

Simon before the law, March-April 1735

We present below a record of the questioning of Simon Dreisbach at two sessions of Count August's court, held in the castle at Laasphe in the spring of 1735. Simon has not yet been charged with any crime and is therefore called the *deponent*, someone who makes a deposition under oath. We begin with the set of ten questions which Simon answered on 31 March 1735. On the next day, 1 April, Simon answered at length a further question using language that is both descriptive and forceful.

The reader should note that these questions and answers have not been translated from the original court proceedings, which no longer exist, but from copies of them. It appears that at some time in or soon after 1740, excerpts of the extended court proceedings concerning the criminal careers of Johann Adam Milchsack and his wife were selected and recopied for some administrative or judicial purpose. These excerpts still exist, preserved in the holding *P 464* in the Princely Archive in Bad Laasphe.¹ Their importance for the life story of Simon Dreisbach was discovered in January 2013 by Heinrich Imhof, the Archive's designated consultant. He very quickly photocopied the entire *Extractus Protocolli ... Milchsack* section of holding *P 464* and mailed the pages to the present writer.

DERR readers will now have before them a translated record of Simon Dreisbach's very own words, or nearly so. The style of court reporting used in these documents is the formal method of putting both the questions and Simon's responses into the third person. The sense is in any event readily grasped.

Simon Dreisbach's first testimony in court, 31 May 1735.

(*P 464*, pp. 56a – 57a)

1. What is the deponent's name, where does he live and what is his age?

SD: His name is Simon Dreisbach, he resides in Oberndorf and is 36 years old.

2. His occupation, and what is his source of income?

SD: Agriculture, from which he makes his living.

3. Did he know that produce had been taken from the Count's farm Augustenberg?

SD: Yes!

4. By whom had the Count's produce been stolen?

SD: By the Count's gamekeeper (Hofjäger), Milchsack.²

5. How does the Deponent know this?

SD: Milchsack had revealed it to him and proposed that he should go along with him and he (Simon)

¹ Princely Archive of Sayn-Wittgenstein-Hohenstein, holding *P-464*, page sides 56a – 88b: *Extractus Protocolli Inquisitionis Johann Adam Milchsack und dessen Weib wegen falschen Müntzenis, verübter Werbungs Excessen und sonsten noch begangener Diebstähle und Concussionen*. The title, roughly translated, is: *Excerpts from the court record of the questioning of Johann Adam Milchsack and his wife on the grounds of counterfeiting, excesses committed in the course of military conscription, and any further thefts and offenses committed*.

² As seen in DERR 12, Milchsack had been Count August's forester/gamekeeper for the Feudingen district.

would get half (of the goods); they would get (grain for) bread and also for seeding.

6. Did the Deponent go along and help Milchsack take away the Count's produce?

SD: Yes!

7. When did this take place?

SD: 8 days from yesterday, in the night between Wednesday and Thursday.³

8. How much produce had they taken away?

SD: 3 measures (Mesten), and then some, of summer barley, and 2½ measures of oats.

9. From where had they taken this produce?

SD: Milchsack had shown him this produce when they were standing behind the house at Augustenberg, (in) a room (Cammer) just opposite the milk-house; through the window (he had seen) such things in sacks that had been left there.

10. And how did Milchsack get into that room?

SD: Simon had lifted Milchsack up and given him a stick with which he opened the window and propped it up, whereupon he climbed in.

Comments on Simon's first testimony.

We understand from question 3 that the authorities were well aware that some grain had been taken from the Count's Augustenberg farm. It is probable that Simon had already been implicated, and that the only strategy available to him was to minimize his own participation.

With regard to question 7, not only had the theft already come to the attention of the authorities, but they were possibly seeking confirmation of the time when it was committed. Simon's best defense would thus be to indicate Milchsack as the planner and the active thief. Simon's answer to question 5 implies that he went along with Milchsack for the basic reason of getting grain for food and for spring sowing.

The amount of grain the two men took away with them was not huge. Nevertheless, any such theft was a grievous offense to the dignity and absolute rights of their sovereign lord and ruler. There is no doubt that Simon Dreisbach was in trouble and that a fine or worse could be expected.

Part of Simon's testimony is missing.

Each of the questions put to Simon was numbered. Immediately after the end of Simon's response to question 10 we find the date of the next session, 1 April 1735, and it begins with question number 18! For some reason questions 11 to 17 had not been copied. Surely the examiners would have wanted to know how the theft had proceeded after Milchsack had climbed through the window.

We get one small hint from Milchsack's own self-serving version of the theft, which emerged from his interrogation on 9 May 1740, after he had at last been captured. In section 4 of his lengthy questioning he roundly denied having committed any theft of grain from Augustenberg. The stolen grain had been found at Simon Dreisbach's, he said, thus there was no other thief than Simon.⁴ This was a story Milchsack had probably devised soon after the theft. He can have left his part of the grain at Simon's out-of-the-way house, either to be fetched later, or in case there might be reason to shift the whole blame on Simon. It is indeed likely that someone had tipped off the authorities and that an official had been sent to Simon's farm on the edge of Oberndorf to investigate. It would have been quite in character for Milchsack to become an informer against Simon if he could thereby save his own skin.

