

Harry Count von Arnim

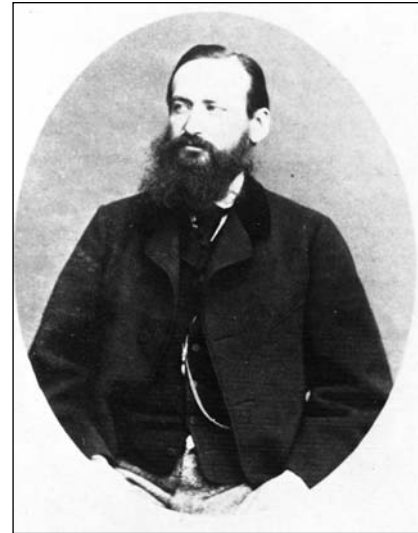
Dr. jur., Diplomat

born October 3rd, 1824 in Moitzelfitz, Pommerania

died May 19th, 1881 in Nizza

Harry Curt Eduard Carl von Arnim was the fourth and youngest child of Ernst von Arnim (1792 – 1812) and his spouse Friederike, née von Blankenburg (1795 – 1849). He belonged to the family branch Suckow in the Uckermark. His home was Moitzelfitz, an estate in Upper Pommerania (also called ‘Farther Pommerania’, German: Hinterpommern) inherited by his mother. After his father’s early death he joined his father’s brother Heinrich Alexander von Arnim (1798 – 1861) and his family, who was a Prussian ambassador /legate in Brussels at the time. He was considered part of his uncle’s family and there he made his first acquaintance with the diplomatic civil service, too.

Harry Arnim ¹ must have been a talented and ambitious young man as he passed his doctoral law degree with flying colours (German: “mit unerhörtem Glanze”) at the young age of 20 in June 1845. Harry has been described as “ a handsome man... who put on perfume, with conspicuous vanity cared about his appearance, also a recognized social companion of charm and wit, who played the piano nicely, and loved to lead a good house however not without making misjudgements every now and then”. ² On the other hand he is described amongst other things as arrogant and scheming, as a man who tries to put the blame for his own mistakes on others and is not prepared to bear responsibility for his own behaviour. Thus light and shade lie close to each other in the case of Harry. His outstanding intellectual abilities are widely acknowledged while a lack of consistency and reliability is often reported in the same breath. There are many voices which deny him integrity of character altogether unfortunately.



From today’s point of view his achievements in life are not of special interest. His name rather stands for the then unusually sharp and strong political argument between him and the Imperial Chancellor, Lord Bismarck. The contest between them was fought publicly in a kind of press war and ended after many criminal and disciplinary court cases, with Arnim eventually being sentenced to a harsh prison term which he tried to evade by escaping abroad. Instead of finding peace abroad he found an unfortunate early death subsequently. Soon it was suspected that the judiciary had been abused to eliminate an irksome rival. These court cases and the so called “Arnim affair” have not been forgotten since and offer material for debate and publication even in modern times. Works concerned with this confrontation are for instance “Harry von Arnim, Bismarck-Rivale und Frondeur” (published in 1974, Title translation: “Harry von Arnim, Bismarck’s rival and factionist”), ³ “Bismarcks Affäre Arnim” (published in 1990, Title translation: “Bismarck’s Arnim affair”) ⁴ and “Bismarck’s Zorn” (published in 1998, Title translation: “Bismarck’s rage”). ⁵ Finally Harry von Arnim’s name is connected with the so-called “Arnim Paragraph”, which is still how it is being referred to today and which was later, in February 1876, incorporated into the Criminal Code as §253a in order to be better able to accuse Harry Arnim of his deeds and to bring up a charge against him.

The most important phases of Harry von Arnim's life:

1842	Final school exam (GB A-level), USA: High school);
1845	Examination for a doctorate in jurisprudence (Dr. jur, int.);
1846	Marriage to Elisabeth (Elise) von Prillwitz (1827 – 1854), a daughter of Prince August of Prussia (1779 – 1843) from the morganatic marriage to MarieAuguste Arendt (1801 – 1834), who was raised to the Prussian peerage with the name of “ von Prillwitz”.
1847	Trainee lawyer exam
1850	Beginning of his diplomatic career;
1851	Passing his diplomatic exam;
1853 - 56	Secretary at the embassy in Rome;
1854	Death of his first wife Elisabeth;
1856	Appointed as counsellor to a legation;
1857	Second marriage to Sophie Countess von Arnim from the house Boitzenburg;
1860	Appointed as chamberlain;
from 1862	Ambassador / legate in Lisbon, then in Kassel and Munich;
1864	Prussian ambassador / legate at the Holy See in Rome, and from
1868	onwards North German ambassador / legate at the Holy See in Rome;
1870	Raised to the Prussian rank of a count with the right of primogeniture;
March 18 th , 1871	Appointed as an authorized representative and plenipotentiary for the affairs of a peace agreement after the German-French War in Brussels and later in Frankfurt am Main.;
Aug. 23 rd , 1871	Appointed as ambassador / legate to the French Republic in Paris;
Dec. 1871	Appointed as imperial ambassador in Paris;
Sept. 1872	Appointed as “Wirklicher Geheimer Rat” (GB: privy councillor), Excellency;
March 2 nd 1874	Recalled from his post as ambassador in France;
March 1874	(disciplinary) transfer as an ambassador to Constantinople; the new post, though, was not taken up as after an objection Harry Arnim is to stay in Paris until the arrival of his successor.
May 15 th , 1874	Harry von Arnim was temporarily retired from Sept 1 st 1874 onwards.
Dec 1874	Criminal proceedings before the city court of Berlin, sentenced to 3 months in prison;
1875	Harry Arnim moved residence to different places abroad and had his lawyers /advocates represent him in the following criminal proceedings;
June 1875	Court-case (in second instance) before the royal Supreme Court in Berlin, sentenced to nine months in prison;
Nov 1875	Forwarding /sending out the first copies of his brochure (ascribed to have been written by Harry Arnim) “Pro Nihilo”, which contains vehement accusations against Bismarck and the Emperor.
1876/77	Disciplinary court case, removal from office due to professional misconduct;
March 1876	Beginning of new criminal proceedings before the royal Supreme Court; being charged with treason and lèse-majesté as well as insult against Lord Bismarck, basically on account of his remarks in the brochure “Pro Nihilo”;
Oct. 1876	Sentenced to five years in prison due to the above mentioned charges. The complaint lodged against this sentence is dismissed.
July 1877	A plea for clemency is rejected by the emperor. Harry Arnim never returns to Germany until his death. He is a severe

