp ponds had so reduced flows in the Arnolds' millstream that full operation was not possible; consequently, Rosine Arnold "begged her seigneur (*Grund-Herrschaft*) Count von Schmettau most obediently for assistance (*unterthänigst [um] Hilfe*)."⁷³ For them, at issue was Schmettau's seigneurial duty to hold his subjects immune from outside aggressions, or indemnify them otherwise. Not only had Schmettau failed in this, but he had also compounded neglect with "injuries" (*Unbilden*). Citing failure to pay rent, Schlecker had not only confiscated the mill and imprisoned Christian Arnold, he had "perpetrated *over 100 Reichstaler*

67. The original text of this petition has not survived; Dickel, *Friedrich der Grosse*, 3.

68. Petition of Rosine Arnold, [March] 1779, GStA-PK Arnold Akten, 1r–2v.

69. Leopold von Braunschweig to Fürst, 11 August 1779, GStA-PK Arnold Akten, 19r–v; Petition of Christian and Rosine Arnold to Fürst, 9 August 1779, *ibid.*, 10r–v. Proof of Fürst's presence in Küstrin and receipt of the petition may be found in an *Aktennotiz* dated 18 August 1779, GStA-PK Arnold Akten.

70. Petition of Christian Arnold to Frederick, 14 August 1779, GStA-PK Arnold Akten, 21r–v; Diesselhorst, *Prozesse*, Quellenanhang, II.4, 79–80.

71. Frederick to Miller Arnold, 22 August 1779, GStA-PK, HA 1, 96B/79, p. 947.

72. Diesselhorst, *Prozesse*, Quellenanhang, II.12, 95–96.

73. Petition of Rosine Arnold to Frederick, [March] 1779, GStA-PK Arnold Akten, 1r–2v.

damages not only in victuals, fodder, and grain” and taken “away from me hay, straw, and seven sacks grain intended for dues and services.” Schlecker had even threatened to drown the Arnolds’ children!⁷⁴

Informing this and other petitions was a notion of “correspectivity,” as Helmut Gabel has called it—an ancient norm underpinning popular conceptions of the relationship between lord and subject based on mutual and reciprocal obligation.⁷⁵ As a constitutive element in feudal domination, this notion came alive principally in oath formulae and homage liturgies. Such texts typically listed obedience, loyalty, prompt payment of seigneurial dues and services, and a willingness to give aid and succor in the event of need among the obligations incumbent on subjects; justice, paternal clemency, aid in need, and a willingness to provide defense and protection (*Schutz und Schirm*) were expected of lords.⁷⁶ Wisely, Gabel notes a “drastically diminished interpretation of seigneurial obligations,” even in the most traditional regions, by the seventeenth and eighteenth centuries; and as André Holenstein’s exhaustive studies of homage rituals have shown, the concentration of state power tended to secularize and depersonalize the ceremony, thus diminishing its constitutive function.⁷⁷ But the idea remained very much alive in popular political culture, in eastern regions of the empire no less than in the west.⁷⁸ In any case, the 1710 lease contract stipulated that Schmettau had to remit lease payments on the mill if, “God forbid,” it should “stand empty” because of “conflagration . . . pestilence or war.” From the Arnolds’ point of view, the only valid legal question could be whether this clause applied by analogy to Count Gersdorf’s “attack” on their livelihood.⁷⁹

74. “wobey mir über 100 Reichs Thlr. Schaden nicht nur allein an Victualien, Futter, Korn zugefüget worden . . . sonder auch das aus den Scheunen haben sie mir das Heü, Stroh, 7. Sack Korn weggenommen [so] zu denen Abgaaben und Lieferungen bestimmt” (underlined in the original); *ibid.* See also Petition of Christian Arnold to Frederick, 14 August 1770, GStA-PK Arnold Akten, 21r–v.

75. Helmut Gabel’s term is “Korrespektivität”; see his *Widerstand und Kooperation: Studien zur politischen Kultur rheinischer und maasländischer Territorien (1648–1794)* (Tübingen, 1995), 343. See also Winfried Schulze, *Bäuerlicher Widerstand und feudale Herrschaft in der frühen Neuzeit* (Bad Cannstatt, 1980), 123; and *idem*, “Herrschaft und Widerstand in der Sicht des ‘Gemeinen Mannes’ im 16./17. Jahrhundert,” in *Vom Elend der Handarbeit: Probleme historischer Unterschichtenforschung*, ed. Hans Mommsen and Winfried Schulze (Stuttgart, 1981), 46–83.

76. For the classic articulation of such expectations, see Otto Brunner, *Land und Herrschaft: Grundfragen der territorialen Verfassungsgeschichte Österreichs im Mittelalter*, 4th rev. ed. (Vienna, 1959), translated by Howard Kaminsky and James Van Horn Melton as “Land” and *Lordship: Structures of Governance in Medieval Austria* (Philadelphia, 1992).

77. Gabel, *Widerstand und Kooperation*, 343; see also André Holenstein, *Die Huldigung der Untertanen: Rechtskultur und Herrschaftsordnung, 800–1800* (Stuttgart, 1991).

78. André Holenstein, “Die Symbolik des Rechts in Herrschaftsbeziehungen: Untertanenhuldigungen in Gutsherrschaften,” in *Gutsherrschaft als soziales Modell: Vergleichende Betrachtungen zur Funktionsweise frühneuzeitlicher Agrargesellschaften*, ed. Jan Peters (Munich, 1995), 81–100, here 91–92.

