

State and nobility in early modern Germany

The knightly feud in
Franconia, 1440–1567

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The problem of the feud

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'All Germany is a gang of bandits and, among the nobles, the more grasping the more glorious' – a Roman cardinal thus summed up the state of the German nation in the late Middle Ages.¹ There was more to this remark than curial hauteur: complaints about the bad manners and violence of German noblemen were a commonplace among German literati as well.² The latter were wont to base their criticism on an old European tradition which equated nobility with personal virtue rather than genetic qualities.³ This was a conviction to which aristocratic authors, too, were willing to subscribe. At the same time, they gave it a different interpretation. In his dialogue 'The Robbers' (1521), the Franconian noble and humanist Ulrich von Hutten made one of the characters, Franz von Sickingen, say that

I am of the opinion that virtue is not hereditary and that he who has to reproach himself with ignominious deeds should in no way be counted among the nobility, even if he were a prince . . . [I]f there was in our family one who, albeit descending from this lineage, still displayed in his life only sordid baseness – such a one I would not recognise as a relation or a kinsman, nor as a noble, and never have anything in common with him.⁴

It is noteworthy that this harangue is delivered in the context of an argument between the three dramatis personae – Franz von Sickingen, Ulrich von Hutten, and a nameless merchant – over the right of noblemen to feud. The merchant denies that nobles have a self-contained authority to declare feuds. Indeed, virtue is to him incompatible with feuding: 'how can you give yourself out as so upright', he asks Franz, 'and yet you have robbed so many, also killed some, out

¹ 'Germania tota unum latrocinium est, et ille inter nobiles gloriosior, qui rapacior.' Quoted by Johann Kamann, *Die Fehde des Götz von Berlichingen mit der Reichsstadt Nürnberg und dem Hochstifte Bamberg 1512–1514* (Nuremberg, 1893), 103 n. 2.

² Will-Erich Peuckert, *Die grosse Wende: Das apokalyptische Saeculum und Luther. Geistesgeschichte und Volkskunde* (Hamburg, 1948), 351–5.

³ For the tension and changing balance between these two strands of thought see Claudio Donati, *L'idea di nobiltà in Italia: Secoli XIV–XVIII* (Bari, 1988), esp. chaps. 1–4; Maurice Keen, *Chivalry* (New Haven, 1984), 156–61.

⁴ Ulrich von Hutten, 'Die Räuber', in *Gespräche von Ulrich von Hutten*, ed. and trans. David Friedrich Strauß (Leipzig, 1860), 315–89, at 318–19.

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of flimsy causes and without any right'. This invective infuriates his interlocutors; it amounts in their eyes to a negation of the nobility. They then put him right: nobles' principal virtue is chivalric fortitude. Their nobility rests on their ability to safeguard justice, to help the downtrodden, to avenge the ill-treated, to protect widows and orphans. And it is only by force of arms that they are able to fulfil this social obligation that defines them. Hence they have not only the right, but also the duty to carry out feuds.⁵

This justification by Hutten echoed criticisms of the nobility that were widespread at the time.⁶ These shared Hutten's assumption about the nobility's social role, but not his conclusion about the feud. On the contrary, feuds provided the very grist to the mill of the nobility's detractors. They were construed as *la trahison des nobles*. The noblemen, lamented Sebastian Franck, plunder the very widows and orphans they are supposed to defend; 'and those who should be the sheep-dogs at the enclosure are often the wolves themselves, seizing with violence whatever they can, so that it is necessary to be protected and guarded from the protectors and guards'.⁷

Another commentator on these matters wrote in 1524 that 'to quash robbery and murders, to keep the roads pacified, to prove oneself courageous in all just deeds – this would be noble'. But in this respect, too, noblemen dismally failed to live up to the functional ideal of virtue. Both Johannes Trithemius and Matthias Widmann, alias von Kemnat, describe how in 1469–70 three princes of the Empire, Archbishop Adolf of Mainz, Bishop Rudolf of Würzburg and Count Palatine Friedrich, joined forces in order to lay siege to castle Boxberg. Held by the Franconian noble family von Rosenberg, the fortress served as a refuge for highway robbers who were 'despisers of imperial mandates and breakers of the General Peace'. From the Odenwald down to the river Neckar, the roads had become desolate and no one could travel them safely. Trithemius was particularly appalled by these brigands' habit of castrating God's ministers.⁸

Indignant reports like this were made not only by the commoners among the learned. Count Froben Christoph of Zimmern, that voluble talebearer, was also critical of his peers. He tells the story of how a disalced friar preached before the duke of Württemberg against highway robbers. The friar recommended that they should be prosecuted and, if found guilty, executed, adding: "'ho, ho, this would be an amusing sight'". He barely got away with his sermon, for 'the duke had at

⁵ *Ibid.*, 319–20. That the protection of widows and orphans was not just a literary convention, but a concrete element in the self-perception of noblemen, is documented in StAW, Stb, no. 892, fol. 147' (1511).

