

The Brandenburg Recess: Resolutions agreed to by Frederick William (“the Great Elector”) and the Brandenburg Estates in the Recess of July 26, 1653 (1653)

Abstract

The historical literature long viewed this important document as the founding charter of “Prussian absolutism.” It was seen to have introduced a standing army financed by the new taxes agreed to in this treaty (or recess) in exchange for far-reaching powers granted to the landed nobility to fasten the chains of servitude on their village subjects. Moreover, by this agreement, the Estates were thought to have acquiesced in their own supersession by “absolute monarchy.” More recent scholarship has shown that such deductions are unjustified by the recess’s own terms, as well as by subsequent Brandenburg-Prussian history, in which the noble-dominated Estates and their administrative-fiscal organs continued to wield significant authority. The landlord-villager relationship remained contentious, both in light of the severe labor shortage that prevailed long after the Thirty Years War (and which strengthened the villagers’ bargaining position) and the Electors’ refusal to block village appeals to the princely courts against seigneurial abuses. The villagers learned various ways to defend themselves by playing off the nobility against the state.

Source

We, Frederick William, by Grace of God Margrave in Brandenburg, Lord High Chamberlain and Elector of the Holy Roman Empire, Duke in Magdeburg, in Prussia, Jülich, Cleves, Berg, Stettin, Pomerania, of the Cassubes and the Wends, also in Crossen and Jägerndorf in Silesia, Burgrave in Nuremberg, Prince in Halberstadt and Minden, Count in Mark and Ravensberg, Lord of Ravenstein, etc.,

do hereby profess and make known in Our name and that of Our heirs and successors, Margraves and Electors of Brandenburg that after Our loyal and obedient Estates of Prelates, Lords, Knights, and towns of Our Electorate and Mark of Brandenburg on both sides of the Oder and the Elbe have at the Diet now convoked and held most loyally and obediently declared their consent to pay — — — thalers and even more, as specified hereafter, and have in return submissively requested Us not only to confirm all the articles signed and sealed to them heretofore by their Electoral Highnesses, Our most noble ancestors, but also graciously to remedy their grievances:

We, having regarded and maturely considered the good will and most submissive loyalty they have always displayed toward Us and Our Electoral House, and have also shown, by action and in truth, at the present Diet, have most graciously acceded to their most submissive request.

[...]

[Arts. 1 to 10 of the Recess are concerned with the religious question, on which, as we have already seen, a difference existed between the Calvinist Electors and the majority of their subjects, who had retained the “unchanged” Lutheran doctrine. The main purpose of these articles is to assure the Lutherans against encroachments by their rivals, while a digression confines the benefits of any such concessions exclusively to the two main branches of the Protestant faith. The protection enjoyed by Catholics in Cleves under the Treaty of Westphalia and in Prussia under that of Wehlau did not extend to Brandenburg.]

[...]

1. Firstly, We will have taught and professed in all Our Lands, in Our University of Frankfurt, Electoral schools, and everywhere else, nothing but what is contained in the pure Word of God, in the Prophetic and Apostolic writings, and in conformity with the Four Chief Symbols. The Holy Sacraments shall also be administered as appointed by Our Lord Redeemer and Savior, Jesus Christ, without any human addition and corruption.

We further confirm the former Reverses of the country that whoever in the land wishes to do so may continue to profess the doctrine of Luther and the Augsburg Confession, as presented to the Emperor Charles V on June 25, 1530, at the Grand Imperial Diet of Augsburg, in the presence of His Imperial Majesty and also of the Electors and Estates of the Roman Empire, signed by the Protestant Electors and Estates, and as it has thereafter been used in Lutheran churches, particularly in the churches of this Electorate, and as Our loyal Estates have hitherto confessed it, and do now do so, and which is generally called by the Lutheran Churches “unchanged,” and that each and all of their symbolical books shall remain inviolate, and everything is to remain as disposed by the Recesses of 1611 and 1615. No compulsion or pressure shall be put on them to abandon it, as We have never thought to arrogate to Ourselves the dominion over consciences. Neither shall any person who is suspect to Our subjects be intruded in Our agencies and in places the patronage of which belongs to Us.