79. On the question of whether the lease contract of 1710 obligated Schmettau to remit Arnold’s lease payments as a result of damages from a loss of millstream water, see Diesselhorst, *Prozesse*, 11–13.

Clearly they believed that Schmettau had failed his seigneurial obligation to protect them. Schlecker and the Neumark judges appear to have read this clause literally, while the Arnolds read it metaphorically in terms consistent with their own expectation of “correspectivity.”

It is not certain that the Arnolds consciously withheld their rent as a specific response to broken reciprocal obligations. Nonetheless, for the most part they argued that a threat to their “vital necessity” (*Lebens-Nothdurft*) —not retaliation—had forced them to withhold rent. As Christian Arnold put it in the August 1779 petition, “My whole viability (*Nahrung*) was so diminished that I was unable to meet my own vital necessities, much less make my lease payment.”⁸⁰ As both Gabel and Renate Blickle have noted, the concepts of *Nahrung* and *Lebensnotdurft* were central to “correspectivity.” Specifically, popular expectations of mutual and reciprocal obligation (as the basis of legitimate domination) depended so heavily on maintaining material “sufficiency” (*Auskömmlichkeit*) that in certain cases, a menace to the socioeconomic viability (*Nahrung*) of peasant holdings was enough to justify strikes against otherwise uncontested seigneurial dues.⁸¹ By the same token, peasants expressed their desire to restore normal payments once the conditions of “sufficiency” were restored. Thus Rosine Arnold professed her willingness to resume payments as soon as the danger to their “livelihood” (*Gewerb*) had passed: “from the hour the water was restored” in June 1778, Rosine Arnold “wanted . . . again to yield my full rent” to Schmettau.⁸² Similarly, at his first trial in patrimonial court in 1773, Christian Arnold declared his willingness to deliver rent as soon as Schmettau had arranged for the restoration of his water supply.⁸³ In her petition of March

80. “so wahre meine gantze Nahrung, auch der gestalten verringere, dass kaum meine lebens Nothdurft verdienen konnte noch weniger meine Pacht abtragen”; Petition of Christian Arnold to Frederick, 14 August 1779, GStA-PK Arnold Akten, 21r–v. And further: “dass wir den gehörigen Pacht an den Grafen von Schmettau rückständig geblieben, ist die Ursach: weilen durch Anlegung der Karpfenteiche von dem H. Land-Rath v.Gerdorff uns das Wasser völlig abgenommen”; Petition of Christian and Rosine Arnold to Grosskanzler Fürst, 9 August 1779, GStA-PK Arnold Akten.

81. Gabel, *Widerstand und Kooperation*, 347–48; Renate Blickle, “Hausnotdurft: Ein Fundamentrecht in der altständischen Ordnung Bayerns,” in *Grund- und Freiheitsrechte von der ständischen zur spätbürgerlichen Gesellschaft*, ed. Günter Birtsch (Göttingen, 1987), 42–64; and Renate Blickle, “Nahrung und Eigentum als Kategorien in der ständischen Gesellschaft,” in *Ständische Gesellschaft und soziale Mobilität*, ed. Winfried Schulze (Munich, 1988), 73–93.

82. “wolte auch sogleich von Stunde des erhaltenen Wassers meine vollkommene Pacht . . . [w]ieder abgeben”; Petition of Rosine Arnold to Frederick, [March] 1779, GStA-PK Arnold Akten, 1r–2v. And further: “so hätten wir wie ehein den Pacht hinlänglich abgeliefert, wie wir auch bey Wiedererhaltenen Wasser würcklich thaten”; Petition of Christian and Rosine Arnold to Grosskanzler Fürst, 9 August 1779, GStA-PK Arnold Akten.

83. Dickel, *Friedrich der Grosse*, 2. See also Schlecker’s characterization of the Arnolds’ argument: “Der Arnold gab nämlich zum Grunde, dass . . . der v.Schmettau daher überhaupt nicht berechtigt sei, einen Zins von ihm zu fordern”; Auszug aus dem Protokoll der Vernehmung des Hoffiscals Schlecker vom 24. December 1779, in Sietze, *Ausübung*, Beilage A, 33–34; and Diesselhorst *Prozesse*, Quellenanhang IV.20, 149–51.

1779, Rosine went so far as to blame Schlecker for the fact that the dues had not been paid in 1778.

The norm of “correspectivity” also may answer a question that has baffled legal historians of the case, namely, why the Arnolds waited so long—until 1779—to file a lawsuit against the “real” culprit, Count Gersdorf. The legal historian Malte Diesselhorst speculated that the millers had not been properly informed of their options, with the result that nine years elapsed before appellate decisions revealed their error.⁸⁴ But this is to ignore the Neumark tribunal’s ruling in 1774 that Schmettau could not be sued and that the Arnolds should hold Gersdorf liable for damages. Still they persisted. From the Arnolds’ point of view, arguably, suing Schmettau instead of Gersdorf was to place the dispute in its proper context: that of mutual and reciprocal obligation between lord and subject, in which the lord was obliged to mediate conflicts between subjects and their attackers.