³ The theft would thus have taken place on or about 22 March.

⁴ P 464, page side 81a.

Returning to the lost questions 11 – 17, we can theorize that Simon was asked where he and Milchsack had taken the stolen grain. It is our loss that these questions and answers can no longer be found in the Princely Archiv. They may have contained interesting details about two men trudging with heavy loads through the dark countryside that lay between Augustenberg and *Am Aberge*. In any event Simon, when questioned, was not yet arraigned, though Milchsack was already arrested as we learn from part of Simon's testimony the following day. At this early stage it was already evident that Simon Dreisbach, deponent, would soon become Simon Dreisbach, the accused. With Milchsack under arrest and Simon being implicated in the crime, Simon chose to admit to the facts that were already known and, to add further information that only he had, in the hope of shifting as much guilt and responsibility as he could to Milchsack, the factual instigator. Scattered among his answers to questions 11 to 17, Simon must have included various pieces of information on Milchsack's offenses which were of interest to the court, as we can see in the wording of question 18.

Simon's testimony of 1 April 1735.

(*P* 464, pp. 57a-60b)

8. Had the Count's gamekeeper revealed other incriminating things to the deponent during their close association?

SD: He knew nothing about that, except that on the evening of the night when they fetched the grain from Augustenberg, he had first gone to Feudinggen, to Milchsack's, to walk from there to Augustenberg, and entering the main room (*Stube*), he had seen and heard that because of a christening cap that she was not satisfied with, Milchsack was furiously angry at his wife and said "Look at that Milchsack woman, that nag, she would fleece the Count himself to get money, devil take her". Before setting out, ... Milchsack intended to set fire to the neighboring house.⁵ His wife, having gone into the other room to get away from him, shouted at him, "Well do it then, do it then!" To which Milchsack said, "The devil take me, yes, I will do it!", and having run out with a burning stick taken from the tile stove, he dashed toward the house just opposite, where there was a room filled straw and all kinds of flammable things, intending that the straw catch fire; but he (Simon) had run after him and tore the burning stick out of his hand, and the wife started screaming and shouting, "Fire!". They finally got him to give up his plan, and took him back to his house; when the danger had been averted he allowed himself to be calmed down; then they two, Simon and Milchsack went to Augustenberg and took away the aforesaid grain, and having done that, Milchsack said to Simon that he should go along to Feudinggen and talk to his wife, so that she would be peaceable with him and understand that what he began he could surely complete, and she should have confidence; he (Simon) should recommend that she go to the Count and request that she receive her money and the wages owed to her. He (Simon) had then asked him if he still had wages to request from the Count. "Yes, indeed", he answered. I cannot get anything from him, and in addition I am supposed to pay a yearly rent of 10 Reichstalers for this house; but how can that be, as I have rebuilt a lot of things in the house: I will certainly get nothing, but I know what I shall do. I will take revenge on the Count's farms and set fire to them; he knew well how to do that. ... Milchsack would set fire to the Count's farm, but arrange to be seen at another place when the fire finally broke out, and then move away somewhere, but first he would get some money for the journey by getting paid for helping Prussian recruiters impress local men for service in the Prussian army. About these matters Simon knew nothing more. Finally, he (Simon) indicated that a few days before Milchsack's being arrested, he (Simon) was speaking with

⁵ This was the house where he and his family had formerly lived while he was still the Count's gamekeeper/forester.

Wilhelm Mülle (of the Augustenberg farm) as to whether he was aware of Milchsack's evil intentions, Mülle said that he too had heard from Milchsack that he wanted to set fire to the Count's farms.

Comments on Simon's testimony of 1 April 1735.

We have now come to the end of the extant record of Simon's testimony, regretting the loss of Simon's answers to the missing questions 11 to 17. We note at the beginning of Simon's response that he was aware of, and made use of the cautious phrase employed by those being questioned in court, and which began invariably, "He knew nothing about that, except ..."

We now know that the night of 22 March saw some unusual activity in the Feudinggen region. First there was domestic fracas in the Milchsack household in the village of Feudinggen, then a drama in the street, with Milchsack wielding a firebrand, his wife screaming "Fire!" and Simon averting a possible catastrophe. After the firebrand incident, the two men set off on their illegal escapade as planned, to filch some of the Count's grain. This was presumably followed by a trek in the dark to Simon's house to stash the goods, whereupon Simon, instead of going to bed at last, gave in to Milchsack and went back to Feudinggen with him to help calm his somewhat difficult wife. One wonders what Simon's wife Kette can have made of her husband's goings and comings.