The majority of offices and benefices in the leading Colleges, and in the most reputed of them, have hitherto been occupied and enjoyed by more Lutherans than Calvinists. We are most graciously resolved to follow the existing practice and to confer Our grace and promotion on both Lutherans and Calvinists without distinction of creed.

[...]

[The remainder of this article promises that certain schools for the children of nobles shall be reopened and re-expanded as soon as circumstances allow and that preference in admission to them, fees, etc., shall be given to natives of Brandenburg, without distinction between Lutherans and Calvinists.]

2. Secondly, We will not permit the practice of their religion, in public or private, to Papists, Arrians, Photinians, Weigalians, Anabaptists, and Minists, and should it come to Our knowledge that conventicles of this type have, unknown to Us and contrary to Our will, been established in Our Electoral Lands, due visitation and punishment shall not fail.

We have had a special contract concluded with Jews, in virtue whereof all traffic of any kind is forbidden to them in Our Electoral Lands, except only on public and solemn festivals, on which, however, they must report themselves to the local magistracy, against which arrangement no one will have any cause to complain. For the rest, We will not permit to them any fixed domiciles or synagogues, and if they should offer inferior goods for sale or practice illicit usury, We will not fail to punish this severely.

3. Thirdly, We will leave the patronage of parishes to Our Estates, free and unrestricted as heretofore, and persons having the patronage or right of nomination and presentation shall further be empowered to install in them fit and qualified persons, and also to remove them, for serious reasons, as appropriate to the nature of the offense, but only by due process of law. We will also graciously protect and maintain persons who have the right of nomination and presentation.

[...]

[Candidates for ordination are to be examined by the Superintendant General in Frankfurt, and must satisfy certain standards laid down in the remainder of this article.]

4. Fourthly, parishes, churches, and their appurtenances are to be left in enjoyment of their old privileges, resources, and rights.

[...]

[The rest of this article and Arts. 5 to 10 are concerned with details of pastors' stipends, fees, etc. Art. 11, which is included in the Recess in the articles concerned with religion but is of wider application than the purely religious, since it deals also with nonecclesiastical appointments, is concerned with the important question of "indigenat," or nationality. There was at this time no single nationality for all the Elector's subjects; a man was a Prussian, Cleves-Mark, or Brandenburg national. The article represents a compromise, for the Elector's wish was to employ in any of his dominions anyone whom he thought fit, even if not a national thereof, but his hands were tied because in previous negotiations with the diets of Cleves and Prussia he had been obliged to promise to employ in those provinces only natives of them, so that he was now forced to accept the same principle for Brandenburg, but reserved his right here to depart from it in special cases:]

11. Eleventhly, as We have hitherto given preference before others to natives, especially nobles, in the conferment of prelacies and canonries, this system shall be retained also in the future. Yet persons of burgher origin are not to be excluded, but protected in accordance with the customs and statutes traditional in each locality. We will, however, particularly maintain Our preference for natives over others, and will also promote them to prelacies, ecclesiastical benefices, dignities, Councillorships, and high public offices before any non-natives and foreigners who may with advantage be employed in Our business and the common business of the realm, in consultations, legations, and similar questions, and who have rendered or may in future render good service to the country. So also the sons of deceased persons, if they are capable, shall be given due consideration and admitted before any foreign nationals, not so much as their parents' heirs, by virtue of succession, since positions of responsibility cannot be made hereditary, but in their personal capacities and by virtue of choice. We cannot, however, so far allow Our hands to be tied as to renounce the right to confer benefices and offices of State on well-qualified non-natives and foreigners who have done notable, good and useful service to Us and to the State, or could do so; We hereby expressly reserve this right to Ourselves, Our heirs and successors.

In order, however, that the Estates of the Land may have even greater token of the special gracious love and affection which We constantly bear toward them, We further graciously declare that since Our subjects of Electoral Brandenburg are in Our Lands of Cleves, Prussia, and the Lands appertaining thereto, excluded from offices, benefices, Captaincies, and other services of those Lands, so the same principle shall be applied reciprocally, and natives of those Lands shall be treated similarly in these Lands of Electoral and Mark Brandenburg, and held incapable of enjoying any of the benefices and services to which Brandenburgers are not admitted in Prussia and Cleves, and further, in the future, shall not be promoted so long as the said Prussians and Clevelanders adhere to their present decisions. And the same rule shall apply in all Our Provinces which may make the same demand regarding the employment of natives.