diabetic and cannot be treated in Germany due to the fact that he is under threat of being imprisoned immediately.

May 19th 1881 Harry von Arnim dies in Nizza at the age of 56.

The enigmatic personality of Harry Count von Arnim is still cause of debate even today, and both approval and disapproval are equally voiced. Some see him as a victim of Bismarck's power policy – a preferred perspective of many of his conservative contemporaries as well as the family von Arnim at the time. In 1967 Maximilian Jacta puts his essay on the case Arnim under the title “Mißbrauch der Strafjustiz”⁶ (Title translation: “Abuse of criminal practice”). Others take a far more negative approach, describing Arnim as waging a campaign against the Imperial Chancellor Bismarck whose position he was after, fighting for the Emperor's favours by publicly making unfounded accusations through the press. Those accounts consider Arnim as being guilty for treason, too, mainly through his action of unlawfully using and publishing official and partly secret files – this rather critical view was taken obviously by Bismarck's followers at the time but is the predominant judgement from today's point of view, too.



How could that happen?

Our journey through the life of Harry Arnim shows a talented, ambitious and successful diplomat, who achieved responsible positions at an early age. He was not particularly popular with his superior Bismarck, but respected. He was appointed to lead the difficult negotiations between the Protestant Prussian Royal court and the Vatican. During the first Vatican Council (1869 / 1870), which dealt with the question of papal infallibility in particular, he made a name for himself. “On 14 /5/ 1869 A. officially made the suggestion (dismissed by Bismarck) to demand admission of officially authorized representatives (“oratores”) to the negotiations at the Council...” In that he saw “the only way staying informed throughout the negotiations, being able to protest in good time, winning

influence, gathering the bashful elements and preventing political intrigues”⁷. Harry Arnim supported the German bishops in their rejection of the dogma of infallibility in order to reduce their dependence on the Pope. In a note of condemnation he underlined the moral dilemma “the new dogma would create for the German Catholics”⁷

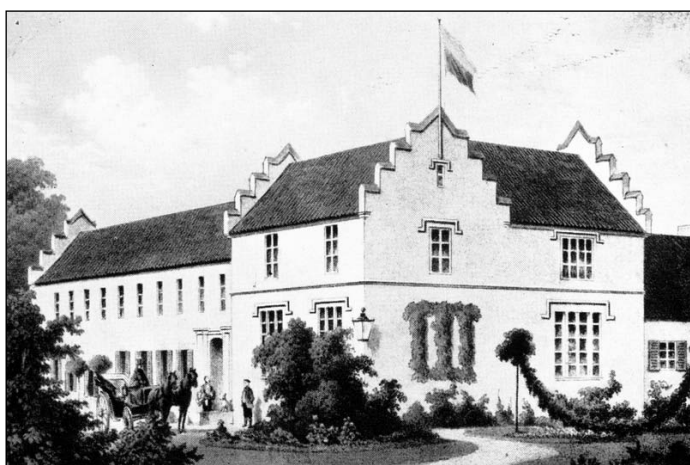
Even while Arnim was accredited in Rome in 1871 he was appointed to negotiate the German-French peace treaty; the peace treaty of May 10th, 1871 bears not only the signature of Bismarck but also Harry von Arnim's. The following appointment to a Privy Councillor (German: “Wirklicher Geheimer Rat”), which included the honorary title of ‘Excellency’ is most certainly an expression of Arnim's successful part in those negotiations. Subsequent negotiations in this matter settling the compensations and costs of the war were put into his hands, too. Finally he was appointed as ambassador of the German Empire to Paris, where he was not welcome at all as the personification of the unpopular victorious power, and was even downright boycotted. Opposing political groups in France wanted to disrupt the newly established power relationship after the war. This position as ambassador was at that time both the most important and most difficult one that had to be occupied in the diplomatic service of the young empire.

