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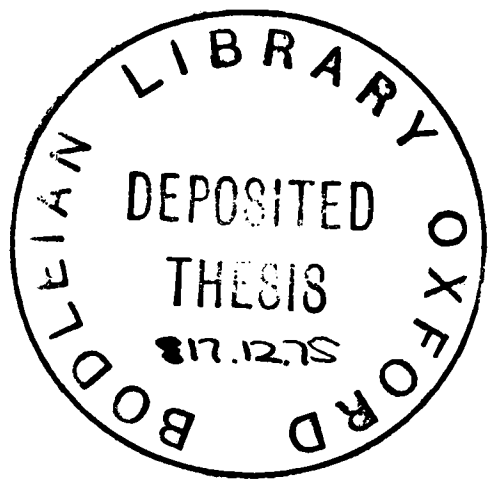
IN THE UNIVERSITY OF OXFORD

CENSORSHIP AND SOCIETY IN MUNICH, 1890 - 1914.

WITH SPECIAL REFERENCE TO

'SIMPLICISSIMUS' AND THE PLAYS OF FRANK WEDEKIND

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Abstract

The present study began as an attempt to discover what mechanisms existed in Wilhelmine Germany to prevent the expression of radical views about politics and society by artists, writers and journalists. As the work progressed, it became clear that, because of the federal structure of the Reich, conditions varied considerably in different parts of the country; and that it would be both more practicable and more interesting to limit the investigation to a single city, Munich, which had a very active avant-garde, and where the strength of political clericalism made the debate about freedom of expression particularly fierce. Contemporary discussion centred mainly on two distinct, though related, topics: freedom of the press and freedom of the stage; and the sources available made it seem desirable, in addition to outlining the general legal background, to construct two detailed case-studies in order to investigate them. The choice of the satirical paper Simplicissimus on the one hand, and Frank Wedekind's plays on the other, soon proved to have been very appropriate.

The history of Simplicissimus is interesting for three main reasons. In the first place, it sheds light on nearly all the major legal and practical issues connected with the liberty of the press in this period. Secondly, although Simplicissimus won a European reputation for its skilful satirical treatment of German and international affairs, the men who produced it were closely identified with a particular community; and they commented acutely on events in Bavaria which had considerable bearing on Munich intellectuals' freedom

to express themselves. Finally, a wealth of private and official documents makes it possible to study the relationship between an original and sometimes highly provocative paper and the state in exceptional detail.

The case of Frank Wedekind forms an ideal counterpart to that of Simplicissimus. The authorities had much more power to control the theatre - which was regarded by many people as an important channel of communication - than to control the press, and Wedekind's frequent and very well documented conflicts with the Munich censor reveal the weakness of a playwright's position compared with that of a journalist. Furthermore, Wedekind was for a time one of Simplicissimus' most 'subversive' collaborators; he was one of the acknowledged leaders of the Munich avant-garde, which was subjected to bitter attacks by Bavarian conservatives; and the nature of his plays meant that he became involved in the debate about pornography and low-grade literature which went on throughout the period.

The thesis falls into four main parts. Chapters I and II describe the legal rules governing the press, and show how the interpretation of some of them threatened to cause a crisis of confidence in the German judiciary during the 1890's. The controversy about art, literature and the law on obscenity is considered in detail, and is related to the political situation in Bavaria. Chapters III and IV describe the state's attempts to deal with Simplicissimus and suggest that by 1914, for certain papers, the constraints of the law were becoming less effective than those of the market. Chapter V pursues a number of themes introduced in Chapter II. It traces the development of the obscenity debate between the defeat of the so-called Lex Heinze

in 1900 and the outbreak of war; examines the activities of the Munich morality campaigners; and emphasizes the continuing tendency on the part of many conservatives to associate pornography (as defined by themselves) with a general moral and political crisis. The three final chapters deal with problems connected with the theatre. Chapter VI describes the complexities of the licensing system and the unfavourable legal position of the Bavarian stage; but shows that private dramatic societies could provide a valuable outlet for controversial plays. The subject of Chapter VII is the practical application of theatre censorship, and the Bavarian Government's attempt to make it appear less arbitrary by setting up a Munich Zensurbeirat in 1908. Chapter VIII demonstrates that, partly for political reasons and partly because of the difficulties presented by Wedekind's plays, this experiment had achieved little success by the time war broke out.

A number of conclusions are suggested by the study. In particular, it is clear that Germany's federal structure favoured the freedom of both the press and the stage; that, because of the intense hostility of the Centre Party, Munich intellectuals probably had more to fear from the growth of parliamentary government in Bavaria than from the survival of the traditional Beamtenstaat; and that, although questions of culture and morality played an important part in pre-war politics, their relevance to the events of 1918 and 1919 should not be overestimated. The most striking single fact to emerge, however, is that Wilhelmine Germany was a country in which the law occupied a very prominent position; and that knowledge of the German legal system can add greatly to the historian's understanding of

government, society and culture in this period. It is this finding which has the most significant implications for future research.

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Abbreviations

Allg. Rund.	-	Allgemeine Rundschau
Allg. Ztg.	-	Allgemeine Zeitung
Amtsger. Mü. I	-	Amtsgericht München I
AStAM	-	Bayerisches Hauptstaatsarchiv München, Allgemeine Abteilung
Augs. Abdztg.	-	Augsburger Abendzeitung
Augs. Postztg.	-	Augsburger Postzeitung
Bay. Kur.	-	Bayerischer Kurier
Bay. Vat.	-	Bayerisches Vaterland
Frankf. Ztg.	-	Frankfurter Zeitung
Ger. Verf. Ges.	-	Gerichtsverfassungsgesetz
Ges. Berlin	-	Gesandtschaft Berlin
GStAM	-	Geheimes Staatsarchiv München
Landger. Mü. I	-	Landgericht München I
MA	-	Minister/Ministerium des Königlichen Hauses und des Aeussern
MInn	-	Minister/Ministerium des Innern
MJu	-	Minister/Ministerium der Justiz
MKu	-	Minister/Ministerium des Innern für Kultus- und Schulangelegenheiten
M.N.N.	-	Münchener Neueste Nachrichten
Mü. Frbl.	-	Münchener Fremdenblatt
Mü. Post	-	Münchener Post
Mü. Ztg.	-	Münchener Zeitung
MV	-	Minister/Ministerium für Verkehrsangelegenheiten
Nachl.	-	Nachlass
N. Mü. Tagebl.	-	Neues Münchener Tageblatt
Pol. Dir.	-	Polizei-Direktor/Polizei-Direktion München

RGBl.	-	Reichs-Gesetzblatt
Reichsger. Entsch.	-	Entscheidungen des Reichsgerichts in Strafsachen
Simpl.	-	Simplicissimus
Stadtbibl.	-	Stadtbibliothek München, Monacensia-Abteilung
StAM	-	Staatsarchiv für München
St. Anw.	-	Staatsanwalt/Staatsanwaltschaft München I
Str. Pr. Ord.	-	Strafprozessordnung
VdKdAbg	-	Stenographische Berichte über die Verhandlungen der bayerischen Kammer der Abgeordneten
VdRT	-	Stenographische Berichte über die Verhandlungen des Deutschen Reichstages

Note

Titles of books and plays by German, French and English authors have been cited throughout in the original language. Those in other languages have been given their customary English titles.

Edition numbers as well as dates have only been supplied for newspapers which appeared more than once each day.

I

Freedom of Expression and the Law, 1890 - 1900

The debate on freedom of expression which went on in Munich between about 1890 and the outbreak of war in 1914 cannot be dealt with in isolation, even though it was heavily influenced by local personalities and issues. Nor can it be seen as a chapter of cultural history which can be analysed mainly on the basis of literary texts. It has to be discussed in relation to developments going on elsewhere, and in its full social, political and legal context. Outside developments in both literature and technology were important: neither Naturalism nor the cinematograph originated in Munich, yet both played their part in its debates on censorship. Growing urbanisation, improved communications and even medical discoveries contributed to the general background. The continuous transformation of Bavarian politics during the period was of the greatest possible significance.

One important external factor which must be considered is the German legal system, of which Bavaria had formed a part since 1871. Few aspects of German society can be fully understood without some knowledge of German law, and the fields of art, literature and satire are no exception. There were several reasons why this was so. In the first place, the law set the limits within which experiments had to take place: attempts to push forward the boundaries of expression too far or too fast could lead not only to disapproval but also to prosecution, sometimes with disastrous results. At the same time, whatever some contemporaries may have believed, the officials who applied the law accepted that they were bound by it, even when this meant

tolerating activities of which they disapproved; and, with the important exception of theatre censorship in Bavaria, which will be considered separately, the activities of the administration were subject to judicial scrutiny. Even though, as the present chapter will show, there were times when this seemed debatable, Wilhelmine Germany was a state in which the rule of law prevailed. It therefore mattered considerably which formal sanctions were available to the authorities and which were not; and it was no coincidence that some of the most interesting debates on the freedom of art and literature took place either as a result of attempts to make or amend laws, or in the wake of important trials; or that many of the participants were connected with the law by profession or training. So it is necessary to describe those aspects of the law which were relevant to the question of freedom of expression; to explain the controversies which surrounded them; and to show how their interpretation in practice affected the attitudes of contemporaries towards the courts, the judiciary and the political system.

Together with the Criminal Code, the most important single piece of legislation relating to the expression of ideas and opinions was the Reich Press Law of 7 May 1874, which replaced the 27 different press laws of the individual German states and eliminated some of the most oppressive restrictions to which the press, especially in Prussia and Saxony, had formerly been subjected[1].

1 RGBl. 1874, pp. 65-72; printed also in E.R. Huber (ed.), Dokumente zur deutschen Verfassungsgeschichte (Stuttgart, 1961-1966), ii. 369-373. For useful surveys of the development of German press legislation, see A.F. Berner, Lehrbuch des deutschen Presserechtes (Leipzig, 1876), pp. 49-156; and M. Löffler, Presserecht (2nd edn., Munich 1968-1969), i. 30-59. The best systematic guides to the Press Law of 1874 are Berner, op. cit., and Franz von Liszt, Das deutsche Reichspresserecht, unter Berücksichtigung der Literatur und der Rechtsprechung. Lehrbücher des deutschen Reichsrechtes, Bd. 8 (1880).

As it survived unaltered throughout the Second Reich (and was not finally superseded until the Press Law of Nordrhein-westphalen came into force on 1 July 1966[1]), its main provisions need to be discussed in some detail.

Paragraph 1 laid down the fundamental principle that 'freedom of the press is subject only to those restrictions which are prescribed or permitted by the present Law'. This disposed of a number of notorious measures: preventive censorship (which had been little used since 1848) and caution money were not mentioned at all and were therefore automatically excluded; a man's right to practise any profession connected with the press could not be removed, either by the administration or the courts (4); and the imposition of special taxes was prohibited (30). At the same time, the restrictions which the Law allowed were not excessive: the Reich Chancellor could ban foreign publications for up to two years under certain conditions (14), and could prevent the publication of military information in wartime[2]; and certain limitations were imposed on the reporting of criminal trials (16, 17).

These general rules were supplemented by a number of practical or police regulations: with certain exceptions, all publications subject to the law[3] and intended for distribution had to indicate the name and whereabouts of the printer and

1 Löffler, Presserecht, i. 59.
2 Para. 30 laid down that existing Land regulations about control of the press in times of war and emergency remained in force.
3 Para. 2 defined these as 'all products of the printing-press and all other reproductions, obtained by mechanical or chemical means and intended for distribution, of writings or pictorial representations with or without text, and music with text or commentary'. In the present study, the term 'the press' will generally be used in this broad sense and not simply to denote newspapers.

publisher (6); one copy of every periodical[1] (defined in Paragraph 7 as a newspaper or journal appearing at intervals of less than a month) had to be handed in to the police at the place of publication (Ausgabeort) when distribution began (9); and the editor of a periodical was obliged to print free of charge factual corrections to statements he had published (11). These stipulations, as well as the rules already mentioned, were backed by penalties ranging from small fines to six months' imprisonment (18, 19).

Sections III and IV (20-22) were especially important, in that they recognized the peculiar nature of crimes committed by means of the press. Section IV (22) laid down that, whichever paragraph of the Criminal Code was involved, a press crime could only be prosecuted up to six months after it had been committed, compared with the generally far longer periods which had to elapse in the case of ordinary crimes. If, for example, a newspaper printed libellous remarks about the Emperor, the editor would be safe after six months; whereas if the same remark were made verbally in the presence of others, the culprit could still be prosecuted up to ten years afterwards. Section III (20, 21), which had been hotly debated in the Reichstag, dealt with the notoriously complicated problem of assigning responsibility for press offences. In the case of a non-periodical publication, the question was to be decided according to ordinary criminal principles (20), so that, at least in theory, anyone involved in production or distribution could be treated either as a culprit or as an accomplice. All periodicals, however, had to name a 'responsible editor' - popularly known as the Sitzredakteur -

1 Apart from those concerned exclusively with art, learning or commerce.

who had to be within reach of German justice and to satisfy certain other conditions (7), and who would automatically be held responsible for all offences unless his guilt were ruled out by special circumstances (20).

No less important than the issue of responsibility was that of confiscation, which was regulated by Section V (23-29) of the Law. Preliminary confiscation was one of the most hated traditional measures of press control, and its abolition had been loudly demanded both in the Bavarian Chamber of Deputies and in the Reichstag. It could cause considerable financial loss even if no-one was ever convicted; and it penalized retailers who had little to do with any offence. In Bavaria the authorities also disliked it, because it was both unpopular and hard to enforce: even the Police Director of Munich, Karl Alexander von Burchtorff, who regarded journalists as 'professional bullies', felt that it should at least be taken out of the hands of the police[1]; and the Government considered whether it might not be better to abandon it altogether[2]. In the end, the Press Law of 1874 retained the measure, yet in a form which took account of the special nature of the press as an instrument of crime. In principle, confiscation was only to be ordered by a court. But 'provisional' confiscation by the police or the prosecuting authorities could still be carried out either if certain rules laid down in the Press Law itself had been broken; or if the offence involved incitement to high treason, certain forms of Majestätsbeleidigung, obscenity, incitement to crime or to violence against a particular section of the population - in the last two

1 AStAM, MInn 65 592: Pol. Dir. von Burchtorff to Ludwig II, 3 March 1870.
2 GStAM, MA 76 757: memorandum on the Press Bill, 9 March 1872.

cases, however, only if delay was likely to lead directly to an actual crime (23). At the same time, elaborate safeguards were included: 'provisional' confiscation had to be confirmed by a court within 48 hours; it lapsed automatically if confirmation did not arrive within five days (24), and had to be lifted if proceedings did not begin within two weeks (26); only copies of a publication which were intended for distribution, not ones which had already passed into private hands, could be confiscated; and the authorities had to indicate the grounds on which the action was being taken (27). In practice, these arrangements turned out to be more complicated than satisfactory. They do not appear to have made confiscation any less unpopular; yet they made it even harder for the police to prevent a culpable publication from being distributed. Some of the problems which confronted the authorities in Munich as a result of this will be discussed later on.

Although some useful suggestions - a Bavarian proposal for a press council, for example[1] - were not included in it, the Press Law of 1874 was a moderate enough piece of legislation; and the spectacular development of the German press during the next 40 years certainly owed something to the elimination of the worst relics of the 1850's. The so-called 'repressive' system on which the Press Law was based, however, meant that, in addition to the restrictions which came into force in 1874, the press was subject to the ordinary criminal laws, and was therefore vitally affected by the way in which certain sections of the Criminal Code were interpreted by the courts. The practical implications of this will be dealt with presently; but in the meantime it is

1 GStAM, MA 76 757: memorandum on the Press Bill, 9 March 1872.

necessary to examine two matters of criminal procedure which were of particular importance in Bavaria.

One of the most significant results of the Revolution of 1848 in Bavaria had been the Press Edict of 4 June 1848, Paragraph 6 of which laid down that crimes and offences committed by means of the press had to be tried by jury instead of by a Strafkammer of professional judges[1]. There were naturally demands for this 'highest palladium of press freedom', as Police Director von Burchtorff described it[2], to be extended to the whole of Germany, and these were reflected in both the Reich Constitution of March 1849 and the radical Press Bill proposed by Windthorst in March 1873[3]. But any such idea was anathema to the Prussian Government, and in 1873 there was some talk of abolishing juries altogether in favour of the more manageable Schöffengerichte (in which lay and professional judges sat and deliberated together)[4], a solution which the Bavarian authorities might well have been pleased enough to accept[5]. In the end, however, the Gerichtsverfassungsgesetz of 27 January 1877 retained juries for crimes carrying a maximum sentence of more than five years' imprisonment[6]; and although this automatically excluded almost all offences which could be committed by means of the press, those states which already tried

1 Edikt über die Freiheit der Presse und des Buchhandels, printed in K. Binding (ed.), Die Verfassungsurkunde des Königreichs Bayern. Deutsche Staatsgrundgesetze in diplomatisch genauem Abdrucke, Bd. 2 (1906), pp. 263-265.
2 AStAM, MInn 65 592: Pol. Dir. von Burchtorff to Ludwig II, 3 March 1870.
3 See Berner, Lehrbuch, p. 144.
4 F. Oetker, 'Schwurgericht und Schöffengericht' in P. Laband, K. Lamprecht, F. von Liszt and others (eds.), Handbuch der Politik (Leipzig & Berlin, 1912-1913), i. 355-364.
5 There is a suggestion of this in the memo. on the Press Bill of 9 March 1872, in GStAM, MA 76 757.
6 Paras. 73, 80, Ger. Verf. Ges. See Die Strafprozessordnung für das Deutsche Reich mit Kommentar, ed. Löwe (12th edn., revised by Hellweg, Berlin, 1907), pp. 81, 92, 206.

press cases by jury were allowed to go on doing so[1].

Trial by jury continued to be as vital a safeguard after 1874 as it had been before, because official distrust of journalists, which had been very marked during the 1850's and 1860's, showed little sign of diminishing in the following two decades[2]. The unpredictability of juries and their known tendency to take a lenient view of press offenders[3] certainly deterred the authorities from taking action unless conviction seemed virtually certain. This emerges very clearly from the detailed police records of legal proceedings involving Munich periodicals between 1875 and 1899, which show not only the number of acquittals but also the high proportion of cases which never reached the courts at all - in many instances obviously because the chances of success were seen to be minimal[4]. Paradoxically, however, the most striking single illustration of the effect of the jury system on the authorities was a case which did end in conviction. This was the prosecution in 1884 of Dr Johann Baptist Sigl, proprietor of the Bayerische Vaterland, for making libellous allegations about the Bavarian officer corps.

Sigl was a crude but original popular journalist who detested

1 Para. 6, Einführungsgesetz zum Ger. Verf. Ges., 27 Jan. 1877; Para. 35, (Bavarian) Ausführungsgesetz of 23 Feb. 1879; Löwe, Str. Pr.Ord., pp. 8-9. The other states affected were Württemberg, Baden and Oldenburg.
2 See E. Schosser, Presse und Landtag in Bayern von 1850 bis 1918. Miscellanea Bavarica Monacensia, Heft 6 (1968), pp. 113-114; and AStAM, MInn 65 594: MInn von Pfeufer to Ludwig II, 3 Feb. 1879.
3 See for example AStAM, MInn 65 592: Pol. Dir. von Burchtorff to Ludwig II, 3 March 1870; but the point was emphasized repeatedly in official correspondence. Between 1882 and 1901, 26% of cases of all kinds tried by jury ended in acquittal, compared with only 14% of cases tried before a Strafkammer. See Statistik des deutschen Reichs, Neue Folge Bd. 146. Kriminalstatistik für das Jahr 1901 (1904), I. 13.
4 See press registers and statistical tables in StAM, RA 2273/40813.

Prussia, Unification, Liberalism and the Jews, and his outspoken views and ferocious polemical style brought him into repeated conflict with the law: he spent 34 months of his career in gaol (11 of them for libelling Bismarck), and in 1870 alone the Bayerische Vaterland was confiscated no less than 105 times[1]. 'Sigl's entire activity up till now' commented the Bavarian Minister of Justice in May 1875, 'shows the utmost lack of principle and the lowest manner of thinking'[2]. The 1884 case was the result of a typical piece of sensational journalism. Polemics in the Vaterland about Bavarian military education provoked the Minister of War, General von Maillinger, into making angry remarks in the Chamber about the need for special measures against 'press bandits'[3]. Sigl then retaliated with the claim that there was no need for a Bavarian Ministry of War at all, because it only had to pass on orders from Prussia; and that several named members of the Bavarian General Staff owed their positions not to their qualifications but to 'protection'[4]. As a result of this, the Vaterland was confiscated under Paragraph 196 of the Criminal Code; the allegations were shown to be completely unfounded; and on 8 July 1884, Sigl received a sentence of nine months' imprisonment, most of which he actually served[5].

This verdict showed that, once a jury did decide to convict, the penalties for press offences could be severe, especially for

1 Schosser, Presse und Landtag, p. 112; and material in GStAM, MA 94 774.
2 GStAM, MA 94 774: MJu von Fäustle to Prime Minister von Pfretzschner, 29 May 1875.
3 VdKdAbg 1884, Bd. III, 27 March 1884, p. 411.
4 Bay. Vat., 4 April 1884.
5 See StAM, St.Anw. 7063, for copious material on the whole case.

a man like Sigl who ran his paper practically single-handed. But the investigation preceding the trial was significant in other ways. In the first place, the fact that the Ministry of War had to explain its role and procedures at great length to an examining magistrate showed that a journalist could force an inquiry into possible abuses, even though he might have to pay a high price for getting his facts wrong. Secondly, the lengths to which the prosecution had to go in order to prepare its case clearly reflected the influence of the jury system: in addition to the detailed evidence already mentioned, the records of individual officers were scrutinized; testimonials were obtained from Berlin; the Prussian Minister of War was consulted about procedures in Prussia; and Quartermaster-General von Waldersee was asked for his opinion about Bavarian staff officers - all this in order to deal with a paper with a circulation of barely 6,000[1]. Even so, Sigl was still acquitted on one of the minor charges, and the jury reached an unanimous verdict on only two of the seven questions put to it[2]. Cases like this one do much to explain why the Bavarian authorities were tempted to explore dubious ways of evading trial by jury, and also why the 'privileged' position of the press caused such controversy in Munich later on.

Because of the great importance of trial by jury, and the fact that it was available for press offenders only in some parts of Germany and not in others, it is necessary to mention a procedural anomaly which gave journalists great cause for concern, particularly in the South. This was the problem of so-called fliegender Gerichtsstand, which arose because Paragraphs

1 StAM, St.Anw. 7063: Pol. Dir. to St.Anw./Landger. MÜ. I, 15 Feb. 1885.
2 Loc. cit.: verdict of Schwurgericht beim Landger. MÜ. I, 8 July 1884.

7 and 8 of the Code of Criminal Procedure laid down that an accused person could be tried either at his place of residence (8), or - and in practice more usually[1] - at the place where the crime had been committed (7). As the essential characteristic of a press crime was distribution, the 'scene of the crime' could in theory be any place where the offending publication was made available to a purchaser. During the debates on the Procedural Code (which became law on 1 February 1877), efforts were made to exclude this possibility by adding a rider to Paragraph 7 which would have allowed prosecution only at a publication's 'place of appearance' (Erscheinungsort) - a rather vague term which was generally taken to denote either the main centre of distribution or the publisher's place of business[2]. This move failed, largely because of the governments' determination not to allow any more procedural 'privileges' for the press comparable with the major concessions relating to responsibility, Verjährung and confiscation made in the Press Law; but it was more than a decade before the danger arising from fliegender Gerichtsstand actually became real. In June 1892, however, the Reichsgericht revived all the original fears by ruling that the Gerichtsstand der begangenen Tat of a publication was at any place at which it was distributed regularly and for gain; and that those responsible for it could therefore be brought to trial wherever this occurred[3].

This decision created a potentially very dangerous situation for the press, and above all for political and satirical papers. It meant that a Socialist editor in Nuremberg who attacked police

1 Löwe, Str.Pr.Ord., p. 216.
2 Liszt, Reichspresserecht, p. 146.
3 Reichsger. Entsch. xxiii. 155 (17 June 1892).

treatment of Silesian strikers could be summoned to stand trial in Breslau, while a Munich cartoonist who ridiculed the King of Saxony could be dealt with in Dresden or Leipzig. The crucial fact about both these hypothetical (but by no means improbable) examples was that in Munich and Nuremberg press offences were tried by jury, whereas in Breslau, Dresden and Leipzig they were dealt with by tribunals of professional judges. But even if the case ended in acquittal, and the costs were borne by the state, the need to travel perhaps a considerable distance with counsel and witnesses was a serious penalty in itself which could be crippling for the editors of small papers.

From 1892 onwards, fliegender Gerichtsstand was bitterly attacked. Fears were even expressed that journalists might one day be dragged off to answer charges in the German colonies[1]; while Sigl protested that Bavarian editors who were handed over into 'enemy territory' risked their lives as well as their freedom, because in Prussian prisons the food alone was enough to kill a South German[2]. More important and serious were the criticisms voiced by Professor Franz von Liszt, Oberreichsanwalt Olshausen and other prominent lawyers at the Congress of German Jurists in September 1900[3]; and the following year, pressure in the Reichstag, which had already been strong during the 1890's, reached such a level that the Reich Government at last resolved

1 Augs. Abdztg., 30 April 1898, reporting a speech in the Chamber by Martin Segitz.
2 Augs. Abdztg., 29 April 1898.
3 See especially the paper delivered by von Liszt, 'Wie ist im Strafprozess der Gerichtsstand der Begangenen Tat hinsichtlich der Vergehen der Presse zu regeln?', reprinted in F. von Liszt, Strafrechtliche Aufsätze und Vorträge (Berlin, 1905, repr. 1970), ii. 299-307. He condemned the existing state of affairs as both contrary to law and likely to undermine confidence in judicial impartiality.

to take action. Early in 1902, a bill was presented which proposed to enlarge Paragraph 7 of the Procedural Code (Paragraph 8 was not affected) so as to make a plural Gerichtsstand der begangenen Tat for the press impossible except in cases of private libel[1]. After lively debates in the Reichstag, during which many speakers protested unsuccessfully against the libel clause, the bill was passed virtually unaltered and came into force on 13 June 1902[2].

One puzzling feature of the campaign against fliegender Gerichtsstand was the fact that the strength of the protests seems to have been out of all proportion to the amount of hardship actually caused. The Prussian Government restricted the application of the measure long before the amendment of 1902[3]; Wilhelm II had also ordered that libels directed against him were to be dealt with at the place of publication[4]; and apart from one important trial in 1898 involving Maximilian Harden which will be discussed presently, Bavarian cases seem to have involved either private libel or the infringement of trivial local laws[5]. The eventual alteration of the law was therefore hardly a very vital concession, although it certainly put an end to the debate; and one may well ask why the matter aroused so much controversy. The answer seems to be that lack of confidence in the German legal system was so great by 1900 that the very existence of certain measures was enough to cause anxiety; and this is strongly confirmed when one passes from questions of mere procedure to

1 VdRT X Leg. Per., II Sess. 1900/1902, Anlagen Bd. VI, nr. 560, 13 April 1902, p. 3836. See also the material in GStAM, MA 95 988; and AStAM, MJu 13 120.
2 RGBl. 1902, p. 227. The alteration extended the new measure to all publications, not simply to periodicals.
3 Dr Marcour, VdRT X Leg. Per., II Sess. 1900/1902, Bd. VI, 22 April 1902, p. 4969.
4 GStAM, MA 95 988: Deputy Bundesrat Commissioner von Heller to MJu von Leonrod, 21 March 1902.
5 For example against the advertisement of lotteries. See GStAM, MA 95 988: MJu von Leonrod to Prime Minister von Crailsheim, 27 Dec. 1900.

the criminal law itself.

The German Criminal Code of 1871 contained a number of sanctions directed against the communication of certain ideas, either orally or by other means. Libel, various forms of incitement, and attempts to discredit the authorities by spreading false or distorted information were all punishable by fines or imprisonment. In Bavaria, most of these measures were used at some time during the period covered by the official statistics. Particularly in Munich, however, the debate on freedom of expression between 1890 and 1914 concentrated almost exclusively on four especially vital sections of the Code: the series of paragraphs (95, 97, 99, 101, 103) punishing Majestätsbeleidigung; Paragraphs 166 and 184, which dealt respectively with blasphemy and obscene publications; and Paragraph 360/11, which was concerned with so-called grober Unfug. With the exception of Paragraph 184, which will be discussed in Chapter II, each of these measures will now be examined in detail.

Majestätsbeleidigung was defined as 'violation of the respect due to the ruler as the bearer of sovereignty'[1] and, with the sole exception of incitement to high treason (Paragraph 85), which carried a maximum sentence of ten years' hard labour, it was the most serious offence which could be committed simply by communicating an opinion. The need for five separate paragraphs in the Criminal Code arose because of the large number of sovereign

1 Franz von Liszt, Lehrbuch des deutschen Strafrechts (9th edn., Berlin, 1899), p. 576.

princes in the German Empire, who had to be divided into different categories for the purposes of the law. Thus the most serious form of Majestätsbeleidigung was libel of the Emperor or of one's own sovereign (95), while regents, sovereigns of other German states and other royal persons (97, 99, 101) were protected only in a lesser degree; libels of foreign heads of state (103) were punishable only if a reciprocal arrangement existed between Germany and the country concerned. Maximum sentences ranged from three to five years' imprisonment or confinement in a fortress, which meant that cases of Majestätsbeleidigung would not normally be tried by jury.

The existence of these formidable paragraphs did not necessarily threaten freedom of expression, because everything depended on their interpretation in practice[1]. It was precisely on this score, however, that contemporaries were alarmed in the 1890's. Although commentators agreed that libel of a monarch was formally the same kind of offence as libel of an ordinary citizen, it was also accepted that the subject's honour was different from the sovereign's; and something which could be dismissed as a trivial slight in the one case could therefore be dealt with as a serious crime in the other. There were also other dangers: criticisms of the monarch's governmental acts, attacks on the royal ancestors and even allegories could in some circumstances lead to conviction[2]. Finally, in cases of

1 Germans frequently pointed to the absence of trials for similar offences in England, even though the offence of seditious libel was no less vaguely defined. See Earl of Halsbury and others, The Laws of England (3rd edn., ed. Viscount Simonds, London, 1955), x. 569.
2 B.U. Weller, Maximilian Harden und die 'Zukunft'. Studien zur Publizistik, Bd. 13 (1970), p. 112.

Majestätsbeleidigung, truth was unlikely to be accepted as a defence: any attack liable to bring the monarch into contempt was contrary to law, ruled the Reichsgericht in June 1880, regardless of whether the facts on which it was based were true; otherwise, the judgement concluded, the result would be 'discussions by the court which would be incompatible with the head of state's exalted position'[1]. It was therefore very interesting that in April 1893 Maximilian Harden was acquitted on the grounds that respect towards a prince consisted in upholding the truth; and even more interesting that the presiding judge was removed from his position a few months afterwards[2].

Many of the Majestätsbeleidigung cases of the 1890's inevitably reflected the baneful influence of Wilhelm II's 'personal rule'. The Emperor's erratic behaviour and inflammatory speeches frequently provoked anger and ridicule, which was then seized on by zealous prosecutors. As will be seen later, an attack on Wilhelm II's visit to Palestine in 1898 brought dire consequences for the satirical paper Simplicissimus[3]; while Harden was sentenced to 6½ months in a fortress at the beginning of 1899, and then to another six months the following year for criticizing the Emperor's 'Huns of Attila' speech[4]. Although in fact there were fewer convictions for Majestätsbeleidigung during the 1890's than in the previous decade[5], such

1 Reichsger. Entsch. ii. 213-214 (23 June 1880).
2 Weller, Harden, p. 109.
3 See below, Chapter III.
4 Weller, Harden, pp. 113-114.
5 Statistik des deutschen Reichs. Neue Folge Bd. 146. Kriminalstatistik für das Jahr 1901 (1904), II. 29. During the 1890's, the number of convictions was 7.1% lower than in the previous decade and made up only 0.96% of all convictions. The statisticians explicitly rejected the idea of a 'terrifying' increase of Majestätsbeleidigung trials.

incidents naturally created an atmosphere of fear and persecution. The reality of the danger in Munich is clearly illustrated by the prosecution of the writer Hanns von Gumppenberg in 1891 and of Professor Ludwig Quidde in 1895.

From the middle of the 1880's, a group of intellectuals began to gather in Munich around Michael Georg Conrad, an indifferent novelist but one of the most ardent propagators of the 'Naturalistic revolution, the Peasants' Revolt in literature'[1] in Germany, and the founder of the avant-garde journal Die Gesellschaft. Not all Conrad's followers were Naturalists, but they were strongly influenced by the ideas of Nietzsche, demanded a radical new departure in art, literature and ethics and were militantly hostile to the existing literary establishment of neo-classical Epigonen[2]. Their desire to make themselves felt more effectively in Munich itself led to the creation of the Gesellschaft für modernes Leben, which introduced itself to the public at a packed meeting on 29 January 1891[3].

Although the Gesellschaft für modernes Leben was comparatively short-lived (Conrad resigned in November 1891 and the society was dissolved early in 1893), its relations with conservative and clerical circles in the city followed a pattern which was to persist until the outbreak of war in 1914. Quite apart from their literary views, its members' vague denunciations of capitalism and militarism, their appeals for social justice and their flirtation with Social Democracy inevitably provoked antagonism.

1 M.G. Conrad, Von Emile Zola bis Gerhart Hauptmann. Erinnerungen zur Geschichte der Moderne (Leipzig, 1902), p. 27.
2 See Werner F. Striedieck, 'Paul Heyse in der Kritik der "Gesellschaft"', Germanic Review, xix, Oct. 1944, pp. 197-221.
3 Conrad's speech appeared in pamphlet form as Die Moderne. Vortrag gehalten am 29. Januar 1891 (Munich, 1891); see also StAM, Pol. Dir. 520: police report of 30 Jan. 1891. Both this file and RA 3795/57851 contain a large number of documents relating to the society.

Some of the most venomous attacks came from the clerical Münchener Fremdenblatt, which denounced Conrad and his associates as atheists, blasphemers and 'Social Democrats in frock coats'[1] and urged the authorities to take action against them. The paper soon began to concentrate its campaign against Hanns von Gumppenberg, a young aristocrat with mystical tendencies and a talent for parody who insisted that artists were entitled to deal naturalistically with religious themes. Two attempts by the Fremdenblatt to have him prosecuted for blasphemy failed, but at a public meeting in March 1891 he inadvertently caused a scandal by reciting some political verses by the radical poet Karl Henckell. One poem[2], though it did not mention Wilhelm II by name, certainly invited prosecution for Majestätsbeleidigung; and a savagely denunciatory article in the Fremdenblatt virtually compelled the authorities to start proceedings[3]. As reciting a text did not count as a press offence, Gumppenberg did not have the benefit of trial by jury; and on 28 August he was duly sentenced to two months' confinement in a fortress[4].

No doubt like many of those convicted of Majestätsbeleidigung Gumppenberg was a man without strong political views. The same cannot be said of Professor Ludwig Quidde who, in addition to his career as an academic historian, was a leading member of the Demokratische Volkspartei in Bavaria and eventually became one

1 MN. Frbl., 2/3 Feb. 1891.
2 An die deutsche Nation, printed in Karl Henckell, Gesammelte Werke (Munich, 1921), ii. 117-121. See also Hanns von Gumppenberg, Lebenserinnerungen. Aus dem Nachlass des Dichters (Berlin & Zürich, 1929), pp. 173-174.
3 MN. Frbl., 23 March 1891; StAM, Pol. Dir. 520: Govt. of Upper Bavaria to Pol. Dir., 23 March 1891, which cited the article and ordered the police to open investigations.
4 Gumppenberg, Lebenserinnerungen, p. 175; Moderne Blätter, I/23 (5 Sept. 1891), pp. 1-3.

of the most prominent German pacifists. Although not militantly republican, Quidde rejected the notion of divine right, deplored the byzantinism prevalent among his academic colleagues, and particularly opposed the use of the Majestätsbeleidigung paragraphs as a means of inhibiting free discussion[1]. In April 1894, he published in Conrad's Gesellschaft what purported to be an historical essay on the Roman Emperor Caligula but was in fact a transparent satire aimed at Wilhelm II[2]. With great ingenuity and appropriate classical references, Quidde described 'Caligula's' increasingly dictatorial behaviour after his initial promises of social reform, his craving for admiration and his talent for making violent and provocative speeches. He also made a number of insinuations about the Emperor's mental state and commented that, in an atmosphere of total servility in which lack of respect was treated as a crime, 'it is really amazing when so absolute a monarch remains sane'. Caligula had an almost immediate succès de scandale: 100,000 pamphlet copies were sold and the essay was still being reprinted thirty years later[3]. Yet in spite of a vigorous denunciation in the Neue Preussische (Kreuz-) Zeitung, the authorities took no action, no doubt because this would have been tantamount to admitting that Quidde's satirical portrait was a passable likeness. The whole affair illustrated the absurdity to which excessive use of the Majestätsbeleidigung paragraphs could lead .

1 Utz-Friedebert Taube, Ludwig Quidde. Ein Beitrag zur Geschichte des demokratischen Gedankens in Deutschland. Münchener historische Studien, Bd. 5 (1963), pp. 52-57.
2 'Caligula. Eine Studie über römischen Cäsarenwahnsinn', Die Gesellschaft, X, April 1894, pp. 413-430.
3 Kurt Koszyk, Geschichte der deutschen Presse. Teil II: Deutsche Presse im 19. Jahrhundert. Abhandlungen und Materialien zur Publizistik, Bd. 6 (1966), p. 257.

Quidde's second, less cautious attack on Wilhelm II showed that dissimulation was a real necessity. At a public meeting on 20 January 1896, he vehemently criticized the fulsome language used by the Munich city authorities during the celebrations of the 25th anniversary of the Reichsgründung. In particular, he condemned the habit of referring to the Emperor's grandfather as 'Wilhelm the Great', and remarked that in thirty years' time the creation of the Wilhelms-Orden would be seen as shameless and absurd. As a result, he was immediately prosecuted for libelling the Emperor and was sent to prison for three months[1].

These examples indicate why there was so much concern about freedom of speech in the 1890's. But they also show that the Majestätsbeleidigung paragraphs could be a dangerously double-edged weapon. There were several reasons for this. In the first place, unlike ordinary libel, Majestätsbeleidigung was subject to the so-called Legalitätsprinzip, which dictated that action had to be taken regardless of whether it was actually in the interest of the state or the monarch[2]. Secondly, neither in Bavaria nor in Prussia could the sovereign halt proceedings once they had begun: he could only pardon the culprit after he had been convicted, by which time the publicity surrounding the trial might well have done more harm than the original libel[3]. Finally, it could obviously be very awkward if for any reason a monarch was particularly vulnerable to attack. This was certainly true in the case of Wilhelm II, because of his reckless

1 Augs. Abd. Ztg., 21 Jan., 13, 14 April 1896.
2 Löwe, Str. Pr. Ord., pp. 466-467.
3 The so-called Abolitionsrecht was denied to the King of Bavaria in Titel VIII, Para. 4 of the Bavarian Constitution of 1818. Although Majestätsbeleidigung trials were usually held in camera, the press could report them as long as no actually culpable material was reproduced. For the intelligent reader, there was plenty of space between the lines.

interventions in politics and diplomacy. But it also caused acute difficulty in Bavaria as a result of Wittelsbach family history.

As far as this particular problem was concerned, nothing could have been more embarrassing than the tragedy of Ludwig II, and especially his mysterious death on 13 June 1886. Like the Mayerling affair, the whole episode aroused enormous popular interest; and as Ludwig's uncle, Prince Regent Luitpold, was widely (though unfairly) regarded as the villain of the piece, some of the more lurid speculations about conspiracy and murder logically demanded prosecution for Majestätsbeleidigung. Between 1886 and 1918, however, the Bavarian Government showed an unshakeable determination to stifle public discussion of the matter by all available means, and it therefore had no wish for sensational trials. As a result, regardless of the Legalitäts-prinzip, even the grossest insinuations tended to be ignored unless the culprit's craving for publicity absolutely forced the authorities to take action[1]. No doubt this was the wisest solution in political terms; yet it showed very clearly the strain imposed by expediency on the principle of obedience to law.

This strain was likely to increase with the passage of time. The fact that a man like Quidde was prepared practically to force his way into prison, commented the writer Oskar Panizza (who was himself in gaol for blasphemy) in April 1896, 'is a great danger for a state. Another dozen such fellows and by the end of the century what is left of our medieval laws will have vanished'[2]. This was of course a wildly over-optimistic forecast,

1 See the interesting material in AStAM, MInn 65 720.
2 Stadtbibl., Halbe Archive 676/60: Panizza to Halbe, 25 April 1896.

but it contained a grain of truth. As time went on, it became clear to all but the most reactionary that the Majestätsbeleidigung paragraphs were a liability both for the German legal system and for the monarchical idea; and that they were of doubtful utility in a literate mass society with numerous parliaments and a flourishing press. In the spring of 1907, therefore, the Reich Government proposed the addition of an escape clause which would in practice give the authorities much greater discretion in deciding whether to prosecute. After prolonged discussion, the amendment came into force in February 1908, just in time to save the courts from the inundation which would otherwise have followed the Daily Telegraph interview[1].

Compared with the obvious danger of the Majestätsbeleidigung paragraphs, it is less easy to decide how far freedom of speech was threatened by Paragraph 166 of the Criminal Code, which punished with up to three years' imprisonment anyone who publicly blasphemed or abused the institutions or practices of a recognised religious community. In contrast to Majestätsbeleidigung, these offences were hedged about with so many qualifications that the paragraph could only be used in a limited number of cases. The main emphasis, as Professor von Liszt pointed out, was no longer on the maintenance of particular doctrines but on the preservation of public order; and there was a tendency to interpret the law increasingly narrowly[2].

Notwithstanding the caution of legal theorists, however, there was strong political support during the 1890's for the idea that attacks on religious doctrines were a form of subversion

1 RGBl. 1908, p. 25. For the preliminary discussions, see GStAM, MA 95 995.
2 Liszt, Lehrbuch, pp. 411-413.

which ought to be dealt with by law. This was strikingly revealed during the debates on the so-called Umsturzvorlage, which was presented to the Reichstag in December 1894 under strong pressure from Wilhelm II[1]. The Bill's ostensible cause was the current wave of anarchist outrages in Europe, and particularly the assassination of President Carnot the previous June; but it was certainly seen by conservatives as a chance to discourage criticism of a wide range of 'fundamental institutions'. Especially significant were the efforts of the Centre Party in committee to add a number of radical measures to protect religion, on the principle that anarchist and Socialist agitation was no more dangerous than the ideas of liberal professors, who 'in their lectures denied the immortality of the soul and even the existence of God, and shook all moral notions with their arbitrary theories'[2]. The resulting concoction had little chance of being approved by either the Reichstag or the governments and was duly rejected in the summer of 1895. But the whole episode drew attention to the attitude of some Catholics towards freedom of speech and helps to explain their repeated demands for the more energetic use of Paragraph 166.

Apart from anarchists, Socialists and liberal professors, one of the main targets for clerical agitation of this kind was the intellectual avant-garde. In the first place, most of the 'Moderns' were influenced by a more or less confused mixture of

1 See Huber, Dokumente, ii. 429-435; Huber, Deutsche Verfassungsgeschichte seit 1789 (Stuttgart, 1961-1969), iv. 268-272; J.C.G. Röhl, Germany without Bismarck: The Crisis of Government in the Second Reich, 1890-1900 (London, 1967), pp. 112-116.
2 Karl Bachem, Vorgeschichte, Geschichte und Politik der deutschen Zentrumspartei (Cologne, 1927-1932), v. 414, quoting Adolf Gröber.

ideas derived from Nietzsche and from fashionable writers like Wilhelm Bölsche, Erich Haeckel and Emil Du Bois-Reymond, who rejected orthodox beliefs and insisted on the absolute primacy of natural science over metaphysics. Secondly, although religious themes appeared quite often in the art and literature of the late 1880's and 1890's, there was a strong tendency to de-sanctify them by emphasizing the essential humanity of the main figures - to 'pull down the Christian idea to the level of ordinary existence', as one Bavarian Centrist complained[1]. The results of this were not always scandalous; but writers like Conrad Alberti and painters like Corinth and Slevogt carried the practice to such extremes that much of their work was bound to strike some contemporaries as both blasphemous and pornographic[2]. Furthermore, even those members of the avant-garde who were not atheists tended to contrast 'true' Christianity, the religion of the downtrodden and the naive, with the authoritarian political attitudes and life-negating dogmatism of the established churches.

The leaders of the Munich avant-garde were very conscious of the dangers they faced from Paragraph 166. When Conrad's speech on the aims of the Gesellschaft für modernes Leben were described by some papers as atheistic, he not only denied the charge strenuously in the press but wrote to Police Director von Welser complaining of attempts 'to portray me as a revolutionary, atheist, nihilist &c. and to denounce me to the authorities as a

1 Balthasar von Daller, complaining about the Bavarian Government's decision to buy Fritz von Uhde's Himmelfahrt Christi: minutes of meeting of Finance Committee of the Chamber of Deputies, 18 March 1898, in AStAM, MKu 14 280.
2 See the examples in R. Hamann & J. Hermand, Deutsche Kunst und Kultur von der Gründerzeit bis zum Expressionismus. Bd. 2: Naturalismus (2nd edn., E. Berlin, 1968), pp. 99-115. Liebermann's Christus im Tempel had caused a scandal in Munich as early as 1879.

dangerous character', and even enclosed an exculpatory letter from the respected poet Martin Greif[1]. As has already been mentioned, the Münchener Fremdenblatt twice tried to have Hanns von Gumppenberg prosecuted for blasphemy. Both attempts were connected with his play about the life of Christ, Messias[2]; and, although neither came to anything, it was very significant that Gumppenberg's father, who was a high official and who had paid for the play to be printed, felt compelled to take the expensive step of buying up the whole edition and having it pulped[3]. Finally,the reality of the danger was emphasized above all by the fate of Oskar Panizza, a close associate of both Conrad and Gumppenberg, who in 1895 was the victim of probably the most sensational blasphemy prosecution of the decade.

Oskar Panizza was a qualified psychiatrist whose ample private means had enabled him to give up medicine for a literary career. Although his own work was marred by a streak of pedantry, he had joined the group around Conrad in the late 1880's, subsequently became an active member of the Gesellschaft für modernes Leben, and after its demise remained a prominent figure in the Munich avant-garde. There seems little doubt that his personality was, to say the least, eccentric. Gumppenberg described him later as 'a curious mixture of old-Franconian artlessness, theological, philological, medical and scientific erudition, whimsical poetic oddity, biting satire and impudent exuberance'[4]. A doctor who had known him as a student claimed that for years he had been

1 StAM, RA 3795/57851: Conrad to Pol. Dir. von Welser, 3 Feb. 1891.
2 See Mü. Frbl., 2 March 1891; and StAM, Pol. Dir. 520: Govt. of Upper Bavaria to Pol. Dir., 3 March 1891.
3 Gumppenberg, Lebenserinnerungen, pp. 161-162.
4 Ibid., p. 135.

mentally highly abnormal, that he was morbidly self-opinionated and distrustful to the point of paranoia[1]. In addition, however, Panizza combined strong literary ambitions and a touch of exhibitionism with violent hostility towards the Roman Catholic Church, especially the Papacy; and it was this which brought him into conflict with the law.

Late in 1894, the Zürich firm of J. Schabelitz published a play by Panizza dedicated to Ulrich von Hutten and entitled Das Liebeskonzil: Eine Himmelstragödie in Fünf Aufzügen[2]. Its theme was the appearance of syphilis in Europe during the 15th century, which was interpreted as divine vengeance for the debauchery at the Court of Pope Alexander VI. This in itself was provocative, but the main mischief lay in Panizza's portrayal of the Heavenly Family as it discusses how to scourge humanity. God Himself was depicted as decrepit, gout-ridden, impotent and longing to die; Christ as apathetic, tuberculous and underfed; and the Holy Ghost as 'a fiery streak whistling like a rocket up in the vaulted ceiling'. Most scandalous of all was the treatment of the Virgin Mary, who was shown as frivolous, vain and sensual, entertaining herself with spicey passages from Boccaccio. At the end, she offers to assist personally in infecting mankind; and when the Devil produces a ravishing girl to perform the task, Mary demands that she be removed from Heaven as quickly as possible, for fear she may seduce and contaminate Christ.

Whatever literary merits this production may have possessed, its effect on the authorities was a foregone conclusion. Orders

1 StAM, St. Anw. 7119, 7122: statements by Dr Paul Ostermeier of 24 Aug. 1895 and 25 May 1901.
2 Marked copy in StAM, St. Anw. 7119.

for confiscation were issued in Munich in December and Panizza was formally indicted under Paragraph 166 early in January 1895[1]. The case against him was so overwhelming that his friends advised him to flee the country; but Panizza seems to have relished the prospect of a sensational trial and promised to defend himself 'like a hyena'[2]. When the time came, however, his performance was rather less impressive. At the public hearing, on 30 April, he not only delivered a ponderous literary lecture which showed little awareness of the issues involved, but destroyed his only hope of salvation by declaring that, although Das Liebeskonzil had been published abroad, he had fully intended it to be distributed in Germany. 'I never saw a person defend himself in a crazier fashion' wrote Conrad[3], who had done his best to help as an expert witness. After a harangue by Deputy Public Prosecutor von Sartor, to the effect that if the 'Moderns' wished to spray dirt about, they should do so within their own four walls, a majority of the jury returned a verdict of guilty. The court then announced a sentence of one year's ordinary imprisonment[4].

It would be misleading to claim that the Liebeskonzil case was a typical one; and the consequences for Panizza were exceptionally tragic. But at least part of the sequel illustrates conveniently enough what one risked by committing blasphemy in the 1890's. For fear that he might escape, Panizza was taken into custody immediately after the trial and remained in prison for

1 This and later investigations involving Panizza are voluminously documented in StAM, St. Anw. 7119-7123.
2 Stadtbibl., Halbe Archive 675/60: Panizza to Halbe, 15 Feb. 1895 (postcard).
3 International Institute of Social History, Vollmar Papers 405: Conrad to Vollmar, 4 May 1895.
4 For accounts of the trial, see the official record in StAM, St. Anw. 7119; Max Fels, 'Aus dem Münchener Künstlerleben', Die Gesellschaft, XI, June 1895, pp. 827-828; and Panizza, Meine Verteidigung in Sachen 'Das Liebeskonzil'. Nebst dem Sachverständigen Gutachten des Dr M.G. Conrad und dem Urteil des kgl. Landgerichts München I (Zürich, 1895).

three weeks in conditions of some hardship[1]. He was then released on bail of 80,000 Marks pending his appeal, which was predictably rejected by the Reichsgericht on 1 July. Early in August, he began his sentence which, in spite of petitions to the Regent on his behalf, was neither commuted to fortress confinement nor reduced by a single day: 'If you'd done something different,' commented the prison doctor after seven months had gone by, 'you'd have been out long ago'[2]. As many people had foreseen, the whole ordeal had a serious effect on Panizza's already precarious mental condition. After his release, he travelled to Switzerland and then to Paris in a state of deepening paranoia. In 1901, he was prosecuted in Munich for a booklet called Parisiana which contained wild attacks on Wilhelm II, but this time had to be released as unfit to plead[3]. Three years later, he was finally admitted to an asylum and remained more or less completely insane until his death in 1921[4].

After the turn of the century, at least in Bavaria, Paragraph 166 certainly did not fall into disuse. The growth of the Centre Party's power and the activities of Munich's militant freethinkers greatly increased confessional tension; and many Catholics demanded the use of Paragraph 166 as part of the protection promised in the Concordat of 1817[5]. Although the prosecuting authorities and the courts were usually reluctant to take action, and the chances of conviction were small, ministers seem to have felt that going through the motions of blasphemy

1 Stadtbibl., Nachl. Conrad: Panizza to Conrad, 22 May 1895.
2 Stadtbibl., Halbe Archive 676/60: Panizza to Halbe, 25 April 1896. For Panizza's release on bail, appeal and imprisonment, see StAM, St. Anw. 7119.
3 See StAM, St. Anw. 7122.
4 Georg Grosz commemorated him with a large canvas entitled Vision Macabre (1917-1918), now in the Stuttgart Staatsgalerie.
5 Art. 13 laid down that books hostile to Catholic belief, morals or church discipline should be dealt with according to law; Art. 14 obliged the King to punish attacks on the Church or its servants.

proceedings was a convenient way to placate clerical opinion[1]. As will be seen later, however, the difficulty of distinguishing clearly between religion and politics in Bavaria eventually involved the Government in a number of awkward problems[2].

Anyone reading through the German Criminal Code would certainly have been struck by the potential danger of the Majestätsbeleidigung and blasphemy paragraphs to freedom of expression. But few people would have been alarmed by Section 11 of Paragraph 360, which threatened up to 150 Marks' fine or 6 weeks' imprisonment for anyone 'who in an unseemly manner causes disturbing noise or who commits grober Unfug'. The early history of the grober Unfug clause had in fact been rather unremarkable: it had first appeared in the Prussian Allgemeines Landrecht of 1794 as a measure against street-urchins, had then been included in the Prussian Criminal Code of 1851 and had finally passed without debate into Section 29 of the Reich Criminal Code of 1871. By the middle of the 1890's, however, the use of this apparently trivial measure had come to be regarded as a serious threat to free speech, and as one of the most flagrant examples of the arbitrariness and political bias of the German legal system[3].

The chief danger of grober Unfug lay in its vagueness: unless it was defined simply as rowdiness in the street, it could mean practically anything. Although most commentators agreed that the phrase referred to actions which offended the

1 AStAM, MInn 73 551: MInn von Feilitzsch to Govt. of Upper Bavaria, 11 July 1900 (draft).
2 See below, Chap. III.
3 Unless otherwise indicated, the sources for this section are F. Hacke, Der grobe Unfug (360/11 des Reichsstrafgesetzbuchs). Eine Studie (Leipzig, 1892); and Ernst Müller (-Meiningen), Gegen den groben Unfug in der heutigen Rechtsprechung, vor allem den Presse- und politischen Unfug (Leipzig, 1895).

public and were therefore liable to endanger the peace, this still left a number of questions unanswered: in particular, whether actual offence had to be given or whether the simple tendency to offend was enough; and whether the offence had to be a direct assault on the senses, as opposed to causing psychological disturbance. By the early 1880's at the latest, courts were beginning to give increasingly broad answers to such questions, so that Paragraph 360/11 gradually assumed the function of an all-purpose measure against any kind of vaguely anti-social or eccentric behaviour. Such miscellaneous activities as blocking roads, damaging fences or lowering corpses from upstairs windows all began to be treated as grober Unfug; and in the autumn of 1888, the young painter Hugo Höppener (Fidus) and the artist-hermit Karl Wilhelm Diefenbach were sentenced to several weeks' imprisonment for going about naked in a remote part of the Isartal[1].

Rather more disturbing, however, was the use of Paragraph 360/11 in political cases, on the grounds that the expression of certain views caused 'psychological disturbance' to the rest of the population. This interpretation gave almost unlimited scope to imaginative prosecutors and all kinds of actions began to be classified as grober Unfug, from making pro-French remarks in Colmar to attaching anti-Semitic slogans to one's dog. The chief victims were naturally the Social Democrats; and wearing Socialist badges, singing Socialist songs and hoisting the red flag on a Bavarian excursion steamer to cries of 'long live freedom!' were all examples of what some courts regarded as culpable affronts to the non-Socialist public. As one distinguished commentator

1 H. Frecot, J.F. Geist & D. Kerbs, Fidus 1868-1948. Zur aesthetischen Praxis bürgerlicher Fluchtbewegungen (Munich, 1972), pp. 71-73.

remarked, it was surprising that the act of organising a Socialist party was not in itself interpreted as grober Unfug[1].

In these circumstances, it was hardly surprising that Paragraph 360/11 was also used increasingly against the press. This development was resisted by many academic lawyers and also, very forcefully, by the Reichsgerict in a verdict issued in June 1889[2]. But the Reichsgericht's power to bind other courts was by no means universally recognised[3]; and already by the late 1870's, appeal judges in both Prussia and Bavaria had accepted in principle that indecent or inflammatory items in the press could be treated as grober Unfug[4]. In Bavaria, the advantages of this were particularly obvious, because although press crimes had to be tried by jury, grober Unfug was only a misdemeanour and so could be dealt with either by a magistrate sitting alone or by a Schöffengericht. The penalties attached to Paragraph 360/11 were of course trivial compared with those for blasphemy or Majestätsbeleidigung; but, as the police press files show quite clearly[5], they were a useful weapon against the smaller papers most disliked by the authorities. Of the numerous grober Unfug cases of the late 1880's and 1890's, however, two were particularly important: the wholesale use of Paragraph 360/11 against the press in the wake of the Fuchsmühl incident in 1894; and the prosecution of Maximilian Harden four years later.

1 Otto Mittelstaedt, 'Unfug in der Rechtsprechung', Die Zukunft, xxii. (1 Jan. 1898), 17-26.
2 Reichsger. Entsch. xix. 294-295 (3 June 1889). But this ruling was seriously weakened by another a few years later: Reichsger. Entsch. xxvii. 292-294 (14 June 1895).
3 Otto Mittelstaedt, 'Der Unfug der Presse', Die Zukunft, xxiv. (2 July 1898), 11-21. Bavaria was the only state to retain its own Supreme Court after 1871.
4 See for example AStAM, MInn 66 251: Oberstaatsanwalt von Gumppenberg to MJu von Fäustle, 18 Feb. 1877.
5 Annual Registers in StAM, RA 2273/40813.

The Fuchsmühl affair took place against the background of the peasant unrest caused by the Bavarian agricultural crisis of the early 1890's[1]. In October 1894, a dispute between the inhabitants of the North Bavarian village of Fuchsmühl and a local landowner over wood rights led to a bloody confrontation in which several peasants were killed by soldiers. This tragedy caused a tremendous outcry and raised fundamental questions about Bavaria's political development. But its immediate aftermath also showed how Paragraph 360/11 could be systematically used by the authorities to stifle awkward discussions in the press: on 28 December, six editors were fined for publishing articles with titles like 'Die Menschenjagd in Fuchsmühl' and 'Die Verkosakung Bayerns'; and comments on the trial of some of the surviving peasants provoked a fresh series of prosecutions the following spring[2]. One may well doubt whether the articles concerned were as dangerous as this dubious use of the law to suppress them, since it conjured up the old spectre of political censorship and helped to undermine the reputation of the courts. Referring to the Fuchsmühl affair, the Liberal lawyer and later parliamentarian Ernst Müller-Meiningen described the effect of such verdicts on the standing of the judicial profession as 'absolutely calamitous'. 'Anyone who has any contact with the public at large' he continued, 'can convince himself every day of the extent to which the population's unfortunately declining confidence in its judges is

1 See Willy Albrecht, 'Die Fuchsmühler Ereignisse vom Oktober 1894 und ihre Folgen für die innere Entwicklung Bayerns im Letzten Jahrzehnt des 19. Jahrhunderts', Zeitschrift für bayerische Landesgeschichte, xxxiii. (1970), pp. 303-354.
2 Ibid.; and StAM, RA 2273/40813: press registers for 1894, 1895.

connected above all with the illiberal application of the grober Unfug paragraph'[1].

The Harden case attracted even greater attention. In April 1898, Harden published an article in Die Zukunft which described in painfully explicit language the pitiful condition of mad King Otto of Bavaria, Ludwig II's younger brother, who had been shut away on the outskirts of Munich since 1875[2]. This put the Bavarian Government in a difficult position: Otto was still technically king (and remained so until the Constitution was altered in 1913), and by the standards of the 1890's Harden's article almost certainly amounted to Majestätsbeleidigung under Paragraph 99. On the other hand, the prospect of a major trial on behalf of a lunatic was not an inviting one; so the only alternative to ignoring the article altogether was to treat it as grober Unfug. On 28 April, therefore, Harden was summoned to Munich and sentenced to two weeks' imprisonment[3].

This incident aroused immediate comment in the Bavarian Chamber, all the more so because it combined the bugbear of grober Unfug with that of fliegender Gerichtsstand. As editor of one of Germany's leading intellectual journals, however, Harden was soon able to air the matter before a much wider public. Among other contributions to the ensuing debate were two distinguished articles by Otto Mittelstaedt, a former Reichsgericht judge who had in fact presided over the senate which had formulated the ruling of June 1889[4]. He now described the increasingly political use of the grober Unfug clause as partisan censorship of the most

1 Müller-Meiningen, Gegen den groben Unfug, pp. 64-66.
2 'König Otto', Die Zukunft, xxiii. (16 April 1898), 97-102; Weller, Harden, p. 403.
3 For the trial, see Harden, 'Otto von Bayern', Die Zukunft, xxiii. (7 May 1898), 225-239; Augs. Abd. Ztg., 29 April 1898.
4 'Unfug in der Rechtsprechung' and 'Der Unfug der Presse', Die Zukunft, xxii. (1 Jan. 1898), 17-26 and xxiv. (2 July 1898), 11-21.

modern kind, far worse than the old preventive censorship of the Vormärz and part of a general trend towards unlimited arbitrariness which threatened to bring the entire legal system into confusion and disrepute. Such views were shared not only by other professional lawyers but also by a wide range of politicians, from the Centre Party to the S.P.D.; and in the end the chorus of protest at congresses, in Parliament and in the press did not fail to have its effect. In March 1902, the Reich Secretary of Justice, von Nieberding, suggested to the individual ministries of justice that in future Paragraph 360/11 should only be used against concrete threats to public order[1]. This suggestion, and the example set by Prussia, was duly followed by the Bavarian Government[2]. Yet events were soon to show that, in certain cases involving the press, the grober Unfug clause was too convenient a weapon to be abandoned altogether[3].

The way in which certain sections of the Criminal Code were being interpreted in the 1890's had three results which were of particular significance for the present study. In the first place, it threatened anyone with radical or unorthodox views. Secondly, it produced a serious crisis of confidence in the German judicial system. Finally, it provoked widespread opposition to plans for yet more repressive legislation which were currently being proposed.

1 AStAM, MInn 66 251: Reichs-Justiz-Amt circular of 1 March 1902.
2 Loc. cit.: instructions from MJu von Leonrod to prosecuting authorities, 9 March 1902; and GStA., MA 94 987: MJu von Leonrod to Prime Minister von Crailsheim, 9 March 1902.
3 See below, Chaps. III and V.

During the 1890's, intellectuals were well aware that, in spite of the existence of a comparatively liberal Press Law, it could be dangerous to express an opinion on certain subjects. Apart from the Russians, commented one contributor to Die Zukunft, the Germans had more reason to fear prosecution when they spoke and wrote than the citizens of any other civilized country[1]. Referring to an allegorical painting depicting the 'Yellow Peril' commissioned by Wilhelm II, the co-editor of Die Gesellschaft, Hans Merian, pointed to the irony of demanding solidarity against 'Oriental barbarism' at a time when in Germany denunciations, political trials and general arbitrariness were the order of the day[2]. Conrad compared the German cultural scene to 'a Siegesallee with electric lighting' and added: 'under every arc-lamp stand two policemen in full turn-out to make sure that no breach of the law takes place'[3]. The cases already mentioned indicate that such complaints were more than merely rhetorical. Furthermore, although in some respects Bavaria compared favourably with other German states, Munich could certainly not be described as a haven of unlimited free speech. Apart from cases of grober Unfug, trial by jury was a valuable safeguard for opinions expressed in print; but the Quidde and Gumppenberg cases showed that remarks made at public meetings enjoyed no such protection; and the activities of the Gesellschaft für modernes Leben were constantly overshadowed by the fear of prosecution[4]. Finally, the avant-garde in Munich

1 'Jr.', 'Wort und Schrift vor dem Strafrichter', Die Zukunft, vi. (17 Feb. 1894), 326.
2 'Völker Europas, wahrt eure heiligsten Güter!', Die Gesellschaft, XII, Jan. 1896, pp. 1-4. The picture had been painted by Professor Knackfuss.
3 'Die deutsche Kultur', Die Gesellschaft, XV (1899), iii. 77-80.
4 The split which took place in the autumn of 1891 was caused partly by Conrad's cautious attitude to the authorities. See the letters from Schaumberger to Halbe in Stadtbibl., Halbe Archive.

not only had to face the normal hazard of a state apparatus suspicious of anything which seemed to resemble Socialism, but also the threat of clerical witch-hunts against immorality and godlessness. This second danger was to become much more prominent later on.

Those who had most to fear from arbitrary interpretation of the law were naturally the Social Democrats and members of the avant-garde; and they protested against it vigorously. But it is significant that some of the most eloquent denunciations of 'sophistical letter-and-abstraction jurisprudence'[1] came from otherwise conservative members of the legal establishment like Otto Mittelstaedt; and that they were clearly supported by a wide range of educated opinion. In March 1900, Professor Theodor Lipps, a well-known writer on aesthetics, told a mass meeting in Munich that he had lost his absolute faith in the German judiciary: like other men, he said, judges were subject to the pressures of their environment, wanted to please their superiors and could be influenced by the prevailing Byzantinism and the tendency to worship power and success[2]. These remarks caused a tremendous outcry and the Bavarian Government even considered prosecuting Lipps[3]. Nevertheless, they were also widely endorsed; and in Bavaria the subject of judicial impartiality remained a controversial one for the rest of the pre-war period. The pressures to which German, and particularly Bavarian, judges may have been exposed therefore deserve brief consideration.