Finally, the Arnolds’ discourse rested on an understanding of knowledge that differed profoundly from that of the judges. Assessor Schlecker, Regierungsrat Neumann, even Colonel Heucking and the Pond Inspector Schade all operated on the assumptions of “rational knowledge,” in which facts are ascertainable and access to truth or falsehood is direct, dispassionate, “nonpartisan.” The villagers of Pommerzig could never quite agree on the specifics—whether the shortage created by Gersdorf’s pond was seasonal or a one-time occurrence during the early 1770s—but all agreed that for whatever reason, the Arnolds had been compelled to turn away customers. As David W. Sabeen argues, early modern villagers reached “truths” such as this through the *Sage*, or the village “word”: the “give-and-take of discussion between neighbors, friends, and family members.”⁸⁵ This “social knowledge” of the village *Sage* was not discrete but diverse, not explicit but implicit; it was instrumental and always tied to power relations with outsiders, such as Regierungsrat Neumann. Viewing his data through the lens of “rational knowledge,” Neumann misinterpreted the village *Sage* as falsehoods and fabricated suspect motives to explain them.

In the clash between discourses, the judges’ unbending refusal to consider anything so nebulously defined as a lord’s “correspective” patriarchal obligations ultimately forced the millers to adapt their behavior. It did not have to be this way. Gabel and others have shown that judicial tribunals in states elsewhere in the empire seriously considered arguments from “correspectivity”; but in this

84. Diesselhorst, *Prozesse*, 15.

85. See David W. Sabeen, “The Sins of Belief: A Village Remedy for Hoof in Mouth Disease (1796),” in his *Power in the Blood: Popular Culture and Village Discourses in Early Modern Germany* (Cambridge, 1984), 174–98. See also Andreas Würzler, “Fama und Rumor: Gerücht, Aufruhr und Presse im Ancien Régime,” *Werkstatt Geschichte* 15 (1996): 20–32; and André Holenstein, “‘Local-Untersuchung’ und ‘Augenschein’: Reflexionen auf die Lokalität im Verwaltungsdenken- und handeln des Ancien Régime,” *Werkstatt Geschichte* 16 (1997): 19–31.

case, the Prussian judges ignored such reasoning entirely. In 1774, Schlecker repudiated the Arnolds' argument as no "absolution" from the obligation to pay rent.⁸⁶ For its part, the Berlin Kammergericht viewed the millers' insistence on "correspectivity" as a sign of their "*Frivolitat*."⁸⁷ Only after nearly ten years of legal wrangling did the Arnolds finally act on legal grounds congenial to the judges' "discourse" and transformed their grievance into a tort case. Thus the judges' preoccupation with procedure encouraged the Arnolds to recast themselves as the helpless victims of a powerful and rapacious lord. A process of cultural adaptation removed their argument from the collectivizing, normative domain of social contract to the individualistic realm of personal injury.

The more explosive collision, of course, was that between the judges' discourse on justice and Frederick's. At bottom, the Neumark and Kammergericht justices were trapped in contradictions between Frederick's parallel commitments to social equity and the rule of law. Just as Schmidt suggested, the former dictated both social *egalite* before the law and swift procedure, which often drove him to intervene as supreme justiciar in judicial administration. The latter dictated adherence to due process and royal self-restraint. Frederick's reforms occurred when his moral pendulum swung toward the ideal of *egalite*. Frustration with the slow pace of justice and antipathy toward *Advokaten* as its principal cause recur mantra-like throughout his career as a reformer of legal procedure. Early in Frederick's reign, for example, the principal goal of Samuel von Cocceji's reforms had been to ensure that no case take more than a year to prosecute.⁸⁸ Chancellors who cleared backlogs of unsettled cases retained royal favor. Two of Cocceji's most successful adjutants in this enterprise, Jahriges and Carmer, would eventually succeed him as Grosskanzler in 1755 and 1779, respectively.⁸⁹ Another of Cocceji's proteges, Furst, was promoted to Grosskanzler in 1770 when it became evident that Cocceji's accelerations were still wanting.⁹⁰ In time, Furst too fell victim to judicial sloth and the machinations of Carmer, who was well enough aware of royal prejudices to propose in 1776 the effective removal of *Advokaten* from the administration of justice. Only a few

86. Dickel, *Friedrich der Grosse*, 2, 5; and Diesselhorst, *Prozesse*, 11–14.

87. "Relationen des Kammergerichtsrats Ransleben," 8 December 1779. In his public and private pronouncements on the case, too, Frederick made no mention of Schmettau's supposed failure to defend the Arnolds; see the public protocol of Furst's sacking, *Berlinische Nachrichten von Staats- und Gelehrten Sachen* 149 (14 December 1779), 812–14. For the king's private reactions, see Frederick to Colonel Heucking, 27 September 1779, GStA-PK HA 1, 96B/79, 1037; and Frederick to Zedlitz, 27 December 1779, in Diesselhorst, *Prozesse*, 59.

88. Principally the "Codex Fridericianus Marchius" of 1747–1749 and the "Visitations-Ordnung" of 1754; see Otto Hintze, "Die Reform des Kammergerichts durch Cocceji in den Jahren 1747 und 1748," *Forschungen zur brandenburg-preussischen Geschichte* 6 (1893): 575–81.

89. Herman N. Weill, *Frederick the Great and Samuel von Cocceji: A Study in the Reform of the Prussian Judicial Administration, 1740–1755* (Madison, 1961), 42.