Harry von Arnim was also successful at the royal and later imperial court. Even as a young nobleman he was invited to court. He had achieved the honour of chamberlain, had been raised to the status of count, had access to various networks and circles and was in personal

contact with the queen, later Empress Augusta, who valued his views and judgement in dealing with the Catholic Church in particular. He was in close contact with emperor Wilhelm I. On the one hand this was the result of a relationship having grown over many years, on the other hand as ambassador Arnim had the right to immediate reporting to the emperor (German: “Immediatbericht”), i.e. either sending his accounts directly to the emperor and thereby circumventing his superior Bismarck or approaching the emperor in a personal audience. He had both the emperor’s ear and goodwill.

Arnim’s career developed steadily until 1872/73. Harry Arnim was an acknowledged and successful man who had also been able to consolidate his financial circumstances. He will most probably not have inherited much from his parents. His mother’s estate Moitzelfitz was sold soon after his father’s death. From the proceeds 7,000 Taler poured into Harry Arnim’s coffers as soon as he had reached legal age. After the death of his cousins from the family branch von Arnim-Suckow Harry Arnim had inherited the feudal estates Golm (app. 900 hectares) and Güstrow (app. 500 hectares) in the Uckermark, which he, however, never managed himself. At any rate, they were so important that the Prussian king committed the

conferment of the state of count to the further possession of these two estates. From the inheritance of his first spouse Elisa, née von Prillwitz, he, and his son Henning respectively from this marriage, had considerable values at his disposal, among them the estate Schlagenthin lying to the north east of Genthin (app. 1,500 hectares). Finally he had bought the “Vorpommerische” estate Nassenheide around the year 1870 – another possession of nearly 3,000 hectares.



The estate Nassenheide

The reason for the later fallout with Bismarck is often seen in the most probably rather thoughtless remark Harry made to Bismarck as a young man in the 1850ies. He would consider any person that is hierarchically above in his professional life as a personal enemy, yet that person was not supposed to notice it as long as he was his superior. Taking this remark as the cornerstone of a fateful relationship is corroborated by the fact that Bismarck put this particular remark very meaningfully at the beginning of his memoirs to introduce the chapter ‘Intrigues’ (German: “Intriguen”) ⁸ and continues to describe the case of Harry Arnim in great detail. However this particular remark and conversation between the two, after careful observation, has hardly been the decisive moment in the way it is often referred to. However this early encounter did not prevent Bismarck from promoting the professionally appreciated and esteemed diplomat for the following 15 years and to give him important posts. Münch points at this fact and says, “Although there are expressions of displeasure about his reports from Rome and the official rebukes at the end of Arnim’s time in Paris are rather rough, Bismarck never reversed his favourable judgment.” ⁹ The fallout with Bismarck was most likely a result of Harry Arnim’s ambitions to follow in Bismarck’s footsteps and from that perspective that his views found supporters at court and in politically conservative groups. After all, he was considered a potential candidate for the office as imperial chancellor, thus Bismarck’s natural suspicion and later attack has been fuelled by Harry Arnim himself and his closeness to the Emperor and empress Augusta. The close contacts with the latter were a thorn in the chancellor Bismarck’s flesh, as the empress had a frankly hostile attitude towards

Bismarck's policies. For Bismarck, she was untouchable in her position – not so Harry Arnim, the mouthpiece of a “conservative faction”.

The discussion of the “K-Question” (where ‘K’ stands for ‘Chancellor’ as in German: “Kanzler”) was not entirely absurd at that time. Bismarck's position was not as unchallenged as it may seem today. His state of health was frail, him remaining in that position uncertain. From time to time he considered his resignation or he threatened to do so in order to win over the emperor or the parliament.

His way of exercising his public office was from time to time described as ‘ministerial despotism’ (or in German: “Ministerialdespotismus”) or ‘Chancellor's dictatorship’ (German: “Kanzlerdiktatur”) ¹⁰ chancellor and only gained him further enemies who wished for his recall from office. Bismarck's degree of power depended directly on the emperor's goodwill and trust. He could be recalled by the sovereign at any time due to not having his own individual parliamentary legitimacy. Therefore Bismarck was surrounded by rather constant rumours around potential other candidates for his office. Harry Arnim considered his position towards Bismarck as equal in rank, as two noblemen who were serving their feudal lord. In a letter to Bismarck from the year 1876 he gave reasons for his idea in this way, “We were both servants to his Majesty, our gracious lord! You (Bismarck) as my superior, I as your subordinate.” ¹¹ Kratsch then continues, “Two vassals, although in different positions in the end with equal rights, and both dependent on the monarch.” ¹² This might have been the reason for Bismarck's later rejection of Arnim. Bismarck considered the post of the ambassador to be one that was definitely tied down to official instructions as a subordinate of the emperor even though the ambassador was able to approach the emperor directly via his “Immediatbericht” and thereby was withdrawn from the Chancellor's influence to a certain extent.

Harry Arnim had political ambitions which he could only – for lack of a political mandate – materialise through imperial support or by mobilizing public opinion. Thus it is to be understood that he tried to present his differing views at first towards the emperor directly and later through public press campaigns.