[...]

[Art. 12 provides that all cloisters, except one, which is to be turned into a school, shall be left in possession of their statutes, and the number of their inmates may return to the prewar figures as soon as circumstances allow.

Art. 13 promises not to increase the obligations by which Chapters and their subjects were traditionally bound to provide food, lodging, and horses for certain categories of travelers, and to make moderate use of such rights in these respects as the Elector is unable to renounce. For instance—to take one example out of a long list—cooks and Electoral employees are not to be given special tips when quartered on a Chapter, "because they are not employed in the service of the Chapter, but in Ours."

Art. 14, which binds the Elector to consult with the Estates before taking decisions on questions of major

importance, should by modern standards have been the most important of the entire document. In fact, it was a dead letter from the first, and that not solely of the Elector's fault; the Estates had already long ceased to attempt to influence foreign policy, except in the sense of objecting to the taxation made necessary by wars. But such as it is, it runs:]

14. Fourteenthly, We will make no decisions nor take steps in important questions crucial for the welfare of the country, or its reverse, without the foreknowledge and advice of Our loyal Estates, and will also conclude no alliances that would or might involve Our subjects or peoples, without the advice and consent of the Estates in general. In such important cases We will convoke the Estates to meet for consultation and will set out on the agenda the points of Our proposals.

We will at all times willingly listen to Our loyal Estates if they have any submissive request to make of Us, hear this with due attention, and deal with it with gracious good will.

[Art. 15 stands apart. It seems, like Art. 13, to have been an answer to complaints from the Electors' own subjects (on his crown domains), with which the Estates were not concerned:]

15. Fifteenthly, We will, as earlier Reverses stipulate, not sell or pledge any more of Our Electoral estates and domains, but will buy back and redeem those pledged as soon as possible.

[...]

[The next articles, a very long series, deal with questions which are treated here as matters of law. They range over a very wide field, and many of them are purely technical, providing for more Courts of Justice, eliminating conflicts of competence, etc. Others, however, are of great political and social importance, especially those which confirm the legal domination of the privileged Knights and burghers over their subjects. Conspicuous among these are Arts. 20, which confirms the lords' jurisdiction of the first instance, and 22, the opening of which provides penalties against a "subject" appealing against his lord's decision without sufficient cause, while the concluding paragraphs, among other things, expressly reaffirm the condition of serfdom where it already exists and place the onus of proving his freedom on the subject. Other articles favorable to the lords are 28 and 31.

In Art. 16 the elector promises to enlarge the personnel of the Kammergerichte of Sollin and Küstrin, and lays down principles to be followed in the appointment of judges. Art. 17 restricts the competence of the Consistorial Court, and Art. 18 extends and safeguards the right of appeal. Art. 19 lays down that Reverses have the force of law and must be so treated.]

20. Twentiethly, We are graciously pleased to protect in every way the Prelates, nobles, and town Councillors in their privilege of "first instance," and every case shall be first remitted to the immediate authority, and no case shall be irregularly taken out of his hands, except where the issue is one of justice denied, but the case shall be rejected and simply remitted back to the competent Court and immediate authority, as is expressly provided in earlier Reverses. We are, however, graciously prepared to allow aggrieved persons not only the right of appeal but also the possibility of a sentence's being quashed.

[...]

[The rest of the Article deals with special applications of or exceptions from this rule. Art. 21 amends the law against debtors. Previous enactments cannot be repealed, but all reasonable excuses or pleas for delay will be considered.]

22. Twenty-secondly, with reference to complaints that Knights are often taken to Court by their peasants and involved in unreasonable expense, the following procedure shall be followed for the avoidance of vexatious complaints: When a peasant brings an action against his lord and his complaint

proves not to be well founded, he shall be punished with imprisonment in accordance with Our revised *Kammergericht*, in order that others may refrain from similar mischievous complaints; and should it be recognized that a townsman has accused the Council rashly, frivolously, and maliciously, he is to be punished, according to the degree of his disobedience and contumacy, either with imprisonment or with a fine, to be applied to pious causes.