90. Holtze, *Geschichte des Kammergerichts*, 3:272–74.

weeks before replacing him, Frederick reprimanded Fürst for failing to quicken the pace of justice in the provincial court system of Kleve.⁹¹ The Arnold case provided the occasion for inaugurating another round of “accelerating” reforms with an “example” made against “lawyers’ pranks” (*Advocaten-Streiche*).⁹²

Equally persistent themes in Frederick’s reforms, however, were the professionalization of judicial personnel, rationalization both of investigative procedure and appellate process, and Frederick’s well-known commitments to doctrines of social contract.⁹³ But fulfilling these objectives entailed an investigative thoroughness that fell afoul of Frederick’s demand for speed—indeed, as Bandel noted, swift procedure had been the rationale for limiting the amount of first-hand investigating required of appellate tribunals. This, in turn, placed courts of appeal in a state of near-total evidentiary dependence on patrimonial assessors like Schleckker, and the structural conflict of interest they personified. Thus Frederick’s justices, in their devotion to proper procedure, were pinned between contradictory demands for efficiency *and* social equity in a forensic context that encouraged social *inequality*. On this point, Frederick’s victims were resentfully clear. Bandel complained bitterly that he and his colleagues

did everything that could contribute to a quick *but also legal* decision in the case . . . And now, you connoisseurs of the human heart, its frailties and treacheries, declare: can ignoble intentions even be suspected of this decision?⁹⁴

If this evidentiary dependence replicated the social inequities of Prussian landed estates throughout the appellate system, the king had no one but himself to blame. Also, Frederick’s discourse was packed with contradictions regarding his own role. These were incorporated in the Prussian code of civil procedure, which allowed the king to appoint commissions of investigations when normal litigation had failed, while at the same time forbidding appellate courts to obey cabinet decrees that contravened codified law.⁹⁵ But what if a royal commission seemed to contravene law? In the Arnold case, the royal commission’s split decision exacerbated this tension: while the king considered Colonel Heucking’s

91. “Neue Verordnung um die Prozesse zu verkürzen” (15 January 1776), *Novum Corpus Constitutionum Prussico-Brandenburgensium praeceptum Marchiarum*, vol. 6, 1776–1780 (Berlin, 1781), 17–20. See also Koser, *Geschichte Friedrichs*, 3:412–13; Holtze, *Geschichte des Kammergerichts*, 3:257–60.

92. Frederick to Zedlitz, 27 December 1779, GStA-PK HA 1, 96B/79, 1245; see also *ibid.*, 1206, and Frederick to Zedlitz, 11 December 1779, GStA-PK Arnold Akten.

93. Ogris, “Friedrich und das Recht,” 59; Hubatsch, *Friedrich und die preussische Verwaltung*; Behrens, *Society and Government*, 104–5.

94. “wandten sie Alles an, was dazu beitragen könnte, diese Sache schleunig *aber auch rechtlich* zu entscheiden . . . Und nun, Ihr Kenner des menschlichen Herzens, seiner Schwächen und Tücken, sagt: lassen sich bei dieser Entscheidung unedle Absichten auch nur muthmassen?” (emphasis in original); Bandel, “Geschichte des Arnoldschen Prozesses.”

95. *Codex Friderici Marchius* I:14, §30.

opinion to be definitive, the Kammergericht accepted Neumann's as normative and confirmed most of his findings, in defiance of Frederick's views. The king saw this action as both a violation of procedure and insubordination; but the high court believed itself to be acting wholly within the law. Thus both Frederick and his judges could imagine themselves as impartial and the other biased. As Rebeur put it to his colleague Ransleben, the Kammergericht had reached its decision properly, "and this must suffice, for the *Codex Fridericiani* states that judges shall not heed cabinet decrees."⁹⁶

Finally, Frederick's discourse linked frustration over procedural sloth to strong suspicions that it masked the perpetration of a socially lopsided jurisprudence. As the preceding examples showed, Frederick remained suspicious of attorneys as the main cause of delay throughout his reign; beginning in the 1770s, increasingly, he transferred these suspicions to his own judges. Evidence of this shift emerged in his 1775 tour of Silesia, when Rosine Arnold submitted her first petition. In Silesia—according to the snobbish characterizations of the nineteenth-century historian, Friedrich Holtze—"the king at each of his numerous stations was pestered with begging letters (*Bettelbriefen*) and that unfortunate species of troublemakers who supplied the main contingent of such nuisance."⁹⁷ But Frederick made a different social analysis. Only two months before he sacked Fürst and elevated Carmer from the post of Silesian justice minister, the king observed that,

whenever peasants have disputes with genteel folk (*vornehme Leute*), they lose. And I simply cannot imagine that the peasants are so completely in the wrong that they would make so many complaints without cause or need.⁹⁸

The king was convinced that his courts accepted the verdicts of manorial assessors uncritically—as Frederick wrote to Zedlitz, "whatever a simple patrimonial judge says, that they believe"⁹⁹—and he viewed petitions as symptoms, not the causes of judicial abuse, which he attributed to devious manipulations of procedure by the powerful, not the weak. In the Arnold case, therefore, the problem was the "*Fiscaquereien* by the lords, nothing more."¹⁰⁰ In this connection, it is worth noting that the judges discovered extra reasons to ascribe "*Frivolität*" to the activism of Rosine Arnold. To the male inhabitants of a legal milieu that

96. "Wir haben es so erkannt und dies muss genügen; denn im Codice Fridericiano steht, dass der Richter sich an Kabinets-Ordres nicht kehren soll"; Dickel, *Friedrich der Grosse*, 15. See also Schmid, "Rechtssprüche und Machtsprüche."