1 Otto Mittelstaedt, 'Strafjustiz und Politik', Die Zukunft, xix. (29 May 1897), 390-401.
2 StAM, Pol. Dir. 24b 18/127: police report on meeting of 7 March 1900; and Lipps' letter in M.N.N., 18 April 1900, nr. 180.
3 See GStAM, MA 95 981.

In examining certain verdicts delivered in Wilhelmine Germany, the possibility of direct political influence cannot be entirely discounted. The dismissal of Landgerichtsdirektor Schmidt after Harden's acquittal for Majestätsbeleidigung in 1893 suggests that, at least in Prussia, the safeguards against the involuntary removal or transfer of judges laid down in the Gerichtsverfassungsgesetz may have been less effective in practice than in theory[1]. In most cases, however, pressure was probably more insidious. In the first place, most prospective judges first had to serve as public prosecutors, who were bound by instructions from above and whose performance was measured by their zeal in obtaining convictions. Secondly, the numerous hurdles in the early stages of a judicial career put a premium on conformity: as a young lawyer in Berlin, for example, Otto Mittelstaedt had been given to understand that his critical views on 'extensive' interpretation of the law might endanger his chances of becoming a Senatspräsident[2]. It seems hard to believe that years of adaptation to prevailing orthodoxies did not leave their mark on a man even after he had safely earned his seat on the bench.

It is difficult to see how this danger of dependence could have been eliminated without radical alteration of the system. Yet the problem of judges' personal bias seemed equally intractable. To begin with, as the Left never tired of pointing out, a judge was by definition a man who could support himself during several

1 Weller, Harden, p. 109.
2 Otto Mittelstaedt, 'Unfug in der Rechtsprechung', Die Zukunft, xxii. (1 Jan. 1898), 17; for judges' training and early careers, see the article 'Richter' in K. von Stengel, Wörterbuch des Staats- und Verwaltungsrechts (2nd edn., ed. M. Fleischmann, Tübingen, 1911-1913), iii. 318-325.

years of academic study and many more years of apprenticeship in various parts of the judicial bureaucracy: he was therefore likely to have a substantial interest in maintaining the status quo. 'These gentlemen' declared Ludwig Quidde, referring to German judges and prosecutors,

> 'stand (quite apart from their visible dependence) under the influence of the outlook and interests of their social class. Breaches of the law which do not clash with these views and interests do not strike them as such; they are extremely sensitive about anything which threatens these views and interests, and then the paragraphs are dragged in, regardless of their real meaning' 1 .

At the same time, there was plenty of room for individual variation. 'A judge sees a case differently' wrote one of Harden's correspondents,

> 'according to whether he is more or less strictly monarchical, conservative, liberal, democratic, capitalistic; in favour of social reform, state socialism or Manchester economics; or whether he is agrarian, religious, anti-Semitic etc. All these tendencies have their supporters even on the bench' 2 .

This was underlined by the fact that German judges, like other officials, could and did participate in party politics - the Centre Party, for example, included a sizeable contingent. Indeed, from the layman's point of view, one of the most disturbing features of the debates on new legislation which took place during the 1890's was the fact that judges were prominently engaged on both sides and clearly disagreed with each other on points of basic interpretation. Many suggestions were made for dealing with the problem of judicial bias; and Mittelstaedt proposed a major extension of the jury system, so that verdicts would then

1 L. Quidde & M.G. Conrad, Wetterleuchten der Reaktion. Zwei Betrachtungen über die Umsturzvorlage. Mit einem Bericht über die Münchener Volksversammlung vom 4. Januar 1895 (Munich, 1895), p. 6.
2 'Jr.', 'Themis am Webstuhl der Zeit', Die Zukunft, vi. (10 Feb. 1894), 260.

be a naked expression of majority prejudice but would leave the reputation of professional judges untarnished[1]. In the event, however, no really satisfactory answer was found, either in the Wilhelmine period or during the Weimar Republic[2].

As far as Bavaria was concerned, no evidence was found in the course of the present study to indicate improper pressure on judges by the Government. Yet there was still plenty of room for controversy. In the first place, it was a peculiar feature of the Bavarian system that prosecutors and judges did not pursue separate careers, but had to fulfil both functions alternately as they moved up the promotion ladder[3]; and contemporaries naturally wondered whether the habits of mind required for the two rôles could easily be kept apart. 'The well-qualified judge of today' wrote Ludwig Thoma in 1907,

> 'is for one half of his career a dependent administrative official and for the other half a so-called independent judge.
>
> As Assistant, Deputy and Principal Public Prosecutor, he has to act according to the orders of his superiors; as Amtsrichter, Landgerichtsrat and higher-ranking member of a judicial body, he has to brush aside obedience and follow his conviction alone. Even the best nature cannot avoid the harmful effect of this conflict ...
>
> In reality, a man who is a capable public prosecutor in the accepted sense proves precisely by that that he is unsuitable to be a judge' 4 .

Secondly, the bitterness of Bavarian politics made it increasingly difficult for judges to avoid accusations of partiality, even in trivial cases. Some individuals, of course, showed themselves equal to the challenge: Oberlandesgerichtsrat Wilhelm Mayer,

1 Otto Mittelstaedt, 'Strafjustiz und Politik', Die Zukunft, xix. (29 May 1897), 390-401.
2 See H. and E. Hannover, Politische Justiz 1918-1933 (Frankfurt am Main & Hamburg, 1966).
3 Von Stengel, Wörterbuch, iii. 323.
4 'Gegen die Staatsanwälte', März, Jg. I, Bd. 1 (1907), 236.

known as '<u>Vergleichs-Mayer</u>' because of his skill in arranging compromises in the many sensational trials in which he was involved[1], enjoyed the confidence not only of right-wing morality campaigners but also of radical Bohemians. But men like Mayer were probably rare; and the real or supposed partiality of Bavarian justice seems to have become an increasingly controversial issue during the period. While the Centre Party was suspicious of the 'liberal' bureaucracy in the 1890's, Liberals and intellectuals were concerned after 1900 that judges might begin to adapt themselves to clerical domination. As will be seen later, such fears expressed themselves on a number of occasions, above all during debates about the jury system.

The sense of <u>Rechtsunsicherheit</u> illustrated in this chapter also explains the widespread alarm aroused by proposals for new and even vaguer measures in the 1890's. Once again, protest did not come solely from '<u>vaterlandslose Gesellen</u>'. In his rectoral address at Bonn University in October 1896, Professor Hermann Seuffert declared that there was too much new legisaltion and that recent interpretation of the libel and <u>grober Unfug</u> paragraphs was causing serious misgivings; and he exhorted legislators and practising lawyers to make fewer new laws and to be cautious in applying the existing ones[2]. There was good reason for such warnings. The decade after Bismarck's fall from power and the expiry of the Anti-Socialist Laws was a period of turbulence and political uncertainty; and by the mid-1890's, fear

1 Erich Mühsam, <u>Namen und Menschen. Unpolitische Erinnerungen</u> (Leipzig, 1949), pp. 212-214.
2 F. von Liszt & G. Crusen (eds.), <u>Das Strafrecht der Aussereuropäischen Staaten. Die Strafgesetzgebung der Gegenwart in rechtsvergleichender Darstellung. Herausgegeben von der internationalen kriminalistischen Vereinigung, Bd. 2</u> (Berlin, 1899), pp. 439-440.

of revolution had reached such a pitch that the possibility of a Staatsstreich against the Reichstag and the 'subversive' elements in the nation was being seriously considered[1]. Although these plans came to nothing, Wilhelm II and some of the political parties were prepared to seize on any incident - an anarchist outrage, industrial unrest or a sensational trial - as a pretext for bringing in new repressive laws with which to shore up the existing system. 'Reaction lacks neither impudence nor cunning' wrote the Socialist lawyer Wolfgang Heine, 'and when certain abuses appear in any field, it loves to shear its own sheep while attempts are being made to combat them'[2]. The Umsturzvorlage episode alone was enough to justify such a view. It was justified above all, however, by the prolonged efforts to extend the law on obscene publications which will be dealt with in the next chapter.

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1 See Röhl, Germany without Bismarck; and V.R. Berghahn, Germany and the Approach of War in 1914 (London, 1973), especially Chap. I.
2 'Reaktionäre Tendenzen in der Kriminalpolitik', Sozialistische Monatshefte, III/5 (May 1899), p. 217.

II

The Debate on Obscenity and the Lex Heinze

For several reasons, the attempt to widen the law on obscene publications which began in the autumn of 1891 and ended unsuccessfully in May 1900 occupies a position of fundamental importance in the present study. Although the advocates of stricter legislation claimed that the main issue was quite simple, the problem of obscenity was inextricably entangled with aesthetic, social and ideological questions about which opinions were and continued to be deeply divided. The spectacular public controversy which took place in the spring of 1900 was therefore only a small part of a debate on the nature and effects of pornography which began in the late 1880's and continued for the rest of the pre-war period. This was particularly true in Bavaria, where the Government faced growing clerical pressure to take measures which seemed to threaten Munich's survival as a centre of art and literature. The resulting political friction revealed profound antagonism between the city's artists, Bohemians and free-thinkers on the one hand, and the men who claimed to represent the bulk of the Bavarian population on the other.

As the obscenity debate was greatly intensified by the prevailing distrust of the German legal system, it is ironical that it originally began because of what may well have been over-restrictive adjudication by the courts. Clause I of Paragraph 184 of the Criminal Code laid down that

> 'anyone who sells, hands out or otherwise distributes, or displays or posts up in places accessible to the public obscene (unzüchtig) writings, pictures or representations will be punished with a fine of up

to 300 Marks or with up to six months' imprisonment' [1].

For the purposes of law enforcement, the interpretation of the word unzüchtig was crucial, and the Reichsgericht's definition of it as something which 'grossly offends the feeling of modesty and morality in a sexual sense'[2] made Paragraph 184's application in practice extremely difficult. The resulting frustration on the part of the police and the prosecuting authorities in Munich was illustrated by yet another case involving the Gesellschaft für modernes Leben. At the beginning of September 1891 the society's journal, the Modernen Blätter, was confiscated because of an essay by Anna Croissant-Rust which described in impressionistic language a young bride's fear of defloration[3]. The Munich police, the Public Prosecutor and the magistrate who ordered the confiscation all agreed that there was a case for prosecution under Paragraph 184; and when the Landgericht nevertheless refused to proceed, the police sent in a strongly-worded report to the Provincial Government which contained the germ of the whole ensuing debate. The present case, it claimed, showed once again the inadequacy of Paragraph 184, which was so narrowly interpreted by the courts

> 'that the grossest offences against public decency are not covered by it, and so either go unpunished or can at best be prosecuted under Paragraph 360/11 of the Criminal Code'.

1 Clause 2 dealt with the publication of material from trials held in camera.
2 Reichsger. Entsch. viii. 130 (26 Feb. 1883). Present author's italics. Compare this with the classic English definition formulated by LCJ Cockburn in R. v. Hicklin, 1868.
3 'Hochzeitsfest', Mod. Blätter, nr. 22 (29 Aug. 1891). An anthology entitled Modernes Leben, with contributions by Bierbaum, Conrad, Panizza, Wedekind et al., was also confiscated and subsequently released. See documents in StAM, Pol. Dir. 520.

The police therefore stressed the urgent need

> 'to extend Paragraph 184 of the Criminal Code in such a way that ... publications which ... are liable to give moral offence or affront feelings of decency are threatened with the penalty provided for in Paragraph 184' 1 .

This appeal was dispatched on 16 September 1891 and in due course reached the ears of the Bavarian Government.

In normal circumstances, the chances of action being taken would not have been great, because revision of the Criminal Code was a matter for the Reich. In this case, however, an opportunity unexpectedly presented itself within a matter of weeks. On 28 September, a murder trial began in Berlin involving a pimp named Heinze and the prostitute who was his wife. The resulting revelations about the jungle of vice and crime in the Berlin underworld, which were reported in lurid detail by the press, caused a wave of moral hysteria which was maintained at fever pitch by a series of gruesome sexual murders during the next few weeks. 'It has long been apparent to even superficial observers', commented the Times correspondent on 27 October,

> 'that the state of the lower classes in Berlin was a growing source of anxiety. The daily press teems with reports of crimes, and in nearly every instance the criminal is some degraded wretch living on the shame of a woman' 2 .

The main topic of the article, however, was a characteristically flamboyant decree sent by Wilhelm II to the Prussian Government, in which he expressed concern at the revelations of the Heinze trial, ordered stern executive measures to be taken and suggested

1 StAM, Pol. Dir. 520: Pol. Dir. to Govt. of Upper Bavaria, 16 Sept. 1891 (draft).
2 The Times, 28 Oct. 1891; see also edns. of 29 Sept., 2, 26 Oct. 1891.

an urgent re-examination of the existing laws[1].

This last recommendation was sympathetically received by the individual state governments. Within a few weeks, legislative proposals were being discussed in the Prussian Cabinet and the Bundesrat, and on 29 February 1892 the first version of what soon became known as the Lex Heinze was presented to the Reichstag[2]. Apart from one paragraph which would have made it easier for registered prostitutes to obtain lodgings, the aim of the Bill was fundamentally repressive: to strengthen the power of the authorities against the 'criminal dregs' of the urban population, partly by creating new offences and partly by increasing the penalties for existing ones. Of particular significance in the present context were the measures dealing with obscenity, since the Bill's Introduction re-affirmed the standard conservative belief, which was to be endlessly repeated during the next twenty years, that there was a direct connection between pornography and vice. In accordance with this idea, two amendments were proposed for Paragraph 184. The first simply made it illegal to produce, stock or advertise obscene material as well as to distribute it. The second and more important one, which had been included at the express wish of the Bavarian Government[3], sought to extend the penalties of Paragraph 184

1 Deutscher Reichsanzeiger, 27 Oct. 1891. The decree had actually been issued on 22 Oct. See also J. Röhl, Germany without Bismarck: The Crisis of Government in the Second Reich, 1890-1900 (London, 1967), p. 73.
2 VdRT VIII Leg. Per., I Sess. 1891/1892, Anlagen Bd. VI, nr. 713, 29 Feb. 1892, pp. 3881-3888: Entwurf eines Gesetzes betr. Anderungen und Ergänzungen des Strafgesetzbuches. For discussions in the Prussian Cabinet, see Deutsches Zentralarchiv Potsdam, Reichskanzlei 749.
3 GStAM, MA 76 781: MInn von Feilitzsch to Crailsheim, 22 Jan. 1892, and other correspondence relating to discussions in the Bundesrat.

to

> 'anyone who displays or posts up in public streets or places pictures or representations which, without being obscene, are liable to cause annoyance by grossly offending feelings of modesty and morality'.

This formula, which indirectly reflected the experience of the Munich police, was to undergo numerous transformations in the course of time. But its basic outline survived to become the focal point of the subsequent Lex Heinze controversy.

Public reaction to Wilhelm II's initiative seems to have been generally favourable; in particular, few people appear to have regarded the proposed extension of Paragraph 184 as a potential danger to art and literature. Nevertheless, one important demonstration against the Bill on these grounds did eventually take place in Munich (although the rôle played by the Bavarian Government did not become generally known until much later). On 3 January 1893, not long before its final dissolution, the Gesellschaft für modernes Leben called a special public meeting which was addressed by several of the 'Moderns' and their supporters, including Panizza, Otto Julius Bierbaum and Conrad, whose unorthodox views already exposed them to harassment under the existing laws. At the end, the majority of those present passed a resolution which objected to the joint treatment of art and prostitution and condemned the Lex Heinze as a threat to artistic freedom[1].

Incidents which took place during this meeting showed that the fears of the avant-garde were not completely fanciful. Led

1 StAM, Pol. Dir. 520: police report of 3 Jan. 1893; also Augs. Abdztg., MÜ. Post, M.N.N., (nr. 4) of 4 Jan., MÜ. Frbl., 5 Jan. 1893.

by two unsavoury journalists named Buchner and Wengg[1], a small group of anti-Semites in the audience heckled the speakers so noisily that the proceedings were almost brought to a standstill. This in itself was not particularly remarkable: anti-Semitic support for repressive measures was a familiar feature of German politics both in the 1890's and afterwards; and the Lex Heinze's staunchest supporters in the Reichstag included both Adolf Stöcker and the Deutsch-Soziale Reformpartei. Much more significant was the assumption shared by both Buchner and Wengg that the new Paragraph 184 would be used not only against commercial pornography but against the 'prostitution-literature and pimpish art' produced by those who had called the meeting. Moreover these views were emphatically endorsed by the Catholic Bayerische Kurier, which denounced the 'Moderns' as 'carrion-birds' and their work as 'cesspool-fodder' and 'backstairs products dripping with sadistic baseness'[2]. At first sight, this contrasted very sharply with the later assurances of the Lex Heinze's supporters, including both the Reich and Bavarian Governments, that the new obscenity clauses would not be used against art and literature. What it really showed, however, was that the terms 'art and literature' meant very different things to different people.

Also present at the meeting, in his capacity as Munich's

1 Ludwig Wengg was local treasurer of the Deutsch-Soziale Verein and editor of the Deutsche Vaterland; August Buchner was now employed by the Neue Münchener Tageblatt but had previously edited a succession of small papers. Both men had numerous previous convictions for libel and other offences.
2 Bay. Kur., 4 Jan. 1893.

representative in the Reichstag, was the Bavarian Socialist leader Georg von Vollmar, who condemned official prudery and promised the S.P.D.'s support against the Bill. This too was a portent for the future. In fact, Vollmar had already held a considerably larger protest meeting against the Lex Heinze six months earlier, at which he had attacked it as a crude and inequitable attempt to solve the problems of a distorted society[1]. But in addition to his commitment to Marxist social theory, Vollmar was a highly-cultivated and intelligent man who was on excellent terms with the Munich avant-garde, became an enthusiastic supporter of the Secession Movement and even spent time translating Scandinavian novels[2]. Like much else in the Bavarian S.P.D., all this was far from typical of German Social Democracy as a whole: many Socialist leaders regarded artists with a mixture of suspicion and hostility; and at the 1896 Gotha Congress, Naturalism was condemned in terms worthy of a right-wing morality association[3]. In the end, the S.P.D. joined effectively in the struggle against the new obscenity paragraph; indeed, its tactics in the Reichstag made final victory possible. But it was Vollmar who added a note of intellectual distinction to what might otherwise have been mistaken for a spectacular piece of party-political opportunism.

In 1893, all this was still in the distant future. But signs that the Lex Heinze might one day become a Frankenstein's

1 StAM, Pol. Dir. 24b 18/127: police report of 24 June 1892.
2 See Reinhard Jansen, Georg von Vollmar. Eine politische Biographie (Düsseldorf, 1958), pp. 34, 72-73.
3 See Susanne Miller, 'Critique littéraire de la social-démocratie allemande à la fin du siècle dernier', Le Mouvement Social, nr. 59 (April-June 1967), pp. 50-69; for a more general discussion, Georg Fülberth, Proletarische Partei und bürgerliche Literatur. Auseinandersetzungen in der deutschen Sozialdemokratie der II Internationale über Möglichkeiten und Grenzen einer sozialistischen Literaturpolitik (Neuwied & Berlin, 1972).

monster were already perceptible. As the original Bill could not be dealt with in the Reichstag session of 1890/92, it was presented again in the autumn of 1892 and passed on in due course to a committee. What followed was the first of several attempts by the Centre Party, the Conservatives and the Anti-Semites to capture the whole scheme and remodel it according to their own ideas about law and morality - just as they were to do two years later with the Umsturzvorlage. In the first place, Paragraph 184 was further enlarged to cover the advertisement and display of contraceptives, while the Bavarian obscenity proposal was made into a separate Paragraph 184a and extended to include writings as well as pictures; and a similar measure to deal with indecent stage performances was defeated only by a narrow majority[1]. In addition to this, the committee insisted on raising the female age of consent from 16 to 18; and in the teeth of ministerial protests forced through an entirely new 'employer paragraph' which threatened imprisonment for anyone who compelled his female employees to commit or tolerate 'immoral acts'. The committee's report[2], which appeared in March 1893, so dampened official enthusiasm that the whole matter was allowed to hang fire. Eventually, after desultory discussions, the Bill was shelved altogether in November 1894[3].

This setback was by no means the end of the Lex Heinze.

1 GStAM, RA 76 781: von Heller to MJu von Leonrod, 4 March 1893.
2 VdRT VIII Leg. Per., II Sess. 1893, Anlagen Bd. II, nr. 173, 22 March 1893, pp. 928-964: Bericht der VIII. Kommission.
3 GStAM, RA 76 781: correspondence of Aug.-Nov. 1894.

Three years later, in revised form, it was once again before the Reichstag; in the spring of 1900, it was the subject of a nation-wide debate about the limits of artistic expression; and although its most controversial proposals were eventually defeated, the fear that they might be revived persisted until the outbreak of war. It is therefore necessary to explain why the Bill came to be resurrected and why it provoked such furious resistance among artists and intellectuals.

Although the wave of hysteria caused by the Heinze trial apparently never recurred, there were several reasons why an underlying sense of moral crisis seems to have persisted throughout the 1890's. In the first place, there was the general effect of continued rapid urbanisation: by 1900, Greater Berlin had become one of the most important commercial and manufacturing centres in Europe, and even in Munich the population increased from 350,000 to nearly half a million during the decade[1]. Secondly, official statistics showed that the proportion of convicted offenders to the population as a whole had been rising steadily since 1882, with a particularly steep increase in the years 1888-1895; and the picture was darkened still further by the striking proliferation of convictions for crimes of violence and of cases involving young people between twelve and eighteen[2]. Notwithstanding the notorious difficulty[3] of interpreting purely

1 Statistisches Jahrbuch des deutschen Reichs, xiii. (1892), p. 7; ibid., xxiii. (1902), pp. 6-7.
2 For an explanatory survey of the trends of the two previous decades, see Statistik des deutschen Reichs. Neue Folge Bd. 146. Kriminalstatistik für das Jahr 1901 (1904), I. 1-36.
3 See the discussion in J.J. Tobias, Crime and Industrial Society in the Nineteenth Century (Penguin edn., London, 1972), pp. 296-308.

judicial statistics of this kind, these figures seem to have had an appreciable effect on public opinion and were frequently cited as proof that Germany was in a state of moral decline. Finally, there seems to be little doubt that prostitution - partly controlled but mostly illicit - was rampant in major cities; or that venereal disease was a public health problem of the first magnitude[1].

All this undoubtedly contributed to the widespread fear of social upheaval prevalent during the 1890's; and anxiety about what was believed to be happening in German cities expressed itself in a strong moral reform movement which agitated vigorously for stricter legislation. The Sittlichkeitsbewegung attracted both Catholics and Protestants and its most active supporters seem to have been predominantly middle-class and male, with a strong contingent of clergymen and schoolmasters[2]. In organisational terms, it consisted of a number of associations ranging from the obscure Verein zur Hebung der öffentlichen Sittlichkeit founded in Munich in 1887[3] to the much larger and more vocal Allgemeine Konferenz der deutschen Sittlichkeitsvereine, an amalgamation of groups which held annual congresses, published a good deal of literature and had its headquarters in Berlin.

Although no formal alliance seems to have existed with any of the right-wing political parties, there were certainly strong ideological and personal links. Adolph Henning, for example, the

1 For discussions of these problems, see Max von Gruber, Die Prostitution vom Standpunkt der Sozialhygiene aus betrachtet (Vienna, 1900); Robert Hessen, Die Prostitution in Deutschland (Munich, 1910); A. Neher, Die geheime und öffentliche Prostitution in Stuttgart, Karlsruhe und München (Paderborn, 1912). Compare also Theodore Zeldin, France 1848-1945, Vol. I, Ambition, Love and Politics (Oxford, 1973), p. 304.
2 This is suggested by the signatures to the petition to the Chancellor of 30 March 1900, copy in GStAM, MA 76 781.
3 Documents in StAM, Pol. Dir. 24b 3176/7.

Secretary of the Allgemeine Konferenz, belonged to the Conservative fraction in the Reichstag from 1898 to 1912 and, like many of his fellow-campaigners, obviously regarded vice, crime and political subversion as different aspects of a single problem. In a letter requesting the support of the Bavarian Government in April 1897, he began by disclaiming any particular political or confessional bias; but then embarked on a vehement denunciation of 'those contemporary revolutionary movements which aim for the destruction of moral consciousness and the dissolution of the family, and so undermine the foundations of all civil order', and drove the point home with the remark that the would-be assassins of Wilhelm I had been morally depraved characters in contact with prostitution[1]. An even more important figure was Oberlandesgerichtsrat Hermann Roeren, a right-wing member of the Centre Party who hoped for a more narrowly confessional orientation of Catholic politics and closer collaboration with the ecclesiastical hierarchy. In addition to founding an important morality association in Cologne in 1898, Roeren became one of the most militant supporters of the revived Lex Heinze; and for years after its defeat, he continued to demand stricter measures to combat pornography.

These connections, and particularly the position of Roeren, were of great importance. Although the campaigners believed fervently that morality was a matter for the criminal law[2], the associations by themselves seem to have had little leverage on government. Petitions from the Allgemeine Konferenz to the

1 AStAM, MInn 66 543: Henning to Bav. Govt., April 1897.
2 See for example Adolph Henning, Die öffentliche Sittenlosigkeit und die Arbeit der Sittlichkeitsvereine (Berlin, c. 1898), pp. 19, 25.

Bundesrat and the individual ministries of justice to revive the Lex Heinze were fruitless; and Henning's annual requests to the Bavarian Government for funds and moral support always met with polite refusal[1]. The task of converting reforming zeal into actual legislation therefore fell to the political parties, especially the Conservatives, the Anti-Semites and the Centre. Of these, the Centre played by far the most important rôle: partly for ideological reasons, partly because of its powerful position in the Reichstag, and partly because of its strong contingent of professional lawyers. This fact was to have a marked influence on the later history of the Lex Heinze; and in Bavaria it set the tone for a debate which went on for the rest of the pre-war period.

The morality campaigners both inside and outside Parliament believed in a moral code based firmly on a conservative interpretation of Christian principles, and they placed special emphasis on chastity and the sanctity of marriage. For reasons already suggested, attempts to reinforce these beliefs by means of legislation were almost bound to threaten artistic freedom. In the first place, the official view, expressed in the Introduction to the Lex Heinze, that there was a connection between vice and pornography was shared in the fullest measure by the reformers. Indeed, although some account was taken of problems like bad housing as contributory factors, many people clearly regarded obscenity and indecency as the fundamental cause of deviant behaviour[2]. Any extension of the law therefore had to include the enlargement of Paragraph 184.

1 Correspondence in AStAM, MInn 66 543.
2 See for example the Reichstag debates of 6, 7 Feb. 1900, VdRT X Leg. Per., I Sess. 1898/1900, Bd. V, pp. 3920-3951.

Secondly, as Conrad and his associates feared and the Munich supporters of the Lex Heinze loudly proclaimed, the conservative definition of indecency was certainly broad enough to include much of the work of the avant-garde. All that needs to be explained is how vehement attacks on Naturalism and Jugendstil could be reconciled with simultaneous declarations that stricter legislation would not endanger art[1].

The answer was quite simple: only 'true' works of art were covered by such assurances, and a 'true' work of art had to satisfy certain conditions. These were spelled out again and again by conservative writers on aesthetics[2], by Wilhelm II[3], and by morality campaigners throughout the period. Whether the target was Naturalism, Expressionism, or the plays of Frank Wedekind, the phrases were always the same: the purpose of art was to foster the Ideal; aesthetics and ethics must always coincide; and the artist must subordinate himself to the moral demands of society. Conversely, certain themes were considered altogether unsuitable for artistic treatment: squalor, poverty and disease were strongly disapproved of; and sex was the taboo subject par excellence. The pompous dynastic monuments, fashionable Genremalerei and edifying family literature of the Wilhelmine period showed clearly enough, of course, that adherence to these principles was not a passport to immortality. Yet they remained the criterion of what was acceptable,

1 See for example the Reichstag speeches of Hermann Roeren, and his anonymous pamphlet, Die Lex Heinze und ihre Gefahr für Kunst, Litteratur und Sittlichkeit. Von einem Parlamentarier (Cologne, 1900).
2 See the survey in Emil Reich, Kunst und Moral. Eine aesthetische Untersuchung (Vienna, 1901), pp. 38-49.
3 For Wilhelm II's views on art, see M. Balfour, The Kaiser and his Times (London, 1964), pp. 161-162; and the suitably Byzantine contemporary essay by Arthur Brehmer and Max Grube, 'Der Kaiser und die Kunst'; in Arthur Brehmer (ed.), Am Hofe Kaiser Wilhelms II (Berlin, 1898), pp. 313-384.

and any attempt to break new ground was therefore automatically suspect. At best, it was denied the status of 'true' art; at worst, it might be classified either as obscene or as 'liable to offend general feelings of modesty and morality'.

The prospect of new legal sanctions threatened a great many people. It is of course much easier to generalize about the conservatives than about those whom they opposed: in the 1890's alone, the term '<u>avant-garde</u>' covered a wide variety of different schools and movements. On one decisive issue, however, there seems to have been widespread agreement: that art must be allowed much greater autonomy than in the past; and that the individual's vision of reality should not be distorted or censored by prevailing moral or aesthetic conventions. This idea was expressed in many different ways. Hermann Obrist, one of the pioneers of abstract design, adopted Haeckel's principle that 'for the creative mind, only three things exist: here am I, Nature is over there, and here again is the object I have to decorate'[1]. Kandinsky (who took the artist's moral responsibility, as he understood it, extremely seriously) insisted in 1911 on the primacy of 'inner necessity' over formal rules: 'the artist is not only entitled but obliged to treat forms in the manner necessary for his purposes'[2]. By traditional standards, such statements were undoubtedly revolutionary. Yet in a non-totalitarian society the works of art which sprang from them were unlikely to fall foul of the law. The artists who did risk active persecution were those who, although often much more conventional in technical terms,

1 Robert Schmutzler, <u>Art Nouveau</u> (New York, 1962), p. 193.
2 Vassily Kandinsky, <u>Über das Geistige in der Kunst</u> (6th edn., Bern-Kümpliz, 1959), p. 133.

flouted conservative taboos by their provocative choice of subject-matter.

The rejection of 'Familienblattköcherei' and the demand for truth contained in the first number of Die Gesellschaft[1] led in practice to a headlong invasion of the darker side of human existence. Hauptmann, Conradi, Kollwitz, Baluschek and a host of others concentrated on the most disturbing aspects of an increasingly problematical mass society. Alcoholism, prostitution, disease and grinding physical labour were depicted with a candour which affronted conventional sensibility: Conrad's description, in his novel Was die Isar rauscht (1887), of a police doctor examining a prostitute was still being cited against him in 1913[2]. Although the love-affair with degradation had begun to pall by the mid-1890's, interest in sexuality persisted for the rest of the pre-war period. Here too, traditional taboos were shattered at every turn. Max Halbe and Frank Wedekind explored the stresses of puberty; Heinrich Mann described the destructive power of uncontrollable passion; painters like Hugo von Habermann and Franz von Stuck cultivated an untroubled, ornamental eroticism which was communicated to a mass public by Jugend and other illustrated papers. The researches of Richard Krafft-Ebing, Oskar Moll and Magnus Hirschfeld attracted writers to problems of sexual behaviour which had previously been unmentionable[3]; and the devouring female vampires of Munch and Strindberg challenged traditional dogmas about relations between the sexes in Germany as well as in Scandinavia.

1 'Zur Einführung', Die Gesellschaft, I, Jan. 1885, pp. 1-3.
2 Otto von Erlbach (Armin Kausen), 'Auch eine antiklerikale "Kulturtat"', Allg. Rund., X/5 (1 Feb. 1913).
3 See Hamann & Hermand, Naturalismus, pp. 72-81; also the useful survey in Roy Pascal, From Naturalism to Expressionism. German Literature and Society 1880-1918 (London, 1973), pp. 229-255.

Such developments had a predictable impact on conservative opinion. Even more than the explicitly political pronouncements of some members of the avant-garde, although these were not ignored by the authorities, the work of modern artists was regarded as a fundamentally subversive phenomenon. 'If art contents itself with making misery more repulsive than the reality' proclaimed Wilhelm II in December 1901, 'it is committing treason against the German people'[1]. By supposedly weakening marriage and family life, the new wave of eroticism threatened the stability of German society; by corrupting youth, it jeopardized the nation's military strength. It was therefore on a par with commercial pornography and Socialist propaganda (significantly, many morality campaigners made little distinction between the two[2]) and had to be vigorously resisted. Harassment of modern artists therefore went on throughout the 1890's, ranging from the closure of Munch's Berlin exhibition in 1892[3] to Wilhelm II's discrimination against Gerhart Hauptmann and Käthe Kollwitz[4]. But the publication of the Centre Party's own revised version of the Lex Heinze in the late autumn of 1897[5] created the prospect of a full-scale onslaught.

The new Bill was a combination of the original Lex Heinze and the additions demanded by the 1893 committee. It therefore

1 Balfour, The Kaiser and his Times, p. 162.
2 See for example Stöcker's violent attack on Bebel's Die Frau und der Sozialismus in the Reichstag on 13 March 1900: VdRT X Leg. Per., I Sess. 1898/1900, p. 4658.
3 J.P. Hodin, Edvard Munch (Berlin & Mainz, 1963), p. 64.
4 Otto Nagel, Käthe Kollwitz (London, 1971), pp. 26-28.
5 VdRT X Leg. Per., I Sess. 1898/1900, Anlagen Bd. I, nr. 31, 7 Dec. 1898, pp. 179-180.

included, among other things, a proposal to raise the age of consent for girls (Art. 182); the employer paragraph (Art. 182a); and substantial extensions to Paragraph 184. But although this version formed the basis of the new morality legislation demanded by the Right, some time elapsed before it assumed its most radical form. As its Bill was not dealt with in the summer of 1898, the Centre brought in an even stricter draft in December; and in February 1899 yet another version was put forward by the Government[1]. As this second official Bill was basically similar to its predecessor of 1892, it soon became obvious once again that the Government's proposals were not nearly strong enough to satisfy the radicals. The committee which met to compare the two new Bills substituted extremism for moderation at almost every stage[2]; and the trend continued during the second reading in January and February 1900. By 7 February, when the debate closed in order to make way for Tirpitz's Navy Bill, the process of intensification had reached its climax[3].

This was particularly true of the obscenity clauses. The crucial formula contributed by the Bavarian Government had appeared in one form or another in every version of the Bill, and in the course of time its scope had been widened more and more. By the end of the second reading, a separate Paragraph 184a threatened up to 6 months' imprisonment or a fine of 600 Marks for anyone who

> 'offers or hands over for gain to a person under 18, or for purposes of trade or with the intention of offending

1 Loc. cit., Bd. II, nr. 112, 3 Feb. 1899, pp. 988-992.
2 Loc. cit., Bd. III, nr. 312, 10 May 1899, pp. 2087-2121: Bericht der XI. Kommission.
3 Loc. cit., Bd. V, nr. 571, 7 Feb. 1900, pp. 3629-3637.

> feelings of modesty displays or posts up in public streets, squares or other public places, in a manner liable to cause annoyance, writings, pictures or representations which, without being obscene, grossly offend the sense of modesty and morality'.

Furthermore, in spite of strong protests from the Government, the Centre had insisted on inserting a Paragraph 184b which imposed even greater penalties on anyone who put on, directed or took part in a stage performance of any kind which offended the public's feelings of modesty and morality.

So far, one of the most curious features of the Lex Heinze's history had been the Bill's limited impact outside the left-wing[1] parties in the Reichstag and a small section of the avant-garde. But between 7 February and the beginning of the final reading on 13 March, the so-called 'art and theatre paragraphs' began to have a dramatic effect on educated public opinion. A protest by the Verein 'Berliner Presse' on 28 February against a supposed threat to 'the entire intellectual and artistic development of the German people'[2] was followed by a spate of packed public meetings in Berlin and other cities. One of the most spectacular took place in the Munich Bürgerbräukeller on 7 March. It began with a speech by Georg Hirth, the proprietor of Jugend and of Munich's largest newspaper, the Münchener Neuesten Nachrichten, who told an audience of about 2,500 people that they would send a protest of unmistakable clarity to Berlin. Conrad then delivered a passionately anti-clerical tirade which ended with the promise

1 'Left-wing' refers throughout this chapter to the S.P.D., the Freisinnige Volkspartei, the Freisinnige Vereinigung and the Deutsche Volkspartei. The National Liberals supported the Bill until the 3rd reading.
2 Copy in GStAM, MA 76 787.

that, 'like the Boers, we shall fight or go under, we shall never give in'. Later, Professor Lipps proclaimed his misgivings about the 'incorruptibility' of the German judges[1], while Georg von Vollmar pledged the support of Social Democracy against this new attempt to limit freedom. The evening finally came to a close with some perilous impromptu remarks by the literary lawyer Max Bernstein about All-highest pronouncements on art: they were prepared to take lessons on aesthetics from Michelangelo, Shakespeare and Goethe, he declared, but not from people who sat on thrones[2].

Although it had taken so long to make itself felt, anxiety about the possible misuse of Paragraphs 184a and 184b was more than understandable in view of recent events. To anyone who remembered the debates on the Umsturzvorlage, or considered the problems of Majestätsbeleidigung and grober Unfug (both of which were cited again and again during 1900[3]), terms like öffentlich, gröblich, Aergernis and Schamgefühl must have seemed dangerously imprecise; and Hermann Roeren and the other judges[4] who supported the Lex Heinze certainly interpreted them widely enough. 'The aim [of the Bill]' wrote Wolfgang Heine as early as May 1899, 'is simply to remove any kind of backbone from the law and to clear away the last barriers against the denunciatory fury of salacious prudery'[5].

1 See above, Chap. I, p. 36.
2 StAM, Pol. Dir. 24b 18/127: police report of 8 March 1900; Allg. Ztg., 8 March 1900.
3 See for example Conradi, 'Die "Lex Heinze" und der "grobe Unfug". Ein Misstrauensvotum für den deutschen Richterstand', Preussische Jahrbücher, C/3 (June 1900), pp. 481-488.
4 For example Peter Spahn, Adolf Gröber and the Bavarian Franz Xaver Lerno, all prominent Centrists.
5 'Reaktionäre Tendenzen in der Kriminalpolitik', Sozialistische Monatshefte, III/5 (May 1899), pp. 214-222.

These views were developed with great eloquence during the protest campaign by Heine himself, Georg von Vollmar and the leading Liberal opponent of the Bill, Ernst Müller-Meiningen. Yet they were by no means confined to men of the Left. On the contrary, one of the most remarkable features of the movement was the support it attracted from lawyers, academics and some of the most conservative pillars of the Wilhelmine cultural establishment. The reason for this was the extremism of the morality campaigners, whose definition of indecency extended in many cases not only to eroticism but also to nudity in almost any form. 'If this spirit' claimed the Munich Academy of Arts in a petition to the Bavarian Government,

> 'which can even find something immoral in the masterpieces of a Michelangelo or Rubens, should ever become dominant, then the freedom of German artistic creation will be destroyed and our people given over to the justified ridicule of all other nations'.

The petition ended by questioning whether, if Paragraph 184a became law, the Government would still be capable of protecting the freedom of art and the basis of artistic study at the Academy[1]. These fears were shared by many prominent artists elsewhere in Germany, including Adolph von Menzel, the sculptor Reinhold Begas and the notoriously conservative Director of the Prussian Academy of Arts, Anton von Werner[2]. They were not dispelled even when the Reich Justice Secretary explained the purpose of the Bill to a special deputation of distinguished artists and scholars[3].

1 GStAM, MA 76 787: Kgl. Akademie der bildenden Künste to MKu von Landmann, 9 March 1900.
2 AStAM, MKu 19 101: copy of protest of the Allgemeine deutsche Kunstgenossenschaft against the Bill, which was signed by von Werner.
3 VdKT X Leg. Per., I Sess. 1898/1900, Bd. VI, 13, 15 March 1900, pp. 4640, 4715-4716. The deputation included Menzel, Reinhold Begas, Sudermann and Theodor Mommsen.

It was in Munich that the common concern of both conservative and radical intellectuals first became an alliance. This was not surprising: here, probably more than in any other German city, conflicts between the older generation and the avant-garde were offset by innumerable social links and by a fundamental solidarity in the face of threats from outside. The large red posters which announced the 7 March meeting carried an appeal endorsed by almost every section of the intellectual community: neo-classical Epigonen like Paul Heyse and Hermann von Lingg made common cause with their erstwhile opponents Julius Schaumberger, Karl Henckell, Bierbaum and Conrad; the conservative portrait-painter and establishment grandee Franz von Lenbach with Corinth, Slevogt and the Simplicissimus cartoonists Bruno Paul and Ferdinand von Reznicek; a bevy of academics with Socialist or ex-Socialist journalists like Eduard Fuchs and Edgar Steiger[1]. A week later, the coalition was given concrete form by the creation of a new society - defiantly entitled the Goethebund[2] - which was dedicated to 'protecting the freedom of art and learning in the German Empire against attacks of every kind'[3]. This too was a combination of young talent and established status. While Heyse, Lingg and Lenbach were content to serve as respected figureheads, the executive committee embodied all that was liveliest and most experimental in the city: Max Halbe, the Chairman, whose play Jugend had been one of the theatrical sensations of the 1890's; Georg Hirth,

1 Posters in StAM, Pol. Dir. 24b 18/127. As editor of the Socialist Neue Welt, Steiger had been heavily attacked at the 1896 Gotha Congress because of his bias towards Naturalism; he later became an editor of Simplicissimus.
2 Clerical distaste for much of Goethe's work was well-known: see Pascal, From Naturalism to Expressionism, p. 199.
3 StAM, Pol. Dir. 24a I 100/3315: note of 21 March 1900.

whose paper of the same name had become an important outlet for the work of young artists; Otto Falckenberg, who was to be one of the founders of the Elf Scharfrichter cabaret the following year; and the young publishing executive Korfiz Holm, who ran the business side of the Goethebund from the offices of Simplicissimus[1]. Munich's example was rapidly followed, and within a few weeks branches of the Goethebund had been founded all over Germany.

In the meantime, the progress of the Lex Heinze had reached a critical stage. In preparation for the final reading, the Bill's conservative and clerical supporters had substituted a compromise version which lessened the danger of an ultimate veto by the Bundesrat but strengthened the impression that the art and theatre paragraphs were the fundamental objective[2]. When the debate re-opened, the eloquence of the opposition seemed powerless against the relentless pressure of the majority; and it was predicted that by the evening of the third day, 15 March, the whole of the Lex Heinze would be safely through the Reichstag[3].

But this was not to be, largely because of the initiative of the Social Democrats. Apart from committed intellectuals like Heine and Vollmar, the S.P.D.'s attitude to the protest movement seems to have been one of indifference mingled with Schadenfreude: Die Neue Zeit, for example, commented that if the Lex Heinze did become law it might help to increase artists' political awareness[4]. Yet the Party was naturally against the

1 Loc. cit.: Max Halbe to Pol. Dir., 15 March 1900.
2 GStAM, MA 76 787: Bundesrat Commissioner von Schnell to Crailsheim, 19 Feb. 1900. They insisted on retaining a modified 184b, in spite of government opposition.
3 Loc. cit.: Ambassador Lerchenfeld to Crailsheim, 15 March 1900.
4 'Die Revolte der Künstler', Die Neue Zeit, XVIII, i, 7 March 1900, pp. 737-740.

Bill as a whole; and at the eleventh hour its ingenious obstruction tactics brought the debate to a standstill. Two crucial factors made this possible: on the one hand, the National Liberals disliked the new version of the Bill and withdrew their original support[1]; on the other, there was a significant number of absentees from the ranks of the majority parties[2]. From the afternoon of the 15th onwards, this situation began to be brilliantly exploited by the opposition, who relentlessly prolonged the proceedings with a mass of amendments and then walked out in order to make the House inquorate. After more than two days of deadlock and confusion, the end finally came late on the 17th: amid scenes of frantic excitement, the President was forced to suspend the debate in order to make way for the Reich budget[3].

Even before this remarkable climax, a subsidiary drama had begun to develop in Munich. Although still in favour of Paragraph 184a, the Bavarian Government had become increasingly concerned about the growth of the protest movement. Bavarian patronage policy was very liberal by contemporary German standards and ministers' own links with the artistic community were close and genuine[4]. It was therefore highly embarrassing that a proposal which had originated in Bavaria was now being denounced by Munich artists as a mortal threat to their freedom. On the other hand, just as Bavarian intellectuals were in the forefront

1 See the speech by Bassermann, VdRT X Leg. Per., I Sess. 1898/1900, Bd. VI, 13 March 1900, pp. 4638-4642.
2 Some Conservatives and Free Conservatives had also voted against Para. 184a in February. See Lex Heinze. Von ***. Bibliothek für Politik und Volkswirtschaft, ed. Prof. Bieber & C.A. Patzig, Heft 3 (Berlin, 1901), p. 37.
3 VdRT X Leg. Per., I Sess. 1898/1900, Bd. VI, p. 4788.
4 The state purchased pictures by Stuck and Uhde in spite of clerical disapproval and after 1895 also patronised members of the Secession. Ministers were usually well represented at the numerous festivals and anniversaries involving the artistic community.

of the campaign against Paragraph 184a, the Bavarian members of the Centre Party were among its most militant supporters, so that any change of course on the part of the Government would mean an immediate political storm. The best solution was to stay out of the controversy for as long as possible; and on 9 March (the day on which the Academy sent in its petition), the Bavarian ambassador in Berlin, Lerchenfeld, was told that ministers had still not decided how far the protest movement would affect their final attitude to the Bill[1].

A week later, however, Lerchenfeld nevertheless plunged the Bavarian Government into precisely the kind of crisis it had hoped to avoid. On 15 March, under strong pressure from the Reich Government, the ambassador spoke in the Reichstag in favour of Paragraph 184a, yet so ineptly that he appeared to be endorsing the most serious objections to it[2]. This brought a predictable outcry from Munich intellectuals and from the Liberal press which was intensified by the revelation of Paragraph 184a's Bavarian origin. But a few days later the situation was further complicated by an article in the Augsburger Abendzeitung claiming that Lerchenfeld had spoken without instructions[3]. This was widely - though mistakenly - regarded as a semi-official disavowal of the ambassador by the Government, and provoked cries of betrayal in the more extreme Centre papers, which threatened dire consequences if ministers gave way to a tiny minority of intellectuals instead

1 GStAM, MA 76 787: Crailsheim to Lerchenfeld, 9 March 1900.
2 VdRT & Leg. Per., I Sess. 1898/1900, Bd. VI, p. 4727; M.N.N., 16 March 1900, nr. 127. Lerchenfeld explained his conduct to Crailsheim in letters of 15, 17, 22 and 25 March, in GStAM, MA 76 787. The member of the Bavarian delegation who usually dealt with criminal legislation was away on leave.
3 Augs. Abdztg., 21 March 1900.

of respecting the wishes of the 'real' Bavarian people[1]. Finally, an explanation for Lerchenfeld's speech was also demanded by the Prince Regent, who prided himself on carrying on the Wittelsbach tradition of generosity towards the arts, and who may well have been stirred into action by his friends in the Munich artistic community[2].

All this was very significant because, for reasons which will be discussed shortly, the Lex Heinze episode had more important implications in Bavaria than anywhere else in Germany. As the Prime Minister, Baron Friedrich Krafft von Crailsheim, had predicted[3], however, the immediate storm blew over, partly owing to the Government's skill in putting off any definite commitment. In his memorandum to the Regent, Crailsheim acknowledged the strength of the protest movement but did not fail to mention its 'very unpleasant cooperation with the Social Democratic Party'[4]; and during the three days of debate which took place in the Chamber towards the end of April, in which no fewer than four ministers took part, the Government stoutly defended Paragraph 184a, yet indicated at the same time that there were other clauses which might lead it to vote against the Bill as a whole[5]. In the end, however, the problem was solved by events outside Munich.

After the tumultuous scenes of 17 March, many people believed

1 For example, Augs. Postztg., 27, 29 March 1900.
2 GStAM, MA 76 787: Crailsheim to Prince Regent, 28 March 1900. Both Ferdinand von Miller, the Director of the Munich Academy, and the former Director, F.A. von Kaulbach, who played an active part in the Goethebund, were among the Regent's regular hunting-companions.
3 GStAM, Ges. Berlin 1071: Crailsheim to Lerchenfeld (draft), 29 March 1900.
4 GStAM, MA 76 787: Crailsheim to Prince Regent, 28 March 1900.
5 VdKdAbg 1899/1900, Bd. IV, 19-21 April 1900, pp. 4-72; see particularly Crailsheim's speech on 19 April, pp. 14-17.

and the Bavarian Government evidently hoped[1] - that the Lex Heinze would never be revived[2]. Chancellor Hohenlohe was known to be strongly against it[3]; the Prussian and Reich Governments were interested above all in securing the naval legislation[4]; and the Conservatives feared awkward Socialist amendments to safeguard the morality of rural workers[5]. Nevertheless, the Centre Party was still firmly in favour of the Bill and there was widespread reluctance to admit defeat in the face of 'brutal' minority obstruction[6]. Roeren and the morality organisations all over the country kept up a barrage of propaganda during the Easter recess[7]; and on 17 May the Lex Heinze's interrupted final reading was resumed in the Reichstag.

In the meantime, opposition to the Bill remained as militant as ever. In Munich, mass meetings were held by the Demokratische Verein on 15 March, by the S.P.D. a week later and by the Verein liberaler Wähler on 5 April[8]. Most spectacular of all was the Goethebund meeting in the Kindlkeller on the 7th, at which Hermann Sudermann, who had been specially invited from Berlin for the occasion, promised an enraptured audience that North and South would fight shoulder to shoulder in the struggle[9]. Important

1 See for example GStAM, MA 76 787: MJu von Leonrod to MKu von Landmann, 25 March 1900.
2 Loc. cit.: Lerchenfeld to Crailsheim, 25 March 1900.
3 Ibid. Hohenlohe's attitude is shown clearly in Fürst Chlodwig zu Hohenlohe-Schillingsfürst: Denkwürdigkeiten aus der Reichskanzlerzeit, ed. K.A. von Müller (Stuttgart & Berlin, 1931), pp. 560-563, 569, 572.
4 GStAM, MA 95 981: Lerchenfeld to Crailsheim, 18 May 1900.
5 GStAM, MA 76 787: Lerchenfeld to Crailsheim, 25 March 1900.
6 See the speech by Lerno in the Chamber on 21 April: VdKdAbg 1899/1900, Bd. IV, p. 64.
7 See Roeren's anonymous pamphlet Die Lex Heinze und ihre Gefahr für Kunst, Litteratur und Sittlichkeit; and the numerous petitions in AStAM, MKu 19 101.
8 Cuttings and police reports in StAM, Pol. Dir. 24b 18/127.
9 GStAM, MA 76 787: police report of 8 April; M.N.N., 10 April 1900, nr. 168.

progress was also being made elsewhere. The Berlin branch of the Goethebund had been founded amid great enthusiasm on 25 March and its petition against the Bill gave some idea of the size of the protest movement: those who signed included not only leading figures in publishing, journalism, art and academic life but also the shipbuilding firm of Blohm & Voss, the electrical magnate Emil Rathenau and Wilhelm II's friend, the shipowner Albert Ballin[1]. All this belied the claim, much canvassed by supporters of the Lex Heinze, that the campaign was simply the invention of an utterly unrepresentative group of politically interested men.

It is impossible to say what effect public protest on this scale might have had on the Bundesrat's final decision. In the event, the fate of Paragraph 184a was settled in the Reichstag. Vollmar had already threatened that if the Lex Heinze were revived, the obstruction tactics would be resumed[2]; and the new debate therefore became bogged down almost as soon as it had begun. In spite of dire threats in the Centre press, the majority parties had still not succeeded in mustering all their supporters, and the National Liberals did all they could to support the opposition without actually taking part in the obstruction. By the evening of Saturday, 18 May, it was clear that some kind of compromise had to be reached. The President therefore postponed the next session until the 22nd and convened the Reichstag's long-disused Seniorenkonvent as a means of starting all-party negotiations[3].

The result was a face-saving formula for the Right which

1 Printed in Reden, gehalten im Festsaale des Berliner Rathauses, 25 März 1900 (Berlin, 1900).
2 VdKdAbg 1899/1900, Bd. IV, 20 April 1900, pp. 32-33.
3 See VdRT X Leg. Per., I Sess. 1898/1900, Bd. VII, 17, 18 May, pp. 5537 ff., 5689 ff.; and GStAM, MA 95 981: Lerchenfeld to Crailsheim, 18, 20, 22, 25 May 1900.

barely concealed a resounding victory for their opponents. By common consent, the current version of the Lex Heinze was to be dropped in favour of a new one, to be introduced by the Centre deputy Count Hompesch. As all the other clauses were to remain unaltered, Paragraphs 184a and 184b were the sole point at issue, with the S.P.D. still opposing the extended definition of obscenity and the Centre determined to retain it. As the Left was unwilling to continue its obstruction tactics indefinitely[1], however, a compromise was at last achieved. While the theatre paragraph disappeared completely, 184a became simply a clause banning the sale of indecent material to young people under 16 - probably the most harmless application of the original formula which could have been found in the circumstances. Although it was not until midnight on the 21st that the last Bavarian die-hards had given way, agreement had been safely reached by the time the public debate began again the following day. After the old Bill had been unanimously removed from the agenda, the new one was distributed amid general good humour. The product of more than eight years of controversy now passed through all its stages in the space of a few minutes, opposed only by the Left Liberals and the S.P.D. On 25 June 1900, what was left of the Lex Heinze finally became law[2].

On 30 May, the Goethebund held a lavish celebration banquet

1 The S.P.D. evidently feared that it might provoke a Staatsstreich. See Wolfgang Heine, 'Obstruction', Sozialistische Monatshefte, IV/4 (April 1900), pp. 161-165.
2 RGBl. 1900, p. 301. For the final stages of the Bill, VdRT u. Leg. Per., I Sess. 1898/1900, Bd. VII, 22 May, pp. 5691 ff.; GStAM, MA 95 981: Lerchenfeld to Crailsheim, 22, 25 May 1900.

in the Kindlkeller attended by 1000 people. Amid general euphoria, Hirth, Halbe and other leaders of the protest movement predicted that the action against the Lex Heinze would now be transformed into a general campaign for popular education which would not cease until Goethe had become the property of all Germans[1]. But public enthusiasm was short-lived: the movement subsided as suddenly as it had begun and the Munich branch of the Goethebund (in contrast to the branches in cities like Bremen and Königsberg) soon vanished into the limbo of forgotten societies. Even at the height of the campaign, noble passion had not always been most in evidence: the applause at one meeting was described by the police as 'a disorderly hullaballoo, of the kind one expects when Salvator is being served'[2]; and the dramatist Joseph Ruederer, whose unsentimental views on Munich life earned him a good deal of unpopularity, saw the whole episode as a typical Gaudi, a chance to indulge the traditional weakness for founding clubs and holding meetings in an atmosphere of alcoholic exuberance[3]. Much the same could have been said of the pro-Boer campaign which was going on at the same time, in the same style and with many of the same supporters[4]. Beer and frivolity apart, however, the Lex Heinze affair was by no means a trivial incident. Like similar debates later on, it not only had a direct bearing on art and letters in Munich, but also illustrated underlying changes in Bavarian politics which had serious implications for the city's

1 StAM, Pol. Dir. 24a I 100/3315: police report of 31 May 1900.
2 StAM, Pol. Dir. 24b 18/127: Regierungsrat Schoedtl to Pol. Dir., 6 April 1900.
3 Stadtbibl., Nachl. Ruederer: typescr. article 'Los von Berlin', printed in Der Tag, 27 Oct. 1901; see also Ruederer's book München (Stuttgart & Munich, 1907).
4 See reports of meetings in StAM, Pol. Dir. 959. Among those involved were Conrad, Hirth, Quidde, Vollmar and Lenbach.

cultural future.

For many people in Munich, the defeat of Paragraph 184a had been a matter of the most vital concern. Its most obvious potential victims were artists, who were seriously threatened by the possibility that the courts might define major art exhibitions like those sponsored by the Secession and the Künstler-Genossenschaft as 'public' in the sense of the law. Then there were Munich's two most famous illustrated papers, Jugend and Simplicissimus: both were constantly denounced by conservatives as subversive and pornographic; both relied heavily on display in shops and bookstalls; and in 1900 neither was yet very profitable. Quite apart from other considerations, therefore, their unremitting campaign against the Lex Heinze was dictated by the need to survive. Finally, whatever their attitude towards original works of art in museums and galleries, the morality reformers clearly meant Paragraph 184a to prevent the display of reproductions[1]. This was a direct threat to two important Munich firms, Hanfstaengl and Bruckmann, which were in the forefront of the flourishing chromolithographic industry. In fact, one of Bruckmann's subsidiaries, the Photographische Union, had acquired exclusive rights for all works painted by Arnold Böcklin, whose playful and very naked mermaids and water-nymphs were much disliked by the Bavarian Centre Party[2]. It was therefore no accident that at least one Bruckmann representative signed the national

1 See Müller-Meiningen's speech in the Reichstag on 15 March 1900, VdhT d. Ges. Ver., I Sess. 1898/1900, Bd. VI, p. 4711.
2 Theodor Goebel, 'Die Verlagsanstalt F. Bruckmann A.-G. in München', Zeitschrift für Bücherfreunde, IV (1900), pp. 73-92; and see the speech by Lerno on 21 April 1900: VdhdAbg 1899/1900, Bd. IV, p. 63.

petition against the Bill[1].

Closely bound up with the survival of these particular interests was the larger - and by no means new - question of Munich's status as a German Kunststadt. In the mid-19th century, in spite of the unkind (though characteristically penetrating) remark by the Goncourt brothers that it was 'an ale-house in the middle of a papier-mâché Parthenon'[2], the city was regarded, and regarded itself, as one of the major European art centres. From about 1870 onwards, however, its position began to be eroded. The Franco-Prussian War destroyed some promising contacts with French art and was followed by a long period of domination by conservative autocrats like Franz von Lenbach[3]; and by the time new movements began to appear in the 1890's, there was already serious competition from other German cities, especially Berlin. Munich's fundamental weakness was economic: its lack of enormous wealth hindered the creation of major private art collections and meant that large-scale patronage was left to the state, which tended to favour a small group of established figures[4]. However pleasant life might be for the beginner or dilettante, therefore, there were few opportunities for the mature artist hoping to make a career; and from at least the late 1890's onwards, there was a steady exodus of talent to other places .

By the turn of the century, this situation was causing serious concern, so much so that in 1902 a number of prominent German

1 See list of signatures appended to Reden, gehalten im Festsaale des Berliner Rathauses, 25 März 1900.
2 Edmond and Jules de Goncourt, Journal. Mémoires de la Vie Littéraire, Tome I: 1851-1863 (Paris, 1956), p. 808 (entry of 18 Sept. 1860).
3 For a general survey, see Hermann Uhde-Bernays, Die Münchener Malerei im 19ten Jahrhundert. Teil II: 1850-1900 (Munich, 1927), pp. 161-171.
4 See Wilhelm Weigand, Welt und Weg. Aus meinem Leben (Bonn, 1940), pp. 309-311.

intellectuals were asked whether they believed that Munich was in decline. Although Conrad and others denied this, Max Liebermann commented drily that the question itself indicated the answer, since no-one would have thought of asking it five or ten years earlier[1]. In retrospect, it is not easy to decide how far contemporary fears were justified. Clearly the growth of other centres did not turn Munich into a backwater overnight: the appearance of the Secession movement, the Vereinigten Werkstätte, the satirical papers and the Neue Künstlervereinigung indicated at least a certain amount of vitality; and in 1907, the absolute number of painters and sculptors living in Munich was still greater than in Berlin[2]. What is clear, however, is that the Lex Heinze and all that it stood for represented an additional threat at a time when Munich's accustomed status was being called in question.

Although the problem of money was crucial, the problem of freedom was also very important. In spite of grober Unfug, Majestätsbeleidigung and Paragraph 166, local patriots were probably justified in claiming that one of Munich's major assets was its comparatively relaxed atmosphere: the secret of the city's vitality, wrote Conrad in 1895, was the coexistence of so many disparate elements in a climate of mutual toleration[3]. The presence of a minority of eccentrics, recalled the 'gentleman-anarchist' Erich Mühsam, made the population as a whole less hide-bound - people did not turn round in the street at the sight of

1 Eduard Engels, Münchens Niedergang als Kunststadt. Eine Rundfrage (Munich, 1902), p. 12.
2 This emerged from the census of 12 June 1907: Statistik des deutschen Reichs. Neue Folge Bd. 209 (1910), pp. 47, 442.
3 'Münchener Frühlings-Wunder', Die Freie Bühne, VI (1895), pp. 503-507.

long hair or other peculiarities[1]. This was true above all of the northern suburb of Schwabing, which from about the late 1880's onwards became a symbol of emancipation from bourgeois conventions, a breeding-ground for new ideas and the scene of sometimes bizarre experiments in living. Later on, after three decades of war, dictatorship and economic crisis, Schwabing life during the Prinzregentenzeit often tended to be idealized. In fact, as the pathetic begging letters in Max Halbe's Nachlass show very clearly[2], existence there was often far from idyllic; and long before the outbreak of war, the place itself was beginning to suffer from tourism and commercialization. At its best, however, Schwabing was neverthless an oasis of anti-authoritarian thought and easy-going tolerance: as will be seen later on, academics, civil servants and the inhabitants of what had once been an ordinary Bavarian village lived side by side with Russian émigrés, radical psycho-analysts, and a number of individuals 'who in appearance and manners opposed a truly nihilistic scorn to all West European conventions'[3].

All this was undoubtedly threatened by the forces behind the Lex Heinze, which did not disappear when the Bill itself was emasculated. On the contrary, the whole debate emphasized one fundamental fact: that Munich was an island of international culture in a sea of Catholic peasants, whose representatives in Parliament detested Schwabing and all its works and regarded the

1 Mühsam, Namen und Menschen, p. 112.
2 Stadtbibl., Halbe Archive, especially the letters from Ludwig Scharf; and see also Karl Ude, 'Glanz und Elend des Literaturbetriebes um 1900. Nach Dokumenten aus Max Halbes unveröffentlichtem Nachlass', Welt und Wort, xvii. (1962), 271-274.
3 Mühsam, Namen und Menschen, p. 110; and see below, Chap. V.

post-Nietzschean intelligentsia as a danger to the moral, spiritual and political health of the nation. This, of course, was not completely new. What made the events of 1900 especially ominous, however, was the fact that the dykes which had formerly protected the Munich intellectual community from innundation were now beginning to crumble.

One of the most obvious symptoms of political change was the weakness of Bavarian Liberalism, which had traditionally served as a bastion of intellectual freedom. In fact, the Liberal parties were less at odds with each other in Bavaria than in the Reich[1]; but their heavy dependence on the educated urban middle classes put them at an increasing disadvantage in an age of modern mass politics. On the one hand, industrialisation meant a growing threat from Social Democracy: the first Bavarian Socialist was elected to the Reichstag in Nuremberg in 1881 and the second - Georg von Vollmar - in Munich three years later[2]; and in 1893, five Socialists entered the Bavarian Chamber of Deputies. On the other hand, the Centre Party was adapting itself with surprising success to new political realities. Although the Bavarian agricultural crisis and the appearance of the radical Peasant League seemed to threaten its position in the early 1890's, the Centre reacted vigorously by building up its organisation among both peasants and workers; and by the end of the decade it had established itself as a broadly-based Volkspartei with convincing

1 At the turn of the century, National Liberals and Freisinnige were allied in the Chamber in the Liberale Vereinigung, though this broke up later on as some Left Liberals became more radical. See Joachim Reimann, Ernst Müller-Meiningen senior und der Linksliberalismus in seiner Zeit. Miscellanea Bavarica Monacensia Heft 11 (1968), pp. 83-85.

2 Franz Schade, Kurt Eisner und die bayerische Sozialdemokratie. Schriftenreihe der Forschungsstelle der Friedrich-Ebert-Stiftung (Hannover, 1961), pp. 18-19.

social policies. The effect of all this on the Liberals was disastrous: between 1887 and 1905, their strength in the Chamber fell from 71 seats to 22[1]; and it would certainly have sunk still further but for the peculiarities of the Bavarian electoral system[2]. In 1906, even this advantage was removed when the Centre and the S.P.D., after several years of cooperation for precisely this purpose, at last obtained a measure of franchise reform. Although the left wing of the Liberal movement revitalized itself to some extent in the years before the war, the ascendancy of cultivated middle-class patricians was certainly at an end.