Two important fields of politics in which he had a different view compared to Bismarck were firstly the dealings with the Pope and the Roman Catholic Church and, secondly, German politics towards France after the German-French War. Beginning in 1872 and increasingly so in 1873 and 1874, the differences of opinions between the imperial chancellor and his subordinated diplomat Harry Count von Arnim came to light. Bismarck demanded from his ambassador the support of the new republican government under Thierse. “My ambassadors ought to fall in on command like any non-commissioned officers – without asking: Why?” That was Bismarck's opinion expressed earlier ¹³, and Arnim had difficulties in accepting it. Arnim firmly rejected being considered as an ambassador of the chancellor and being treated like that, but instead understood his role as the imperial ambassador and representative of the emperor in a foreign country. According to Arnim's opinion it was wisest to establish a monarchic system in Paris – a view generally supported by the emperor and empress. Contrary to repeated clear instructions he did not keep to Bismarck's directives and went on supporting the hostile trends towards Thierse as ambassador of the German empire. As there were to be no doubts about German foreign policy, Arnim's activities were frequently cause for admonitions, reprimands and strict instructions regarding further diplomatic activities. In December 1872 after a report by Bismarck the emperor decided to put an end to Arnim's unauthorized actions by ordering him to keep to the given instructions. The emperor nonetheless indicated in his response that he sympathised with Arnim's views in general. The struggle for power was thus not decided yet.

When the French government eventually fell in May 1873 suspicion was aroused that the German ambassador had played a part in it. The tone between Bismarck and the Foreign Office respectively and Harry Arnim became sharper. In Berlin replacement was planned and was decreed with the emperor's approval. The (disciplinary) transfer to Constantinople and shortly afterwards the transfer to temporary retirement swiftly followed.

Parallel to these events Harry Arnim went public. Without himself being openly named he managed to initiate newspaper articles in Vienna and Berlin. However, these articles were obviously based on records leaked by him. Bismarck's church policy was attacked and Harry Arnim in return was highlighted as the better expert in the matter. In the 'Spencersche Zeitung' (a newspaper from Berlin) one could read "Mr von Arnim is a very capable person and has proven to have a sure foresight into the development of matters resulting from the proclamation of infallibility, besides, long experience is at his side when he believes that the Vatican could have been forced to comply by using the right methods. In this way the fire would have been suppressed. Now it blazes in bright flames." ¹⁴ On May 1st, 1874 the "Weserzeitung" wrote, "Count Arnim's candidature as successor to the imperial chancellor could not have been more appropriately initiated." ¹⁵ Bismarck had counter-articles printed which aggravated the affair further domestically and abroad. In accordance with the emperor he achieved to initiate an official investigation against Arnim, in course of which he was found guilty of having deliberately made false reports. This led the emperor to withdraw his support for Arnim in the end. There was the crack, and Bismarck emerged victoriously.

The case would probably have been settled if Arnim had restrained himself and if no new points of dispute and further accusations had arisen. Hermann Count von Arnim-Boitzenburg, Harry's brother-in-law, who was also a diplomat being closely connected with Harry privately and professionally, gave him the advice "to prevent a scandal and to live quietly in the countryside" ¹⁶. In a long letter he tried to induce Harry to a calm and collected behaviour, recommending "for the future you must be able to throw your impeccable name and reputation into the scales of the candidature for imperial chancellor! I therefore vote for a decent retreat." ¹⁷ Harry and his family would have been spared much trouble and misery if that road had been taken.

A short time later the new ambassador in Paris discovered that certain papers were nowhere to be found. 86 pieces were missing, from which a few – after a further search in the embassy – were found filed in the wrong place. Harry Arnim had taken a suitcase filled with papers with him when he left Paris. He was asked to comment on this and to return the papers and - after some time – he had decided to hand back some of the papers. However, he gave inconclusive answers regarding the rest; Arnim considered some of them private correspondence and to a certain extent so secret that they could not have remained in the embassy. Others he had simply forgotten to return while the whereabouts of the remaining were unknown to him, etc. This development added a whole new dimension to the "case Arnim" and caused a sensation at the time. In autumn 1874, criminal proceedings were opened against Harry Arnim at the instigation of Bismarck and the Foreign Office, Harry Arnim himself was arrested at great expense on his estate Nassenheide. After an unsuccessful house search in Berlin he was put in custody and a bail fixed at the immense sum of 100,000 Taler. The circumstances only allowed the conclusion that the member of a noble family and up to then an upright high level diplomat was supposed to have been found guilty of heavy criminal deeds. The most important point of charge however was that he had intentionally misappropriated papers which had been officially entrusted to him. Gerhard Kratzsch describes the situation at the beginning of the trial in the following way: "Through the Prussian noble society went a rift. On the one side Bismarck and on the other Arnim – with old friendly relationships considerably severed. The clan of the von Arnim, who unanimously stood behind their relative, did not allow themselves to be appeased by the emperor's acknowledgement of a

close relative of the countess with an award and thereby showing his respect for the Arnim family. Instead the Arnim family openly considered the whole proceeds as arbitrary and illegal.”¹⁸ How could the family have reacted differently? Awarding Harry’s brother-in-law, the Governor of Silesia (German: “Oberpräsident”) Adolf Count von Arnim-Boitzenburg, the “Medal of the red eagle second class with oak leaf and swords” (German: “Roter Adlerorden zweiter Klasse mit Eichenlaub und Schwertern”) in autumn 1875 had frankly nothing to do with this case.