⁶ See H. C. Erik Midelfort, 'Adeliges Landleben und die Legitimationskrise des deutschen Adels im 16. Jahrhundert', in *Stände und Gesellschaft im Alten Reich*, ed. Georg Schmidt (Stuttgart, 1989), 245–64.

⁷ This and the next quotation are from Peuckert, *Die grosse Wende*, 352.

⁸ Johannes Trithemius, *Annales Hirsaugienses*, vol. II (St Gall, 1690), 470; Conrad Hofmann (ed.), *Des Matthias von Kemnat Chronik Friedrich I. des Siegreichen* (Munich, 1862), 51.

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his court . . . many Franconians who on the basis of an alleged old privilege thought it permissible to plunder on the highways with impunity'. Those Franconian noblemen were so outraged that one of them planned to kill the friar. Count Froben Christoph ended the story by noting that 'such an unchristian and unbecoming view about robbing was moreover upheld by the Big Jacks (*hochen Hannsen*) and great families in the *tenebroso seculo*'.⁹

Zimmern's disapproving, self-distancing attitude toward feuds is understandable yet quite prejudiced. He was writing at a time when the feud was fast becoming a thing of the past, being replaced by what he considered as new, finer mores. But in the fifteenth and first half of the sixteenth century feuds still were – and not only metaphorically – a burning issue. One writer who made an effort to go beyond the usual diatribes and to account empathically for noblemen's violence was the Carthusian Werner Rolevinck. In 1474 he produced the first 'sociological' explanation of feuding noblemen:

they are of great bodily power, of active disposition, and naturally benevolent . . . It is only in times of need that they are violent . . . Unfortunate poverty teaches them many evils . . . You cannot look at these handsome squires without shedding a tear, struggling daily for little food and clothing, risking the gallows in order to overcome hunger.¹⁰

Rolevinck has become a *locus classicus* for every student of the knightly feud (*Ritterfehde*). That he has been elevated to this status represents a significant historiographical development. Elaborating on his observations, historians have since argued that the German nobility had experienced a general crisis in the late Middle Ages and that impoverished noblemen, seeking to alleviate their financial difficulties, had taken to banditry cloaked with the legal mantle of the feud. These noblemen have come to be known in modern historiography as robber-knights (*Raubritter*).

The term 'Raubritter' was used for the first time probably as late as 1810 by Friedrich Gottschalk.¹¹ It was given particularly strong currency when, in 1847, it was applied to feuding noblemen by Friedrich C. Schlosser. He mentioned in his multi-volume world history that the 'numerous robber-knights of Thuringia . . . earned their living on the highways by [robbing] cities of their goods'.¹² The phrase had quickly come to be used uncritically. In 1880, for instance, a German history textbook reproduced an illustration from the *Soester Nequambuch*

⁹ Hansmartin Decker-Hauff (ed.), *Die Chronik der Grafen von Zimmern*, vol. II (Sigmaringen, 1967), 184–5.

¹⁰ Werner Rolevinck, *De Westphalorum sive Antiquorum Saxonum Situ, Moribus, Virtutibus, et Laudibus Libri III* (Cologne, 1602), 190–1.

¹¹ Klaus Graf, 'Feindbild und Vorbild: Bemerkungen zur städtischen Wahrnehmung des Adels', *ZGO* 141 (1993), 121–54, at 138. This date roughly corresponds to a period of renewed literary interest in the feud. See A. Maier, 'Das Wiederaufleben von "Fehde" im 18. Jahrhundert', *Zeitschrift für deutsche Wortforschung* 10 (1908/9), 181–7.

¹² Friedrich Christoph Schlosser, *Weltgeschichte für das deutsche Volk*, vol. VII (Frankfurt am Main, 1847), 452.