97. Holtze, *Geschichte des Kammergerichts*, 3:283.

98. Frederick to Carmer, 27 October 1779, GStA-PK HA 1, Rep. 96B/70, p. 1099.

99. Frederick to Zedlitz, 30 December 1779, GStA-PK HA 1, Rep. 96B/79, p. 1253; Diesselhorst, *Prozesse*, 59–60.

100. Frederick to Zedlitz, 1 January 1780, GStA-PK Arnold Akten; reprinted in *Acta Borussia: Behördenorganisation*, 16/2:588–89, no. 456.

tended more and more to distinguish public from private roles along gendered lines, her activism elicited a hostility that contrasted sharply with Frederick's silence on the matter of her role in the affair.¹⁰¹ Increasingly during the 1770s, Frederick and his judges analyzed the relationship between judicial process and equality before the law in divergent and conflicting social and gender terms. Between the two analyses, Frederick's was the more realistic.

* * *

What can be learned from the Arnold affair? Does the evidence presented here mean that Schmidt was wrong to suggest that in late eighteenth-century Prussia, circumstances favored the "quarrelsome supplicant"?¹⁰² Quite so, but it is no exaggeration to say that eighteenth-century judicial systems were vulnerable to creative appropriation, even manipulation "from below." True, one should not conclude too much from Rosine Arnold's audacity in approaching the king directly. Royal tours such as Frederick's 1775 trip through Silesia typically generated petitions by the hundreds and thousands. In the midst of his 1773 tour of Transylvania and Galicia, for example, the coregent Joseph II wrote to Maurice Lacy and acknowledged his advice to expect "many memorials." "Would you believe," the future emperor reported, "that I've already got up to 15,000?"¹⁰³ Even the little Upper Margraviate of Baden-Durlach generated 148 petitions during Prince Karl Friedrich's six-week stay in 1798.¹⁰⁴ During the 1760s, Prussian supplicants were known to perch themselves on a certain Linden tree in Potsdam, within eyeshot of the king's palace chambers, and wave their petitions at him.¹⁰⁵ No, the surprising thing is her apparent awareness of royal suspicions toward the Prussian judiciary, suspicions she exploited to the fullest. By requesting in March 1779 a "nonpartisan or military commission to investigate my just cause," for example, she played on Frederick's antipathy

101. See Marion W. Gray, "Men as Citizens and Women as Wives: The Enlightenment Codification of Law and the Establishment of Separate Spheres," in *Reich oder Nation? Mitteleuropa 1780–1815*, ed. Heinz Duchhardt and Andreas Kunz (Mainz, 1998), 279–97. See also Ulrike Gleixner, "Das Gesamtgericht der Herrschaft Schulenburg im 18. Jahrhundert: Funktionsweise und Zugang von Frauen und Männern," in *Gutsherrschaft*, ed. Jan Peters, 301–26.

102. Schmidt, "Rechtssprüche und Machtsprüche," 236.

103. Derek Beales, *Joseph II*, vol. 1, *In the Shadow of Maria Theresa 1741–1780* (Cambridge, 1987), 361. According to a contemporary account of the trip, as the young prince passed through, "petitioners of every age and sex, and of all the nations of Transylvania, knelt holding up their petitions. In front of each one the emperor stopped and told him to rise: 'Steht auf!' to the Saxon, and 'Scula scula' to the Vlach. With his own hand he received each person's petition and . . . after a moment's reflection, he would say: 'Ich werde untersuchen' (I will look into this)," 361.

104. André Holenstein, "Bittgesuche, Gesetze und Verwaltung: Zur Praxis 'guter Policy' in Gemeinde und Staat des Ancien Régime am Beispiel der Markgrafschaft Baden-Durlach," in *Gemeinde und Staat im Alten Europa*, ed. Peter Blickle (Munich, 1998), 330–46.

105. Holtze, *Geschichte des Kammergerichts*, 3:271–72.

toward *Advokaten* and his habit of appointing military officers to conduct ad hoc judicial investigations.¹⁰⁶ The millers seem also to have been aware of Frederick's preoccupation with swift justice: in August 1779, Christian Arnold charged that the judges in his case were sloppy and prejudiced in ways that prolonged their suit unnecessarily.¹⁰⁷ Finally, when the Neumark tribunal rejected the commission's report, the Arnolds fed Frederick's suspicion of a judicial conspiracy with Count Gersdorf, which the king might undo "on the basis of [royal] power" (*Machtsweise*), thereby sparing the millers "further litigation."¹⁰⁸ These arguments successfully insinuated the Arnolds' perspective on the king's mind, and beginning in August 1779, the king fulfilled their every request. It cannot be assumed, moreover, that their manipulations of King Frederick's preoccupation with swift justice and his fondness for military investigations reflect the influence of attorneys. In an almost exactly contemporaneous lawsuit, the inhabitants of a village near Fürstenwalde used similar arguments to direct Frederick's attention to their grievances, and in this case, the author of the petition was a weaver and part-time schoolteacher named Johann Gottlob Dinger.¹⁰⁹ Thus the present case suggests that tensions between competing elite discourses on justice were widely known, even to mere millers. All this was consistent with the growing tendency—documented for Bavaria, Hesse-Kassel, and Württemberg—of subjects throughout early modern Germany to address their petitions to territorial sovereigns (to the exclusion of other sources of authority).¹¹⁰

