

# ANTI-SEMITISM AND THE LAW IN PRE-NAZI GERMANY

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## I

**I**N A PUBLIC square in Berlin stands a statue of Theodor Fritsch, a violently anti-Semitic newspaper editor who died shortly before Hitler achieved power. This posthumous hero was a persistent law-breaker. By 1926, he had been convicted at least thirty-three times for violations of the German Criminal Code. Such Nazi leaders as Joseph Goebbels, Julius Streicher, Karl Holz and Robert Ley, as well as hundreds of other Nazi agitators of the 1920's, were also found guilty on numerous occasions of violating that code. During the period in which they carried on their successful crusade to make anti-Semitism a basic state policy, the German constitution contained guaranties of equality for all Germans; the Criminal Code provided punishment for defamation, incitement to class violence and insults to religious communities. There was also a large Jewish organization which maintained legal offices throughout the country for the purpose of instituting prosecutions to vindicate the legal rights of Jews.

The failure to stem a campaign of hatred by court machinery is history. The lessons of that failure for other countries are in the realm of speculation rather than demonstration. It is arguable that the judicial machinery is essentially inappropriate for the suppression of a political movement, that prosecutions make martyrs of the defendants and give them new audiences but do not deter them or others from carrying on their agitation. On the other hand, it is possible to point to a number of factors in the German picture that may be thought to distinguish it from the situation existing elsewhere, and to ascribe the failure to the mistakes and shortcomings of the German attempt at control.

This study is intended simply as an account of the German experience with legal proceedings against anti-Semitic agitators. It does not attempt to answer the basic question whether legal prosecution can ever halt or slacken a political movement that utilizes racial hatred and abuse. It starts with no preconceived answer to it. It proceeds simply upon the assumption that attempts to answer that question, or to formulate a program of legislation or prosecution that will throw light on it, should not ignore the experience of this outstanding failure.

The Weimar Constitution contained a declaration that "all Germans are

equal before the law" (Article 109) and specifically protected the right of "all citizens, without any discrimination" to hold public office (Article 128). The right of "all residents of the Reich" to "enjoy complete freedom of religion and of conscience" (Article 135) was also guaranteed. It provided further that "civil and political rights and duties are neither conditioned upon, nor limited by, the exercise of religious liberty; civil and political rights as well as public offices are independent of religious creed" (Article 136).

Throughout the period of the Weimar Republic, the old Imperial Criminal Code remained in force. Its relevant provisions can best be considered while reviewing the efforts that were made to enforce them. In effect, this review becomes a survey of the activities of the legal office of the Central-Verein Deutscher Staatsbürger Jüdischen Glaubens (Central Union of German Citizens of the Jewish Faith); the material cited on succeeding pages is found in the publications of that organization.

The Central-Verein was organized in 1893. Largely representative of the upper middle class and professional groups in the Jewish population, it undertook a comprehensive program for the defense of Jewish interests. The legal office was only one of its agencies. Its purpose was to provide united action and a single direction in the institution of legal proceedings, both civil and criminal. From the beginning, this office singled out for its concern the prosecution of those who "slander, libel, or injure us in our capacity as Jews." Thus, it refused to concern itself on the one hand with cases of solely private interest in which the participants happened to be Jews, and on the other hand, with cases of broader political significance involving reactionary agitators who, although they were also anti-Semitic, had not committed acts directed specifically against Jews.

In cases which fell within its province, the Central-Verein represented the interests of aggrieved Jewish individuals in bringing about prosecutions. The proceedings were, of course, formally instituted in the names of the injured persons. The lawyers, as a rule, were furnished, and the policies directed, by the Central-Verein. The *C.-V. Zeitung*, weekly organ of the Central-Verein, reported on hundreds of cases in which it participated. This activity commenced on the date of the establishment of the organization; four months after the legal office was created, its first report showed that forty-seven cases had been handled. After the World War, the legal staff was greatly enlarged, and branch offices were established all over the country. Special hours were set apart during which advice on violations of Jewish rights was given free. Anti-Semitic publications were continually examined for material that might constitute grounds for prosecution. In important cases, if the injured individual was unable to bear the expense, the Central-Verein bore the entire cost of the legal proceedings. Its lawyers

gradually became experts in the fields of law involved, and their collection of many unreported lower court decisions greatly aided the preparation of new cases.