Against this background, Liberal opposition to the Lex Heinze seems particularly interesting. One reason for fighting the Bill was the traditional and undoubtedly genuine desire to defend artistic freedom against prudery and obscurantism. But behind this, unmistakably, lay the idea of launching a classic anti-clerical campaign in order to revive Liberal prestige. Müller-Meiningen apparently hoped that the struggle against Paragraph 184a would be the beginning of a new Kulturkampf under Liberal leadership[3]; and at times the Liberals' contribution to the protest movement looked very much like an exercise in 19th century rhetoric designed to divert attention from their shrinking political base and their embarrassment at the prospect of constitutional reform. In any case, whatever hopes may have been

1 Axel Schnorbus, 'Wirtschaft und Gesellschaft in Bayern vor dem Ersten Weltkrieg', in Karl Bosl (ed.), Bayern im Umbruch. Die Revolution von 1918, ihre Voraussetzungen, ihr Verlauf und ihre Folgen (Munich & Vienna, 1969), p. 136.
2 For a detailed description of this system, see Karl Möckl, Die Prinzregentenzeit. Gesellschaft und Politik während der Aera des Prinzregenten Luitpold in Bayern (Munich, 1972), pp. 491-510.
3 Roeren, VdRT X Leg. Per., I Sess. 1898/1900, Bd. VI, 13 March 1900, p. 4635, (reporting a speech by Müller-Meiningen).

attached to the campaign were largely frustrated. Vollmar's activities showed that the Liberals could no longer even claim exclusive intellectual leadership; and the hesitations of the National Liberals in the Reichstag handed the tactical initiative unequivocally to the S.P.D. 'If ever there was a battlefield on which Liberalism could have proved its necessity and right to exist, it was here' wrote Hans Delbrück in the Preussischen Jahrbücher; but he was forced to conclude: 'Art, science and learning in Germany have had to take refuge under the wing of Social Democracy'[1].

Another objective of the Bavarian Liberals appears to have been to induce the S.P.D. to give up its collaboration with the Centre[2]; but here too they were disappointed. While Vollmar and his colleagues were genuinely concerned about art and literature, they were also determined to increase their share of political power: the prospect of franchise reform was well worth a temporary alliance with 'cultural barbarism' - although the chief beneficiary of the 1906 Electoral Law eventually turned out to be the Centre[3]. Altogether, the Lex Heinze episode did little to demonstrate Liberal vitality; and it boded ill for the future of artistic freedom in Munich.

Even more important than the decline of the Liberal Parties was the decline of the liberal Beamtenstaat. During the latter part of the 19th century, Bavaria was governed by a homogeneous and closely-knit group of career officials who were mainly North

1 'Die Beseitigung der Lex Heinze als Verdienst der Sozial-Demokratie', Preussische Jahrbücher, C/3 (June 1900), pp. 570-571.
2 This was indicated by some of the speeches made at the meeting of the Verein liberaler Wähler in München on 5 April 1900. See police report of 6 April in StAM, Pol. Dir. 24b 18/127.
3 See below, Chap. IV.

Bavarian and Protestant in origin and liberal-conservative in outlook. Their aim was to pursue liberal policies in church and cultural affairs, to integrate Bavaria into the German Empire and to maintain the state's independent position above parliamentary politics. Their chief opponents were the representatives of the Catholic majority of the population, who were unenthusiastic about unification and wanted more freedom for the Catholic Church. During the 1870's and 1880's, although the Patriot Party (renamed the Centre in 1887) often held an overall majority in the Chamber, the Government usually managed to keep it divided and avoid serious confrontation. But in the 1890's all this began to change. The Centre not only broadened its base and absorbed many of the radical currents in the population, but also showed an increased determination to use the Chamber's right to veto the budgets as a means of extending its power. From the elections of 1899 onwards, when the Centre regained its mastery in Parliament, the Government began to face growing pressure to make concessions on matters of personnel policy, education and, of course, art and morality[1].

The Centre's demands in themselves created quite enough problems for the Government. But the debate on the Lex Heinze, and especially the fierce reaction to Lerchenfeld's speech, showed that ministers were exposed to attack from more than one side. This was a pattern which was to re-appear again and again in subsequent years. It is essential to realize that the Government

1 For an up-to-date discussion of these developments, see Möckl, Prinzregentenzeit; and the same author's essay 'Gesellschaft und Politik während der Aera des Prinzregenten Luitpold. Ein Beitrag zur Vorgeschichte der Revolution in Bayern', in Bosl, Bayern im Umbruch, pp. 5-36.

itself and the Liberal parties in Parliament were only segments of a powerful 'establishment', which had a strong vested interest in preserving the existing system and which was resulutely opposed to any surrender to 'demagogic' groups like the Social Democrats or the Centre. This establishment consisted of well-to-do liberal citizens and landowners; the conservative Upper House (Kammer der Reichsräte) of the Landtag; the Regent's Geheimkanzlei, headed by Peter von Wiedenmann, which played an important political rôle throughout the period; a large number of influential artists and intellectuals; and the powerful Liberal press, especially Hirth's Münchener Neueste Nachrichten[1]. So if the Government resisted the majority in the Chamber, it risked serious obstruction; but if it seemed to give way (even for tactical purposes), it exposed itself to denunciation in public and intrigues behind the scenes. By the beginning of 1903, as will be seen later, von Wiedenmann and others close to the Regent seem to have decided that conciliation on a limited scale might be less dangerous than a policy of total inflexibility. Yet this idea was strongly resisted by many writers and journalists, who felt that Munich's reputation and their own freedom were at stake: they therefore continued to belabour the Government at every sign of weakness. This complicated political situation forms the background to the debates on satire, morality and theatre censorship which will presently be discussed.

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1 Möckl-Bosl, op. cit.

III

Satire and the Law in Munich: The Case of Simplicissimus (I)

As will be seen later on, the practical failure of the Lex Heinze did not put an end to demands for stricter laws against obscenity, but rather the reverse. Yet the question of obscenity was only one aspect of the much larger problem of controlling the press, which became increasingly difficult in the two decades before the war. During this time, there was an enormous increase in the number of publications and the number of readers; distribution became more rapid; above all, the status of journalists continued to rise and governments became increasingly reluctant to provoke criticism in the newspapers. This gradual change in the relationship between the state and the press could be illustrated in a number of ways. But in South Germany, where trial by jury provided an additional complication, the practical difficulties of press control were revealed perhaps most clearly of all by the career of the satirical paper Simplicissimus.

Simplicissimus has already been mentioned briefly in the context of the Majestätsbeleidigung paragraphs and the campaign against the Lex Heinze. In this and the following chapter, however, certain aspects of the paper's history up till the outbreak of war will be examined in considerable detail, and for three main reasons. In the first place, Simplicissimus' career is very well documented and provides an excellent opportunity not only to follow up some of the issues raised in Chapter I, but also to test how far press freedom was really hindered by the law in Bavaria in this period. Secondly, Simplicissimus specialized in political satire of a

high order; and the resulting clashes with the authorities cannot be explained without describing the political developments which form the background to the rest of this study. Finally, it is important to remember that freedom of expression, and especially freedom of the press, cannot be discussed solely in terms of legal restraints; and the last stage of Simplicissimus' pre-war history gives some insight into the conditions which even the most gifted satirist in Wilhelmine Germany had to fulfil in order to survive in an extremely competitive market.

The first number of Simplicissimus appeared on 1 April 1896. It was the creation of a 26-year-old publisher named Albert Langen, who had returned to Germany from Paris determined to make a new departure in German satire[1]. The time was certainly ripe: Kladderadatsch, Ulk, the Munich Fliegenden Blätter and other established satirical papers had a respectable following and some distinguished contributors; but they tended to be tame in content and old-fashioned in presentation. Langen saw that the political climate of the mid-1890's demanded a more hard-hitting kind of humour, and he was quick to exploit the latest technical developments: not only colour printing but also zinc etching, which was far better able to reproduce the curves and flourishes of contemporary illustration than the conventional woodcut. Much of this, of course, reflected the influence of Parisian journals like Gil Blas and the Assiette au Beurre, and the art of Chéret, Forain and Steinlen. But Simplicissimus soon developed a style and reputation of its own in much less favourable surroundings. In 1900, a special questionnaire elicited enthusiastic comments

1 For Langen's career, see Ernestine Koch, Albert Langen. Ein Verleger in München (Munich, 1969).

from Rodin, Mark Twain, Hauptmann, Tolstoy and other internationally famous figures[1]; and it was warmly praised by Maximilian Harden and wide sections of the German press[2]. Within a few years, unquestionably, Simplicissimus was one of the most brilliant papers of its kind in the world.

By its very nature, a paper like Simplicissimus was a collective undertaking, and one of the secrets of its success was Langen's talent for finding collaborators. Not all his discoveries were successful in the long run: Frank Wedekind, for example, the paper's first resident satirical poet, broke away after a series of violent disagreements; in fact, as will be seen later, the association was so traumatic that he wrote an embittered play about it several years later[3]. Nevertheless, Langen managed to assemble a brilliant team which kept the paper going for many years in spite of his own death in 1909. One of its most outstanding members was the cartoonist Thomas Theodor Heine, a co-founder of Simplicissimus who stayed with it until he was forced into exile in 1933. Like several of his colleagues, Heine had begun his career as a moderately successful painter, had then gravitated towards book-illustration and caricature, and had eventually joined Langen after a period with the Fliegenden Blätter. Although almost as touchy and difficult as Wedekind, he had considerable influence on the paper's early development and probably did more than anyone else to give it its distinctive appearance[4]. There were also others: Baron Ferdinand von Reznicek, a Viennese ex-cavalry officer whose sophisticated erotic

1 Their replies are printed in Øyvind Anker, Simplicissimus. En enquête år 1901 (Oslo, n.d.).
2 See press comments reprinted in Simpl., III/1 (April 1898); and Stadtbibl., Nachl. Thoma: Harden to Thoma, 24 Oct. 1901.
3 See below, Chap. VIII.
4 See Lothar Lang, Thomas Theodor Heine (Munich, 1970).

drawings were one of Simplicissimus' most valuable commercial assets; Bruno Paul, who specialized in almost equally indispensable military caricature; the Norwegian Olaf Gulbransson, in his early years perhaps the most brilliant contributor of all, who joined the paper in 1902 and stayed with it until its end in 1944; and finally Korfiz Holm and Dr Reinhold Geheeb, who managed the business side of the enterprise. In addition to this permanent nucleus, many other artists and writers contributed over the years, among them Hermann Hesse, both the Mann brothers, Karl Kraus, Ernst Barlach and Käthe Kollwitz - a distinguished company which raised Simplicissimus well above the level of humdrum political satire.

The similarities between Simplicissimus and Georg Hirth's Jugend, which had been founded three months earlier, have already been briefly indicated[1]. In the beginning, these were certainly striking: both papers made maximum use of advanced techniques; both had to overcome formidable financial difficulties before becoming profitable; and both reacted strongly against the gloom of Naturalism, the ornamental pessimism of the fin-de-siècle and the decorous mediocrity of the family journals. This, and their initial competition for both artists and readers, caused a good deal of rivalry between them. But it gradually diminished as each paper became firmly established and began to specialize in a different field: while Jugend remained essentially literary and artistic in emphasis, Simplicissimus concentrated more and more on political satire and replaced its comparatively weak literary section increasingly with advertisements. No doubt this explained one other crucial difference: although both Jugend

1 See above, Chap. II, p. 71.

and Simplicissimus aroused fanatical hatred in almost equal measure in clerical and conservative circles, the former rarely came into conflict with the law, whereas the latter was involved in one sensational trial after another. While both papers were at the centre of the general debate on art, freedom and morality, Simplicissimus is therefore of incomparably greater interest with regard to the relations between the press and the state[1].

In some parts of Germany at least, the satirist's profession was undoubtedly a risky one. This point was made very forcefully by Wolfgang Heine on 23 November 1907, during one of the Reichstag debates on Majestätsbeleidigung:

> 'Our adjudication', he said, 'has reached the stage where it declares: irony is always libel, ridicule is always libel; all jokes, all caricatures - whose very essence is one-sidedness and the exaggeration of individual characteristics, and which are for that reason strictly speaking both true and untrue at the same time - are measured with the yardstick of everyday factual evidence because, ultimately, they do contain a kind of truth' 2 .

From the beginning, Simplicissimus was subjected to attacks and harassment of every kind. 'Never has a paper in Germany been so bitterly persecuted by the Government' complained Langen to Vollmar in January 1898[3]. But it was not until October of that year, when Simplicissimus ridiculed Wilhelm II's much-publicized visit to Palestine, that the full weight of the law was felt. A front-page cartoon by Heine showed the ghosts of Godfrey de Bouillon and Frederick Barbarossa in Jerusalem during the Emperor's visit: 'There's no need to laugh so much, Barbarossa', de Bouillon

1 For the history of Jugend, see L. Koreska-Hartmann, Jugendstil - Stil der 'Jugend'. Auf den Spuren eines alten, neuen Stil - und Lebensgefühls (Munich, 1969).
2 VdRT XII Leg. Per., I Sess. 1907/1908, Bd. III, 23 Nov. 1907, p. 1741.
3 International Institute for Social History, Vollmar Papers 1231: Langen to Vollmar, 6 Jan. 1898.

was saying, 'After all, our crusades were pretty pointless too'. Inside was a poem by Hieronymus (Wedekind) lampooning the whole trip and especially Wilhelm's weakness for appearing in exotic costumes[1]. In view of what has already been said on the subject of Majestätsbeleidigung, the drastic reaction of the authorities in Leipzig (where Simplicissimus was printed) was hardly surprising: the whole issue was immediately confiscated, a Saxon examining magistrate arrived in Munich and seized compromising letters from the Simplicissimus offices, and criminal proceedings began. As a result, Heine was sentenced to 6 months' fortress confinement; Wedekind fled abroad, eventually gave himself up and suffered a similar fate; and Langen also fled and was only allowed to return in 1903, after paying a very large fine[2].

In addition to adding fuel to the debate about Majestäts-beleidigung, the Palestine case had important consequences for Simplicissimus. The enforced absence of Langen and Heine was very nearly disastrous; and in order to avoid still further damage, both printing and distribution had to be reorganised. It was a measure of Langen's inexperience that he had allowed the paper to appear at all in a state where the authorities were known to be severe, and where press cases were not tried by jury. 'As long as we are in Leipzig' wrote Langen's deputy, Holm, in March 1899, 'we always face the danger of being destroyed. The gentlemen there can do that if they feel like it. If they want to, it would not

1 Simpl., III/32 (Oct. 1898).
2 For accounts of the Palestine Affair, see Korfiz Holm, ich - kleingeschrieben. Heitere Erlebnisse eines Verlegers (Munich, 1932), pp. 79-100; and Artur Kutscher, Frank Wedekind. Sein Leben und seine Werke (Munich, 1922), ii. 18-26.

be difficult to lock us all up, one after the other'. Heine especially, he went on, would be loath to risk any more prosecutions; yet further 'insolence' was commercially indispensable[1]. The obvious alternative to Leipzig was Munich: most of Simplicissimus' collaborators lived there, press cases were tried by jury, and there was some reason to believe that Bavarian official attitudes might be more lenient[2]. As matters turned out, however, the move to Munich was only partial: for technical reasons, a suitable printer could not be found there, and so the task was eventually entrusted to the firm of Strecker & Moser (later Strecker & Schröder) in Stuttgart[3]. Even after the completion of the transfer on 1 September 1899, therefore, Simplicissimus went on being produced in two separate places, a fact which was to have interesting and unforeseen consequences later on.

The most important indirect result of the Palestine affair was the recruitment of Dr Ludwig Thoma to replace Wedekind as the paper's leading satirical poet. At this time, Thoma was a young lawyer who already regarded the law as 'the basest of all professions'[4] and was bent on a literary career. He was the author of a promising collection of short stories, had contributed to Jugend and was a close friend of several of the Simplicissimus artists. In the summer of 1899, he finally sold his practice, asked Langen for a job on the paper's permanent staff and was

1 Stadtbibl., Nachl. Holm: Holm to Langen, 22 March 1899 (copy).
2 In ich - kleingeschrieben, pp. 90-91, Holm claimed that the Munich police warned Wedekind in advance of their intention to arrest him.
3 See Stadtbibl., Nachl. Holm: Holm to Langen, 25 Aug. 1899 (copy).
4 Ludwig Thoma. Ein Leben in Briefen (1875-1921), ed. Anton Keller (Munich, 1963), p. 34 (cited henceforward as Thoma, Briefe).

accepted on the condition that he wrote regular satirical poems and contributed at least five jokes per month[1]. By March 1900 he had settled in so well that he was able to take over from an extremely harassed Korfiz Holm the arduous task of editing Simplicissimus.

Thoma was certainly a valuable acquisition. His satirical poems, written under the pseudonym 'Peter Schlemihl', helped to raise the text of Simplicissimus to the same level as its cartoons; and, as editor, he looked for new ways to increase circulation, boldly increased the price and made more space available for advertisements - measures which were mainly responsible for the paper's prosperity by the time Langen returned from exile. Yet of all those associated with Simplicissimus, Thoma was perhaps the most complicated and enigmatic. In spite of his provincial Bavarian background and unpolished exterior, he was sensitive, widely-read and surprisingly cosmopolitan in outlook. His humour was a mixture of schoolboy impudence - he enjoyed throwing squibs in trams[2] - and serious determination to expose and ridicule injustice, hypocrisy and bombast wherever they were to be found. Still more contradictory were his political views, which were a curious blend of robust anti-authoritarian liberalism and ingrained conservative prejudice: though sympathetic to the republicans of 1848, he was enthusiastic about war[3] and once described Rosa Luxemburg as a 'poisonous little Polish Jewess'[4].

1 Stadtbibl., Nachl. Holm: Holm to Langen, 2 Nov. 1899 (copy); see also the account by Thoma in Erinnerungen, Gesammelte Werke (Munich, 1968), 1. 164-179.
2 Ludwig Thoma - Ignatius Taschner. Eine bayerische Freundschaft in Briefen, ed. Richard Lemp (Munich, 1971), pp. 36-37 (cited henceforward as Thoma-Taschner, Briefe).
3 Thoma, Briefe, p. 43.
4 Ibid.

In September 1899, Holm had been taken aback by Langen's decision to employ him:

> 'Thoma' he wrote, 'is certainly one of the nicest people I know. But on the editorial staff - that seems to me more than dubious ... Thoma is very one-sided, an anti-Semite, an anti-Dreyfusite etc. and has a stubborn determination to put his convictions into effect. In addition to this, he takes a night-watchman's view in literary matters and declares, just to give one example, that anything written by a female is rubbish etc. I am afraid he is too much of a backwoodsman for Simplicissimus' 1 .

In fact, however, Holm's anxiety was misplaced. As will be seen later, Thoma's odd assortment of attitudes ultimately turned out to be exactly what Simplicissimus needed.

One of the first fruits of Thoma's editorship, and very much his own creation, was a kind of supplement to Simplicissimus called Der Burenkrieg, which violently attacked British conduct in South Africa. It was particularly interesting for two main reaons. In the first place, it showed Thoma's bitter hostility to what he regarded as British hypocrisy and self-righteousness - an attitude which characterized Simplicissimus for most of the pre-war period. Secondly, it illustrated the robust, sometimes brutal directness of Thoma's kind of satire. Much of the pamphlet, but especially a cartoon by Heine showing an English boy-soldier being decorated at Buckingham Palace for having raped eight Boer women, aroused considerable indignation in spite of the prevailing anti-British feeling. But Thoma stood his ground: replying to a critical letter from Langen's wife, Dagny Bjørnson, he claimed that the pin-pricks of 'refined satire' were entirely out of place in the raw atmosphere of politics. 'I do not want to confuse great things with small', he went on, 'but do you think the magnificent

1 Stadtbibl., Nachl. Holm: Holm to Langen, 15 Sept. 1899 (copy).

indecencies of Luther, Hutten, Rabelais etc. should rather have been left out just because they were coarse stuff [?] ... One must keep one's feet on the ground, really firmly. And one must hit hard'[1]. This was something fundamental to Thoma's outlook and it was the hall-mark of his greatest satirical creations, from Peter Schlemihl to the legendary Josef Filser. It also distinguished Simplicissimus sharply from its predecessors and helped to bring about the long series of clashes with the Bavarian authorities which now began.

Der Burenkrieg also illustrated some of the difficulties involved in dealing with satire. Although the Munich police considered the pamphlet offensive, it could not be confiscated except in conjunction with criminal charges, and the choice of these was limited. Paragraph 184 in its existing form was inadequate, and in April 1900 the problem of extending it was still unresolved. Der Burenkrieg hardly constituted grober Unfug, since attacks on the English royal family were no threat to the public peace in Munich. Paragraph 103, which punished libels of foreign sovereigns, did not apply because there was no reciprocal arrangement between Germany and England; and in any case, the idea of a Majestäts-beleidigung trial on behalf of Queen Victoria was clearly absurd. The only other alternatives were a ban on street sale and pressure on shopkeepers not to display Der Burenkrieg in their windows. Yet such measures were not only ineffective but actually counter-productive. The authorities had no power to order the removal of any display unless they intended to prosecute; and some shopkeepers either refused point-blank to cooperate or replaced the article as soon as the police had gone[2]. As for street traders,

1 Thoma, Briefe, p. 41.
2 See for example StAM, Pol. Dir., 3682; police report of 22 April 1900.

Paragraph 56/12 of the Reich Trade Regulations empowered the police to ban the peddling of any picture or publication liable to give offence on moral or religious grounds. But this regulation did not apply to 'fixed' businesses; and street sales seem to have played a much less important part in the distribution of Simplicisimus, Jugend and other satirical papers than the numerous small dairies, tobacconists and stationers scattered over the city[1]. Attempts to use Paragraph 56/12 against Simplicissimus, reported the Minister of the Interior to the Chamber in December 1903, simply increased sales because copies in the shops were marked with a red band bearing the word Kolportageverbot[2].

These obstacles made it very hard for the authorities to decide what to do about Thoma and his colleagues. At first, in fact, although Simplicissimus was closely scrutinized by the police, very little was done at all[3]. 'For some time', wrote the Munich Public Prosecutor in May 1903,

> 'Simplicissimus has given no cause for starting criminal proceedings, though admittedly among other reasons only because the regular failures before the jury in press cases made it necessary to be extremely careful and to avoid anything which could in the end only serve as an advertisement for the above-mentioned paper' 4 .

Quite apart from political considerations, however, the nature of Simplicissimus' satire made it impossible for the state to ignore it indefinitely. It was in precisely this kind of situation that the temptation to resort once again to Paragraph 360/11 became irresistible. Moreover, although the Bavarian Government accepted

1 This emerged from extensive inquiries made in the autumn of 1903. See StAM, Pol. Dir. 1110.
2 VdKdAbg 1903/1904, Bd. XII, 17 Dec. 1903, pp. 225-226.
3 Between 12 Oct. 1901 and 10 Sept. 1903, Simplicissimus was forwarded to the prosecuting authorities 14 times by the police, but proceedings seem to have followed on only one occasion. See StAM, Pol. Dir. 1110.
4 AStAM, MJu XII/23: I St. Anw. von Sartor to Oberstaatsanwalt, 16 May 1903.

the suggestion by the Reich Justice Office in March 1902 to limit the use of the grober Unfug clause, none of the Reichsgericht decisions cited by von Nieberding absolutely ruled out its application to the press[1]. So it was not long before a case involving Simplicissimus reopened the whole issue.

Early in 1903, there was considerable public annoyance at what was regarded as obsequious behaviour by Baron Speck von Sternburg while undertaking a special diplomatic mission to the United States. In May, Simplicissimus published a front-page cartoon by Heine entitled 'Ambassadors' Education' which graphically illustrated a well-known colloquialism for servility[2]. As the court later put it, it showed

> 'two mechanisms resembling the lower parts of the human torso ... Under the guidance of an older gentleman in official uniform, young men crawl into the lower aperture of the torso and emerge again through the open part at the top ... ' 3

Underneath was the caption:

> 'It is probably not generally known that an institute exists in Berlin which concerns itself exclusively with the training of young diplomats. Only someone who has successfully passed through this school possesses the qualities indispensable for holding an ambassadorial post abroad. By systematic training it had been possible to eliminate the last vestiges of Bismarckian dilettantism from our foreign policy'.

This was considered by the authorities to be so 'uncommonly coarse and objectionable' that proceedings were immediately opened under Paragraph 360/11.

The hearing took place on 4 June before the Munich

1 AStAM, MInn 66 251: Reichs-Justiz-Amt circular of 1 March 1902 (see above, Chap. I); Reichsger. Entsch. xix, 294-295 (3 June 1889) and xxxi, 191-194 (14 June 1898).
2 Simpl., VIII/6 (5 May 1903). Speck became Ambassador to the United States shortly afterwards and Bülow later sharply condemned the attacks on him. See Prince von Bülow, Memoirs, 1909-1919 (London & New York, 1932), p. 65.
3 AStAM, MJu XII/22: record of hearing before Amtsger. Mü. I, 4 June 1903. The 'older gentleman' bore a marked resemblance to Bülow, though this was strongly denied by the defence.

Amtsgericht I, under the chairmanship of the famous Wilhelm Mayer[1]. The other participants included Heine and the Sitzredakteur of Simplicissimus, Julius Linnekogel[2], in the dock, Max Bernstein defending and Georg Hirth and Max Halbe as expert witnesses. The cartoon constituted grober Unfug, argued the prosecution, because it was liable grossly to offend an indefinite number of decent and nationally-minded people and therefore threatened the public peace. On the contrary, replied the defence, the drawing was not anti-national because it attacked undignified behaviour which was out of keeping with the Bismarckian tradition; and the intrinsic offensiveness of the subject-matter was transfigured by Heine's artistic skill. Bernstein's witnesses went even further: 'Ambassadors' Education', claimed Halbe, was the most sucessful and remarkable work of humorous art he had come across for a long time; and neither he nor Hirth thought that children's books illustrated by Heine in the same manner were likely to do any harm. All this to no avail, however: Heine and Linnekogel were fined 30 Marks each and the few copies which the police had managed to confiscate were ordered to be destroyed.

The 'Ambassadors' Education' affair was especially interesting for two reasons. In the first place, the trial itself had some peculiar features: prominent intellectuals praised the sublime quality of a cartoon depicting Arschkriecherei, although the judge threatened to clear the court when the word was mentioned; the prosecutor was so inexperienced that he had to be prompted from the bench; and the verdict paid particular tribute to

1 See above, Chap. I, pp. 39-40.
2 Linnekogel, who was of Swiss origin, held the post of 'responsible editor' for some years. For detailed accounts of the trial, see the two official records in AStAM, MJu XII/22, and also L.N.N. (nr. 258) and Frankf. Ztg. (nr. 154) of 5 June and MN. Post and Augs. Postztg. of 6 June 1903.

Simplicissimus' artistic excellence. Yet this kind of thing was very much in the tradition of Munich literary trials, which played a significant part in the life of the intellectual community. In fact, it was the community aspect of these occasions which made trial-going such a popular pursuit; and, like the members of a repertory company, most of those involved had plenty of experience in performing together.

It would be an exaggeration to speak of a corps of seasoned defendants, although Ludwig Thoma eventually developed a very effective style for the dock; but as far as expert witnesses were concerned, there was certainly talent to suit all occasions. Giving evidence in trials involving one's literary colleagues was not only (in criminal cases) a practical means of defending freedom of expression but an enjoyable part of social life. Michael Georg Conrad, Max Halbe, Joseph Ruederer and others were always willing to appear in court to support their friends and air their views; and Georg Hirth spent a good deal of his time holding forth in the witness-box about art, sex and other subjects. It was therefore not surprising that, as will be seen presently, the use of expert witnesses became a highly controversial issue. There was also no lack of lawyers with the knowledge and connections needed in literary cases, since lawyers played a prominent part in the city's cultural life. The most outstanding one was Max Bernstein, a close associate of the Simplicissimus circle, an amateur playwright and for ten years theatre critic of the Münchener Neuesten Nachrichten. At the same time, he was also Munich's most sought-after advocate and appeared in some of the most famous cases of the period, from the Fuchsmühl trial in 1895 to Harden's sensational libel action against the Neue Freie Volkszeitung in April 1908 which ended with Prince Eulenburg's exposure

as a perjurer[1]. Finally, Oberlandesgerichtsrat Wilhelm Mayer, President of the Munich Amtsgericht I, was the ideal judge, tactful, respected, and with a well-developed sense of drama. One writer described him as a 'specialist in sensational trials', and went on:

> 'Run-of-the-mill cases are dealt with by a host of Amtsrichter; but as soon as anything exciting appears on the timetable, the President himself reaches for the sword of justice.
> He alone can cope with the confused mass of material brought together by industrious hands, he alone has the authority to ward off excessive busybodying, and he alone is able to find the proper tone' [2].

Not every Simplicissimus trial involved exactly the same dramatis personae: jury cases, for example, were not heard before Mayer's Amtsgericht. Nevertheless, the paper's association with Munich intellectual life was most in evidence when it was being prosecuted, a fact which underlines Simplicissimus' relevance to the present study and also helps to explain why it aroused such bitter antagonism.

The second fact to emerge from the 'Ambassadors' Education' affair was that even successful prosecution was a very uncertain weapon against satire. This was perhaps particularly true with Paragraph 360/11, even though it offered the best chance of conviction. Simplicissimus was not the kind of back-street paper which could be quietly driven into liquidation in this way; and the protests voiced even by such declared enemies of Simplicissimus as the Bayerische Kurier and the Augsburger Postzeitung indicated that the habitual use of the grober Unfug clause against the press might cause more controversy than it was worth[3]. Above all, however,

1 Weller, Harden, pp. 192-195.
2 'L', 'Der Hoftheaterprozess', März, Jg. I, Bd. 4 (1907), 422-423.
3 Augs. Postztg. and Bay. Kur., 6 June 1903; on 11 Nov., however, the latter suggested that Para. 360/11 might be used against satirical papers as a substitute for Para. 184.

Thoma was already becoming expert at turning any kind of state interference into a boomerang against the authorities. 'Hurrah' he had written when he heard of police action against Der Burenkrieg.

> 'I have already sent articles straight away to the Augsb. Abd.-ztg., Neueste Nachr., Frankfurter Zeitg., Berliner Local-anz., Tägl. Rundschau, Bayer. Vaterland. Also to Trojan of Kladderadatsch. Tomorrow I shall whip up the Goethebund and compose a juicy petition' [1].

One of the defence witnesses at the 'Ambassadors' Education' trial was the Munich correspondent of the Frankfurter Zeitung; and within a few days the same paper printed a long article by Otto Julius Bierbaum warmly praising Heine and Simplicissimus[2]. This was only the beginning: each new incident revealed the ease with which the paper's collaborators, lawyers and sympathisers could state their case to the nation at large through the columns of Germany's liberal newspapers. It was a technique which was to cause the Bavarian Government increasing embarrassment as time went on.

What made the task of dealing with Simplicissimus particularly difficult was the fact that the authorities always risked being attacked from two sides: from the paper's allies when they did take action and from its enemies when they did not. It was the growing power of the latter which made it impossible to turn a blind eye indefinitely and forced the state to embark on controversial prosecutions which had little chance of success. Pressure

1 Thoma, Briefe, p. 42.
2 Frankf. Ztg., 28 June 1903, nr. 177.

on the Government to take action made itself felt in a number of different ways. In January 1902, for example, the Bavarian ambassador in Vienna, Count Podewils-Dürnitz, reported a conversation between the Bavarian and Prussian military attachés in which the latter had half-seriously chided the Bavarians for tolerating Simplicissimus: it almost looked, he had added, as though the paper's attacks on Wilhelm II were not unwelcome. As the Prussian officer concerned - Major von Bülow - was the Chancellor's brother and had admitted that the desire for Simplicissimus' suppression could not be communicated officially, Podewils may well have been correct to see it as a serious hint[1]. Later on, the Government received protest letters from anti-Semites, retired army officers and Prince Hohenlohe's pious sister, Princess Elise zu Salm-Horstmar[2], as well as petitions from morality organisations and Catholic women's groups - all of whom regarded Simplicissimus' continued existence as a scandal, yet had little idea of the legal obstacles to effective action. This was insignificant, however, compared with political pressures in Bavaria; and during the autumn and winter of 1903, Simplicissimus' exploits helped to bring the full weight of Bavarian clericalism to bear on the Government.

Between 1900 and 1903, the face of Bavarian politics changed considerably. One of the interesting features of the Lex Heinze debate had been the restraint of the Centre leadership, which (in

1 GStAM, MA 94 787: Podewils to Crailsheim, 30 Jan. 1902.
2 For her complaint to the Regent about Simplicissimus in Dec. 1908, and the Government's cautious response, see GStAM, MA 94 987. For her rôle in the Lex Heinze affair, see Hohenlohe, Denkwürdigkeiten der Reichskanzlerzeit, pp. 561-563.

contrast to the more militant Catholic papers) had acted as though it wished to shield the Government from awkward discussions. But Dr Sigl's comment that this was simply the prelude to attacks later on[1] was borne out by the Centre Party's unmistakable determination to increase its political power. Crailsheim did his best to resist its demands: in the summer of 1902, with the backing of von Wiedenmann and most of his ministerial colleagues, he succeeded in forcing the resignation of the Minister of Education, von Landmann, who was felt to be too conciliatory towards the Catholics. But this uncompromising attitude simply strengthened the radicals in the Centre at the expense of the conservatives, and in August they struck back by refusing to approve 100,000 Marks for the purchase of works of art. In the subsequent crisis, which was aggravated by one of the Emperor's tactless interventions, Crailsheim's determination to hold to a collision course so alarmed his colleagues that in February 1903 he too was forced out of office. His successor was Count Podewils, a Roman Catholic, who had been promoted from his post in Vienna to replace Landmann and who now embarked on a more flexible policy of accommodating the Centre and attempting to work with the moderates of all parties. This was not intended to open the way to parliamentary government. On the contrary, it was felt to be a more realistic way of maintaining the state's independent position above the parties. But Podewils' concessions inevitably gave the impression that an era of clerical domination had begun; and they also encouraged the left wing of the Centre Party to press for more. The new situation was summed up concisely by one of the radicals, Dr Franz Xaver Schädler, in a speech to the Chamber on 20 October 1903. Although

1 Bay. Vat., 1 April 1900.

he acknowledged that the Crown alone had the right to appoint ministers, and denied that the Centre had a lust for power, Schädler hinted that more resignations would not be unwelcome (a shaft directed at the Minister of the Interior, von Feilitzsch) and insisted that official discrimination against Catholics must end. In future, he demanded, the Government should pay much more attention to 'the religious, political and economic views represented by the majority of the House and of the Bavarian people'[1].

For Munich intellectuals, these words were ominous enough; but Schädler's remarks about cultural matters wereeven more menacing. After repeating the traditional clerical grievances about education, he launched into a tirade against pornography, cabarets and the activities of Munich's most important dramatic society, the Akademisch-Dramatische Verein. He then went on:

> 'I know very well that in our enervated society ... our "Simplicissified" society, the causes of these things lie much deeper, and you should not be surprised if these social ulcers are referred to again and again from a certain quarter' 2 .

The allusion to Simplicissimus was hardly surprising. Although other satirical papers were also attacked, Simplicissimus was by far the most effective and widely-read and so was endlessly denounced as subversive, pornographic 'brothel-literature'[3], which was a danger to morality, youth and national strength. Anti-clericalism had been one of its staple themes from the very beginning, its opposition to the Lex Heinze has already been emphasized, and during 1902 and 1903 its attacks on the Bavarian Centre Party became steadily more aggressive. In September 1903,

1 VdKdAbg 1903/1904, Bd. XI, 20 Oct. 1903, pp. 226-237. For the background, see Möckl, Prinzregentenzeit, pp. 515-534.
2 VdKdAbg 1903/1904, Bd. XI, 20 Oct. 1903, p. 231.
3 Neue Bay. Landesztg., 6 June 1903.

it had aroused furious protests because of a cartoon ridiculing Georg von Orterer, headmaster of the Luitpoldgymnasium, President of the Chamber of Deputies and one of the leaders of the conservative wing of the Centre[1]. The scene was therefore set for an increasingly bitter duel between Simplicissimus and the Centre Party, with a constant stream of lampoons and denunciations on the one hand, and angry demands for prosecution on the other.

All this created considerable problems for the Government. It was hard enough to keep explaining why so little action could be taken against what the Centre Party regarded as obscene or subversive; but harder still to justify the toleration of direct attacks on Centre politicians, especially as Simplicissimus concentrated on the very men whom Podewils was hoping to conciliate. The cartoon against Orterer was particularly embarrassing. Orterer was not renowned for a sense of humour, and matters were made much worse by the distribution of a large number of copies to his pupils. The resulting correspondence between the Ministers of Justice and Education about what should be done reveals an interesting attempt to soothe and flatter an important political figure, to explain why he was unlikely to obtain any legal redress and at the same time to avoid giving the impression that the Government had been at all influenced by the outcry in the clerical press[2]. Finally, because the cartoon appeared to make fun of Catholic veneration of relics, Paragraph 166 also became an issue. As has already been mentioned[3], the growth of both political and confessional tension in Bavaria after 1900 created the danger

1 Bruno Paul, 'Der heilige Orterer', Simpl., VIII/25 (15 Sept., 1903).
2 Correspondence in ASt AM, MJu XII/23.
3 See above, Chap. I, pp. 28-29.

that the blasphemy paragraph might be drawn increasingly into politics. By the end of 1903, the political atmosphere was so heated that the mere existence of Paragraph 166 was embarrassing, since failure to use it at all could be interpreted as a sign of official bias just as much as its use against the wrong people. It was therefore unfortunate that the state's decision not to take action against the Orterer cartoon was followed not long afterwards by the confiscation of a postcard depicting a Jewish ritual murder[1]. Not surprisingly, angry complaints from Catholics about unequal treatment eventually goaded the Government into taking new steps against Simplicissimus, with predictably disastrous results.

On 16 December, Ludwig Thoma noted in his diary: 'In the Chamber, Lerno attacks Simplicissimus'[2]. On both the 16th and 17th, in fact, the Centre deputies Lerno and Kohl inveighed once again against pornography and denounced Simplicissimus in no uncertain terms. While Lerno demanded stricter regulation of the sale of such papers, Kohl went much further by exhorting the Minister of the Interior to draw up a special 'Lex Feilitzsch' to deal with the whole problem of obscenity[3]. This time, Thoma and his colleagues decided to retaliate directly with an elaborate special number devoted exclusively to the Centre Party[4]. The front-page cartoon showed Christ looking disparagingly at His 'new disciples', a group of over-weight Bavarian clerics; inside were some brilliant satirical portraits of leading Centre politicians

1 Neue Bay. Landesztg., 17 Nov. 1903 etc.
2 Stadtbibl., Nachl. Thoma, L 2467/78.
3 VdKdAbg, 1903/1904, Bd. XII, 16, 17 Dec. 1903, pp. 204-208, 217-218.
4 Simpl., VIII/42 (12 Jan. 1904).

and their dupes in the Government; and on the back was a cartoon entitled 'As the Case May Be', which attacked the Church's alleged double standards in dealing with the sins of ordinary people and those of royalty. But the pièce de résistance was a long 'Lenten Address' written by Thoma himself under the pseudonym 'Abraham à Santa Clara', in which he belaboured his opponents in the traditional manner for their narrow-minded attitude towards art and literature, denounced the shortcomings of the Catholic Church as a moral and cultural force over the previous thousand years, and claimed that true morality, which was based on freedom and knowledge, had always been resisted by the clergy as a threat to its power. On 8 Janaury 1904, after completing this classic Liberal polemic, he wrote to his friend, the lawyer and Liberal politician Conrad Haussmann in Stuttgart: 'On Tuesday we shall reply to our ultramontane opponents, and in rather an unclean manner. The urchins will kick up a fuss'[1].

In fact, the 'fuss' came sooner than expected. A full four days before the Centre Number was due to appear, a posse of policemen invaded Strecker & Schröder's printing-works in Stuttgart and seized all the copies they could find; elsewhere, railway trucks were sealed and police officers stood guard outside bookshops to intercept consignments already on their way. At the same time, proceedings were started against Julius Linnekogel under Paragraph 166 because of the 'Lenten Address' and the 'As the Case May Be' cartoon; and three days later, Thoma formally admitted his authorship and was also charged[2].

The news of all this caused a considerable stir, which

1 Thoma, Briefe, p. 145.
2 AStAM, MJu XII/22: indictment of 28 Jan. and memo. by Generalstaatsanwalt Payr of 15 April 1904.

increased as more details became known. As was to be expected, the invocation of Paragraph 166 against what was known to be an attack on the Centre Party raised the traditional cry that the law was being misused for political ends. It grew even louder when, on 11 January, Langen's appeal against the confiscation was rejected by a tribunal which included Landgerichtsrat Walter, the son of a former Centre leader and himself an active supporter of the Party[1]. Although the order of events was far from clear, the air was soon thick with accusations of conspiracy, betrayal, censorship and political justice; and the excitement was increased by Ludwig Thoma's press polemics[2], the retaliation of the clerical papers and a series of angry clashes in the Chamber. Like the Centre Number itself, the Liberal contributions to the debate were highly reminiscent of the Kulturkampf; and indeed, as the affair coincided with a crucial stage in the franchise discussions, the Liberals may well have welcomed it as an additional excuse for opposing reform. In any case, there was ample opportunity for a thorough airing of the censorship issue, beginning in the time-honoured manner with long speeches about art and literature and ending in uproar when the Socialist deputy, Segitz, began to make a mockery of the confiscation by reading out the 'Lenten Address' in open session[3].

Although the final outcome was something of an anti-climax, it certainly emphasized the difficulty of using Paragraph 166 against satire. On 23 February, after the preliminary investigation was over the court decided that Thoma and Linnekogel had no case

1 Loc. cit.: ruling of III Strafkammer of Landger. Mü. I, 11 Jan. 1904.
2 Letters in M.N.N., 17, 22, 29 Jan. 1904, nrs. 25, 33, 45.
3 VdAdAbg, 1903/1904, Bd. XII, 25 Jan. 1904, pp. 709-710. Debates involving Simplicissimus took place on 13-16, 22, 23, 25, 26, 28, 30 Jan.

to answer on subjective grounds and therefore discharged them[1]. Thoma was furious and launched another bitter attack on Judge Walter, claiming that the court simply did not want to put the matter before a jury[2]. In the end, however, Simplicissimus was not entirely cheated of its limelight, since, according to a procedure which will be discussed later on, it was still possible for the judges to order the destruction of the Centre Number on the grounds that it was 'objectively' culpable. On 20 April, by which time Walter had withdrawn after winning a bye-election, the final hearing was held in a packed court-room which contained the entire Simplicissimus team except Thoma himself, who was on holiday in North Africa. In accordance with a carefully pre-arranged plan[3], the main defence was led by Conrad Haussmann, with Ludwig Ganghofer and Georg Hirth as expert witnesses, while Dr Elsass, the chairman of the Stuttgart Goethebund, represented a motley crowd of people with a financial interest in the case. In a long and complicated verdict, the court finally decided that the Centre Number did not after all amount to an insulting attack on the institutions or practices of the Catholic Church and ordered the confiscation to be lifted[4]. To all intents and purposes, this was the end of the affair; as Haussmann pointed out to Thoma, there was now only the possibility of an appeal by the prosecution, so that 'Number 42 can immediately be put on sale in an edition of 150,000 copies and then in October, to make the joke complete, the Reichsgericht could order the long-

1 AStAM, MInn 65 710: resolution of III Strafkammer of Landger. MN. I, 23 Feb. 1904.
2 M.N.N., 17 March 1904, nr. 128.
3 Stadtbibl., Nachl. Thoma: Haussmann to Thoma, 8 April 1904.
4 AStAM, MInn 65 710: verdict of III Strafkammer of Landger. MN. I, 20 April 1904.

sold edition to be pulped ...'[1].

As far as the Bavarian Government was concerned, the verdicts of February and April 1904 were by no means the end of its involvement with Simplicissimus. On the contrary, the Centre Number episode was simply one aspect of a complicated problem which was not solved for several years. The origins of this were partly political, and partly connected with some of the technical issues discussed in Chapter I.

As has been seen, Article 9 of the Press Law of 1874 obliged the publisher of a periodical, as soon as distribution or dispatch began, to hand in a free copy to the police at the so-called Ausgabeort[2]. As long as Simplicissimus was being printed in Leipzig, both Langen and the authorities assumed that Leipzig was the Ausgabeort, and it was there that the police copy was handed in. It was there too that prosecutions were most likely to be undertaken, because in spite of fliegender Gerichtsstand, the Ausgabeort was the only place where the police had time to order effective confiscation. After 1 September 1899, when Simplicissimus' main centre of distribution changed to Stuttgart[3], Strecker & Schröder naturally assumed that Stuttgart was also the Ausgabeort and began to hand in the official copy to the municipal police there. They also decided, without being prompted by the authorities, that the moment of 'distribution or dispatch'

1 Stadtbibl., Nachl. Thoma: Hausmann to Thoma, 25 April 1904.
2 See above, Chap. I, p. 4.
3 See above, p. 86; and AStAM, MJu XII/22: Thoma to MJu, 27 Feb. 1901.

was the time when the first consignments were sent off to the wholesalers - a whole week before Simplicissimus actually became available to the public.

Two important developments now complicated this apparently straightforward situation. In the first place, the Stuttgart prosecuting authorities began to insist that the appropriate place to take action against Simplicissimus was not in Stuttgart, even though the police copy was handed in there, but in Munich, where Langen carried on his business. By May 1901, the Bavarians had been forced against their will to accept an arrangement by which any issue which was found objectionable in Stuttgart was simply forwarded to Munich so that the Public Prosecutor there could deal with it[1]. The second potentially complicating factor was the long-awaited measure against fliegender Gerichtsstand which became law on 13 June 1902 and restricted the Gerichtsstand der begangenen Tat in press cases to the place where the incriminated publication appeared[2]. For the press, and particularly Simplicissimus, this was a welcome improvement. But for the state, it threatened to create problems, because there was no indication whether the new Erscheinungsort was supposed to be identical with the Ausgabeort of the Press Law - a matter of some importance in dealing with a paper like Simplicissimus which was 'produced' in two different places. The full complexity of the new situation soon became clear.

Before long, the arrangement between Stuttgart and Munich turned out to be unsatisfactory, because the authorities in Württemberg were much less interested in Simplicissimus than those

1 AStAM, MJu XII/22: notes drawn up c. Jan. 1904.
2 RGBl. 1902, p. 227; and see above, Chap. I, p. 13.

in Bavaria. This meant that the Munich Public Prosecutor was liable to be confronted with scurrilous and politically embarrassing satires when it was already too late to take effective action. The most striking example was the 'Ambassadors' Education' cartoon of May 1903, which was ignored by the authorities in Stuttgart and did not reach the Munich Public Prosecutor's Office until the day of appearance, so that the police were only able to intercept 1341 copies out of a total edition of 80,000[1]. At this point, it might have been best to have risked a legal wrangle by requesting Langen to hand in the police copy in Munich. Instead, the existing arrangement was simply adjusted so that the Pflichtexemplar would be forwarded to Munich regardless of whether the Stuttgart police felt it ought to be prosecuted. So it was that on 8 January 1904, orders were issued in Munich to confiscate the Centre Number, even though no-one in Stuttgart had objected to it, and four days before it was due to appear[2].

Not all the protests about illegal behaviour and vormärzliche Zustände which greeted this action were in fact justified. Thoma's claim, for example, that the Munich authorities had no jurisdiction whatsoever over Simplicissimus[3] was quite unfounded: regardless of whether Munich could be seen as the paper's Erscheinungsort according to Paragraph 7 of the Procedural Code, Paragraph 8 still provided for an alternative Gerichtsstand des Wohnsitzes, and Thoma and most of his colleagues lived in Munich. On the other hand, the actual timing of the confiscation was, to say the

1 AStAM, MJu XII/22: I St. Anw. von Sartor to Oberreichsanwalt, 17 June 1904 (draft).
2 Loc. cit.: resolution of Examining Magistrate Mayer of Landger. MU. I, 8 Jan. 1904.
3 M.N.N., 17 Jan. 1904, nr. 25.

least, legally dubious. 'If confiscation is allowed before distribution begins,' von Liszt had written, 'that is a purely preventive measure'[1]. At the same time, he had insisted that 'distribution' meant making a publication available to the public, and not simply dispatching it to a wholesaler[2]. Of course, Liszt was not the only authority on the Press Law; and this particular point was certainly controversial. It is also quite clear that the authorities' decision was an attempt to solve an unusually awkward practical problem rather than part of a sinister plot against the liberty of the press. But in political terms, all this was irrelevant: whatever its motivation, and the legal arguments in its favour, the whole operation certainly looked like a revival of preventive censorship and police-state methods; and although there was no question of direct participation by the Centre Party at any stage, the Government's special interest in Simplicissimus was undoubtedly the result of clerical pressure. In any case, by the end of January, Strecker & Schröder had been instructed to wait until the eve of Simplicissimus' actual appearance before handing in the official copy, so that any similar action was now impossible[3].

For both political and practical reasons, therefore, the task of controlling Simplicissimus could no longer be shared by two different sets of authorities; yet it was over four years before a workable alternative could be found. During that time, there was continual argument as to whether Munich or Stuttgart

1 Reichspresserecht, pp. 117-118.
2 Ibid., pp. 123-124.
3 AStAM, MJu XII/22: note to Bavarian Generalstaatsanwalt, 29 Jan. 1904.

should be seen as the Erscheinungsort of Simplicissimus according to the revised Paragraph 7 of the Procedural Code; and which of the two should therefore be responsible in normal circumstances for undertaking prosecutions.

From the very beginning, the purely legal issues were complicated by the manoeuvres of Simplicissimus itself. On 21 January 1904, the Bavarian Director of Public Prosecutions, the Württemberg Ministers of Justice and the Interior and various Stuttgart prosecuting officers decided at a conference in Stuttgart that the paper ought to be supervised and dealt with in Munich[1]. Within a short time, however, this decision had to be reversed because Langen and his associates transferred the entire distribution management of Simplicissimus to Stuttgart and arranged for it to appear there a day earlier than anywhere else[2]. In April, therefore, the Württemberg Minister of Justice again agreed to take over responsibility and it was accepted that prosecutions would only be undertaken in Munich in exceptional circumstances - for example, if the paper attacked the Bavarian state or royal family. The police copy, as before, would be handed in in Stuttgart, but the Munich Public Prosecutor would now get his copy through the post like any other subscriber[3].

Unfortunately, further complications now arose because of disagreements between the Württemberg Minister of Justice and the Public Prosecutor in Stuttgart. In June 1904, the latter declined to take action against Simplicissimus on behalf of the Police President of Königsberg, who had taken offence at a satire by

1 AStAM, MJu XII/22: conference notes.
2 AStAM, MInn 65 710: Württ. MJu von Breitling to Bav. MJu von Miltner, 9 April 1904; and MJu XII/22: I St. Anw. von Sartor to Oberstaatsanwalt, 12 June 1904.
3 AStAM, MInn 65 710: Württ. MJu von Breitling to St. Anw/ Landger Stuttgart, 7 April 1904 (copy).

Thoma attacking collaboration between the Prussian and Russian police. In cases in which urgent action was not required, it was claimed, the culprits should be dealt with at their place of residence, therefore in Munich[1]. The matter was not settled even when the Reich Prosecutor in Leipzig rejected this view[2], because the Stuttgart Landgericht then refused in its turn to open proceedings, on the grounds that the Erscheinungsort of Simplicissimus was the place where it had its business headquarters[3]. It was not until the end of October that this argument was set aside by the Oberlandesgericht, in a verdict which indicated that Germany's most distinguished jurists were almost equally divided in their definition of the 'place of appearance' of a publication[4]. On 27 March 1905, just over a year after the satire had been published, Thoma and Linnekogel appeared before the jury in Stuttgart and were acquitted[5].

The final and most complicated stage of the dispute began a year later, when Langen's associates formed a limited company[6] and decided to concentrate the business management of Simplicissimus once again in Munich. In spite of this, the Munich police insisted on technical grounds that Stuttgart was still the Erscheinungsort[7],

1 AStAM, MJu XII/22: I St. Anw. von Sartor to Oberreichsanwalt, 17 June 1904 (draft); and MInn 65 710: fair copy of 4 July 1904. The offending piece was entitled 'Staatshoheit', in Simpl., VIII/51 (15 March 1904).
2 AStAM, MJu XII/22: Oberreichsanwalt Olshausen to St. Anw./Landger. MÜ. I, 8 July 1904. Ger. Verf. Ges. 144 gave the Oberreichsanwalt the right to settle jurisdictional disputes between the prosecuting authorities of different states.
3 AStAM, MInn 65 710: ruling of Strafsenat of Oberlandesger. Stuttgart, 31 Oct. 1904.
4 Ibid.
5 Stadtbibl., Nachl. Thoma L 2467/79: diary entry of 28 March 1905; MÜ. Post, 31 March 1905.
6 See below, Chap. IV.
7 AStAM, MInn 65 710: Pol. Dir. to Govt. of Upper Bavaria, 26 June 1906. MJu XII/23: (MJu von Miltner) to MInn von Feilitzsch, Sept. 1906.

an attitude which resulted in several months of deadlock, with another appeal to the Reich Prosecutor in February 1907 and the ultimate refusal of the Stuttgart police to go on accepting the Pflichtexemplar. By the autumn of 1907, the Stuttgart courts had apparently begun in practice to accept responsibility for dealing with Simplicissimus; but it was not until February 1908, after diplomatic negotiations between the Bavarian and Württemberg governments, that the point was conceded formally[1]. From then on, with one or two special exceptions which will be discussed later on, all prosecutions of Simplicissimus were undertaken in Stuttgart.

At its height, the dispute certainly looked like a classic bureaucratic wrangle, with all parties indulging in a welter of legalistic hair-splitting. Nevertheless, the maze of technical detail concealed a number of important issues. In the first place, it was clear that a paper could in certain circumstances exploit a confused situation so as to make official control more difficult. This was not the result of any deep-laid plan: on the contrary, the choice of a printer in Stuttgart had been made reluctantly and on purely technical grounds[2]. It also seems doubtful, whatever Langen and his friends may have believed, whether it really mattered where Simplicissimus was prosecuted, as long as it was in a place where press cases had to be tried by jury[3]. But the paper certainly stood to gain from a prolonged disagreement between Bavaria and Württemberg, a fact which became

1 AStAM, MInn 65 710: MInn von Brettreich to Podewils, 15 June 1907; Württ. MJu to Württ. MInn, 8 Feb. 1908 (copy). See also MInn 65 710: Württ. MInn to Stadtdirektion Stuttgart, 13 Feb. 1908 (copy).
2 See for example Stadtbibl., Nachl. Holm: Holm to Langen, 18 May 1899 (copy) etc.
3 Stuttgart juries in fact convicted Simplicissimus on a number of occasions.

especially clear during the winter of 1907-8, when the police were refusing to accept the Pflichtexamplar in Stuttgart and the courts declined to punish Langen for not handing it in in Munich. The appearance two days early of a special issue on the Moltke-Harden trial, complained the Munich Police Director in December 1907, 'shows clearly how the publisher makes every effort to remove particularly offensive numbers from the possibility of successful action by the police and the prosecuting authorities'[1].

Much more generally relevant were the implications of the whole affair for confiscation, since the need to prevent the distribution of incriminated publications was one of the main reasons for concentrating court jurisdiction and police control in the same place. From the very beginning, it had been obvious that the Press Law's rules on this matter were inadequate even under the most favourable conditions[2]. In Berlin in 1880, for example, it was hard to achieve complete success even with maximum cooperation from the courts, the use of the telegraph, and a readers' bureau working day and night at the police headquarters[3]. The history of Simplicissimus illustrated these difficulties even more clearly. The almost complete failure to prevent the distribution of the 'Ambassadors' Education' cartoon in May 1903 led to an arrangement which was politically risky yet still not completely effective: the irony of the Centre Number episode was that, even with four days' start and the most strenuous police efforts, several thousand copies still escaped and were soon being

1 AStAM, MInn 65 710: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 2 Dec. 1907.
2 See above, Chap. I, pp. 5-7.
3 GStAM, MA 94 828: Deputy Bundesrat Plenipotentiary von Herrmann to MInn, 9 May 1880.

sold under the counter at ten times the normal price[1]. With a distribution network covering the whole country, support and publicity from leading newspapers, and deputies willing to read out incriminated passages in Parliament, a paper like Simplicissimus simply could not be isolated from its public by such clumsy and primitive methods. By 1914, paradoxically, confiscation could only be really effectively used against back-street journals too obscure to be worth noticing[2].

What emerged most clearly of all from the debate was the great reluctance of either Bavaria or Württemberg to be saddled with the task of enforcing unclear, inadequate and politically controversial laws against satire. In Bavaria, the Government's desire to evade responsibility stemmed mainly from the Centre Party's vindictive attitude towards Simplicissimus and the Liberals' consequent anxiety about the freedom of the press. But although the Centre Party was considerably less powerful in Württemberg, the authorities there also had good reason to keep the paper at arm's length. Throughout its history, Simplicissimus constantly gave offence to prominent people in parts of the country where attitudes to the press were much less tolerant than in the South. Yet after 13 June 1902, except in cases of private libel, these attacks could only be dealt with at the Erscheinungsort, where trial by jury made conviction less likely. The result was shown by the case involving the Königsberg Police President already mentioned; and by the equally abortive Majestätsbeleidigung trial demanded

1 M.N.N., 16 Jan. 1904, nr. 23.
2 For example, the police were able to confiscate 930 out of 1000 copies of the satirical paper Luzifer, which the N.Mü.Tagbl. of 23 Nov. 1902 described as appearing 'practically in camera'.

by the King of Saxony on the grounds that Simplicissimus had accused him of ill-treating his wife[1]. Neither of these prosecutions had the slightest chance of success; they were a waste of official time; and, worst of all, they were a considerable burden on the public purse. 'If things go on like this', commented the Frankfurter Zeitung after the second case,

> 'it will perhaps be necessary to increase the "cost of criminal proceedings" section of the Württemberg judicial budget, so as to allow for superfluous and unsuccessful demands for prosecution by Saxon and Prussian police authorities' [2].

All this indicates quite clearly why matters of jurisdiction were of much more than academic interest. By the spring of 1906, when Simplicissimus celebrated its tenth anniversary, the paper had not only helped to transform the quality of German satire, but had also revealed the difficulties involved in trying to suppress it. If Thoma and Simplicissimus had withdrawn to Switzerland, commented one observer earlier that year, 'there are Stuttgart and Munich Public Prosecutors who would have bidden him a heartfelt adieu'[3].

As will be seen in the next chapter, the arrangement eventually reached between Bavaria and Württemberg did not spare the Bavarian Government further embarrassment on account of Simplicissimus. Yet even if all jurisdiction over the paper itself had been transferred to Stuttgart, its collaborators

1 Simpl. IX/37 (6 Dec. 1904) had alluded to the scandal involving the Crown Princess of Saxony, Luisa of Tuscany. For the trial, see Frankf. Ztg., 11, 12 April, nrs. 101, 102, and Staatsanzeiger für Württemberg, 11 April 1905. See also Luisa of Tuscany, My Own Story (London, 1911).
2 Frankf. Ztg., 12 April 1905, nr. 102.
3 Frankf. Ztg., 11 Feb. 1906, nr. 41.

would still have had no difficulty in creating problems for the authorities in Munich. This was clearly demonstrated by a trial which took place as early as January 1906 after a series of clashes between Ludwig Thoma and the German morality campaigners, and which raised other important issues connected with the prosecution of press offences.

The continuing demands for moral reform in Germany after 1900 (which will be discussed in more detail later on[1]) inevitably provoked attacks from Simplicissimus, partly on principle and partly as a matter of self-preservation. But although ridicule of the morality campaigners was a regular part of the paper's repertoire, the sequence of events leading directly to the Janaury 1906 trial began with two morality congresses held in Cologne in October 1904. The first was of the traditional annual kind and was dominated by the usual demands of Roeren and other veterans of the Lex Heinze campaign for changes in the law[2]. The second, international one was specially dedicated to the struggle against immoral literature and therefore produced the kind of conservative diatribes about ethics and aesthetics already familiar in the 1890's. One of the most widely-publicised contributions was a speech by the General Secretary of the Allgemeine Konferenz der deutschen Sittlichkeitsvereine, Licentiat Bohn, who proclaimed that moral and immoral books could be distinguished from one another simply by their attitude towards marriage; and that it was the artist's task to depict the happiness of those who led sexually normal lives and the unhappiness of those who abandoned themselves to unbridled

1 See below, Chap. V.
2 See M.N.N., 7 Oct., nr. 469; Frankf. Ztg., 8 Oct., nr. 280; Allg. Ztg., 9-11 Oct. 1904.

indulgence[1].

All this evoked a predictable response. The Frankfurter Zeitung spoke of 'medieval people who have accidentally survived into the 20th century'[2], while Jugend ridiculed the 'monkeys of world history'[3]. The most original and scurrilous riposte, however, came from Simplicissimus, in an illustrated poem by Thoma and Gulbransson which ridiculed Bohn's boasts about his own conjugal bliss, and asked

> 'Was wissen Sie eigentlich von der Liebe
> Mit Ihrem Pastoren-Kaninchentriebe,
> Sie multiplizierter Kindererzeuger,
> Sie gottesseliger Bettbesteuger?' 4

Because of this, in December 1904, the Prussian Evangelische Oberkirchenrat, in its capacity as the official superior of Bohn and the other Protestant ministers present at the congress, applied for criminal proceedings; and the following June, Linnekogel was fined 200 Marks and Thoma was sentenced to six weeks' imprisonment by the Stuttgart Landgericht for libelling clergymen in the exercise of their profession[5]. As his appeal to the Reichsgericht was rejected, and a plea by Björnstjerne Björnson for commutation to fortress confinement was also turned down[6], Thoma eventually served his sentence in the Munich prison of Stadelheim in the autumn of 1906.

1 Augs. Abdztg., 7 Oct. 1904.
2 Frankf. Ztg., 8 Oct. 1904, nr. 280.
3 Jugend, 13 Oct. 1904, nr. 43. Number 45, of 27 Oct., was a special morality number.
4 'An die Sittlichkeitsprediger in Köln am Rheine', Simpl., IX/31 (25 Oct. 1904).
5 Para. 196. Stadtbibl., Nachl. Thoma: verdict of II Strafkammer of Landger. Stuttgart, 19/26 June 1905; Frankf. Ztg., 27 June, nr. 176; Augs. Abdztg., 28 June 1905.
6 Stadtbibl., Nachl. Thoma: ruling of Reichsgericht, 8/22 Feb. 1906; Björnson to Baron von Putlitz, 4 March 1906 (copy).

This episode demonstrated once again the inadequacy of the law as a weapon against satire. In the first place, the whole case had been used to make further propaganda against the morality campaigners. Secondly, the chief culprit was in no way deterred by the outcome: 'The Swabian numbskulls can lick my etc.' wrote Thoma to his friend Ignatius Taschner shortly after the verdict[1]; and while he was in prison he wrote a comedy about humbug called Moral which later had considerable success on the stage. In the meantime, the vendetta had continued with even greater vigour. Several weeks before the trial, Thoma had written to Haussmann:

> 'The gentlemen will not find me defenceless. If a prison sentence is at the end of it, I shall start a campaign against the bigots...
> These stupid wretches who pursue a bit of plain speaking with jailers are going to see that one can be much more venomous without tangible libel' [2].

Simplicissimus therefore went on sporadically attacking Bohn and his colleagues throughout the summer of 1905, and then launched another full-scale onslaught in honour of the morality congress held in Magdeburg the following October.

Even before the congress opened, Thoma and his friends had prepared a special Morality Number of Simplicissimus, complete with scurrilous lyrics by Schlemihl. But the extreme views expressed by the reformers[3] inspired still bolder satirical sallies. A few days after the Morality Number, a long illustrated poem appeared in broadsheet form, entitled Fort mit der Liebe!!

1 Thoma, Briefe, p. 174.
2 Ibid., pp. 172-173, 115-116. Simpl., X/27 (3 Oct. 1905).
3 M.N.N., 14 Jan. 1906, nr. 21; see also M.N.N., 5 Oct., nrs. 464, 465, and Allg. Ztg., 4, 6 Oct.

Ein Notschrei!!! Den Sittlichkeitsaposteln ergebenst unterbreitet von Ludwig Thoma und Olaf Gulbransson[1]. Its main theme was the alleged hypocrisy of the morality campaigners in attacking the faults of ordinary people while ignoring those of the clergy, the officer corps and even more exalted circles. Above a drawing of a princely goat pursuing a voluptuously filled skirt, for example, were the lines:

'In so manchen Residenzen
Hat der Unflat keine Grenzen;
Fürsten sind auf Unterröck'
Oft so geil, wie Ziegenböck''.

No doubt because Thoma wished to avoid another morality prosecution in Stuttgart so soon after the last one, the broadsheet was published in Munich; and the Bavarian authorities could hardly afford to ignore it. On 7 October 1905, therefore, confiscation was ordered (though again without much success[2]) under Paragraph 184[3], and the scene was set for a sensational trial before the Munich jury.

The reason for Thoma's determination to go on attacking the morality campaigners regardless of the risks, and at the same time to achieve maximum publicity (he even suggested advertising the impending '"interesting press trial"' in the newspapers[4]), seems to have been the belief that the morality movement constituted a serious political danger. He made this very clear at the end of December 1905, when he asked the Swiss psychiatrist, freethinker and writer on sexual ethics, Professor Auguste Forel, to testify as an expert witness for the defence. After admitting that he

1 Copy in AStAM, MInn 65 710.
2 On 9 October, it was reported that only 1800 copies had been gathered in 68 places: AStAM, MInn 65 710: weekly report of Reg. Präs. of Upper Bavaria.
3 AStAM, MInn 65 710: Pol. Dir. to MInn von Feilitzsch, 9 Oct. 1905.
4 Thoma, Briefe, p. 182.

was waging war against the activities of men like Bohn 'in a very coarse manner', he explained that the morality agitation was a skilful attempt to bring in a new Lex Heinze by the same mass-political methods which had defeated the old one. But behind this lay deeper motives:

> 'To educated people' he wrote, 'I do not need to say that the dispute over official morality is nothing other than the struggle for freedom.
> The clerics know that they now only have the power of the press to fight against. The governments have sold out to them; no more opponents will rise up against them from that quarter.
> Today they act as though they were concerned about morality. After the victory, there will not be so much talk about that any more' [1].