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depicting four armed horsemen engaged in some bellicose activity. Whereas the original caption is 'These ambushed the town of Barenbrok and robbed afterwards. . .', the modern one reads 'Contemporary depiction of robber-knights'.¹³

The year 1939 saw a radical break in the by then nearly five hundred years old historical perception of the late-medieval feud as banditry by another name. The most incisive criticism of the term robber-knight and of the intellectual convictions it embodied was made by the Austrian historian Otto Brunner. Brunner had reappraised the feud already in 1929.¹⁴ But it was the incorporation of this study into his monumental '*Land' and Lordship*, dubbed 'one of the century's most important works of German history',¹⁵ that made it the canonical exposition of the feud to date.¹⁶

Brunner did not study the feud for its own sake.¹⁷ Rather, it served the purpose of addressing much larger questions concerning the relation between the past and the present, and between history proper and the historical methods appropriate for its comprehension. Brunner used the feud both as the touchstone of his censure of the historiography of his day, and as the bedrock of a new one. Together, these two aspects of his work formed Brunner's 'Old Europe', a concept he borrowed from Jakob Burckhardt.¹⁸

'Old Europe' offers a model of the history of Western civilisation, of its underlying structures and constituent elements, from the eleventh to the

¹³ Respectively: 'Isti fecerunt insidias civitati in barenbroke et postea spoliaverunt. . .'; 'Zeitgenössische Darstellung von Raubrittern': Ludwig Stacke, *Deutsche Geschichte*, vol. I, *Von der ältesten Zeit bis zu Maximilian* (Bielefeld, 1880), 640.

¹⁴ Otto Brunner, 'Beiträge zur Geschichte des Fehdewesens im spätmittelalterlichen Oesterreich', *Jahrbuch für Landeskunde von Niederösterreich* 22 (1929), 431–507.

¹⁵ Peter Blickle, 'Otto Brunner (1898–1982)', *Historische Zeitschrift* 236 (1983), 779–81, at 779.

¹⁶ All subsequent citations are from the English translation of the fifth edition: Otto Brunner, '*Land' and Lordship: Structures of Governance in Medieval Austria*, trans. Howard Kaminsky and James Van Horn Melton (Philadelphia, 1992).

¹⁷ Given Brunner's enormous breadth of intent, the following discussion of his work cannot possibly do full justice to the coherence and persuasiveness of his interpretation. But I believe that I give the essential points of it, so far as they concern the feud. A fuller assessment of Brunner's work can be pieced together from Otto Gerhard Oexle, 'Sozialgeschichte – Begriffsgeschichte – Wissenschaftsgeschichte: Anmerkungen zum Werk Otto Brunners', *VSWG* 71 (1984), 305–41; Pierangelo Schiera, 'Otto Brunner, uno storico della crisi', *Annali dell'Istituto storico italo-germanico in Trento* 13 (1987), 19–37; Hans Boldt, 'Otto Brunner: Zur Theorie der Verfassungsgeschichte', *Annali dell'Istituto storico italo-germanico in Trento* 13 (1987), 39–61; James Van Horn Melton, 'From Folk History to Structural History: Otto Brunner (1898–1982) and the Radical-Conservative Roots of German Social History', in *Paths of Continuity: Central European Historiography from the 1930s to the 1950s*, ed. Hartmut Lehmann and James Van Horn Melton (Cambridge, 1994), 263–92; Edgar Melton, 'Comment: Hermann Aubin', in *Paths of Continuity*, 251–61, at 256–61; Michael Borgolte, 'Das soziale Ganze als Thema deutscher Mittelalterforschung vor und nach der Wende', *Francia* 22, no. 1 (1995), 155–71.

¹⁸ Otto Brunner, 'Inneres Gefüge des Abendlandes', *Historia Mundi* 6 (1958), 319–85, at 319; Wolfgang Hardtwig, *Geschichtsschreibung zwischen Alteuropa und moderner Welt: Jacob Burckhardt in seiner Zeit* (Göttingen, 1974), 299–310.

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eighteenth century.¹⁹ The period is treated as having had a temporal unity, structural consistency and identity all of its own, setting it apart from other epochs. This unorthodox periodisation, straddling what are commonly regarded as the Middle Ages and the early modern era, is the logical consequence of an idiosyncratic approach predicated on the tension between 'real' history and the history of concepts (*Begriffsgeschichte*).²⁰ The dissonance Brunner detected between the two was, in his view, the outcome of the sudden demise of Old Europe in the wake of the Industrial and French Revolutions, the rise of the market economy and the bureaucratic state. The modern world is thus the result not of an evolutionary process, but of a radical break with the past. Hence historians confront profound methodological difficulties in describing Old Europe. For the central concepts they employ – state, society, and economy – presuppose that very caesura which occurred in the eighteenth century.²¹

