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Edited by Sabine Freitag and Peter Wende

Excerpt

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DIET OF THE GERMAN CONFEDERATION (FRANKFURT)

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FRANKFURT

FO 30 / 10: Frederick Lamb to Viscount Castlereagh,¹ Private, Frankfurt, 25 January 1817

On an union among smaller German states for the purpose of military defence; question of whether the Diet should guarantee the constitutions of the states of the confederation

The King of Wurtemberg² alone is supposed to be influenced by the hope of obtaining the command of the Army of the confederation through the means of Prussia.

If the estimate which I have formed of the spirit of the Diet is correct, I conceive it to afford very flattering prospects, and to deserve every encouragement and protection. Such an union among the small States can never be formidable for the purposes of Aggression, and must always be interested in resisting it from whatever Quarter it may come. Should such an union ever be perfected, it might be hoped, that its weight would generally be thrown into the scale of moderation and practice. Such at least would be its permanent and evident Interest.

I still think that the idea of a guarantee to be given by the Diet, of the constitutions of the states of the confederation, is the most absurd notion, that ever was attempted to be reduced into practice. If it has any effect whatever it can only lead to a reaction, and often perhaps a dangerous interference. It is ridiculous to see Austria guaranteeing the constitutions of others, when she would rather have the plague in her own Dominions than admit one. The truth I believe to be that Metternich does not trouble himself about it, and the Minister here³ is too much flattered by the notion of the high functions to which the Diet is called, to be able to resist such an opportunity of exercising

¹ Further letters by Frederick Lamb to Viscount Castlereagh are published in: *Memoirs and Correspondence of Viscount Castlereagh, second Marquess of Londonderry*, edited by Charles William Vane, Marquess of Londonderry, 12 vols, London 1848-53; cf. volume 12: 29 May 1820, p. 268; 26 June 1820, pp. 272-278; 21 September 1820, pp. 320-322; 24 March 1821, pp. 374-379.

² Wilhelm I.

³ Johann Rucolf Graf von Buol-Schauenstein.

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them- The Proposition has been adopted with respect to Weimar,⁴ and it is to be feared that the example will be followed.

FO 30 / 10: Frederick Lamb to Viscount Castlereagh, No 12, Francfort,
1 March 1817

Report of the committee concerning the orders of consideration of the Diet; external relations and domestic affairs; military power

An Important Step has been made in the Affairs of the Diet, & one which may be expected to give a Tone to the whole of its Proceedings, in the formation of the Organic Laws of the Confederation.

A Committee consisting of the Ministers of Denmark,⁵ of Mecklenbourg,⁶ & of Oldenbourg⁷ had been charged to report upon the Order of the Subjects to be considered by the Diet.-

Their Report was presented on the 17.th Instant, and for the Purpose of establishing the Order of Consideration, it enters fully into the Nature of the Subjects themselves.- The form adopted is interrogative, but the Questions are so put, as to direct Opinion & if possible secure the Nature of the Reply.-

The Report is much too voluminous for me to give Your Lordship a full Account of it.- I shall confine myself to pointing out the leading Articles.-

It founds the Considerations which it presents upon the Act of the Confederation itself, & indicates three leading Questions which should march together, and first engage the Attention of the Diet.-

1st The Military Organisation.-

2^d The Exterior Relations.

3rd The Interior Affairs.-

The first question is broken into 3 Subdivisions;-

1. The Matricule,-

2. The Organisation of the Army,-

3. The Fortresses.-

⁴ The Grand Duke of Saxe-Weimar-Eisenach had submitted the constitution of 5 May 1816 to the *Bundestag* to be guaranteed. Although the constitution of the *Bund* at that time made no provision for such a thing, and Metternich had initially rejected the notion of expanding the *Bund's* powers in this way, the *Bundestag* eventually approved Weimar's application in a decision of 13 March 1817, in view of its elevated position within the system of European states.

⁵ Graf von Eyben.

⁶ Leopold Engelke Hartwig von Plessen.

⁷ Günther Heinrich von Berg.

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The Matricule regards the Establishment of the Contingents to be furnished by the several States,- and it is suggested that the Proportion should be determined in general, by the scale of Population & not of Revenue.