As will be seen shortly, whatever truth these remarks may have had in relation to Germany as a whole, they were very relevant to what was happening in Bavaria.

Connoisseurs of Munich literary trials had no reason to be disappointed by the hearing which took place on 13 and 14 January 1906 before a distinguished public, and in a courtroom appropriately adorned with 'a very erotically painted picture of an adultress being dragged before a judge by a lecherous usher'[2]. Thoma and Gulbransson were represented by Haussmann and Bernstein, who had called no less than twelve 'experts' to give evidence for the defence. In addition to Forel, these included Fritz von Ostini, the editor of Jugend; the playwright and later director of the Munich Künstlertheater, Georg Fuchs; the Baltic novelist

1 Letter of 31 Dec. 1905, in Henri Auguste Forel, Briefe, Correspondance 1864-1927, ed. H.H. Walser (Bern & Stuttgart, 1968), pp. 377-378.
2 Auguste Forel, Rückblick auf mein Leben (Zürich, 1935), p. 222. For the trial, see also Georg Fuchs, Sturm und Drang in München um die Jahrhundertwende (Munich, 1936), pp. 222-233; M.N.N., 14-16 Jan., nrs. 21-23; Mü. Post., 14/15 Jan.; Bay. Kur., 16 Jan. 1906.

Eduard von Keyserling; and such experienced habitués of the Munich courts as Michael Georg Conrad, Thoma's friend Ludwig Ganghofer, and Georg Hirth. The predictable denunciations of Bohn and his fellow-reformers and the recitation of all 52 verses of Fort mit der Liebe!! were the least sensational part of what took place. First of all, Forel caused a stir by asserting, after he had taken the oath, that he did not believe in a personal God. Then he became involved in a dispute with the presiding judge as to whether Gulbransson's drawings were any more pornograhic or less artistic than the painting on the wall. This exchange was followed by an angry clash between the clearly nervous and inexperienced Public Prosecutor and Georg Hirth, which ended with the proprietor of Munich's largest newspaper storming out of court amid general uproar. Bernstein and Haussmann finally concluded their case by claiming that the trial was fundamentally a political one; and pointed to the absurdity and injustice of this kind of prosecution when the worst pornography was easily available within a few yards of the law-courts. At 11 o'clock in the evening, after long deliberation, the jury returned a verdict of not guilty.

This trial was significant as well as entertaining. In the first place, it produced some interesting reactions. 'So much talent and honesty' wrote Conrad about Thoma a few days afterwards, 'and so little taste. Phenomenal'[1]. On the other side, while most of the clerical press fulminated about godlessness and immorality, the Bayerische Kurier seriously questioned the wisdom of trials which were almost bound to turn into an apotheosis

1 Stadtbibl., Nachl. Conrad: Conrad to Gertrud Schwann, 27 Jan. 1906.

of the accused. It also accepted the defence's arguments about the unfairness of 'selective' obscenity prosecutions, and even admitted to grave misgivings about the methods of Licentiat Bohn.[1] Most important of all, however, were the technical issues raised by the trial: in particular, the use of expert witnesses in press cases, and the much more fundamental question of trial by jury.

Controversy about the participation of literary 'experts' in obscenity or blasphemy trials was by no means new. One of the most important underlying themes of the present study is the strong belief on the part of Bavarian conservatives that a clique of intellectual nihilists was seeking to impose its own moral outlook on the God-fearing majority of the population. It had been expressed very strongly at the time of the Goethebund agitation in 1900; and it was certainly one of the main reasons for the violent denunciation of literary witnesses later on. In fact, a superficial observer might well have supposed that a kind of intellectual cartel was influencing the course of justice in certain cases. Theoretically, the courts were allowed to limit the number of experts called by the defence. In practice, especially when faced with an accomplished tactician like Bernstein, a judge who used this power too strictly risked having the verdict quashed on appeal. As has been seen[2], therefore, trials involving the intellectual community almost invariably included evidence from one or several members of a regular corps of resident 'experts', a practice which was regarded by outsiders

1 Bay. Kur., 16 Jan. 1906.
2 See above, pp. 93-94.

at best as a kind of Spezlwirtschaft, or cliquism mutual aid system, and at worst as a serious conspiracy against accepted standards of morality and decency. So it was hardly surprising that the Fort mit der Liebe!! trial caused a considerable outcry, especially as it was followed almost immediately by the acquittal of a manufacturer of erotic photographs named Estinger after a number of artists had testified in his favour[1].

Apart from antagonism towards a particular group of intellectuals, conservative attacks on the use of expert witnesses were backed by two main arguments, each of which had some justification. In the first place, it was claimed that experts confused the legal issues, because they were not required to discuss whether a publication was objectively obscene but simply to pronounce on the author's subjective intention in producing it; and in practice it was true that the confusion of the two questions frequently resulted in eloquent speeches by artists and professors on the nature of obscenity. The second charge levelled at the experts was that they did not act as witnesses at all, but simply as 'oath-helpers', recruited on as massive a scale as possible in order to 'terrorize' the court into acquitting their friends. Commenting in the Reichstag on the Fort mit der Liebe!! trial, Roeren described the occasion as

> 'a pretty turbulent party meeting, at which defendants and defence counsel appear with a whole troop of expert witnesses, twelve in number, and attempt in the most ruthless fashion simply to trample down everyone who is not on their side' 2 .

1 Otto von Erlbach (Armin Kausen), Privilegierte Massenvergiftung des deutschen Volkes (Munich, 1910), p. 14.
2 Verh. d. Reichstags, Stenogr. Ber., II Sess. 1905/1906, Bd. II, 20 Feb. 1906, p. 1520.

In this case at least, most of the 'experts' certainly did not disguise their sympathies; and Hirth proclaimed that he would consider it an honour to share the dock with Thoma[1]. The real problem in this kind of trial, of course, was whether the term 'expert' could have any useful meaning at all, since morality, satire and literature were subjects on which opinion was deeply divided. As the Bayerische Kurier recognised, there was no question that anyone had given false evidence at the Fort mit der Liebe!! hearing: the defence had simply been extremely skilful in bringing together a body of men whose entire outlook put them automatically on the side of the accused. The fact that this could happen, the paper concluded, was another reason why trials involving matters of taste and opinion ought to be avoided[2].

Although the law relating to literary experts remained unaltered, the events of January 1906 seem to have had some effect in Munich. As will be seen later, although the morality campaigners continued to denounce the system when it suited them, they also began to make sure that their own point of view was adequately represented in the witness-box. The prosecuting authorities did likewise, and avoided leaving matters to chance even when their own case was overwhelming: in May 1911, for example, when the Hungarian illustrator Franz von Bayros was indicted (in his absence) for producing a collection of drawings depicting 'masturbation, pederasty, sodomy, lesbian love and sadism'[3], the state called a formidable array of prosecution witnesses, ranging from doctors and academics to courtiers and

1 M.N.N., 15 Jan. 1906, nr. 22.
2 Bay. Kur., 16 Jan. 1906.
3 Stadtbibl., Nachl. Kerschensteiner AKM 227: draft Gutachten.

retired army officers[1].

Paradoxically, however, the case of Bayros and of his former collaborator, Dr Alfred Semerau, suggested that the importance of expert witnesses may well have been exaggerated. One of those invited to give evidence by the Crown was the famous educationalist Dr Georg Kerschensteiner, who was known to have strong views on the subject of pornography. In due course, he submitted an outspoken but very long and scholarly essay, complete with quotations from Comte and Ruskin [2]. Public Prosecutor Hass' reaction to this was revealing. After politely praising Kerschensteiner's paper and suggesting that it be circulated as widely as possible, he added that it seemed to him '<u>from the tactical point of view</u> to be <u>too intellectual</u> for a jury court'. He then continued:

> 'In my experience, all academic statements about art and literature are nothing but empty sound to many jurymen, because they simply do not understand them. One can hardly be surprised at this when one considers that the jurymen are mostly quite simple artisans and peasants. This will also be the case in the trial now pending; <u>we shall have a jury consisting exclusively or almost exclusively of peasants</u>. To this jury, the artistic form of Bayros' criminally immoral drawings will be a matter of absolute indifference; ...'

What was needed, he explained, was a brief, emphatic and popularly-phrased assessment of the incriminated material, and a sharp reminder to the jury of the moral responsibility it assumed if it decided to acquit[3]. As Bayros wisely remained abroad, he was never in fact brought to trial; but Semerau's fate underlined the significance of these remarks. According to Erich Mühsam,

> 'Hass addressed the rustic judges in their own idiom and with a coarseness which he could certainly not have

1 <u>Loc. cit.</u>: <u>I St. Anw.</u> Burkhardt to Kerschensteiner, 20 May 1911.
2 <u>Loc. cit.</u>: draft <u>Gutachten</u>.
3 <u>Loc. cit.</u>: <u>St. Anw.</u> Hass to Kerschensteiner, 25 June 1911.

> distributed via the book trade without having had to send for himself; and the peasants, very receptive to strong language, overflowed with morality. Partly for this reason, partly because he had got two Prussian advocates to defend him, the defendant Dr Semerau was sentenced to eight months in prison' [1].

Long before it had been exposed to the Public Prosecutor's farmyard rhetoric, however, and while the incriminated works were still being read out, the jury had sent a note to the presiding judge asking why, if there were such strict laws against spreading cattle disease, the law against moral contamination was so lax. Not long afterwards, and still before any of the experts had been heard, it protested that there was no need to go on with the hearing as it had already decided on the verdict[2].

Although this may have been an extreme case, the Fort mit der Liebe!! trial had apparently almost demonstrated the same thing. According to Georg Fuchs, whose tailor had been on the jury, the peasant majority, far from being 'terrorized', had made up their minds to convict Thoma, on the grounds that the experts were all 'Spezl' and hunting-companions of the accused, and that their evidence was 'crap'. The urban jurymen had only saved the day by pointing to the testimony of Fuchs, who had rejected the obscenity charge but had also distanced himself sharply from the Thoma clique and expressed grave misgivings about Simplicissimus[3]. It would of course be rash to generalize too boldly from this kind of evidence (Fuchs' account was not published until 1936); but it seems not unlikely that literary witnesses made a rather weaker impression on the jury than on the press and the public gallery.

1 'Sittlichkeit', Kain I/5 (Aug. 1911).
2 M.N.N., 8 July 1911, nr. 315.
3 Fuchs, Sturm und Drang in München, pp. 232-233.

The importance of expert witnesses was diminished still further by the power of the courts to take action against 'objectively' culpable publications regardless of the jury's decision. The Fort mit der Liebe!! case showed this very clearly: although Thoma and Gulbransson were acquitted, the judges decided that the broadsheet itself was obscene, and ordered it to be destroyed. This was possible because Paragraph 42 of the Criminal Code laid down that the destruction of a culpable publication permitted by Paragraph 41 could still be carried out even if punishment of the person responsible for it was 'nicht ausführbar'; and because, as the result of a highly complicated ruling by the Reichsgericht in 1889[1], the courts considered this to be the case not only when no-one could be brought to trial at all, but also when the defendant was acquitted (even by a jury) of subjective guilt.

This so-called objektives Verfahren was an obvious source of unease in South Germany, since it enabled state officials to ban a publication (and therefore in many cases to inflict a heavy financial penalty on those responsible for it) in spite of the traditional safeguard of trial by jury. Controversy about this had almost broken out in the spring of 1904 because of the state's attempt to use Paragraph 42 against the Centre Number of Simplicissimus[2]; but it had subsided after the dismissal of the case. The Fort mit der Liebe!! verdict, however, stirred up a lively debate; and Haussmann's colleague Dr Elsass claimed that the current use of the objektive Verfahren showed once again that, far from needing a new Lex Heinze, Germany already had one[3].

1 Reichsger. Entsch. xix. 371-373 (4 July 1889).
2 See above, p. 103.
3 Frankf. Ztg., 11 Feb. 1906, nr. 41.

Whether or not this was true, it is certain that even if defence experts did succeed in inducing jurymen to acquit pornographers, it was still up to the judges to decide whether the public should be exposed to their products.

The background to the controversy about literary witnesses and the objektive Verfahren was the contemporary debate about the future of the jury system itself. Regardless of its shortcomings, trial by jury was still regarded in Bavaria as an indispensable political safeguard, and as one of the most valuable legacies of 1848. Hostility to Paragraph 42, Paragraph 360/11 and any other device which could be used to circumvent it can be explained by the suspicion of professional judges which has already been mentioned[1]. This was of course a traditional Liberal attitude which went back to the Vormärz; but in Bavaria after 1900 it acquired new relevance because of the growing power of the Centre Party. 'Since the last elections' wrote Thoma shortly after the Fort mit der Liebe!! trial, 'the Bavarian judicial administration has been on very friendly terms with God; in fact, a Supreme Court ruling has expressly established God's existence'[2]. Similar insinuations about clerical bias had been made by Thoma and his colleagues on earlier occasions (particularly in connection with the Centre Number confiscation[3]); and on 11 December 1905 a special Simplicissimus number appeared which was devoted exclusively to 'Our Judges'. Among other unflattering contributions was a Schlemihl poem about juries which included the lines:

1 See above, Chap. I, pp. 37-40.
2 'Nach dem Prozesse', Mü. Post, 17 Jan. 1906.
3 M.N.N., 17 March 1904, nr. 128.

'Das Schwurgericht ist Volkes Recht,
Bezahlter Richter ist ein Knecht,
Ist immer Knecht.

Er dreht sich, wie der Hahn sich dreht,
Der auf dem Kirchturm oben steht,
Ganz oben steht' [1] .

Although the poem referred ostensibly to 1848, its relevance to the contemporary situation was obvious enough[2]; and in his letter to Forel at the end of the same month, Thoma did not fail to emphasize that abolition of trial by jury was part of the current campaign to reduce political freedom[3].

Thoma's poem had actually been written two years before it appeared in Simplicissimus[4]; and the debate about juries had begun well before 1900, when it first became obvious that the original Reich justice laws were in need of revision. By the turn of the century, according to Otto Mittelstaedt[5], many lawyers who had formerly favoured trial by jury had become disenchanted with it. Finally, in April 1905, the commission set up by the Bundesrat to investigate the whole question of procedural reform had recommended that juries be abolished altogether in favour of various different types of Schöffengericht[6].

This was the general background to the events of January 1906; but the Fort mit der Liebe!! trial and the almost simultaneous Munich photograph prosecution added fuel to the debate in both Bavaria and the Reich. In late February, during yet another

1 'Einst und Jetzt', Simpl., X/37 (11 Dec. 1905).
2 Thoma and Linnekogel were prosecuted for insulting the judiciary, but were acquitted in Stuttgart on 3 Dec. 1906.
3 Forel, Briefe, pp. 377-378.
4 Frankf. Ztg., 4 Dec. 1906, nr. 335.
5 'Strafjustiz und Politik', Die Zukunft, xix. (29 May 1897), 390-401.
6 Bachem, Staatslexikon, v. cols. 307-309.

debate on the desirability of extending Paragraph 184, both Roeren and the National Liberal Bassermann (who differed from each other on the main point at issue) cited these cases as evidence of the unsatisfactory functioning of the jury system[1]. Similar views had already been expressed in Munich. At the end of January, Count Maximilian von Soden-Fraunhofen, a Centre Party landowner of strong conservative views, made a speech to the Finance Committee of the Upper House in which he not only attacked the use of expert witnesses but also suggested that the abandonment of the Bavarian practice of trying press cases by jury should be seriously considered[2]. Undeterred by the resulting storm of press criticism, von Soden expanded these remarks in another speech a few weeks later, arguing that neither the Bavarian legislators of 1848 nor the Reichstag in 1874 had adequately anticipated the present situation: they had been concerned solely to create safeguards for political trials and not for cases involving obscenity[3].

In view of the definitions of obscenity then current among morality campaigners, with whom von Soden had strong sympathy, these were ominous words. Still more disturbing was the fact that, although the debates on procedural reform at Reich level dragged on inconclusively, Bavaria was perfectly free in this instance to take action independently. In his standard commentary on the Procedural Code, Löwe pointed out that states which in 1879

1 VdRT XI Leg. Per., II Sess. 1905/1906, Bd. II, 20, 22 Feb. 1906, pp. 1447-1448, 1520.
2 M.N.N., 2 Feb. 1906, nrs. 53, 54. The strong protests of Ganghofer, Thoma, Forel and Elsass against this speech appeared in M.N.N., 4, 6 Feb., nrs. 57, 59.
3 Verhandlungen der Kammer der Reichsräte 1905/1906, Bd. I, 23 Feb. 1906, pp. 117-118.

(the year in which the Gerichtsverfassungsgesetz came into force) did not already allow press offences to be tried by jury could no longer decide unilaterally to do so; but, he added, 'an alteration of the Land laws so as to restrict this competence [of juries], or to abolish it altogether is permissible at any time'[1]. In 1906, there was no immediate likelihood that this would happen. Replying to von Soden's remarks, the Minister of Justice, von Miltner, emphasized that jury verdicts were a 'noli me tangere' and should not be criticized; and he refused to go into the question of legislative reform[2]. In the longer term, however, the settlement of the matter depended on the developments taking place in Bavarian politics, in which von Soden was eventually to play a very prominent part.

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1 Löwe, Str. Pr. Ord., p. 9 (commentary on Para. 6 of the Einführungsgesetz to the Ger. Verf. Ges.).
2 M.N.N., 2 Feb. 1906, nr. 53.

IV

Satire and the Law in Munich: The Case of Simplicissimus (II)

Ludwig Thoma had joined in the Fort mit der Liebe!! controversy with great enthusiasm; and Simplicissimus paraded its indifference to prosecution by attacking the morality campaigners with redoubled vigour. In March 1906, for example, another scurrilous morality number appeared[1], as well as a mock obituary of Roeren which described him as a pig looking for truffles in the forest of German literature[2]. Yet these cheerful acts of defiance coincided with political events which boded ill for the future.

On 9 April 1906, after years of political manoeuvring, the new Bavarian Franchise Law came into effect[3]. In outline, this replaced limited, indirect suffrage and adjustable constituency boundaries by direct voting for men over 25 and constituencies defined by law; and it was certainly a triumph for the political strategists of the Centre Party. On the one hand, they had successfully branded the Liberals during the 1905 elections as 'Wahlrechtsräuber' and enemies of reform. On the other, they had retained the cooperation of the Social Democrats while inducing them to postpone their demand for proportional representation in favour of a system (rather similar to the British one) which gave the decisive advantage to the Centre. This was shown very

1 Simpl., X/52 (25 March 1906).
2 Simpl., X/51 (19 March 1906).
3 See Möckl., Prinzregentenzeit, for a detailed discussion of the reform.

clearly by the Landtag elections of 1907: although the Centre lost four seats (while the S.P.D. gained eight), it retained its overall majority and obtained a substantially higher proportion of seats than votes, while for the Liberals and Socialists the opposite was the case[1]. Henceforth, the Centre Party set itself firmly against any constitutional reforms which might threaten its supremacy.

The Centre's strategic victory also coincided with the end of a significant process of change within the Party itself. The 1890's had seen the emergence of a radical-democratic group around Dr Schädler and the 'Bauerndoktor' Georg Heim, who reached the summit of their power at the time of Crailsheim's fall. During the early years of the Podewils ministry, however, with the backing of Catholic aristocrats and the Church hierarchy, conservative officials like Orterer and Lerno and ecclesiastics like Dr Franz Seraph Pichler began to re-establish their own leadership. By 1907, their recovery was practically complete, and Heim, once regarded as the 'strong man' of the Party , had been more or less deprived of effective influence. As the Augsburger Abendzeitung put it, the ascendancy of the radicals had been replaced by 'the rule of conservative clericalism, which desires never to lose contact with Court and ministers and which binds the masses with the great power of authority and economic advancement, and with the still greater power of ignorance'[2].

Those who were concerned to preserve the social and political

1 Reimann, Müller-Meiningen, p. 107; Möckl, Prinzregentenzeit, p. 541.
2 Augs. Abdztg., 21 July 1900, quoted in Möckl, Prinzregentenzeit, p. 543. For an account of the changes, ibid., pp. 535-543.

status quo in Bavaria no doubt welcomed the victory of men who clearly wished to enter the existing establishment rather than to overturn it. Yet they had no reason to be complacent. On the one hand, the Centre Party's increasingly militant anti-Socialism and its determination now to cling to an electoral system which still, in effect, left large numbers of voters unrepresented, threatened to cause dangerous political instability in the long run. On the other hand, the 1906 Franchise Law and the triumph of the Party's right wing in no way diminished the Centre's appetite for power. After 1907, therefore, Podewils and his colleagues, and especially the Minister of Education, Anton von Wehner, were pressed to adopt policies which were anathema to the S.P.D., the Liberals and the intellectual community. On cultural issues above all, the political fronts hardened, confessional tension grew, and the Government became increasingly vulnerable to the charge that, far from maintaining an independent position above the parties, it was becoming an executive organ of the Centre.

In this situation, Simplicissimus' satires on Bavarian politics broadly corresponded to the line followed by the Left Liberals led by Ernst Müller-Meiningen[1]. Indeed, the paper's jokes and cartoons were frequently matched by polemical essays by both Müller and Thoma in Langen's fortnightly journal März, which began to appear in January 1907; and both types of commentary followed what was by now a well-established pattern. While the Centre Party itself was denounced as the vehicle of

1 Müller did not enter the Bavarian Chamber until the elections of July 1905; but he then played a leading part in the revitalisation of the left wing of Bavarian Liberalism which was now beginning.

'anti-cultural priestly domination inspired solely by ecclesiastical power-political aims'[1], Podewils and Wehner were ridiculed for their allegedly grovelling subservience to Orterer and Pichler, who appeared again and again in the guise of dictatorial inquisitors, headmasters or party bosses. As far as Simplicissimus was concerned, it is unnecessary to deal with the hundreds of variations on these themes which appeared between 1906 and 1912. But it is worthwhile to mention what was not only the pièce de résistance of the whole campaign, but also Ludwig Thoma's most brilliant satirical achievement: the private and political letters of an imaginary rustic Centre deputy named Josef Filser which began to appear in Simplicissimus in November 1907[2].

Josef Filser was meant to represent the type of prosperous peasant sponsored by the Centre Party in country constituencies and then employed as silent but obedient Stimmvieh for the division lobby[3]. After arriving in Munich and taking the 'Bardeischwur' at the beginning of the session, Filser tells his wife: 'Es sind viele geischtlinge Herren dagewesen, die wo gesagt haben, mir brauchen blos das Maul halden und sie machen es schon', and adds 'ich bin froh, das ich keine Rede nicht halden brauch, sondern das Maul'[4]. In keeping with this rôle, Filser's political outlook (conveniently summarized in his 'Bolidische Gedangen') is extremely simple:

1 Reimann, Müller-Meiningen, p. 115 (quoting Müller).
2 Simpl., XII/35 (25 Nov. 1907). The letters were later published separately as Briefwechsel eines bayerischen Abgeordneten (Munich, 1909) and Jozef Filsers Briefwexel. Zweites Buch (Munich, 1912); but references here are to vol. iv of the 1968 edition of Thoma's Gesammelte Werke.
3 See Stadtbibl., Nachl. Ruederer: typescr. of article 'Der Landtag', printed in Der Tag, 22 July 1902.
4 Simpl., XII/35 (25 Nov. 1907); Ges. Werke, iv. 401.

> 'Die Bolidik' he writes, 'ist ein Kampf von der weldlichen Obrikeid mit der geischtlingen Obrikeid. bald die weldliche Obrikeid Herr wierd, ist es lieberahl, und bald die Geischlichkeit Herr wierd, ist es uldramadan' [1].

At the same time, although Filser does what he is told in the struggle to wring concessions out of 'Bodelwies' und 'den Wähner Toni', who 'ziddern schon wenn mir blos mit die Augn blinseln'[2], his letters to his cronies at home reveal his total ignorance of and indifference to the finer points of Party policy. They also emphasize the gulf between small fry like Filser, whose sympathies lie with Heim and even with Vollmar[3], and socially ambitious Party leaders like 'Inser hochwierninge unbeschreublinge här Bresadent Orterer'[4], who is acutely described as a man who 'get plos mer mit die Grosskopfeten [big-shots] wo er selbs bald einer ist'[5].

This is in fact one of the fundamental themes of the Filserbriefe and certainly refutes the charge that the whole satire was simply 'knavish abuse' of rural deputies[6]. Thoma undoubtedly had a great deal of fun at Filser's expense; and he also showed how disastrous it would be if Bavaria were governed according to his ideas, above all on matters of art. 'Die Mahlerei' writes Filser,

> 'ist schohn eine Kunzt, haber plos bis zun Nahbl. Untern Nahbl ist es eine Sauerei, indem es dohrt geschlächtlich ist ...
>
> Einmahl bin ich in der biehnakertäg[Pinakothek] gewehsen. Disses ist eine Anschtalt fier alte Bielder zum aufheben, haber bfui Deifel!'

1 Ges. Werke, iv. 452.
2 Simpl., XII/37 (9 Dec. 1907); Ges. Werke, iv. 403.
3 Das aufgläste Barlahmend. Fon Jozef Filser, emals kenigl. Abgeorneter, Ges. Werke, iv. 510.
4 Simpl., XII/51 (16 March 1908); Ges. Werke, iv. 416.
5 Simpl., XIII/29 (19 Oct. 1908); Ges. Werke, iv. 441.
6 Otto von Erlbach (Armin Hausen), 'Verbot des "Simplicissimus" an den bayerischen Bahnhöfen', Allg. Rund., VI/41 (9 Oct. 1909).

Significantly, he wonders at the same time 'fier was missen mir neie bielder ferabscheien [vote money for], bald die alden noch schlächder sind?'[1] On the other hand, like Thoma's other peasant characters, Filser is drawn with a subtlety and understanding which reflects his creator's insight into the mentality of country people. Having been brought up in the country and educated in the town, Thoma was always aware of the wall of mutual incomprehension which divided the two, and insisted that rural values and attitudes had to be interpreted in their own and not in urban terms. His exasperation at townspeople's ignorant and condescending attitude towards peasants not only has to be understood if one is to appreciate the Filserbriefe, but also helps to explain his profound hostility to clericalism and the Centre Party. Just as Filser's overbearing treatment of minor officials is seen as retaliation for bureaucratic high-handedness (and also as a result of Orterer's arrogance towards him), the cunning insincerity of his deference to the clergy is implicitly justified by the latter's political exploitation of their power over country people. This, for Thoma, was the real mischief; and it was for the urban, educated leaders of the Centre Party that his venom was reserved, both in Simplicissimus and elsewhere. In November 1911, for example, he described the peasant members of the Landtag fraction as 'solid, decent men to whom any kind of fanaticism is certainly alien', and then proceeded to denounce Pichler as devious, underhand and vindictive, Lerno as dried-up, and Orterer as

> 'An enemy of the peasant character.
> The man who hates the farmers in the Landtag because they do not ask permission to go and relieve themselves.

1 Ges. Werke, iv. 457-458.

> The man who divided up the parliamentary w.c.'s into a w.c. for gentlemen and a w.c. for peasants, because he hates peasant smells' [1].

Not surprisingly, the Filserbriefe were an enormous success; they were praised by Bülow[2] and evidently used by the Liberals in the campaign against the 'Filser-Fraktion' in the Bavarian elections of 1912[3]. The most important thing about them, however, was their immunity. Filser's comments on personalities and events were sometimes scurrilous and earthy in the extreme, yet there was practically nothing that could be done about them. The Stuttgart authorities were not interested in Bavarian political feuds; there could be no question of invoking Paragraph 8 of the Procedural Code, for fear that the whole problem of dealing with Simplicissimus would be transferred back to Munich; and libel proceedings on behalf of Orterer and his colleagues would only have made matters a great deal worse. Because of this, the Bavarian Government found itself in its usual painful position of having to look on helplessly while Simplicissimus attacked precisely the people whom it most needed to placate. It was therefore necessary to find some means of penalizing the paper without involving the courts and also without raising cries of alarm from the Liberal press. After a long period of gestation, the eventual result was the ban on the sale of Simplicissimus on Bavarian state railway stations imposed in September 1909.

The background to this step was interesting. The general increase in railway traffic during the pre-war period meant that

1 'Vom verflossenen Zentrum', März, Jg. V, Bd. 3 (1911), 361-363.
2 Stadtbibl., Nachl. Thoma: Haussmann to Thoma, 17 June 1909.
3 (Armin Kausen), Regierung und Staatsautorität in Bayern. Glossen zur Landtagsauflösung (Munich, 1911), pp. 10-11, 26.

sales to travellers were an important source of revenue for illustrated papers; and it also gave governments a convenient chance to punish things they disliked. This had been demonstrated as early as 1897, when Simplicissimus was banned on Prussian stations for allegedly giving moral offence to the public, a measure which apparently cost the paper 5000 copies a week in Berlin alone[1]. In spite of petitions against it, this Prussian ban seems to have remained in force permanently, and during the next decade was imitated by several other states[2].

In Bavaria, parliamentary demands for action against the sale of immoral literature on railway stations went back to 1878, but had always been rejected by the Government, which claimed that it was not the business of the railway administration to carry out censorship[3]. From about 1908 onwards, however, pressure began to build up considerably as part of the general campaign against pornography which will be discussed in the next chapter. By July 1909, the Minister of the Interior was seriously considering a suggestion by the Munich police that Simplicissimus should be banned on the stations, on the grounds that

> 'a publication which systematically and in the most shameless manner ridicules and seeks to bring into contempt the foundations of the existing social order is not suitable for sale in public places belonging to the state ... Sales on stations are considerable and

1 See press comments and cartoons on the ban in Simpl., III/19, 20. Langen's appeal for help to Vollmar on 6 Jan. 1898, in Institute of International Social History, Vollmar Papers 1231, indicates the seriousness of the blow.
2 These included Switzerland, Saxony and Baden.
3 GStAM, MA 94 787: MV von Frauendorfer to MInn von Brettreich 28 Sept. 1909.

> a ban will therefore have a very perceptible effect on the publishers' [1].

On the other hand, the Government clearly hoped to avoid the usual outcry by waiting until Simplicissimus did something which would also alienate its own supporters. There was some indication that this was already beginning to happen[2], and a convenient excuse for action soon presented itself.

On 20 September 1909, Simplicissimus published a front-page cartoon entitled 'Imperial Manoeuvres', which showed Wilhelm II in martial pose pointing out the 'enemy' positions with Frederick the Great's famous crutch and watched by a very unmilitary-looking Prince Ludwig of Bavaria complete with spectacles and baggy uniform; visible on the horizon was a group of Bavarian generals, who were depicted (in the words of the Bayerische Vaterland[3]) as 'the very model of intellectual and moral decrepitude'[4]. On another page, a series of vignettes by Gulbransson showed two Bavarian soldiers cheerfully raping a couple of peasant girls. As the chance of conviction for Majestätsbeleidigung was small, and Prince Ludwig himself had no desire for prosecution[5], Minister of Transport von Frauendorfer now stepped in. On 29 September, the railway authorities were instructed that Simplicissimus should be banned from sale forthwith[6].

This move was naturally welcomed by the clerical press; but at the same time, Frauendorfer's hope that the Government's action would be understood 'even by those who would formerly have

1 AStAM, MInn 65 710: MInn von Brettreich to MV von Frauendorfer, 14 July 1909.
2 See for example the critical article on satirical papers in Kölnische Ztg., 28 Dec. 1908, nr. 1356.
3 Bay. Vat., 29 Sept. 1909.
4 Simpl., XIII/25 (20 Sept. 1909).
5 AStAM, MJu XII/23: St. Anw./Landger. MU. I to Oberstaatsanw., 26 Sept. 1909; memo. of 29 Sept. 1909, nr. 41375.
6 GStAM, MA 94 787: MV von Frauendorfer to Kgl. Eisenbahndirektion, 29 Sept. 1909. The ban was based on the state's property rights over the stations.

had misgivings about such measures'[1] also seemed to have been fulfilled. Apparently the only strong protest came from the Socialist Münchener Post, which interpreted the ban as retribution from Filser's Party for the constant attacks on Orterer, and even as a means of diverting attention from the Reich finance reforms recently approved by the Centre, which increased the price of beer by 2 pf. per Mass[2]. It also printed a long denunciation of Centre Party blackmail sent in by Thoma. These complaints, however, were imperiously brushed aside by Filser himself, who wrote:

> 'Daturch das si fon mir was schreim in ierem Blahde mus ich ienen mideilen, das mier ahles wurscht ist'.

In fact, he went on, the press could be pleased if the Centre Party did not ban it altogether - only Catholic papers were needed in any case, so that people knew about cattle prices - and both journalists and the Wittelsbachs should realize who the real masters were. He then concluded:

> 'bald si noch einmahl fon mier was schreim lase ich den bolizeibresadent auf ienen los wie mir ien auf den Simbliezimus loslahsen ham durch befähl fon ins, denn disser Bresadent ist ein gescheider Mentsch wo auch wais das mier die Härren siend und sonzt nimand anderner' 3 .

The postscript to the whole affair was a decree the following September which compelled station bookstalls to submit to the police lists of what they sold, so that anything offensive could be excluded. 'From now on' commented a contributor to März, 'anyone who buys a ticket to Passau or Lackelhausen not only buys the right to be transported there in the wretchedest possible

1 GStAM, MA 94 787: MV von Frauendorder to MInn von Brettreich, 28 Sept. 1909.
2 MN. Post, 3/4 Oct. 1909; Huber, Verfassungsgeschichte, iii. 953-955.
3 MN. Post, 5 Oct. 1909. See also Simpl., XIV/29 (18 Oct. 1909), Ges. Werke, iv. 474-478.

manner, but also has the comforting knowledge that his gaze may only fall upon publications approved by a confessor'.[1]

The growth of clerical domination which formed the background to these events finally reached its climax during the winter of 1911-12; and ironically, the man at the centre of the ultimate crisis was the Minister of Transport. As already mentioned, the Centre Party's swing to the right (matched at Reich level by the formation of the 'Blue-Black Block' after Bülow's fall) was accompanied by increasing anti-Socialism. Yet Podewils, in his efforts to maintain a political balance, made a number of concessions to the S.P.D., especially in matters of trade union organisation. The result was a head-on collision with the Centre in the autumn of 1911, when von Frauendorfer refused to take what Pichler and his colleagues considered to be firm enough action against the Socialist-orientated Süddeutsche Eisenbahnerverband. The ensuring deadlock compelled Podewils to persuade the Regent to dissolve the Landtag on 14 November; and this was followed by a furious election campaign, with the S.P.D., the Liberals and the remnants of the Peasant League uniting against the Centre. But although the latter lost 10 seats, it still retained its overall majority. Furthermore, while the voters were going to the polls, on 5 February 1912, Podewils and his entire cabinet resigned; and after complicated intrigues behind the scenes, the Regent was finally prevailed upon to ask the conservative Centre politician Count Georg von Hertling to form a new government[2].

1 'L', 'Zensur', März, Jg. IV, Bd. 4 (1910), 70.
2 See especially Möckl, Prinzregentenzeit, pp. 544-547; and Willy Albrecht, Landtag und Regierung in Bayern am Vorabend der Revolution von 1918. Studien zur gesellschaftlichen und staatlichen Entwicklung Deutschlands von 1912-1918 (Berlin, 1968), pp. 20-26.

This event was greeted with the utmost despondency by Munich intellectuals. Even before Hertling's appointment, Georg Hirth published a signed leader in the Neuesten Nachrichten entitled 'In letzter Stunde', in which he prophesied cultural and economic decline and even revolution as the result of ultramontane government and 'confessional insatiability'[1]. Under the heading 'Revolution in Munich!!', Simplicissimus depicted the change as a coup d'état engineered by Orterer, a kind of 1848 in reverse[2]. These reactions were of course exaggerated. On the one hand, it was strongly denied that the new government was a 'parliamentary' one. On the other, although Hertling was a long-standing member of the Centre Party and had become chairman of the Reichstag fraction in 1909, his relations with the Bavarian Party had always been cool[3]. Nevertheless, his appointment was significant. It was the first time in Bavarian history that a cabinet had resigned en bloc, and the first time in German history that a Christian-conservative party leader had become head of a government[4]; and Hertling was undoubtedly chosen because he would be able to work with the majority in the Chamber[5]. The reality of the new situation was underlined by the composition of the new cabinet. Out of seven members, only two were Protestants; and although five were, as usual, officers or career officials, two of these (von Seidlein, the Minister of Transport and von Knilling, the Minister of Education) were known to have strong

1 M.N.N., 10 Feb. 1912, nr. 71, cited in Albrecht, op. cit., p. 43.
2 Simpl., XVII/1 (1 April 1912).
3 Albrecht, op. cit., pp. 28-31, 33.
4 Reimann, Müller-Meiningen, p. 135.
5 Albrecht, op. cit., p. 33.

leanings towards the Centre Party. Finally, the new Minister of the Interior was the active campaigner for moral reform and declared enemy of the jury system Maximilian von Soden-Fraunhofen. As far as intellectuals were concerned, his appointment alone suggested that the 'final liquidation of the Liberal era'[1] in Bavaria was at hand.

On 27 February 1912, Conrad Haussmann wrote to Thoma from Stuttgart:

> 'In my opinion, the Hertling-Soden-Ludwig ministry will at all events make an attack on Simpel - it owes that to its reputation. This is, I might add, more than a mere supposition. Cave canem! Perhaps the competence of the courts here is now an advantage again' [2].

In actual fact, only the second of these predictions seems to have been fulfilled. Naturally there was a good deal of friction between Simplicissimus and the Hertling Government, with inevitable attacks on clericalism and further criticism of the Bavarian judges. As far as the present study is concerned, however, the period between February 1912 and August 1914 is something of an anti-climax. This was partly because of the general decline in the quality of Simplicissimus which will be dealt with later on, and partly because the Bavarian Government showed no desire to embark upon fruitless prosecutions. Apart from Simplicissimus' reaction to the outbreak of war, therefore, only one really important theme presents itself: the issue of Majestätsbeleidigung, which

1 Reimann, Müller-Meiningen, p. 135, quoting Ernst Deuerlein.
2 Stadtbibl., Nachl. Thoma. The allusion to Prince Ludwig will be explained presently.

was first discussed in Chapter I. It was here that the Bavarian authorities found it most difficult to pursue a policy of non-intervention; and here that the shift in the balance of power between the press and the state which took place during the period as a whole is perhaps most apparent.

The amendment to the German Criminal Code which came into force in February 1908 limited the application of the Majestäts-beleidigung paragraphs to attacks on the sovereign's honour which were made 'maliciously and with premeditation'[1]. In practice, of course, this simply gave the authorities slightly more legal justification for continuing to avoid obviously futile and counter-productive trials. As far as the press was concerned, Simplicissimus had shown what a paper with a South German Gerichtsstand could get away with long before the law was actually changed. On 5 March 1906, under the heading 'S.M.', Simplicissimus tested the ground by publishing a front-page cartoon-portrait of Wilhelm II in a characteristic pose which was neither particularly flattering nor positively libellous. Inside was a poem entitled 'Lui', which implied that the cartoon had been included with a certain amount of trepidation, but claimed that no offence was meant and ended with the lines:

> 'So hoch ragt keiner, dass Humor
> Auf ihn sein gutes Recht verlor' [2].

After this cautious sally, Simplicissimus became increasingly bold in its comments on monarchy in general and Wilhelm II in particular.

1 RGBl. 1908, p. 25.
2 Simpl., X/49. The poem and its title were an allusion to a French collection of caricatures of Wilhelm II, who had insisted that its import into Germany should not be prevented.

Only eight months after the 'S.M.' cartoon, a scurrilous 'Köpenick Number" was published to coincide with the Emperor's visit to Munich in November 1906[1]; and the following April Thoma, whose hostility to England has already been mentioned, contributed a poem comparing Wilhelm II unfavourably with Edward VII:

> 'Ferne sei mir's zu vergleichen!
> Immerhin, trotz Suff und Jeu,
> Scheint er dennoch zu erreichen
> Sehr viel mehr, als sein Neveu' [2] .

But all this was mild compared with reactions to the Daily Telegraph interview which, far more than any adjustment of the law, finally opened the flood-gates of criticism and ridicule. From among a large number of cartoons devoted to the incident, two typical ones deserve to be cited. 'After the Emperor's Interview', which appeared on 16 November 1908, showed the ghosts of Krüger and Queen Victoria talking in a cemetery. 'Now I can tell you, Krüger,' Victoria was saying, 'the plan of campaign came from him'. 'Yes Queen' replied Krüger, 'so now we know why you were so soundly thrashed'[3]. Then, just before Christmas, a cartoon entitled 'Alone at last' showed Wilhelm II and a little dog standing dejectedly beside an electrically-lit Christmas-tree, with the caption 'the first Christmas without the love of my people'[4].

Had any of these comments been published during the 1890's, while Simplicissimus was still appearing in Leipzig, official reaction would undoubtedly have been swift and drastic. As it was,

1 Simpl., XI/33 (12 Nov. 1906).
2 Simpl., XII/5 (29 April 1907).
3 Simpl., XIII/33 (17 Nov. 1908).
4 Simpl., XIII/38 (21 Dec. 1908).

there is nothing to suggest that criminal proceedings were even considered, either in Munich or in Stuttgart. As far as the first three examples were concerned, this may possibly have been connected with the jurisdictional wrangle between Bavaria and Württemberg. But the Daily Telegraph cartoons, which appeared after the dispute had been settled (and which were certainly malicious and premeditated if these words had any meaning at all) were obviously ignored because the Stuttgart authorities had no desire to bring such cases before the jury.

Although the arrangement with Württemberg was certainly a relief for the Bavarian Government, it did not mean that in future Majestätsbeleidigung proceedings against Simplicissimus would never have to be considered in Munich. On the contrary, it had been understood throughout the negotiations that direct attacks on members of the Bavarian royal family would be dealt with according to Paragraph 8 of the Procedural Code[1]; and Simplicissimus itself ensured that this agreement did not remain a dead letter. It is important to emphasize that the paper's target was not Prince Regent Luitpold: notwithstanding the difficulties and misunderstandings in the early years of the Regency, Luitpold was by this time one of the most popular and respected German princes, and Simplicissimus seems never to have attacked him. For several reasons, however, this immunity did not extend to Prince Ludwig, the Regent's eldest son. In the first place, Ludwig's notoriously untidy appearance was a gift to any cartoonist. Secondly, unlike his father and most of the Wittelsbach kings, his main interest lay not in art but in agriculture, and especially in his model

1 AStAM, MJu XII/22: St. Anw./Landger. M.d. I to Oberstaatsanw., 12 June 1904.

farm at Leutstetten. But the real motive for Simplicissimus' attacks was political: Ludwig was a prominent member of the Landwirtschaftliche Verein, of which Count von Soden-Fraunhofen was President; and, like many Catholic landowners, he had strong leanings towards the conservative wing of the Centre Party. Furthermore, this sympathy was not merely platonic: he had opposed the liberal ministries of Lutz and Crailsheim and in February 1912 almost certainly advised his father against retaining Podewils[1]. For its part, the Centre naturally regarded him as a valuable future ally and hoped to have him proclaimed King after Luitpold's death. It was therefore hardly surprising that Haussmann alluded to the 'Hertling-Soden-Ludwig ministry' in the letter already quoted[2]; or that Simplicissimus ridiculed him frequently both before and after 1912 as part of its general campaign against clericalism.

In addition to the normal problems of trial by jury (and Ludwig's own tolerant attitude), the wider political implications of these attacks help to explain the extreme reluctance of the Bavarian authorities to begin Majestätsbeleidigung proceedings. As has already been seen, the 'Imperial Manoeuvres' cartoon of September 1909 was followed simply by an administrative railway ban. A year later, when Simplicissimus satirized the Prince's clerical sympathies, even a Kolportageverbot was considered inadvisable[3]. In the summer of 1913, by which time Ludwig had succeeded his father as Prince Regent, the paper launched a scurrilous campaign against him to coincide with the hundredth

1 Möckl, Prinzregentenzeit, p. 546; for Ludwig's political views, ibid., pp. 49, 389-393.
2 See above, p. 142.
3 'Königsberg und Altötting', Simpl., XV/26 (26 Sept. 1910); see AStAM, MJu XII/23: St. Anw./Landger. MÜ. I to Oberstaatsanwalt, 26 Sept. 1910.

anniversary celebrations of German Liberation being held at Kelheim[1]; yet not even the most furious outcry in the press could induce the authorities to take action[2].

On 5 November 1913, the Regency was finally terminated and Prince Ludwig became King Ludwig III of Bavaria. Even now, however, the Government was reluctant to invoke the Majestäts-beleidigung paragraphs on his behalf. This was demonstrated very clearly by a case which took place in May 1914. Alluding to an audience granted by the King to teachers' representatives who had come to appeal for higher pay, Simplicissimus published a cartoon which showed Ludwig comforting the delegation with the words: 'Well gentlemen, if things are so bad, why don't you go begging? The reverend Capucins do too!'[3] This attack showed very well how Majestätsbeleidigung and party politics could become entangled in a way which made prosecution highly problematical. The teachers' grievance was by no means new; and it was only part of the traditionally emotive debate on education in Bavaria which had grown even fiercer in the immediate pre-war period. In the country especially, relations between teachers and clergy had been deteriorating for some time, and the majority of the former tended to support the Left Liberals[4]. In 1912, the Centre Party had rejected Liberal demands for emergency action on the salary question, an attitude which led Müller-Meiningen to claim that it was simply exploiting the situation in order to divide the teachers and increase clerical influence on education[5].

1 Especially Simpl., XVIII/22 (25 Aug. 1913).
2 For example, Bay. Staatsztg., 27 Aug., Mü.-Augs. Abdztg., 28 Aug., Bay. Kur., 29 Aug. 1913.
3 Simpl., XIX/6 (11 May 1914).
4 See Möckl, Prinzregentenzeit, p. 174; Heimann, Müller-Meiningen, pp. 139-140.
5 'Sechs Monate Regiment Freih. von Hertling in Bayern', ii, März, Jg. VI, Bd. 3 (1912), 286-294.

The following year, the issue was revived as part of a major controversy over the civil list; and on the eve of war it still seems to have been as inflammable as ever.

The political background of Simplicissimus' 'deeply saddening and truth-distorting attack on the All-Highest Person'[1] placed the Government in an awkward position. On the one hand, it had no desire for a major trial, which would probably reveal what had really been said during the audience and therefore 'give the signal once again for malicious press polemics'[2]. On the other hand, Simplicissimus' behaviour had provoked the usual furious outcry and it was felt that some official notice would have to be taken. For this reason, it was evidently suggested that the Government should at least condemn the attack in the Chamber, while pointing to the jury system as an excuse for doing nothing. Yet this idea was emphatically rejected by the Ministry of Justice in a memorandum which revealed the full political and legal complexity of the situation. A declaration in Parliament, it insisted,

> 'would set off not merely a Simplicissimus debate but also an extensive debate on the competence of juries in press cases ... it would develop into a general and highly political discussion in which the question of the teachers and a good deal else would be touched on ... And the platonic declaration of disapproval by the judicial administration would be interpreted by the Right as a sign of extraordinary weakness on the part of the Government, which does not adequately protect the King against unheard-of attacks'.

The author of the memorandum had earlier commented that, as far

1 AStAM, MJu XII/23: Mku von Knilling to Kabinettschef von Dandl, 14 May 1914.
2 Ibid.

as trial by jury for press offences was concerned, Bavaria was gradually moving into a situation of Rechtsnot. He now concluded:

> 'The constant press attacks in the last few months on the Government, the civil service etc. under the protection of [trial by jury] suggest that it ought to be considered whether, simply to safeguard the most important state interests, the prosecuting authorities should not take the steps prescribed by law. If the juries then fail in these cases or in matters of morality or religion, the judicial administration is at least absolved of responsibility; and the question of altering the law is a matter for Parliament to decide' [1].

These remarks are particularly interesting in view of what has already been said about the Legalitätsprinzip and the jury system; yet they did not command complete agreement when the whole matter was discussed by the Council of Ministers towards the end of May. In the end, no declaration seems to have been made in Parliament, though once again no action of any kind was taken against Simplicissimus[2].

Before dealing with the last case to occur before the outbreak of war, it is important to explain that the problems connected with Majestätsbeleidigung stemmed not only from King Ludwig's political sympathies but also from long-term changes in the position of the Bavarian monarchy. At the beginning of the period, as has already been pointed out, Wittelsbach family history was a major source of embarrassment[3]; and although this particular problem seems to have been smoothed over as the Regency became accepted, it was replaced by others more serious. In general, it cannot be said that the Wittelsbachs did well out of the political developments which took place between the late 1890's and 1914. In spite of Prince Regent Luitpold's personal popularity, the

1 AStAm, MJu XII/23: memo. of c. mid-May 1914.
2 Loc. cit.: MJu von Thelemann to Ludwig III, 29 May 1914.
3 See above, Chap. I, p. 21.

monarchy itself was drawn into the arena of party politics in an increasingly damaging way. In 1902, for example, the Centre's refusal to vote money for works of art had been a blow aimed directly at the Regent; and the ensuing controversy brought an unprecedented public attack on both Luitpold and Wilhelm II as 'crowned agitators' by Georg Heim[1]. The process of political involvement was carried a stage further by the dissolution of the Landtag in November 1911 and the bitter election campaign which followed; and after Luitpold's death on 12 December 1912, the monarchy inevitably became increasingly identified with the clerical, reactionary and by no means fully representative majority in the Chamber. Most unfortunate of all, however, were the protracted public debates on the termination of the Regency after Ludwig's accession. Because of the ultra-monarchical attitude of the Centre Party, which at first rejected the idea of a constitutional change carried out by Parliament, the Government's plan for a rapid settlement was thwarted and the matter dragged on for several months before Ludwig finally became king. Largely for this reason, the controversy became so bitter that the S.P.D. voted against the final proposals instead of abstaining; and there seems little doubt that the manner of the change, as opposed to the change itself, weakened the position of both Ludwig III and the Bavarian monarchy[2]. Whatever major political repercussions this may have had during the next five years, it may well have been one reason why the Government

1 Möckl, Prinzregentenzeit, pp. 525-527.
2 For the Regency debate, see Albrecht, Landtag und Regierung, pp. 48-61. Thoma and Simplicissimus were strongly against abolishing the Regency: the cartoon 'Von Gottes Gnaden' in Simpl., XVIII/34 (17 Nov. 1913) showed Napoleon crowning Max Josef I in 1806 and Hertling handing the crown to Ludwig III in 1913.

was so unwilling to submit the King to the miniature popularity poll of a Majestätsbeleidigung trial.

In spite of this, however, one such prosecution was started before war broke out. A week after the appearance of the teachers' audience cartoon, Simplicissimus ridiculed the Crown's recent agreement to sell Ludwig I's Neue Pinakothek to the state for 1 million Marks in order to provide a home for the national collection of modern paintings. A cartoon entitled 'Ludwig I's Inheritance' showed the ghost of that great patron saying to the present Minister of Education, von Knilling: 'See to it that no milk-depots for Leutstetten are made out of my temples of art'[1]. Apart from the obvious allusion to Ludwig III's agricultural interests, the background to this requires some explanation. In the first place, the purchase of the Pinakothek had been approved by the Chamber on 7 May, after a debate in which the Centre's speakers had made their usual attacks on modern art and Nietzschean morality, updated with condemnation of Cubism, Futurism and Expressionist Negerkunst[2]. At the same time, the Centre Party favoured the transaction with the Crown because it was a far cheaper solution to the problem of housing the collections than voting 2½ million Marks for an entirely new gallery; to this extent, therefore, the cartoon can perhaps be seen as an allusion to traditional clerical meanness towards the arts. Its most direct point, however, had already been made by the Socialist deputy Adolf Müller, who had rejected the Centre's praise for royal generosity and doubted whether the Crown's agreement to spend the million

1 Simpl., XIX/7 (18 May 1914).
2 VdKdAbg 1912/1918, Bd. I, 2 May 1914, pp. 721-722.

Marks solely on the arts would in fact be honoured[1]. Similar insinuations about royal motives were made in the same number of Simplicissimus by the former S.P.D. journalist (and now co-editor of the paper) Edgar Steiger, in a poem which referred to the unedifying financial operations connected with Munich's magnificent Prinzregententheater, and which seemed to imply that the House of Wittelsbach was no less profit-hungry than the Heilmann and Littmann construction company[2].

While the clerical press thundered against this 'revolutionisation of the population'[3] by Simplicissimus, the authorities at last decided to take action. These attacks, the Minister of Justice told Ludwig, were more than a matter of party politics and touched upon the King's exalted person: in the interests of the Crown's reputation, they could not be ignored[4]. Two days earlier, on 27 May, proceedings had been opened under Paragraph 95 of the Criminal Code against Olaf Gulbransson, Edgar Steiger and the current responsible editor of Simplicissimus, Ernst Freissler[5]; and the next few weeks saw the standard preparations for a sensational trial. In the end, however, the slowly-turning wheels of the judicial machine were overtaken by events. On 28 July, Austria-Hungary declared war on Serbia; a week later, German troops invaded Belgium; and Simplicissimus was suddenly faced with the gravest crisis in its history.

1 Ibid., 6 May 1914, p. 748.
2 'Poesie und Prosa'. For details of the case, see AStAM, MJu XII/23: indictment of 2 June 1914; and StAM, St. Anw. 1769: depositions and interrogation records.
3 N. MN. Tagebl., 21/22 May 1914.
4 AStAM, MJu XII/23: MJu von Thelemann to Ludwig III, 29 May 1914.
5 StAM, St. Anw. 1769: instruction by I St. Anw. Sturm, 27 May 1914.

The outbreak of war was a far greater threat to Simplicissimus' survival than any number of prosecutions in Munich or anywhere else. This was partly because the paper's rhythm of production was too slow to keep pace with events; but above all because the wave of nationalist hysteria sweeping the country made the kind of satire for which it had become famous impossible overnight. Numbers 18 and 19, which were due to appear on the 3rd and 10th August respectively, and had been planned before the crisis reached its climax, were therefore withheld; and the main shareholders met anxiously to decide what to do. According to Hermann Sinsheimer, who heard the story when he became editor in 1924, Thoma suggested that Simplicissimus should be closed down outright. But Heine and the others (whose livelihood was more closely involved) argued that Germany needed a paper with an international reputation to support the war-effort and that they should therefore adapt themselves to the new situation[1]. In the end, this was the view which prevailed. After a fortnight's silence, Number 20 appeared on 17 August with a front cover by Heine which showed a German knight spearing France and Russia. Inside were the first of a long series of increasingly sadistic patriotic cartoons, together with an editorial announcement explaining the non-appearance of the two previous numbers.

> 'This did not stem' it claimed, 'from anxiety about any kind of censorship difficulties - there was no reason for that - but simply from the feeling that in these days of German exaltation there can naturally be no question any more of criticising domestic political affairs' 2 .

1 Hermann Sinsheimer, Gelebt im Paradies (Munich, 1953), pp. 229-230.
2 Simpl., XIX/20 (17 Aug. 1914).

The fruits of this sudden change of course were soon apparent. In the first place, according to Sinsheimer, the paper's circulation began to pick up again after a long period of decline[1]. Secondly, the Bavarian railway ban, which had remained in force since September 1909, was at last conditionally raised. A petition by Thoma in late August was accepted by the Government on the grounds that, in von Soden's words, Simplicissimus had now taken up 'an unreservedly patriotic stance' and was helping by word and picture 'to strengthen the general warlike mood in the country'[2]. Finally, there was the question of the Majestäts-beleidigung prosecution. On 8 August, the main trial had been postponed indefinitely because of mobilization[3]. Then, in January 1915, the Minister of Justice told the King that, as Freissler and one of the defence witnesses had joined the army, the hearing could not take place until after the war - by which time there was no knowing how the situation might have developed. Because of the changed attitude of Simplicissimus, the declarations of the accused that they had not meant to insult Ludwig, and the general amnesty issued on 10 August for those already convicted of Majestätsbeleidigung, von Thelemann suggested that the prosecution be allowed to drop[4]. The King agreed; and on 25 February the case formally lapsed[5]. So ended Simplicissimus' classic period and one of the most interesting chapters in the

1 Sinsheimer, op. cit., p. 230.
2 AStAM, MJu XII/23: MInn von Soden to other ministries, 14 Sept. 1914; see also MV von Seidlein to MJu/MInn, 19 Sept. 1914. On 25 August, the Minister of War had followed the Prussian example of raising the ban on Socialist papers in the army, which aroused considerable opposition from the Centre Party: Albrecht, Landtag und Regierung, pp. 96-97.
3 StAM, St. Anw. 1769: I St. Anw./Landger. MU. I to Amtsger. Stuttgart (Stadt), draft telegram, 8 Aug. 1914.
4 AStAM, MJu XII/23: MJu von Thelemann to Ludwig III, 11 Jan. 1915.
5 StAM, St. Anw. 1769: note by I St. Anw. Sturm, 25 Feb. 1915.

history of the German press.

At first sight, Simplicissimus' response to the outbreak of war in 1914 may seem surprising. For several years, the paper had provided an acute commentary on international affairs which made no attempt to gloss over the blunders of German diplomacy; it had often shown marked sympathy towards France; and it had constantly attacked the arrogance of the German officer corps and the brutality of army discipline. As early as 1905, it had also pointed to the unbearable domestic consequences of German victory in another major war[1]. All this, together with its attitude towards sexual morality, explains why Simplicissimus was so furiously denounced throughout the pre-war period. Nevertheless, when one examines the outlook of the paper's collaborators and the conditions in which they worked, their reaction to the events of July and August 1914 seems predictable enough.

It is clear that Simplicissimus' internationalism and anti-militarism were more apparent than real. In the first instance, the paper's friendliness towards France (which seems to have been declining in the immediate pre-war years) was matched by long-standing and deeply-rooted hostility towards Britain and Russia; and by 1908, it had evidently begun to accept the idea of a hostile conspiracy against Germany[2]. Secondly, although Simplicissimus seized joyfully upon the Köpenick affair and other embarrassing

1 T.T. Heine, 'Wenn Deutschland wider siegen würde', Simpl., X/18 (1 Aug. 1905).
2 T.T. Heine, 'Die eingekreiste Germania', Simpl., XIII/14 (6 July 1908).

episodes involving the army, even its most venomous anti-military satires were still far removed from, for example, Georg Grosz' savage attacks on officers during the Republican period. In 1904, Thoma emphatically rejected the standard right-wing charge that he and his colleagues aimed to destroy the army and its values, and claimed that they simply opposed the idea that young officers belonged to a privileged cast which set them apart from other mortals[1]. In fact, the cartoons of Eduard Thöny and Bruno Paul, whose lieutenants were as familiar a feature of Simplicissimus as Reznicek's carnival couples, were often sympathetically drawn and reflected much the same complicated mixture of resentment, admiration, envy and pride which seems to have been felt by most middle-class civilians towards the German officer corps. This ambivalence was symbolized by the fact that the Köpenick Number, which did everything possible to ridicule the military hierarchy[2], appeared while Bruno Paul (who was also a talented designer) was redecorating the Munich Heavy Cavalry Barracks in preparation for Wilhelm II's inspection[3]. The transition from the chinless subalterns of Simplicissimus' pre-war satire to the iron-jawed heroes of its wartime numbers was therefore not so very difficult or improbable.

The personal attitudes of those who produced Simplicissimus indicated clearly enough how it would react in any major national crisis. This was particularly true of Ludwig Thoma. Not surprisingly, his militant wartime nationalism, denunciation of

1 '"Simplicissimus" und unser Heer', Frankf. Ztg., 17 June 1904, Nr. 166.
2 Simpl., XI/33 (12 Nov. 1906).
3 Thoma-Taschner, Briefe, pp. 67-69.

German pacifists and speeches on behalf of the Vaterlandspartei[1] shocked and bewildered some of his former allies: 'As a psychiatrist and psychologist,' wrote Auguste Forel in January 1918 (in a letter which sadly recalled the Fort mit der Liebe!! trial twelve years earlier, when Thoma had still been 'an enemy of chauvinism, militarism and imperialism'), 'such war-psychosis hurts me'[2]. Yet Thoma's protests against charges of apostasy both then and after the war were not unjustified; and it is easy to show that there was no fundamental difference between the passionate nationalist of the years after 1914 and the young man who had joined Simplicissimus in 1899. From the beginning, Thoma's views on satire were consistent with the conservative outlook which had disconcerted Korfiz Holm when he became editor[3]. In July 1900, for example, he dismissed Langen's suggestion that Simplicissimus needed a new Heinrich Heine. On the contrary, he wrote, taste had changed completely since Heine's day:

> 'At that time, no-one was upset when, as a cheap joke, Heine read Germany's future in Charlemagne's chamber-pot in Aachen. Just do that today! At one stroke, you will have opponents on right and left who will not only hate but despise you. The Germans are no longer the Biedermeier of 1831, and at the moment Simplicissimus still suffers from the fact that people thought the first numbers were anti-national ...
> Sharp but serious, amusing but not insolent - in this way we must try to express the general feeling. The fact is, we appear in Germany, so we must be German' 4 .

In a diary entry of January 1905, Thoma significantly accused

1 See Stadtbibl., Nachl. Thoma 787/72; also Albrecht, Landtag und Regierung, pp. 287-288; Karl-Ludwig Ay, Die Entstehung einer Revolution. Die Volksstimmung in Bayern während des ersten Weltkrieges (Berlin, 1968), p. 80.
2 Stadtbibl., Nachl. Thoma: Forel to Thoma, early Jan. 1918.
3 See above, Chap. III, p. 88.
4 Thoma, Briefe, pp. 49-50.

Thomas Theodor Heine (whom he described as the embodiment of Simplicissimus) of the same superficiality and lack of conviction that had characterized his namesake. Really, he concluded, Thomas Theodor was hardly a humorist at all, because 'deep down he remains alien to the nation in which he lives'[1]. Long before 1914, Thoma had begun to have increasing misgivings about his own work for Simplicissimus, on both artistic and moral grounds. In September 1902, he felt ashamed when he heard two of his songs being sung at a music-hall, and commented in his diary: 'These Schlemihliaden are alley-art, real alley-art, and un-German'[2]. However much he was prepared to ridicule the imperfections of German society in peacetime, therefore, there could be no question of continuing to do this when the nation as a whole was threatened from outside; and at no time did Thoma's liberal sympathies take precedence over his fundamental patriotism.

Thoma's remarks about Thomas Theodor Heine suggest that his colleagues' decision to adopt a strongly nationalistic line when war broke out was no less predictable than his own, though for rather different reasons. In their case, the crucial reason appears to have been the need to go on supplying a marketable product. In 1906, commenting on the charge that Simplicissimus was an essentially 'republican' paper, the editor of the Augsburger Abendzeitung argued that, on the contrary, it was simply an organisation for the invention and sale of jokes: its collaborators were no more republican than its readers, but were simply 'joke-technicians of stupendous talent'[3]. This was a very perceptive

1 Stadtbibl., Nachl. Thoma L 2467/79: diary entry of 25 Jan. 1905.
2 Stadtbibl., Nachl. Thoma L 2467/77: diary entry of 9 Sept. 1902.
3 Augs. Abdztg., 16 Nov. 1906.

comment; and in fact it seems fairly certain that the contributions of Heine and other members of the permanent staff apart from Thoma, however effective some of them may have been, were not motivated by committed opposition to militarism, imperialism or any other political phenomenon. They were the work of men who earned their living by making people laugh. As there was no longer a market, after the outbreak of war, for jokes about the German establishment (or about its licensed detractors, the Social Democrats), the transition to ridicule of Germany's enemies was an act of elementary commercial self-preservation.

Economic factors had of course been crucial from the beginning; and, until the introduction of wartime censorship, the commercial constraints on South German satire were probably more important than the legal ones. By the eve of war, although administrative measures like railway bans could do a certain amount of damage, the hazards of prosecution were small compared with those of the market. One of Simplicissimus' most distinguished critics (though he also contributed to it on a number of occasions) was Karl Kraus, probably the greatest European satirist of his time. He described the paper as a dachshund disguised as a dangerous bull-dog, and as 'the purest mixture of impotence and hypocrisy'[1]. There was a good deal of truth in these remarks; yet they were more than a little unkind from a man whose own austere brand of satire could hardly have been published (especially after the out-break of war) without the backing of a substantial private income. Unlike Die Fackel, Simplicissimus was and always had been an essentially commercial product, which existed not to propagate

1 'Der Bulldogg', Literatur und Lüge (dtv edn., Munich, 1962), p. 19.

the views of one man but to make a profit in a notoriously treacherous market. The press registers kept by the Munich police in the 1880's and 1890's show very clearly that, for most periodicals, bankruptcy was a much greater danger than prosecution. Each year many publications disappeared, with satirical papers among the most shortlived[1]. It is important to remember that both Jugend and Simplicissimus had a hard struggle to establish themselves and demanded great sacrifices from their owners: Hirth had to sell part of his porcelain collection in 1898[2], and Langen his paintings and tapestries two years later[3]. It was not until April 1901, after Simplicissimus' price had doubled, that Thoma could congratulate Langen's wife on the prospect of 'a very prosperous business'[4].