Of course, it would be silly to credit the Arnolds for Frederick's second round of judicial reforms. No other petition provoked so spectacular a response, and for every Christian or Rosine Arnold, hundreds more were brushed off with instructions to appeal their grievances through regular channels. Of those that actually reached the king, most were referred to the Kammergericht or the Justice Department.¹¹¹ According to daily cabinet minutes for the period

106. Petition of Rosine Arnold to King Frederick, [March] 1779, GStA-PK Arnold Akten, 1r–2v.

107. Petition of Christian Arnold to King Frederick, 14 August 1779, GStA-PK Arnold Akten, 21r–v.

108. Petition of Christian Arnold to King Frederick, 15 November 1779, GStA-PK Arnold Akten.

109. "Acta wegen der von der Gemeinde zu Kersdorff geführten Beschwerden," 21 February 1780, GStA-PK HA I, 9, Lit. Y 2, Fasz. 191.

110. For Bavaria see Renate Blickle, "Laufen gen Hof: Die Beschwerden der Untertanen und die Entstehung des Hofrats in Bayern—Ein Beitrag zu den Varianten rechtlicher Verfahren im späten Mittelalter und in der frühen Neuzeit," in *Gemeinde und Staat*, ed. Peter Blickle, 241–66. For Hesse and Württemberg, see Rosi Fuhrmann, Beat Kümin, and Andreas Würzler, "Supplizierende Gemeinden: Aspekte einer vergleichenden Quellenbetrachtung," in *ibid.*, 267–324.

111. See, for example, Frederick's instructions in response to peasant petitions received in July 1779: Petition of Schoppsdorff Colonists, 1 July 1779 ("An der Cammer"), GStA-PK HA 1, 96B/153, 3r–v; Petition of Peasant Trüstenberg of Neudamm, 3 July 1779 ("An der Cammer"), GStA-PK HA 1, 96B/153, 11r; Petition of Peasant from Baudmannsdorf, 8 July 1779 ("Gehört vor die Justitz"), GStA-PK HA 1, 96B/153, 38r; Petition of Gemeinde Schina, 9 July 1779 ("Camer

between 1 July 1779 and 30 June 1780, Frederick personally reviewed 128 petitions, a monthly average of about eleven, but in only one instance did Frederick involve himself personally.¹¹² At present there is no way of telling what proportion of total supplications these figures represent, or even if the sample is complete; for example we know from other sources that Frederick intervened in other cases not recorded in his cabinet minutes. Thus in November 1779—only weeks before his fiat in the Arnold case—the king ordered the minister responsible for overseeing the government of Magdeburg-Halberstadt to authorize the speedy reexamination of two peasant petitions and to satisfy their complaints with “justice and equity” (*Recht und Billigkeit*).¹¹³ And we can only guess the total number of petitions delivered during the period. In the spring of 1780, rumor had it that in the few months since his appointment as chancellor, Carmer’s “judicial colleges” had been deluged with upward of 2,000 peasant grievances. But there appears to have been no corresponding increase discernable in the cabinet minutes, at least in the short term, which suggests that few if any of these ever reached the king’s office.¹¹⁴ Even under the best of conditions, therefore, the odds against obtaining a royal hearing, let alone a favorable one, were overwhelming.

On the other hand, the sheer number of supplicants suggests a crisis in popular confidence of considerable proportions. To be sure, petitioning did not necessarily indicate social crisis. Renate Blickle argued recently that Bavaria’s exceptional social tranquility throughout the early modern era was attributable partly to the fact that its judicial system enabled ordinary subjects to provoke summary decisions in their lawsuits through formal supplications.¹¹⁵ In most principalities, the idea that subjects should have free access to the sovereign expressed a still-paternalistic conception of royal authority as primarily judicial, and in this regard Prussia was no exception.¹¹⁶ But several recent studies have demonstrated both that supplications were a primary source of information for

Sache”), GStA-PK HA 1, 96B/153, 42r; Petition of Peasant Dolgerin of Alt-Murow, 10 July 1779 (“An die Justitz”), GStA-PK HA 1, 96B/153, 46r; Petition of Miller Seebald of Treuenbrietzen, 18 July 1779 (“kan jetzt ihn nichts geben”), GStA-PK HA 1, 96B/153, 79r; and Petition of Holländer-Gemeinde in Giethenhout, 26 July 1779 (“Cammer Sache”), GStA-PK HA 1, 96B/153, 109r.

112. “Extracte für die Cabinets-Vorträge,” GStA-PK, HA 1, 96B/153–154. The figure includes petitions from individual “*Bauern*” or “*Gemeinden*” but excludes petitions for financial relief from war veterans. For the intervention, see Petition of Peasant Schwenk of Ringenwalde, 12 July 1779 (Frederick’s marginal note: “Die Justitz solle immediate an mich darüber berichten”), GStA-PK HA 1, 96B/153, 54v.

113. *Kabinettsordre* to Minister Graf von der Schulenberg-Kehnert, 19 November 1779, in Wilhelm Naudé, “Aus der Zeit des Müller Arnoldschen Prozesses,” *Forschungen zur brandenburgischen und preussischen Geschichte* 5 (1892): 314–19.

