

The Legends of Schartau – Between Myth and Fiction

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At the beginning of the 10th century, Schartau (today a suburb of Burg near Magdeburg) was probably developed into a fortified settlement (Burgward) under King Henry I, Duke of Saxony from 912 to 936, to secure the East Frankish border. His son, Otto I, granted Schartau, then known as Sirtaw, to St. Maurice's Monastery in Magdeburg. This event is mentioned in documents dated differently: one from 946^{/33/ p.39} and another from 956^{/33/ p.49}.

Under Otto II, for a more efficient justice system, it was no longer necessary to rely on appeals by the emperor himself, as he was often far away in other countries. Instead, all appeals were transferred to a Palatinate court. According to legend, "Schartow, as the highest place in the realm" was said to have had the prerogative of a Palatinate court^{/31/}. "Otto the Second (Otto II) supposedly established the highest court in Saxony here in Schartow on the Elbe and granted this court the County of Ascania and Leburg Castle... as it were, appointing Schartow as the highest place in the realm"^{/34/}.

The following documents should prove that Schartau even had its own legal system:

Erzbischof Wichmann von Magdeburg übereignet die Villa Wusterwitz, unfern der Havel, einem gewissen Heinric und anderen Fländern zur Colonisation. o. D. (Muthmasslich 1159.)

Aus dem Magdeburger Copialbuche im Archive zu Bonburg.

Noverit universitas fidelium tam futurorum quam presentium, quod geo Wychmannus, per Dei misericordiam Magdeburgensis ecclesie archiepiscopus, villam quandam, que Wosterwize dicitur, sitam prope Havelam contradidi cuidam Heinrico alisque, qui per ipsum et cum ipso ad me venerint, Flamingis, cum omnibus ad eandem villam pertinentibus, agris cultis et incultis, silvis, pratis, pasuis, aquis aquarumve decursibus, stagnis et piscationibus, ita videlicet, ut per omnia et in omnibus eam habeant justitiam, que Scartoensis appellatur. Eidem quoque Heinrico IIII mansos et unum talentum ac suo heredi ibidem in beneficium concessi, unum vero mansum ecclesie tunc ibi divio adiutorio construende quasi in lotem dedi, et prter hos quique ne quis ibi mansus vel a me vel ab aliquo meorum successorum cuiquam inbeneficietur aut quovismodo ab usu archiepiscopi sequestretur, omni qua oportuit stabilitate firmavi. Dedi quoque eiusdem ville inhabitatoribus, ut sint immunes et liberi ab eo ministerio, quod burgwere vulgo vocatur, nisi ad munimen et securitatem semetipsos circumvallare et contra paganos adiacentes eis precipiatur. Est etiam hoc firmatum, ut prter eundem Heiricum neque comitem super se habeant neque advocatum. Ipse vero Heinricus vel suus heres omnes causas eorum et negotia diiudicet et, quidquid iure placitum adquisierit, due portiones in usum archiepiscopalem cedat, tertia vero sit iudicis. Cultores etiam agrorum pro quolibet manso annuatim solvant duos solidos in festo beati Martini et preterea omnium rerum decimarum plenam decimationem. Quia vero situs eiusdem ville vianibus et negotiantibus plurimum est oportunus, ex consilio fidelium meorum statui, ut habeatur ibidem annuatim celebre forum et quanta potest copia rerum venalium, forensibus autem et mercatoribus ibi manentibus eam libertatem emendi et vendendi et plearie in omnibus causis et negotiis suis eandem iustitiam concessi et firmavi, quam habent Magdeburgenses, et nullum iudicem super se seclarem habeant prter iam saepe dictum Heiricum vel suum heredem. Ad incrementum vero illius novelle plantationis libertatem transundi et redendi, emendi et vendendi omnibus advenientibus deo, ut videlicet nullus ibi cogatur ad solvendum theoloneum sive pedatum usque ad integrum quinquennium, infra quod spatium ipsi similite, qui cives ac domestici eiusdem foi fuerint, nullum pro areis suis solvant tributum. Completo autem quinquennio, cuius intium posui in festo beati Martini in anno dominice incarnationis M. C. LIX., hospites et transeuntes debitum persolvant theoloneum. Civis quoque unusquisque pro area quolibet anno solvat sex nummos ab inde usque in sempiternum. Huius rei testes sunt: Arnoldus abbas de Monte sancti Johannis baptiste, Gerardus prepositus sancti Mauricii, Hazecho decanus, Otto viceminis, Syfridus prepositus sancti Nicolai, Widoldus propositus, Heinricus marchionis filius et canonicus sancti Mauricii, cum ceteris omnibus canonicis ecclesie sancti Mauricii, canonici quoque ecclesie sancte Marie; laici vero: Albertus marchio, Otto filius eius, Burghardus urbis prefectus, Walterus de Arnstein; ministeriales: Sifridus prefectus, Richardus de Alleve, Meinricus, Alexander, Adelnus de Burch et frater eius, Heidericus de Grabowe, Gernotus filius prefecti Hadamari, Wernerus de Birch, et alii quam plures.