Brunner accused historians of foisting these modern, anachronistic concepts on a pre-modern past. Indeed, their scholarly reconstructions of it seemed to him little more than a reification of the bourgeois-liberal world they inhabited and its characteristic positivist 'disjunctive thought' (*Trennungdenken*).²² This resulted in a dualistic image of Old Europe, a set of dichotomies reflecting 'the inner fragmentation of the modern world – the polarity of state and society, individual and group, Is and Ought, nature and mind, Right and Might'.²³ But Old Europe was, according to Brunner, organised around principles fundamentally different from the modern ones of the separate yet mutually assuming state, civil society, and market economy. Neither Thomas Aquinas (d. 1274) nor Francisco Suarez (d. 1617) would have been able to make sense of these distinctions; both experienced the sociopolitical order of their day as an integral whole: 'respublica sive societas civilis sive populus'.²⁴ A public sphere hived off from the state was a phenomenon destined to emerge only with the modern bourgeoisie. Old Europe could therefore be reconstructed by the historian only from within, studied only on its own terms.

It is here that Brunner's explication of the feud comes into its own. Indeed, occupying the opening chapter of *'Land' and Lordship*, the study of the feud is the

¹⁹ The fullest presentation of the model is in Otto Brunner, *Adeliges Landleben und europäischer Geist: Leben und Werk Wolf Helmhards von Hohberg 1612–1688* (Salzburg, 1949). For a concise presentation see Brunner, 'Inneres Gefüge des Abendlandes'.

²⁰ Christof Dipper, 'Otto Brunner aus der Sicht der frühneuzeitlichen Historiographie', *Annali dell'Istituto storico italo-germanico in Trento* 13 (1987), 73–96, at 75; Fernand Braudel, 'On a Concept of Social History', in his *On History*, trans. Sarah Matthews (London, 1980), 120–31, at 128.

²¹ Otto Brunner, 'Das Zeitalter der Ideologien: Anfang und Ende', in his *Neue Wege der Verfassungs- und Sozialgeschichte*, 3rd edn (Göttingen, 1980), 45–63.

²² Otto Brunner, 'Moderner Verfassungsbegriff und mittelalterliche Verfassungsgeschichte', *Mitteilungen des österreichischen Instituts für Geschichtsforschung. Erg.-Band* 14 (1939), 513–28, at 514.

²³ Brunner, *'Land' and Lordship*, 137.

²⁴ *Ibid.*, 98; Brunner, 'Das Zeitalter der Ideologien', 54–5.

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showpiece of Brunner's method of juxtaposing 'real' history and the history of concepts, thereby transcending the dichotomies of 'disjunctive thought'. Brunner's *cheval de bataille* is that the feud was not, as historians contended, a criminal use of naked power which the deplorably weak state was unable to quell. It was a lawful practice, provided the feuders carried it out in accordance with the accepted rules of conduct. These ranged from a preliminary attempt to settle differences peacefully to – if this failed – a delivery of a 'challenge' well before opening hostilities.²⁵ The feud, however, was not only lawful. More importantly, it was the

juridical form of all medieval politics, in so far as it resorts, internally as well as externally, to the force of arms. Only from the perspective of the feud, which is simultaneously Right and Might, can one understand the relationship between these two factors in the Middle Ages. A world in which the feud is always a possibility, of necessity has a structure altogether completely different from the civil world of an absolute state which claims the monopoly of the legitimate use of force.²⁶

This point is hammered in most forcefully by four examples of noblemen's feuds against kings and emperors.²⁷ That these could be considered lawful and not high treason reveals, according to Brunner, the 'otherness' of Old Europe. A dramatically alien practice, the feud illustrates a historical problem which defies explanations based on modern preconceptions. Its incompatibility with the state, at least in the latter's classic, Weberian definition, puts paid to the historians' cherished prepossessions about the nature of medieval 'sovereignty'.²⁸

That the feud and the state were mutually exclusive still did not make the medieval secular order one of 'disorder, chaos, anarchy – a non-state or the "law of the fist"'.²⁹ There existed a different form of polity in which law and order subsisted: the *Land*, a 'judicial district in which territorial law applied'. This law unified the people of the *Land* into a legal, territorial community (*Landgemeinde*, *Landschaft*). Sovereignty had no place in it, for the final and absolute authority did not lie with the body politic. Rather, it resided in the concept of Right (*Recht*) which corresponded to an overarching system of moral and religious tenets embodied in the "good and old law", good custom, and in short, justice'. It was on this system that Old European civilisation rested.³⁰

Unlike the modern state, this sociopolitical order was not only consistent with the feud, but was actually shaped by it. For the exercise of one's right to feud was the chief means of upholding Right. If a conflict could not be composed either

²⁵ Brunner, '*Land* and Lordship', 36–86.