Upon the second point it is submitted, that in Time of Peace, it is unnecessary to establish any System of Inspection, & that in Case of War the Commander should be named by the Diet.- A long Detail is then entered into upon everything which concerns the Interior Organisation of the Force.

Upon the third Point it is stated that no Fortress can properly be regarded as a Fortress of the Confederation, but upon one of two Grounds,- either from it's superior Importance demanding that it should not be entrusted to any single Power, or from it's belonging to a Power whose Force is inadequate to it's Defence.- It is suggested, that, in either Case, the Garrison should be furnished, & the Commanding Officer appointed by the Confederation.-

With Regard to the Exterior Relations it is proposed that the Confederation should notify it's Existence to the European States, from which Measure would naturally derive the Right of receiving Foreign Ministers,- of accrediting Ministers to other Courts, if this should ever be judged necessary, & of making Treaties for the Confederation, in general.-

It is also suggested that the Right of making War and Peace⁸ must reside in the Diet,- and it is established as a Principle, that War must in all Instances be defensive.-

It may be entered into, either in Case of a Danger which menaces the Confederation in General, or of a Claim for Protection, from any Member of it.- The Application of these Principles is, in every Instance to be decided by the Votes of the Majority of the Diet.-

With Respect to the making Peace it is established that the Confederation is entitled to have Delegates in every Negotiation, who shall be appointed by, and receive their Instructions from the Diet, & that no Peace can be binding, in which this Condition shall not have been observed.-

The Question upon the interior Affairs is limited to the Event of differences arising between the Members themselves, & various modes

⁸ On the right to declare war and conclude peace cf. art. 35 of the Vienna Final Act (as a composite power the *Bund* has the right to declare war, and to conclude peace, alliances including treaties etc. but, according to art. 2 DBA [*Deutsche Bundesakte*], only for self-defence and to maintain the independence and external security of Germany); also, esp. arts. 35-42 of the Vienna Final Act (concerning the action to be taken by the *Bund* in case of attack by a foreign power), art. 43 (concerning the protection of individual states of the *Bund*), arts. 48 and 49 (concerning cease-fires and the conclusion of peace).

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of Arbitration are suggested for settling these, according to the Circumstances of each particular Case.-

The Adoption of this Report would throw a great Degree of Power into the Hands of the Diet, & would proportionally limit the Individual Power of each of it's Members.- It's Principles appear, in consequence, to be universally approved by the Plenipotentiaries of the smaller Powers, not excepting Bavaria,- while they are looked at, with great Jealousy by the Ministers of Austria, & Prussia.-⁹ The Questions which have chiefly excited the Attention of the Ministers of these two States, are those which Regard the Fortresses of the Confederation & more particularly, those upon the Right of making Peace and War.-

It is natural that upon Point of such Importance, two Principal Powers should be unwilling to vote in an Assembly of 17,¹⁰ in which their Voices would have no more Weight, than those of the smallest States of Germany.-

It is astonishing that the Character of this Report should not have been foreseen till the Moment of it's Presentation, & that it's Redaction should have been confided to the Ministers of three of the smallest Courts.- If the Austrian & Prussian Ministers had chosen to take the Initiative, every Body would have given Way to them,- and many of the Questions might have been modified & many kept out of Sight.- Now that they are once brought forward, & the Instructions of the Courts demanded upon them, it is to be foreseen that they will be carried in the Sense of the most Numerous, and not in that of the most powerful.- It will be difficult for the greater Powers to adhere even to their System of Delay; as, I understand that, the Report having been transmitted to the different Courts,- it is intended to fix a Term, probably of six or Eight Weeks,- at the End of which, it shall be allowed to each Plenipotentiary to deliver his Vote, and annex it to the Protocol; in this Case it will be difficult for Austria & Prussia to delay much

⁹ August Friedrich Graf von der Goltz.