The buying out of peasants is, under the Reverses of 1540 and 1572 again permitted to persons who inhabit their own properties and have no other seat or habitation, in which case, however, the peasant must be paid the value of his property, after valuation, in hard cash. The manorial authority in which the jurisdiction of the first instance is vested cannot be deprived of the right of evicting contumacious persons for grave and important offenses, but this must be done for cause stated, at an enquiry regularly appointed, and after report on the legal position.

Total expulsion of a delinquent from the country can, however, be ordered and executed only with the consent and ratification of Ourselves, Prince of the Land. We may also, given good and sufficient reason, reduce or modify a penalty imposed.

Remissions granted by manorial Courts on compassionate grounds to poor subjects in time of war are not to be taken as creating permanent situations, and shall in no way affect or invalidate the right of the lord to collect his normal rents and services.

Serfdom [*Leibeigenschaft*] remains in being where it has been introduced and is the custom. Should any person contest this by arguing possession of a prescriptive presumption of freedom, length of time alone is not sufficient to prove his case, but good faith, title, or the cognizance and acquiescence of his lord must also be shown, and even this shall be without prejudice to exceptions, particularly to those arising out of wartime conditions.

[...]

[Art. 23 orders a more careful procedure when civil cases are conducted before a municipal council. The Crown does not wish to interfere with the free election of aldermen, but desires them to carry out their duties in such fashion as to give the burghers no cause for complaint. Arts. 24 to 30 are of minor or local importance, except 28, which rules that a law officer of the Crown cannot proceed directly against a noble nor imprison his subjects, but must send the documentation of the case up to the Supreme Court.]

With Art. 31 we come to the question, of great importance to the Knights, of the succession of fiefs. This is solved in a way very favorable, on balance, to the petitioners.]

31. Thirty-firstly, in respect of new fiefs, We are graciously prepared to include the feoffee's brothers and the children of his brothers in the donation and will also not object to including more remote agnates if they apply to Us and fulfill the conditions. Similarly, while it is the practice of Our Court of Appeal that when a noble fief is distrained it is passed to a noble purchaser and when a fief falls vacant it is always bestowed on a noble, sufficient evidence of which is to be found in the registry of fiefs, Yet We cannot renounce the right to escheat vacant fiefs which are suitable for Our domains and to incorporate them in Our domains and estates, especially in the present condition of the country, in which so many noble estates are lying derelict and empty, with little prospect of getting reclaimed.

We are, however, always graciously prepared, but with reservation of Our rights, to bestow vacant fiefs on nobles and other native families. We cannot, however, completely exclude servants of Ours of burgher quality who have rendered useful and loyal service to Us and to Our Electoral House, and we cannot recall any instance when a vacant and ownerless fief has been incorporated in Our domains; on the contrary, many large and valuable properties have been detached from the Electoral domains and conferred and bestowed in fief on certain nobles.

[...]

[Art. 32 deals with the legal position of agnates succeeding to a heavily indebted estate; Art. 33, with the position of the creditors of a bankrupt. Art. 34 deals with the provision to be made for the daughters of a noble landowner whose estate is inadequate to provide proper dowries for them. If a noble's daughter marries below her station, but to an honorable man, decent provision should be made for her; but those who live dishonorably, or marry dishonorably, forfeit their dowries. Art. 35 limits the obligation of a depopulated Kreis to pay in full debts contracted by it when it was more densely inhabited.]

36. Thirty-sixthly, landlords cannot demand rents for years in which a farm was derelict, nor can persons who remained on their farms be subject to writs or distrainments, but they must be granted substantial reductions, especially for those years in which Our lands were visited and ravaged by the scourge of war. In token whereof We are graciously conceding to Our own subjects and tenants not only a proper and substantial reduction, but total remission for most of these years.

[...]

[The Church is to allow similar remissions of tithe.]