²⁶ Brunner, 'Moderner Verfassungsbegriff', 527.

²⁷ Brunner, '*Land* and Lordship', 9–14.

²⁸ For his criticism of Max Weber see Otto Brunner, 'Bemerkungen zu den Begriffen "Herrschaft" und "Legitimität"', in his *Neue Wege*, 64–79.

²⁹ Brunner, '*Land* and Lordship', 95.

³⁰ *Ibid.*, 192, 195–6.

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through 'love' (*Minne*) or through judicial procedure, then the *Land* provided the legal framework within which the contestants could legitimately resolve their dispute through force. Hence the feud was 'at heart a struggle for Right that aimed at retribution and reparation for a violation of one's right'.³¹ With no state authority to enforce the law, the defense of their rights was left to the opposing parties. And only those able to rise to this challenge, those with the capacity to bear arms, counted as full members of the *Land*-community. These were the seigneurs, those in possession of a 'house of residence in the land that served as the organisational centre of the noble's estate, his lordship'. The rest 'required a lord or advocate who could grant them protection and safeguard . . .'.³² In this way, the ubiquitous feud and the consequently unmitigated need people had for protection shaped the *Land* as a commonwealth of aristocratic houses regulated by the conventions of lordship.³³ It was the noble house and its lordship, then, as the primary sociopolitical unit, that undergirded Old Europe, making it an aristocratic world (*Adelswelt*).³⁴

In appraising Brunner's theory it is necessary to distinguish between the problems he posed and the solutions he proposed. Brunner's emphasis on the historical singularity of the past, and the resulting unbridgeable conceptual gap between it and the present, was not new.³⁵ Yet his unprecedentedly pointed and vigorous arguments to this effect helped turn this methodological problem into the common property of critical German history.³⁶ By the same token, Brunner also 'rehabilitated' the feud in historical judgement. Now an integral and constitutive part of the social order, rather than an aberration, it stood to reason that the feud would become a worthy object of research and controversy. On the other hand, it is debatable whether the same historiographical value can be attached to the solutions Brunner offered to the very problems he raised. Indeed, most of the central ideas around which Brunner constructed his Old Europe have suffered greatly at the hands of historians. These have shown that Brunner, quite tendentiously, took his sources at face value, and consistently mistook normative prescriptions for descriptions of reality. The result is that his 'Old Europe' is as unhistorical an outline as those which he took to task.³⁷

³¹ *Ibid.*, 36, 81, 196–7.

³² *Ibid.*, 197–9.

³³ This point is the crux of Brunner's interpretation of the feud. For the sake of coherence, the more specific critique of his concepts of the house and lordship in their relation to the feud is deferred to chap. 5.

³⁴ Brunner, *Adeliges Landleben*, 248–50, 286, 288; Brunner, 'Inneres Gefüge des Abendlandes', 328, 364; Otto Brunner, 'Das "ganze Haus" und die alteuropäische "Ökonomik"', in his *Neue Wege*, 103–27, at 116–17; Otto Brunner, 'Europäisches Bauerntum', in his *Neue Wege*, 199–212.

³⁵ Giovanni Tabacco, 'La dissoluzione medievale dello stato nella recente storiografia', *Studi medievali*, 3rd ser., 1 (1960), 397–446, at 428.

³⁶ Oexle, 'Sozialgeschichte – Begriffsgeschichte – Wissenschaftsgeschichte', 328; Melton, 'From Folk History to Structural History', 278.

