

Michael Gaismair's Territorial Constitution for Tyrol (1526)

Abstract

Michael Gaismair (1490–1532), formerly an official of the prince-bishop of Brixen/Bressanone, drafted the Tyrolean Constitution in 1526. One of the most significant reform programs of the Peasants' War, it envisions a single territory, Tyrol, as an egalitarian republic inspired by the principles of Ulrich Zwingli. Indeed, the Tyrolean Constitution takes its Biblicism and its emphasis on the principle of "godly law" from the Zürich reform. Gaismair's constitution includes detailed plans for a social welfare system and for the reform of agriculture, industry, and trade. It ends with a discussion of mining. The constitution is based on mercantilist principles, i.e., the supremacy of small producers, and it presents the framework for a self-sufficient, communally organized territorial state in a single land. Tyrol was an apt site for this project, because it possessed a strong peasantry, a weak nobility, minimal urbanization, and a mixed economy of farming, stock-raising, vineyards, and mining.

Source

First you should take an oath and swear to band your body and goods together and not to abandon each other. Instead you should advance or lay siege together, always following orders. Be faithful and obedient to your superior authorities and do not act to your own advantage, but rather seek foremost the glory of God and then the common good, so that God the Almighty might grant us mercy and aid (as he has promised many times to those who are submissive to his commandments). We should trust completely in this, for he is entirely honest and misleads no one.

2. You should chase down and expel all those godless people who persecute the Word of God, oppress the poor common man, and hinder the common good.
3. That you aim to establish and live by a completely Christian law based on all points on the divine Word of God.
4. All privileges shall be abolished, for they are contrary to the Word of God and falsify justice, according to which no one should have an advantage over the other.
5. The walls of all the towns should be torn down, as should the fortresses and fortifications in the country. From now on, there should be no towns, only villages, so that there is no distinction made among men. None shall be considered superior or better than another, which leads to turmoil as well as arrogance and rebellion. Rather, equality should be [maintained] everywhere.
6. All images, wayside shrines, and chapels which are not parish churches shall be abolished, as should the mass in the entire territory, for it is an anathema to God and completely unchristian.
7. The Word of God shall be truly and faithfully preached everywhere in Gaismair's land, and all sophistry and jurisprudence [i.e. legal mumbo-jumbo] is to be discontinued and such books burned.
8. The courts, as well as the parishes, shall be situated conveniently everywhere in the land so as to keep costs to a minimum.
9. Every commune should elect a judge and eight jurors to its court every year. They are to oversee the

court for that year.

10. Court should be held every Monday and all matters addressed. They are not to be adjourned until the next session but rather continued the next day. The judge, jurors, clerk, advocate, court officials, and messengers shall not accept anything from anyone in the court proceedings. Rather they shall be paid by the land and accordingly shall appear at their own expense every Monday at the place of court ready to serve.

11. A government shall be established in the territory. Brixen [Bressanone] is the best situated place for it: there are many clerics' houses there and other lodgings and it is geographically central. The rulers should be elected from all quarters of the territory, also some from the mines.

12. From now on all appeals should be made to this government and never more to Merano, for it is too costly and of no use. And they should be dealt with immediately and result in fair rectification.

13. A school of higher learning shall be erected, at which one should only learn the Word of God. And three scholarly men from this school, who are versed in the Word of God and Holy Scripture (which is the only basis from which God's justice can be explained), shall be members of the government and direct and judge all matters according to God's commands, as befits a Christian people.

[14] Concerning interest, the entire territorial assembly [*Landschaft*] should decide whether to abolish it immediately or to declare a free year according to divine law [Leviticus 25: 4–8] and in the other years to collect interest for the common use of the territory. For it must be considered that the common territory will have war expenditures for some time.

[15] Concerning customs [duties], it seems to me to be good for the sake of the common man that they be abolished throughout the territory. However, they should be established at the borders and administered thus: that which enters the territory [i.e. imports] shall not incur duties, but that which leaves the territory [i.e. exports] shall.

[16] Concerning tithes, everyone shall give them according to God's commandment and they should be collected as follows: there should be a priest in each parish as taught by [St.] Paul. He should proclaim the Word of God and receive honorable accommodations from the tithes. The excess collected should be given to the poor. However, there should be an ordinance concerning the poor that prohibits begging from house to house, to keep vagrants and useless people capable of working at bay.

[17] The monasteries and German Houses [i.e. houses of the Teutonic Order of Knights] should be converted into homes [literally, "hospitals"]. In some of these, the sick shall be housed together and should be provided care and medicine. In others, the elderly who are unable to work on account of their age [shall be housed]. And the poor orphan children [shall also be housed there] and shall receive instruction and an honorable upbringing. And where there are residential poor, they should be assisted according to their needs from the tithes or alms as deemed necessary by each judge in his own district, which they know better than anyone. In cases where the tithe is insufficient to provide for the pastor and the poor, everyone should faithfully give alms respective to their wealth. And if there is still a deficit, then the full amount must be given from their incomes. In every hospital there should be a superintendent and also a chief bailiff or official in charge of all the homes and the poor; he shall have no duties other than to be ready to serve all homes and to care and provide for the poor. In addition, all the judges, each in his own district, should help by [distributing] the tithes and alms to the homeless poor in addition to identifying and reporting them. The poor shall be afforded not only food and drink but also provided with clothing and other necessities.