Harry Arnim and his defence counsel insisted that the trial took place in public in all detail in order to be able to mobilize public opinion by reading out the individual statements and court papers. The law court agreed to this petition and the public prosecutor Tessendorf remarked that “it almost seems that the defence council is less concerned with what the court will pass as sentence and more with what the public will make of the defence’s response”¹⁹ However the other side was interested in public attention, too – as one could damage Arnim politically in this way, too. Fritz Münch concluded that “why the reading out of about sixty papers in court and thus opening them to the public does not make a lot of sense when looking at the actual results of the proceedings”.

Münch continues “but the purpose of the proceedings was political, too, in the end – therefore some documents were well-suited to disgrace Arnim. Some of them were also used to assess Arnim’s credibility”²⁰, i.e. to debase him.



The Arnim court proceedings.
Reading of the accusation by attorney Tessendorf

In the end, the court followed the arguments of the defence in many points. One important aspect in favour of Arnim was that the papers in question were not any longer considered proper certified documents therefore the criminal offence of ‘intentionally misappropriating certified papers’ did not longer apply. The public prosecutor’s claim for 2 years and six months in prison was dropped, too. Harry Count von Arnim was sentenced to three months in prison for ‘misappropriation (of documents)’ (§131 section 1 StGB, Criminal Code, German: “Strafgesetzbuch”).

Both sides were not satisfied with the verdict thus the case was re-opened by the Royal Supreme Court in June 1875. Here the papers in question were in contrast to previous assessments considered as ‘certified’ documents so that Harry Arnim was not found guilty of (just) ‘misappropriation’ (§148 section 2 StGB), but instead sentenced to 9 months in prison for having intentionally ‘misappropriated certified documents’ that had been entrusted to him. In October 1875 the case was taken to court in a third hearing to the ‘High Court’ (German: “Obertribunal”) which dismissed Harry Arnim’s complaint of invalidity and left the initial verdict from the second hearing unchanged. “Respected contemporary legal scholars described this verdict as unjustifiable, as the papers in question simply were not ‘certified documents’ in the true legal sense while it also could not be concluded that there was an intentional therefore malicious and criminal misappropriation of documents in the sense of the law.”²¹

The criminal proceedings were followed by disciplinary proceedings in front of the disciplinary authority in Potsdam in April 1876. This found Harry Arnim guilty of different breaches of duty and ordered his dismissal from official services. Besides the intentional misappropriation and the illegal withholding of papers the verdict of ‘guilty’ was underlined by claims for ‘insubordination’, ‘inadequate supervision of the embassy’s personnel’ as well as ‘offending secrecy in office’. This court case also got a second hearing but could only be heard a full year later due to various delays, among others due to another new criminal proceeding against Arnim. In March 1877 the German Empire’s disciplinary court (German: “Deutscher Reichsdisziplinarhof”) in Leipzig confirmed the verdict made by the previous court. With this confirmatory ruling, Harry Arnim lost not only his salary and retirement payments at once but also his professional title and grade. Irrespective of those findings the emperor had decreed already that “Arnim was not to be listed as chamberlain and privy councillor in the state’s handbook any longer”²²

Harry Arnim had attended the first court hearing only and soon after went abroad in order to evade imprisonment. “From there he continued his fight which soon seemed to have degenerated into an amok-like run against Bismarck using the press and also brochures with insulting contents”.²³ In any case those papers and especially the brochure “Pro Nihilo - The past-history of the Arnim proceedings”, first issued in Zürich in 1876, was found insulting and later officially (judicially) assessed as such. Jacta assesses the circumstances a little milder however he does admit that “the brochure contained quite a few things that could not possibly improve the situation for the Count”.²⁴ The passage assessed as ‘insults’, he went on saying, would hardly have led to a sentencing nowadays [1967]. “Pro Nihilo” was sent out purposefully in first copies in November 1875. Up to the spring of 1876 almost 11,000 copies had been published. Although the brochure was anonymous it soon became clear to everyone that Harry Arnim was the author and responsible for it. This publication which was often referred to as ‘pamphlets’²⁵ was designed to serve as a justification and vindication of Harry Arnim in public. “Even if one granted Arnim as the accused his unjustifiable right to defend himself it cannot be denied that publishing this brochure was a very unfortunate and careless endeavour.”²⁶ This particular brochure had been based on diplomatic documents that had not been published yet – moreover ‘certified’ documents as the Foreign Office saw it – containing grave accusations against Bismarck and the Emperor. The brochure was much discussed in the national and international press, often reviled and was not useful for Harry Arnim’s reputation as an “innocent martyr” but the contrary. The newspaper of St. Petersburg remarked rather aptly “that Count Arnim had hereby accomplished moral manslaughter to himself.”²⁷



Thus it did come about. The Senate for sentencing political crime at the royal Supreme Court in Berlin charged Arnim with treason and other offences on October 5th, 1876 – again in absence of Harry Arnim and in secret this time, too. The court found him guilty of treason, of ‘lèse-majesté’ (offending the sovereign), insults against the Imperial Chancellor, Lord Bismarck and Foreign Office - while the failure to appear in court in person was considered admission of guilt. The verdict was five years in prison however the court abstained from depriving Arnim his basic and honourable rights as a citizen (German: “bürgerlichen Ehrenrechte”), again arguing that dishonourable motives for the misconduct could not be found. “Pro Nihilo” was prohibited and the published copies were to be confiscated.