Ueber die wahrscheinliche Ausstellungszeit dieser Urkunde s. Abchn. V. Note 93.

X. Bischof Balderam von Brandenburg bestätigt dem Kloster Leisnau alle Befigungen und trifft nähere Anordnungen wegen des demselben zuständigen Archidiaconats in der Brandenburger Diöcese, am das Jahr 1187.

In nomine sanctae et individuae Trinitatis. Ego Balderamus, Dei gratia Brandenburgeris ecclesiae Episcopus. Ordinatione divina venerabiles et Deo digni predecessores nostri Wiggerus, Wilmarus et Sifridus, Brandenburgeris ecclesiae episcopi, sanctam congregationem religiosorum fratrum sub regula beati augustini et institutone reverendissimi Domini Norberti Magdeburgeris Archiepiscopi in monte beatae Mariae Liezeke ad servitium dei adunatam tempore nostrae mortalitatis per nos in via dei dirigendam nobis quasi hereditaria successione reliquerunt. Nos itaque eorum devotioni pro parvitate nostra Domino inante subservientes prefae congregationi omnimodum affectum nostrum inclinavimus et ut in aeterna quiete deo vacent exteriorem inquietudinem ab eis quantum in nobis est amovere dignum duximus. Inde est quod predia et possessiones, quas predecessores nostri alicui quilibet fideles ecclesiae beatae Mariae in monte Liezeke divinae remunerationis obtentu contulerunt, auctoritate Dei confirmamus. Locum videlicet ipsum in quo claustrum situm est cum silva contigua, ecclesiam in villa Lietzke cum omnibus suis appenditiis, centum fori et ejusdem fori fundum ac villae veteris omnemque decimationem in eisdem locis degentium tam de bonis domini Gerberti quam ceterorum et tam de vineis quam de agris et pecoribus, fundum quoque vinearum cum decimis eorum, villam que dicitur Lodeburg cum centu et decimis et cum omni servitio, quod Episcopo exinde debebatur, ipsiusque villae ecclesiam cum reliquis praefatae villae appenditiis. Alias etiam villas tres Niendorp, Gowane, Lychowe et ejus ecclesiam cum centu et decimis earumque pertinentiis. Praeterea villam, quae Cierwe dicitur cum centu et decimis et suis appenditiis scilicet quadam curia, quae Colebick dicitur et villulam Vzekeftorp, quae in terminis Cierwe continentur. Duas quoque partes decimae de IV. villis Cidmick, Eckholt, Sylitz, Predele etiamque decimam in villa Crufowe, quam scilicet villam jam dicti fratres a marchione Alberto contentu filiorum suorum comparaverunt, mansum unum in villa Slautiz et wozoph ejusdem ville Slautiz, duas etiam partes decimae villarum Clutzow et Britzin cum silva, proe Brudene dicitur et Mofsbruche, quae per manum Episcopi Wilhari in concambio pro Gottovne prefae ecclesiae datae sunt. Villam quoque Dulgez, quae nunc Glowna vocatur, cum silvis, pratis, pascuis, molendinis, aquis, aquarum decursibus cultis et incultis cum tota decima et reliquis suis appenditiis, mansum unum in villa, quae Welle dicitur, solventem octo solidos, VI. mansos in villa Mulinge, quos dominus Gerbertus et uxor ejus piae memoriae Berchta contentu heredum suorum jam dictae ecclesiae contulerunt. Sciendum etiam est, quod fratres ecclesiae ipsius bona quadam prelati Gerberti petitione conjugis suae Berchtae et consilio nobilium et ministerialium nostrorum per concambium de manu nostra susceperunt, curiam videlicet in villa Liezke prope ecclesiam suam vineam et predium eidem Curiae contiguum cum omnibus suis appenditiis, pratis, pascuis, aquis, aquarumque decursibus et suis omnibus atinentiis, duos quoque mansos et dimidium Zebekere, pro quibus tertiam partem decimae frugum de duabus villis Meterne et Slautiz et wozop de viginti mansis Slautyz nobis versa vice dimiserunt, decimam vero pecorum et altium de jam dictis villis in usus proprios retinuerunt. Attestatur etiam scripto praefati, quod memorati fratres curiam quandam villae Twergowe contiguam a Domino Wichmanno Magdeburgeri Archiepiscopo Scartuensi jure comparaverunt, cum silvis, pratis, pascuis, aquis aquarumque decursibus et omnibus suis atinentiis. Praeterea confirmamus eidem ecclesiae beatae Mariae in monte Liezeke parrochiales ecclesias illi pertinentes cum villis, quae jure Christianitatis sacerdotibus tunc tertiam partem decimae persolvere debent, quarum haec sunt nomina: Parochia Liezeke cum villis atinentibus Mufcove, Zebekere, et duabus villis, quae uno nomine Kokeburne nominantur,