Further, so that order may be maintained throughout the territory in all matters, four captains and in addition a chief captain shall be appointed for the entire territory. In case of war and other emergencies,

they shall be responsible for preparing the territory, [including] its mines, [mountain] passes, paths, bridges, dams, and roads, and doing everything necessary for the territory, and serving the territory faithfully as the situation demands. However, after they have conducted inspections and informed themselves, they should inform the government about any deficiencies and then act according to the governors' counsel in all cases.

Marshes and wetlands and other infertile places in the territory should be made fertile and not left barren at the expense of the common good for the benefit of a few selfish people. The marshes from Merano down to Trent should all be drained and used for pasturing cattle and sheep, and more grain should be grown in many places, so that the territory will be provided with meat. One should also plant oil [i.e. olive] trees in many places, and also saffron. And the vineyards in the valleys should be trellised, and in them red Lagrein grapes should be planted and fermented, wine made as in Italy, and in between [the vines] grain should be grown, for there is a shortage of grain in the territory. This would result in the stench of the wetlands being reduced and improve the quality of the land. Many sicknesses that result from the wine produced in the valleys would be alleviated, wine and grain will be affordable and the production costs kept low. But the hillside vineyards which are not suitable for the production of grain should remain as they are.

[18] In every district at an appropriate time each year, the whole community should work together to clear the fields and common lands and make good pasture and also gradually improve them. No one in the territory should act as a merchant so that no one becomes stained with the sin of usury. In order to avoid shortages, however, and to maintain good order so that nobody is overcharged or cheated but rather able to fairly purchase everything and find good wares, a location in the territory should be determined in the beginning where one can establish all industries and relocate those from [other parts of] the country, like silk, millinery, bronze ware, velvet, shoes, etc. For this, Trent would be [a good choice as it is] cheap and central. And a general superintendent should be appointed to whom these [industries] all report. The spices and other goods which cannot be produced within the territory should be ordered from abroad. And in several other places wherever it is convenient, shops should be set up in which one can buy everything fairly. They should not aim to make a profit but figure the prices only to cover the costs of production. Thus deception and wrongdoing can be avoided and one will be able to acquire everything at a fair price. The money will stay within the territory and will be of great advantage to the common man. This superintendent of commerce and his assistants shall receive a set salary.

[19] One shall reestablish a good, heavy coinage as was used in the time of Archduke Sigismund [r. 1477–96] and ban and banish the current currency from the territory. In the future, no foreign currency should be accepted [i.e. exchanged] in any amount. Instead, the coins should be appraised and found to be of comparable wealth within the territory before they are accepted.

[20] One shall take the chalices and other valuables from the churches and houses of God and make them into coins for the good of the territory.

[21] One shall establish good relations with the neighboring lands. One should not allow the Savoyards to peddle in the territory. There should be one market held in the Adige region and one in the Inn valley. There should be a goodly sum of money in reserve in case the territory is engaged in an unforeseen war. And the [estates of] exiled nobles and other buildings should be used to pay for the courts.

[22] Concerning mining: First of all, all smelting works, surface mines, ore, silver, copper, and everything associated with these within the territory, whether they belong to the nobles and foreign merchants or corporations like the Fuggers, Hoehstetters, Paumgartners, Bimmels, and the like, should become common property. They deserve as much because they have gained the rights with unfair usury. [They earned] money by spilling human blood; they also deceive the common man and worker by paying him in bad goods at a high price, twice as much as they are worth. They also drive up the price of spices and

other goods by forestalling [e.g., by buying up the goods to create a monopoly]. They are the cause of bad money, and all the “coin lords” who buy silver from them have to pay the prices that they determine, or they take the coins from the poor by reducing the wages of the poor, if they themselves are not smelters allowed to buy ore. But the merchandise over which they have a monopoly is then sold at a higher price. And thus they are a burden to the entire world with their unchristian usury while they become as rich as princes, and this should be properly punished and put to an end.

Accordingly, the territory should appoint a supervisor for everything concerning the mines, and he should manage things and report annually. And no individual should be permitted to smelt; instead, the territory should control the smelting via the supervisor, regulate the sale of ore fairly, and pay the workers’ bills in cash and not in vouchers, so that in the future the rural residents and the miners can coexist peacefully.

Similarly, there should be [a system to promote] good order in the saltworks. The territory should earn quite a bit from the mines, so that if all goes well, the territorial government will be able to provide for the officials and ensure [security]. However, if there should be a deficit and insufficient income for the plans to care for the territory, then a tax or interest-penny should be collected so that the burden is distributed fairly. There should also be a diligent effort to find and open new mining sites, and the territory should carry the costs for this, because mining will provide the territory with the greatest income without significant discomfort.

Source of original German text: *Quellen zur Geschichte des Bauernkrieges*, compiled and edited by Günther Franz. Darmstadt: WBG, 1963, pp. 285–89.

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