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To the Graduate Council:

I am submitting herewith a thesis written by Milton A. Kaufman entitled "Man and the Law in the Dramas and Novellen of Heinrich von Kleist." I recommend that it be accepted for nine quarter hours of credit in partial fulfillment of the requirements for the degree of Master of Arts, with a major in German.

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**MAN AND THE LAW IN THE DRAMAS AND NOVELLEN
OF HEINRICH VON KLEIST**

**A Thesis
Presented to
the Graduate Council of
The University of Tennessee**

**In Partial Fulfillment
of the Requirements for the Degree
Master of Arts**

**by
Milton A. Kaufman
August 1965**

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INTRODUCTION

Even on first reading, the works of Heinrich von Kleist reveal that he was unusually preoccupied with the theme of crime and punishment. The purpose of this paper is to study the problem of man and the law in twelve of Kleist's major works.

Die Familie Ohnorez is not treated in as much detail as Kleist's other works, since it is his first drama and does not give as much evidence of preoccupation with the law as his later writings do. Die Hermannsschlacht has not been considered because it is non-representative, Robert Guiskard, because it is a fragment. Das Bettelweib von Locarno is not dealt with because of its brevity and because it, like Die heilige Cäcilie oder die Gewalt der Musik, is not centrally concerned with the problem of man and the law.

In this study Kleist's use of trials and hearings in twelve dramas and Novellen will be considered. Scrutiny will be given to his portrayal of criminals and their prosecutors, of crimes and their causes and motivations, and of the justice and injustice to which man is subject when his actions conflict with the law by which he chooses to live or is compelled to live.

CHAPTER I

TRIAL SCENES

An amazing number of trials and hearings occur in the works of Heinrich von Kleist. Formal legal trials are directly portrayed in no less than five major works: Der zerbrochene Krug (1802/06), Das Käthchen von Heilbronn oder die Feuerprobe (1807/08), Michael Kohlhaas (1806), Die Marquise von O... (1806), and Der Zweikampf (1810). In Der zerbrochene Krug, almost all of the play is a legal trial in which Frau Marthe Rull tries to prosecute Ruprecht Tümpel for breaking her pitcher; Adam, the judge, who is actually guilty of this act, attempts to hinder justice by shifting the guilt to Ruprecht. In Das Käthchen von Heilbronn, the first and second scenes portray a trial before the vehmische court (Fehmgericht). The innocent Friedrich Wetter Graf vom Strahl is accused by Theobald Friedeborn, armorer of Heilbronn, of employing sorcery to abduct his daughter, Käthchen. Graf vom Strahl proves his innocence by questioning Käthchen before the court.

Although there are many hearings in Michael Kohlhaas, only two actual formal trials appear in the work. After failing to get justice directly through the channels of the law, Kohlhaas decides to take matters into his own hands by pursuing Junker Wenzel von Tronka, who has stolen two of his horses. In his desperate efforts to obtain justice, Kohlhaas acquires the following of several dishonest individuals. The first formal trial of Kohlhaas takes place after he has responded to the

letter of Johann Nagelschmidt, one of his unscrupulous followers.

Kohlhaas replies affirmatively to this letter, which asks him to resume command of the band of pillagers which he had left because of promises by the Prince Elector of Saxony that he would be justly treated.

Kohlhaas' positive response, which he had written so that he might be able to leave the country in which he has been unable to find justice, is intercepted by Saxon officials and is used to bring Kohlhaas to trial. On the evidence of his reply, Kohlhaas is sentenced to death by torture. This trial is declared void by the Prince Elector of Brandenburg, who claims Kohlhaas as one of his subjects. The Prince Elector, in turn, hands Kohlhaas over to the Emperor so that he may be tried in Berlin by authorities of his native land. Kohlhaas is tried again and sentenced to death on the block for breach of peace of the Empire and armed invasion of Saxony. The Emperor, who is the plaintiff in the case, can give no consideration to the amnesty granted Kohlhaas by the Prince Elector of Saxony.

Die Marquise von O... portrays one formal trial. Five soldiers who are guilty of attempting to rape the Marquise during a siege by Russian troops are executed after a short military hearing:

Der General liess diesen [one of the five soldiers] hierauf durch eine Wache herbeiführen, ein kurzes Verhör über ihn halten und die ganze Rette, nachdem jeder sie genannt hatte, fünf an der Zahl zusammen, erschiessen.¹

Heinrich von Kleist, Sämtliche Werke (Stuttgart: Phaidon-Verlag, 1924), p. 598---hereafter cited as Werke.