The activities of the legal office also led to many direct appeals to administrative officers. In the early years of the Weimar Republic, the higher officials were generally faithful to the constitutional guaranties of equality. Anti-Semitism, however, was frequently present among subordinate officials. Protected by the Civil Service, most of them had been inherited from the monarchy. Many were anti-republican as well as anti-Semitic in their sympathies. The Central-Verein protested repeatedly to the various state ministries of education about anti-Semitic tendencies among school teachers. Its complaints brought about disciplinary action and reprimands for particular anti-Semitic manifestations, and orders directing teachers and pupils to avoid anti-Semitic displays and activities. Similar complaints led to official action against employees in such varied governmental agencies as the post-office, the railroads, the customs office, city hospitals, the Reichsbank and the universities. The conduct complained of ranged from anti-Semitic utterances and the display of the swastika to physical assaults upon Jews.

The most important activities of the Central-Verein in this regard involved officials concerned with the administration of justice. Complaints about the anti-Semitic attitude of district attorneys and judges, as well as their action or inaction in particular cases, were presented to the state ministries of justice. The ministers were persuaded to issue administrative orders to local prosecutors directing the steps to be taken in particular cases and defining the policies to be followed in instituting prosecutions.

## II

**C**RIMINAL prosecutions made up the greatest part of the work of the legal office. Several provisions of the Criminal Code were invoked, but most frequently, those relating to defamation were made the basis of action. The German defamation law differed in many respects from the Anglo-American law on the subject. A civil action was maintainable only if the plaintiff could prove that he had sustained actual damage. The crime called *Beleidigung*, more accurately translated as "insult" than as "defamation," included all statements whether oral or written, and whether made to the insulted person only or to others as well. Due partly to the breadth of this offense and partly to the limited character of the civil remedy, criminal prosecution for insult occupied a much larger place among German legal institutions than criminal libel does in Anglo-American law. The methods of procedure also served to increase the volume of prosecutions. The of-

fense could be prosecuted publicly by the district attorney in instances in which prosecution was "in the public interest" or privately by the aggrieved party. Either action, however, could be initiated only upon the complaint of the insulted party.

Private prosecutions had many of the aspects of civil proceedings, although they led to criminal penalties. The private prosecutor, however, suffered many disadvantages which were avoided if the district attorney was induced to prosecute. He was required to pay costs and attorneys' fees, and he could not testify under oath as a witness. Furthermore, public prosecution gave a case added importance and greatly increased the likelihood of conviction.

Because of these advantages, the Central-Verein attempted to induce the district attorneys to institute the proceedings. If they refused to do so, the complainant could appeal to their superiors in the ministries of justice, who had authority to direct the institution of a public prosecution. Appeals to the ministries were taken by the Central-Verein in many cases and sometimes met with success. The ministers could also issue administrative orders which were binding on the local prosecutors; such an order was issued by the Prussian Minister of Justice in 1922 at the request of the Central-Verein. This order directed all district attorneys in Prussia to affirm the existence of a "public interest," and hence to proceed by public prosecution, in all cases of insults to Jews which were of such a character as to indicate that the defendants were generally anti-Semitic.

In its application to statements about groups, the German law of insult had a development very similar to the Anglo-American law of libel.<sup>1</sup> The Supreme Court had decided at an early date that statements about a class of people were punishable only if it could clearly be established that they were directed against definite individuals. An insulting remark about "Jews generally" was not considered within the statute. This view was reaffirmed in 1931 in a case in which a general attack on the Jews was held to be "not directed in a sufficiently recognizable manner against individual Jews." Similarly, an attack against the "German Jews" was held not to be sufficiently restricted, although in a few instances persons were convicted for insulting the Jewish inhabitants of small communities.

Despite the inability to prosecute for statements about the Jews generally, convictions for insult were secured with great frequency. The penalties imposed, however, were too light to be effective as deterrents. The defendants were generally required to pay small fines; prison sentences, even for short terms, were rare. Furthermore, the judges were usually eager to

<sup>1</sup> See, "Liability for the Defamation of a Group," *Columbia Law Review*, XXXIV, 1322.

bring about a settlement between the parties, and not infrequently prosecutions were ended by agreement with the publication of apologies.