It seems hard to comprehend the course of these proceedings by today's standards: the accused absent, the defence lawyer's word withdrawn, the public excluded, and finally the admission of the accused's guilt justified by his mere failure to attend the hearing. One hour of court hearing and immediately afterwards the consultation of the court and pronouncement of the judgment. Harry von Arnim sentenced to five years in prison, mitigation obviously not taken into account. The judgement was finally considered as valid and legal after only fourteen days of public display and no further means of legal redress were allowed. A nevertheless lodged complaint in 1877 was dismissed by the High Court (German: "Obertribunal") which announced the former decision as justified and right. It is not surprising that, according to Jacta, both the proceedings and the verdict came under severe criticism and were met with disbelief by the public in general.²⁸ He goes on reporting that the "Frankfurter Zeitung" had denounced this outrageously sharp judgement as an event "that has never before been recorded in the annals of Prussian diplomacy".²⁹ A further point was that a good two years later such proceedings would not have been possible anyway. From 1879 onwards proceedings against absentees (German: "Kontumazialverfahren") were restricted to minor offences (§ 231 StP, code of criminal procedure, German: "Strafprozessordnung")³⁰. In the case of von Arnim, the final verdict was still only preliminary in so far as the case would have had to be reopened if the convicted man had appeared personally in court. However Harry Arnim was not prepared to do that for the time being.

In the following period Harry Arnim tried to continue his political agitations from abroad. He met similarly minded friends and journalists at alternating places, who were described as factionists by Gerhard Kratzsch.³¹ The purchase of a whole newspaper to allow better dissemination of Harry's campaign was considered but could not be realized. Various other brochures written by Harry Arnim appeared, "A word to Lord Bismarck" (German: "Ein Wort an den Fürsten Bismarck") as late as autumn of 1876; "The Nuncio is coming" (German: "Der Nuntius kommt!") in 1878, "What will we do now?" (Brochure title in Latin: "Quid faciamus nos?"), a postscript to the essay "Der Nuntius kommt", in 1879. More moderate in tone, the attacks on Bismarck and his policy – especially the struggle between Church and State – continued. Harry Arnim was of the opinion that the formation of a German national Catholic Church independent from Rome had been wrongly missed.

While these newly published papers did not lead to further criminal prosecution, the open press campaign with many counter-publications did not allow the two protagonists to fall silent. Harry Arnim was not successful in all his efforts. Neither could he achieve his rehabilitation nor could he win any considerable support for his views.

A victim of the affair was Harry Arnim's loyal friend and brother-in-law, Hermann Count von Arnim-Boitzenburg. He who had advised him to restrain himself and be patient belonged to those who supported the factionists. Because of a hostile article against Bismarck in the "Reichsglocke" he was sentenced to three months in prison first and, in November 1877, in the second hearing to four weeks in prison. Already in 1875 he retired voluntarily and temporarily to protest against the conduct towards his brother-in-law. In October 1876 he further cut ties with Bismarck, relinquishing his future diplomatic career by requesting to be dismissed from service.

The Arnim family considered the affair as an enormous affront to all the Arnims and got into fierce opposition to Bismarck. Exception was the house Kröchlendorff because Bismarck's friend from their teenage years – Oskar von Arnim-Kröchlendorff – had married Bismarck's sister Malwine. Theodor Fontane, the 'chronicler of the Märkische region' recorded the atmosphere amongst the German gentry of that time probably most accurately in his novel "Trials and Tribulations" (German title: "Irrungen und Wirrungen"). There his Baron Osten is

filled with indignation, asking: “Is it not that as a “Märkischer” man of noble birth these days one would like— out of sheer disgust –talk oneself into high treason proceedings ... such a man ... from the best of families ...higher in rank than the Bismarcks and of which so many have been killed for serving their throne and the “Hohenzollern” that one could form an entire new regiment of it – a regiment with tin caps and ‘the Boitzenburger’ commanding it. Yes, gentlemen. And such affront to this family. And why? Withholding of documents, indiscretion and breach of official secrecy. I ask you. Only child murder and offence against morality are missing in this list and, truly, it seems amazing that those offences have not been pressed, too”³². Published more than ten years after the affair these emotionally-drenched words reveal the prevailing mood amongst the conservative nobility. The Arnim family presumably thought so, too. It would not have been Fontane though if he had not also posed the question of legitimacy. Thus he makes the two persons opposing Baron Osten argue differently. One of his characters argues that ‘the weaker one should abstain from crossing the stronger one’s path. Power goes before right’ while the other character responds ‘what weakness does not allow to do, might be legitimized by purity, integrity. Yet, the social circle in Fontane’s novel was not convinced of this integrity of Harry Arnim.