The five years between 1901 and the paper's 10th anniversary in 1906 were in all respects probably Simplicissimus' most successful period. It still possessed a nucleus of first-rate artists; Thoma, though sometimes in spite of himself, continued to contribute excellent satire; and the authorities provided generous free publicity. By January 1904, circulation was approaching 100,000[5], and at the end of that year, Heine described Simplicissimus as a 'well-established article'[6]. Unfortunately, however, as the decline of Cotta's distinguished Allgemeine Zeitung showed[7], there was really no such thing in the newspaper world; and survival demanded vigilance, adaptation and a relent-

1 See the tables and reports in StAM, RA 2273/40813.
2 Endres, Hirth, pp. 70-71.
3 Stadtbibl., Nachl. Holm: Holm to Langen, 5 Jan. 1900 (copy).
4 Oslo University Library, Dagny Bjørnson-Langen Collection: Thoma to Dagny Langen, 16 April 1901.
5 Stadtbibl., Nachl. Thoma L 2467/79: diary entry of 28 Dec. 1904.
6 AStAM, MInn 65 710: Pol. Dir. to MInn, 12 Jan. 1904.
7 See Christian Padrutt, 'Allgemeine Zeitung', in Heinz-Dietrich Fischer (ed.), Deutsche Zeitungen des 17. bis 20 Jahrhunderts. Publizistik-Historische Beiträge Bd. 2 (1972), pp. 131-144.

less hunt for new ideas. Ironically, the period after April 1906, when Simplicissimus became a limited company with Langen's former employees as partners[1], saw a gradual deterioration of the paper's fortunes. One reason for this was loss of talent: the departure of Bruno Paul in 1907, the death of Rudolf Wilke in 1908 and of both Langen and Reznicek the following year. Combined with Thoma's increasing preoccupation with serious literature, rising production costs and agitation by morality organisations, these were serious blows which led to a noticeable decline in quality, circulation and profitability in the immediate pre-war years[2].

The auditors' reports which reveal these problems also show how far Simplicissimus' general development matched that of the German press as a whole[3]. It had changed from an enterprise owned by one man to a limited company; it required expensive technology and an elaborate distribution network; and its survival depended on its ability to satisfy the demands of the mass market. Finally, it was also heavily dependent on income from advertising; and this alone demonstrates the paper's deep involvement with the social and economic status quo. By the turn of the century, advertising revenue was approaching 10,000 Marks per month[4]; Thoma made more space available when he became editor; and in 1911-12, 196,525 Marks were earned in this way[5]. Not only the amounts of money involved but also the goods advertised were significant. Apart from the inevitable erotic photographs and

1 The change, which was announced in Simpl., X/48 (26 Feb. 1906), followed pressure from the paper's collaborators, apparently led by Thoma, who wanted a larger share of the profits.
2 Stadtbibl., Nachl. Thoma: auditors' reports of 4, 10 June 1912, and 9 June 1914, which give a highly detailed picture of the company's operations.
3 See Koszyk, Deutsche Presse, pp. 273-276.
4 Stadtbibl., Nachl. Holm: Holm to Langen, 23 Jan. 1900 (copy).
5 Stadtbibl., Nachl. Thoma: auditors' report of 10 June 1912.

substances for developing the female bosom (which further blackened the paper's record among conservatives), the emphasis was definitely on luxury items, ranging from champagne, cameras and gramophones to the motor-cars produced by the Turin firm of Züst, in which Langen had a large financial interest.

Nothing shows more clearly than this the public at which the paper was aimed. In spite of claims that Simplicissimus' sympathies were 'anarchistic', 'nihilistic' and 'extreme left-wing', its main readers were certainly not anarchists, nihilists or even Social Democrats. The paper's relationship with the S.P.D. was in fact rather an interesting one. When it first appeared, Simplicissimus had received a cautious welcome from Socialist journals[1]; and in later years the S.P.D. was often an ally against persecution: Langen's appeal to Vollmar for help against the Prussian railway ban has already been mentioned; and in its clashes with the Bavarian authorities, Simplicissimus could normally count on the moral support of the Münchener Post and the Socialist fraction in the Chamber. Yet the line of demarcation remained clear. Adolf Müller, editor of the Post and one of the Bavarian S.P.D.'s chief cultural spokesmen, emphasized that, although he rated Simplicissimus very highly, it had nothing to do with 'Socialist satire'[2]. For their part, the paper's collaborators did all they could to avoid becoming associated with Socialism: in 1899, they declined to share the same presses as the Münchener Post and the Socialist Süddeutsche Postillon[3]; and the following year Thoma told Langen that it

1 Die Neue Zeit, XVII/11 (1898-1899), p. 33. Der Sozialistische Akademiker, II/5 (May 1896) praised Simplicissimus, but commented that workers were not yet in a position to appreciate modern art.
2 VdKdAbg 1903/1904, Bd. XII, 13 Jan. 1904, p. 473.
3 Stadtbibl., Nachl. Holm: Holm to Langen, 11 Jan. 1899 (copy).

would be 'a waste of effort' as well as a serious mistake to write for 'Social Democratic workers'[1]. Quite radical social satire can of course be found in the pages of Simplicissimus: Thomas Theodor Heine contributed a number of savage cartoons about capitalist exploitation; and in November 1909, the paper began to print Käthe Kollwitz' harrowing series 'Pictures of Misery'[2]. The fact remains,however, that Simplicissimus' language, sophistication and price (30 pf. per copy by 1914) put it out of reach of the average industrial worker, while the S.P.D. certainly received its fair share of ridicule.

One of the most galling admissions that Simplicissimus' critics had to make was that its readers were not outcasts and revolutionaries but solidly patriotic professional men like the father of Albert Speer[3], affluent Berlin boulevardiers (described by the Kreuzzeitung as 'rabble in silk hats'[4]) and members of the officer corps. Police action against Simplicissimus could never be effective, remarked one paper, unless the well-to-do stopped reading a journal 'which is not - and this must be emphasized again and again - subscribed to by workers and by the little man, but by the powerful and educated classes'[5]. The Bayerische Kurier complained that, although Simplicissimus allegedly dragged into the dirt everything that officers considered sacred, 'it is precisely officers in mufti and in uniform who choose the "Simpli" as their preferred reading on stations and in restaurants', and suggested that the Bavarian railway ban be followed by a ban

1 Thoma, Briefe, pp, 49-50.
2 Simpl., XIV/31 (1 Nov. 1909) onwards.
3 Albert Speer, Erinnerungen (Berlin, 1969), p. 24.
4 Preussische (Kreuz-) Zeitung, 10 Jan. 1904.
5 Pfälzische Presse, 29 Dec. 1903.

on subscriptions from officers' messes[1]. Finally, the art historian Professor Friedrich Haack admitted:

> 'Whatever justified misgivings one may have about the possible evil effects of this paper in political and moral respects - seriously! - in reading-rooms, public houses and cafés one usually reaches first and most eagerly for Simplicissimus' [2].

As far as the events of August 1914 were concerned, this analysis may well seem superfluous. By the middle of that month, when Simplicissimus began to reappear, the wartime censorship powers available to the authorities were far-reaching enough to allow the paper to be crushed virtually at a moment's notice, and certainly to make effective political satire impossible[3]. But the fact that Simplicissimus' change of course was not imposed on it by brute force, but resulted naturally from the outlook both of those who read it and of those who produced it, raises important questions about the scope of 'bourgeois' satire in a society like Wilhelmine Germany. Without doubt, the career of Simplicissimus demonstrated the growing immunity of the press to interference by the state; and by demonstrating it probably increased it. Yet whether the paper's actual content had any perceptible effect seems much more doubtful. As early as 1903, when he was defending the 'Ambassadors' Education' cartoon in the witness-box, Georg Hirth implied that such satire acted as a lightning-conductor or a safety-valve rather than as a political catalyst[4]. In August 1912, an article in the Münchener Post made the same point much

1 Bay. Kur., 1911, nr. 276/277, quoted in Otto von Erlbach (Armin Kausen), 'Verbot des "Simplicissimus" an den bayerischen Bahnhöfen', Allg. Rund., VI/41 (9 Oct. 1909).
2 Friedrich Haack, Die Kunst des XIXten Jahrhunderts (3rd edn., Esslingen, 1909), p. 453.
3 Albrecht, Landtag und Regierung, pp. 95-97.
4 AStAM, MJu XII/22: record of hearing before Amtsger. M. I of 4 June 1903.

more forcefully: although Simplicissimus had brought together all the bourgeois intellectual radicalism which existed in Germany, claimed the anonymous author, and although it possessed both ruthless wit and artistic quality, it had still not become a political force. 'Wit and caricature' he concluded,

> 'has become an end in itself and consumes its own effect. This knave knows nothing sacred on earth, that is his strength; but he cannot create anything new or sacred - therein lies his sterility' 1 .

It seems clear that, like the expensive consumer goods advertised in its back pages, Simplicissimus was a sophisticated luxury article and not a serious force for change.

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1 Mü. Post., 9 Aug. 1912.

V

The Campaign against Pornography and Subversion in Munich, 1900 - 1914

The career of Simplicissimus is particularly noteworthy because it illustrates such a wide range of important legal issues. Yet the campaign against the paper was only one aspect of a more general attempt on the part of both governments and private organisations to protect society against what was believed to be a vast flood of corrupting material. Insofar as they were relevant to political and cultural life in Munich, these efforts are the main subject of the present chapter.

The concept of corruption was defined no less broadly after 1900 than before; and, as will be seen later, nowhere did the debate on obscenity become more easily confused with matters of politics, religion and taste than in Munich. Nevertheless, at the risk of some over-simplification, it is possible to divide most of what contemporaries regarded as harmful into two main categories: pornography, which was primarily intended to cause erotic stimulation; and Schund, or trash, in which the main emphasis was on terror, adventure and distraction from everyday reality. The borderline between the two genres was often vague (and conservatives frequently failed to make any distinction at all); but as they involved different legal problems it is necessary to consider them separately.

The size of the pornography 'threat' in Germany or any other country before 1914 cannot be objectively measured, either in terms of the quantity of material in circulation or of its effect on individuals or society. On the one hand (quite apart

from fundamental questions of definition), no reliable statistics exist, although it is clear that the trade in pornographic and titillating products of all kinds had reached international proportions well before the outbreak of war[1]. On the other, an exact method of assessing the effect of pornography on behaviour has yet to be devised[2]. What is certain, however, is that between 1900 and 1914 a large and probably growing section of the German public believed that they were facing a gigantic danger; and that many educated people accepted the most lurid claims about the moral devastation caused by obscene literature. In particular, the deterioration of Germany's international position in the decade before the war was apparently accompanied by growing anxiety about the effect of pornography on the country's military strength. In his assessment of Franz von Bayros' erotic drawings in 1911[3], Dr Georg Kerschensteiner expressed the belief that 'if we do not find a means of barring all doors against such works, we Germans will in a very short time go the way that all nations with a lascivious art have gone: the way of destruction'[4]. Dr Ludwig Kemmer, a Munich schoolmaster, believed that early exposure to obscenity accounted for 90% of the weaker recruits in the German army[5], and later explained that he had taken up the fight against pornography because of 'the possibility of ensuring that

1 See StAM, Pol. Dir. 1110: Pol. Dir. to MInn von Feilitzsch, 9 Oct. 1895; AStAM, MKu 19 102: MInn von Brettreich to Podewils, 20 May 1909. On 4 May 1910, a treaty was signed in Paris to promote greater international cooperation against pornography: RGBl., 1911, p. 209.
2 For a survey of recent literature, see Maurice Yaffé, 'Research Survey', in Pornography: The Longford Report (London, 1972), pp. 460-498.
3 See above, Chap. III, p. 123.
4 Stadtbibl., Nachl. Kerschensteiner AKM 227.
5 L. Kemmer, 'Fort mit dem Schmutz: Ein Wort zur Sittlichkeits-Nummer der "Jugend"', Allg. Rund., I/34 (20 Nov. 1904).

German life continues to flourish bright-eyed and bright-haired over our graves in the fullness of its strength'[1]. Kemmer subsequently became a prominent member of Munich's leading morality organisation; and the active participation of an increasing number of liberal intellectuals in the anti-obscenity campaign seems to indicate a significant change in public opinion after the defeat of the Lex Heinze.

Geographically, Munich was well placed to receive consignments from the numerous pornographers in Southern Europe and the Habsburg Monarchy, as well as from the specialists in nude photography who were establishing themselves in the Bavarian highlands[2]; and it also had a flourishing industry of its own which exported successfully all over the world[3]. Nevertheless, the items dealt with by Referat VI of the Munich Police Direction were probably fairly typical of the kind of thing currently in circulation in Germany as a whole. The volume of material seems to have been quite considerable, and the task of sorting through it no doubt imposed a heavy burden on the officers of the department, who were mostly ex-N.C.O.'s with nothing to guide them but a healthy instinct for decency and an official subscription to Avenarius' Kunstwart[4]. Between July 1904 and July 1905, according to a study written by Dr Kemmer, no less than 18,000 erotic photographs were confiscated, ranging in subject-matter from ordinary nudes and music-hall ladies in revealing costumes to perversions of the most bizarre kind; and there were catalogues

1 L. Kemmer, 'Halbwelt und Halbkunst', Allg. Rund., II/20 (14 May 1905).
2 See L. Kemmer, Die graphische Reklame der Prostitution. Nach amtlichen Material und nach eigenen Beobachtungen (Munich, 1906), pp. 34-35.
3 Otto von Erlbach (Dr Armin Kausen), 'Die Gerichtspraxis in Fragen der Pornographie', Allg. Rund., V/6 (8 Feb. 1908).
4 Kemmer, Die graphische Reklame der Prostitution, pp. 3-5.

advertising a variety of 'spicy' and 'ultra-erotic' pictures, together with more conventional studies of Bismarck, Moltke and assorted royal personages[1]. The police also held 613 types of postcard, some of which (to judge from Kemmer's discreet description) were technically obscene in the sense that they revealed genitals or pubic hair[2], while the others were simply vulgar or suggestive. There was also a wide variety of books. Titles confiscated between 1901 and 1904 included established classics like Das Wirtshaus an der Lahn, sex manuals and contraception guides, French or pseudo-French erotic novels, some homosexual literature and more specialised items like Stock und Peitsche im Dienste des krankhaften Sexualismus and Unter der Peitsche Donna Isabellas[3]. Finally, there were the so-called 'bibliophiles' editions', which were distinguished by their high price and superior production, and which attracted rather more attention than they deserved because of a number of trials involving literary experts. Some of the books and albums in this category (the works produced by Dr Semerau, for example) could certainly be described as high-class pornography. Others, like the Piper album of Japanese woodcuts prosecuted in Munich in 1907[4], were of undeniable artistic or historical value, although this did not necessarily protect them from attack.

For political reasons which have already been mentioned, the Bavarian authorities probably faced stronger pressure to eliminate

1 Ibid., pp. 31-33.
2 AStAM, MJu XII/24: Pol. Dir. to MKu, 10 May 1904, for this definition.
3 Lists of confiscated items in StAM, Pol. Dir. 1110.
4 See F.C. Endres, Georg Hirth. Ein deutscher Publizist (Munich, 1921), p. 208.

pornography than those of any other German state. But the legal situation made it very difficult for them to do so. In some respects, the arm of the state was slightly strengthened during this period: in December 1907, for example, the Bavarian Oberste Landgericht ruled that the display of indecent material constituted an attack on public order and could therefore be dealt with as grober Unfug[1]; and from the late 1890's onwards, the Reichsgericht had begun to apply a more flexible definition of obscenity than the one laid down in 1883[2]. Nevertheless, the problem of pornography remained extremely daunting. In spite of longstanding cooperation with other states[3], it was hard to bring manufacturers to justice: not only because the industry was international but also, as one officer pointed out in December 1903, because as long as the police behaved correctly and decently it was very difficult to obtain enough evidence[4]. Furthermore, almost all the material involved, including photographs, enjoyed the protection of the 1874 Press Law; and in Bavaria, except in cases of grober Unfug, it also had the benefit of trial by jury. Although some convictions were obtained, therefore, many items confiscated by the police eventually had to be released; and, on the eve of the war, there was still a very wide gap between what the Centre Party, the clerical press and the morality organisations regarded as offensive and what could actually be

1 AStAM, MKu 19 102: MInn von Brettreich to Podewils, 11 Nov. 1910; Ernst Schultze, Die Schundliteratur. Ihr Vordringen, ihre Folgen, ihre Bekämpfung (Halle, 1909), pp. 59-60.
2 See Reichsger. Entsch. xxxiii. 17-23 (7/18 Dec. 1899) and xxxv. 133-136 (21 Feb. 1902); and also AStAM, MJu XII/24: MKu von Wehner to MInn von Feilitzsch, 24 April 1904.
3 StAM, Pol. Dir. 1110: Pol. Dir. to MInn von Feilitzsch, 9 Oct. 1895.
4 Loc. cit.: Sicherheitskommissar, II Bezirk to Pol. Dir., 5 Dec. 1903.

dealt with under the existing laws.

It is particularly difficult to define Schund, as opposed to pornography, because many conservatives used the term indiscriminately to describe not only satirical papers like Jugend and Simplicissimus, but also Socialist, freethinking and generally 'unpatriotic' literature of all kinds. The debate on school and community libraries which took place in the Bavarian Chamber in May 1910 showed very clearly how political and confessional differenc could make agreement about the very nature of the problem, quite apart from the action needed to solve it, virtually impossible[1]. At the same time, views about the kind of reading-matter suitable for young people varied considerably, and the controversy about Karl May alone showed that one man's trash could be another man's adventure story[2]. For present purposes, however, it is enough to mention two categories of low-grade popular literature which were almost universally defined as Schund: the so-called Hintertreppenroman (traditionally peddled to maidservants and tenement-dwellers up the back stairs) of the late 19th century[3]; and the thrillers, science fiction stories and Westerns which became available in large numbers in Germany from about 1905 onwards[4].

The typical Hintertreppenroman was a primitively-produced serial narrative which went on being extended as long as demand for it continued. H.H. Schefsky's Der Scharfrichter von Berlin, for example, an immense saga of unpunished villainy and probably

1 VdKdAbg 1910, Bd. XI, 20, 21 May 1910, pp. 136-166.
2 Ibid., 20 May, p. 141; 21 May, pp. 147, 162.
3 For a stimulating pioneering study of the whole subject of popular literature, see Rudolf Schenda, Volk ohne Buch. Studien zur Sozialgeschichte der populären Lesestoffe, 1770-1910 (Frankfurt am Main, 1970).
4 See particularly Schultze, Die Schundliteratur.

the most famous Hintertreppenroman ever written, ran to 130 instalments and sold over 250,000 copies[1]. Subject-matter ranged from pure fiction to biographies of famous criminals and accounts of establishment catastrophes like the death of Ludwig II or the Mayerling tragedy[2]; but emphasis on mystery, suspense and extreme situations was common to all the different types. Although exact circulation figures are naturally not available, one estimate put the number of serials current in the 1890's at over 200, distributed throughout Germany and Austria by a network of more than 40,000 peddlars[3].

The Groschenhefte devoured by German youth in the decade before the war seem to have been generally better produced than the older Hintertreppenromane, and to have been written so that each number contained a single story (although certain heroes reappeared again and again). They were also more international in origin, with Buffalo Bill, the American detective Nick Carter (whose exploits were translated into French, Polish and Russian as well as German[4]) and various plagiarized versions of Sherlock Holmes among the most popular. Once again, statistics are lacking. But in 1909, Dr Ernst Schultze, the author of a sensible and widely-read monograph on the subject, guessed that a cubic kilometre of material was produced every year and described the passion for crime stories among all classes of the population as 'an intellectual mass epidemic'[5]; and he estimated that about 50 million Marks were spent annually in Germany on the worst kind

1 Schenda, Volk ohne Buch, pp. 310-314; Schultze, Die Schundliteratur, p. 10; and also Tony Kellen, 'Der Massenvertrieb der Volksliteratur', Preussische Jahrbücher, XCVIII/1 (Oct. 1899), pp. 79-103.
2 According to Schultze, about 20 novels were written about Mayerling, and 7 or 8 about Ludwig II: Die Schundliteratur, pp. 9-10.
3 Ibid., pp. 9, 11.
4 Ibid., p. 55.
5 Ibid., pp. 59, 82.

of popular literature[1]. At the same time, in keeping with a longstanding tradition, Schund was believed to be hardly less harmful to young people than pornography[2]. Although the Reich Government had to admit that there was no precise evidence[3], Schund was blamed for all kinds of juvenile problems, from low performance at school to suicide and serious crime. The experience of teachers, commented the Bavarian Minister of the Interior in November 1910, showed that this kind of material 'over-stimulates the imagination [of young people], takes away the sense of truth and reality, makes them inattentive and idle, coarse and violent'[4].

Schund was harder to deal with than pornography, because palpable obscenity was seldom involved. Paragraph 56/12 of the Reich Trade Regulations, of course, allowed the authorities to ban anything liable to give moral or religious offence from sale in the streets. As has been seen in the case of Simplicissimus, and of Ludwig Thoma's pamphlet Der Burenkrieg[5], however, this measure could not be used against the small shops through which much popular literature reached the public. There remained the new Paragraph 184a of the Criminal Code, which punished the sale of indecent material to young people under 16. Yet cases involving this paragraph seem to have been rare[6], and it was largely ignored during the post-1900 debates on undesirable literature. Under

1 Ibid., p. 33.
2 See for example the assumptions about Schund cited by Schenda, Volk ohne Buch, pp. 98-106.
3 VdRT XIII Leg. Per., I Sess. 1912/13, Bd. 303 (Anlagen), nr. 1385, 14 Feb. 1914: Entwurf eines Gesetzes, gegen die Gefährdung der Jugend durch Zurschaustellungen von Schriften, Abbildungen und Darstellungen, p. 2796.
4 AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov. 1910.
5 See above, Chap. III, pp. 89-90.
6 Statement by von Feilitzsch, VdKdAbg 1903/1904, Bd. XII, 16 Dec. 1903, p. 208.

constant political pressure to produce more impressive results, the Bavarian Government therefore had to experiment with other methods. These ranged from attempts to influence stationers and other small shopkeepers through their trade organisations[1] to the encouragement of headmasters to place shops which sold dubious material out of bounds to their pupils: a decree issued by the Minister of Education in June 1908, for example, attracted considerable attention and seems to have prompted more energetic action on the part of teachers[2]. Yet steps like this could never be enough, since the profitability of the trade encouraged shopkeepers to defy them[3]; and the Liberal press was quick to point out that allowing schoolmasters to act as censors raised serious legal and political problems (Munich's most prominent headmaster, Dr von Orterer, for example, was certainly generous in his definition of what was offensive)[4]. On the whole, neither police nor administrative measures against Schund seem to have been particularly successful during this period.

The continuing difficulty of combatting Schund and pornography made renewed demands for extension of the criminal law inevitable; and they were repeated constantly in both Bavaria and the Reich between the defeat of the Lex Heinze and the outbreak of war. For some years, the attitude of most Bavarian ministers to the numerous petitions and interpellations on the subject remained understandably cool: they had no wish to be caught again in a

1 AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov. 1910.
2 Schultze, Die Schundliteratur, pp. 60-61; AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov. 1910. Similar action was taken in other German states.
3 One dealer in Regensburg allegedly made 40 Marks a week from this source: AStAM, MKu 19 102: von Podewils to Reichs-Amt des Innern, 22 Nov. 1910.
4 For example M.N.N., 27 Oct. 1908, nr. 502.

pitched battle between the Centre Party and the Liberal press, yet this situation was bound to recur unless the immunity of art and literature could somehow be guaranteed. As time went on, however, the Government gradually accepted the need to amend the law; partly, no doubt, because of the growing power of the Centre Party (it was perhaps significant that the Minister of Education, von Wehner, had been in favour of this solution since at least 1904[1]); and partly because at least some loopholes could be closed without taking the very controversial step of altering Paragraph 184. In the autumn of 1910, therefore, in reply to a circular from the Reich Justice Office (which had been prompted by renewed pressure in the Reichstag), the Minister of the Interior acknowledged that the existing laws were inadequate and made a number of suggestions for improving the protection of minors[2]. This was followed by a lengthy period of gestation; and by February 1914, when the Reich Government was able to present a Bill[3], the change of régime in Bavaria had ensured that the idea of new legislation would be fully accepted in principle[4].

Although the proposed 'Schaufenstergesetz' never in fact became law, it remains interesting as a rather significant epilogue to the Lex Heinze affair. Its form alone indicated that, however strong the pressure for legislative action may have been, the Government was well aware that public opinion was still deeply divided on the question of obscenity. Instead of a new attempt

1 See AStAM, MJu XII/24: von Wehner to MInn von Feilitzsch, 24 April 1904.
2 AStAM, MKu 14 850: Reichs-Amt des Innern circular, 23 Aug. 1910; AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov.; von Podewils to Reichs-Amt des Innern, 22 Nov. 1910.
3 VdRT XIII Leg. Per., I Sess. 1912/13, Bd. 303 (Anlagen), nr. 1385, 14 Feb. 1914, pp. 2796-2798.
4 For ministerial discussions of the various drafts, see AStAM, MKu 19 102 and MKu 14 850.

to amend Paragraph 184 or other parts of the Criminal Code, it was simply intended to add a new Paragraph 43a to the Reich Trade Regulations which would make it illegal to display 'writings, pictures or representations' in shops or public places in such a manner as to cause annoyance by endangering youth. The Introduction to the Bill made it quite clear that the aim was to prevent the corruption of young people

> 'insofar as this appears possible within the framework of the Reich Trade Regulations, while preserving the freedom of the press, art and learning, and the freedom of every adult person to choose his reading-matter as he wishes' [1].

In order to avoid raising fundamental issues of taste and morality, the new paragraph was not to be concerned with the content of books or pictures, but only with the way in which they were exhibited; and it was designed to eliminate the long-standing anomaly by which offensive (but not necessarily obscene) material could be banned from street sale but not from display in shops. The Government's caution was vindicated by the resistance which even this modest proposal seemed to arouse: Max Liebermann, for example, claimed that it was nothing but a revival of the Lex Heinze in an even worse form[2]. But in the event, the Bill's progress was blocked by the outbreak of war; and it was not until 1926 that a law to protect young people actually reached the statute-book[3]. In the meantime, the issues were still further clouded by the appearance of a vast mass of sadistic, often badly-

1 VdRT XIII Leg. Per., I Sess. 1912/13, Bd. 303 (Anlagen), nr. 1385, 14 Feb. 1914, p. 2796.
2 Otto Hipp, 'Für und wider das Schaufenstergesetz', Allg. Rund., XI/28 (11 July 1914). He was citing an article by Liebermann in the Deutsche Juristenzeitung.
3 RGBl. 1926, i. 505-506: Gesetz zur Bewahrung der Jugend vor Schund und Schmutzschriften, vom 18. Dez. 1926. It provided for rigorous display restrictions on items entered on a national list.

written, but socially approved popular war propaganda[1].

Before passing on to discuss the activities of the Munich morality campaigners, it is necessary to mention two additional sources of possible corruption which were causing anxiety by 1914. The first was the cinema, which began to become really important in the immediate pre-war decade. The second was the newspaper industry, which presented a more familiar, but in many ways much more difficult problem. Both were highly relevant to the contemporary debate on Schund and pornography.

The German film industry was born in Berlin in the mid-1890's, due to the efforts of Oskar Messter and the Skladanowsky brothers[2]; and by the turn of the century, 'bioscope' apparatuses were in use in high-class Munich variety establishments like the Deutsche Theater[3], and were competing with fat ladies and tame Red Indians in the Panoptikum[4]. The first Munich cinema, the Bavaria Bioscop, was founded (significantly enough, by a former book-peddlar) at the end of 1906[5]; and from then on the popularity of the film increased rapidly, with 8 picture-houses in business by 1908 and 41 by the time war broke out[6].

From at least as early as 1900, when Roeren attacked the cinema in the Reichstag[7], the relationship between the new medium and horror-novels and Hintertreppenromane was widely recognised.

1 Schenda suggests that, far from being 'subversive' in the conservative sense, low-grade literature tended to strengthen habits of obedience to authority and probably increased mass susceptibility to militarism and war-propaganda: Volk ohne Buch, pp. 487-494.
2 Georges Sadoul, Histoire générale du Cinéma. I: L'Invention du Cinéma, 1832-1897 (2nd edn., Paris, 1948), pp. 191-194, 398-399.
3 StAM, Pol. Dir. 3814/11: Police memorandum of 24 April 1898.
4 See StAM, Pol. Dir. 1051.
5 StAM, Pol. Dir. 1088: Johann Wild, licence application of 29 Nov. 1906.
6 Statistisches Handbuch der Stadt München. Herausgegeben vom statistischen Amt München (Munich, 1928), p. 289.
7 VdRT X Leg. Per., I Sess. 1898/1900, Bd. V, 7 Feb. 1900, p. 3933.

'The seamstress who loves a count, the gruesome secrets of a castle, are just as interesting today as before' wrote the author of an early sociological study.

> 'But people no longer have enough leisure to wait for the hundred instalments ... In a cinema performance, one can for a few pence live through the same sensations in a short time' 1 .

It was not enough, wrote one critic, to deal with Nick Carter and Karl May's heroes, because

> 'the film imported from abroad and seen simultaneously by hundreds has a far more inflammatory effect, with its glorification of daring criminals, its blood-soaked bull-fights and its brutal executions, than the printed word which is read in private' 2 .

A clergyman who investigated the problem at first hand fearlessly exposed himself to a flickering succession of 51 acts of adultery, 19 seduction scenes, 97 murders, 45 suicides and 22 abductions in a total of 250 films[3]. This was certainly Schund in the classic tradition; and by 1914, the motion picture was the target of all the familiar accusations that it glorified crime, immorality and suicide, corrupted the young and was a potential vehicle for Socialist propaganda.

In attempting to control the cinema, the authorities faced a completely new problem. Unlike the theatre, it was not covered by the Reich Trade Regulations (which allowed the police, among other things, to limit the number of new establishments[4]) and therefore had to be dealt with under any local law which seemed appropriate. In Bavaria, this was Paragraph 32 of the Police Code,

1 Emilie Altenloh, Zur Soziologie des Kino. Die Kino-Unternehmung und die sozialen Schichten ihrer Besucher (Leipzig, 1913), p. 98.
2 Heinrich Stümcke, 'Kinematograph und Theater', Bühne und Welt, XIV/15 (May 1912/1), p. 89.
3 Cited by Dr Hüttermann, '"Schundfilmmoral"', Allg. Kund., x/18 (3 May 1913).
4 See below, Chap. VI.

which covered menageries, waxworks and miscellaneous amusements. The earliest methods of supervision were somewhat haphazard: managers were simply required to submit their programme notices, and an officer was occasionally sent to make sure that items like The Poisoner (dramatic), Honeymoon with Obstacles (interesting) or Life of a Woman about Town (very interesting) were not as exciting as they looked[1]. But the rapid spread of the medium and the growth of public debate made systematic control essential. More was gradually done to safeguard young people, sometimes in cooperation with local school authorities[2]; and stricter conditions were imposed on proprietors[3]. In October 1912, a centralised Bavarian Film Censorship Office came into operation and the following year dealt with 1621 kilometres of film[4]. This did not meet all criticisms, particularly from the industry itself, and the next step seemed to be a unified supervisory system for the whole of Germany. But although the matter was discussed before 1914, the first Reich Film Censorship Law was not passed until 1920[5].

The newspaper industry confronted society with two separate problems. The first, which was analysed with unsurpassed brilliance by Karl Kraus [6], concerned the long-term effect on language and

1 See programmes in StAM, Pol. Dir. 1088.
2 Amtsblatt der Kgl. Staatsministerien des Kgl. Hauses und des Aeussern und des Innern, 26 Jan. 1911, nr. 3, pp. 26-28.
3 By 1910, for example, all cinema performances had to be suitable for both children and adults: AStAM, MKu 19 102: MInn von Brettreich to Podewils, 11 Nov. 1910. See also the detailed instructions sent to the director of the Deutsche Theater, Karl Assn, on 2 April 1912, in StAM, Pol. Dir. 3814/III.
4 MInn von Soden-Fraunhofen, VdKdAbg 1912/1918, Bd. IX, 20 Feb. 1914, p. 610.
5 RGBl. 1920, p. 953. Article 118 of the Weimar Constitution, which banned censorship, made a special exception for the cinema.
6 In addition to Kraus' own writings, see Frank Field, The Last Days of Mankind. Karl Kraus and his Vienna (London & New York, 1967).

sensibility of the accomplished but often superficial and specious 'high-quality' journalism of the Liberal press. Although some Germans were becoming aware of it by 1914, a discussion of this danger lies outside the scope of the present study. The second and more immediately relevant problem lay in the fact that it was pointless to devise measures to combat low-grade fiction as long as ordinary newspapers were able to speculate on the prurience and ghoulishness of the public while enjoying all the benefits of press freedom.

During the 1870's and 1880's, particularly in Munich, both the authorities and the respectable press had deplored the excesses of so-called Revolverblätter, small papers which specialized in sensation, scandal and libellous persecution campaigns, frequently with an anti-Semitic flavour[1]. Continuing official distrust of journalists in general was certainly influenced by the fact that the men behind these productions were often unscrupulous adventurers or agents of dubious business organisations like the notorious Dachauer Bank, which sponsored a number of small Munich papers in the early 1870's[2]. The close connection between Revolverblätter and conventional Schund was revealed not only by their preference for lurid and titillating news items, but also by their tendency to include what the authorities described as 'horror-novels aimed at the dregs of the population'[3]; and it is interesting to note that the anti-Semite August Buchner, who has already been mentioned as an ardent supporter of the

1 See Harrer, Die Geschichte der Münchener Tagespresse, 1870-1890. Institut für Zeitungswissenschaft der Universität München. Bd. 75 (1940), pp. 142-151.
2 Ibid., pp. 146-147.
3 Ibid., p. 149.

Lex Heinze[1], began his chequered journalistic career by writing sensational pamphlets with titles like Die Nonne Barbara Ubryck and Die Mords-Hebamme Fichtl[2].

The typical Revolverblatt had few readers, was usually short-lived, and could sometimes be helped into liquidation by one or two well-timed grober Unfug prosecutions. The 1890's, however, saw the growth of the modern mass-circulation newspaper, which appealed to the same basic instincts on a far larger scale; and it was hardly surprising that, in his memorandum on Schundliteratur of November 1910, the Bavarian Minister of the Interior should have extended the concept to include the lurid and often offensively-illustrated reports in the daily press of 'horrific occurrences and sensational court proceedings'[3]. Such material was often served up regardless of high-sounding editorial phrases or confessional allegiance. In 1891, a writer in the Freie Bühne noted that the same papers which virtuously closed their columns to Naturalist writers and even demanded legal action against them were printing page-long reports of the Heinze trial complete with the most authentic detail[4]. In 1908, commenting on the latest Eulenburg trial, Munich's leading morality campaigner attacked the press for its semi-pornographic treatment of the case, but had to admit that some Catholic papers were also guilty[5]; and two years later, Ludwig Schuh's Catholic Neues Münchener Tage-blatt (which had grown from a Revolverblatt into Munich's largest illustrated paper) was specially singled out by the Minister

1 See above, Chap. II, p. 47.
2 See the interesting register of Munich editors in AStAM, MInn 65 594; and in general, Harrer, op. cit.
3 AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov. 1910.
4 w[ilhelm] B[ölsche?], 'Kunst und Leben', Die Freie Bühne, II (1891/2), pp. 989-990.
5 Otto von Erlbach (Dr Armin Kausen), 'Fürst Eulenburg moralisch gerichtet', Allg. Rund. V/18 (2 May 1908).

of the Interior because of its 'obtrusive Schund-articles'[1].

Although this situation was widely deplored by 1914, there was little that could be done about it. On the one hand, it was clear that horror and sensation, whether in the form of fiction or news, were very much in demand; and that no amount of pious exhortation was likely to alter popular taste. On the other hand, effective legislation was practically out of the question, not only because of the difficulty of devising a suitable formula, but also because even the shadiest hack could take refuge behind an impregnable rampart of liberal rhetoric. By this time, governments certainly had no desire to brave the furious onslaught which an apparent attempt to limit press freedom would inevitably entail. 'The power of the press is these days so great' wrote the Munich Police President in March 1913,

> 'that this important factor in public life cannot be left out of account even by the state authorities. In the long run, no official agency can maintain a negative or hostile attitude towards it' [2].

Here undoubtedly was a case for some kind of professional self-discipline, perhaps on the lines of the press council suggested by the Bavarian Government in 1872[3]. Yet although journalists had developed a strong corporate identity by 1914, this step was not taken until after the Second World War[4].

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1 AStAM, MKu 19 102: MInn von Brettreich to von Podewils, 11 Nov. 1910.
2 GStAM, MA 94 810: von der Heydte to MInn von Soden-Fraunhofen, 22 March 1913.
3 GStAM, MA 76 757: memorandum on the Press Bill, 9 March 1872.
4 In 1957, a council was set up consisting partly of publishers and partly of outsiders to regulate the standards of German illustrated papers. See Koszyk & Pruys, Dtv Wörterbuch zur Publizistik (Munich, 1969), p. 322.

As the progress made by the state in combatting Schund and pornography was so slow, it was not surprising that numerous private organisations were created in order to grapple with the problem. Some of these, like the Deutsche Dichter-Gedächtnis-Stiftung, which sponsored an anti-Schund exhibition in Munich in 1912[1], tried without much success to counter the evil effects of bad literature by distributing better popular books and cheap editions of the classics[2]. Others, like the Volksbund zur Bekämpfung des Schmutzes in Wort und Bild founded in 1901 by the literary historian Otto von Leixner, and with Licentiat Bohn among its most active members, mainly agitated for more repressive measures[3]. In Munich, the most important group to emerge in the pre-war period was the interconfessional Männerverein zur Bekämpfung der öffentlichen Unsittlichkeit, founded in the summer of 1906 and modelled on a similar organisation created by Hermann Roeren in Cologne eight years earlier[4].

The key figure in the Münchener Männerverein, and until his death in March 1913 Munich's leading morality campaigner, was a Catholic journalist from the Rhineland named Dr Armin Kausen[5]. He was a lifelong supporter of the Centre Party, an uncompromising opponent of Liberalism and Social Democracy, and a man of austere moral views; and in addition to working

1 See leaflet in AStAM, MKu 14 850. The exhibition was supported both by the Government and the trade unions.
2 See Schenda, Volk ohne Buch, pp. 66-85; and Schultze, Die Schundliteratur.
3 Schultze, op. cit., p. 20.
4 M.W. Schmidt, 'Die Männervereine zur Bekämpfung der öffentlichen Unsittlichkeit', Allg. Rund., X/34 (23 Aug. 1913).
5 For Kausen's life, see Max Joseph Pauly, Armin Kausen. Ein Buch des Andenkens an seine Persönlichkeit, sein Leben und sein Wirken (Munich, 1928); and article by Hermann Cardauns in Biographisches Jahrbuch und Deutscher Nekrolog, ed. Anton Bettelheim, xviii. (1917).

tirelessly to raise the standard of Catholic journalism in Germany, he dedicated himself with immense industry and zeal to the struggle against pornography. Furthermore, although he claimed to be an enemy of prudery and an admirer of 'true' art, he was fanatically hostile to 'Modernism' in any form; and his own literary efforts exemplified almost to the point of parody the 'idealism' advocated by the supporters of the Lex Heinze[1].

After editing Catholic papers in Fulda and Karlsruhe, Kausen came to Munich in 1889 to take over Konrad Fischer's Münchener Fremdenblatt; and he was therefore responsible for the furious attacks on Conrad's Gesellschaft für modernes Leben which have already been described[2]. After quarrelling with Fischer in 1891 (the police noted that the Fremdenblatt's circulation had fallen sharply under his editorship[3]), he took up a variety of journalistic tasks, actively supported the Bavarian Centre Party in its struggle against the Peasant League, and between 1897 and 1904 edited the monthly journal Die Wahrheit. Then, in the spring of 1904, he founded the weekly Allgemeine Rundschau[4]. This paper soon established itself as a major Catholic journal which offered a wide range of informed comment on politics and cultural affairs. At the same time, however, it became the chief vehicle for Kausen's moral crusade, and its appearance was the prelude to the creation of the Männerverein. In the first twelve months of its existence, the Allgemeine

1 For example the story 'Wie sie einander fanden', in Pauly, Armin Kausen, pp. 127-144.
2 See above, Chap. I, pp. 17-18, 24-25.
3 StAM, RA 2273/40813: press register for 1891.
4 The first number appeared on 1 April. See publicity material in GStAM, MA 94 791, MA 94 794.

Rundschau printed articles by Dr Kemmer attacking Jugend and Simplicissimus[1], while Kausen himself (frequently using the pseudonym Dr Otto von Erlbach) launched a general onslaught not only against pornography and modern drama, but also against such additional threats to German national strength as contraception, free love and female emancipation[2]. The beginning of 1906 saw the appearance of Kemmer's Graphische Reklame der Prostitution, and of an abrasive booklet by Kausen entitled Privilegierte Massenvergiftung des deutschen Volkes which denounced, among other things, the scandalous use of expert witnesses in the Fort mit der Liebe!! and Estinger trials[3] and the alleged laxity of the Munich courts. Finally, in May and June, the first stages of the Männerverein's foundation were completed, with Kausen occupying the post of deputy chairman; and in July, an appeal was issued in 250,000 copies urging men of all religious and political creeds to join in the struggle against the corruption of youth[4].

The connections between the Männerverein and the groups which had supported the Lex Heinze were obvious enough: the Association's appeal repeated the familiar phrases about pornography and moral decline; its members included many prominent Centre politicians and its chairman was the Centre deputy Baron Karl von Freyberg; and it received both advice and funds from Roeren's organisation in Cologne[5]. At the same time, however (as Ludwig

1 'Fort mit dem Schmutz: Ein Wort zur Sittlichkeitsnummer der "Jugend"', Allg. Rund., I/34 (20 Nov. 1904); 'Die "Frauenlobe" der "Jugend" und "Simplicissimus"', ibid., II/9, 10 (26 Feb., 5 March 1905).
2 For example, Otto von Erlbach, 'Wohin treiben wir?', Allg. Rund., II/13 (26 March 1905).
3 See above, Chap. III, pp. 118-121.
4 Copy in AStAM, MInn 73 589.
5 Bay. Kur., 23 June 1906.

Thoma had pointed out in his letter to Forel in December 1905[1]), the German morality campaigners in general seem to have learned from the failure of the Lex Heinze; and there were several indications that the founders of the Männerverein hoped to attract a much broader cross-section of the population than had been the case during the 1890's.

In the first place, although a Bavarian morality association was almost bound to contain a majority of Catholics, great stress was laid on the interconfessional nature of the Männerverein, and on the fact that, far from being an offshoot of the Centre, it was simply a 'party of decent people'[2]. It was therefore important that the support of the Archbishop of Munich and Freising and of an impressive array of Catholic dignitaries was matched by that of Oberkonsistorialpräsident Alexander von Schneider, a number of Protestant clergymen and at least one rabbi[3]. Furthermore, Kausen was at pains to point out that the Allgemeine Rundschau (which was closely associated with the Centre Party) was not the official organ of the Association[4]; and on certain issues he withdrew discreetly into the background.

Secondly, the Männerverein aimed to appeal to all classes as well as to all confessions, and to combine the advantages of an élite pressure group with those of a mass organisation. Both in public and behind the scenes, Kausen was anxious to claim support from people in high places[5]; and names like Fugger-Glött, Arco-

1 See above, Chap. III, pp. 117-118.
2 Otto von Erlbach, 'Ist das Brettl-Milieu hoffähig?', Allg. Rund., VI/9 (27 Feb. 1909).
3 See Männerverein appeal and membership list in AStAM, MInn 73 589; and correspondence in AStAM, MKu 19 101.
4 Kausen, 'Zum Kampf gegen die öffentliche Unsittlichkeit', Allg. Rund., III/30 (28 July 1906). The organ of the whole movement was Der Volkswart.
5 Ibid.; and AStAM, MKu 19 101: Kausen to Mku von Wehner, 22 May 1906.

Zinneberg and Franckenstein would have been an asset to any group in a society as hierarchical as that of Bavaria. For the future, it was also significant that Georg von Hertling was a member and that Maximilian von Soden-Fraunhofen belonged to the committee[1]. On the other hand, the value of mass support was also recognised: both as a means of putting pressure on the Government and to justify the traditional claim that the reformers represented the healthy views of ordinary people as against a tiny minority of profiteers and degenerates. In June 1906, the Münchener Neuesten Nachrichten put the Männerverein's membership at about 6,000[2]; and in March 1910, von Freyberg informed the Association's fifth annual general meeting that the total number of supporters in the 31 Bavarian branches and affiliated groups was 53,600[3].

Finally, one of the most serious weaknesses of the campaign in favour of the Lex Heinze had been its conspicuous lack of intellectual support; and the Männerverein therefore made every effort to win over artists, academics and educated people generally. One apparent obstacle was the so-called 'terrorism' of the avant-garde: according to Kausen, a number of distinguished men sympathised privately with the morality movement but dared not make their views public for fear of ridicule and abuse[4]. Nevertheless, it has already been suggested that anxiety about the long-term effects of pornography had begun to bring about a change in public opinion[5], and this made at least some of the campaigners'

1 Appeal and membership list in AStAM, MInn 73 589.
2 M.N.N., 28 June 1906, nr. 297.
3 Bay. Kur., 12 March 1910.
4 AStAM, MKu 19 101: Kausen to MKu von Wehner, 22 May 1906.
5 See above, pp. 167-168.

aims appear in a more favourable light. Dr Kemmer himself had formerly belonged to the Goethebund[1]; and the Männerverein's appeal was able to quote a recent speech in favour of morality in art by the distinguished landscape-painter Hans Thoma, who had also opposed the Lex Heinze[2]. It is also interesting that a petition against the display of nude photographs presented to the Ministry of the Interior by the Männerverein in May 1907 was signed by the painter Leo Samberger, the sculptor Adolf von Hildebrand, the directors of both the Neue- and the Alte Pinakothek and Professor Theodor Lipps[3].

According to Georg von Vollmar, there was close cooperation between Roeren's Cologne Männerverein and the Prussian authorities[4]; and one of Kausen's most important objectives in 1906 was to obtain the open and active support of the Bavarian Government. But in spite of repeated overtures[5], both the Minister of the Interior, von Feilitzsch, and the Minister of Education, von Wehner, declined to be drawn, evidently because they realised that the Männerverein's aims were a good deal more controversial than appeared at first sight. A detailed memorandum drawn up in the Ministry of Education in June 1906 commented that if the association's sole purpose were to protect school-children against pornography, then official participation might well be appropriate. In fact, however, it seemed likely that the campaigners would demand action even against bona fide displays of works of art; and the

1 According to Roeren, VdRT XI Leg. Per., II Sess. 1905/06, Bd. II, 22 Feb. 1906, p. 1518.
2 Thoma's remarks were made in the Upper House of the Baden Parliament on 15 March 1906. He clarified his views in the M.N.N., 13 July 1906, nr. 323 and drew lengthy replies from Müller-Meiningen, Max Slevogt, Ferdinand von Miller and Ludwig Thoma: M.N.N., 27, 28 July 1906, nrs. 348, 349.
3 AStAM, MInn 73 589: petition of 10 May 1907; M.N.N., 23 May 1907, nr. 238. For Lipps, see above, Chap. I, p. 36, Chap. II, p.60.
4 VdkdAbg 1905/1906, Bd. IV, 20 June 1906, p. 847.
5 See correspondence in AStAM, MKu 19 101, MInn 73 589.

recent manifesto of the practically identical Aachen Männerverein had insisted that reproductions of acknowledged masterpieces could in some circumstances be treated as obscene. In the kind of controversy which might therefore arise, it would obviously be undesirable for the Ministry, which was responsible for protecting the interests of art, to be identified as a member of such an organisation. Furthermore, the memorandum pointed to a number of passages in Kausen's Massenvergiftung which indicated that the struggle against pornography was equated with the struggle against 'unbelief', and especially Monism. If the Männerverein pressed for obscenity proceedings against freethinking literature, official membership would again provoke attacks 'which in certain circumstances would not be unjustified'[1]. These arguments, together with the lesson of the Lex Heinze episode, no doubt explain why, although the Government occasionally sent observers to the Männerverein's committee meetings[2], its official attitude towards the association remained cautious until the major political changes of 1912[3].

Once launched, the Männerverein appears to have been extremely active: petitions were drawn up; boycots were organised against shopkeepers who displayed indecent pictures or periodicals (in 1912, Simplicissimus' auditors reported that this kind of action was having a serious effect on sales[4]); information was gathered about dealers in pornography and 'bibliophiles' editions'; and a

1 AStAM, MKu 19 101: memorandum of 11 June 1906 (draft).
2 AStAM, MInn 73 589: Dr Dietrich Bittinger to Pol. Dir., 21 Nov. 1907.
3 According to Pauly, Armin Kausen, p. 39, however, Kausen at times collaborated closely with Podewils and von Wehner.
4 Stadtbibl., Nachl. Thoma: report of 10 June 1912.

great deal of agitation took place behind the scenes[1]. These efforts were supported on the one hand by Freyberg and his colleagues in the Chamber, and on the other by the tireless activity of Dr Kausen, who not only played a major part as a member of the Männerverein's policy committee, but also kept up an incessant barrage of propaganda. In 1908 alone, the Allgemeine Rundschau printed at least 40 articles on morality, 11 of which were contributed by Kausen himself. Furthermore, Privilegierte Massenvergiftung was followed by two more well-documented booklets on the pornography question: Rechtsprechung und Pornographie. Ein freimütiges Wort in 1910, and Ein Asyl für Pornographen? Zur Frage der Zuständigkeit der Schwurgerichte the following year[2]. In addition to 'exposing' individual pornographers and other wrong-doers in order to make the authorities take action against them, Kausen attacked a wide range of other targets: the ineffectiveness of the courts and the Government (which he sometimes denounced in very radical language); the moral laxity of the upper classes; the decadence of modern drama; and, on a great many occasions, the insolence of Jugend and Simplicissimus. He also fought a running battle against the Liberal press, and especially the Münchener Neuesten Nachrichten, which he accused of persistent hypocrisy in its attitude towards morality. Finally, like Roeren before him, Kausen assembled a special pornography collection ('ieber Dausend Scheisslikeiden', according to Jozef Filser[3]) as a means of convincing sceptical politicians and journalists

1 See reports of general meetings in M.N.N., 14 June 1907, nr. 275; Bay. Kur., 23/24 Feb. 1908, 12 March 1910; Augs. Postztg., 7 April 1909.
2 The latter was unfortunately undiscoverable.
3 Simpl., XII/52 (23 March 1908); Thoma, Ges. Werke, iv. 418.

of the seriousness of the situation[1].

A good example of Kausen's and the Männerverein's effectiveness was the successful campaign against Josef Vallé's Intimes Theater in 1908 and 1909. The Intime Theater was an inferior commercial imitation of the famous Elf Scharfrichter cabaret, which had been founded in 1901 and had eventually disintegrated early in 1904[2]. By the summer of 1908, its performances (and especially the appearances of Vallé's leading lady, Mary Irber) had become so indecent and difficult to censor that the police had begun to consider the controversial step of withdrawing Vallé's licence[3]. Their task was made considerably easier by the fact that Vallé was virtually forced into a libel suit by three violently hostile articles in the Allgemeine Rundschau[4]; and in two trials (during which Kausen's plea of justification was supported by a phalanx of eminent witnesses) his reputation was blackened to such an extent that it was an easy matter for the authorities to close down his establishment and make him leave Munich[5]. As far as the morality campaigners were concerned, the whole affair had been very skilfully handled, with a running commentary in the Allgemeine Rundschau, relentless pressure on the police, and effective use of the expert witness system which

1 Otto von Erlbach, 'Die "Münchener Neuesten Nachrichten" und der Kampf gegen den Schmutz. Eine Abrechnung', Allg. Rund., VIII/9 (4 March 1911).
2 For the Scharfrichter, see Heinz Greul, Bretter die die Zeit bedeuten (dtv edn., Munich, 1971), i. 122-134. For the Intime Theater, see the large amount of material in StAM, Pol. Dir. 3819/I-III, RA 3796/57860.
3 StAM, Pol. Dir. 3819/I: Pol. Dir. von der Heydte to Referat VI, Dr Dietrich Bittinger, 19 Aug. 1908; and Bittinger's reply the following day. For licensing procedure, see below, Chap. VI.
4 F. Reither, 'Wie amusiert sich die moderne akademische Jugend?'; 'Sittliche Niedertracht in "Theatern"'; Hans Besold, 'Grossstadtmilieu und Geschmacksverwilderung', Allg. Rund., V/29, 34, 37 (18 July, 22 Aug., 12 Sept. 1908).
5 See the articles by Kausen in Allg. Rund., VI/4, 10, 11, 12, 15 (23 Jan., 6, 13, 20 March, 10 April 1909); and the copious judicial and administrative material in StAM, Pol. Dir. 3819/II-III, RA 3796/57860.

Kausen usually spent so much time denouncing. The episode also showed what could be achieved by launching a concerted attack against a single individual.

As Hertling, von Soden and also the new Minister of Transport, von Seidlein, all belonged to the Männerverein, the change of government in February 1912 created the prospect of a closer relationship between the morality campaigners and the state; and it is certainly true that the two years before the war saw stricter police intervention in some areas of Munich life. One target was the spring carnival, which had been under attack by Kausen and his friends for a number of years. Quite apart from the traditional loosening of social and sexual convention which went with it, Fasching combined everything that the morality movement most detested. Georg Hirth, the local cabaret troupes and the city's entire population of artists and Bohemians played a prominent part; it had become usual to hold a Simplicissimusfest; and ever since the Lex Heinze episode, there had been boisterous demonstrations against prudery and censoriousness: in February 1909, for example, after the first trial involving the Intime Theater, Mary Irber had been fêted wherever she went and elaborate pantomimes had been organised to ridicule the Männerverein[1]. At the same time, it was also true that the growth of tourism had tended to commercialize Munich's traditional festivals; and the presence of large numbers of outsiders inevitably had some undesirable consequences. In any case, in both 1913 and 1914, the police acted energetically to curb the 'excesses' of Fasching, and in particular to ban new and immoral forms of dancing like

1 Kausen, 'Brettl-Unwesen und liberale Presse', Allg. Kund., VI/10 (6 March 1909).

the tango[1]. These measures were matched by attempts to clamp down on Munich's night-life by imposing stricter licensing hours on cafés and restaurants[2] - a severe blow to the city's intellectuals, many of whom were at their best in the small hours. All this naturally provoked a great chorus of protest and ridicule; and a special number of Simplicissimus appeared, entitled 'Die Grosstadt München', with cartoons showing search-lights mounted on the Frauenkirche and the streets deserted except for policemen on the lookout for prostitutes[3]. Nevertheless, such action was warmly welcomed by the Allgemeine Rundschau and certainly corresponded to the morality campaigners' deeply-rooted hostility towards many aspects of urban civilization: as one writer put it, it was essential to avoid 'the mixture of low Parisian scurrility and international Jewish insolence' characteristic of Berlin[4]. Whether the Hertling Government and its allies would have succeeded in the long run in arresting Munich's development into a modern metropolis seems highly doubtful. In this as in other fields, however, their efforts were unexpectedly assisted by the outbreak of war.

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1 See F.X. Mertens, 'Die fortschreitende sittliche Entartung des Münchener Karnevals'; Otto von Erlbach, 'Nochmals der Münchener Karneval'; 'Ein Schlusswort der Münchener Polizei zum Karneval 1913', Allg. Rund., X/6, 7, 8 (8, 15, 22 Feb. 1913); and L. Ernst, 'Tanz und Mode. Präludien zum Münchener Karneval'; Otto Hipp, 'Grosstädtische Kulturblüten', ibid., XI/4, 7 (24 Jan., 14 Feb. 1914).
2 W. Thamerus, 'Der Froschmäusekrieg der "Kulturträger gegen die Münchener Polizei', Allg. Rund., X/10 (8 March 1913); Erich Mühsam, 'Polizeidiktatur', Kain, II/11 (Feb. 1913), pp. 164-168.
3 Simpl., XVIII/1 (31 March 1913).
4 Clemens von Furstenberg, 'Die "Grosstadt" München', Allg. Rund., X/11 (15 March 1913).

More than enough has been said in the course of the present study to indicate that vice and pornography were not the only targets of those who believed that Germany was threatened with moral catastrophe. On the contrary, the reformers supposed that they were facing a hydra-headed monster of subversion and godlessness which was undermining all accepted notions of order and authority. It was therefore hardly surprising that in Munich two groups were singled out for particular attention. The first was the heterogeneous assortment of artists, writers and Bohemians identified with, if not always located in, the northern suburb of Schwabing. The second consisted of Munich's freethinkers, who seem to have become increasingly numerous and militant in the two decades before the war.

For two main reasons, Schwabing was bound to be seen by conservatives as a hotbed of revolutionary subversion. In the first place, the area around the University tended to attract most of the city's substantial population (numbering approximately 2,000 in 1910[1]) of expatriate Russians. The vast majority of these were students, some of whom indulged in clandestine political activity in spite of increasing pressure by the police. Others, however, were professional revolutionaries for whom Munich was a convenient staging-post between Russia and the other centres of émigré activity in Western Europe: Lenin, Trotsky, Martov and other prominent figures all stayed there at various times; and the first eight numbers of Iskra were printed in Alexander Helphand's flat in Schwabing[2]. Furthermore, there was a good

1 Ludwig Schneider, 'Die russische Studentenkolonie und das Echo des revolutionären Russland in München vor 1914', in Bosl, Bayern im Umbruch, p. 76.
2 Z.A.B. Zeman and W.B. Scharlau, The Merchant of Revolution. The Life of Alexander Israel Helphand (Parvus), 1867-1924 (London, New York, Toronto, 1965), p. 57.

deal of contact between the Russians and the Munich intelligentsia. On the one hand, avant-garde occasions like the private readings of Frank Wedekind's more controversial plays were attended by Russian students, whose presence was carefully noted by the police[1]. On the other, many liberal intellectuals sympathized with the struggle against tsarist autocracy: Simplicissimus was violently hostile towards Nicholas II's régime throughout the pre-war period (and Trotsky apparently became personally acquainted with the paper's collaborators[2]); the massive demonstrations which followed the Bloody Sunday massacre were supported by such familiar figures as Max Halbe, Joseph Ruederer, Max Bernstein, Ludwig Quidde and Ludwig Thoma[3]; and in May 1914, Quidde and Thoma made strong speeches at a meeting in aid of Russian political prisoners, while Thomas Mann was on the committee[4]. All this, together with the fact that the German opponents of tsarism often drew parallels with events nearer home, undoubtedly explains much of the hostility of conservatives towards the 'Russian-Jewish rabble'[5] in their midst.

The second form of subversion commonly identified with Schwabing was anarchism. In fact, however, unless one includes the radical freethinkers who will be considered presently (and although the anti-authoritarian attitudes of many of Schwabing's inhabitants could be described in a broad sense as 'anarchistic'), it is clear that anarchism as a political movement was very weak

1 See StAM, Pol. Dir. 4590: police report on reading of Totentanz, 26 Nov. 1908.
2 Zeman & Scharlau, op. cit., p. 66.
3 Schneider, op. cit., pp. 83-87.
4 Ibid., pp. 89-90.
5 Bay. Vat., 9 April 1907, quoted in Schneider, op. cit., p. 90.

in Munich[1]. Its most colourful local representative was the writer Erich Mühsam, who settled in the city in 1909 and was involved the following year in a sensational conspiracy trial which ended with his acquittal. Mühsam was certainly a sympathetic figure; and in his one-man Zeitschrift für Menschlichkeit, Kain, which appeared between April 1911 and the outbreak of war, he revealed himself as an essayist of wit and humanity. He was also one of Schwabing's few really genuine Bohemians, in the sense that he went beyond mere outlandishness and chronic penury and cultivated the 'fundamental negation of all conventional values' associated with Turgenev's character Bazarov and the Russian nihilists[2]. But as a revolutionary agitator he was woefully ineffective, and his efforts to win recruits to anarchism among students and artists on the one hand and social outcasts on the other (the workers, he felt, had been alienated from the class struggle by Social Democracy[3]) were singularly unsuccessful. Although his stage-anarchist's appearance and close identification with the literary avant-garde no doubt encouraged conservatives to see him as a dangerous 'wild man', most of his fellow-intellectuals seem to have regarded his political activities as ludicrous[4].

The morality campaigners' tendency to see a link between

1 See Ulrich Linse, 'Die Anarchisten und die Münchner Novemberrevolution', in Bosl, Bayern im Umbruch, pp. 37-73; and Organisierter Anarchismus im Deutschen Kaiserreich von 1871. Beiträge zu einer historischen Strukturanalyse Bayerns im Industriezeitalter, Bd. 3 (Berlin, 1969), pp. 91-94, 102-105.
2 Mühsam, 'Bohème', Die Fackel, Jg. VIII, nr. 202 (30 April 1906), pp. 4-10.
3 Ibid.
4 See for example the hilarious Simplicissimus pamphlet published in June or July 1910 after Mühsam's conspiracy trial: !!Furchtbares Ereignis!! Die Catilinarische Verschwörung in München, dargestellt von Ludwig Thoma.

political subversion and sexual immorality has already been noted[1]; and the leaders of the Männerverein were no exception. Dr Abraham Böhmländer, a Protestant clergyman and schoolmaster, and a secretary of the Association, told the third annual general meeting in February 1908:

> 'History teaches how at all times the parties of revolution have used prostitution and related phenomena in preparation for the execution of their plans; ... it has often enough been reported how many Russian terrorists of both sexes led a wild life before carrying out their dreadful deeds' 2 .

This was obviously a crude over-simplification; yet, in a rather different sense, it did have some relevance to certain members of the Schwabing community. For most of the suburb's numerous (and usually temporary) refugees from conventional society, promiscuity was probably nothing more than an accepted and enjoyable part of 'being Bohemian'; and the influx of tourists no doubt encouraged a good deal of prostitution under various intellectual disguises. But for a small minority of radicals, sexual liberation was a highly serious matter, and something essential to their conception of a free society. Erich Mühsam, for example, in common with many other anarchist-Bohemians (though not with his former Berlin associate Gustav Landauer, with whom he quarrelled for this reason[3]), rejected bourgeois marriage and regarded free love as part of the individual's fundamental right of self-fulfilment; and he demanded the legalisation of all forms of sexual activity between consenting adults[4]. Much

1 See above, Chap. II, pp. 51-52.
2 'Warum brauchen wir Interkonfessionelle Männervereine zur Bekämpfung der öffentlichen Unsittlichkeit?' (ii), Allg. Rund., V/12 (21 March 1908).
3 Linse, Organisierter Anarchismus, p. 98.
4 See Mühsam, Die Homosexualität. Ein Beitrag zur Sittengeschichte unserer Zeit (3rd ed., Berlin, n.d.); and Linse, Organisierter Anarchismus, pp. 100-101.

more important than Mühsam himself in this respect, however, was one of Mühsam's friends, the psychiatrist Dr Otto Gross, who combined psycho-analytical insight with political radicalism in a manner more familiar in the 1960's than in the Wilhelmine period.

Gross was a highly interesting figure who has hitherto received much less attention than he deserves[1]. His father was the famous Austrian criminologist Professor Hanns Gross (whose authoritarian personality clearly had a strong influence on his son's development), and he himself was for a time the lover of D.H. Lawrence's future wife, Frieda Weekley (*née* von Richthofen) and a brilliant disciple of Freud, who remarked in 1908 that, of all his followers, Gross and Jung had the only truly original minds[2]. Unlike Freud, however, who eventually broke with him because he feared for the reputation of psycho-analysis, Gross was determined to spell out the political implications of exploring the unconscious mind. For him, Freud's discoveries were the direct continuation of the work of Nietzsche, who had been the first to recognise the destructive effect of society on the individual[3]. In Gross' opinion, much if not all neurotic illness, especially among women and people of unusual creativity, stemmed from the social repression of natural erotic drives. What was needed, he believed, was not the adaptation, by therapy, of the individual to his environment, but the radical transformation of

1 For a recent account of Gross' life and ideas, see Martin Green, *The von Richthofen Sisters. The Triumphant and the Tragic Modes of Love* (London, 1974), pp. 32-73.
2 Ernest Jones, *Sigmund Freud: Life and Work* (2nd edn., London, 1958), ii. 37.
3 'Die Einwirkung der Allgemeinheit auf das Individuum', *Die Aktion*, III/47 (22 Nov. 1913), cols. 1091-1094.

that environment and the destruction of the roots of repression in the authoritarian family. 'The psychology of the unconscious' he wrote in 1913,

> 'is the philosophy of revolution ... Its mission is to make people inwardly capable of being free, to be the preparation for revolution ...
>
> Only now can one perceive that the seat of all authority lies in the family, that the union of sexuality and authority, as it reveals itself in the family in the form of the father's still valid rights, binds all individuality in chains ...
>
> The revolutionary of today struggles against violation in its most primitive form, against the father and the father's right' [1].