Brief reference to illustrative cases will show both the scope of the legal provisions and the character of the penalties. Rabbi Beermann of Heilbronn, who had written a refutation of an anti-Semitic book, was attacked as a "Jewish coward" by the *Völkischer Beobachter*. Both the author of the article and the editor of the newspaper were fined. A Jewish attorney, who had represented some Socialists, was libelled by a Nazi paper which stated that it had been embarrassing to observe his "insufficient command of the German language" and "his lower East Side dialect." The district attorney instituted a prosecution and the defendant was fined. Other newspaper editors and writers were fined for publishing such statements as that a speaker at a Jewish war veterans' meeting had always run away from the battlefield; that a Jewish official of the government food office during the World War had deprived Christians of food and had given it only to Jews; that certain Jews had hired persons to kill a Nationalist candidate and to create disturbances at a Nationalist election meeting; and that a rabbi, who had testified as an expert, had influenced the court in a "talmudistic-rabulistic" manner.

Only a fine was imposed upon a defendant who had insulted a Jewish judge by saying, in the course of a proceeding pending before him, that he had been punished for desertion from the army. In one of several cases against Julius Streicher, the editor of the Nazi newspaper, *Der Stürmer*, a fine of 400 marks (then less than \$100) was levied for an article which stated that a Jewish attorney, Dr. Wassertrüdingen of Nuremberg, had committed perjury. The opinion of the court was that in spite of the seriousness of the libel and of a prior conviction of Streicher, no prison sentence be inflicted because "the defendant is a fanatic whose statements cannot be taken too seriously." Similar tenderness in meting out punishment was frequently explained by the characterization of the defendants as zealots.

Certain types of libels recurred with some frequency. Many prosecutions were brought against debtors who replied with abuse when their Jewish creditors demanded payment. Libels upon Jewish physicians were also frequent. A fine of 500 marks was imposed upon a newspaper writer who stated that a Jewish gynecologist had intentionally maltreated a Christian baby. The same punishment was imposed upon a newspaper for a statement that, according to the Talmud, Jewish physicians were not permitted to cure a non-Jew.

Prison sentences, although rare, were nevertheless imposed upon some of the leaders of the Nazi movement. Joseph Goebbels was sentenced twice—once to three weeks and once to six weeks in prison—for insulting Bernhard Weiss, a Jewish deputy police commissioner of Berlin. Julius

Streicher was sentenced to prison for two months for saying that Mayor Luppe of Nuremberg, a Christian, was a thief, that he was related to Jews and discriminated in favor of Jews and Socialists. A libel action brought by Max Warburg against Theodor Fritsch, who had accused the Warburg bank of financing Russian Bolshevism, occupied the courts for years and finally led to Fritsch's sentence to four months' imprisonment. Karl Holz, one of the editors of the *Stürmer*, after sixteen previous convictions for insulting Jews, was sentenced in 1931 to the maximum term of one year.

## III

ANOTHER instrument for the prosecution of violent anti-Semitic propagandists was Section 130 of the Criminal Code. This section read:

Anyone who in a manner dangerous to the public peace openly incites different classes of the people to acts of violence against each other, shall be liable to a fine not exceeding six hundred marks or to confinement not exceeding two years.<sup>2</sup>

As early as 1899, the Supreme Court had held that the Jews were a "class" within the meaning of this section. Again in 1901, the Supreme Court had reversed a judgment acquitting an anti-Semitic speaker who had attempted unsuccessfully to incite his listeners to violence against the Jews. In this case, the lower court had found that the speaker's educated audience had not taken him seriously. The Supreme Court, however, held that the acquittal was based upon a misinterpretation of Section 130, as the possible future effects of the speech upon the Jews as well as the Christian audience should have been taken into consideration. The Court declared:

The Jews are a part of the population and equally with the other parts share in the public peace. If the speeches of the defendant were capable of creating justifiable fear in the Jewish population of a violation of the public peace, then public peace may be considered as endangered. For the class to be subjected to violence may feel endangered in its peaceful living even though the speaker fails in his attempts to incite the class to violence which he wishes to arouse.