In January 1876 the family held a discussion at a family gathering and decided to submit a petition asking for the pardoning of Harry Arnim to the Emperor (German: “Immediatgesuch”). The petition further included the request to abstain from disciplinary proceedings. The petition was justified, on the one hand, by the merits of the family for the house Hohenzollern and, on the other hand, by Harry’s 30 years of service to the state but also his poor health. After a negative response by Foreign Office the imperial rejection followed promptly on February 19th, 1876, which is not surprising – “Pro Nihilo” had just been published and caused sensation and anger. There must have been more activities by the family, because Holstein writes in July 1876, “The Arnims are rummaging incessantly, by the way.”³³

Two years after having taken office as “Oberpräsident” of the province Silesia Adolf Count von Arnim-Boitzenburg, “the Boitzenburger” as Fontane calls him and Harry Arnim’s eldest brother-in-law, handed in his resignation on October 20th, 1876. It was justified with the “humiliating verdict” of a close relative. The petition was declined but a three-months-unpaid leave was granted. When Adolf Count von Arnim presented his request for dismissal again by referring to his leave, this time justifying it with his poor health instead, the petition was granted on February 28th, 1877. Adolf did not enter civil service again after that. His farewell words to Bismarck were “Your Highness have behaved like somebody who has knocked over someone and leaves him lying along the way carelessly!” This remark has been handed down by Wolf-Werner Count von Arnim, who at the same time pointed out that about 27 Arnims had set an impressive sign of solidarity and had given up their positions in civil service.³⁴ The author of this article has not been able to verify such a high number of resignations in detail. Kratzsch, too, added only Harry’s son Henning and the above mentioned Hermann Graf von Arnim-Boitzenburg to the circle of factionists. He would certainly have referred to others if a considerable number of family sympathizers could have been proved by through documents or literature. Georg-Wilhelm von Arnim-Suckow has described this aspect a bit differently, writing “He [Adolf Count von Arnim] was not the only one to protest. A considerable number of the Arnims, among them the Boitzenburger, put their position in civil service at disposal. Even if the petitions of resignation had not been accepted ... the family testified their condemnation, at least by criticizing the form of Bismarck’s action against Harry.”³⁵ Whatever it might have been – resignation or petitions of resignation – the family was in agreement in the assessment of the case and wanted to show it openly even at the risk of endangering the basis of their livelihood.

In June 1872, Harry Arnim's mother-in-law, widow of the highly esteemed "Fideikommißherr" of the earldom Boitzenburg and former Prussian Prime Minister Adolph Heinrich Count von Arnim (1803 – 1868) had submitted a plea for clemency. At the same time Harry Arnim had referred to his poor health in a petition to the emperor and had asserted that, for that reason, an execution of his sentences could not be expected. But Harry Arnim had forfeited the Emperor's trust long ago. Neither a confession of a guilty conscience nor repentance was discernable in the petition – thus these petitions were also turned down.



At the end Harry Arnim was a critically ill, embittered and unreasonable man. One of the last accounts a few weeks before his death is by Malwida von Meysenbug who met Harry Arnim in Sorrent in the spring of 1881. "There the heart of the heavily hurt man unloaded itself in bitter remarks about the injustice that he had been exposed to in his opinion, uttering the deepest irreconcilable hatred towards that man whom he considered to be the originator of the persecution. He was a broken and severely suffering man who could not do anything to take revenge, and the feeling of powerlessness weight heavily on him." ³⁶ He died shortly afterwards on May 19th, 1881 in Nizza. With the intention of taking on the challenge of appearing at the imperial Supreme Court he had applied for

protection and safe conduct at the end of 1879, however it never came to a new trial. The threat of an immediate arrest owing to the sentence in prison that he had not served after the first proceedings most probably played its part, as his request for safe conduct and protection would not have protected him against the sentence anyway.

Can one reproach Bismarck for having abused his power in order to brutally eliminate an irksome rival? Without a doubt it was a struggle for power between rivals. Moreover it was a struggle for the emperor's goodwill, the correct policy, the reputation in public opinion and, finally, for the position of chancellor. And this struggle for power was carried out with means that had never been utilised before in this form. Bismarck had the whip hand and Harry Arnim had to surrender. Gerhard Kratzsch arrives at the view that Harry Arnim accepted the breach of duty and furthermore provoked the criminal proceedings to continue merely based on his confidence that the emperor would go all the way to protect him, thereby allowing Arnim to achieve his end goal." ³⁷ Neither abuse of his position nor misuse of the judiciary is to be detected. ³⁸ Fritz Münch, too, sees the legitimacy of the criminal proceedings but has certain reservations with regard to the judicial practice of the first proceedings, concluding "One can hardly draw the conclusion from the logical faults of the court rulings during the first hearing that the courts had bowed to the Executive..." He further says "Like some of the contemporaries it is to be questioned whether a 'disciplinary' proceeding would have been more appropriate because of Harry's removal of the documents". ³⁹ According to Kratzsch even the first proceedings weren't necessary because Bismarck's rival had already lost the emperor's goodwill and therefore was no longer considered as a possible chancellor anyway. ⁴⁰ The walk to the courts was therefore not compelling. There were voices according to which the return of the documents could have been achieved without court proceedings. Friedrich von Holstein is supposed to have thought of a particular order of the emperor which Harry Arnim would have adhered to, ⁴¹ thus reports Münch. Harry Arnim had suggested to set up an enquiry (German: "Immediatkommission") to investigate the case, but Bismarck had resolutely opposed this. It might have brought him onto the same level as his opponent and possibly also brought him into the position of an accused. He needed no retired former

diplomat. He also needed the victory to safeguard his own position in the public. The “iron chancellor” was unable to find rest before he had not totally destroyed his opponent – pointed out as a warning to everyone. The remark that he had found the sentencing against Harry Arnim as too harsh may be correct. But he left it at that and did not undertake anything to reduce the sentence.