/8/ A X 76-78

/36/ p. 470-472

The settler's right, first mentioned in the aforementioned documents in 1159 as "*iustitiam que Scartoensis*" and last mentioned in 1187 as "*Scartuensi jure*", is generally interpreted as "*justice of Schartau*" or "*Schartau's right*". However, the place Schartau was never referred to as such in documented mentions, but rather as follows: 946 *Sirtaw*, 949 *Ciertuvi*, 965 *Cirtuua*, 966 *Svartavua*, 1136 *Schartaw*, 1156 *Schartowe*, 1161 *Schartouue*, 1186 *Scartowe*, 1217 *Scertowe*, 1260 *Scartowe*, 1274 *Scarthrowe*, 1307 *Schartowe*, 1309 *Schartowe*, 1337 *Scartow*, 1451 *Schartouwe*, 1511 *Scartow*, 1523 *Schartow*.

Different spellings in old documents are quite common, so "*Scartuensi*" and "*Scartoensis*" probably have the same meaning. There is, in fact, a German translation for the Latin "*scartoensis*" that is „*Scarborough*“^{/42/}.

The Anglo-Saxon town of Scarborough (Scardeburg) was granted the right to hold a market by King Henry II as early as 1155, and the right to appoint a mayor in 1163. Due to the numerous conflicts with the Slavs in the 12th century, the Altmark region was depopulated, and many Slavic settlements were abandoned. Albert the Bear therefore recruited Flemish and Dutch families in Utrecht and the lower Rhine region. It is estimated that approximately 600,000 settlers came to the Altmark, Prignitz, and Jerichower Land^{/43/}.

Since the Flemish and Dutch already maintained active trade relations with the North Sea region at that time, it is more likely that the Flemish colonists chose Scardeburg law for their settlement instead of a fictitious Schartau law. Around 1107, Archbishop Adelgot of Magdeburg had stated: "*The heathens here are wicked, but their land is extremely productive in meat, honey, flour... and birds. And if it is carefully cultivated, there will be such an abundance of all growth from the earth that no other land can compare with it. That is what those who know it say. Therefore, you Saxons, Franks, Lorrainers, you glorious Flanders, conquerors of the world, here you can save your souls and – if you wish – acquire the best land for settlement*"^{/37/}.

By the beginning of the 12th century, most Flemish cities already had a city government with a municipal court, the *scabini Flandriae*. The Flemish, who readily settled in new areas after devastating storm surges in their own land, played a significant role as new settlers in what is now the Fläming region. The Germanization of the lands east of the Elbe in the Slavic Gau Moraciani by settlers brought from the west was consistently carried out according to their native law and formed the basis of their entire legal status^{/35/}.