This and other Supreme Court decisions should have made Section 130 an effective curb upon the more rabid Nazi propagandists. Moreover, in 1922, the Prussian Minister of Justice at the request of the Central-Verein issued an order to all district attorneys reminding them that the Jews were to be considered a class within the meaning of Section 130 and specifically

<sup>2</sup> All quotations from the code are taken from *Imperial German Criminal Code*, translated by R. H. Gage and A. J. Waters, Johannesburg, 1917. Although the substance of the code remained unchanged

during the period here under consideration, the amount of the maximum fines was changed as inflation lowered the value of the mark, and finally the limitation on the amount was eliminated from the code.

calling attention to the Supreme Court decisions to that effect. In that year, after complaints by the Central-Verein, orders were also issued by the Prussian Minister of the Interior reminding the local police departments of their duty to examine anti-Semitic pamphlets for violations of Section 130. Pamphlets which violated this section were to be confiscated if there was imminent danger that they would result in the commission of crime. A similar decree was issued by the Bavarian Government, although the generally anti-Semitic attitude of this government was reflected in the ministry's statement that it was its duty to repress *excesses* of anti-Semitism "even though it does not have to take any position towards anti-Semitism as such." This decree directed police officers to watch anti-Semitic pamphlets and meetings, and provided authority for the prohibition of meetings if there was reason to believe that their purpose was to incite class hatred.

Despite favorable judicial opinions and the administrative decisions to invoke them, the lower courts applied Section 130 very reluctantly, and punishment, when it was imposed, was lenient. Shouts of "Kill the Jews" and "Judah, perish like a dog" frequently punctuated Nazi public demonstrations. On the rare occasions when there were convictions for such outcries, small fines—generally 100 marks (less than \$25)—were imposed. Publishers of pamphlets abusively calling for violence against the Jews were sometimes acquitted and sometimes sentenced to pay small fines.

#### IV

**W**HEN the propagandists turned to statements about the Jewish religion, they became subject to prosecution under Section 166 of the Penal Code, which read:

Anyone who gives offense by publicly blaspheming God with offensive expressions, and anyone who in public insults a Christian church or any religious community with incorporated rights existing in the Federal territory or the constitution or usages of any such, as also anyone who is guilty of insulting behavior in a church or other place set apart for religious meetings, shall be liable to confinement not exceeding three years.

The Central-Verein frequently attempted to secure prosecutions under this section chiefly because it provided the most severe penalty of any of the specific provisions which could be invoked against anti-Semitic agitators. The prison sentence for which it provided was not mandatory, however, as other statutes authorized the courts to convert short term prison sentences into fines. Accordingly, while there were some convictions of violations of Section 166, few sentences of imprisonment were imposed.

Several of these convictions were based upon publication of the ritual murder charge and pictures depicting ritual murders. Among those pun-

ished for such publications were Streicher and Ley. Fritsch was sentenced to serve only one week for stating that "every Jew knows that the doctrines of the Talmud are criminal machinations made into a religion." Streicher got a term of two months and Holz of three and a half months for having written in the *Stürmer* that Jews commit murder for religious reasons; that the Jewish religion permits, or even commands, perjury and fraud against non-Jews; and that it approves of the defilement of non-Jewish girls. Their trial, which took place in Nuremberg, provided them and their attorneys with an opportunity to deliver vociferous anti-Semitic outbursts.

The defenses advanced in cases brought under Section 166 led to many fine distinctions. Typical questions were whether particular blasphemous statements concerned the God of the Jews of Germany or some historical God, and whether statements directed against the Talmud were within the scope of the section. Defendants who had made statements about the Talmud were generally acquitted because the courts took the position that the Talmud is only a doctrine, not an institution of the Jewish community. Sometimes acquittals were based upon the ground that the Talmud and the Schulhan Aruh are not religious books used for religious instruction. In one case in which the district attorney advanced this justification for failure to prosecute, he added that the article was not directed against the Jewish religious community but against the Jewish race. After the Central-Verein appealed to the head of the district attorney's office, a prosecution was instituted and the defendant fined 200 marks. Gradually, the judicial interpretation of Section 166, with its narrow refinements, enabled the Nazi propagandists to develop a technique for making blasphemous statements without being subject to prosecution.

A number of other provisions of the Criminal Code were invoked against those engaged in anti-Semitic activities. The Central-Verein instigated prosecutions for assault, riot, and the mutilation or destruction of property. It frequently invoked provisions of the code which made it a criminal offense to defile or destroy a grave, or to engage in insulting behavior at a grave; and to destroy any object of devotion of a religious community, or anything dedicated to divine worship, or any tomb.