Harry Arnim imagined to be in the right. He had demanded independence in diplomatic accounts, including his own opinion and reporting to the sovereign directly – all of which had become a common practice in the diplomatic service in later years. Münch expresses it in this way, “Among the few numbers of those imperial diplomats of the 19th century being in such a high position that their status differences seems to level out towards the top and in which practically everyone was a kind of minister – out of this rather unique equality it naturally follows the demand of the individual for his own personal opinion. The type of diplomat at that time was used to showing off his own opinion to advantage, interfering with the political head office and having a say in the course of events in foreign policy.”⁴² In a similar situation Bismarck had claimed the right of intervention perfectly for himself. Jacta says to that, “As a legate of the German Confederation Bismarck saw no harm in working against the policy of his minister [Manteuffel] in the surroundings of the king, and even directly against him.”⁴³ While Arnim taking particular documents with him could certainly be assessed quite differently it was in no way clear “which regulations were to be applied for the archiving in the embassies”.⁴⁴ Only a year later, binding guidelines were passed. For the criminal proceedings only relatively few – namely the 13 so-called ‘church-political’ documents – were of importance for the sentencing. Publications of the press have always been more or less legal methods of influencing politics. Often the sources were unclear. Up to today one refers to “well-informed circles”, indiscretions are lured out or deliberately spread – that was so at that time, too.

Harry Arnim was not innocent. He made at least one wrong report. He did not keep to his official directives. And finally, his dealing with the embassy’s documents provided the basis for the criminal proceedings. His strong ambition, his hubris and vanity and the lack of a sense of reality prevented him from recognizing by when he had gone too far. Again and again he tried to necessitate a turn in politics. After the first proceedings had ended relatively mild, the time would have been ripe for him to restrain himself. “He [Harry] was not self-critical enough, to see himself and his opponents in the right proportions and therefore he lacked level-headedness, to modify his conduct in such a way that he should wait for a favourable moment to come up for himself”.⁴⁵ Despite lectures, warnings and rebukes he held his own course. Continuous new polemics led to an escalation that, once it was set going, was stirred up on both sides.

A point of constitutional law is to be added. Fritz Münch has pointed it out in detail. The position of the responsible minister resulting originally from the minister’s responsibility (art. 44 Prussian Constitution 31/1/1850) later also of the Imperial Chancellor puts the minister and chancellor respectively next to the monarch – and in reciprocal dependence even a little higher.

**Article 44
of the constitutional document for the
Prussian state of January 31st, 1850**

says,
“The king’s ministers are responsible.
For all of the governmental documents to
be valid legal documents it requires the
counter-signature of a minister who
thereby takes responsibility.”

Every measure of the monarch required the counter-signature by the chancellor. Then the head of the government had to bear the whole political responsibility. “The result is the responsibility for co-governing and even in the leading position in political matters...”⁴⁶ According to Bismarck’s opinion this inevitably lead to “the chancellor having the monopoly

of advising the emperor in stately matters”⁴⁷ The right of the ambassador to an “Immediatbericht” and to a personal account interfered with this. Harry Arnim as well as Robert von der Goltz before him in 1863 was unable to accept the discriminating limitation of their acting being subject to directives. Goltz rebelled indignantly at the time in words that

**Article 17
of the constitution of the German
Empire of April 16th, 1871 (Bismarck’s
empire constitution)**

says,
“The emperor is entitled to drawing up and proclaiming the Empire’s laws and their supervision. The orders and decrees of the emperor are passed in the name of the Empire and require for their legal force the counter-signature of the imperial chancellor who thereby takes on the responsibility.”

Arnim could have also said, “If he [Bismarck] wanted domestic servants he should turn to others than I; I don’t serve him, but my king and my country.”⁴⁸

Both tried to get into direct contact with and have influence on their monarch in order to bring in their different views and to carry them through. That was to be prevented and Bismarck had - in both cases which he saw similarly and named in one breath - with a firm hand made sure his directives were carried through instead. Münch sees Harry Arnim as a victim in the struggle of this constitutional reality⁴⁹ which – different to nowadays – could not be confirmed or

rejected respectively by a constitutional court. Arnim’s high intellect, his qualifications as a lawyer, his experience in the diplomatic service and his intimate knowledge of political procedures should have made clear to him that in the position of chancellor, one would have had to force his surrounding subordinates to carry through one’s directives.

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Further information under the headword “Arnim-Paragraph”, see subsequent pages

Further information to the topic (small selection)

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