³⁷ Werner Trossbach, 'Das "ganze Haus" – Basiskategorie für das Verständnis der ländlichen

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Inevitably, this bent is reflected also in Brunner's discussion of the feud. In the first place, he largely equated the norms which allegedly governed and legitimated feuds with motives and causes. This is most transparent in his conceptualisation of the feud as essentially a mechanism for restoring Right and consequently harmony in the *Land* by rectifying injustice: 'for every violation of a man's rights, his "honour",' wrote Brunner, 'demands retribution; this was the aim of the feud . . .'.³⁸ This formulation all but obliterates the contrast which he himself had set out to draw between the feud as prosecuted by German noblemen and the vendetta. As he himself put it, 'however precise the distinction between blood vengeance and the feud, both constituted enmity, the feud, in the broadest sense'.³⁹

The point is crucial, for the sanctioning of the blood-feud is indeed a defining attribute of acephalus, stateless societies.⁴⁰ But this was evidently not the case with the knightly feud in late medieval and early modern Germany. German society had political centres which mattered a great deal. Attempts were continually made to set measures to feuding. In Westphalia the law forbade nobles from waging feuds against their territorial princes.⁴¹ And in 1495 the Imperial Diet of Worms outlawed the feud unconditionally and indefinitely.⁴² Indeed, there was generally a strong movement to criminalise the feud.⁴³ Nobles went on feuding all the same, but they could not altogether ignore these forces. The records they left are replete with references to imperial restrictions and prohibitions of the feud.⁴⁴ As these examples indicate, Brunner's view that the feud was legal was not uniformly shared by contemporaries. Precisely this, however, is what Brunner's indiscriminate definition of the feud serves to insinuate in order

Gesellschaft deutscher Territorien in der Frühen Neuzeit?' *Blätter für deutsche Landesgeschichte* 129 (1993), 277–314; David Warren Sabean, *Property, Production, and Family in Neckarhausen, 1700–1870* (Cambridge, 1990), 90–5; Gadi Algazi, *Herrengewalt und Gewalt der Herren im späten Mittelalter: Herrschaft, Gegenseitigkeit und Sprachgebrauch* (Frankfurt am Main, 1996), 51–127; Wolfgang Neuber, 'Adeliges Landleben in Österreich und die Literatur im 16. und im 17. Jahrhundert', in *Adel im Wandel: Politik, Kultur, Konfession 1500–1700*, ed. Herbert Knittler, Gottfried Stangler, and Renate Zedlinger (Vienna, 1990), 543–53.

³⁸ Brunner, 'Land' and Lordship, 19, 36.

³⁹ *Ibid.*, 16.

⁴⁰ Max Gluckman, 'The Peace in the Feud', in *Custom and Conflict in Africa* (Oxford, 1963), 1–26; Jacob Black-Michaud, *Cohesive Force: Feud in the Mediterranean and the Middle East* (Oxford, 1975), passim; William Ian Miller, *Bloodtaking and Peacemaking: Feud, Law, and Society in Saga Iceland* (Chicago, 1990), passim. See also Edward Muir, *Mad Blood Stirring: Vendetta & Factions in Friuli during the Renaissance* (Baltimore, 1993).

⁴¹ Friedrich von Klocke, 'Beiträge zur Geschichte von Faustrecht und Fehdewesen in Westfalen', *Westfälische Zeitschrift* 94 (1938), 3–56, at 18–19.

⁴² *RTA, mR*, v, 359–73, no. 334.

⁴³ Ulrich Andermann, *Ritterliche Gewalt und bürgerliche Selbstbehauptung: Untersuchungen zur Kriminalisierung und Bekämpfung des spätmittelalterlichen Raubrittertums am Beispiel norddeutscher Hansestädte* (Frankfurt am Main, 1991).

⁴⁴ See, for example, StAN, Amts- und Standbücher, no. 146, fol. 6^r: 'Auch umb solichenn mutwilligen unverschulden unverhörtenn handel, alles unnenntsagt, uber unnd zuverbrechung des kaiserlichenn und konigklichenn des heiligen Reichs lanndtfridenn geubt.'

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to bear out his notion of 'Old Europe'. The feud is presented by him as a custom so primordially rooted in 'Old European' mentality in general, and in the Germanic community in particular, that it entirely transcends its historical conditions. Brunner was aware that feuds were also conflicts over various tangible rights; but the elusive ghost of the timeless Right casts an impenetrable shadow over the feud, screening it from historical scrutiny.