¹⁰ This was the Inner Council, which consisted of seventeen members and was responsible for matters concerning the *Bund*. Eleven states (Austria, Prussia, Bavaria, Saxony, Hanover, Württemberg, Baden, the Electorate of Hesse, Hesse-Darmstadt, Holstein, and Luxemburg) had individual votes; the remaining six votes were shared as group votes between a number of states: the Saxon grand duchies and duchies (12th vote), Brunswick and Nassau (13th vote), the two Mecklenburgs (14th vote), Oldenbourg, the three Anhalts, and both Schwarzburgs (15th vote), the two Hohenzollern, Liechtenstein, all the Reuß, Schaumburg-Lippe, Lippe and Waldeck (16th vote), and Lübeck, Frankfurt, Bremen, and Hamburg (17th vote). The Inner Council decided issues by simple majority voting. In the event of a tie, the chairman (the Austrian presidential envoy) had the casting vote. In addition to the Inner Council, there was the General Assembly of the *Bundestag*, which was responsible for certain matters affecting the *Bund*. It differed from the Inner Council only in the distribution of votes. An important feature of the distribution of votes in the *Bundestag* was that Austria and Prussia could not outvote the middling and smaller states, either in the Inner Council, or in the General Assembly.

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beyond the others, & such a measure would tend too evidently to separate their Interests from those of the other States of the Confederation.- Their Part here seems to me to have become extremely difficult,- & I doubt whether they have accurately calculated either the Force or the Direction of the Machine which they have set in Motion.- It is quite evident, that they will be unable at present to assume any great Influence over the Affairs of the Confederation,- but it becomes unfortunately also a Question, how far they can remain Members of it without resigning so much of their Liberty of Action as it is impossible for great European Powers to sacrifice who have other Interests than those of Germany to attend to.-

The Ministers of the smaller Courts are uniformly well disposed, & in some Instances enlightened Men,- but they have adopted a System which it will be very difficult to make them depart from, & in which they expect the Support of their Courts.- Much of this Unanimity among the smaller Powers has been produced, & it's Direction determined by the Discussions pending with Baden.-

The Force of the Confederation is expected to amount in Time of Peace to Three hundred thousand Men, including the Austrian & Prussian Contingent, & to above half the Number without them.- This Calculation is upon a very low Proportion, not exceeding one Soldier for a hundred Souls.-

FO 30 / 11: Frederick Lamb to Viscount Castlereagh, No 49, Francfort, 26 November 1817

On the rights and duties of the Diet; influence of the constitutional party

I have the Honor to enclose Copy of a lively Report, addressed by the Baron de Gagern,¹¹ Minister of the Paysbas to his Court upon the existing Disputes in the Kingdom of Wurtemberg.¹²

Although some of the Colleagues of Mons^r de Gagern appeared to think that the Interference of the Diet might be of Use if it was called for, yet, I believe, He stood alone in the Notion, that there existed a Right or a Duty to interpose; unasked either by the King or by the States.-

¹¹ Hans Christoph Ernst Freiherr von Gagern.

¹² On 13 March 1815 the King of Württemberg announced a constitution on the basis of his princely power of decision. Thereafter he submitted it for approval to a gathering of the Estates specially convened for the purpose. A majority of this gathering rejected the constitution, regarding it as a new-fangled imposition, and insisted on the 'good, old law' of the traditional Württemberg Estates. This unleashed a four-year struggle in which reactionary positions were defended against a modern constitutional state.

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The Prussian Minister, however, seems to have been led in some Degree, into his Views by the yielding Nature of his Disposition,- while the Bavarian Minister¹³ was inclined to adopt them, from the Uneasiness, which these prolonged Disputes, so near at Hand, excite in his Country and from the Anxiety that prevails there, to see them brought to an End.-

In consequence of the imprudent Manner in which M. de Gagern had put himself forwards, a Complaint of his Conduct was sent from Stuttgart to the Hague, & his Recall might probably have been the Consequence, if the Minister of Wurtemberg, at this Place, had not taken upon himself to stop the Courier, and succeeded in appeasing the Anger of his Government.-

The Recall of M. de Gagern, in Consequence of his Conduct on this Occasion would have been a Misfortune, as it would have given to the Constitutional Party, all over Germany, an additional Ground of Clamor against their Governments, and against the Diet.

This Party appeared to me to have encreased considerably in Strength within the last Year. It has certainly become bolder and more loud.-

It may be divided, I think, into different Classes.-

The Ultra-constitutional Class consists principally of literary Men,- of Persons employed in Subaltern Situations in the Public Departments, and of the Professors in the Universities.- The greater Part of these suppose themselves to be animated by the purest Intentions, but the Ends to which they tend are subversive of all Order, and incompatible with the Existence of any Form of Government.- Among the Partisans of these Principles are many who push their Doctrines of Equality, as far as it was carried in France at any Period of the Revolution, but,- the greater Number have a very indistinct Idea of what they wish: to conceal this Ignorance even from themselves, they have adopted a Sort of mystick Language, which becomes a very strong tie, & takes a great Hold of the Imagination.