[Art. 37: nobles or Crown agents occupying derelict holdings are liable to taxation on them. Art. 38: how prices are to be calculated when rents are paid in kind. Art. 39: nobles retain their privilege that only their properties in towns are liable to quitclaim duty, not those lying outside the jurisdiction of the municipality. Art. 40: a subject under obligation to resume possession of his holding and return to his lord's jurisdiction and offered a temporary holding ad interim while his own is being put in order is bound to accept it.]

[...]

41. Forty-firstly, subjects and peasants who have remained on their holdings throughout the war, endured the great hardships, and helped to carry the common burden, are not to be evicted, nor are persons of totally unknown origin and conduct to be put in their places, but the Estates cannot object, seeing that it is to their advantage, if, besides natives, foreigners also are accepted in the places of those who have gone away and the derelict localities settled with them or new places established and brought under cultivation.

We have, of grace, allowed six tax-free years to persons prepared to settle in and bring under cultivation certain derelict places on Our Electoral domains; thereafter they are without fail to pay their dues and to help carry the general national burden like other subjects. Meanwhile, however, the new settlers cannot be exempted from the dues in kind which the priests and sextons receive in lieu of stipends; they must deliver these, or else allow the priests and sextons the use of sufficient land from their holdings to make up the outfall in their dues. [...]

[The rest of this article deals with the special difficulties of certain towns. Arts. 42 to 44 are directed against restrictive practices by blacksmiths, carpenters, bell-founders, and dealers in hops. Art. 45 promises an early delimitation of the frontier with Poland. Art. 46 approves arrangements made by the Knights and towns to discuss certain difficulties that had arisen between them. Art. 47 lays down the procedure for settling disputes between the Crown officials on the one hand and Knights and towns on the other. Art. 48 deals with the appointment of commissioners to collect certain taxes. Art. 49: where possible, persons against whom prosecutions are pending are not to be kept in custody.]

The articles which follow are, in the main, concerned with economic questions. The chief interest in them lies in the efforts made by the Knights and towns to retain old privileges of exemption from taxation. As a rule, the Elector admits these, but insists on safeguards against abuse. The most important articles dealing with this question are 52, 62, and 65. An article of a different interest is 63. While the right of coinage was at

this date a Crown prerogative almost everywhere, and the practice of making a profit out of it by debasing the currency almost a regular one, Frederick William, had been carrying this so far that the level of prices had been badly affected.

Under Art. 50, a general ban on exports, especially of corn, hops, cattle, and hemp, is not to be enacted except in cases of urgent necessity, and then only after consultation with representatives of the Estates. Art. 51 deals with the abolition, total or partial, of certain emergency levies.]

52. Fifty-secondly, except for the new duty on corn exported abroad by land or water, which is to be paid by all exporters, but only at a place which We shall designate, We are willing to confirm those Knights and towns which are exempted from the payment of duty in their traditional privileges and exemptions from cartage duty, and Prelates, Lords, and Knights shall be absolutely free to export by land or water corn grown by themselves and their tenants, also wine so much as they have above their own needs, and also cattle, wool, and any other produce from the Knights' estates that may be for sale, and to import in return, duty-free, wine, victuals, cooked articles, and other commodities needed by them.

[Precautions must, however, be taken against abuse of this privilege.]

[...]

[Art. 53 lays down various rates of export duty on beer. Art. 54: duties on corn exported from certain localities. Art. 55: further safeguards against abuse. Art. 56: customs and excise officers must report to the local authority before distraining on any noble estates. In Art. 57 the Elector promises to continue, as best he can, the supply of cheap timber. Art. 58: Crown employees entitled to fell timber on nobles' estates must not take mast-bearing trees in bearing. Art. 59: certain types of iron may be imported, but duty must be paid on them. Art. 60: the shepherds and drovers of lords are not to be required to pay toll when making short journeys. Art. 61: anyone may buy millstones wherever he pleases, at home or abroad, but the traffic in them is declared a Crown monopoly, and everyone except the Knights and duty-free towns must pay import duty on them.]