Wichmann's charter of 1159 shows that "*iustitiam que Scartoensis*" and Magdeburg market law fell under a common jurisdiction. The allocation of house plots was carried out according to a system based on Westphalian town law^{/40/} corresponding hereditary lease: "*Every inhabitant shall pay 6 pfennigs for the house site every year from now on*".

The colonists' right mentioned in the two documents gained supra-regional importance as Burger Landrecht (*jus burgense*) and was granted to Pechau in 1159 and later to Leipzig^{/33/ pp.721}.

The Burger Landrecht, evidently inspired by customary law and court rulings, is thus one of the earliest German land laws. The new jurisprudence was characterized in particular by the safeguarding of lands, farms, and real estate insofar as they were to remain in family ownership (as hereditary fiefs). For example, the Flemish-influenced principle of equal division applied to inheritance law – one half for the widow, the other half for the children.

But what role did Schartau play in all this?

Since the 12th century, a knightly family called themselves *von Schartau* (*Schartow*), whose ancestral seat was in Schartau, served in the Archbishopric of Magdeburg. The *von Schartau* family, considered a wealthy ministerial family, were vassals of the Archbishops of Magdeburg^{/1/2/}. Very early in their history, the family held high positions in the Archbishopric of Magdeburg.

In 1183, a "*Wichardo vann Schartaw*" is mentioned in a document of Archbishop Wichmann in connection with the founding of the cloth merchants' guild in Magdeburg (see below). It is highly likely that the knight *Wichard von Schartau* was himself a cloth merchant and witnessed the privileges granted to the guild members. It was quite common for ministeriales of knightly birth to also come from the artisan class, such as the Bismarck family, who had begun as cloth tailors. This usually occurred after a prior ascent into the merchant patriciate.

Medieval trade in Europe was most concentrated in Flanders. Trade fairs attracted merchants from all over Europe. In Flanders – with its cloth industry – the fairs of Torhout (first mentioned in 1084), Ypres, Lille (both first mentioned in 1127) and Messines (first mentioned in 1159) took place.

The cloth trade was of great economic importance in the 12th century, also in England and the Netherlands. The cloth cutters, the largest guild in Magdeburg, also traded in finer foreign cloths as merchants^{/38/}.

1668) 1183.

Wichmann, Erzbischof zu Magdeburg, befundet den Gewandfrämern der Stadt Magdeburg zu Nutze verordnet zu haben, daß weder ein Einheimischer noch Fremder sich unterfangen dürfe, Tuch auszuschneiden, oder Tuchhandel zu treiben, außer, wenn er Mitglied der Gewandfrämer-Zinnung sei.

Dit is gescheen in vnjerem Hoff to Magdeborch In Gegenwarticheit vnd mit willen Geuzardo des Borchgreuenn, Serone Viceodmino, Hinrico des prouests von Hunoldeborch vnd auch in Gegenwarticheit vnsern ambachtsludenn vund Denern, als nemlidenn Richardo van Aisleue, Hinrico des Schulten, Gerberto des Vogebts, Conrado von Pelerik, Richardo vann Schartau. Nach der Borth Christi vnseres Herren Dufent Jar, hundert Jar, dar na in dem Drey vnd achtigsten Jhere der ersten Indictionn.

Copie aus der Mitte des 16. Jahrhunderts nach einer alten deutschen Uebersetzung in einem

Cop. Hallense, Magdeb. Verträge enthaltend, f. 197 v. im Königl. Staats-Archiv zu Magdeburg.

Gedruckt in

Magdeb. Geschichtsblätter IV. p. 316.

/33/ vol. 1, p. 696

The fact that *Wichard von Schartau* is a possible cloth merchant with contacts to Flanders and was also in the service of the archbishop could also explain the influence of Flemish legal customs on contemporary jurisprudence.

In 1207, *Johannes von Schartow* appears as a witness in a document of Archbishop Albrecht in Magdeburg. Around 1230, a *W. (Werner?) von Schartau* is mentioned as a citizen of Magdeburg. In 1233, the archbishop's retainers *Werner*, *Conrad*, and *Heidenreich von Schartau* appear in Magdeburg. In 1236, this *Werner von Schartau* is documented as a lay judge^{/1/}.