The destruction or mutilation of tombstones and the painting of swastikas on them were common Nazi practices for which the Central-Verein urged vigorous prosecution. In 1928, after sixty-two such crimes had been committed within four years, the Central-Verein organized a public protest meeting. Expressions of sympathy for the protests were received from the Reich Minister of Justice and the Prussian Minister of Justice. In July 1932, however, the Central-Verein reported that one hundred and twenty-five such cases had occurred. Some of the vandals were convicted, but



prison sentences of four and six years, imposed on the defendants in one case, were exceptional. More typical was the sentence of three months and one week respectively imposed on two young Nazis who had destroyed some tombstones and painted swastikas on others. The court justified its lenience on the ground that, as members of a Nazi organization, the young defendants had been "seduced by the anti-Semitism preached in the group." Cases were also reported in which the painting of swastikas on synagogues and the destruction of sacred objects were punished by prison sentences of only five and six months.

Convictions for the minor offense of breach of the peace, for which the penalty was a small fine, resulted from a number of different anti-Semitic displays, among which were abusive statements in newspapers, the painting of swastikas and the words "kill the Jews" on synagogues, and the public singing of the Nazi *Sturmsoldaten* song, which advocated the murder of Jews.

## v

MUCH that has been detailed shows the lenient attitude of the judges both in deciding upon guilt or innocence and upon the degree of punishment. There was a short period during the Weimar Republic, however, when severe punishment was inflicted on those who engaged in anti-republican agitation. This was after the assassination of Dr. Walther Rathenau in June 1922. His murder resulted in the passage one month later of a special *Gesetz zum Schutze der Republik* (Act for the Protection of the Republic) and the establishment of the *Staatsgerichtshof zum Schutze der Republik* (Tribunal for the Protection of the Republic). Since most of the agitators against the Republic were anti-Semitic, these measures strengthened the legal protection of Jews even though they were not specifically directed at preventing anti-Semitic excesses. The Nazi leader, Esser, for example, was fined and imprisoned for four months under this act for having written an article in his newspaper, *Belgarder Zeitung*, entitled, "Dreams of Jewish World Domination," which the court held to be a vilification of Dr. Rathenau. The dynamiting of a synagogue, which was intended as the signal for a revolution, was punished by prison sentences of six and seven years. Shouts of "Down with the Jewish Republic; down with the Jewish swine!" resulted in a sentence of three months' imprisonment. Attacks upon the Weimar Republic as a "Jewish Republic," however, were held not to violate the special act unless it was found from the context that defamation of the Republic was intended.

The brief period in which anti-republican agitation was severely dealt with serves only to accentuate the general weakness of the Criminal Code

as a weapon against anti-Semitic excesses. The fines that were imposed were wholly ineffective as deterrents. They came to be regarded by agitators as business expenses, to be reckoned as part of the cost of continuing a profitable enterprise. Occasionally, judges recognized that the fines were paid by organizations and made no impression on the individual offender. Reliance on the defense of truth in insult prosecutions and on elaborate explanations in cases of blasphemy frequently enabled the defendants to continue their tirades in court.

Many prosecutions were prevented or halted by the amnesties that were frequently granted during the Weimar period. These amnesties, as well as pardons and other devices, often enabled defendants who were sentenced to imprisonment to avoid serving their terms; Goebbels and Streicher, although frequently sentenced, managed to keep out of prison. Furthermore, the immunity of the members of the Reichstag often protected Nazi deputies against criminal prosecution. Those deputies became the so-called responsible editors of many newspapers—frequently one deputy was the editor of several newspapers—and thus made criminal prosecution for many libelous publications impossible. Although the Reichstag could waive the immunity of its members, it did so infrequently and then only after long delays.

These unsatisfactory experiences with criminal prosecutions caused the Central-Verein to institute civil proceedings for injunctions against anti-Semitic propagandists. Such suits became frequent in the late 1920's, and their number increased steadily towards the end of the Republican regime. They were used principally for two purposes: to restrain the repetition of libelous statements, and to enjoin the boycott against Jews.

Injunctions against the repetition of libelous statements could be issued whether or not a criminal proceeding was brought for those statements; the two remedies were held to serve different purposes. They also had the advantage of not being affected by amnesties. Nor did the immunity from prosecution enjoyed by members of the Reichstag protect them from the issuance of injunctions or from punishment for contempt if an injunction was violated. Hence, the practice of making Nazi deputies the responsible editors of newspapers left the injunction proceedings as the only available remedy against them. The procedure also had several other advantages. It avoided the technical rules that had been evolved in the application of the Criminal Code, as well as the reluctance of judges to impose criminal punishment for offenses that were regarded as political in character. And the proceedings did not become occasions for the defendant, through reliance on the defense of truth, to use the courtroom as a forum for the continuation of his attacks.