Gross did not in fact live in Munich very long: he arrived there in 1906 and by 1908 was being treated by Jung for supposed schizophrenia in the Burghölzli Sanatorium near Zürich[2]. After escaping from there, he began to live an increasingly unsettled and persecuted life (he was arrested on his father's orders in 1913, to the great indignation of the German avant-garde[3]) and died in Berlin in 1920. During his stay in Munich, however, he became a prominent member of the Schwabing intellectual community (according to Freud's biographer, Ernest Jones, who was one of his pupils, he was often to be seen conducting his analyses at a table in the Café Passage[4]), and he certainly embodied everything that the city's morality campaigners most abhorred. In addition to his close association with anarchists and Bohemians, Gross was an advocate of eroticism in all its forms; he was a fanatical opponent of Christianity; and, finally, he was a lifelong champion of urban civilization, since he regarded

1 'Zur Ueberwindung der kulturellen Krise', Die Aktion, III/14 (2 April 1913), cols. 384-387.
2 Jones, Freud, ii. 33.
3 Green, The von Richthofen Sisters, pp. 67-68.
4 Ernest Jones, Free Associations. Memories of a Psycho-Analyst (London, 1959), pp. 173-174.

marriage and the authoritarian family as essentially peasant institutions[1].

During the 1890's, as the campaign against the Gesellschaft für modernes Leben and the debates on the Lex Heinze showed[2], avant-garde writers and painters were frequently identified by the Right with Nietzschean morality and political subversion. This continued to be the case after the decline of Naturalism, sometimes with rather more obvious justification: there were definite links, for example, between German anarchism and the young Expressionist movement[3]; and in the immediate pre-war period, some writers proclaimed their rejection of the established order in highly aggressive terms. One example of the combination of literary experiment and cosmic revolt which so offended conservatives was the avant-garde paper Die Revolution, the first number of which appeared in Munich on 15 October 1913[4]. On the cover was a woodcut depicting urban insurrection by Richard Seewald; inside were contributions by Johannes R. Becher, Klabund, Leonhard Frank and others, and a brief essay by Mühsam which compared revolution with 'an erupting volcano, an exploding bomb or even a nun stripping' and ended with the appeal 'Let us be chaotic!' Almost every page, in fact, seemed calculated to achieve the maximum épatement of the respectable citizen, and it was therefore hardly surprising that the Centre deputy Carl Schirmer should have complained to the Minister of Justice on 27 October that the

1 'Zur Ueberwindung der kulturellen Krise', Die Aktion, III/14 (2 April 1913), cols. 384-387.
2 See above, Chaps. I & II.
3 Linse, Organisierter Anarchismus, pp. 103-105.
4 See Paul Raabe, Die Zeitschriften und Sammlungen des literarischen Expressionismus. Repertorium der Zeitschriften, Jahrbücher, Anthologien, Sammelwerke Schriftenreihen und Almanache,1910-1921. Repertorien zur deutschen Literaturgeschichte, Bd. I (Stuttgart, 1964), p. 50. Number 5 of the paper, which appeared on 20 Dec. 1913, was devoted to the arrest of Otto Gross.

paper's 'filthy, blasphemous content' had caused widespread annoyance[1]. By the time his letter arrived, however, criminal proceedings under Paragraphs 166 and 184 had begun, their object being a poem by Hugo Ball entitled Der Henker, which set out to describe an executioner's feelings as he prepares to dispatch a beautiful woman, and which included the lines:

> 'Tische und Bänke stehen wie blitzende Messer
> der Syphiliszwerg stochert in Töpfen voll Gallert und Kleister.
> Dein Leib ist gekrümmt und blendend und glänzt wie der gelbe Mond
> deine Augen sind kleine lüsterne Monde
> dein Mund ist geborsten in Wollust und in der Jüdinnen Not
> deine Hand eine Schnecke, die in den blutroten Gärten voll Weintrauben und Rosen wohnte.
> Hilf, heilige Maria! Dir sprang die Frucht aus dem Leibe
> sei gebenedeit! Mir rinnt geiler Brand an den Beinen herunter.'

The outcome of the case was very interesting (particularly by comparison with the Liebeskonzil affair in 1895[2]), because it showed the increasing difficulty of applying conventional legal norms as the links between writers' imagination and external reality became more tenuous. The prosecuting authorities eventually had to admit that the poem was 'so obscure and incomprehensible that it leaves room for every possible interpretation'; and that during interrogation the accused (Ball, the paper's editor, Hans Leybold, and its publisher, Heinrich Bachmair),

> 'who seriously make themselves out to be representatives of a new artistic movement, exponents of a literary "Futurism", revealed such eccentricity and confusion in their moral views that it must be seriously doubted whether they were even conscious of the immorality of their manner of thought and speech, which manifests

1 AStAM, MJu XII/25: Carl Schirmer to MJu von Thelemann, 27 Oct. 1913. See also material in StAM, St. Anw. 1735.
2 See above, Chap. I, pp. 25-27.

itself in objectively palpable form in the poem' [1].
In the end, therefore, Ball and his associates had to be discharged; and although the state took its application for 'objective' proceedings under Paragraphs 41 and 42 of the Criminal Code[2] as far as the Reichsgericht, its final appeal was rejected on 6 April 1914[3].

The difficulty of bringing the law to bear on modern art and literature did not prevent the morality campaigners using other methods of harassing the avant-garde and those connected with it. One very effective device, as the attack on the Intime Theater showed, was to force selected individuals into embarking on wearisome and sometimes disastrous libel actions; and this was illustrated once again by the case of the well-known Munich bookseller Karl Schüler. Schüler was a likely target because he was a main supplier of books for the avant-garde (he had stocked copies of Panizza's Liebeskonzil, for example[4]), had supported the Goethebund, and regularly distributed tickets for the city's important private dramatic societies. In January 1909, he was denounced as a purveyor of pornography by both the Allgemeine Rundschau and the Bayerische Kurier on the grounds that some of the bibliophiles' editions advertised in one of his recent catalogues had been obscene[5]. Although a police investigation of these accusations was eventually dropped, Schüler lost his libel suit against Kausen and the editor of the Kurier after a series of hearings which dragged on until May 1911. This outcome was

1 AStAM, MJu XII/25: II St. Anw. Federschmidt to Oberstaatsanwalt, 3 Dec. 1913.
2 See above, Chap. III, p. 125.
3 Rulings in StAM, St. Anw. 1735.
4 StAM, St. Anw. 7120: interrogation record of 12 Feb. 1895.
5 See articles in Allg. Rund., VI/1, 2, 4, 5 (2, 9, 23, 30 Jan. 1909) and Bay. Kur., 3, 4, 24, 25 Jan. 1909; and also verdict of Amtsger. MÜ. I, 2 April 1910 in GStAM, MA 94 791.

particularly satisfying for Kausen because it was a blow to the hated system of using intellectuals as expert witnesses: Schüler's lawyer, Max Bernstein, had called Paul Heyse, Thomas Mann, Max Halbe, Michael Georg Conrad, two art historians and three professors of literature into the witness-box to pronounce on the items in the catalogue; but the courts had refused to regard their evidence as anything more than interesting private opinions[1].

This and other attacks on the intellectual community provoked a lively response, especially from Jugend, Simplicissimus and Erich Mühsam's Kain, which kept up a spirited campaign of abuse against 'das Kausen' and the 'Allgemeine pornographische Rundschau'[2]. The bitterness of the debate even invaded such traditionally non-partisan organisations as the Münchener Journalisten- und Schriftstellerverein[3]; and the news of Kausen's death, on 15 March 1913, was greeted in Schwabing with orgiastic glee[4]. 'Armin Kausen's voice is stilled,' wrote Mühsam, 'and with it the telephone-bell of the vice squad'[5]. Nevertheless, the avant-garde had no real reason to rejoice: both the Allgemeine Rundschau and the Männerverein continued as before; and there seemed little chance that the Hertling Government would be unseated in the foreseeable future. Finally, the outbreak of war, which was seen by many as an opportunity for moral re-birth, had a profound effect on

1 See the printed version of their evidence in GStAM, MA 94 791: and Kausen, 'Eine grundsätzliche Entscheidung gegen "Sach-verständigen-Gutachten" in Pornographie-Prozessen', Allg. Rund., VIII/18 (6 May 1911).
2 See especially Mühsam's articles 'Der Kausen' and 'Abschied vom Kausen', Kain, I/8 (Nov. 1911), pp. 124-126, and III/1 (April 1913), pp. 11-12.
3 See Kausen's indignant printed letter of resignation in GStAM, MA 94 791. For material on the organisation, see AStAM, MInn 73 529.
4 Mühsam, Namen und Menschen, p. 196.
5 'Abschied vom Kausen', Kain, III/1 (April 1913), p. 11.

Munich's social and intellectual life. Within a few weeks, conscription, censorship and the departure of large numbers of foreigners had brought changes which Kausen and his allies had struggled for years to achieve. 'Serbia is at its last gasp' rejoiced one of the Allgemeine Rundschau's contributors in November 1914, and went on:

> 'Even before, a small community fell a victim to the war which was very similar to it, as much in insolence as in megalomania: Schwabing'.

Then, after a long denunciation of the unappertizing appearance and dissolute behaviour of the suburb's former inhabitants, the writer complained:

> 'One thing was common to them all: complete lack of discipline, and constant resistance to order and morality. Leading a cat-and-dog life among themselves, they were ready at any moment to demonstrate in favour of public shamelessness, debauchery and unbelief under the cloak of artistic and scientific freedom, and to complain to the world about Bavarian backwardness'.

Now, the article concluded, Schwabing was scattered to the winds, and the former state of affairs must never be allowed to revive: 'The literary and artistic Schlawinertum signified by the word Schwabing must be eliminated for ever. German discipline is more important than anything else!'[1]

Any discussion of the 'subversive' aspects of the Munich avant-garde necessarily involves consideration of the city's free-thinkers, since they were often denounced by conservatives for very similar reasons. Although Liberal anti-clericalism had a much longer history, the specifically anti-religious movement associated with the ideas of Erich Haeckel seems to have struck root in Munich in the mid-1890's, and it then developed rapidly

1 Franz Rainer, 'Schwabings Untergang', Allg. Rund., XI/46 (14 Nov. 1914).

during the next twenty years. In 1907, several of the more important groups combined in a cartel; and from 1909 onwards this was led by the writer and philosopher Dr Ernst Horneffer, a man of great energy and considerable distinction[1]. There can be no doubt that the growing strength of the movement and the fanaticism of some of its supporters contributed to the general increase of political tension in Munich during the period. As has already been mentioned[2], many Catholics demanded more vigorous use of Paragraph 166; there were numerous libel suits; and the situation was further aggravated by the appearance on the scene of the Münchener Männerverein, only a few months after the foundation of the Deutscher Monistenbund in January 1906. The Ministry of Education was undoubtedly correct to claim, in the memorandum already cited[3], that the Männerverein intended to agitate against 'unbelief' as well as against immorality: although the Association ostensibly welcomed the collaboration of free-thinkers (Dr Kemmer himself appears to have been one[4]), influential extremists like Dr Kausen clearly believed that anti-religious literature was as harmful as pornography, and were hardly encouraged to be more tolerant by the fact that the Monistenbund's members included Georg Hirth, Fritz von Ostini and the painter Franz von Stuck[5]. In any case, the Männerverein's hostility was made almost inevitable by the views on morality and politics with which some freethinkers were identified.

It is unnecessary to discuss the ethical doctrines of the

1 See AStAM, MInn 73 551: confidential report on Horneffer, 8 Jan. 1914; and in general, Linse-Bosl, op. cit.
2 See above, Chap. I, p.28.
3 See above, pp. 188-189.
4 Bay. Kur., 23 June 1906.
5 Otto von Erlbach, Privilegierte Massenvergiftung, pp. 42-46, where Kausen also emphasized the connection between atheism, indecency and immorality.

freethinkers in any great detail. What offended their opponents seems to have been their generally rationalistic approach to moral problems and their belief that morality without religion was possible at all. One of the most prominent bêtes noires of the Munich clerical press was the Swiss Professor Auguste Forel, whose appearance at the Fort mit der Liebe!! trial in January 1906[1] was followed by an even more controversial visit a few weeks later to deliver a lecture on sexual ethics to Munich's leading avant-garde dramatic society, the Neue Verein[2]. Forel was similar to many other freethinkers in that his moral views were anything but permissive; but his attacks on the more hypocritical aspects of family and social life, his demands for birth control and sexual education and his rejection of conventional concepts of honour and patriotism were bound to arouse violent opposition[3]. Catholic reaction in Munich was illustrated by a series of lectures given in May 1906 by the Jesuit Professor Sailer. Under the title 'The Struggle against Unbelief', Sailer launched a massive onslaught on Forel, Nietzsche and the Monists, blaming them indirectly for a whole range of evils from murder to the pornography trade and predicting upheavals compared with which the French Revolution would be child's play. In the name of Germany, he also expressed gratitude for the efforts of Dr Kausen and announced the imminent creation of the Männerverein[4].

1 See above, Chap. III, pp. 119-121.
2 Printed as Sexuelle Ethik. Ein Vortrag gehalten am 23. März 1906 auf Veranlassung des 'Neuen Vereins' in München (Munich, 1906). For the role of the Neue Verein, see below, Chap. VI.
3 See the summary of his views in the pamphlet Le Rôle de L'Hypocrisie, de la Bêtise et de l'Ignorance dans la Morale Contemporaine. Conférence faite le 2 avril 1907, à la Maison du Peuple de Lausanne (Lausanne, 1907).
4 See reports in M.N.N., 30, 31 May, 1 June 1906, nrs. 250, 253, 254.

The allegations of political subversion made by Sailer and others would have been indignantly rejected by Dr Horneffer and the majority of Munich freethinkers; but for some sections of the movement they were not inappropriate. It is interesting to discover, in fact, that specifically anarchist circles like Mühsam's Gruppe Tat were less important as centres of left-wing extremism than organisations like the Freidenkervereinigung München and the Freidenkerverein Darwin[1]. Josef Sontheimer, who led the Freidenker-vereinigung München from 1901 until the Revolution, had been an anarchist since 1891, frequently made violently radical speeches, and was murdered by right-wing troops in May 1919 after joining the Munich Red Army[2]. Freethinkers' meetings sometimes ended with attacks on monarchy or cheers for the 'German republic'[3]; and both freethinkers and anarchists played a prominent part in the demonstrations which followed the execution of the Spanish anarchist Francisco Ferrer in October 1909[4] and the outbreak of the Portuguese Revolution a year later. This second event, and the reaction to it in Munich, prompted a long article in the clerical Augsburger Postzeitung which amounted to a cry of protest from the provinces against what was happening in 'the city of "Simplicissimus" and of "Jugend"'. The paper pointed out that the present population of Munich was almost as large as that of Paris in the 1790's, and wondered whether the same fate might one day befall the Bavarian capital, in time of war or when the city was denuded of troops.

1 Linse-Bosl, op. cit., p. 40.
2 Ibid., p. 42.
3 See for example police reports of 27 June 1902 and 11 Oct. 1910 in AStAM, MInn 73 551.
4 Linse-Bosl, op. cit., pp. 42-43; Linse, Organisierter Anarchismus, p. 113.

The celebration of events in Portugal and Spain, the public attacks on religion and Sontheimer's denunciations of the tsar all seemed to indicate the growth of an anarchistic movement which could become highly dangerous later on. 'It is not simply a matter of religion or morality,' the article continued,

> 'or of monarchical and conservative feeling, but it is a question of public security and order and the blood of peaceful conservative citizens ... '

How long would it be, asked the writer, before Munich shared the fate of Lisbon? And he concluded with the words: 'One does not play with bombs and daggers as if with tin soldiers!'[1]

After the formation of Hertling's administration in February 1912, the struggle against the freethinkers seems to have intensified. Both the Munich police and the Minister of the Interior had to recognize that little could be done against anti-religious agitation under the existing laws[2]; and clerical demands for the extension of Paragraph 166[3] remained unfulfilled. But the arrangements made in Munich and other Bavarian cities for 'non-confessional moral education' aroused such fierce opposition in the Centre Party that in July 1914 the Government was finally forced to issue a general ban[4]. This in turn provoked furious protests from the Liberals and Socialists and poisoned the political atmosphere for many months to come. At least on the surface, however, the outbreak of war brought an unexpected truce, since the 'bourgeois' majority of freethinkers led by Dr Horneffer almost

1 Augs. Postztg., 14 Oct. 1910.
2 AStAM, MInn 73 551: MInn von Soden to Hertling, 28 March 1914.
3 See for example Ferdinand Abel, 'Die schutzlose katholische Moral', Allg. Rund., XI/9 (28 Feb. 1914).
4 Albrecht, Landtag und Regierung, pp. 62, 69-70.

outdid the patriotic enthusiasm of their Christian and Jewish fellow-citizens[1].

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1 See the police report on the 'vaterländische Gedenkfeier' held on 23 Aug. 1914, at which Horneffer proclaimed that the Germans should be 'masters of the earth': AStAM, MInn 73 551.

VI

The Law and the Theatre in Munich

No study of the debate on freedom of expression in Munich during this period can be complete without a discussion of theatre censorship. The theatre formed a major part of the city's cultural life, important not only as a mouthpiece for the avant-garde, but also as a focal point for everyone with an interest in ideas. Enthusiasm for the stage, recalled the historian Karl Alexander von Müller, was common to all classes, and an important new play would be discussed as though the future of the world depended on it[1]. Regardless of whether they favoured greater freedom or stricter control, most contemporaries saw the theatre, like the press, as a powerful channel of communication capable of influencing behaviour and attitudes. The question of censorship was therefore a vital one; and the debates on morality and deviant behaviour which took place before and after 1900 were at least as much concerned with the theatre and its various offshoots as with books, pictures, newspapers and satire.

For the historian, the issue of theatre censorship is doubly interesting because the contrast between the kind of controls imposed on the press and those imposed on the stage was very striking. Between 1848 and 1874, the press in most parts of Germany began to become emancipated from administrative restrictions and to enjoy a greater measure of protection from the courts. Between 1874 and 1914, for reasons already described, its real

1 Aus Gärten der Vergangenheit. Erinnerungen 1882-1914 (Stuttgart, 1951), p. 217.

power and freedom increased very markedly, especially in Bavaria and other states in which press cases had to be tried by jury. Yet the situation of the theatre remained fundamentally different. With the exception of the royal theatres, which were subject to restrictions of their own, the stage continued to be regarded by the authorities essentially as a form of business activity and not as a means of communication which had a claim to particular freedom. It therefore remained subject to many of the restrictions which had hampered the press before 1848: licensing, caution money and a classic system of preventive censorship which, at least in Bavaria, could not be regulated by the courts. Some progress towards greater freedom did in fact take place during the period: in Munich, as in other places, the effective monopoly of the Royal Theatres was broken and the public's range of choice greatly increased. Yet the state's restrictive powers remained formidable. Even the Bavarian Government's creation of an Advisory Council of outside experts in 1908 did not alter the fact that any play intended for public performance could be cut or banned at the ultimate discretion of the administrative authorities. In spite of fierce criticism, this relic of the traditional police-state survived essentially unchanged until it was abolished by proclamation of the Council of People's Commissars on 12 November 1918[1].

1 RGBl. 1918, p. 1303. For detailed information about the legal position of the German theatre, see Kurt Heinzmann, Deutsches Theaterrecht (Munich, 1905); Robert Heindl, Die Theaterzensur (Erlangen, 1907); and the article 'Theaterrecht' in Stengel, Wörterbuch, iii. 589-594. There was no censorship in Württemberg, Baden, Brunswick, Sachsen-Koburg-Gotha, Sachsen-Meiningen and Hamburg.

The laws governing the theatre were not only more restrictive but also more complicated than those relating to the press. Despite frequent demands, the Press Law of 1874 was never matched by an equivalent Reich Theatre Law which could have created one unified system of supervision[1]. Instead of this, theatre legislation was made up of two quite separate parts: while the initial licensing process was governed by the Trade Regulations of 21 June 1869, a theatre manager's relations with the authorities once his licence had been granted was regulated by Land laws which varied considerably from one federal state to another. In order to understand the debates on theatre censorship, it is necessary first of all to discover how the whole system of control worked in theory and practice.

Apart from a few regulations relating to Passion plays, Bavarian licensing legislation had become obsolete when the Trade Regulations came into force in Bavaria in 1873[2]. In its original form, Paragraph 32 of these Regulations laid down that a theatre manager had to obtain a licence, although this could only be refused if there was evidence of the applicant's unreliability. Once issued, the licence was automatically valid in all parts of Germany and applied without limitation to all forms of theatrical entertainment. In the course of time, however, these liberal rules were increasingly tightened. In July 1880, Paragraph 32 was amended so as to prevent the issue of a licence to anyone not considered sufficiently reliable, 'particularly in moral, artistic and financial respects'; and the clause allowing a licensee

1 This would have been a very complex piece of legislation, dealing not only with licensing and censorship but also with conditions of employment in the theatre.
2 Einführungsgesetz of 12 June 1872, RGBl. 1872, p. 170. For licensing in general, see Heinzmann, Deutsches Theaterrecht, pp. 26-41.

to put on any kind of performance was deleted[1]. The law was made even stricter by an amendment of August 1896, which explicitly laid down that a licence was valid only for a specific undertaking and placed additional stress on the need for adequate financial backing[2].

These were not the only new restrictions placed upon the theatre. At the beginning of the 1880's, there had been considerable concern about the spread of the café-concert or Tingel-Tangel, which was seen as a threat both to the serious theatre and to public morals. In July 1883, therefore, a completely new Paragraph 33a was added to the section of the Trade Regulations which dealt with the licensing of public houses[3]. This new measure obliged anyone - regardless of whether he already had a permit under Paragraph 32 - who put on or allowed to be put on, publicly and for gain on his premises, any kind of entertainment[4] which possessed no higher artistic or scientific interest, to obtain an official licence. This could only be refused if the proposed entertainments seemed likely to offend against morals or the law; if the premises themselves were unsuitable; or - and this was to be important in Munich - if enough licences had already been issued to cover the needs of the community in question.

These regulations were backed by a variety of sanctions. Licences issued under Paragraph 33a, as the case of Vallé's Intimes Theater showed[5], could not only be refused, but could also be withdrawn if there were any subsequent breach of law or morality.

1 Law of 15 July 1880, RGBl. 1880, p. 179.
2 Law of 6 Aug. 1896, RGBl. 1896, pp. 685-686.
3 Law of 1 July 1883, RGBl. 1883, p. 160.
4 As has been seen in Chap. V, however, this did not cover the cinema.
5 See above, Chap. V, p. 191.

Paragraph 32 was covered by Paragraph 53 of the Trade Regulations, which provided for withdrawal either if the application was found to have been based on incorrect information or if the licensee turned out to lack the necessary qualities. Finally, and most important of all, Paragraph 147/I punished with imprisonment or a fine not only anyone who engaged in restricted activities without a licence but also anyone who held a licence but failed to comply with the conditions attached to it. This latter clause was vital, because it implicitly recognized the right of local authorities to enforce rules of their own about how a theatre should be run once a licence had been granted. Paragraph 147/I was therefore the main link between the Reich licensing regulations and the various forms of censorship operated by the individual states.

In Bavaria, the modern legal basis for theatre control was Paragraph 32 of the Police Code of 1871, which clearly indicated that the local police could attach conditions to a licence[1]. In Munich by the 1890's, a theatre manager had to accept not only extensive fire regulations drawn up by the City Council, but also a detailed Ortspolizeiliche Productions-Bewilligung issued by the police. This permit varied in size and lay-out according to the type of establishment involved; but the version issued to Hugo Oertel of the Deutsche Theater in April 1898, which ran to three closely-written pages, contained most of the rules imposed on Munich theatres during the period[2]. Although some of these rules

1 Das Polizeistrafgesetzbuch für Bayern vom 26. Dezember 1871, ed. Emil Riedel (Nördlingen, 1872), pp. 84-85. The strictness of police supervision varied considerably from place to place. In Munich, for example, censorship was generally severe, whereas in Nuremberg it was very mildly applied. Theatre censorship in Bavaria had originally been established by a decree of 23 Jan. 1782.
2 StAM, Pol. Dir. 3814/II: licence dated 6 April 1898.

were purely technical, the bulk of the document dealt with the right of the authorities to examine in advance everything that the public was intended to see. This had been explicitly recognised by the courts in 1866[1], and the Munich police were determined to enforce it with the utmost rigour. Paragraph 5 of Oertel's instructions laid down that

> 'Every play or poem intended for performance, every act, part, prologue, epilogue and every addition thereto; in the case of musical productions the libretto, of choreographic, mimed or plastic representations an exact description of the subject-matter, is to be submitted - as a rule, seven days before the intended performance - in two identical copies to the Royal Police Direction'.

The police also had the power to ban, wholly or in part, any performance 'on grounds of morality, propriety or public peace', and permission already granted could be withdrawn at any time. Police officers were entitled to attend performances and dress rehearsals to ensure that any cuts or conditions were rigorously observed. The manager had to forbid improvisations by his actors and to enforce the prohibition by writing penal clauses into their contracts, which also had to be produced on demand. Finally, Oertel was reminded that these regulations could be altered or extended at any time, and that the police could withdraw the licence altogether under the rules laid down in Paragraph 33a of the Trade Regulations.

This system was made more severe in practice by the nature of the appeal machinery, which differed markedly from that relating to licensing. An applicant who wished to protest against the refusal of a licence or the attachment to it of unacceptable conditions could take his case first to an administrative

1 Riedel, Polizeistrafgesetzbuch, p. 85, note 5.

senate of the Kreisregierung and finally to an administrative court[1]. Both these bodies sat in public, heard pleas by counsel and issued closely-reasoned rulings; and, as will be seen presently, there was also a fair chance that the original decision would be reversed. But the position of a manager who objected to cuts or bans imposed by the police was very different. Censorship was a 'purely police matter'[2], a question of administrative discretion in which the courts had no power to intervene[3]. Although 'complaints' against the censor were allowed, they had to go through the administrative hierarchy, first to the Kreisregierung in its ordinary capacity, and ultimately to the Ministry of the Interior. At each stage decisions were made in secret, and the prospects of success seem to have been small. Because of this, the situation in Bavaria was significantly worse than in Prussia, where censorship decisions were open to review by the courts. While Berlin police bans on Otto Erich Hartleben's Hanna Jagert and Gerhart Hauptmann's Die Weber were both lifted by an Oberverwaltungsgericht[4], as was a Königsberg ban on Frank Wedekind's Frühlings Erwachen[5], there is no record of a comparable decision by the Munich censor having been reversed by the administrative authorities. The contrast between the freedom of the press and the freedom of the stage in Munich during the period 1890-1914 is therefore all the more striking.

It is important to point out that one major form of theatrical

1 This was provided for by Paras. 20, 21 and 40 of the Trade Regulations and Para. 8/8 of the Bavarian Law for the Establishment of an Administrative Court of 8 Aug. 1878.
2 GStAM, MA 92 414: MInn von Feilitzsch to Prime Minister von Crailsheim, 28 Sept. 1896.
3 Loc. cit.: MInn von Feilitzsch to von Crailsheim, 16 March 1897; Bavarian Law for the Establishment of an Administrative Court of 8 Aug. 1878, Para. 13/3.
4 H.H. Houben, Die verbotene Literatur von der klassischen Zeit bis zur Gegenwart (Bremen, 1925-1928), i. 255-270, 337-349.
5 Günter Seehaus, Frank Wedekind und das Theater (Munich, 1964), pp. 95-97.

enterprise (apart from private dramatic societies, which will be considered shortly) remained exempt from the ordinary laws. Neither the Hoftheater nor the Residenztheater, which were owned directly by the Crown, required a licence; and any problems of censorship were dealt with 'by mutual arrangement' between the Intendant and the police[1]. In practice, the repertoire of the Royal Theatres seems to have depended less on the legal situation than on the attitude of the monarch. Under Ludwig II, the Hoftheater had become famous for its pioneering productions of Ibsen, whereas the Regent and his family were clearly not interested in modern drama and tended to exert a restrictive influence. Although Intendant von Possart's claim that his neglect for the latest developments was out of consideration for the young princesses was probably less than the whole truth[2], royal wishes could certainly not be ignored. In 1888, for example, Hanns von Gumppenberg's Thorvald was taken off after only two performances by order of the Regent because it was felt to be an allusion to the fate of Ludwig II[3]. As far as the avant-garde was concerned, the Hoftheater's unadventurous policy during the 1890's was a source of bitter frustration and encouraged the view that the institution itself was fundamentally obsolete[4]. But it was not of vital importance as long as there was adequate competition. One of the crucial questions of the 1890's, therefore, was whether the system of licensing and censorship to which

1 GStAM, MA 92 414: MInn von Feilitzsch to Prime Minister von Crailsheim, 16 March 1897. Theatres directly owned and administered by municipalities were also exempt from licensing: Heinzmann, Deutsches Theaterrecht, p. 29.
2 Georg Schaumberg, 'Das Münchener Hof- und Nationaltheater', Bühne und Welt, I/10 (Feb. 1899/2), p. 445.
3 Gumppenberg, Lebenserinnerungen, pp. 126-128.
4 See for example Arno Holz, 'Die neue Kunst und die neue Regierung', Die Freie Bühne, I, 12 March 1890, pp. 165-168.

other establishments were subject could in fact be used to ensure a virtual monopoly for the Royal Theatres. This was the main issue behind the interesting case of the Munich Deutsche Theater, which also illustrates how other aspects of the licensing system worked in practice.

By the early 1890's, Munich's reputation as a major theatrical centre was visibly declining. Between Franz von Dingelstedt's 1854 drama festival and the inauguration of Intendant von Perfall's imaginative Shakespearebühne in 1889, the history of the Munich stage was distinguished, reaching a peak with the Wagner and Ibsen productions during Ludwig II's best years. But nearly all the achievements of this period had been associated with the Royal Theatres, which effectively monopolized the opera and serious drama. Although two other establishments existed, the Theater am Gärtnerplatz and the Volkstheater, their productions were mostly aimed at a more popular audience and fluctuated considerably in quality[1]. Since 1873, when the Volkstheater was founded, no other theatre had been able to strike permanent root, in spite of the fact that by 1890 the city's population had almost doubled and Munich had become a major tourist attraction[2]. The policy of the Royal Theatres was therefore crucial; and their growing unwillingness, by the late 1880's, to experiment with modern plays was seen as a serious obstacle to development. It was

1 Rolf Wünneberg, Georg Stollberg und das neuere Drama in München (Munich, 1933), pp. 10-12.
2 See the detailed information in StAM, Pol. Dir. 3814/1: police memorandum of 3 April 1895; Pol. Dir. to Govt. of Upper Bavaria, 12 July 1895.

mainly for this reason that Munich was losing ground to other places and above all to Berlin, where there were no less than fourteen theatres in addition to the Hoftheater[1].

The situation in the Royal Theatres did not improve when Karl von Perfall was suddenly retired in 1892 and replaced by the celebrated actor Ernst Possart[2]. Possart was a highly talented and socially ambitious virtuoso of the old school who soon came to enjoy the same kind of position in Munich society as Paul Heyse and Franz von Lenbach. Like them, he was fundamentally conservative: although he had directed the sensational première of A Doll's House in 1880, he had little sympathy for modern drama and ruthlessly opposed anything which seemed to threaten his position. Possart's talents were in fact essentially operatic, and he soon embarked on an ambitious programme intended to rival Bayreuth and make Munich into an opera centre of European importance. The opening of the magnificent new Prinzregententheater and the inauguration of the Munich Opera Festival in August 1901 marked the success of this policy and the high point of Possart's own career.

Yet although this certainly enhanced Munich's reputation and provided a much-needed stimulus for the Hoftheater's finances, it was cold comfort for the supporters of modern drama. Apart from opera, the Royal Theatres offered nothing but an endless succession of mediocre pieces by Sardou, Lindau and others, eked out with

1 Hans Knudsen, Deutsche Theatergeschichte (2nd edn., Stuttgart, 1970), p. 334.
2 Possart at first assumed the title of Director-General, but became Intendant in 1895, when he was also ennobled. See Georg Schaumberg, 'Ernst von Possart', Bühne und Welt, I/1 (Oct. 1898/1), pp. 1-9.

classical productions and occasionally something more daring which had been safely tried out elsewhere. This not only left little room for experiment but prevented the Hoftheater's company acquiring the acting techniques essential for modern plays. What prevented professional actors from achieving the natural style required by Ibsen and Hauptmann, complained Michael Georg Conrad in 1893, was their excessive preoccupation with the bogus drama and false effects of the Parisian salon dramatists and their German imitators; no-one trained in this school could meet the demands of modern authors[1]. As in other fields, of course, relations between the grandees and the avant-garde were not totally bad: Possart's achievements were freely acknowledged, and he was usually willing to make his actors available for private performances of modern plays. Nevertheless, the desire for an independent outlet for modern drama became increasingly intense as the 1890's progressed.

In 1894, the hopes of the avant-garde suddenly seemed about to be fulfilled. A French-born architect named Alexander Bluhm conceived the idea of building an ambitious new establishment, to be called the Deutsche Theater, near the centre of the city in the Schwanthalerpassage[2]. There appeared to be every chance that the project would succeed. It was unanimously welcomed by the City Council and Bluhm obtained the support of the Bayerische Handelsbank, the Spatenbrauerei and a number of other wealthy backers. Most important of all from the artistic point of view was the fact that the man chosen to be theatrical director was

1 'Aus dem Münchener Kunstleben', Die Gesellschaft, IX, May 1893, p. 639.
2 See Wünneberg, George Stollberg, pp. 15-18. A large amount of material relating to the foundation of the Deutsche Theater is to be found in StAM, Pol. Dir. 3814/I.

a young actor-manager named Emil Messthaler, who had already made a name for himself with his Theater der Modernen, a touring company which specialised in the work of modern dramatists. According to the terms of his contract, Messthaler was to begin his first season in the new theatre on 1 October 1895[1].

It soon became clear, however, that the need to obtain a licence was a serious obstacle. As far as Paragraph 32 of the Trade Regulations was concerned, Bluhm was able to convince the police that he had sufficient experience and could raise the 30,000 Marks required as caution money. The authorities were also reassured by the promise that Messthaler would not be allowed to put on anything subversive; that the Deutsche Theater would not be made available for political meetings; and that its prices would ensure a respectable audience[2]. But Paragraph 33a presented problems. Whatever Munich intellectuals may have been hoping for, the businessmen behind the scheme were mainly interested in making a profit; and their aim was not to imitate Otto Brahm's Berlin Deutsches Theater, but to create a multi-purpose entertainment centre like Kroll's Establishment. Programmes were to include not only drama but also concerts, ballet and long intervals for refreshment, and the building was designed to accommodate balls and charity functions as well[3]. This alone[4] meant that Bluhm also had to obtain a licence for performances without 'higher artistic or scientific interest', which could be refused if it appeared that there was no real need for such an enterprise.

The so-called Bedürfnisfrage was not as straightforward

1 StAM, Pol. Dir. 3814/I: contract between Bluhm and Messthaler, 29 Dec. 1894 (copy).
2 Loc. cit.: Bluhm to Pol. Dir., 18 and 27 March 1895.
3 Loc. cit.: Bluhm to Pol. Dir., 18 March 1895.
4 The correspondence suggests that, even if Bluhm had only put on serious modern plays, the police would not have accepted that the Deutsche Theater had 'higher artistic interest'.

as it appeared at first sight, and it was the main reason why in March 1895, less than seven months before the theatre was due to open, final approval had still not been granted. The police remained undecided even after the project had been warmly recommended by the Mayor of Munich, Dr Wilhelm von Borscht[1], because they were concerned about one of Paragraph 33a's original aims, which had been to protect the serious theatre against competition. On 25 March 1895, therefore, they asked Possart what effect he thought the new establishment would have on the Hoftheater[2].

Possart's reply was a classic statement of conservative self-interest. The Deutsche Theater, he wrote, would permanently damage the Royal Theatres (and perhaps also place an unwelcome burden on royal finances) by attracting away their audiences and forcing them to compete on less favourable terms for new plays; and if the new establishment were allowed at all, then at least its repertoire should be made subject to the Hoftheater's approval[3]. These arguments were repeated even more emphatically by Possart in person[4], and although they did not convince the police that the new project should be vetoed altogether, they certainly encouraged them to impose limitations on it. On 25 April, a licence was issued which explicitly affirmed that Paragraph 33a could be used to protect 'artistic institutions of a higher order' like the Royal Theatres. Apart from other conditions, therefore, Bluhm was allowed to put on plays, comedies, farces, ballets and

1 StAM, Pol. Dir. 3814/I: von Borscht to Pol. Dir., 22 March 1895.
2 Loc. cit.: Pol. Dir. to Possart (draft).
3 Loc. cit.: Possart to Pol. Dir., 30 March 1895. The letter was published in the Augs. Abd. Ztg., 26 July 1895.
4 Loc. cit.: Pol. Dir. to Govt. of Upper Bavaria, 8 May 1895 (draft).

tableuax vivants, but not opera and tragedy, which were monopolized by the Royal Theatres, or operetta and dialect plays, which remained the preserve of the Gärtnertheater. Most important of all, however, was the stipulation that 'new plays and comedies may only be performed with the agreement of the management of the Royal Theatres'[1].

This was obviously unacceptable to Bluhm, and he therefore appealed to the Kreisregierung. But although the existence of the appeal machinery ensured that the issues would be thoroughly aired, the first stage only complicated matters still further. After a public hearing on 25 July, at which Paul Heyse, Max Bernstein and the writer and stage-director Ernst von Wolzogen all spoke strongly against restriction[2], the Kreisregierung ruled that the clause referring to the Hoftheater should be replaced by the simple stipulation that all plays must be submitted in advance to the police[3]. This made no difference at all to the basic situation. Although the tribunal accepted that the Royal Theatres could not be formally mentioned in the licence, it upheld the police interpretation of Paragraph 33a: since the Hoftheater performed the task of educating public taste, its protection was a matter of public interest and the police were therefore obliged to examine plays in this light. As this could not be done without advice from the Royal Theatres, Possart's power of veto remained effectively unchallenged.

By this time, the affair was receiving a good deal of public

1 Loc. cit.: police resolution of 25 April 1895 (draft). The police evidently tried without success to bring about a private agreement between Bluhm and Possart.
2 Augs. Abd. Ztg., 26 July; M.N.N., 26 July 1895, nr. 341.
3 StAM, Pol. Dir. 3814/I: ruling of II. Admin. Senate of Govt. of Upper Bavaria, 25 July 1895.

attention. The Neuesten Nachrichten and the Münchener Post expatiated on the dreariness of the Hoftheater's repertoire and pilloried Possart's 'Napoleonic' behaviour[1]. The idea of a monopoly for the Royal Theatres was rejected even by the Bayerische Kurier, which saw no need for the Deutsche Theater and feared that its programme would be on the same level as Panizza's Liebeskonzil[2]. Furthermore, as Reich legislation was involved, the matter was of more than merely local significance, and the police began to receive enquiries on behalf of state theatres in other parts of Germany which also wished to be protected from competition[3]. Much therefore depended on the verdict of the Administrative Court, to which Bluhm now submitted his case.

This proved to be of great significance for the whole question of theatre censorship in Bavaria. Although the judges rejected the claim by Bluhm's counsel that it was unlawful to attach conditions to a theatre licence at all, they admitted the legality of censorship only within certain limits. In particular, they denied that either Paragraph 32 of the Police Code or Paragraph 33a of the Trade Regulations could be employed to restrict free competition: Section II of the Police Code was solely concerned with matters of peace, order and security; and the idea that the interests of rival businesses should be taken into account in the granting of licences was entirely alien to the Trade Regulations[4]. On 16 April 1896, therefore, the

1 M.N.N., 15 July, nr. 321; 27, 30, 31 July, nrs. 342, 346, 348; Mü. Post, 5 Aug. 1895.
2 Bay. Kur., 28/29, 30 July 1895. For the Liebeskonzil affair, see above, Chap. I, pp. 25-28.
3 Correspondence in StAM, Pol. Dir. 3814/I; and see also Heinzmann, Deutsches Theaterrecht, pp. 37-39.
4 StAM, Pol. Dir. 3814/1: ruling of I. Senate of Administrative Court, 19 Jan. 1896.

original licence had to be re-issued with the unambiguous declaration that censorship might not be used either to prohibit new plays or 'for any other purpose than the protection of public order (propriety), peace and security'[1].

This was an important victory, achieved after much delay and at considerable expense. So it was sad that, as far as the Deutsche Theater itself was concerned, it was very largely irrelevant. In fact, the Bayerische Kurier's earlier prediction that, if only the Moderns were given their theatre, the end would come of its own accord, soon proved to have been accurate[2]. On 26 September 1896, almost a year behind schedule, Emil Messthaler launched the Deutsche Theater with a programme consisting of Julius Schaumberger's Sünde wider den Heiligen Geist, Max Halbe's Jugend and a full-length ballet[3]. This alone was unfortunate, but it rapidly became clear that the entire enterprise was misconceived. The auditorium was too large, the accoustics were bad, and the idea of combining a theatre for modern drama with a high-class ballroom and concert-hall was wholly impracticable. For a month, Messthaler struggled from one unsuccessful production to the next. But on 31 October, after Schnitzler's Liebelei had ended with general commotion and a brawl between the actors, he was summarily dismissed by Bluhm for 'total incompetence'[4].

These were not the only problems. Even before the theatre opened, the project had run into acute financial difficulties[5];

1 Loc. cit.: ruling of II. Admin. Senate of Govt. of Upper Bavaria, 16 April 1896.
2 Bay. Kur., 30 July 1895.
3 See Wünneberg, Georg Stollberg, pp. 16-17; Halbe, Jahrhundertwende, pp. 227-233; Max Fels, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XII, Nov. 1896, pp. 1500-1502.
4 Mü. Post, 31 Oct.; Generalanzeiger, 31 Oct.; M.N.N. 1 Nov. 1896, nr. 506.
5 M.N.N., 12 Sept., nr. 423; Generalanzeiger, 17 Sept. 1896.

and the fact that it was now unlikely to make a profit set off a series of law-suits and bankruptcies which further underlined the essentially commercial motives of those concerned. Finally, after a year of uncertainty, the courts ordered an auction on behalf of the creditors, and on 16 September 1897 the Deutsche Theater was sold to Hugo Oertel, the proprietor of the Blumensäle, for the sum of 3,660,000 Marks[1]. Before long, it had sensibly been given over to variety performances, cinematograph shows and other forms of light entertainment.

This fiasco had a profoundly depressing effect on Munich intellectuals. In June 1895, one critic had written ecstatically in the Gesellschaft that the Deutsche Theater was a safer investment than shares in gold, because Messthaler was a genius[2]. In January 1897, the same journal reported that earlier hopes had been completely shattered, and that people should be pleased if things did not actually go backwards[3]. In the longer term, however, the results were not completely negative. After vain attempts to regain his position, Emil Messthaler withdrew to the Intime Theater in Nuremberg, where he continued to put on numerous practically uncensored productions of modern plays[4]. In Munich, the setback was only temporary. Although the authorities continued to limit particular enterprises to particular types of production[5], the decision of January 1896 ruled out any new rearguard action

1 M.N.N., 17 Sept. 1897, nrs. 428, 429.
2 Max Fels, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XI, June 1895, p. 829.
3 Gustav Morgenstern, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XIII, Jan. 1897, p. 119.
4 Mühsam, Namen und Menschen, pp. 162-164.
5 See material in StAM, Pol. Dir. 3814/II, relating to complaints that the Deutsche Theater was competing unfairly with other establishments.

on the part of the Hoftheater, and Possart's growing operatic success made this less likely in any case. In the meantime, the continuing rapid growth of the population made further progress inevitable.

In the autumn of 1897, part of Messthaler's company moved to the humbler surroundings of a former variety theatre in the Neuthurmstrasse and there formed the Münchener Schauspielhaus[1]. Under the leadership first of Emil Drach and then of Georg Stollberg, a talented young director who had emerged from the shipwreck of the Deutsche Theater with his reputation untarnished, this soon became Munich's first major modern theatre. With the support of an enlightened brewer named Cajetan Schmederer, Stollberg gradually expanded his activities. In 1899, they took over the Gärtnertheater and founded the United Theatres; and two years later the original company moved to Riemerschmid's magnificent new theatre in the Maximilianstrasse[2]. The success of the Schauspielhaus prepared the way for further advance: Georg Fuchs' Künstlertheater opened during the 1908 Munich Exhibition, and 1910 saw the appearance of Dr Eugen Robert's Lustspielhaus, which became the Kammerspiele two years later. Both these establishments concentrated on modern drama (and Fuchs also introduced an annual Reinhardt season), so that by 1914 Munich's theatrical life left rather less to be desired than had been the case during the 1890's. In the meantime, moreover, important progress had also been made by the city's private dramatic societies, which deserve special attention because of their peculiar legal status.

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1 Wünneberg, Georg Stollberg, p. 19.
2 Ibid., p. 28.

Especially when discussing the development of modern drama, it is important to remember that, in Germany as in many other countries, the laws governing the theatre applied only to public performances; so that organisations which staged private productions for an invited audience were subject neither to licensing nor to censorship[1]. For the Naturalist avant-garde, the stage was at least as important a means of disseminating ideas as the literary journals, and the hostility of the censor and the caution of ordinary theatres therefore inevitably led to the creation of private dramatic societies. In the autumn of 1889, following the example of André Antoine in Paris, Otto Brahm and a number of other Berlin intellectuals launched the Berlin Freie Bühne, which was followed a year later by the more popular but equally significant Freie Volksbühne. It was not long before the Munich avant-garde showed its determination not to be left behind.

Two months after the Freie Volksbühne's opening production of Pillars of Society, in December 1890, the manifesto of the Gesellschaft für modernes Leben declared the creation of a Munich Freie Bühne to be one of its most important aims[2]. But it was much easier to make plans than to obtain results; and apart from two evenings devoted to readings of modern drama in the summer of 1892[3], practically nothing had been achieved by the time the society disintegrated[4]. Much more effective was the essentially

1 Heinzmann, Deutsches Theaterrecht, p. 29.
2 Copy in StAM, Pol. Dir. 520.
3 GStAM, Pol. Dir. 520: police report of 7 May 1892; M.N.N., 5 July 1892, nr. 300.
4 For the various abortive attempts to found a Freie Bühne, see the letters from Julius Schaumberger to Max Halbe in Stadtbibl., Halbe Archive.

ad hoc Intime Theater[1], a loose association of ex-members of the Gesellschaft für modernes Leben and habitués of two important successor groups, Max Halbe's Unterströmung and Joseph Ruederer's Nebenregierung. On 29 April 1895 it put on Creditors, the first Munich production of a play by Strindberg, before an invited audience of between 30 and 40 people in the house of a Hungarian authoress[2]. Slightly less successful, but an unforgettable experience for those present, was an open-air performance a month later of Büchner's Leonce und Lena, which began at dusk and ended in moonlight to the sound of mandolins and nightingales[3]. Both productions revealed a strong desire to break away from the traditions of the Hoftheater and to achieve a new simplicity of acting and décor. Both, too, were still haunted by the anxieties which had oppressed the Gesellschaft für modernes Leben: 1895 was the year of the Umsturzvorlage; and the Liebeskonzil trial took place the very morning after Oskar Panizza had acted as prompter for Creditors[4].

Fear of official disapproval did much to explain the comparative failure of another group, the Literarische Gesellschaft (later re-named the Dramatische Gesellschaft), which was founded at the end of 1897 by Ernst von Wolzogen, Max Bernstein and Georg Hirth and lasted until the outbreak of war. Although its opening production of Tolstoy's Power of Darkness, in February 1898, was

1 This had no connection with the later cabaret of the same name.
2 Halbe, Jahrhundertwende, pp. 147-148; Max Fels, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XI, July 1895, pp. 980-982.
3 Halbe, Jahrhundertwende, p. 149; Ernst von Wolzogen, Wie ich mich ums Leben brachte. Erinnerungen und Erfahrungen (Brunswick & Hamburg, 1922), p. 153; Max Fels, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XI, July 1895, pp. 980-982.
4 See above, Chap. I, pp. 22, 25-28.

followed by other respectable achievements, the Literarische Gesellschaft soon disappointed those who were hoping for a genuine experimental theatre. The main reason was Wolzogen's determination to avoid the fate of the Gesellschaft für modernes Leben by anchoring the new society as firmly as possible to the Munich establishment. Every effort was made to secure Possart's goodwill and to win over the 'possessors of just and unjust mammon'; and Ludwig Ganghofer, sentimental novelist and friend of Wilhelm II, was chosen as a suitably reassuring figurehead[1]. This pursuit of respectability rapidly alienated the avant-garde, so that although the Literarische Gesellschaft soon had solid financial backing and plenty of members, it was increasingly attacked for offering a 'tame and bogus luxury edition' of modern drama to an essentially bourgeois audience[2].

It was significant that by far the most successful dramatic society of the 1890's owed its existence to students of the University rather than to Munich's professional intellectuals. In November 1891, the Akademisch-Dramatische Verein was entered in the official register as a student society dedicated to the cultivation of literature, and especially modern drama, by means of lectures, play-readings and stage productions[3]. This was an

1 Wolzogen, Wie ich mich ums Leben brachte, p. 155; and in general, ibid., pp. 157-161. Wolzogen resigned after an unsuccessful production of Troilus and Cressida in April 1898.
2 Wilhelm Mauke, 'Deutsches Kunstleben: München', Die Gesellschaft, XIV/9 (1898), p. 636. In 1903, the society changed its name to the Dramatische Gesellschaft; and it continued to put on productions until the war, under the leadership of Max Halbe.
3 StAM, Pol. Dir. 24a I 105/1327: statutes of 27 Nov. 1891; and entries in Association Register, beginning 27 Aug. 1892. See also Wilhelm Rosenthal, 'Die Geschichte einer dramatischen Gesellschaft. Der Akademisch-Dramatische und der Neue Verein in München', Das Welttheater. Zeitschrift der Münchener Volksbühne, 1925/1926, nrs. 1 and 2, pp. 11-18, 47-50.

important event: during the twelve years of its existence, the Akademisch-Dramatische Verein performed an immense service to Munich's intellectual life and did much to fill the gap left by the policy of the Royal Theatres and the shortcomings of other groups. Writing in 1895, Conrad saw it as the heir of the Gesellschaft für modernes Leben, the 'creator of a crystallisation-point and a tradition for all the higher poetic and artistic strivings of our student youth in Munich', and as a real equivalent for the Berlin Freie Bühne[1]. The society's first production, of Ludwig Fulda's Die Sklavin, on 23 June 1892, was followed by a long series of others, including Halbe's Jugend, Wilde's Salome and the world première of Wedekind's Marquis von Keith. Two particularly favoured writers were Henrik Ibsen and Gerhart Hauptmann; and productions of their work included Ghosts (the second performance in Germany, in March 1893), Rosmersholm, The Wild Duck, Einsame Menschen (the first Hauptmann production in Munich, in December 1892) and Das Friedensfest. Especially memorable were two quite different renderings of Die Weber: a successful reading in 1893 by Karl Kraus, at that time a young student[2]; and a full-scale production in December 1894 directed by Ernst von Wolzogen, in which a truly Naturalist authenticity was achieved by hiring genuine local strikers for the crowd scenes[3].

Although its productions were not always brilliant, the Akademisch-Dramatische Verein's overall achievement was impressive, and there were three main reasons for its success. In the first

1 'Münchener Frühlinge-Wunder', Die Freie Bühne, VI (1895), pp. 506-507.
2 M.G. Conrad, 'Aus dem Münchener Kunstleben', Die Gesellschaft, IX, Nov. 1893, p. 1474.
3 Wolzogen, Wie ich mich ums Leben brachte, pp. 151-152.

place, the society's student nucleus ensured a constant turnover of membership which helped to prevent the squabbles and stagnation which beset Munich's other groups. Secondly, however, the students remained free to enlist the support of a host of local artists and writers as associate members[1]. Finally, as has already been noted, the gulf between the avant-garde and the pillars of official culture in Munich was never unbridgeable, and Possart's generosity in lending his actors enabled the society to match its up-to-date choice of plays with an increasingly professional standard of production.

Although the Akademisch-Dramatische Verein was exempt from most of the restrictions imposed on the ordinary theatre, it was not totally immune from attack. From the very beginning, the idea that Naturalist plays were being performed even in private was anathema to the Centre Party and the clerical press; and the authorities became increasingly concerned about whether the society's performances really were restricted to members and their guests. But it was not until the summer and autumn of 1903, when the Centre Party's onslaught on immorality and 'Simplicissification' was reaching its height, that the hostility and suspicion aroused by the Akademisch-Dramatische Verein finally came to a head. The occasion was a closed performance on 25 June 1903 of three of the erotic dialogues in Arthur Schnitzler's Ein Reigen, which had already achieved a succès de scandale as a book but could not be publicly staged until 1920. This production provoked a furious outcry in the press and particularly from the liberal-

1 Apart from Holzogen, the society's collaborators included Conrad, Halbe, Ruederer, Wedekind, Thomas Mann and Eduard von Keyserling.

conservative Allgemeine Zeitung, which denounced Ein Reigen as inartistic, immoral and inimical to culture, part of a horrible kind of 'spiritual syphilis' from which no class or age-group was any longer immune[1].

This outburst from Munich's oldest liberal newspaper was not only taken up by the right-wing press, including Kausen's Die Wahrheit, but was also quoted with relish by Dr Schädler in his major speech to the Chamber on 20 October[2]. Moreover, the Government (mindful, no doubt, of its recent failure to punish Simplicissimus' attack on Orterer[3]) showed itself both willing and able to take action. In normal circumstances, nothing could have been done without proof that the law had been broken; and in this case, regardless of whether the play had been obscene, the performance had certainly been private. As the Akademisch-Dramatische Verein was a student society, however, it was subject to University jurisdiction, and this provided a convenient loophole for attack. On 28 November, after an investigation ordered by the Ministry of Education, the University Senate decreed that the society should be dissolved. The Akademisch-Dramatische Verein, it was claimed, had not only committed a grave offence against morality by performing Ein Reigen, but was also being used as a cloak for other purposes: the large-scale participation of non-students in its productions constituted 'a major threat to academic discipline and an extremely dangerous influence on academic life'[4].

Although this episode showed that one of the Akademisch-

1 Allg. Ztg., 26 June 1903.
2 VdKdAbg 1903/1904, Bd. XI, p. 231.
3 See above, Chap. III, pp. 98-100.
4 Allg. Ztg., 1 Dec. 1903.

Dramatische Verein's most valuable assets, its semi-academic status, was also its Achilles' heel, subsequent events underlined the fact that, under the ordinary laws, mere disapproval could not prevent the private performance of controversial plays. On the initiative of Joseph Ruederer, who had been closely associated with the Akademisch-Dramatische Verein for a number of years, the Senate's action was followed by the creation of a new group outside the University's jurisdiction. On 3 December, in company with Otto Falckenberg, the writer Philipp Witkop and the lawyer Dr Wilhelm Rosenthal, he announced that the defunct society's aims (and its library) would be taken over by a Neuer Verein which would also be open to non-academic members[1].

By February 1904, the Neue Verein had 112 ordinary members, an executive committee which included Rosenthal as Treasurer, Falckenberg as Secretary and Ruederer as First Chairman, and a group of 'artistic advisors' (later known as the Advisory Council) consisting of Paul Cossmann, Wilhelm Weigand, Georg Hirth and Thomas Mann[2]. After one year devoted entirely to classical drama, a long series of modern productions began which included Wedekind's Frühlings Erwachen, Shaw's Mrs Warren's Profession, Strindberg's Miss Julie and a number of other plays, some of which were open to the public. But the society's programme was by no means limited to drama. Its report for 1910/11, a particularly good year during which membership rose by a quarter and major financial problems were overcome, revealed a very varied range of activities. There were six stage productions,

1 MN. Post, 5 Dec. 1903. Original in Stadtbibl., Rosenthal Collection.
2 StAM, Pol. Dir. 24a I 105/4248: Ruederer to Pol. Dir.

including Hofmannstal's Die Frau im Fenster, Wedekind's Die Büchse der Pandora (subsequently repeated in Berlin) and a performance of Hans Pfitzner's opera Der arme Heinrich in the Prinzregententheater; there were readings and lectures by Ernst von Possart, Arthur Schnitzler, the architect Adolf Loos and the widow of Hans von Bülow; and Artur Kutscher, the close friend and later biographer of Frank Wedekind, organised a highly successful series of 'intimate evenings' devoted to specialised literary themes. The season ended in May 1911 with a banquet in the Hotel Vier Jahreszeiten to mark the twentieth anniversary of the two societies[1].

It was therefore ironical that this celebration should have coincided almost exactly with Ruederer's angry resignation because of a supposed personal slight[2], and that it should have been followed by a process of increasingly rapid decline. One contributory cause of this may have been stronger pressure from outside after the change of government in February 1912; and the decision of Intendant von Franckenstein, in November of that year, drastically to reduce the help given by the Royal Theatres was also a serious blow[3]. It remains true, however, that the most immediate and obvious threat to the Neue Verein was not attack from outside but internal strife.

One important reason for this was the increasing predominance of professional intellectuals and the declining part played by students (who in 1913/14 were not represented on either of the

1 Draft report in Stadtbibl., Rosenthal Collection.
2 See correspondence in Stadtbibl., Rosenthal Collection.
3 Stadtbibl., Rosenthal Collection: Franckenstein to Neuer Verein, 16 Nov. 1912.

society's two main committees[1]), which meant that the growth of factions was almost inevitable; and after Ruederer's resignation, the Neue Verein was disrupted more and more by personal and political wrangles. One major issue (which will be considered in detail later on[2]) was the long-drawn-out battle between Frank Wedekind and the Munich censor. Although the Verein as such was not a party to the dispute, Wedekind was a leading member and was loudly supported by Erich Mühsam, who demanded a clear collective statement on the subject of censorship[3]). The resulting controversy dragged on until the outbreak of war and was really symptomatic of a much deeper rift. Although the Neue Verein's loss of vitality was generally recognized, conservatives like Weigand and Rosenthal (who had been chairman since 1904) and radicals like Mühsam and Kutscher disagreed sharply about what should be done. Matters finally came to a head when Ruederer and Weigand resigned their offices in June 1914, and the new chairman, Kurt Martens, was faced with the prospect of a radical secession. But the outbreak of war put an abrupt end to the dispute; and, after the patriotic majority had voted the society's funds to the Red Cross, the Neue Verein sank into obscurity[4].

By this time, however, both the Neue Verein and its predecessor had secured a distinguished place in Munich's

1 Stadtbibl., Rosenthal Collection: membership list for 1913/1914. The clause in the original statutes stipulating that students had to be represented on the Advisory Committee had also been dropped.
2 See below, Chap. VIII.
3 Stabtbibl., Rosenthal Collection: minutes of general meeting of 4 July 1912: also report of meeting of 10 July 1913 in M.N.N., 12 July 1913, nr. 350.
4 Kurt Martens, Schonungslose Lebenschronik. Zweiter Teil, 1901-23 (Vienna, Berlin, Leipzig, Munich, 1924), pp. 169-171. The society was not formally dissolved until December 1919.

theatrical history. Despite considerable hostility, they had helped to counteract the conservatism of the Royal Theatres and had taken advantage of an important loophole in the censorship system. In many respects, purely financial considerations apart, the Neue Verein's productions were no poor substitute for those on the ordinary stage. They took place in Munich's leading theatres with the collaboration of first-class actors and directors; they received full-scale press coverage (over 220 representatives of papers outside Munich applied for tickets for Wedekind's Büchse der Pandora in November 1910[1]); and in practice they seem to have been accessible to any adult with a serious interest in drama. At least during the Podewils era, the police recognized the literary significance of the society's activities and seem to have been remarkably tolerant towards them, a fact which was even reflected in some of the restrictions which were imposed. In February 1907, for example, a second closed performance of Frühlings Erwachen was prohibited for the interesting reason that the first had been held in the Schauspielhaus, a theatre containing about 730 seats, and that invitations had been issued to seven times as many people as belonged to the society. Doubling this already substantial audience, it was claimed, would amount to the indirect abolition of censorship[2]. The protests of theatrical agents concerned about their clients' rights told the same story; and a court order issued in October 1913 stated that the manner in which tickets were sold and advertisements

1 Stadtbibl., Rosenthal Collection: (Rosenthal) to Karl Fries, 18 Nov. 1910.
2 Stadtbibl., Rosenthal Collection: Pol. Dir. von der Heydte to Rosenthal, 5 Feb. 1907.

placed in the newspapers revealed the clear intention to attract as large a section of the general public as possible[1]. All this indicated a very large measure of freedom, even though it is hard to say how long it would have been allowed to continue after the political changes of 1912. As will be seen in due course, there were signs that by 1914 the authorities were beginning to adopt a considerably stricter attitude towards private performances.

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1 Loc. cit.: court order issued by I. Zivilkammer, Landger. MÜ. I, 14 Oct. 1913. The dispute arose because of the Neue Verein's aim to put on a production of Sem Benelli's The Jest. In 1907, Samuel Fischer, Bernard Shaw's German agent, had protested vigorously about a performance of Mrs Warren's Profession.

VII

The Debate on Theatre Censorship and the Creation of the Zensurbeirat

For a variety of reasons, censorship of the theatre was opposed by a great many people between 1890 and 1914; and controversy about it flared up on a number of occasions, in Berlin as well as in Munich. In the Reichstag, there was pressure from the Right to bring the theatre within reach of the criminal law, and from the Left to alter the Reich Trade Regulations so that censorship would be prohibited. In Bavaria, as the affair of the Akademisch-Dramatische Verein showed, the question of stage indecency was closely related to the debate about pornography, Schund and morality; and the arguments surrounding it contributed to the increasing bitterness of Bavarian politics. By 1907, the Munich censor's position had become so exposed that the police finally set up a special Zensurbeirat, or Censorship Advisory Council, whose members could provide guidance and moral support in particularly difficult cases. The events leading up to this step need to be briefly examined.

During the 1890's, as has already been seen, those who were in favour of stronger measures against obscenity also demanded stricter control of the theatre. In March 1893, the Centre deputy Adolf Gröber told the Reichstag committee which was discussing the first version of the Lex Heinze that Berlin police censorship was 'not worth a penny', and that the stage must be made subject to public opinion[1]; and Centre and Conservative support for this

1 GStAM, MA 76 781: Deputy Bundesrat Commissioner von Heller to MJu von Leonrod, 4 March 1893.

view was indicated by the proposed new Paragraph 184b approved by the Reichstag majority in February 1920[1]. Yet this attempt to intensify the existing system aroused determined opposition. In the first place, intellectuals believed it would have a devastating effect on drama: 'The German theatre' proclaimed Ernst Müller-Meiningen in April 1900, 'cannot be arranged according to the eternal guilt and expiation formula à la Marlitt'[2]. Secondly, and more decisively, the German governments were against it: ostensibly because they feared legal complications, but probably also because they were reluctant to abandon still more of their executive powers to the courts. In the end, therefore, the Theatre Paragraph had to be dropped; and although between 1900 and 1914 various suggestions were put forward for stemming the tide of indecency in the theatre, there were no more major attempts to extend the Criminal Code for this purpose.

After the defeat, or emasculation, of the Lex Heinze, it was the turn of the anti-censorship lobby to press for law reform, led in the Reichstag by Müller-Meiningen and supported outside it by numerous writers, by prominent lawyers like Professor von Liszt, and by the Goethebund. In January and February 1901, a motion to amend Paragraphs 32 and 33a of the Reich Trade Regulations was debated with great eloquence on both sides, but was ultimately lost when the House was found to be inquorate[3]. The matter continued to be raised at fairly regular intervals

1 VdRT X Leg. Per., I Sess. 1898/1900, Anlagen Bd. V, p. 3635. See above, Chap. II, pp. 59-60.
2 GStAM, MA 76 787: police report of Goethebund meeting of 7 April 1900.
3 VdRT X Leg. Per., II Sess. 1900/1902, Bd. II, 30 Jan., 6, 7 Feb. 1901, pp. 1016-1029, 1148-1173, 1459-1476.

for the rest of the pre-war period; and the speeches on the subject may well have had some influence at least on the Berlin censor[1]. Nevertheless, although it aroused considerable interest in literary circles and inspired majestic flights of liberal rhetoric, the abolitionist campaign had failed to achieve any concrete result by 1914.

Had the Reich Trade Regulations in fact been altered, this would have affected the situation in all parts of Germany, including Bavaria, where theatre censorship was still carried out. As this did not happen, however, the Bavarian Government remained free to relax or tighten control of the theatre as it thought fit, simply by modifying the conditions imposed on managers. The progress of the Bavarian censorship debate, and of the political power struggle in general, therefore had considerable bearing on the long-term freedom of the Munich stage. It also had important implications for the hard-worked officials of Referat VI of the Police Direction, who were often called upon to make difficult censorship decisions, above all in the controversial fields of sex, religion and politics.

In purely quantitative terms, the censor's most arduous task was probably the maintenance of decency and morality. In the first place, he had to sift through the mass of titillating material submitted for inspection by the city's numerous cabarets and variety theatres; and the evidence available suggests that he tended to be severe. Secondly, it was necessary to keep an eye on the large number of female dancers who visited Munich during the

1 Müller-Meinigen remarked in the Bavarian Chamber on 20 June 1906 that the Prussian censor's record had recently improved: VdKdAbg 1905/1906, Bd. IV, p. 856.