114. Neumann, *Aus der Festungszeit*, 95–103. Chancellor Fürst reported in 1775 that 10,800 cases had been pending in Prussian courts, of which peasant grievances represented a substantial proportion; Holtze, *Geschichte des Kammergerichts*, 3:290.

115. R. Blickle, “Laufen gen Hof,” 259–66.

116. Holenstein, “Bittgesuche,” 346; Behrens, *Society, Government, and Enlightenment*, 89–92.

the early modern state *and* that the intensity of petitioning typically reflected “the accumulation of problems at the local level.”¹¹⁷ Under the right circumstances, a “deluge of petitions” (*Supplikenflut*) like the one Joseph II experienced in 1773 “could contribute to differentiation in the apparatus of state.”¹¹⁸ Here, the Arnolds’ petitions were only the most sensational instance of a much wider phenomenon—the constitutive role supplications often played in the formation of the early modern state. Needless to add, the affair also shows that Prussian peasants were hardly the helpless objects of what they considered seigneurial tyranny.¹¹⁹

There can be little doubt that political tensions were increasing in rural Prussia from the 1760s on. But was the Arnolds’ case symptomatic of this “accumulation”? It would be reckless, of course, simply to extrapolate from the Arnold affair to broader social trends: no water rights dispute could typify the great bulk of agrarian legal disputes, which involved the terms of access to land and its productive value. Furthermore, relatively little is as yet known about the volume of peasant lawsuits or petitions and their variations over time and space.¹²⁰ Contemporaries were certain that the Arnolds’ success emboldened others to try their luck; Regierungsrat Bandel reported that 1,800 peasant petitions arrived during the first two months after the royal fiat.¹²¹ But as Johannes Ziekursch once showed, the sharp surge in peasant litigations immediately following the Arnold affair merely amplified a crescendo of agrarian complaint. In 1780, the number of lawsuits brought by subjects against their *Gutsherren* increased sharply in the Silesian districts bordering on the Züllichau district, where the Arnolds lived; in the Neustadt district of southern Silesia, no fewer than sixty communes filed suits against their landlords; in the Freistadt district thirty-four; and in the Grünberg district a majority of communes did.¹²²

117. Fuhrmann, Kümin, and Würgler, “Supplizierende Gemeinden,” 320. See also Helmut Neuhaus, “Supplikationen als landesgeschichtliche Quellen: Das Beispiel der Landgrafschaft Hessen im 16. Jahrhundert,” *Hessisches Jahrbuch für Landesgeschichte* 28 (1978): 110–90; 29 (1979): 63–97; Beat Kümin and Andreas Würgler, “Petitions, Gravamina and the Early Modern State: Local Influence on Central Legislation in England and Germany (Hesse),” *Parliaments, Estates and Representation* 17 (November 1997): 39–60; and Luebke, “‘Naïve Monarchism’ and Marian Veneration.”

118. Fuhrmann, Kümin, and Würgler, “Supplizierende Gemeinden,” 321.

119. Compare William W. Hagen, “The Junkers’ Faithless Servants: Peasant Insubordination and the Breakdown of Serfdom in Brandenburg, 1763–1811,” in *The German Peasantry: Conflict and Community in Rural Society from the Eighteenth Century to the Present*, ed. R. J. Evans and R. R. Lee (London, 1986), 71–101; Silke Götsch, “Widerständigkeit leibeigener Untertanen auf schleswig-holsteinischen Gütern im 18. Jahrhundert,” in *Gutsherrschaft*, ed. Jan Peters, 367–83; and Matthias Weber, “Disziplinierung und Widerstand: Obrigkeit und Bauern in Schlesien, 1500–1700,” in *ibid.*, 419–38.

120. See Peter Blicke’s observations in “Einführung: Mit den Gemeinden Staat machen,” in *Gemeinde und Staat*, 1–20, here 15.

121. Bandel, “Geschichte des Arnoldschen Prozesses.”

122. Johannes Ziekursch, *Hundert Jahre schlesischer Agrargeschichte: Vom Hubertusburger Frieden bis zum Abschluss der Bauernbefreiung* (Breslau, 1927; repr. Aalen, 1978), 202–4.

In attempting to explain this rising tide of discontent, one must be wary of simple, two-tiered models of agrarian power relations, with the Junker above and the peasant below: as Edgar Melton notes, the social system of Prussian *Gutsherrschaft* was multilayered, fluid, and complex, which probably diffused much of the conflict inherent in it.¹²³ But as William W. Hagen has so ably shown, contemporaries were keenly aware of a great multiplication “in recent times [of] lawsuits and quarrels between landlords and their subject villagers.”¹²⁴ Already in August 1780, Chancellor Carmer’s solution to rising agrarian tensions was to recommend a crackdown on freelance petition-writers (*Winkelschreiber*), “especially in Silesia and in the . . . Neumark, because the people are the most rebellious there.”¹²⁵ But these measures did not meet with much success: on an inspection tour to Glatz in 1783, Frederick II was besieged with petitioners at every station.¹²⁶ The same problems confronted his successors. In 1787, King Frederick William II imposed prison sentences on “petition-writers” and others who would “stir up unfounded mistrust toward authority,” an act that “paid unwilling tribute to the gathering force of peasant unrest in eighteenth-century Brandenburg-Prussia.”¹²⁷ By their words and actions, all parties confirmed that petition-writing represented the principal vehicle of social protest.