Not until the end of Simon's response in court do we learn that Milchsack had been arrested a few days previously. Thus Simon knew that Milchsack had already had the opportunity of presenting or inventing facts that were to his own advantage. Unfortunately, we do not have any documentation on the length of his prison stay which, we find later, can have been quite short. This is only one of the many things we do not know, since they were not part of the documents copied.

Things we do not know.

We do not know the exact nature of the March/April 1735 court sessions that included the questioning of Simon Dreisbach, and we have no idea what kind of punishment may have been meted out. We have no record of the interrogation of Milchsack, which must have taken place soon after his arrest in late March, and thus we do not know what he told the court about Simon. We learn from question 18 that in the court's view Simon and Milchsack had had a close association. Had questions 11 – 17 been copied, we might now have a better idea of what that close association comprised.

The most serious gap in our knowledge is the absence of information on how, between April and September 1735, the Count's authorities came to view Simon Dreisbach not only as a simple accomplice to a minor theft, but as a criminal deserving a significant prison sentence. We do not have a record of any trial or its outcome. Some meager answers can be gleaned from Simon's letters written from prison, and these will be discussed in a later DERR.

Why were the records of Simon Dreisbach's later trial and condemnation not copied and included in holding *P 464*?

A glance at footnote number one will show it was the criminal career of Johann Adam Milchsack, and of his wife, that was the main subject of the Milchsack excerpts in holding *P 464*. Simon Dreisbach, as far as we know, had no criminal record (apart from his not having appeared when summoned to a court session in 1726 – see DERR no. 6). In *P 464*, the records of Simon's testimonies function as the first in a series of assembled statements made by various persons over a period of time, all of them connected in some way with Milchsack's misdeeds. Simon was initially considered a very small fish. His eventual judicial fate did not lie within the province of the Milchsack case.

It is of importance to DERR readers to know, however, that by September 1735 Simon's legal situation had altered to such an extent that he was sentenced to imprisonment. None of the relevant proceedings were copied and inserted in *P 464*, even though Milchsack, too, must have been implicated, given his counterfeiting activities. Perhaps Milchsack was already outside the territory at the time of Simon's arraignment and sentencing. Certainly, the following summer, Milchsack was known to be staying somewhere outside the Count's jurisdiction and was in need of a safe conduct pass to show that he had the Count's permission to be staying outside Wittgenstein-Wittgenstein. The records do not say if he had fled or been banished. At the request of his wife the court had agreed to give him a safe conduct pass, and on 9 August 1736 Anna Margaretha Milchsack came to the court to fetch it. (*P 464*, p. 62a).

From the following pages in the *P 464* Milchsack documents, we learn that he continued to commit crimes abroad while in possession of the pass, and that many persons came forth to provide evidence against him. Anna Margaretha Milchsack was captured in May 1737. Milchsack remained at large for another three years. When he was at last arrested in the late spring of 1740, his responses to the court's questions about his crimes were so detailed that they filled pages 69a to 88a of the holding. It was from these pages that DERR no. 12 derived much of the material on which it based its presentation of Simon Dreisbach's brief career in counterfeiting prior to March 1735.

An unsatisfactory conclusion.

What happened after Simon Dreisbach gave his second testimony on 1 April 1735? Was he accused of theft from the Count's farm, fined and sent home to *Am Aberge*? What did his Oberndorf neighbors say? Did they opine that he should have known better than to get involved with such a bad egg as Milchsack? Did he receive sympathy from those with a strong sense of justice who can have admired his attempt to obtain, be it illegally, a small portion of all that the harsh and greedy Count August had taken or withheld from his subjects during the past fifteen years?

What was it like, in April 1735, for sons Jost and Adam, thirteen and eleven, to have a father who was the talk of the village and also of the Sunday church-goers in Feudingingen? Much would depend on things we do not know, such as how widespread, or accepted, were small actions of revolt and insubordination in this strictly regulated society. And what of Kette, who had the three younger brothers of Jost and Adam constantly with her? Simon was five, George was not yet two and baby Johannes, still at the breast, was just two months old. Kette was thirty-nine, two and a half years older than Simon, and possibly more mature than he. Having responsibility for the household, the kitchen gardens and much of the livestock, her view of the family's situation must have been hands-on and practical. One does not readily see her encouraging Simon's connection with that rascal Milchsack and his loud-mouthed wife, nor Simon's mysterious tinkering in his hidden workshop, his trips to Siegen and his association with a variety of persons, most of whom would not have been of her social and village circle. Having already lost three children, and responsible for five sons, Kette can be expected to have been a practical woman who would put the interests of the family and farm above any illegal and therefore dangerous schemes.

So here we leave Simon Dreisbach in a kind of summer no-man's land between two court cases, neither of them properly documented. We leave him between two punishments, a minor one in April 1735 which may have been a fine, and a major one in September of the same year, painful for the whole family. This is an unsatisfactory conclusion. Our only certainty is that life for this Dreisbach family was about to get considerably worse.