This is particularly prejudicial to the Students educated at the German Universities:- They are very numerous, & composed of Young Men of all Classes, & destined for all the liberal Professions.- Under the present System, an Esprit de Corps is formed among them, and it is almost impossible for them to avoid Impressions which are with great Difficulty got rid of, in afterlife, and which tend to render them discontented & dangerous Subjects.-

This Evil appears to me to call for much more Attention than has hitherto been paid to it by the Governments of Germany.- In the Grand Duchy of Weimar it is even protected & encouraged.-

Those who desire a reasonable Constitutional System are the great

¹³ Johann Adam Freiherr von Aretin.

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Mass of the Inhabitants of Towns, – the Nobility, – the Clergy, – and the Mediatised Princes,¹⁴ – these latter however with a certain Degree of Illhumour, which may be forgiven in Consideration of the Losses they have sustained. & which Nothing but Time can remove. –

The Population employed in Agriculture shew no Opinion, & take no Interest in the Question. –

The Above Classification may, I think, be applied to all Parts of Germany in which No assembly of States exists, with the Exception of the Austrian Dominions. –

The Opinions in the ancient Bavarian Dominions, are less strong than in most other States, – but they are daily gaining Ground, & exist in their full force in her newly acquired Territories.¹⁵ The Ministers directing the different Governments, & the leading Persons employed under them, are, I believe, very generally disposed to favor the Establishment of a constitutional System. –

The Diet was generally looked to last Year as the Engine, by which this Object, was to be attained and it falls daily into Discredit from the Disappointment of this Expectation. – It seems to me, extremely doubtful, how far any Good could arise from it's Interference, – & I only lament that there should not exist in it a body of reasonable Men of Weight & Authority sufficient to mark out for it an unvarying and dispassionate Line of Conduct, and to repress the Extravagances of Individuals, – which are calculated to throw Discredit upon the whole Assembly. –

While Monsieur de Gagern's Report was writing, the Question from which he apprehended such evil Consequences had been already settled by the Payment of the Imposts. –

The Ultimate Settlement of the Disputes in the Kingdom of Wurtemberg will I fear be more difficult, & an Opinion is entertained here that Recourse will ultimately be had to the Diet for this Object. – I neither believe in the Probability of such a Measure, nor should I expect much Good to arise from it. –

¹⁴ This refers to the secular imperial princes who lost their unmediatized status when the *Reich* came to an end. Thereafter they were in a mediatised legal relationship with the *Reich*. The aristocracy who were mediatised in 1806 and later were guaranteed certain privileges in the Act of the German Confederation of 1815 (art. 14).

¹⁵ Under the terms of the Peace of Lunéville (1801) Bavaria, which had been occupied by French troops since 1800, had to cede the Rhine Palatinate and Jülich to France. Under Napoleon, however, Bavaria grew to become the largest of the middling German states: in the period 1803–10 it gained the ecclesiastical principalities of Augsburg, Eichstätt, Freising, Regensburg, Passau, and Bamberg, the imperial towns of Lindau, Kempten, Augsburg, Nuremberg, Nördlingen, Rothenburg, Schweinfurt and others, numerous Abbeys, the Prussian margravates of Ansbach-Bayreuth, Vorarlberg, Tyrol, and Salzburg, and the Inn and Hausruck quarters. The last five were given back to Austria, for which Bavaria received the following as compensation at the Congress of Vienna: Würzburg, Aschaffenburg, and the Palatinate on the left bank of the Rhine.