Injunctions against the boycott of Jewish businesses were granted in

large numbers in the late 1920's. The Central-Verein was very active in pressing for such injunctions, although, of course, the proceedings were brought in the names of the Jewish merchants. After an early period of uncertainty, the law concerning boycotts became well established following the publication in 1925 of a book entitled *Der Politische Boykott*, by Dr. Paul Oertmann, one of the outstanding German professors of law. His conclusions were generally followed by the courts. Oertmann contended that an economic boycott based on political grounds was prohibited by the civil code. Discussing specifically the boycott of Jews, he stated:

A boycott of a person merely because of his being different, without any undesirable action on his part, is even more dangerous than a boycott which is designed to combat certain activities. . . . Equality of races is not only sanctioned by the Constitution (Article 109, paragraph 1, and Article 113), but also corresponds with the opinions of the large majority of the population. Everybody fighting against this equality must be considered acting for the purposes of an individual political party, not for the ends of the people-at-large. His acts of boycott, therefore, constitute a political boycott. Of course, everybody has the right to like or dislike his Jewish compatriots and may, if he dislikes them, draw the consequences by avoiding business or personal contact with them. But there is a great difference between such liberty and a nationalistic boycott.

The injunctions issued between 1929 and 1932 included prohibitions against statements such as "Germans, buy only from Germans! Who buys from Jews, is a traitor!" and "Avoid Jewish department stores, the Jews are our misfortune." The publication of lists of Jewish merchants, physicians and lawyers followed by the statement, "Germans, patronize only Germans," was also enjoined. When a Nazi paper violated the injunction, it was fined 1,000 marks for contempt of court. The owners of another Nazi paper were enjoined from sending representatives to a Jewish-owned department store to take down the names of those who bought merchandise there. A store in a small town was enjoined from carrying the inscription, "Only Christian Store." In July 1932, the Central-Verein reported that it had assisted in obtaining injunctions in one hundred and fifty boycott cases.

In addition to these uses of the criminal and civil law, the Central-Verein secured the repression of certain anti-Semitic activities by administrative action. For a time the Prussian police were rather active in suppressing anti-Semitic publications. Under the Reichs Statute of the Press of May 7, 1874, Section 23, publications could be confiscated by the police without court order in certain specific instances, one of which was the violation of Section 130 of the Criminal Code (relating to incitement to class violence) where there was urgent danger that without confiscation the incitement might lead to the commission of a crime. Mention has been made of the

order issued by the Prussian Minister of the Interior in 1922 upon complaint of the Central-Verein, calling the attention of the police to their powers under the statute. Pamphlets were actually confiscated in a number of instances, and issues of the *Stürmer* and other Nazi publications were confiscated in different localities on several occasions.

## VI

**T**HIS, in brief, is a summary of the German experience in attempting to curb the Nazis and other anti-Semitic agitators by legal proceedings. One conclusion that seems justified is that the ineffectiveness of legal prosecution was not due to the weakness of the law itself. Undoubtedly, the statutes could have been greatly strengthened. As early as 1922, when revision of the Criminal Code was under consideration by the government, the Central-Verein submitted a memorandum to the Reich Ministry of Justice which pointed out the inadequacies of the existing provisions and contained a draft of proposed new sections. Strengthening amendments were proposed from time to time thereafter. The number of convictions that were secured, however, and the subtle refinements that were used to justify acquittals, show that in the hands of willing prosecutors and sympathetic judges the existing code would not have been found wanting as an adequate legal instrument.

The German experience thus demonstrates that a set of rules in the books, coupled with organized private effort to secure enforcement, provides no barrier to the triumph of a fanatical campaign to pin the woes of a nation upon a helpless minority. But it does allow room for considerable speculation as to the cause of the failure. It is impossible to appraise with accuracy the part that was played by unsympathetic officialdom, leniency in imposing punishment, the various amnesties, the immunity of Reichstag members and the other factors that weakened the deterrent effect of the code. Furthermore, the value and possible effectiveness of judicial and administrative repression necessarily depend upon a number of elements that vary from one country to another, such as the economic situation and forces at work for its improvement; the extent and effectiveness of education and counter-propaganda; and the political traditions and popular sentiment which in any democratic state set definite limits upon the severity of both laws and punishment.

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