Jugendstil period. Some of these, like Isadora Duncan, Loie Fuller and La Belle Otero, were justly celebrated performers with a European reputation. But many of the others were inferior imitators whose appearances were liable to cause serious scandal; and this possibility sometimes made the authorities excessively cautious. In May 1897, for example, the police took firm steps to protect the public against the notorious Barrison Sisters, having been warned in advance that they were 'hoarse, bawling, blonde-dyed beasts', whose costumes consisted of 'nothing on top, nothing down below and very little in the middle', and who might even be part of an anarchist plot to undermine German morals[1]. In due course, however, the police observer reported that:

> 'The B[arrisons] are neither musical - they have no voice and cannot keep time - nor graceful, and with one exception not even pretty; as a result they also had no success, the unanimous view of the audience, as far as I could discover, being that the whole performance was a swindle' [2].

In general, every kind of entertainment which might over-excite the public's sexual feelings was scrutinized with the utmost thoroughness: on one occasion, for example, a report on an actress' outrageously revealing tights was signed or initialled ten times by no less than six different people before the 'repulsive spectacle' was finally covered up[3]. The reason for this was certainly not that the staff of Referat VI was under-employed. On the contrary, the department not only had to supervise a growing number of theatres and cabarets but was also responsible

1 StAM, Pol. Dir. 1169: petition of Waldemar Otto to Pol. Dir., May 1897. Otto was the spokesman of the German variety performers' organisation, which evidently regarded the Barrisons as unfair competition.
2 StAM, Pol. Dir. 1169: police report of 17 May 1897.
3 StAM, Pol. Dir. 3814/III: police report of 21 Aug. 1903.

for the cinema, and even for ensuring that the exhibits in the local Panoptikum were suitable for public inspection[1]. It therefore appears to have suffered from a chronic shortage of manpower[2]. The censor's painstaking attention to detail was really an indication of the politically delicate nature of his task and of the difficulty of the Bavarian situation, since any performance might be attended by the local morality campaigners and the most trivial error of judgement was liable to provoke embarrassing discussions in the press and in Parliament.

In addition, of course, to dealing with light entertainment, the police also had to decide how much latitude to allow to the serious theatre in its treatment of sexual themes. On the whole, it seems that serious plays intended for a serious audience stood a reasonable chance of being approved for public performance; but in the absence of play-scripts indicating actual cuts, it is not easy to determine in detail how strict an attitude was adopted. This question will be discussed at greater length later on, in connection with the plays of Frank Wedekind.

In a predominantly Catholic state like Bavaria, at a time of great confessional tension, religion was inevitably a sensitive subject for the stage. Goethe and Schiller had to be bowdlerized by the Hoftheater in order to avoid giving offence to Catholic feeling[3]; and the Münchener Fremdenblatt's campaign against

1 See StAM, Pol. Dir. 1051.
2 StAM, Pol. Dir. 3819/I: police memorandum of 20 Aug. 1908. At this time, the censor's staff consisted of two assistants, and four detectives with special experience.
3 See Max Fels, 'Aus dem Münchener Kunstleben', Die Gesellschaft, XI, June 1895, pp. 830-831; Gustav Morgenstern, 'Aus dem Münchener Kunstleben', ibid., XIII, Jan. 1897, p. 113.

Gumppenberg's Messias in 1891 showed that 'modern' treatment of sacred themes was liable to cause an outcry[1]. In this situation, the extreme caution of the Munich censor was hardly surprising. Not only were anti-religious and anti-clerical lines automatically cut, but more serious alterations were sometimes demanded regardless of the author's original intention. Commenting on the dress rehearsal of Ernst von Wildenbruch's Reformation drama Die Tochter des Erasmus, for example, the police objected that the treatment of one of the orthodox characters was not in accordance with historical truth, and threatened to cut a whole scene unless the part was differently interpreted[2]. Here, remarked Müller-Meiningen, the official concerned was assuming the rôle not only of censor but of historian, author, director and manager as well[3]; and cases like this naturally brought cries of indignation from the Left. Nevertheless, it would be hard to deny that official policy was consistent with the standing rule that plays must be assessed 'in accordance with local circumstances'[4], or that it was an understandable concession to political reality.

The censor's attitude to overtly political utterances on the stage reflected the official view that theatre censorship was a 'positive, state-sustaining, national and monarchical institution'[5], although these high-sounding words contrasted sharply with the pettiness of everyday practice. Far from supporting

1 See above, Chap. I.
2 Cited by Müller-Meiningen, VdKdAbg 1905/1906, Bd. IV, 20 June 1906, pp. 857-858. The play was performed at the Schauspielhaus in July 1901.
3 VdKdAbg 1905/1906, Bd. IV, 20 June 1906, p. 857.
4 GStAM, MA 92 414: MInn von Feilitzsch to Deputy Bundesrat Commissioner von Herrmann, 28 Jan. 1901.
5 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.

the claim by Marc Henry, the manager of the Elf Scharfrichter cabaret, that political censorship in Munich was relatively liberal[1], the documentary evidence strongly suggests the opposite; and the theatre manager's obligation to respect not only religion and decency but also the 'existing state system' seems to have been interpreted with extraordinary rigour[2]. Figures like Edward VII and Leopold of the Belgians could not be mentioned on the stage[3]; the most feeble jokes about the Landtag were suppressed[4]; and stage appearances (even of the most non-political kind) by suspicious characters like Erich Mühsam were subjected to the closest scrutiny[5]. Naturally political impersonation was also taboo. In November 1910, the comedian Rudolf Schmid appeared as a commercial traveller wearing a Wilhelmine moustache, and sang a little song with the refrain:

'Und fragt man mich mon cher ami
Für welche Firma reisen Sie?
Dann sag ich stolz und leugne es nie
Für Firma Deutschland und Compagnie'.

Not only was this banned, but the ban was upheld even after Schmid had protested that the song had been in his repertoire since 1893 and had been performed in theatres and officers' messes all over Southern Germany[6]. Since papers like Simplicissimus were on sale at every street corner, nothing illustrates more

1 Marc Henry, Au Pays des Maîtres-Chanteurs (Paris, 1916), pp. 37-38.
2 See for example the police communication to Kommerzienrat Haenle of 13 March 1895 about the licence for the Deutsche Theater: StAM, Pol. Dir. 3814/I.
3 Adolf Müller, VdKdAbg 1903/1904, Bd. XII, 13 Jan. 1904, p. 471.
4 StAM, Pol. Dir. 3814/III: police report of 22 July 1900.
5 See for example the police reports of Mühsam's appearancesin the Intime Theater in December 1906: StAM, Pol. Dir. 3809.
6 StAM, Pol. Dir. 3814/III: police report of 17 Nov. 1910; Schmid to Govt. of Upper Bavaria, 24 Nov. 1910. See also MN. Post, 25 Nov. 1910.

clearly the striking disparity between freedom of the stage and freedom of the press during this period.

There can be no doubt that theatre censorship was one of the most unpopular tasks of a not particularly popular organisation; or that from 1900 onwards it was becoming an increasingly difficult and thankless one. Munich's growth, and its development into an international tourist centre, created a strong demand for the kind of light entertainment available in Paris or Berlin. Serious playwrights were exploring more controversial themes, and even establishments like the Hoftheater were becoming less conservative: in 1906, for example, Thyra Larsen appeared in Richard Strauss' Salome in a costume which would have been unthinkable a few years earlier[1]. Yet although the censor was under strong pressure, especially from the Liberal press, to make allowances for changes in public taste, it remained true that many people, including the majority in the Chamber, clung to the idea that the theatre had a moral function to fulfil and adamantly opposed any concessions to what they regarded as the evils of urban society. Furthermore, as theatre censorship was a purely administrative function, the Minister of the Interior could not deflect clerical criticisms with excuses about the immutability of Reich legislation or the independence of the courts. Faced with bitter controversy on a wide range of other issues, the Bavarian Government was therefore likely to welcome any chance

1 Marie Luise Becker, 'Salome-Darstellerinnen auf der modernen Bühne', Bühne und Welt, IX/11 (March 1907/I), pp. 439-447, which includes pictures of this costume. See also 'Die Schamhaftigkeit auf der Bühne. Eine Rundfrage', Bühne und Welt, IX/10 & 11 (Feb./2 and March/1 1907), pp. 416-422, 448-452.

of removing at least this problem from the political arena.

In 1906, the year which brought the Franchise Law and the creation of the Männerverein, two events took place which foreshadowed a new departure in Munich theatre censorship. In February, the city acquired a new Police Director in the person of Baron Julius von der Heydte, who had previously been Kunstreferent in the Ministry of Education[1]. This in itself did not mean that he was a man of advanced artistic views, since his predecessor as Kunstreferent had been the very clerical Dr Anton von Wehner. But it had brought him into close contact with the artists and connoisseurs of the SachverstÄndigen-Kommission which advised the Ministry about purchases for the state collections[2]; and the experience no doubt made him aware that outside experts could be useful in dealing with matters connected with art. A few months after von der Heydte's appointment, on 20 June, Vollmar, Müller-Meiningen and a second Liberal deputy named Fischer dealt with censorship at some length in the Chamber. All three made the usual attacks; but instead of demanding abolition, Fischer in his speech proposed that a body of experts should be set up to establish general principles for dealing with the theatre and to advise the authorities in individual cases. The result, he claimed, would be beneficial for both the censor and the public[3]. It is impossible to say whether this suggestion had any appreciable influence on official policy, since a year elapsed before anything was done. On 19 June 1907, however, while a ban

1 AStAM, MInn 64 378: von der Heydte, Personalakt.
2 For the activities of the Ankaufskommission, see AStAM, MKu 14 250; and Weigand, Welt und Weg, pp. 293-314.
3 VdKdAbg 1905/1906, Bd. IV, pp. 849-850.

on Max Reinhardt's intended production of Frühlings Erwachen was being attacked by the press[1], von der Heydte requested permission to investigate the possibility of creating a Zensurbeirat[2]. A few weeks later, this request was granted by the Minister of the Interior[3].

The idea of using experts to assist the censor was not particularly new. According to Fischer, it had been discussed by the Prussian House of Deputies as early as 1879[4]; and in December 1899, it was formally recommended to the police by the Prussian Minister of the Interior[5]. At least in Berlin, this had little practical effect; and during the next seven years, only plays portraying members of the House of Hohenzollern were independently assessed[6]. Nevertheless, the fact that, when the Berlin Deutsche Theater submitted Frühlings Erwachen in 1906, it was officially advised to send in expert statements about the play's artistic quality[7], shows that the authorities appreciated the value of outside help in dealing with modern drama.

As far as the proposed Bavarian Zensurbeirat was concerned, two important points need to be made. In the first place, there

1 StAM, Pol. Dir. 4589: Pol. Dir. to management of Schauspielhaus, 10 June 1907; and press cuttings.
2 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.
3 Loc. cit.: MInn von Brettreich to Govt. of Upper Bavaria, 10 July 1907.
4 VdKdAbg 1905/1906, Bd. IV, 20 June 1906, p. 850.
5 StAM, Pol. Dir. 4342/I: Pol. Pres. Berlin to Pol. Dir. Munich, 16 Aug. 1907.
6 Ibid.
7 Ibid.; see also Günter Seehaus, Frank Wedekind und das Theater, p. 302.

was no question of allowing it to take actual censorship decisions. Fischer had made it quite clear that the council he envisaged would be purely advisory, and that the final responsibility for imposing cuts and bans would remain with the police[1]. This view was shared wholeheartedly by von der Heydte, and by the head of Referat VI, Dr Dietrich Bittinger; although, from the beginning, von der Heydte recognized that if the scheme became well established, it would become increasingly difficult in practice for the police to ignore the Beirat's opinions[2]. Secondly, the Bavarian authorities did not regard theatre censorship as a task which they were no longer capable of carrying out. On the contrary, von der Heydte rejected the notion that only artists and writers were qualified to assess plays, and that officials were not competent to make artistic judgements; and he felt that the censor was in any case less concerned about a play's literary quality than about its likely effect on public order and morality[3]. There seems to be little doubt, therefore, that the Beirat's immediate purpose was political: to make police decisions appear less arbitrary by enlisting the moral support of prominent intellectuals. 'The support of the "expert assessment", of the "Censorship Advisory Council",' wrote von der Heydte, 'can be regarded in political terms as a kind of absolution vis-à-vis the public, as a welcome distribution and reduction of the authorities' responsibility towards the outside world'[4].

1 VdKdAbg 1905/1906, Bd. IV, 20 June 1906, pp. 849-850.
2 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.
3 Loc. cit.: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.
4 Ibid.

After making enquiries in Berlin and Vienna, the police drew up detailed proposals at the beginning of November 1907[1]; and the Minister of the Interior gave his approval the following February[2]. Von der Heydte now had to recruit a sufficient number of suitable members, which was by no means a straightforward task. It was necessary to find men who were able to accept both the principle of theatre censorship and the Zensurbeirat's somewhat limited terms of reference; whose views would be reconcilable in most cases with those of the police; and who did not occupy 'politically exposed positions'[3]. Finally, as von der Heydte pointed out in his first memorandum, those selected would have to be courageous and public-spirited enough to endure the kind of hostility 'which up till now the police have received on the most abundant scale', and which the press had bestowed on prosecution witnesses in recent obscenity trials; and the Police Director admitted that it was very uncertain whether enough volunteers could be found[4]. Five months later, he still feared that this problem might be an insuperable obstacle, although he added the significant comment that 'in this case, the very failure of the attempt would help to strengthen the authority of purely police censorship'[5].

As matters turned out, von der Heydte's misgivings proved to have been unjustified. During March 1908, invitations were

1 StAM, Pol. Dir.4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 3 Nov. 1907.
2 Loc. cit.: MInn von Brettreich to Govt. of Upper Bavaria, 10 Feb. 1908.
3 Loc. cit.: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.
4 Ibid.
5 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 3 Nov. 1907.

sent out to twenty-five prominent personalities, of whom only one, the historian Karl Theodor von Heigel, declined to participate[1]. On the 20th, some of those who had already accepted attended a preliminary meeting at the Police Headquarters to decide whether the project was viable. After von der Heydte and Bittinger had explained the Zensurbeirat's purpose, and a general discussion had taken place, all those present agreed that the creation of such a body was both desirable and practicable and re-affirmed their willingness to serve on it[2].

Before examining the Beirat's organisation, and how it worked in practice, it is interesting to look briefly at the men who were either foolhardy or public-spirited enough to join it. By the time the plan was conceived, it was widely felt that the struggle against indecency was far too important to be left to artists and writers; and that educated people generally, including above all doctors and teachers, had a major contribution to make. Probably for this reason, those invited to join the Council formed a fairly broad cross-section of the Munich intellectual establishment.

The schoolmasters who belonged to the Zensurbeirat were among the most distinguished in Munich. Dr Johannes Nicklas, whose attitude towards modern literature seems to have been fairly liberal, was Rector of the Theresien-Gymnasium. Dr Bernhard von Arnold had been Rector of the Wilhelms-Gymnasium since 1885, had acquired a great reputation as a teacher and lived to receive high

1 Invitation and replies in StAM, Pol. Dir. 4342/I.
2 Minutes of meeting in StAM, Pol. Dir. 4342/Beiakt.

honours from the Bavarian state[1]. Dr Georg Kerschensteiner, Stadtschulrat since 1895, became famous as the pioneer of vocational education in Germany[2] and, as his subsequent contribution to the Bayros trial showed[3], also had strong views on pornography. He and Arnold were among the most conservative members of the Council. Oberstudienrat Josef Hofmiller was recommended by the Ministry of the Interior in February 1908, but did not actually join the Beirat until January 1911. Besides being a schoolmaster, Hofmiller was an essayist and critic of some distinction, co-editor of the Süddeutsche Monatshefte and literary adviser to the Langen publishing house[4]. Although in general he was one of the most tolerant members of the Council, his devout Catholicism made him react strongly against plays he regarded as blasphemous; and his appointment clearly reflected the official aim to achieve as fine a balance as possible between progressive and conservative views.

The second major group was that of university teachers, most of whom seem to have been men of moderate outlook. Professor Otto Crusius was a distinguished classical philologist who had moved to Munich from Tübingen in 1903 and also belonged to the Bavarian Supreme School Council[5]. A rather more colourful figure was Count Richard Du Moulin-Eckart, historian, literary historian

1 Hermann Uhde-Bernays, Im Lichte der Freiheit. Erinnerungen aus den Jahren 1880 bis 1914 (Frankfurt am Main, 1947), pp. 56, 62, 313.
2 See Diane Simons, Georg Kerschensteiner. His Thought and its Relevance Today (London, 1966).
3 See above, Chap. III, p. 123.
4 See Hermann Kunisch (ed.), Handbuch der deutschen Gegenwarts-literatur (2nd edn., Munich 1968-1970), i. 323.
5 W. Zils (ed.), Geistiges und Künstlerisches München in Selbst-biographien (Munich, 1913), p. 50.

and professor at the Technische Hochschule since 1898. He was a godson of Richard Wagner, had links with Bayreuth and later wrote a large and controversial biography of Frau Cosima[1]. In July 1911, he gave evidence against Dr Semerau, but in a comparatively restrained manner[2]; and he evidently regarded himself as a counterweight to the more conservative members of the Zensurbeirat[3]. Dr Franz Muncker, Professor of Modern German Literature since 1890, belonged to the Neue Verein, had fought against the Lex Heinze and in 1901 had declared his opposition to theatre censorship[4]. He too had close connections with the Wagner-Gemeinde (his father had been Mayor of Bayreuth) and had published a biography of the composer in 1891[5]. Dr Emil Sulger-Gebing had been Professor of Literary History at the Technische Hochschule since 1902 and was also a member of the Neue Verein[6]. Finally, there was the art historian Professor Karl Maria Cornelius, son of the poet and composer Peter Cornelius and great-nephew of the 19th century painter of the same name[7]. He appears to have given an opinion on only two plays and resigned from the Council in 1910.

1 Winfried Schüler, Der Bayreuther Kreis von seiner Entstehung bis zum Ausgang der wilhelminischen Aera. Wagnerkult und Kulturreform im Geiste völkischer Weltanschauung. Neue Münstersche Beiträge zur Geschichtsforschung, Bd. 12 (1971), pp. 79, 156.
2 N.N.N., 8 July 1911, nr. 315.
3 See for example his letter to Ruederer of 19 Feb. 1912: Stadtbibl., Nachl. Ruederer, Br.e. 330.12.
4 See for example his reply to the questionnaire on theatre censorship circulated by Bühne und Welt immediately after the Reichstag debates of January and February 1901, in Bühne und Welt, III/12 (March 1901/2), p. 511.
5 Schüler, Der Bayreuther Kreis, p. 152; also Hills, Geistiges und künstlerisches München, p. 249.
6 Ibid., p. 359.
7 B. Berger, H. Rupp (eds.), Deutches Literaturlexikon. Biographisch-Bibliographisches Handbuch (3rd edn., Bern & Munich, 1968-1972), ii. 766.

The most interesting of the four medical members of the Zensurbeirat was Obermedizinalrat Dr Max von Gruber, Professor of Hygiene and Bacteriology since 1902 and the author of numerous publications on subjects ranging from prostitution and venereal disease to 'racial hygiene'. Gruber's views on morality and censorship are not easy to summarise. On the one hand, he believed in the existence of a contemporary moral crisis and proposed Draconian measures to deal with it: he once suggested (metaphorically, he claimed) that the 'false prophets' of unlimited self-indulgence should be beaten to death and the 'loathsome brood of perverts and homosexuals' trodden underfoot[1]. Although probably not a member, Gruber seems to have worked closely with the Männerverein[2], signed its anti-pornography petition of May 1907, and two years later delivered a crushing broadside against Vallé's Intimes Theater on behalf of Dr Kausen[3]. At the founding meeting of the Zensurbeirat on 20 March 1908, he also demanded strict censorship in matters relating to sex; and it was probably he who suggested that the Council might also concern itself with obscene, and especially homosexual, literature[4]. On the other hand, however, he had opposed Paragraph 184a of the Lex Heinze, and had hard words for what he considered to be the Catholic Church's traditionally negative attitude towards sexuality (he himself was a Protestant)[5]. This complexity was later reflected

1 Gruber, 'Ein flammender Weckruf gegen die geschlechtliche Zügellosigkeit', Allg. Rund., V/7 (15 Feb. 1908).
2 He was present as a non-member, for example, at the association's special committee meeting on pornography in Nov. 1907: AStAM, MInn 73 589: Dr Dietrich Bittinger to Pol. Dir., 21 Nov. 1907.
3 See above, Chap. V, pp. 191-192.
4 Minutes of meeting in StAM, Pol. Dir. 4342/Beiakt.
5 Gruber, Die Prostitution vom Standpunkt der Sozialhygiene aus betrachtet, pp. 27-28.

in his censorship recommendations. Two of the other doctors on the Council were appointed at Gruber's suggestion[1]. The first was Professor Emil Kraepelin, Director of the Munich Psychiatric Clinic and at this time probably the most famous psychiatrist in the world. It is hard to decide how suitable he was for this particular task. Freud regarded him as 'a coarse fellow' (Kraepelin had no sympathy for psycho-analysis, and for this reason quarrelled violently with Otto Gross, who was at one time one of his Assistenten[2]); and Ernest Jones, who studied under him in 1908, commented later:

> 'He certainly had a somewhat gruff manner and showed no sensitiveness or sympathetic insight whatever into his patients ... I was surprised to hear that in later years he developed a genuine capacity for writing poetry' 3 .

Like Gruber, he had signed the Männerverein petition of May 1907, and his views on literature seem to have been conservative. Gruber's other choice was Dr Karl Grassmann, a general practioner with an interest in school hygiene and venereology. The last member of the group was Professor Friedrich Müller, later Rector of the University, who pointed out in his letter of acceptance that he had little knowledge of either literature or the theatre[4].

It was obviously essential to include men with experience of the theatre, and here too the police looked for the most distinguished talent available. Inescapable as a conservative figurehead was Ernst Ritter von Possart, who accepted the state's

1 StAM, Pol. Dir. 4342/I: Gruber to Pol. Dir., 22 March 1908.
2 Green, The von Richthofen Sisters, pp. 65-66.
3 Ernest Jones, Free Associations, p. 170.
4 StAM, Pol. Dir. 4342/I: Müller to Pol. Dir., 11 March 1908.

call for his assistance with phrases of heroic pathos[1]. Although he had retired from his post as Intendant of the Hoftheater in 1905, Possart remained one of the pillars of Munich society and was still very much in demand as an actor in theatres all over Germany. His aversion to modern drama has already been mentioned[2]. Another important member of the Hoftheater was the stage-director Jocza Savits, who had helped Karl von Perfall to create his Shakespeare-Bühne, and whose classical productions had won praise even from the Moderns during the 1890's. Fritz Basil was a Hoftheater actor, but also directed a number of important private productions, most notably the Neue Verein's performance of Frühlings Erwachen in January 1907. For a time he also gave acting lessons to Frank Wedekind and seems to have admired his work, although he did not regard all his plays as being suitable for public performance. Hofrat Dr Julius von Werther, formerly Intendant of the Stuttgart Hoftheater, was a fairly successful historical dramatist and a man of conservative literary views[3]. He died in July 1910 and was replaced by the prominent critic Baron Alfred Mensi von Klarbach. Mensi had worked on the Allgemeine Zeitung since 1882 and became its chief editor when it turned into a weekly paper in April 1908. He too was fundamentally conservative: he may well have written the Allgemeine Zeitung's venomous contribution to the Reigen controversy in June 1903[4]; he gave evidence on behalf of Kausen (who referred to him as Munich's 'most outstanding and perceptive theatre critic'[5]) in

1 Loc. cit.: Possart to Pol. Dir., 9 March 1908.
2 See above, Chap. VI, p. 219.
3 See obituary notice in MN. Ztg., 26 July 1910.
4 Allg. Ztg., 26 June 1903. See above, Chap. VI, pp. 232-233.
5 'Die "Allgemeine Rundschau" in zwei Brettlprozessen freigesprochen', Allg. Rund., VI/4 (23 Jan. 1909).

both the trials involving the Intime Theater; and in January 1913, in his first article as theatre critic of the Bayerische Staatszeitung, he referred to Frank Wedekind as 'one of the most poisonous blooms of contemporary literature'[1].

The next group included men who were eminent in a variety of fields. The landowner and ex-officer Baron Carl Alexander von Gleichen-Russwurm, Schiller's only great-grandson, was a writer on numerous topics and presided over a distinguished intellectual salon[2]. Dr Hans Schnorr von Carolsfeld, from 1909 Director of the Hof- und Staatsbibliothek, belonged to a famous artistic family: his grandfather, the painter Julius Schnorr von Carolsfeld, had decorated part of the Residenz for Ludwig I; and his uncle Ludwig had died shortly after singing Tristan in the momentous première of Tristan und Isolde in Munich in June 1865[3]. Adolf von Hildebrand, creator of the Wittelsbach Fountain on the Lenbachplatz, was widely regarded as one of the greatest German sculptors of his time. Dr Karl Voll was an art historian and contributor to both the Allgemeine Zeitung and the Süddeutsche Monatshefte. He had opposed the Lex Heinze[4] and, together with Professor Muncker, gave evidence for the defence at an obscenity trial early in 1908 which ended in the release of a collection of Baroque erotic poems[5]. Finally there was Toni Stadler, a member of the Dachau group of landscape-painters, but more important as

1 Quoted in 'Tapfere Worte gegen die Auswüchse des modernen Theaters', Allg. Rund., X/2 (11 Jan. 1913). For Mensi's career, see Zils, Geistiges und künstlerisches München, p. 284.
2 Martens, Schonungslose Lebenschronik, ii. 17.
3 Robert W. Gutmann, Richard Wagner. The Man, His Mind and His Music (Penguin edn., London, 1971), p. 359; see also Zils, Geistiges und künstlerisches München, p. 324.
4 See his essay 'Einiges über das Nackte in der kirchlichen Kunst der alten Meister', in Otto Falckenberg (ed.), Das Buch von der Lex Heinze, pp. 5-14.
5 Otto von Erlbach (Dr Armin Kausen), 'Der Gipfel einer laxen Rechtsanwendung', Allg. Rund., V/10 (7 March 1908).

a connoisseur and art expert. He belonged to the Ministry of Education's Ankaufskommission and later became temporary Director of the Bavarian State Galleries[1].

By far the most difficult problem facing the authorities was how to enlist an adequate number of working dramatists who would meet their requirements and yet be sufficiently avant-garde to give the Zensurbeirat some credit in the eyes of intellectuals and the Liberal press. Later events showed that in fact no really permanent solution could be found. But the choice made by the police in 1908 was nevertheless an intelligent one, which revealed considerable understanding not only of the local literary scene but also of the complicated position and attitudes of the three authors who were selected.

Wilhelm Weigand, who has already been mentioned in connection with the Neue Verein[2], was a fairly prolific novelist and playwright and a former member of the Goethebund. At the same time, however, he remained very much outside the Schwabing literary cliques; and it was probably for this reason that his play Der Dämon (a thinly disguised attack on certain local painters) had been brutally shouted down in the Schauspielhaus in 1897[3]. His political views were also far from straightforward: he was an embittered anti-Semite and an admirer of the controversial Africa-explorer Karl Peters[4], yet was evidently on friendly terms with Georg von Vollmar, who invited him on one occasion to contribute to the Sozialistischen

1 Weigand, Welt und Weg, pp. 154-157, 303-304.
2 See above, Chap. VI, pp. 234-236.
3 Wilhelm Mauke, 'Deutsches Kunstleben', Die Gesellschaft, XIV (1898), i. 64.
4 Weigand's anti-Semitism emerges very clearly from his memoirs. For his interest in Peters, see Fuchs, Sturm und Drang in München, pp. 32-37.

Monatshefte[1]. The most decisive reason for choosing him may well have been that,like Stadler, he was a longstanding member of the Ankaufskommission and therefore had considerable experience of mediating between local genius and the state.

Equally important and equally complex was the dramatist Max Halbe. He had begun his literary career in Berlin in the early 1890's as a member of the Naturalist avant-garde; and his play Jugend (first performed in 1893) had been one of the theatrical sensations of the decade, enormously successful on the stage and bitterly attacked by conservatives and by the Catholic Church. When in Munich as a student in the mid-1880's, Halbe had belonged to the Conrad circle; and he joined the Gesellschaft für modernes Leben while still in Berlin[2]. In 1895, he moved permanently to Munich and formed a circle called the Unterströmung which attracted many former members of Conrad's by this time defunct society. In 1900, as has already been mentioned, he became Chairman of the Munich Goethebund; and from about this time until the 1930's, his skittle-club was one of the focal points of Schwabing life. But in spite of all this, and in spite of his friendship with men like Erich Mühsam, Halbe was far from radical in either his outlook or his way of life. He was the son of a West Prussian landowner, and his work was permeated by a deeply mystical attachment to the soil; although he gave evidence on behalf of Simplicissimus at the Ambassadors' Education trial in

1 See Weigand's reply of 19 Oct. 1902: International Institute of Social History, Nachl. Vollmar 2232. He also signed Vollmar's visitors' book on 21 July 1897: loc. cit. 41.
2 Stadtbibl., Halbe-Archive 895/60: Julius Schaumberger to Halbe, 6 Jan. 1891.

1903[1], his attitude towards both satire and politics became increasingly conservative during the pre-war period[2]; and he was one of the 93 intellectuals who signed the well-known manifesto of 10 October 1914[3]. Furthermore, with a wife and household to support, Halbe dedicated himself after 1900 with increasingly un-Bohemian application (and considerable success, at least in financial terms) to the demanding task of writing plays for a living[4]. The police no doubt hoped that his membership of what might perhaps be called the 'Schwabing bourgeoisie', together with his immense prestige among the younger generation of writers, would be a valuable asset for the Zensurbeirat. As will be seen, however, Halbe was to find his association with the censor an increasingly difficult one.

Most complicated of all (and by this time a bitter enemy of Halbe) was Joseph Ruederer, author of plays about Bavarian rural life and founder of the Neue Verein. He too had been one of the leaders of the avant-garde during the 1890's, and his so-called Nebenregierung had rivalled both Conrad's Gesellschaft für modernes Leben and Halbe's Unterströmung. His first book, Ein Verrückter, Kampf und Ende eines Lehrers, published in 1894, had been an attack on clerical domination; he had energetically opposed the Lex Heinze; and his play about Lola Montez and the events of 1848, Die Morgenröte, had initially had problems with the censor[5]. Like Weigand, however, Ruederer stood aloof

1 See above, Chap. III, pp. 91-93.
2 Halbe, Jahrhundertwende, p. 354.
3 W.W. Coole, M.F. Potter, Thus Spake Germany (London, 1941), p.46.
4 See for example Karl Ude, 'Glanz und Elend des Literaturbetriebs um 1900. Nach Dokumenten aus Max Halbes unveröffentlichtem Nachlass', Welt und Wort, 1962/17, pp. 271-274.
5 Georg von Vollmar, VdKdAbg 1905/1906, Bd. IV, 20 June 1906, pp. 843-844.

from the local cliques: apart from being a difficult man to get on with and a much-resented critic of Munich parochialism, his wealthy background and social as well as literary ambitions tended to isolate him from the Schwabing intelligentsia. His ambivalent position as both a modern writer and a member of conventional upper-middle-class society probably made him appear an ideal candidate for the Zensurbeirat. In fact, as will be seen later, there were times when Ruederer was seriously tempted to resign. But he developed a friendly relationship with both von der Heydte and his successor and in the end remained a member of the Council until his death in October 1915.

The Beirat's composition reveals plainly enough the desire of the police to mobilize all the prestige traditionally attached to the 'hervorragende Fachmann' in support of the censor, without stirring up controversy in the process. Differences of opinion on certain issues did not alter the fact that its members were conventional in upbringing, civilized in disposition and, on the whole, liberal-conservative in outlook. The Council contained no women, no adherents of the Jewish religion and no member of the labour movement. None of those chosen was active in politics (although Kerschensteiner entered the Reichstag in 1912 and Gruber became a prominent member of the Vaterlandspartei in 1917[1]); there were no members of the Männerverein[2] and no members

1 Karl-Ludwig Ay, Die Entstehung einer Revolution. Die Volksstimmung in Bayern während des ersten Weltkrieges. Beiträge zu einer historischen Strukturanalyse Bayerns im Industriezeitalter, Bd. I (1968), p. 132.
2 Although a police note of 14 Jan. 1910 suggested Dr. Heinrich Morin, who was on the Männerverein Committee: StAM, Pol. Dir. 4342/Beiakt. It is possible that Gruber later joined.

of the clergy; and although the police had considered including a theologian, they had dropped the idea for fear of causing religious strife[1]. It was perhaps also significant that no clerical publicist[2] and no-one connected with the Hirth newspaper empire was invited to join. This was probably one reason why the Zensurbeirat worked so smoothly during the first three years of its existence; and the crises which eventually beset it were caused essentially by attack from outside rather than by internal dissension.

The Council's organisation was simple and practical. In order to save time and spread the burden of work, the members were divided into five committees, which took it in turn to consider plays. Having formed an opinion, each committee-member would send in a brief written assessment to the police which he was at liberty to make public if he wished. In particularly difficult cases, a play might be circulated to more than one committee; and important questions could be discussed in plenary meetings chaired by the Police Director. On several occasions later on, it was thought desirable for members to attend dress rehearsals before reaching a final decision. As for the Beirat's scope, it was agreed at the outset that it would not have to deal with cabarets and music-halls. But von der Heydte hoped to be able to extend its influence outside Munich[3]; and it was also intended to consult it in difficult obscenity cases not connected with

1 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907.
2 Although in Jan. 1910, Carl Muth, editor of Hochland, was suggested: StAM, Pol. Dir. 4342/Beiakt.
3 StAM, Pol. Dir. 4342/I: Pol. Dir. von der Heydte to Govt. of Upper Bavaria, 19 June 1907; and see below, Chap. VIII.

the theatre, an idea which was accepted by the majority of those present at the exploratory meeting already mentioned[1]. After all these details had been discussed, and the last acceptances had been received, the Zensurbeirat began work shortly after Easter 1908.

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1 StAM, Pol. Dir. 4342/Beiakt: minutes of meeting of 20 March 1908.

VIII

The Zensurbeirat in Action: The Case of Frank Wedekind

The first few months of the Zensurbeirat's existence were among the busiest of its entire history, evidently because theatre managers hoped that the Council would have a moderating influence on the censor and therefore re-submitted plays which had previously been banned. The Council's first working meeting took place on 8 May 1908 and showed that the members were able to work fruitfully together. Most of the discussion centred on Wedekind's Frühlings Erwachen, which will be examined in detail later on; but a number of other plays were also dealt with. Maria Arndt, by Ernst Rosmer (the pseudonym of Elsa Bernstein, the wife of the Munich lawyer) was approved unanimously, though Gruber was able to point out some biological inaccuracies in a passage about sexual education. Max Dreyer's comedy Das Tal des Lebens, an earlier version of which, entitled Das Tal der Liebe, had been banned in 1903[1], was passed with cuts. Finally, it was decided to ban Eine Nacht im Hampton-Club by Armont and Monczy-Bon, which Kraepelin considered potentially harmful to 'suggestible psychopathic natures'[2].

Press reaction to the appearance of the Zensurbeirat was mixed. Avenarius' Kunstwart described its composition as 'exemplary', and a number of Liberal newspapers in and outside Munich commented favourably[3]. On the other hand, the Münchener

1 See StAM, Pol. Dir. 4592.
2 StAM, Pol. Dir. 4342/I: minutes of meeting of 8 May 1908.
3 See cuttings in StAM, Pol. Dir. 4342/I, II.

Neuesten Nachrichten reminded its readers of the mass of bureaucratic regulations still weighing on the theatre[1], while the Münchener Post repeated the standard Socialist demand for total abolition of censorship[2]. At the other extreme, Dr Kausen was also unenthusiastic: although he welcomed the participation of some members of the Council (especially the doctors), he complained that the police had taken great care not to include 'even one single personality known to represent the outlook and beliefs which happen to predominate in the Bavarian population as a whole'. In general, he concluded, the experiment would probably make little practical difference[3].

These judgements were necessarily provisional; and, in the long run, public attitudes towards the Zensurbeirat depended on its performance. Already by May 1908, however, the Council had begun to grapple with a problem which was eventually to destroy its chances of winning general acceptance and making censorship into a less inflammable issue. This arose because of the peculiar difficulties connected with the plays of Frank Wedekind.

Wedekind has already been briefly mentioned as one of the early collaborators of Simplicissimus, and as one of the chief participants in the Palestine Affair in the autumn of 1898[4]. By the time this occurred, he was just making his début on the

1 M.N.N., 12 May 1908, nr. 223.
2 Mü. Post, 13 May 1908.
3 Otto von Erlbach, 'Einen Beirat für die Theaterzensur', Allg. Rund., V/20 (16 May 1908).
4 See above, Chap. III, pp. 84-85. For Wedekind's background and early career, see Kutscher, Frank Wedekind. Sein Leben und seine Werke, vol. i; Seehaus, Frank Wedekind und das Theater, pp. 13-27; and the chronology in Klaus Völker, Frank Wedekind (Velber bei Hannover, 1965), pp. 7-13.

public stage after a decade of considerable creative effort but almost complete obscurity except among members of the literary avant-garde. Since the late 1880's he had lived intermittently in Munich, and had belonged both to the Gesellschaft für modernes Leben and to Ruederer's Nebenregierung. At the time of the Deutsche Theater episode, he had become friendly with Emil Messthaler and Georg Stollberg, both of whom were to play a major rôle in his subsequent career. Erdgeist, the first part of his ambitious Lulu tragedy, was given its world première in February 1898 by the Leipzig Litterarische Gesellschaft (largely due to the influence of the writer Kurt Martens, who was later to be a close friend and ally in Munich), and was then taken on tour by Wedekind with Dr Carl Heine's Ibsen-Theater. In October of that year, the play was put on again, with total lack of success, by Stollberg's Munich Schauspielhaus, and the morning after the performance Wedekind had to flee the country because of his Palestine poem[1]. After a period of exile and subsequent imprisonment (which lasted until March 1900), he resumed his struggle for recognition with great determination and increasing success. By 1908, when he moved permanently to Munich, he had won the support of influential critics like Alfred Kerr and brilliant stage directors like Max Reinhardt; his work was being performed all over Germany and Austria; and his marriage to the actress Tilly Newes (which had taken place in May 1906), who then appeared with him regularly in his own plays, was enabling him to make his ideas more widely understood. Nevertheless, he still faced major obstacles, of which one of the most

1 Kutscher, Wedekind, ii. 19-20; Holm, ich - kleingeschrieben, pp. 90-98.

formidable was undoubtedly censorship.

Wedekind's friction with the censor was no less inevitable than his constant difficulties with a theatrical establishment still dominated by Naturalism. On the one hand, the guardians of conventional morality were bound to be alarmed by his unfamiliar style and his bold and experimental approach to problems of sexuality and self-fulfilment. On the other, Wedekind was determined to have his plays performed on the public stage and was prepared to use every kind of device in order to achieve this aim. The result was a series of confrontations with the authorities which embittered him personally and left its mark on much of his later work. Censorship, claimed his biographer, Artur Kutscher, did more damage to Wedekind than to any other artist of comparable importance: 'It not only circumscribed his field of influence, but constricted and darkened an entire period of his creative life'[1]. Furthermore, although some of Wedekind's plays could not be performed anywhere in public until after his death, there can be no doubt that much of this damage was caused by conflict with the censorship authorities in Munich.

In spite of the fact that he was on relatively good terms with the Berlin censor, Kurt von Glasenapp[2], and was able to have most of his plays performed without difficulty at Messthaler's Intimes Theater in Nuremberg, Wedekind still chose to expend a great deal of time and energy in a long-drawn-out and ultimately

1 Kutscher, Wedekind, iii. 36-37.
2 Seehaus, Wedekind u.d. Theater, pp. 62-64.

rather unsuccessful campaign against the Munich police and their Zensurbeirat. There were several reasons for this. In the first place (although it was certainly less important than his enemies claimed), Wedekind had considerable talent for self-advertisement and was well aware of the fact that persecution and publicity went hand in hand; and that, in a country in which bans in one place could encourage performances in another, battles with the censor could offer very palpable advantages. Secondly, however, Wedekind was without any doubt a deeply serious writer who opposed censorship (especially when it was aided and abetted, as he saw it, by a number of his literary colleagues) with crusading zeal wherever he encountered it, and who regarded protest as a moral duty both to himself and to literature[1]. Finally, he had strong practical reasons for making a stand in Munich. He had closer personal links with the theatrical world there than anywhere else; and by 1914 no less than seven of his plays had had their world premières on the Munich stage. Furthermore, even before he settled in the city, he had many enthusiastic admirers among the Schwabing avant-garde; he commanded increasing support in the local press; and in the years before the war, his Stammtisch in the Torggelstube was one of the nerve-centres of Munich literary life. All this meant that the attitude of the local police was particularly galling, and made it particularly easy for him to stir up militant protests against the censor's decisions.

If the Wedekind controversy forms an important chapter in the history of Munich theatre censorship, it was also closely

1 For a general account of Wedekind's relations with German censors, see Kutscher, Wedekind, iii. 26-64.

bound up with the contemporary debate on obscenity, Schund and 'subversion'. Long before 1914 (and before the performance of his plays became a significant public issue), Wedekind was the bête noire of the Munich morality campaigners, and his name had become a kind of household synonym for decadence, godlessness and nihilism. In 1905, referring to actresses who degraded themselves by posing in indecent costumes, Ludwig Kemmer asked:

> 'Have they no families? Have they no homes? Are they soulless products of the education demanded for girls by the crazy Frank Wedekind in his Minehaha, and which has somehow become reality? Are they sisters of Lulu or Hidalla? Or are they daughters of a German house?' 1

Hostility to Wedekind probably did not stem chiefly from an understanding of his ideas, which were at times (especially in his later work) bewilderingly complicated and even confused[2]. On the contrary, conservatives seem to have been repelled by his subversive (though greatly distorted) personal image as a self-styled Satanist, former collaborator of Simplicissimus and convicted Majestätsbeleidiger, and by the lurid subject-matter of his plays. Indeed, his unvarnished treatment of homosexuality, masturbation, flagellation, sado-masochism, voyeurism and other comparable themes was bound to cause widespread shock and outrage. Finally, as a young man Wedekind had been attracted by the circus, the pantomime and other forms of popular entertainment 'without higher artistic interest'[3] (and later earned money by appearing

1 'Halbwelt und Halbkunst', Allg. Rund., II/20 (14 May 1905). The references are to Mine-Haha oder Über die körperliche Erziehung der jungen Mädchen (1901) and Hidalla (1903).
2 See the discussion in Pascal, From Naturalism to Expressionism, pp. 241-243.
3 Kutscher, Wedekind, i. 146-147; Völker, Wedekind, pp. 34-35.

as a cabaret artist); and many contemporaries (not all of them hostile) were struck by the resemblance of his own work both to this sort of thing and to its literary equivalent, Schund. 'A certain scent of cheap, disreputable perfume is given off by his art' wrote Artur Möller-Bruck (better known later as Möller van den Bruck) in an enthusiastic review of Frühlings Erwachen in 1899. 'If one wants to describe it in a single word' he continued,

> 'one must say that it is variety-art. For Wedekind, life is not a stage upon which tragedy and comedy complement each other. For him it is a variety-show' [1].

The Reichstag deputy Dr Heckscher commented that with Erdgeist, the German theatre had reached the level of the 'dramatised Hintertreppenroman'[2]; Wilhelm Weigand described Lulu as 'colportage drama of the worst kind'[3]; and one of Kausen's colleagues compared the same play to a sensational fairground-ballad with barrel-organ accompaniment[4]. At a time when public opinion was increasingly preoccupied with the supposed dangers of low-grade popular literature, it was hardly astonishing that many people should have placed Wedekind's entire production in the same category as Der Scharfrichter von Berlin and the adventures of Nick Carter, and demanded the same treatment for it.

From the point of view of the Munich Zensurbeirat, the task of deciding whether or in what form Wedekind's major plays were suitable for the public stage, while at the same time trying to make theatre censorship less controversial, was an almost

1 'Frank Wedekind', Die Gesellschaft, XV (1899), ii. 249.
2 'Kampf gegen literarische Volksvergiftung', Preussische Jahrbücher, CXXX/2 (Nov. 1907), p. 363.
3 StAM, Pol. Dir. 4595: assessment of 9 May 1913.
4 W. Thamerus, 'Wedekind und kein Ende!', Allg. Rund., X/23 (7 June 1913).

impossible one. On the one hand, many intellectuals hailed Wedekind as a writer of genius whose plays must at all costs be released. On the other, the parliamentary majority, the clerical press and the Männerverein regarded him as little better than a commercial pornographer, whose work was a threat to public morality. The full complexity of this situation became clear in the summer of 1908, when the Advisory Council was asked to consider Wedekind's famous Kindertragödie, Frühlings Erwachen.

Frühlings Erwachen, published in Zürich in 1891, was one of Wedekind's first and, together with the Lulu tragedy, one of his most famous and frequently-performed plays[1]. It is also artistically one of his most successful: a haunting evocation of early adolescence which combines reality with fantasy, tragedy with grotesque farce, and clinical frankness with a quite un-naturalistic lyricism. The plot revolves around three main characters, Wendla Bergmann, Melchior Gabor and Moritz Stiefel, all aged about fourteen, and their parents, friends and teachers. Wendla, unable to make her mother talk openly to her about childbirth, is seduced by Moritz in a hay-loft and later dies at the hands of the local abortionist. Melchior, who is also curious about the facts of life, is provided by Moritz

1 For detailed discussions of the play's origins, and of those aspects of its publication- and stage-history relevant to the present study, see Kutscher, Wedekind, i. 234-261; Seehaus, Wedekind u.d. Theater, pp. 298-336. Similar references will be given for each of the plays discussed in this chapter.

with an essay entitled 'The Sexual Act', complete with life-size illustrations. Melchior later shoots himself after failing to be promoted to a higher class, and when this production is found among his things, Moritz is expelled from school and sent to a reformatory. He escapes, and returns to the graveyard where Wendla and Melchior are buried. Melchior's headless ghost appears and tries to persuade him to follow him, but Moritz is saved by the sudden appearance of a mysterious '<u>vermummter Herr</u>' (a part often played by Wedekind himself), who leads him away to live.

Although it was enthusiastically received by a small circle of progressive critics, and Wedekind held a public reading of it in Zürich in 1894, <u>Frühlings Erwachen</u> was not performed until 15 years after its publication. It is easy to see why this was so. In the first place, there were formidable practical and stylistic obstacles to be overcome. Quite apart from the difficulty of finding actors to fill the juvenile rôles, the surrealistic elements in the play, its bizarre humour and almost cinematic tempo were alien to the prevailing conventions of Naturalism; and in fact it was probably not until the 1920's that the German theatre was completely ripe for Wedekind's ideas. Secondly, the bold introduction of masturbation, flagellation, schoolboy homosexuality and other taboo subjects made conflict with the censor inevitable. <u>Frühlings Erwachen</u> was considerably more explicit than, for example, Hauptmann's <u>Vor Sonnenaufgang</u> or Halbe's <u>Jugend</u>, both of which were regarded as scandalous when they first appeared; and it is interesting to note that Schabelitz, the publisher of Panizza's <u>Liebeskonzil</u> and other <u>avant-garde</u> works, refused Wedekind's play on the grounds that in Germany it

would fetch at least two years' imprisonment[1]. Finally, the ferocious caricature of the schoolmasters in the play, the unfavourable treatment of nearly all the parents, and Melchior Gabor's grotesque funeral made Frühlings Erwachen seem like a calculated attack on authority and religion. It therefore had little chance of being performed - at least in public - without cuts amounting to mutilation.

It was a measure of the Berlin's censor's comparative open-mindedness that, after the literary historian Professor Erich Schmidt and the Director of the Berlin National Gallery, Hugo von Tschudi, had pronounced in favour of the play, Max Reinhardt was finally allowed to put on a public production of Frühlings Erwachen at the Kammerspiele in November 1906[2]. Although heavy cuts and the elimination of three entire scenes inevitably reduced the subtlety of the plot, the Berlin première was a success, and certainly dispelled the idea that the play was fundamentally unperformable. Then, once the ice had been broken, Frühlings Erwachen's rapid conquest of the stage soon made up for its years of obscurity. After the Reinhardt production had been taken on tour by the Berlin Deutsche Theater in 1907 and 1908, the play entered the repertoires of theatres all over Germany and Austria and remained extremely popular both during and after the war. By 1914, the book had reached its 27th German edition and had been translated into Russian and even Japanese[3].

1 Kutscher, Wedekind, i. 234.
2 Seehaus, Wedekind u.d. Theater, pp. 300-305.
3 Kutscher, Wedekind, i. 256.

In Munich, however, a play like Frühlings Erwachen was likely to encounter particularly strong opposition; and although, as has already been seen[1], the Neue Verein was able to put on a single well-attended private performance in January 1907, the chances of an ordinary production being approved were very uncertain. In June 1907, Reinhardt applied for permission to stage the Berlin version as part of the Deutsche Theater company's season at the Schauspielhaus; but the police remained firmly opposed to the idea even when Reinhardt sent in Schmidt's and Tschudi's assessments and a list of cities where performances had been allowed[2]. The following April, however, no doubt encouraged by the creation of the Zensurbeirat and by Messthaler's successful production in Nuremberg the previous month, Georg Stollberg submitted the same text once again; and the police passed it to Muncker, Gruber, Halbe, Stadler, Nicklas and Possart for consideration.

The result of this inquiry was interesting, because, of all those consulted, only Muncker recommended a ban[3]. Halbe described the play as 'a work of genius', and Stadler commented: 'That spring can also "awaken" like this is true; fathers and mothers ought to know more about it'. Nicklas, Possart and Gruber, though much less enthusiastic, denied that the play was obscene or titillating; and Gruber described the hay-loft scene as essentially tragic. The views expressed at the Beirat's

1 See above, Chap. VI, p. 237.
2 StAM, Pol. Dir. 4589: Reinhardt to Pol. Dir., 8 June; StAM, Pol. Dir. 4593: Reinhardt to Pol. Dir., 24 June 1907 (telegram).
3 See assessments in StAM, Pol. Dir. 4589.

meeting on 8 May 1908 were equally definite: with the sole exception of Dr von Arnold, who dissented very strongly, all those present were in favour of passing the play, provided that there were no matinées and that the acting was suitably restrained[1].

How far von der Heydte agreed with this verdict, it is impossible to say. But it would hardly have been practicable to have vetoed an almost unanimous recommendation so soon after the Zensurbeirat's creation; and at the meeting, in reply to a remark by Muncker about the previous year's ban, the Police Director commented that the censor's decisions could be altered if opinions changed. In due course, therefore, permission was granted, and the first of 14 performances finally took place on 14 November 1908. According to Max Gabel, one of Referat VI's trustiest officers, the audience reacted most favourably to the comic parts of the play; the 'morally dubious' passages were decently spoken; and although some people left and ostentatiously slammed the doors, the applause at the end was considerable[2].

Long before this, however, the decision to pass Frühlings Erwachen had provoked a considerable outcry, with Dr Kausen naturally in the forefront of the opposition. In a sweeping attack on official permissiveness (which indicated how closely the issue of theatre censorship was linked in conservative minds with themes which have already been discussed), he accused von der Heydte of tolerating tendencies hostile to the Christian foundations of the Bavarian state, and claimed that the Zensurbeirat was simply a new version of the expert witness system. The

1 StAM, Pol. Dir. 4342/I: minutes of meeting of 8 May 1908.
2 StAM, Pol. Dir. 4589: report of 24 Nov. 1908.

authorities, he continued, might just as well cast caution to the winds and include in the Council not only complaisant helpers, but

> 'the real specialists, like Frank Wedekind, Max Dreyer, Arthur Schnitzler and, as far as we are concerned, also Dr Georg Hirth, Michael Georg Conrad, Th. Th. Heine, Peter Schlemihl, Hans Kaspar [sic] Gulbransson, E. Thöny, together with Henry [sic] Vallé and Mary Irber. And if all else fails, there would also be the Munich branch of the Deutsche Monistenbund in reserve'.

To ensure agreement on all important issues, he felt, less than half a dozen of the existing members would need to be retired. Finally, after a polemical tour d'horizon which included Jugend, Simplicissimus, Socialism and Ellen Key's recent lectures on sexual emancipation, Kausen insisted that the kind of thing being preached on the stage with official permission was part of a movement of systematic moral subversion; and he asked whether the authorities would be equally lax towards plays advocating the murder of princes or the expropriation of private property[1]. On 3 August, similar views were expressed at considerably greater length in the Chamber, with the Chairman of the Männerverein, von Freyberg, among the most vigorous speakers[2]. In spite of these protests, however, the Government did not respond. A special petition drawn up by the Männerverein was rejected[3], and no last-minute attempt was made to stop the performance.

The controversy about Frühlings Erwachen would have been inevitable in almost any circumstances. But the play's impact

1 Otto von Erlbach, 'Bühne und Moral', Allg.Rund., V/23 (6 June 1908).
2 VdKdAbg 1908, Bd. VI, pp. 549-552.
3 Franz Weigl, 'Wedekinds "Frühlings Erwachen" auf öffentlicher Bühne', Allg. Rund., V/48 (28 Nov. 1908); StAM, Pol. Dir. 4589: Govt. of Upper Bavaria to Pol. Dir., 31 July 1908.

was magnified because of its relevance to the contemporary debates about sexual education and pornography. Like other matters connected with schools, sexual education was an issue on which opinion in Munich was sharply divided. Although by 1908 a certain amount of instruction (usually in the form of lectures to school-leavers about the perils of venereal disease) was officially permitted[1], the idea of thoroughgoing enlightenment for children in early adolescence was still anathema to conservative schoolmasters. On the whole, they seem to have regarded masturbation and other juvenile sexual practices as both unnatural and harmful, and tended to blame them on exposure to pornography. Their solution to the problem was stricter obscenity legislation, rigorous supervision and the inculcation of sound moral principles. These views were strongly opposed by many liberals, who also attacked the existing school system as obscurantist and authoritarian. In an outspoken letter to the Münchener Neuesten Nachrichten in July 1906, on the subject of the Männerverein's recent manifesto, Ludwig Thoma had denounced the use of pornography as a scapegoat and claimed that masturbation was something perfectly natural which could be overcome by healthy physical exercise and not by religion and philology. As teachers of morality, he went on, schoolmasters were highly inadequate, and added:

> 'From our long period in the Gymnasium we took not a single good or healthy word with us into life; only unpleasant memories. If we did not become drinkers and invalids, that was no thanks to the professors' 2 .

1 See material in AStAM, MKu 14 847.
2 M.N.N., 28 July 1906, nr. 349.

Although Wedekind had not intended to write a polemic about sexual education, Frühlings Erwachen was bound to be seized on by both sides in the debate; and its effect on conservatives was only too predictable. Franz Weigl, a close associate of Kausen and himself a schoolmaster, complained bitterly about the scene (which delighted the Munich audience) in which Moritz Stiefel is interrogated by a group of monstrously caricatured pedagogues; and he emphatically condemned the idea of dealing with sexual education on the stage. The decision whether to encroach on 'the land of childhood', he wrote, should be taken by parents in the strictest privacy; and the real moral of Frühlings Erwachen was not that Wendla Bergmann should have been more thoroughly enlightened, but that she should have been more closely supervised[1]. In fact, although the release of Wedekind's play indicated a slight shift in official attitudes, Weigl and his colleagues had no need to fear a wave of radical experiments - not least because conservatives like Dr von Urterer (who were also hostile to co-education[2]) played a prominent part in the deliberations of the Supreme School Council[3]. In March 1912, Dr Julian Marcuse, a follower of Freud, complained in a lecture that the authorities offered totally inadequate sexual education; that schools failed to develop either the body or the personality; and that parents lacked any understanding of their children's

1 'Wedekinds "Frühlings Erwachen" auf öffentlicher Bühne', Allg. Rund., V/48 (28 Nov. 1908).
2 See material in AStAM, MKu 18 848.
3 See for example the discussions about coeducation in AStAM, MKu 14 848. It is worth noting that the material in MKu 14 982 indicates that adolescent suicide does not appear to have been a problem at this time.

sexual feelings[1].

As far as the Zensurbeirat was concerned, the Frühlings Erwachen episode was ominous but not disastrous; and at the end of 1908, von der Heydte sent an optimistic report to his superiors. Organisational problems, he wrote, had mostly been overcome; the members of the Council had applied themselves to their task with interest and zeal; and so far no-one had decided to resign. During 1908, the Zensurbeirat had considered 13 plays, of which 6 had been banned; and with the exception of Frühlings Erwachen, individual cases had either been reported by the press without comment, or had been discussed 'with notable calm'. The Police Director[2] expressed the hope that the Council's objectivity would soon arouse complete confidence in its composition, and saw no reason why the experiment should not continue[3].

1908 was followed by two comparatively quiet years for the Zensurbeirat[4]. In 1909, it only considered three plays, of which one, Feydeau's Occupe-toi d'Amélie, was banned. 1910 was slightly more lively, with twelve plays assessed and six banned, including Wedekind's Totentanz and Die Buchse der Pandora, which will be considered in detail later on. In neither year, however,

1 M.N.N., 15 March 1912, nr. 135.
2 On 1 Jan. 1909, von der Heydte's title was altered to Police President.
3 StAM, Pol. Dir. 4342/I: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 31 Dec. 1908.
4 See StAM, Pol. Dir. 4342/I: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 15 Jan. 1910; and Pol. Dir. 4342/II: report of 31 Jan. 1911.

was there any need for a formal meeting; and the only notable controversy was caused by a press campaign in favour of an '_erotisches Mysterium_' entitled _Die ersten Menschen_ by the freethinker Otto Borngräber.

During this time, von der Heydte was making serious efforts to extend the _Beirat_'s scope: both by consulting it in matters other than drama, and by trying to use it as a means of centralizing theatre censorship in Bavaria. In 1909, members of the Council pronounced on Waldemar Bonsels' _Kyrie Eleison_ and a German edition of Aubrey Beardsley's Story of _Venus and Tannhäuser_, and their views encouraged the prosecuting authorities to re-open criminal proceedings which had earlier been dropped[1]. The following year, the _Zensurbeirat_ was asked to comment on detective novels and postcard-displays[2]; and in 1912 it gave an opinion on _Kraftbayrisch_, a collection of Bavarian erotic expressions compiled by Georg Queri which was unsuccessfully prosecuted under Paragraph 184[3]. As far as von der Heydte's second objective was concerned, progress seems to have been slow. The Police President realized that one of the major weaknesses of German theatre censorship (compared, for example, with the English system) was its lack of unity: official attitudes varied considerably from place to place; and the fact that controversial plays could be staged without much difficulty at establishments like the Nuremberg _Intime Theater_

1 StAM, Pol. Dir. 4342/I: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 15 Jan. 1910.
2 StAM, Pol. Dir. 4342/II: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 31 Jan. 1911.
3 StAM, Pol. Dir. 4342/_Beiakt_: circular to _Beirat_ members, 9 Oct. 1912; Otto von Erlbach, 'Auch eine antiklerikale "Kulturtat". Glossen zum jüngsten Münchener "literarischen" Schmutzprozess und seiner "Sachverständigen"-Farce', _Allg. Rund._, X/5 (1 Feb. 1913).

made it harder to justify bans elsewhere[1]. But von der Heydte's idea of making the provincial authorities take more notice of Munich censorship decisions and the Zensurbeirat aroused a lukewarm response from the Government; and local municipalities were clearly jealous of their independence[2]. All that seems to have been achieved was a set of 'Guidelines for the Exercise of Theatre Censorship in Bavaria', drawn up in about 1912, which stated certain general principles but otherwise did little more than encourage the exchange of information between Munich and the provinces[3].

By this time, the Zensurbeirat had already entered a period of serious crisis. In addition to the major changes taking place in Bavarian politics, there were two reasons for this. The first was the appearance of Dr Eugen Robert's Lustspielhaus, which was licensed in December 1910 and began to specialize in controversial modern plays. Although his establishment soon became an important outlet for the Neue Verein, Robert's persistence in pressing for public performances of new works (like, for example, Carl Sternheim's 'bourgeois comedy' Die Hose, which Dr Grassmann described as 'fetishism on the stage', and which the police considered prosecuting for obscenity[4]) created problems for the censor; and by February 1912, eight plays submitted by the Lustspielhaus had been banned - more than a third of all the bans imposed since the Council's creation[5]. The second, connected,

1 StAM, Pol. Dir. 4342/II: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 31 Jan. 1911.
2 Ibid.
3 Copy in StAM, Pol. Dir. 4342/Beiakt.
4 See correspondence of Sept.-Oct. 1911 in StAM, Pol. Dir. 4594.
5 StAM, Pol. Dir. 4342/II: Pol. Pres. von der Heydte to Govt. of Upper Bavaria, 27 Feb. 1912.

source of embarrassment was the campaign launched by Frank Wedekind against the censor and the Beirat because of their treatment of three of his plays - Oaha, Totentanz and Schloss Wetterstein - in 1911.

Oaha, the first version of which appeared in Berlin in September 1908, was artistically one of the weakest and historically one of the most interesting of Wedekind's works[1]. It was the product of his traumatic and recently-terminated business relationship with Albert Langen; and of the unhappy collaboration with Simplicissimus which had brought him exile and imprisonment at one of the most crucial moments in his career. Wedekind's original notes gave most of the characters their real names[2], and the play itself was a transparent attack on its author's former publisher and colleagues. Georg Sterner (Langen), proprietor of the satirical paper Till Eulenspiegel, cynically exploits the writer Max Bouterweck (Wedekind) and plans to increase circulation by deliberately provoking the authorities; and when Bouterweck's political poem 'Journey to Palestine' leads to prosecution, he successfully escapes abroad. On his return, however, Sterner is outwitted by his other collaborators (among them the cartoonists von Tichatschek and Kuno Konrad Laube, and a coarse Bavarian backwoodsman called Dr Kilian), who force him to sell the by now very profitable paper to them. In the end, Sterner's new masters appoint him Sitzredakteur and engage a mindless idiot named Oaha as the person best able to produce a constant stream of saleable jokes.

1 See Kutscher, Wedekind, ii. 255-264; Seehaus, Wedekind u.d. Theater, pp. 625-628.
2 Stadtbibl., Wedekind Archive, Notebook 47.

The use of the stage as a weapon in personal vendettas was by no means new: Wedekind had earlier attacked Langen in Hidalla, Gerhart Hauptmann in Die Junge Welt and Max Halbe in König Nicolo; Halbe had retaliated in Die Insel der Seligen[1]; and Wilhelm Weigand's Schlüsselstück Der Dämon, which had caused a scandal in 1897, has already been mentioned[2]. Yet Oaha was quite exceptionally scurrilous and abusive: it contained defamatory insinuations about Langen's marriage and financial affairs, referred openly to the dishonesty of one of his former employees, and included an unflattering caricature of his celebrated father-in-law, Björnstjerne Björnson (Ole Olestjerna). Partly for this reason, and partly because of the coarseness of some of the dialogue, the play was fiercely condemned by most of the experts who were asked to consider it. Late in 1908, when Oaha was first submitted by the Schauspielhaus, Dr Voll described it as 'grober Unfug', and even Wedekind's friend Basil felt that it should not be performed in public[3]. Not surprisingly, the play was banned; and the ban was upheld both in January 1911, when Wedekind himself applied, and the following April, when Stollberg submitted a revised version[4]. The only member of the Beirat to plead energetically for leniency was Joseph Hofmiller, who maintained that Oaha was no more crude or morally distasteful than many plays which were being freely performed, some of them at the Hoftheater; that uproar was in any case an established

1 Völker, Frank Wedekind, p. 16.
2 See above, Chap. VII, p. 258.
3 StAM, Pol. Dir. 4595: assessments of Oct., Nov. 1908.
4 Loc. cit.: Pol. Dir. to Wedekind (draft), 10 Jan.; circular to Beirat, 22 April; and assessments of April-May 1911.

part of every Wedekind *première*; and that releasing the play might enlighten the public about the moral character of both Wedekind and *Simplicissimus*[1]. But the police remained unmoved, and the world *première* of *Oaha*, which took place in the *Lustspielhaus* on 20 December 1911, had to be a private performance organised by the *Neue Verein*.

The second play, *Totentanz*, had first appeared, in Karl Kraus' *Fackel*, as early as 1905[2]. It was a one-act piece set in a brothel and consisting essentially of a dialogue about sexual liberation between a female campaigner against white slavery and an international vice-merchant. In the end, although the latter sees the error of his ways and shoots himself, the former is converted to the idea of prostitution as a pathway to female emancipation; and the middle scene of the play includes a lengthy discussion of masochism and nymphomania. The refusal of the courts to proceed with obscenity charges against *Totentanz*[3] made little difference to its chances of being publicly performed in Munich. In June 1906, a month after its *première* at the Nuremberg *Intime Theater*, it was duly banned by the censor[4]. In May 1910, when the play was submitted by Stollberg under the new title of *Tod und Teufel*, the six members of the *Zensurbeirat* who were consulted (Hildebrand, Kerschensteiner, Müller, Weigand, Werther and Du Moulin-Eckart) agreed unanimously that it should not be released[5]; and the ban was repeated the following year,

1 *Loc. cit.*: assessment of 8 May 1911.
2 See Kutscher, *Wedekind*, ii. 229-240; Seehaus, *Wedekind u.d. Theater*, pp. 557-561.
3 StAM, Pol. Dir. 4590: resolution of *III Strafkammer* of *Landger. Mü. I*, 23 Feb. 1906.
4 *Loc. cit.*: Pol. Dir. note of 11 June 1906.
5 *Loc. cit.*: assessments of April-May 1910.

in spite of a special appeal by Hugo von Tschudi[1]. Although the police had allowed a reading by Wedekind in November 1908[2], there was no performance in Munich, even in private, until October 1916 and the general public was unable to see the play until January 1919.