This, finally, raises the problem of historical change. Expectedly, Brunner's handling of it is awkward; it betrays an unresolved tension between the feud in its legal framework, the *Land*, and the feud in its relation to central authorities. For Brunner postulated that for the feud to have declined 'what was needed was a structural transformation of the state itself', 'the elimination of the legitimate use of armed force in the feud and in resistance to the ruler'.⁴⁵ This was not achieved before the sixteenth century because princes were until then bound by the 'sphere of Right'. Here the contradiction inherent in Brunner's understanding of the feud manifests itself: if the feud structurally negated the state, then its 'elimination' cannot possibly be clarified by summoning the rising state as a *deus ex machina*.⁴⁶

The first serious challenge to Brunner came in 1982 with a systematic effort to identify the social location of the feud.⁴⁷ In a seminal article on the problem of robber-knighthood in the late Middle Ages, Werner Rösener has dismissed Brunner's view of the lawfulness of the feud.⁴⁸ Instead, he considers noblemen's feuds to have been mere attempts to legitimate what was otherwise unjust violence. His hypothesis is founded mainly on an examination of the economic situation of the German nobility in this period. Rösener argues that the lesser nobility was badly hit by the general demographic decline of the late Middle Ages which entailed a crisis of seigneurial revenues. In his support he cites a number of specialised studies that point out that the income sources of the nobility had

⁴⁵ Brunner, *'Land' and Lordship*, 30, 323.

⁴⁶ 'What then occurred [*scil.* sixteenth century] was not a "constitutional" change in the modern sense, but rather a growth in the prince's real power . . . that made resistance by individuals impossible': *ibid.*, 323.

⁴⁷ For earlier criticisms of Brunner, which were made, however, mainly within the conceptual framework set by him, see Hermann Rothert, 'Das mittelalterliche Fehdewesen in Westfalen', *Westfälische Forschungen* 3 (1940), 145–55; Heinrich Mitteis, 'Land und Herrschaft: Bemerkungen zu dem gleichnamigen Buch Otto Brunners', parts 1 and 2, *Historische Zeitschrift* 163 (1941), 255–81; 471–89; Karl Siegfried Bader, 'Herrschaft und Staat im deutschen Mittelalter', *Historisches Jahrbuch* 62–9 (1949), 618–46, at 627–34; Herbert Asmus, 'Rechtsprobleme des mittelalterlichen Fehdewesens: Dargestellt an Hand südhanoverscher Quellen vornehmlich des Archives der Stadt Göttingen' (PhD thesis, University of Göttingen, 1951), 13–15, 79–80; Herbert Obenaus, *Recht und Verfassung der Gesellschaft mit St. Jörgenschild in Schwaben: Untersuchungen über Adel, Einung, Schiedsgericht und Fehde im fünfzehnten Jahrhundert* (Göttingen, 1961), *passim*; Elsbet Orth, *Die Fehden der Reichsstadt Frankfurt am Main im Spätmittelalter: Fehderecht und Fehdepraxis im 14. und 15. Jahrhundert* (Wiesbaden, 1973), 54–7, 65.

⁴⁸ Werner Rösener, 'Zur Problematik des spätmittelalterlichen Raubrittertums', in *Festschrift für Berent Schweineköper zu seinem siebzigsten Geburtstag*, ed. Helmut Maurer and Hans Patze (Sigmaringen, 1982), 469–88.

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stagnated since the late thirteenth century and tapered off in the fourteenth and fifteenth centuries.⁴⁹ Moreover, noblemen's economic predicament was further aggravated by new cultural trends of conspicuous consumption.⁵⁰ The competition with town patriciates exerted an intensified pressure on noblemen to live sumptuously. On the other hand, outlets were largely unavailable. Lucrative positions in princely administration were inaccessible to the bulk of the knightly class and were increasingly occupied by learned men of urban extraction.

It is in this context, according to Rösener, that the robber-knighthood is to be understood: 'The knight, his existence having been threatened, angrily protested against the general development and took to actions, operating in the grey area between a just feud and flagrant robbery.'⁵¹ The term robber-knighthood, then, despite being an anachronism, is none the less an apposite description of the reality behind the feuds of German nobles. Since Rösener's interpretation is the classic statement of the so-called 'robber-knighthood thesis', it merits a detailed examination. Its underlying assumptions can be challenged from three perspectives: factual, theoretical and methodological.

Rösener's argument for nobles' economic vulnerability hinges on the premise that their most important sources of income in this period were agrarian and that a main segment of these were nominally fixed feudal rent payments due from peasants. Hence the general inflationary tendencies and diminishing purchasing power of the late Middle Ages struck at the heart of noblemen's seigneurial economy. However, a growing body of evidence indicates that feudal rents in Western Germany were predominantly in kind and not in cash, and thus less at the mercy of inflation and debasement of currency.⁵² This evidence also suggests that noblemen stood to profit from the rise in the price of grain in Franconia in the fifteenth century.⁵³ A second, perhaps related, factual problem is that the economic studies of the nobility on which Rösener relies are inconclusive. The more sophisticated among them describe a complex and diversified situation which the robber-knighthood thesis cannot accommodate:⁵⁴ examples of

⁴⁹ *Ibid.*, esp. 482–4.