62. Sixty-secondly, on the purchase of salt. Since certain Prelates, Lords, and Knights have their own transport services to Lüneburg and think that they can get salt cheaper there, at Stettin, or at other places on the frontier, We are willing, as provided by previous Reverses, to exempt and relieve the Prelates, Lords, and Knights of all Our Electorate, and also owners and holders of knightly estates, from the salt tax insofar that any of them may, as heretofore, buy the salt necessary for their own households and for their sheep and dairy farms, without let or hindrance, wherever they will, and have it conveyed by land or water.

[The carriers must, however, be provided with papers showing the destination of the salt, which must not be in excess of the buyer's own needs, nor may it be resold, under pain of loss of the privilege for life. A noble's privilege extends to his widow, orphan children, their guardians, etc.]

Art. 63. Sixty-thirdly. Whereas Our obedient Estates have most submissively represented that Our Land is now sufficiently provided with all currency at present needful, and that there is no shortage any more, We will stop the mint next Michaelmas, unless it should have been forced to stop before for technical causes and the full quota not minted, in which case minting must go on up to the end of October. But at the end of February of the coming year, 1654, We will again call together a Committee of Our obedient Estates, most graciously listen to their proposals and submissive representations, and give them satisfaction, and also take the appropriate decisions and give the orders how the issue of currency in Our Lands is best to be regulated.

[...]

[Art. 64 deals with the case of travelers who enter the country by certain routes to avoid paying customs at the regular place of entry. Art. 65: The Estates have asked for the abolition of the new duties on corn introduced by Sweden during the Thirty Years' War. The Elector quotes back at them, as justification for maintaining it, an old edict to the same effect issued by the Emperor Frederick III in 1456. He promises, however, not to increase the tax, unless on the new Oder-Spree canal then under construction; he reserves his right to levy any dues he wishes on this canal, when completed. Arts. 66 and 67 are of local interest. In Art. 68 the Elector promises not to extend his hunting rights in the Altmark at the expense of those of the Estates. "Subjects" are not to be impressed into service at wolf hunts, but are to be encouraged to assist in them. Those whose duty obliges them to help in such hunts will be treated "civilly" and not kept overlong at the task. Art. 69: The preparation of saltpeter is prohibited; the nitrous earth is to be buried in peasant farms.

With Art. 70 we return to politics, and miscellanea. Art. 70: nobles and Knights of the Neumark are entitled to signed themselves "Edler von."]

Art. 71. Seventy-firstly, in respect of the memorial presented to Us by Our loyal Estates concerning the appointment of a Regent [Statthalter, i.e., during the Elector's absence from the country], all We know is that during the whole period of Our reign, so often as We have had occasion to leave the country, We have always made dispositions satisfactory to Our loyal Estates, and We again graciously offer to make such gracious dispositions in similar cases that the Estates shall have no cause for complaint.

[...]

[Art. 72 promises the towns remedy against a complaint made by them of excessive requisitioning of horses by servants of the crown. Next follows approval and ratification of an agreement concluded between the Knights and the towns on certain points of detail. The final paragraph again registers the Estates' promise to pay "— thaler of 24 groschen each," in good money, over six and a half years.]

Source of English translation: C.A. Macartney, ed., *The Habsburg and Hohenzollern Dynasties in the Seventeenth and Eighteenth Centuries*, in *Documentary History of Western Civilization*. New York, Evanston, and London: Harper & Row, 1970, pp. 228-41. Introduction, editorial notes, chronology, translations by the editor; and compilation copyright © 1970 by C.A. Macartney. Used by permission of HarperCollins Publishers.

Source of original German text: Christian Otto Mylius, *Corpus Constitutionum Marchicarum, Oder Königl. Preußis. und Churfürstl. Brandenburgische in der Chur- und Marck Brandenburg, auch incorporirten Landen publicirte und ergangene Ordnungen, Edicta, Mandata, Rescripta [et]c. : Von Zeiten Friedrichs I. Churfürstens zu Brandenburg, [et]c. biß ietzo unter der Regierung Friederich Wilhelms, Königs in Preußen [et]c. ad annum 1736. inclusive / ... colligiret und ans Licht gegeben von Christian Otto Mylius*. Berlin und Halle, Zu finden im Buchladen des Waisenhauses, [1737]-1755, [Part 6, Section 1, No. CXVIII], pp. 426ff.

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