The ban on Totentanz was matched by one on Schloss Wetterstein, a much more ambitious work which was published in three parts in Munich in 1910[3]. The length and complexity of the play make it difficult to summarize. But it could be described as a drama of psychological experiment in which a number of apparently super-human characters undergo erotic endurance tests in a variety of extreme situations. The heroine of the last part presides over a bizarre court of admirers in an atmosphere of complete sexual freedom, and is finally induced to commit suicide by a millionaire sadist from Atacama. Although the police applied for proceedings under Paragraph 184, the courts again declined to act, this time probably on the strength of an assessment by Muncker, who denied that Schloss Wetterstein was obscene and warned against making Wedekind into a martyr[4]. Yet, as in the case of Totentanz, the judges' decision made no difference to the censor, who repeatedly rejected the play out of hand; and it was not until November 1911, after a complaint from Dr Robert, that the Provincial Government instructed the police to submit a shortened version to the Zensurbeirat[5].

1 Loc. cit.: von Tschudi to Pol. Pres. von der Heydte, 30 March; and von der Heydte's draft reply, 3 April 1911.
2 This took place in the Hotel Bayerischer Hof: see StAM, Pol. Dir. 4590: police report of 26 Nov. 1908.
3 See Kutscher, Wedekind, iii. 92-108; Seehaus, Wedekind u.d. Theater, pp. 633-641.
4 StAM, Pol. Dir. 4593: assessment of 8 Dec.; Pol. Dir. note of 22 Dec. 1910.
5 StAM, Pol. Dir. 4593: Govt. of Upper Bavaria to Pol. Dir., 18 Nov. 1911.

Not surprisingly, nearly all the twelve experts consulted expressed varying degrees of repugnance[1]. Gruber described Wedekin's creation as a '_grimace_ of depravity, morbidity and perversion' and claimed that the characters were suffering from 'Moral Insanity [_sic_]'. At the same time, however, the play was felt to be so boring and incomprehensible that not even Dr von Arnold was prepared to recommend a ban. Yet this was still not enough to obtain _Schloss Wetterstein_'s release; and, at a plenary meeting held on 5 January 1912 (at which he was supported by Mensi, Muncker and Kerschensteiner), von der Heydte insisted on maintaining the ban[2]. _Schloss Wetterstein_ was not performed anywhere until November 1917, when it was put on by the Zürich _Pfauentheater_. Its Munich _première_ did not take place until December 1919, and even then led to serious disturbances[3].

An additional argument in favour of passing _Schloss Wetterstein_ had been that the play's release might help to damp down the agitation campaign by and on behalf of Wedekind which had been building up throughout the year. Wedekind's attacks on censorship were by no means new; but since the spring of 1911, he had concentrated his wrath increasingly on the _Zensurbeirat_: partly on the grounds that it was incapable of understanding his work, and partly out of indignation that men of letters should help the state to victimize a colleague. Although he had already published

1 _Loc. cit._: assessments of Dec. 1911.
2 _Loc. cit._: minutes of meeting of 5 Jan. 1912.
3 Hans Wagner, _200 Jahre Münchner Theaterchronik 1750-1950. Theatergründungen, Ur- und Erstaufführungen, berühmte Gastspiele und andere Ereignisse und Kuriosa aus dem Bühnenleben_ (Munich, 1958), pp. 121-122.

a scornful poem about the Council in March[1], he became even more bitter two months later when von der Heydte revealed the hostility of some of the experts towards Oaha; and in September, he published unenthusiastic assessments of Totentanz by Muncker and Sulger-Gebing (which he himself had solicited) as 'proof' of the Beirat's incompetence[2]. Finally, at the end of December, Liberal newspapers all over Germany published seven questions addressed by Wedekind to a dozen of the Council's members. Among other things, he asked: Was it decent to inflict damage on a colleague and possible competitor by means of secret assessments against which he could not protest? What was the difference between the Zensurbeirat and the Inquisition? What service on their part and what failing on his accounted for the fact that they belonged to the Council and he did not? Were they prepared to reveal and justify their opinions about his plays?[3]

If Wedekind's purpose had been to draw the experts into a public disputation, he failed to achieve it. Characteristically, Possart could not resist the temptation to reply; and Mensi allowed an anonymous article to appear in the Allgemeine Zeitung which suggested that Wedekind's real aim was to join the Beirat so that he could achieve maximum publicity by banning his own

1 'Zensurbeirat', Der Komet, nr. 4 (22 March 1911).
2 'Aus dem Münchner Zensurbeirat', Kain, I/6 (Sept. 1911), pp. 90-95. See also Frank Wedekind, Gesammelte Briefe, ed. Fritz Strich (Munich, 1924), ii. 253; and StAM, Pol. Dir. 4593: Muncker to Pol. Dir., 8 Dec. 1911.
3 See for example MN. Ztg., 29 Dec. 1911; other cuttings in StAM, Pol. Dir. 4342/II. On 24 November, Wedekind had published three questions about Oaha: Kutscher, Wedekind, iii. 48.

plays[1]. Most of the other members, however, agreed with von der Heydte that it would be better not to react, and this policy was formally adopted at the meeting held on 5 January 1912[2].

Nevertheless, Wedekind's onslaught coincided with other difficulties which were by no means so easily dealt with. On 1 December, in fact, several weeks before the publication of the seven questions, Max Halbe had tendered his resignation on the grounds of 'intensified differences of principle'[3]. The immediate reason for his departure was a recent incident involving a dancer named Adorée Via-Villany, who had been arrested (together with Dr Robert) and charged with indecency after performing practically naked at the Lustspielhaus[4]. But Halbe had never recommended that any play should be banned, and he may well have regretted his decision to join the Beirat at all. Furthermore, although they had had furious differences in the past, he was also a personal friend of Wedekind, and in April 1911 both he and Basil had signed a public appeal against the suppression of his plays[5].

As Halbe's letter of resignation appeared in the press and was quickly taken up by Wedekind, who urged others to follow suit[6], von der Heydte composed a lengthy reply which emphasized the value

1 Allg. Ztg., 6 Jan. 1912; StAM, Pol. Dir. 4342/II: Mensi von Klarbach to Pol. Pres. von der Heydte, 3 Jan. 1912.
2 StAM, Pol. Dir. 4593: minutes of meeting of 5 Jan. 1912.
3 StAM, Pol. Dir. 3442/II: Halbe to Pol. Pres. von der Heydte, 1 Dec. 1911.
4 Mühsam, 'Gegen die Polizei', Kain, I/9 (Dec. 1911), pp. 133-135. The files on the case, StAM, Pol. Dir. 3786, 3787, are missing.
5 Kutscher, Wedekind, iii. 61. It does not appear to have been published until June: 'Für Frank Wedekind', Die Aktion, I/17 (12 June 1911), cols. 531-532.
6 Kutscher, Wedekind, iii. 50-51.

of the Zensurbeirat and carefully spelled out its terms of reference[1]. This was duly circulated to the other members, and drew approving letters from Possart and Kerschensteiner (who mentioned that he was currently speaking out against over-liberal attitudes to modern art as part of his campaign for the Reichstag elections)[2]. Their views, however, were not shared by everybody; and after Halbe's withdrawal there were rumours that both Hofmiller and Ruederer also intended to resign. Although this did not happen, Ruederer at least was concerned about 'the many stupid things' being done by the police[3]; and his misgivings increased after the change of government in February 1912 and von Soden's appointment as Minister of the Interior. In the end, he was persuaded to stay on by his friends, whose arguments indicate the difficulties of the situation. 'If we leave' wrote Richard Du Moulin-Eckart, 'then only the Grubers and Kerschensteiners et. al. will remain. And when people get annoyed one really must stay, so as to be able to annoy them'. He agreed that the new régime was 'as black as night', but thought it would probably encounter more difficulties than it had anticipated[4]. Gottlieb Krais, a civil servant probably employed in the Ministry of the Interior, sent Ruederer an even more interesting letter, which deserves to be quoted at length.

> 'We liberal officials' he wrote, ' - thank God, practically everyone in the administration is liberal - have put out the

1 StAM, Pol. Dir. 4342/II: Pol. Pres. von der Heydte to Halbe, 13 Dec. 1911.
2 Loc. cit.: letters of 25, 28 Dec. 1911.
3 Stadtbibl., Nachl. Ruederer Br.a.25.423: Ruederer to Carl Graeser, 12 Dec. 1911.
4 Loc. cit., Br.e.330.12: Du Moulin-Eckart to Ruederer, 19 Feb. 1912.

> watchword amongst ourselves: stay at your post and stick to the old course! We want to leave the new era to conquer its position; it will not be done by violent means, and the struggle over little things leads to exhaustion.
>
> If you and perhaps a few more convinced supporters of free intellectual development give up the fight when the new course is proclaimed, you will help, not the liberal officials who defend your ideals and would need to count on you, but the Centre Party, which will fill your places without a battle with Armin Kausen and co. There can be no doubt that the Soden era will bring a systematic struggle against every modern Liberal. So the friction will soon come, and you will do the new movement much more harm if you <u>then</u> give up your collaboration ...
>
> Very soon, in obedience to commands from above, the authorities will ignore your votes on censorship and substitute the ultramontane view. <u>Then</u> announce your resignations: they will cause a stir, people will aclaim you, and the others will have a hollow victory' [1].

As will be seen presently, it was not long before Krais' predictions began to be fulfilled, although the outbreak of war was narrowly to forestall the <u>Zensurbeirat</u>'s disintegration.

During the spring and summer of 1912, there was a lull in the controversy surrounding Wedekind and the <u>Zensurbeirat</u>. In March, after a decent interval had elapsed since the seven questions episode, the police issued a statement to the press which again made the Council's purpose and limitations clear[2]; and at Ruederer's suggestion, Thomas Mann was invited to fill the place left vacant by Halbe[3]. For his part, Wedekind published a poem attacking von der Heydte in February[4] and continued to complain about the unprecedented fanaticism of German censors, who allowed what was cheap and trivial but rigidly banned the

1 <u>Loc.cit.</u>, Br.e.262.16: Krais to Ruederer, 17 Feb. 1912.
2 StAM, Pol. Dir. 4342/II: minutes of <u>Beirat</u> meeting of 4 March; draft announcement of 12 March 1912.
3 <u>Loc. cit.</u>: Ruederer to Pol. Pres. von der Heydte, 4 Dec.; draft reply of von der Heydte, 9 Dec., and his notes of discussion dated 13 Dec. 1911. See also Mann's letter of acceptance, 15 March 1912.
4 'Herr von der Heydte', <u>Die Aktion</u>, II/8 (19 Feb. 1912), col. 239.

discussion of serious moral issues[1]. For most of 1912, however, there were no direct clashes between Wedekind and the Munich police. In June, a tamer version of Oaha was passed for public performance at the Lustspielhaus[2]; and it was not until the late autumn that another round of hostilities began. In the meantime, it is interesting to look at some of the opposition facing Wedekind, and at some of his supporters.

Enough has already been said about conservative and clerical hostility, and this continued unabated until the outbreak of war. It is worth pointing out, however, that opposition to Wedekind was only part of a wider campaign against theatrical innovation in general; and one particularly sensitive issue was the new direction taken by the Hoftheater after Possart's replacement by General Albert von Speidel in the autumn of 1905. Although essentially an amateur by comparison with his predecessor, Speidel was a man of surprisingly advanced views whose policies soon antagonized the Right. In the first place, he offered an important post to the radical Naturalist and ornament of the Viennese avant-garde Hermann Bahr, a step which provoked such an outcry that Bahr eventually had to withdraw[3]. Secondly, he placed the distinguished actor and stage-director Albert Steinrück in charge of the Residenztheater, which then opened its doors to dramatists like Wedekind and Sternheim and became for a time one of the most progressive court theatres in Germany[4]. This too aroused considerable opposition, as did Speidel's policy (initiated

1 'Torquemada. Zur Psychologie der Zensur', Berliner Tageblatt, 17 March 1912, repr. in Wedekind, Gesammelte Werke (Munich, 1912-1921), ix. 391-395.
2 StAM, Pol. Dir. 4595: draft letter to Lustspielhaus, 25 June; police memorandum of 25 July 1912. The play had been publicly performed at the Berlin Deutsche Theater on 12 June.
3 Wagner, Münchner Theaterchronik, p. 79; Uhde-Bernays, Im Lichte der Freiheit, pp. 329-330.
4 Mühsam, 'Speidel', Kain, II/6 (Sept. 1912), pp. 89-90.

by his predecessor) of lending Hoftheater actors to private societies like the Neue Verein. The Intendant of the Court Theatres was directly responsible to the Regent; and although for this reason the change of government in February 1912 did not automatically threaten his position, it is hard to say what would have happened after Luitpold's death at the end of the year. In fact, however, Speidel himself died in September and was succeeded by the rather more conservative Baron Clemens von Franckenstein, whose almost immediate withdrawal of support from the Neue Verein has already been mentioned[1].

Not all those who had misgivings about contemporary drama in general and Wedekind's plays in particular were conservative courtiers, morality campaigners or members of the Centre Party. It is interesting to find, for example, that some of the most rabid denunciations of Wedekind's work were written by successive theatre critics of the Socialist Münchener Post. In November 1908, Ernst Lissauer described Wedekind as a 'doctrinaire philistine' and claimed that the success of Frühlings Erwachen was a sign of 'the artistic ignominy of our times'[2]. Two years later, referring to a private reading of Schloss Wetterstein, the Post remarked that Wedekind at last seemed to have realized that his talent lay in putting on 'exclusive evenings for men only whose beginning and end are signalled by the sonorous note of the pig-bell'[3]; and the article was approvingly cited by the Allgemeine

1 See above, Chap. VI, p. 235.
2 MN. Post, 17 Nov. 1908. The editor, Adolf Müller, however, seems to have been more broad-minded, and praised the play highly in the Chamber: VdKdAbg 1908, Bd. VI, 3 Aug. 1908, p. 553.
3 MN. Post, 3 Nov. 1910.

Rundschau[1]. Not long afterwards, a review of the Neue Verein's closed performance of Die Büchse der Pandora was full of phrases like 'moral insanity', 'genital-philosophy' and 'erotic elephantiasis', while the author was particularly disgusted by the fact that not one of the characters ever seemed to have done a day's work: 'In the social state,' he wrote, 'this drone-philosophy has absolutely no place'[2]. Such extreme (and heartily reciprocated) hostility was not altogether surprising. In the first place, Wedekind's constant emphasis on the elemental power of erotic drives was greatly at variance with Marxist notions about the sources of human conflict; and with the idea, much canvassed during the campaign against the Lex Heinze, that vice and prostitution were simply the products of a distorted society. Secondly, as has already been mentioned[3], many Social Democrats had rejected Naturalism, and Socialist cultural attitudes sometimes revealed strong traces of conventional 'idealism'. This was certainly true of the Münchener Post, which in Erich Muhsam's opinion had a definite affinity with the Bayerische Kurier in matters relating to the theatre[4]. Commenting on the Künstlertheater's production of Lulu in May 1913, the paper's critic complained that the spectator was left with a yearning for something less degraded: 'Dreams awaken and become a longing for fields of blessed exaltation, for some other world than that of the abdomen'. The play, he went on, was never concerned with noble aims, but only with 'uterus-

1 W. Thamerus, 'Frank Wedekind und seine Freunde. Aus dem dekadentesten München', Allg. Rund., VII/47 (19 Nov. 1910).
2 Mü. Post, 12 Nov. 1910.
3 See above, Chap. II, p. 48; and Fülberth, Proletarische Partei und bürgerliche Literatur, pp. 85-105.
4 'Münchner Theater', Kain, I/1 (April 1911), p. 11.

aims'[1]. Indeed, the Post's comment in November 1910 that Die Büchse der Pandora had been banned 'with good reason'[2] suggests that dislike of Wedekind was beginning to outweigh the paper's traditional aversion to theatre censorship.

Although opposition to Wedekind was by no means negligible, the forces ranged on his side had grown considerably by 1912. This was particularly striking with regard to the press, as the publicity given to the seven questions had shown very clearly. Wedekind was very much aware of the importance of journalism, and he spared no effort to win over Germany's big Liberal newspapers. It was significant, for example, that by early 1910 the Berliner Tageblatt was prepared to open its columns to him and to abandon its former hostility to his work[3]. Even more important, as far as Munich was concerned, was the conversion of the Münchner Neueste Nachrichten: in 1909, after a long and malicious campaign, Wedekind's supporters finally forced the implacably hostile Hanns von Gumppenberg out of his influential post as that paper's theatre critic; and he was eventually succeeded by Richard Elchinger, one of Wedekind's most enthusiastic admirers[4]. As will be seen presently, Bavarian political developments also encouraged the Neueste Nachrichten to take Wedekind's side in his struggle with the Munich police. In addition to the daily press, Wedekind also took trouble to cultivate the intellectual

1 MN. Post, 1 June 1913.
2 MN. Post, 10 Nov. 1910.
3 Kutscher, Wedekind, iii. 1, 13.
4 Seehaus, Wedekind u.d. Theater, pp. 21–22, '38–'89; Gumppenberg, Lebenserinnerungen, pp. 326–341, 351–364. In November 1909, Wedekind was still on very bad terms with the paper: see Wedekind, Briefe, ii. 227.

journals. On the whole, Die Zukunft can be counted as one of his allies, although Harden's backing was less wholehearted than that of his arch-enemy Karl Kraus in Vienna[1]. In the immediate pre-war period, new avant-garde journals like Der Brenner, Der Sturm and Die literarische Gesellschaft also lent their support. So too did Die Aktion; and Paul Cassirer claimed that his journal Pan had been founded in order to publicize Wedekind's ideas and to make propaganda for his art[2]. Both papers carried their enthusiasm to the point of sponsoring special productions of his more controversial plays[3].

In Munich itself, Wedekind was allied with a number of small periodicals: Janus, Forum and Paul Fuhrmann's radical satirical paper Der Komet, of which Wedekind was for a few months co-editor[4]. By far the most important, however, was Erich Mühsam's Kain, which gave unflagging support and to which Wedekind donated 500 Marks in May 1913[5]. Mühsam belonged to Wedekind's inner circle of friends and greatly admired him both as a thinker and a dramatist[6]. On one occasion, he even compared his plays with those of Shakespeare, for the significant reason that (in his view) they showed liberated individuals acting on their environment and not simply, as in Ibsen's drama, stereotyped characters reacting to new social ideas[7]. At the same time, however, Mühsam's agitation

1 Weller, Harden, pp. 329-331.
2 Kutscher, Wedekind, iii. 14.
3 Ibid.
4 Ibid., pp. 17-19, 60-62.
5 See Wedekind's letter of 8 May 1913, printed in Kain, III/2 (May 1913).
6 See Mühsam, Namen und Menschen, pp. 157-161.
7 'Münchner Theater', Kain, I/5 (Aug. 1911), p. 75.

for the release of Wedekind's work must be seen as part of his general struggle against the authoritarian state: for, as he told a mass meeting of artists and students in November 1911, censorship was essentially an instrument of political repression[1]. He also regarded artistic creation as a fundamentally anti-authoritarian, anti-conventional and revolutionary activity and believed that artists had a major part to play in the struggle for a new society; and he was constantly on the alert for issues which would stir the Munich intelligentsia into an awareness of its political mission. Such assaults on the rights of free humanity as the Bayros trial, the Villany affair and the interference with the Munich carnival[2] were therefore seized upon by Kain in an attempt to whip up revolutionary passion; and in the last months before the war, Mühsam played, if not the most effective, then certainly the most spectacular part in the battle for Wedekind's plays.

Finally, one additional source of support for Wedekind was the branch of the Schutzverband deutscher Schriftsteller which was founded in Munich in December 1912[3], and which included among its members Mühsam, Karl Henckell, Thomas Mann and Wedekind's longstanding friend and admirer Kurt Martens. As will be seen presently, the new group came into being just in time to play a

1 Linse, Organisierter Anarchismus, p. 102.
2 See above, Chap. V, p. 192.
3 See Martens, Schonungslose Lebenschronik, ii. 114-115; and StAM, Pol. Dir. 4342/III: Pol. Pres. von der Heydte to MInn von Soden, 24 June 1913. The headquarters of the organisation, which had been founded in 1909, was in Berlin.

major rôle in the debate about Wedekind's great drama, Lulu.

The immediate prelude to the Lulu affair was a clash with the censor over one of Wedekind's most recent works, Franziska[1]. As the play tells the story of a 'female Faust' who seeks emancipation by living as a man before finally, and voluntarily, accepting the rôle of wife and mother, its reception was inevitably mixed. Mühsam, of course, was delighted by the heroine's struggle against convention and hailed Franziska as a work of genius[2]. But Wedekind's gibes at prudery and censorship, and the inclusion of themes like masochism and transvestism (in Act III, Franziska, who is by this time pregnant by her lover, marries another woman while disguised as a man) had a predictable effect on the police. Dr Robert was therefore only allowed to stage a heavily cut version in public (after a single closed performance of the complete play on 30 November 1912), on condition that the censor and members of the Beirat were admitted to the dress rehearsal. This official pre-view seems to have been unsatisfactory for all concerned. For the police, it was inadequate; and after two public performances they forced Robert to eliminate the whole of the third act[3]. For Wedekind, who played the leading male part opposite his wife, it was evidently a harrowing experience which revived all his hostility towards

1 See Kutscher, Wedekind, iii. 113-135; Seehaus, Wedekind u.d. Theater, pp. 654-660.
2 'Franziska', Kain, II/9 (Dec. 1912), pp. 129-144.
3 Kutscher, Wedekind, iii. 134-135. Ruederer's recommendation that the play should be released without cuts, dated 26 May 1912, is in Stadtbibl., Nachl. Ruederer.

the Beirat[1]. The scene was therefore set for the extremely bitter controversy which took place during the spring and summer of 1913.

Together with Frühlings Erwachen, the Lulu drama is one of Wedekind's best-known and most important works, and it occupied him in one form or another for more than two decades[2]. The subject of the play is the career of a girl of uncertain origin and irresistible seductiveness, Lulu, whose inability to adapt her elemental sensuality to the rules of society destroys a succession of husbands and admirers and finally leads to her own death. Lulu's promiscuous behaviour makes her first husband die of a stroke and drives her second husband to suicide. She then marries Dr Schön, her former lover and the man who has discovered and educated her, after he has attempted in vain to escape into a conventional marriage with another woman. Schön tries to force Lulu to commit suicide because of her unfaithfulness, but in the ensuing scuffle is himself shot down. Lulu is then imprisoned, but subsequently escapes to Paris with the help of another admirer, the lesbian Countess Geschwitz. After falling into the hands of blackmailers, she eventually flees to London and is there forced to take to prostitution. Ultimately, in a horrific final scene, she is stabbed to death by Jack the Ripper.

This play was bound to provoke an outcry regardless of whether it was accepted as a serious work of art. For many people, it was likely to confirm the belief that Wedekind was nothing more than a manufacturer of Schund. Indeed, Wedekind

1 Ibid., pp. 54-55. Apparently on the strength of this, Wedekind re-published his 'seven questions'.
2 See Kutscher, Wedekind, i. 326-402; Seehaus, Wedekind u.d. Theater, pp. 337-360.

had originally set out to write a 'horror-tragedy'[1]; in the early 1890's, when the work was conceived, he had been fascinated by stories about Jack the Ripper[2]; and Lulu's lurid and violent plot, its bizarre characters and ghastly climax, would certainly have done credit to the most sensational Hintertreppenroman. At the same time, those who were able to grasp the play's deeper meaning were no less likely to be shocked. Just as in Frühlings Erwachen and much of his other work, Wedekind was concerned with the fundamental conflict between instinct and convention. He did not see Lulu as a calculating femme fatale who deliberately destroys men; and he privately disapproved of Gertrud Eysoldt's much-acclaimed interpretation in 1902 which turned his heroine into the kind of Salome-like vampire then fashionable among Berlin intellectuals[3]. In fact, Lulu is essentially innocent: she is a creature of pure instinct for whom love, gratitude and fidelity are meaningless concepts. She is degraded and destroyed because society, and especially men, forces her to accept the conventional and alien rôles of wife, mistress and prostitute. For Wedekind, it was entirely logical and natural to treat such a story in terms of high tragedy. For conservatives, however, any such idea was profoundly subversive; and it was therefore probable that the drama would run into serious trouble both with the censor and the courts.

The controversial nature of the Lulu tragedy largely accounts for its complicated history. Albert Langen's misgivings about

1 Kutscher, Wedekind, i. 337.
2 Ibid., p. 361.
3 Ibid., p. 398; and see also the preface to Oaha printed in Wedekind, Ges. Werke, ix. 440.

the ending of the original 'Monstre-Tragödie' when it was offered to him in 1895 compelled Wedekind to divide the drama into two[1]. The first part, entitled Erdgeist (which ended with the death of Dr Schön) appeared in 1895; and after the successful Reinhardt-Eysoldt production in Berlin in December 1902 it became safely established on the German stage and even won acclaim from such conservative critics as Mensi von Klarbach[2]. The fate of the other half was rather different. In 1902, an extended version of it appeared in Die Insel under the title Die Büchse der Pandora; and the identical text was published in Berlin by Bruno Cassirer in 1904. This book edition was confiscated under Paragraph 184 and was finally ordered to be destroyed in January 1906, although Wedekind and Cassirer were acquitted of subjective guilt[3]. This meant that the chances of a public performance being allowed were remote; and although several successful private productions (by Messthaler in 1904, by Karl Kraus in Vienna the following year, and by the Munich Neue Verein in November 1910) took place, Die Büchse der Pandora remained banned in Germany and Austria until after the abolition of theatre censorship in 1918.

Between 1904 and 1914, Wedekind nevertheless did his utmost to have the play publicly performed. In 1907, he even wrote a one-act piece called Die Zensur, the purpose of which was partly to persuade the authorities that public morality would not be endangered by the release of Pandora[4]. But when this and other

1 Kutscher, Wedekind, i. 337-339, 346-348.
2 Allg. Ztg., 26 June 1904, quoted by Seehaus, Wedekind u.d. Theater, p. 344.
3 Kutscher, Wedekind, i. 391-392; M.N.N., 14 Jan. 1906, nr. 21.
4 Kutscher, Wedekind, iii. 37-47. The play was published in 1908.

propaganda exercises failed to have any effect, Wedekind decided, as he had already done with Totentanz, Schloss Wetterstein and Oaha, to produce a tamer version of his drama. The result was Lulu, Tragödie in funf Aufzügen, a conflated (and artistically rather weaker) adaptation of the whole tragedy which was published in Munich by Georg Müller early in 1913. It was this text which Georg Fuchs, the director of the Künstlertheater, submitted to the Munich police in April of the same year, with the assurance that the intended production would scrupulously avoid anything sensational[1].

Die Büchse der Pandora had already been banned in Munich in November 1908 and October 1910, with the approval of all the experts consulted except Max Halbe[2]. In April 1913, von der Heydte's grave misgivings about Lulu were also shared by the overwhelming majority of those members of the Zensurbeirat who were asked to consider it[3]. Most of them continued to be repelled by the brutality of the final scene (Professor Dr Crusius was also upset by the appearance of a university lecturer among Lulu's customers), and regarded the new version simply as a device for getting Pandora past the censor. An Advisory Council which passed such a work, remarked Professor von Müller, would certainly discredit itself in the eyes of the decent public. Sulger-Gebing, Weigand and Ruederer were almost equally hostile to the play, but they argued in favour of allowing the public to reject it.

1 StAM, Pol. Dir. 4595: Fuchs to Pol. Dir., 24 April 1913.
2 Loc. cit.: Pol. Pres. von der Heydte to Beirat, 25 April 1913; and record of votes on plays considered in StAM, Pol. Dir. 4342/II. Halbe had only been consulted in 1908.
3 StAM, Pol. Dir. 4595: assessments of April-May 1913.

In Ruederer's opinion, Fuchs' proposed production was a crass piece of commercial speculation, and Wedekind was prostituting his art by being a party to it. Those who saw the play, he thought, were unlikely to be corrupted: the Schwabing wild men would applaud whatever their lord and master Wedekind set before them, while the tourists would go away disappointed. The only person to praise Lulu was Thomas Mann, who wrote to von der Heydte:

> 'I am completely of your opinion, Herr President, about Herr Wedekind's problematical humanity. But problematical humanity, as history teaches, can be the bearer of an important cultural mission. I believe, as do many, that this is the case here' 1 .

Nevertheless, as 15 members of the Beirat, as well as the Police President, were against the play, Lulu was duly banned on 16 May[2].

Instead of appealing, Fuchs asked to be allowed to hold two closed performances and invited the censor and the Beirat to attend, apparently hoping that the public production would then be allowed after all[3]. But von der Heydte clearly regretted the Franziska episode and refused to be drawn[4]. He also agreed to only one private performance, on condition that there was no advance publicity; and he sent a detective, improbably masquerading as a student of modern philology, to make sure that invitations were not being issued too freely[5]. Finally, he refused to lift the ban even when Fuchs sent in a revised script

1 Loc. cit.: Mann to Pol. Pres. von der Heydte, 30 April 1913. Also printed in H. Lehnert and W. Segebrecht, 'Thomas Mann im Münchener Zensurbeirat (1912/1913). Ein Beitrag zum Verhältnis Thomas Manns zu Frank Wedekind', Jahrbuch der deutschen Schillergesellschaft, vii. (1963), 197-198.
2 StAM, Pol. Dir. 4595: Pol. Dir. to Künstlertheater, 16 May 1913.
3 Loc. cit.: Künstlertheater to Pol. Dir., 17 May 1913.
4 Loc. cit.: police note of 19 May on Künstlertheater letter of 17 May 1913.
5 Loc. cit.: detective's report of 19 May 1913.

with 'a completely new ending' in which Lulu commits suicide instead of being murdered[1].

By this time, the avant-garde, still indignant about the carnival restrictions[2], had begun to react angrily. Spurred on by Wedekind, Mühsam and the Munich correspondent of the Berliner Tageblatt, Dr Joachim Friedenthal (who had recently been fined for 'immoral' dancing[3]), the Schutzverband launched a campaign which had the dual aim of forcing the censor to release Lulu and making it impossible for men of letters to belong to the Zensurbeirat. The accidental failure of the head of Referat VI, Dr Christian Roth (Bittinger had become Police Director in Stuttgart at the beginning of 1912), to meet a deputation from the Verband was blown up into a major issue[4]; and two noisy general meetings pledged support for Wedekind and resolved that membership of the Beirat was no longer compatible with the honour of a German writer[5]. Finally, on 28 May, the day before the Lulu performance, the Münchener Neuesten Nachrichten printed a front-page article by Kurt Martens (who had by now replaced Henckell as chairman of the Schutzverband), entitled 'The Censor's Latest Ban'. In no uncertain terms, Martens attacked theatre censorship as a political weapon which was being wielded on behalf of the Centre Party, and claimed that the Zensurbeirat consisted for the most part of 'pedagogically-minded notables and opponents of modern literature'. The police and those behind them, he warned, should realize that,

1 Loc. cit., Künstlertheater to Pol. Dir., 21 May; Pol. Dir. to Künstlertheater, 23 May 1913.
2 See above, Chap. V, p. 192.
3 StAM, Pol. Dir.4342/III: Pol. Pres. von der Heydte to MInn von Soden (draft), 24 June 1913.
4 See police reports of this incident in StAM, Pol. Dir. 4342/III.
5 M.N.N., 24 May, nr. 259; MA. Ztg., 28 May 1913; Martens, Schonungslose Lebenschronik, ii. 132-134.

in a struggle with the authorities, literature would always win, and that artistic development could not be held up by police power. 'And the gentlemen who are now at the helm' he concluded,

> 'should rather think twice whether it is politically wise systematically to slight and suppress the intelligentsia, whom they need only too badly for their battle-ranks. By doing so, they drive German writers, who are by nature certainly not enemies of the political and moral order, in masses over to the camp of fundamental opposition' [1].

The main result of all this agitation was to make the position of the moderate members of the Zensurbeirat even more difficult than before; and although Ruederer, Weigand and Sulger-Gebing (who also belonged to the Schutzverband) decided to stay on, Thomas Mann resigned on 26 May[2]. As has already been noted, Mann had been invited to join on Ruederer's advice; and von der Heydte had probably been attracted by, as Mann himself put it, 'the middle-class strain in my work, in my whole attitude and manner of life'[3]. Mann, of course, was no friend of censorship: some years earlier, in fact, he had replied to a questionnaire on the subject with the comment that abolition was highly desirable, and that

> 'a compromise, such as the combination of dramatists and officials in a censorship council, would be infamous. Censorship is a culture-inhibiting factor, since it substitutes a crude ban for the education which the public needs' [4].

He had joined the Beirat, however, in the rather naive belief

1 M.N.N., 28 May 1913, nr. 266.
2 StAM, Pol. Dir. 4342/II: Mann to Pol. Pres. von der Heydte, 26 May 1913.
3 Mann to Wedekind, 29 May 1913, in Thomas Mann, Briefe, 1889-1936, ed. Erika Mann (Frankfurt am Main, 1962), p. 104.
4 Printed in Robert Heindl, Die Theaterzensur (Wolfratshausen, 1907), pp. 65-66.

that he would be able 'to warn the overseers of public order against interfering with works of literary quality'[1]. By the spring of 1913, he must have realized that he had little chance of doing any such thing, and in the meantime he had been exposed to attacks from both Wedekind and Mühsam[2]. It was hardly surprising, therefore, that the Lulu affair should have driven him to wash his hands of the whole business by resigning simultaneously both from the Zensurbeirat and the Schutzverband. 'In the last analysis', he told his friend Martens, 'I feel best without an official position and without an organisation'[3].

Although the protest campaign probably lowered the prestige of the Zensurbeirat, however, it left the institution of theatre censorship unscathed. The private première of Lulu on 29 May was artistically a great success: Mühsam described Tilla Durieux' interpretation of the title rôle as 'quite simply perfect'[4], and even the Allgemeine Rundschau could scarce forebear to cheer[5]. But the ban on further performances was financially so disastrous that even the planned celebration banquet had to be cancelled[6]; and the state's power to remove a playwright's livelihood by administrative action clearly remained as formidable as ever. At the same time, notwithstanding all the inflammatory rhetoric, the strength and solidarity of the 'writers' revolt' should not be overestimated. Hans Ludwig Held, the branch secretary of

1 Mann to Wedekind, 7 Dec. 1912, Briefe, 1889-1936, p. 98.
2 Lehnert & Segebrecht, op. cit., p. 197; Mühsam, 'Polizeidiktatur', Kain, II/11 (Feb. 1913), p. 168.
3 Mann to Martens, 26 May 1913, Briefe, 1889-1936, p. 103.
4 Seehaus, Wedekind u.d. Theater, p. 396.
5 W. Thamerus, 'Wedekind und kein Ende!', Allg. Rund., X/23 (7 June 1913).
6 Wedekind to Halbe, 31 May 1913, Wedekind, Briefe, ii. 281.

the Schutzverband, privately told the police that he was in favour of the ban on Lulu, 'as not every street scene needs to to be performed on the stage'[1]; Martens wrote to Ruederer and Gleichen-Russwurm distancing himself to some extent from the radicals[2]; and in any case, the police were probably correct in claiming that many prominent Munich writers did not belong to the organisation at all[3]. Finally, it was always much easier to arouse public indignation in Munich than to sustain it, and the Lulu affair was no exception. In late June, von der Heydte reported that the protesters' proposed mass meeting to denounce theatre censorship had still not materialized; and he added: 'So it is that the mighty storm which the Schutzverband and - significantly - the Münchener Neuesten Nachrichten thought they could unleash has, as in all such cases, soon subsided'[4]. Although Mühsam went on agitating throughout the summer (and even tried unsuccessfully to have von der Heydte prosecuted for attempting to suppress newspaper notices of the Lulu performance[5]), he remained an isolated figure. Indeed, his hope that indignation about theatre censorship (or any other cultural grievance) could lead to a crusade against the authoritarian state remained as barren as his idea of turning tramps into revolutionaries by means of rhetoric and free beer[6].

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1 StAM, Pol. Dir. 4342/III: Det.-sgt. Ditz to Reg.-Rat Roth, 27 May 1913.
2 Loc. cit.: Martens to Ruederer (copy), 28 May 1913.
3 Loc. cit.: Pol. Pres. von der Heydte to MInn von Soden (draft), 24 June 1913.
4 Ibid.
5 See 'Der Münchner Zensor. Offener Brief an den Herrn Kgl. Staatsanwalt beim Landgericht I zu München, Justizpalast'; 'Der Zensurskandal', Kain, III/3, 4 (June, July 1913), pp. 40-44, 56-63; and correspondence of June-July 1913 in StAM, Pol. Dir. 4595.
6 Linse, Organisierter Anarchismus, p. 114.

The history of Munich theatre censorship in the last twelve months before the war seems to indicate that under the Hertling regime the police were becoming increasingly restrictive in their attitude; that protests by intellectuals could in no way alter this situation; and that, as far as serious issues were concerned, the Zensurbeirat was gradually becoming irrelevant. On 1 August 1913, von der Heydte became a Senatspräsident of the Administrative Court, and the post of Police President was taken over by a former official in the Ministry of the Interior, Baron von Grundherr zu Althenthan und Weyerhaus. This change gave rise to a good deal of speculation. Von der Heydte does not seem to have been particularly popular with the Centre Party[1]; and in February 1912, Ruederer's friend and informant Gottlieb Krais had indicated that there were differences of opinion between him and the new Minister of the Interior, von Soden[2]. Nevertheless, the reasons for his departure may well not have been mainly political: von der Heydte's health was not good[3]; and in a private letter to Ruederer, the former Police President claimed that for this reason he had applied for transfer himself, and that the rumours in the press were nonsense[4]. In any case, whatever the truth of the matter may have been, it is certain that von der Heydte's replacement was not followed by an era of greater tolerance, but rather the reverse. This was shown very

1 See the remarks made about him (and about Intendant von Speidel) by the Centre deputy Osel on 3 Aug. 1908: VdKdAbg 1908, Bd. VI, p. 554.
2 Stadtbibl., Nachl. Ruederer Br.e.262.16: Krais to Ruederer, 17 Feb. 1912.
3 This is indicated by the applications for leave in his personal file, AStAM, MInn 64 378.
4 Stadtbibl., Nachl. Ruederer Br.e.209.3: von der Heydte to Ruederer, 16 Aug. 1913; and AStAM, MInn 64 378 for the transfer application, dated 20 Oct. 1911.

clearly by the treatment of Wedekind's biblical verse drama Simson, oder Scham und Eifersucht in the summer of 1914.

On 24 July 1914, Frank Wedekind was due to celebrate his 50th birthday; and in order to mark the occasion in as demonstrative a manner as possible, his friends and supporters not only set up a fund for him but exhorted theatre-managers everywhere to mount anniversary productions of his plays[1]. As part of its contribution, the Munich Schauspielhaus planned to put on Simson, Wedekind's recent version of the story of Samson and Delilah[2], with the great Berlin actor (and former member of the Akademisch-Dramatische Verein) Friedrich Kayssler in the title rôle. Early in April 1914, therefore, the script was submitted to the police and passed by them to various members of the Zensurbeirat.

As there is no official file on Simson, only Ruederer's assessment of the play has survived. In marked contrast to his views on some of Wedekind's earlier dramas, his opinion this time was highly favourable: he was almost prepared to describe Simson as a great work, and certainly favoured passing it unconditionally[3]. In spite of this, however, and in spite of uneventful public performances in Berlin and Vienna, the police delayed their decision for several weeks. Then, early in July, by which time preparations for the production were far advanced, they finally imposed a ban. Simson's Munich première did not take place until

1 Kutscher, Wedekind, iii. 175-176; and AStAM, Staatstheater 2515: Komitee zur Ehrung Frank Wedekinds to Hoftheater-Intendant von Franckenstein, 30 April 1914.
2 See Kutscher, Wedekind, iii. 136-146.
3 Stadtbibl., Nachl. Ruederer: assessment dated 9 April 1914.

May 1918, in private.

According to Gottlieb Krais, the reason for the censor's decision had been exchanges in the Chamber between von Soden and a prominent member of the Männerverein[1], and it inevitably caused an outcry. Once again, Erich Mühsam did his best to whip up public indignation, and at a special protest meeting suggested, among other things, a boycott of the Hofbräuhaus as a suitable means of bringing the authorities to their knees[2]. At the same time, there seemed to be a definite chance that the ban would break up the Zensurbeirat. On 9 July, Ruederer sent Dr Roth an assessment of another play, with the comment that, as the Council seemed about to go to pieces, it would probably be the last one. He continued:

> 'It may be that Mühsam's animal stupidity, with the threatened boycott of the Hofbräuhaus, will rescue it once again, because to resign now would be to lay down one's arms before cattle, but the blow to the institution has come from the crazy and completely unjustifiable ban. Many gentlemen are extremely upset and tell me so openly. I take no more pleasure in the thing either, since one works simply to no purpose. My old friend Krais writes to me today that Braunwart [3] still enjoys my assessments, because they are so clear and objective. Fine, that's what the Herr Oberregierungsrat says, and afterwards he doesn't give two hoots about them, any more than you do' 4 .

In the end, however, Ruederer nevertheless decided to stay on, and the whole affair was soon forgotten in the excitement of August 1914.

Although the outbreak of war did not entirely end the debate about censorship or about Wedekind (a production of Der

1 Stadtbibl., Nachl. Ruederer Br.e.262.18: Krais to Ruederer, 8 July 1914.
2 Mühsam, 'Frank Wedekind', Kain, IV/4 (July 1914), pp. 49-60; Namen und Menschen, pp. 220-221.
3 Apparently a senior official in the Ministry of the Interior.
4 Stadtbibl., Nachl. Ruederer: Ruederer to Roth (copy), 9 July 1914.

Marquis von Keith in the Residenztheater in January 1915, for example, caused an outcry in the clerical press[1]), it is a convenient point at which to review the developments of the previous six years. In the first place, in spite of the continuing restrictions on many of his plays, and the strain imposed by conflict with the authorities, Wedekind had not been destroyed by German censorship. The celebration banquet which took place on 24 June 1914, and which was attended even by Hoftheater-Intendant von Franckenstein[2], was an unqualified success; and the last two years before the war, which brought increasing recognition both in Germany and abroad, can justly be seen as the climax of Wedekind's career as a dramatist. At the same time, however, that relic of the police state, Bavarian theatre censorship, remained in operation. Indeed, there was every indication that the consolidation of the Hertling government would result in increased severity towards both the public stage and the private dramatic societies. Finally, the Zensurbeirat did not disintegrate, but continued to function in decent obscurity until the end of the Monarchy[3]. Yet in spite of this, and in spite of the praise lavished on it by both von der Heydte and his successor[4], it seems clear enough that the experiment had not been a conspicuous success. It could of course be argued that the challenge presented by Wedekind's plays, combined with the Bavarian

1 Seehaus, Wedekind u.d. Theater, p. 32.
2 W. Thamerus, 'Wedekind-Rummel', Allg. Rund., XI/27 (4 July 1914).
3 See the registers of plays dealt with in StAM, Pol. Dir. 4342/Beiakt.
4 StAM, Pol. Dir. 4342/III: letters of von der Heydte and von Grundherr to Beirat members, 2 July, 2 Aug. 1913.

political situation, had created problems of such exceptional difficulty that an intrinsically promising idea had not been fairly tested. On the whole, however, the Nationalzeitung had probably been correct in claiming, when the Beirat was created, that 'There are offices which, if they must be filled, are only tolerable for an official and not for free men, and which only an official cannot be criticized for holding'[1].

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1 Quoted in M.N.N., 15 May 1908, nr. 228.

Conclusion

From the point of view of the present study, the outbreak of war came at an inconvenient moment. The debate on measures to combat Schund and pornography had to be abruptly curtailed; other highly relevant issues, like the centralization of film and theatre censorship and the long-awaited reform of German criminal law and procedure, also had to be deferred until hostilities were over; and it remained uncertain how far the freedom of Munich intellectuals was threatened by the Hertling Government. In spite of this, however, the events which took place between 1890 and 1914 suggest a number of significant conclusions.

In the first place, leaving aside the separate question of whether the press was as powerful a force in society as some journalists may have believed, it is clear that suppression of the printed word had become extremely difficult by 1914. Revision of the 1874 Press Law was hardly conceivable except in the wake of a major political upheaval; and although in times of war and emergency the governments did have adequate powers, the ordinary instruments of press control appear to have been too cumbersome to deal with modern mass-circulation newspapers. At the same time, the criminal law was too narrowly framed to be able to prevent the growth of increasingly prurient and sensationalistic popular journalism, or the spread of what many people regarded as thoroughly harmful Schundliteratur. In spite of growing demands for new legislation, however, there was little agreement either about the precise nature of the problem or about the kind of measures needed to meet it. By the eve of the war, a method had still not been found for curbing excesses while at the same

time providing adequate protection for art, literature and political discussion.

Secondly, the freedom of both the press and the theatre was undoubtedly favoured by Germany's federal structure. Notwithstanding the loopholes left by the grober Unfug paragraph and the objektive Verfahren, the need to try press offenders by jury made the authorities in Bavaria (and probably also in Württemberg, Baden and Oldenburg) considerably less willing to take action than they would otherwise have been. This safeguard was further strengthened by the abolition of fliegender Gerichtsstand in 1902; and it is probable that, in the long run, the fact that writers and publishers could distribute their products throughout the Reich from the comparative safety of Munich or Stuttgart would have pushed forward the limits of tolerance even in parts of the country where the press was more vulnerable. As far as the theatre was concerned, although it remained much easier for the state to ban plays than to suppress books and journals, the absence of a unified censorship system had a comparable effect. Even in Bavaria, an unfavourable legal situation was mitigated by marked variations in practice between different authorities; and in spite of a trend towards closer coordination in both Bavaria and Prussia in the immediate pre-war period, theatre censorship in Germany was probably less oppressive than in England, where control was not only arbitrary but also highly centralized.

This, at least, was the situation in 1914. But it is not unlikely that political developments in Bavaria might eventually have revealed some of the disadvantages of federalism. In matters connected with freedom of expression, Munich intellectuals seem

to have been more seriously threatened by the movement towards parliamentary government than they would have been by the preservation of the quasi-independent Beamtenstaat. Notwithstanding occasional outbursts from Simplicissimus and the Liberal newspapers about bureaucratic pettiness and vormärzliche Zustände, it is clear that many ministers and other high officials of the old school were men of discernment and sophistication who were sympathetic towards the arts and had friends in the intellectual community. Furthermore, their training and outlook led them to define problems in clear-cut legal and administrative terms; and their fundamental preoccupation with the maintenance of an ordered polity made them wary of controversial measures. The same cannot be said, however, for the clerical politicians whose influence on government increased so markedly after 1906. In the first place, since many of them drew their support from small towns and rural areas, they were inclined to regard Munich (as Archbishop Faulhaber described it in 1917) as 'the headquarters and invasion-gate for the whole of Bavaria of guerillas hostile to both religion and the Church'[1]; and they insisted that the healthy instincts of the country population were a suitable criterion by which to judge works of art and literature. Secondly, both they and their allies believed that not only vice and pornography, but also a variety of other 'evils', ranging from Liberalism and Social Democracy to Monism, satire and modern drama, were manifestations of a general crisis of godlessness and

1 Leonhard Lenk, 'Katholizismus und Liberalismus. Zur Auseinandersetzung mit dem Zeitgeist in München 1848-1918', Der Mönch in Wappen. Geschichte und Gegenwart des katholischen München (Munich, 1960), p. 375. The essay shows that the idea of Schwabing as a hotbed of subversion is still alive in Catholic historiography.

subversion. Finally, their political intransigence, especially after February 1912, showed that they were determined to impose their own solutions regardless of the consequences. Had war not broken out, therefore, it is possible that a number of restrictive measures might have been introduced, none of which would have required endorsement by the Reich: thoroughgoing centralization of Bavarian theatre censorship and harassment of the Munich dramatic societies; more railway bans on 'subversive' publications; and (although this would have involved the amendment of the Bavarian Constitution) the abolition of the press 'privilege' of trial by jury.

These steps, like the discrimination against Social Democrats and freethinkers which had already begun by 1914, would no doubt have been accompanied by arguments about the need to avert revolutionary upheaval; and in view of subsequent events, it is necessary to ask how far these might actually have been justified. In fact, as far as the majority of non-Socialist (and indeed, even Socialist) intellectuals in Munich were concerned, the idea of a systematic campaign to overthrow the existing order can safely be dismissed as a figment of the conservative imagination. It is certainly true that a small number of radicals nourished more or less realistic schemes for revolution either in Germany or abroad, and that some of them took part in the events of 1918 and 1919. There were also contacts on various levels between anarchists, freethinkers, Russian <u>émigrés</u> and the literary and artistic <u>avant-garde</u>; and in the two years before the war, individuals like Georg Hirth and Kurt Martens issued warnings about the dire consequences of alienating the moderates. In normal times, however, it is unlikely

that any of this in itself constituted a real danger. Many of the intellectuals who were most detested by Dr Kausen and his associates were anything but revolutionary in their political outlook. Indeed, in terms of respect for 'national values' (and in some cases, of anti-Semitic prejudice), they tended to have a good deal in common with their detractors. Most of the major protest movements which took place during the period were characterized by rhetoric rather than action; and Erich Mühsam's experience revealed the extreme difficulty of stirring artists and writers into sustained political activity of any kind. Furthermore, even if intellectual discontent had been much greater and more vigorously expressed, its importance as a cause of the Bavarian Revolution would probably still have been outweighed by such factors as the failure to achieve further constitutional reform, the serious unemployment of the years 1912 to 1914 and, above all, the severe strains imposed on almost every section of Bavarian society by the First World War[1]. The political historian would therefore be well advised to take Munich intellectuals less seriously than their enemies took them, and less seriously than they sometimes took themselves.

The final conclusion concerns the importance of the law in Wilhelmine Germany. Throughout the study, but especially in the section devoted to Simplicissimus, it is clear that contemporaries were constantly aware of legal issues; that the existence or non-existence of particular measures (sometimes of a fairly obscure nature) made a considerable difference to the freedom of artists and writers to deal with certain topics; and

1 See especially the essays in Bosl, Bayern im Umbruch.

that, notwithstanding the doubts expressed by some people, the authorities were generally scrupulous in accepting the limitations imposed on them. These facts have significant implications for the historian. On the one hand, they suggest that knowledge of the legal system can promote deeper understanding of government, society and culture in this period. On the other, they provide further insight into the truly revolutionary nature of the regime which, after 1933, set out deliberately to undermine the whole basis of the law in Germany.

BIBLIOGRAPHY

A. MANUSCRIPT SOURCES

The large amount of unpublished material upon which the present study is based falls into two categories: official documents located in the Bavarian State Archives; and various collections of private papers, which are to be found in Oslo University Library, the International Institute of Social History in Amsterdam and the Monacensia-Abteilung of the Munich City Library.

I. OFFICIAL DOCUMENTS

1. Geheimes Staatsarchiv München.

a) Ministerium des Königlichen Hauses und des Aeussern (MA). The Foreign Ministry was the main channel of communication between the Bavarian and Reich Governments, and was responsible for issuing instructions to the Bavarian representatives in the Bundesrat and to Bavarian embassies in other German states and abroad. Its records therefore shed light on most issues connected with Reich legislation, and on certain aspects of the history of Simplicissimus.

The files most relevant to the questions of press freedom dealt with in Chapter I are MA 76 757 (Reich Press Law, 1871-1914); MA 76 776 (amendment of the Gerichtsverfassungsgesetz and the Strafprozessordnung); MA 92 197 (Maximilian Harden, 1894-1923); MA 94 774 (action against the press, especially the Bayerische Vaterland, 1870-1912); MA 94 782 (anti-clerical and immoral publications, 1895, 1901-1903); MA 94 810 (relations between police and judicial authorities and the press, 1913); MA 94 828 (implementation of the Reich Press Law, 1878-1914); MA 95 988

(Gerichtsstand of the press, 1900-1902); and MA 95 995 (amendment of the law on Majestätsbeleidigung, 1907-1908).

There are numerous items relating to the Lex Heinze debate and the morality issue: MA 76 781, 76 787, 95 981 (Lex Heinze, 1892-1894, 1897-1900, 1900-1906), which contain parliamentary and propaganda material and a great deal of ministerial correspondence; MA 94 791 (Dr Kausen, 1903-1916); MA 94 794 (Allgemeine Rundschau, 1904-1918); and MA 95 996 (protection of young people against moral dangers, 1906-1910).

Correspondence arising mainly from the jurisdictional disputes examined in Chapter III is to be found in MA 92 200 (März and Simplicissimus, 1907-1917) and MA 94 787 (Simplicissimus, 1902-1916).

Finally, although the Foreign Ministry was not concerned with theatre censorship, MA 92 414 contains copies of a number of very informative memoranda about the Bavarian system which were sent in reply to inquiries from various foreign governments between 1896 and 1914.

b) Gesandtschaft Berlin (Ges. Berlin). There is some material on the final stages of the Lex Heinze episode in Ges. Berlin 1071 (political reports, 1900); and on Harden's 1898 grober Unfug conviction in Ges. Berlin 1260.

2. Bayerisches Hauptstaatsarchiv, Allgemeine Abteilung.

a) Ministerium des Innern (MInn). As the Ministry of the Interior was responsible for the Munich police, it was concerned with such highly relevant matters as vice and prostitution, societies and political demonstrations, day-to-day control of the press and censorship of the theatre. Its files, like those

of the other ministries, also contain a good deal of interesting material connected with new legislation.

Documents relating to the legal position of the press are to be found in MInn 65 592 (press legislation, 1870-1874); MInn 65 594 (register of Bavarian periodicals and editors, 1878); MInn 65 715 (pamphlets, 1869-1915), which includes material on Der Burenkrieg; MInn 65 720 (literature about Ludwig II, 1886-1916); MInn 66 251 (use of Paragraph 360/11, 1863-1913); MInn 71 520 (amendment of the law on MajestÄtsbeleidigung, 1907-1908); MInn 71 688 (proposed amendment of the Press Law and the Criminal Code); and MInn 72 656 (mockery of religious practices, 1901-1903).

MInn 66 543 (offences against morality, 1897-1905) contains correspondence with morality organisations, pamphlets issued by them and some material relating to the Lex Heinze. MInn 72 649 (sale and display of obscene pictures, 1913-1923) is mainly relevant to the legislative proposals of 1913-1914. MInn 73 589 (Münchener Männerverein zur BekÄmpfung der öffentlichen Unsittlichkeit, 1906-1910) includes petitions, press cuttings and other items connected with the Munich morality campaigners.

Of considerable importance for the questions discussed in Chapters III and IV is MInn 65 680 (März, 1907-1908); and, most especially, MInn 65 710 (Simplicissimus, 1903-1909), which provides a detailed picture of the state's attempts to deal with Simplicissimus.

Material on the theatre is comparatively disappointing: the ministerial file on the creation of the Zensurbeirat, for example, does not appear to have survived. There are nevertheless

some useful items in MInn 72 736, 72 737 (matters relating to the theatre) and MInn 72 743 (Hoftheater, 1824-1912).

MInn 64 378 (Baron Julius von der Heydte, personal file), MInn 73 529 (Münchener Journalisten- und Schriftstellerverein, 1890-1931) and MInn 73 551 (Freidenkervereine, Monistenbund) were of interest for various parts of the study.

b) Ministerium der Justiz (MJu). The Ministry of Justice was responsible for the efficient operation of the judicial system and had direct control over the Bavarian prosecuting authorities. Its records contain a very large quantity of documents relating to the press in this period. At the time it was examined, much of this material had not been catalogued in detail, but was assembled under the general heading Presse- und Vereinswesen, Überwachung der Presse, Tit. II, Kap. I, nr. 3, XII/21-25.

MJu XII/21 includes many memoranda and other items connected with the creation and implementation of the Reich Press Law. MJu 13 119, 13 120 (amendment of Paragraph 7 of the Strafprozessordnung, 1899-1902) deals with the abolition of fliegender Gerichtsstand. MJu XII/24 contains reports on measures against pornography in Munich in 1904; and MJu XII/25 some of the material relating to the prosecution of Die Revolution in 1913.

The files on Simplicissimus in MJu XII/22-23 (3 vols., 1901-1915) are the most important official source for the paper's history, since they provide a mass of documents on the jurisdictional problems it created and most of the prosecutions in which it was involved.

c) Ministerium des Innern für Kultus- und Schulangelegenheiten (MKu). Although not directly concerned with the control of the

press or the theatre, the Ministry of Education took a close interest in anything liable to endanger the morality of young people, and it was also mainly responsible for shaping government policy towards the visual arts.

The following files shed much light on the debates about morality: MKu 14 850 (dissemination of harmful literature among school-children, 1906-1925); MKu 19 100 (reform of the Criminal Code, 1870-1900); MKu 19 101, 19 102, 19 104 (measures against public immorality, Lex Heinze and protection of young people: 1891-1907, 1908-1921; and press comments, 1900-1908).

Material on some of the issues connected with the Frühlings Erwachen controversy discussed in Chapter VIII is to be found in MKu 14 847 (sexual education in secondary schools, 1905-1926); MKu 14 848 (coeducation, 1903-1919), which contains minutes of discussions in the Oberste Schulrat; and MKu 14 982 (accidents and suicide among secondary-school pupils, 1910-1927), which indicates that juvenile suicide was not a serious problem in the immediate pre-war period.

MKu 14 250 (Sachverständigen-Kommission, 1875-1911), MKu 14 280 (purchase of works of art, 1886-1898), MKu 14 302 (purchases for the Neue Pinakothek, 1875-1908), MKu 14 277, 14 278 (art collections in general) provide some useful information about state policy towards the arts; but there appears to be no material on the Government's attitude to the Munich Secession in 1893.

d) Staatstheater. The section Personalakten V of the records of the Bavarian State Theatres contains a long series of files relating to contracts with individual dramatists during this

period. Staatstheater 2515 also includes a few other items relating to Frank Wedekind, together with some interesting press cuttings.

3. Staatsarchiv für München (formerly Staatsarchiv für Oberbayern).

a) Regierung von Oberbayern (RA). The Provincial Government was the intermediate body through which routine correspondence between the ministries and the lower authorities, including the police (though not the Staatsanwaltschaft) had to pass. Its records contain a few items of considerable importance for the present study: RA 2273/40813 (statistics of the political press in Munich, 1875-1899), which includes a great deal of detailed information about circulation, ownership and prosecutions in the form of tables and annual police reports; RA 3795/57851 (Gesellschaft für modernes Leben); and RA 3796/57860 (Intimes Theater).

b) Polizei-Direktion München (Pol. Dir.) Apart from maintaining law and order, the Munich police (who were responsible to the Ministry of the Interior and not to the City Council) had the task of supervising the press, the theatre, societies and political meetings. The quantity of material relating to this activity is huge, and only part of it could be examined in detail. Since the reorganisation of the Archive, it has been more rationally catalogued and is now more easily available.

The files most relevant to Chapters I and II are Pol. Dir. 362 (Verein zur Hebung der öffentlichen Sittlichkeit, 1887-1893); Pol. Dir. 520 (Gesellschaft für modernes Leben); Pol. Dir. 959 (demonstrations of sympathy for the Boers); Pol. Dir. 3678 (confiscation of Panizza's Parisiana); Pol. Dir.

3733 (Zola's La Terre); Pol. Dir. 24a I 100/3315 (Goethebund); and Pol. Dir. 24b 18/127 (demonstrations against the Lex Heinze, 1892-1900).

Pol. Dir. 1110 (reports on matters relating to meetings, societies and the press, 1895-1907) contains useful material on Simplicissimus and on the Munich pornography problem. Pol. Dir. 3682 deals with Thoma's pamphlet Der Burenkrieg.

The copious records relating to police control of light entertainment in Munich consist to a large extent of licensing correspondence, programmes, and scripts of songs and sketches submitted for official approval. The items examined in connection with the present study were Pol. Dir. 1051 (Internationales Handels-Panoptikum, Neuhauserstrasse I, 1893); Pol. Dir. 1088 (Bavaria Bioskop); Pol. Dir. 1169 (Central-Säle, 1880-1914); Pol. Dir. 24a II 6/21 (Münchener Künstlerkabarett); Pol. Dir. 3814/I-III (Deutsches Theater); and Pol. Dir. 3819/I-III (Intimes Theater).

Material on censorship of the serious theatre is sparse until about 1908, but then becomes much more complete. In particular, it is possible to examine the origin and history of the Zensurbeirat in very great detail. The relevant files are Pol. Dir. 4342/I-IV (Zensurbeirat); Pol. Dir. 4589 (Wedekind: Frühlings Erwachen, 1904-1931); Pol. Dir. 4590 (Wedekind: Totentanz, 1906-1926); Pol. Dir. 4592 (Dreyer: Das Thal des Lebens, 1903-1933); Pol. Dir. 4593 (Wedekind: Schloss Wetterstein, 1910-1928); Pol. Dir. 4594 (Sternheim: Die Hose, 1911-1931); Pol. Dir. 4595 (Wedekind: Lulu and Oaha, 1908-1928); Pol. Dir. 4598 (Schnitzler: Ein Reigen, 1903-1928). Pol. Dir. 24a I 105/1327

contains material on the Akademisch-Dramatische Verein, Pol. Dir. 24a I 105/4248 on the Neue Verein.

c) Staatsanwaltschaft München I (St. Anw.). The public Prosecutor's Office was responsible for all stages of a criminal prosecution, from the first request for action until the accused person had either been discharged or acquitted, or had completed his sentence. Its records contain interrogation reports, indictments, certain trial documents, and material relating to bail, appeals and imprisonment. Those files most useful for the present study were St. Anw. 1735 (Hugo Ball, Hans Leybold, Heinrich Bachmair, blasphemy and obscenity, 1913); St. Anw. 1769 (Ernst Freissler, Olaf Gulbransson, Edgar Steiger, Majestätsbeleidigung, 1914-1915); St. Anw. 7063 (Johann Baptist Sigl, libel of the armed forces, 1884-1885); St. Anw. 7105 (Eduard Fuchs, incitement to class hatred, 1894); St. Anw. 7106 (Eduard Schmid, Majestätsbeleidigung, 1894); and St. Anw. 7119-7123 (Oskar Panizza, blasphemy and Majestätsbeleidigung, 1895-1901).

II. PRIVATE PAPERS

1. Stadtbibliothek München, Monacensia-Abteilung.

a) Nachlass Michael Georg Conrad. In addition to manuscripts of books and articles by Conrad, this very large collection contains letters to and from practically everybody of any importance in the Munich intellectual community during this period.

b) Max-Halbe-Archiv. Halbe's influence among Munich intellectuals lasted even longer than Conrad's, and is fully reflected in his copious correspondence. Of particular interest are a number of

letters from Julius Schaumberger describing developments in the Gesellschaft für modernes Leben, and from Panizza during and after his imprisonment.

c) Nachlass Thomas Theodor Heine. This contains some interesting letters to Korfiz Holm describing Heine's trial and imprisonment for Majestätsbeleidigung in 1898-1899.

d) Nachlass Korfiz Holm. The most important item is the copy-book for the numerous letters written by Holm to Langen and others in connection with Holm's temporary editorship of Simplicissimus in 1899-1900. It is an extremely valuable source for a crucial period in the paper's history.

e) Nachlass Georg Kerschensteiner. AKM 227 contains interesting material relating to Kerschensteiner's participation as an expert witness in the Bayros-Semerau prosecution in 1911.

f) Nachlass Oskar Panizza. This includes some family correspondence, and the manuscripts for Panizza's lectures to the Gesellschaft für modernes Leben, pamphlets and other works.

g) Sammlung Rosenthal. This important collection contains a large quantity of material relating to the Neue Verein, of which Rosenthal was for several years chairman.

h) Nachlass Joseph Ruederer. These papers include typescripts of reviews, newspaper articles and some assessments for the Zensurbeirat, as well as a number of important letters from and to Ruederer on the subject of theatre censorship.

i) Nachlass Ludwig Thoma. In addition to the manuscripts of most of Thoma's works, this large collection contains material of vital importance for the present study: several volumes of

diaries (L2467/76-79); many unpublished letters from Conrad Haussmann; a variety of trial documents; and contracts and accounts connected with the Simplicissimus G.m.b.H.

j) Frank-Wedekind-Archiv. Although the correspondence is disappointing, Notebook 47 provided interesting material on Wedekind's play Oaha.

2. International Institute for Social History, Amsterdam.
Georg von Vollmar Papers. This large collection provides evidence of Vollmar's close involvement with Munich intellectual life and contains several items of importance for the present study.

3. Oslo University Library.
Dagny Bjørnson-Langen Papers. Dr Øyvind Anker provided photocopies of a number of letters from Ludwig Thoma to Albert Langen's wife.

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