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FO 30 / 11: Frederick Lamb to Viscount Castlereagh, No 50, Francfort,
11 December 1817

Joint petition by several states of the confederation to the Diet concerning the 13th article of the Act of the German Confederation; the states and the constitutional question

I have the Honor to enclose Translation of a Petition , which although extracted from an obscure German Gazette may yet be considered as authentic.-

It is now lying for Signature in several of the Principal Towns in Germany, & may be expected to be presented in about Six Weeks.- There are said to be already two thousand Signatures to it, & if the Petitioners are well advised, they will attend much more to the Quality of the Names attached to it, than to their Number; as there is no Doubt but this may be carried to almost any Extent.-

It is a new Circumstance that the Subjects of a Number of different States, should concur in a Petition to the Diet, instead of addressing themselves to their respective Governments:- Upon this Plea their Petition may be returned, in the first Instance without an Answer, but in Case of a Refusal on the Part of their Courts to attend to such Addresses as would in Consequence be presented to them it would again be laid before the Diet, & the Question brought openly to an Issue, whether the 13.th Article of the federative Act¹⁶ is to be executed or not.-

I earnestly hope that these Discussions may never be allowed to be carried so far.- By timely concessions the Sovereigns have it in their Power to rally to themselves the well meaning Part of the constitutional Party,- the Great Mass of all that is respectable in the German Nation.- By Delay, & by Opposition, the most moderate become heated & are gradually induced to take Part with the violent & Jacobinical Party,

¹⁶ Art. 13 of the Act of the German Confederation reads: 'All states of the Confederation will have a constitution based on the provincial Estates.' This imposed the duty to introduce constitutions in the individual states. The public understood this to mean that the states were to create a representative system, if possible with two chambers, consisting of a parliament with legislative and tax-raising powers. However, art. 13 neither named a date by which these constitutions were to be in place, nor defined what the term actually meant. Nor was the composition of the provincial Estates explained, nor how they were to be chosen, what powers they were to have, or whether they were to be representative bodies based on the traditional Estates, or modern parliaments. In this way the Act of the German Confederation refrained from interfering in the constitutional autonomy of its member states. The Vienna Final Act (art. 54) again made it clear that individual states had a duty to issue a constitution. Between 1820 and 1829, however, the Diet of the German Confederation did nothing to remind negligent governments of their legal obligations, especially as the list of those who had not fulfilled their constitutional duties was headed by Austria and Prussia.

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who are only to be dreaded when they are thus strengthened instead of being isolated and exposed.-

In those States where no Struggle has yet taken Place, I have no Doubt, but that the most simple Form of Representation with a Power of voting upon the Imposts, and upon nothing else, & the Establishment of Tribunals of Appeal, would be most thankfully received, and would content all Descriptions of People.- This it is true would ultimately lead to the Acquirement of greater Powers, by the Representative Assemblies, but these would be obtained gradually, & by the natural Operation of Circumstances, without Shocks or Violence.- As this Moment the Agitation of these Questions produces the greatest Anxiety here, and, as I am assured, in all the Courts of Germany.-

Some of the Ministers are in Hopes that before the Presentation of the Petition, they may be enabled to bring forward measures or Resolutions which may induce the Petitioners to withhold it altogether.-

Bavaria, on the Contrary, has charged her Minister to urge the President to a Pledge, that he will oppose any constitutional Proposition, from whatever Quarter it may come;- While the King of Wurtemberg has written to Vienna, representing the Necessity of general Constitutional Measures, as the Time will no longer admit of Delay.- Prussia has the most difficult Card to play, & her Minister seems to be the least informed as to the Measures pursuing by his Court, though he gives the strongest Assurances of it's constitutional Disposition.-

In this Confusion & Opposition of Views, & Wishes, it is probable that the Diet will still be condemned to Inaction, though it might, at this moment be made the greatest Use of, to reassure the Public Mind, & to secure another Interval of Patience, which might be employed to the best of Purposes.- Applications will probably be made from several German Courts at Vienna, that the President may be summoned there during the approaching Christmas Holidays, for the purpose of representing the Urgent State of Affairs, & of receiving Directions to make such Propositions on his Return as the Circumstances require.

I have been applied to, to make similar Representations to the British Minister, at Vienna, but have not given any Reason to suppose, I could be prevailed upon to interfere.-

At the same Time I have no hesitation in saying to Your Lordship that, in my Opinion, the Time is already come, when it is most urgent that something should be done to content the Expectations of the German Nation.-

It is no longer a Question whether Germany shall have Constitutions or not.- The whole of the educated Population is determined to obtain them.- They are naturally a most persevering People, & Success in this Instance, is become a Point of national Vanity, while the Promise which