From 1225 to 1254, *Heidenreich* was a lay judge in Magdeburg. In 1233, a *Heidenreich* is mentioned as the herald of *Eike von Reggow* at a court assembly in Salbke and in the County of Wolmirstedt^{/3/}. Furthermore, it is documented that *Heine Heinrich Schartow* (1215-1295) was also lay judge at the lay judges' seat in Magdeburg^{/1/}.

After 1233, *Eike von Reggow* resided in Magdeburg and presumably completed his "Saxon World Chronicle" there in 1237. His example apparently inspired the legal scholar *Werner von Schartau* to also write a legal work. This may have led to the creation of the "Magdeburg Township Law" and the "Saxon Township Chronicle." In the latter, when referring to the challenge of a judgment by the Magdeburg lay judges, the involvement of "four men" from Schartau is mentioned. (see below).

Only free, unblemished, and legally trained men could serve as lay judge. Lay judges were elected for life and received payment for each verdict they reached, as well as compensation for injuries sustained in the line of duty. However, they also had to pay a fine for unjustified criticism of a verdict^{/41/}.

In the "Saxon Townscape Chronicle"^{/4/} it is mentioned that Schartau was a duchy that had existed longer than Magdeburg: "...dat it lengir gestanden hat denne Magdeburg vnd der keyer Otte von alder czeit das herzogtum doraws gestiftet hat vnd alles mit eynem rechte begriffen ist", meaning there is no difference between rural and urban law.

Nv sullet ir horen ap zu Magdeburg eyn orteil bescholden wurde, wo sie es denne holen sullen. Sie sullen czihen zu Scharthowe obir die Elbe vnd nemen do die altsessensten manne viere, die sie do viaden kunnen. Das thun sie dorumb, dass es lengir gestanden hat denne Magdeburg vnd der keyser Otte von alder czeit das herzogtum doraws gestiftet hat vnd alles mit eynem rechte begriffen ist. So czihen sie mit denselben vier mannen, die sie zu Scharthowe geholet haben wider zu Magdeburg vor die pfallenze uff den hoff, der des roten kunigs Otten was. Der machte in die pfallenze an dem ende des thumes, als ir es wol vornomen habt, wenne sie en mochten allezeit vmb eyn bescholden orteil vor das reiche nicht gezihen.

from the Saxon town chronicle^{/4/}



Seal of the Magdeburg lay judges^{/14/}

The chronicle of the town is dated to between 1237 and 1241. If one assumes that *Werner von Schartau*, or at least a member of the *von Schartau* family, was a (co-)author, this explains the glorification of the family's ancestral seat as a duchy and palatine court. Both of these claims were later considered fictions by historians^{/3//4/}.

Where does the term "Duchy beyond the Elbe" which here refers to Schartau, originate?

The Margraves *Otto* and *Albrecht of Brandenburg* were also Dukes of Franconia. Therefore, in a document from 1196, they referred to their Margraviate of Brandenburg as "ducatu transalbino" (Duchy beyond the Elbe)^{/39/}.

The "four oldest men" of Schartau are also not mentioned in any other contemporary writing or document besides the Saxon town chronicle. Therefore, this too can be considered a fiction. Rosenstock writes: "*A man who comes from Schartau could hardly feel compelled to write such a sharply pointed account; hardly anyone else.*"^{/4/ p. 111}

Another reason for Schartau's prominence over Burg could have been a legal dispute lost in 1233 by Heidenreich (the Younger) of Burg against the town of Burg over the Sterth forest. In any case, *Heidenreich* (the Younger) of *Burg* changed his name to "*von Schartau*" shortly thereafter^{/8/ AX 449f}.

Based on the aforementioned facts, it must be assumed that the legends surrounding the village of Schartau are most likely fictional. It is, however, proven that members of the *von Schartau* (*Schartow*) family, as legal experts, played a significant role in recording and disseminating the legal customs in force during the 12th and 13th centuries and influenced the shaping of the jurisprudence of that time.

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