⁵⁰ Rösener's article, like most versions of this model, suggests a decadence of the nobility in the later Middle Ages. See Bernd Moeller, *Deutschland im Zeitalter der Reformation*, 3rd edn (Göttingen, 1988), 27; Rothert, 'Das mittelalterliche Fehdewesen in Westfalen', 154. For a corrective criticism of this approach see Maurice Keen, 'Huizinga, Kilgour and the Decline of Chivalry', *Medievalia et Humanistica*, n.s., 8 (1978), 1–20.

⁵¹ Rösener, 'Zur Problematik des spätmittelalterlichen Raubrittertums', 487–8.

⁵² For a detailed discussion see chap. 3.

⁵³ Rolf Sprandel, 'Die spätmittelalterliche Wirtschaftskonjunktur und ihre regionalen Determinanten: Forschungsüberblick und neue Perspektiven', in *Historia Socialis et Oeconomica: Festschrift für Wolfgang Zorn zum 65. Geburtstag*, ed. Hermann Kellenbenz and Hans Pohl (Stuttgart, 1987), 168–79, at 177.

⁵⁴ Roger Sablonier, *Adel im Wandel: Eine Untersuchung zur sozialen Situation des ostschweizerischen Adels um 1300* (Göttingen, 1979); Hans-Peter Sattler, 'Die Ritterschaft der Ortenau in der spätmittelalterlichen Wirtschaftskrise', parts 1–4, *Die Ortenau* 42 (1962), 220–58; 44 (1964), 22–39; 45 (1965), 32–57; 46 (1966), 32–58. For a criticism of Sattler's and other works see Joseph

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economic failure are regularly offset by examples of prosperity. Moreover, one of the works adduced by Rösener came to a positive estimation of noblemen's economic condition and it is difficult to see how exactly it substantiates his contentions.⁵⁵

On a theoretical plane, the robber-knighthood thesis operates with a demographic-economic supply-and-demand model which does not address questions of power relations either between lords and peasants or within the nobility itself.⁵⁶ The point is crucial, for the heavy emphasis on the nobility's dependence on agrarian seigneurial resources results in disregarding whole areas of noblemen's activity. As a later chapter will show, some of the more important of these areas were opened up in precisely this period, mainly by the growth of the state. Thus, the thesis fails to account for intervening and mediating strategies noblemen could have used in adjusting to social and economic change.⁵⁷

Thirdly and perhaps most important is that the very methodology invariably employed by advocates of this model is flawed. One can charitably assume that what really is being implied is that only certain sections of the German nobility were impoverished. But it is precisely here that the questionable formulation of the thesis becomes evident, since a direct link is supposed to have existed between penury and feud violence. The thesis fails to consider the possibility that wealthy noblemen feuded as well, nor does it ask whether every poor nobleman took to feuding. In short, investigation concludes at the exact point at which it becomes of serious sociological interest.

METHOD AND SOURCES

The method made use of in this study is designed to deal with the problems just described. It takes the individual noble feuder, rather than his class, as its point of departure. And, complementarily, it proceeds from the premise that the late medieval German nobility, due to its relationship with the budding princely territorial state, was a deeply stratified group.⁵⁸ This stratification was determined by social, economic and political statuses at once. It found expression in, among other things, the quality of matrimonial alliances, financial transactions with rulers, and patterns of office-holding. None of these spheres was either exclusively social or economic or political. They incessantly fed back into each other. A

Morsel, 'Crise? Quel crise? Remarques à propos de la prétendue crise de la noblesse allemande à la fin du Moyen Age', *Sources. Travaux historique* 14 (1988), 17-42.

⁵⁵ Karl Otto Müller, 'Zur wirtschaftlichen Lage des schwäbischen Adels am Ausgang des Mittelalters', *Zeitschrift für württembergische Landesgeschichte* 3 (1939), 285-328.

⁵⁶ Cf. Robert Brenner, 'Agrarian Class Structure and the Economic Development of Pre-Industrial Europe', in *The Brenner Debate: Agrarian Class Structure and Economic Development in Pre-Industrial Europe*, ed. T. H. Aston and C. H. E. Philpin (Cambridge, 1985), 10-63.

⁵⁷ See chap. 3.

⁵⁸ For a detailed discussion see chap. 3.