For what cause, and with what effect? After 1763, especially, profit-hungry nobles responded to rising grain prices on the international market by increasing their tenants’ labor services and enlarging their demesne lands at the expense of farmsteads held under term-limited leases—despite royal restrictions on the practice. By 1800, unenclosed demesnes had become rare in Brandenburg-Prussia. But this process also incited determined resistance, especially in Silesia. It also counteracted Frederick II’s long-standing policies of “peasant protection” (*Bauernschutz*) designed to enhance the legal security of peasant holdings and to moderate the burden of seigneurial labor services (*Frondienst*).¹²⁸ In explicit response to peasant petitions against increased labor services and to halt the deterioration of tenants’ legal security, Frederick ordered

123. Edgar Melton, “Gutsherrschaft in East Elbian Germany and Livonia, 1500–1800: A Critique of the Model,” *Central European History* 21 (1988): 315–49, here 346–47. See also Heinrich Kaak, *Die Gutsherrschaft: Theoriengeschichtliche Untersuchungen zum Agrarwesen im ostelbischen Raum* (Berlin, 1991), 395–447.

124. Hagen, “Junkers’ Faithless Servants,” 71.

125. Ziekursch, *Hundert Jahre*, 208–9, n. 2.

126. *Ibid.*, 206, n. 2.

127. Hagen, “Junkers’ Faithless Servants,” 71–72. And see Hanna Schissler, *Preussische Agrargesellschaft im Wandel: Wirtschaftliche, gesellschaftliche, und politische Transformationsprozesse von 1763 bis 1847* (Göttingen, 1978), 50.

128. Otto Hintze, “Zur Agrarpolitik Friedrichs des Grossen,” *Forschungen zur brandenburgischen und preussischen Geschichte* NF 10 (1898): 275–309. Hintze argued that reducing labor services had been a goal of Frederick’s at least since 1748.

the Silesian administration in November 1783 to compile registers (*Urbaria*) that would specify and fix the reciprocal obligations of peasant and lord; in September 1784 he extended the order to Brandenburg-Prussia.¹²⁹ This, in turn, only encouraged further litigation and supplication. Peasants on the Stavenow estate in Prignitz district, for example, immediately added the demand for an *Urbarium* to their long-standing lawsuit over carting services.¹³⁰

In the long run, this resistance to heightened exploitation led nobles to turn increasingly from enforced feudal labor services (*Frondienst*) to free wage labor; it also encouraged peasants to commute their service obligations, if they could. For present purposes, however, the important point is that a process of modernization specific to the late eighteenth century produced both an "accumulation" of local conflicts and, in response, a wave of petitions that would give legal form and permanence to the peasants' expectations of reciprocal seigneurial duties.¹³¹

The tide of petitions, in turn, may indicate a general breakdown in popular satisfaction with Prussia's judicial system.¹³² The millers Arnold resembled the *Urbarium*-seekers among their peers in a common determination to create or enforce standards of reciprocal obligation incumbent on landowners. The current state of research permits only the most tentative speculations, but their recourse to supplication may divulge a more general dissatisfaction with litigation as a tool of social conflict. As we have seen in the Arnold affair, petitions were a means of *circumventing* the decisions of appellate courts: Christian and Rosine pursued a two-pronged strategy that left open the possibility of royal intervention in the likely event that a provincial tribunal would deliver an adverse decision. Of course, not all petitions reflected attempts to evade court decisions; many, perhaps most, were requests for remedial legislation, such as *Urbaria*. Furthermore, the Arnolds did not conceive of litigating through the proper channels as incompatible with direct appeals to sovereign authority, as did some peasants in the Habsburg domains.¹³³ But even in Prussia, supplication could represent an attempt to undermine judicial authority, and in such cases it offered the hope of royal intervention against the court system's structural biases in the nobles' favor. As both Frederick and the Arnolds knew, these biases were powerful. For in the final analysis, even a rationalized and professionalized court

129. Ziekursch, *Hundert Jahre*, 206–7.

130. Hagen, "Junkers' Faithless Servants," 85–86.

131. *Ibid.*, 90–94. See also Thomas Rudert, "Gutsherrschaft und ländliche Gemeinde: Beobachtungen zum Zusammenhang von gemeindlicher Autonomie und Agrarverfassung in der Oberlausitz im 18. Jahrhundert," in *Gutsherrschaft*, ed. Jan Peters, 197–218.

132. See Ingrid Mittenzwei, *Friedrich II. von Preussen: Eine Biographie*, 3rd rev. ed. (Cologne, 1983), 210.

133. See Luebke, "Naïve Monarchism," 105–6; idem, *His Majesty's Rebels: Communities, Factions, and Rural Revolt in the Black Forest, 1725–1745* (Ithaca, 1997), 203–11.

system could not escape consequences emerging from the Prussian compromise with the local power of Junkers.¹³⁴ Because this compromise largely confirmed the cession of authority in the first instance to landowners, appellate courts remained bound to decisions and evidence colored by local seigneurial interest. To the extent that this freed the likes of Schmettau and Gersdorf to ignore popular expectations of “correspectivity,” a crisis of confidence was in the offing. Hagen suggests that peasant resistance contributed to the modernization of agrarian social and economic relations. If the Arnolds’ example is at all representative, they contributed to the modernization of Prussian law as well.

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134. Schissler, *Preussische Aargargesellschaft*, 50–53, 66–69.