In Der Zweikampf there is also one formal trial, that of Jakob der Rotbart for the murder of his half-brother, Duke Wilhelm von Breisach. Jakob, who had been turned over to the Emperor by his sister-in-law on the evidence that the arrow that killed Breisach had been made for Jakob, is tried before the Imperial court. Kleist goes into specific detail in describing this court:

Der Kaiser, der sich wegen Verhandlungen mit der Eidgenossenschaft gerade damals in Basel aufhielt...setzte daselbst ein Gericht von drei Grafen, zwölf Rittern und zwei Gerichtsassessoren nieder...²

In a brilliant speech Jakob attempts to establish his innocence; he emphasizes that he had never shown interest in the crown of his brother Wilhelm and had no reason for wanting to kill him. He also says that he had spent the night of the murder with Wittib Littegarde, and he truly believes this, although he is in error. On this evidence, and because of the fact that public opinion is in his favor, the charges of murder against Jakob are dropped.

Four works by Kleist portray formal trials indirectly. In Prinz Friedrich von Homburg, the hero has gone against orders by entering into the Battle of Fehrbellin without waiting for the express command of the Prince Elector of Brandenburg. The Prince hears from Graf Hohenzollern, one of the Prince Elector's suite, that the court-martial has passed the death sentence on him for not complying with orders. The judgement of the court-martial, which can be changed by the Prince Elector, is merely

²Werke, p. 788.

referred to in the dialogue and is not portrayed on the stage.

There is also a formal trial in the background of Das Erdbeben in Chile (1806). In the exposition of the story, Kleist writes concerning the pregnancy of Josephe, who had been confined to a convent:

Dieser Vorfall [her pregnancy] machte ausserordentliches Aufsehen; man brachte die junge Sünderin ohne Rücksicht auf ihren Zustand sogleich in ein Gefängnis, und kaum war sie aus den Wochen erstanden, als ihr schon auf Befehl des Erzbischofs der geschärfteste Prozess gemacht ward.³

Under conventual law, Josephe is condemned to be burned at the stake for fornication, a sentence which the viceroy commutes to one of beheading. Kleist makes no reference to the trial which presumably had led to the imprisonment of Jeronimo, the father of Josephe's child.

In Die Verlobung in St. Domingo (1806), there is one formal trial in the past. The mulatto Babekan tells Gustav von der Ried, a white Swiss, that Herr Bertrand, her seducer, denied under oath in a Paris court that he was the father of her quadroon daughter, Toni. The court seems to have believed Bertrand's lies, and Babekan is beaten at the orders of her master, Herr Villeneuve. Another action which is vaguely reminiscent of a trial scene is the execution of Mariane Congreve in Switzerland. Von der Ried had been condemned for making remarks against the revolutionary tribunal there. When von der Ried's pursuers had questioned his fiancée, Mariane, she had denied any knowledge of his whereabouts. Accused of being in league with von der Ried, she had been dragged to the scaffold. When von der Ried heard about Mariane's arrest,

³Werke, p. 581.

he ran to the scaffold and offered himself, but she refused to recognize him as her fiancée and was executed.

The formal trial in Der Findling (1810), like that in Das Erdbeben in Chile, is treated in one sentence. After Piachi has killed his stepson Nicolo, Kleist writes¹

Dies abgemacht, stand er, indem er alle seine Waffen abgab, auf, ward ins Gefängnis gesetzt, verhört und verurteilt, mit dem Strange vom Leben zum Tode gebracht zu werden.⁴

The trial by steel appears in two works, Der Zweikampf and Penthesilea (1806/07). It is in a sense a formal trial, since it is accepted and sanctioned by the society portrayed in the works. It is most obvious in Der Zweikampf, where the battle between Trota and Jakob dem Rotbart is a Gottesurteil. This trial, predicated on a belief in God, is carried out to enable Trota to establish the innocence of Wittib Littegarde, whose favors Jakob erroneously thinks he has enjoyed. In Penthesilea, what may be termed a trial by steel takes place when Achilles, who realizes that he can possess Penthesilea only by becoming her captive, challenges her to a duel in which he plans to feign defeat. This trial is indirectly portrayed through the words of Hecae. The duel is a trial of the right of Penthesilea to triumph over the artificial laws of the Amazon state.

Kleist portrays self-trials in two of his works, Prinz Friedrich von Homburg and Die Marquise von O... In Prinz Friedrich von Homburg,

¹Werke, p. 782.

the hero is sentenced to death by the court-martial. Homburg believes that his friend, the Prince Elector, will commute the death penalty. When he sees his grave, he is obsessed with fear of death and asks Natalie, the Prince Elector's niece, to beg for his life before her uncle. He departs from Natalie in a calmer mood. When Natalie brings Homburg the Prince Elector's reply that if the Prince can think of any reason why he was unjustly condemned by the court-martial, he will be freed, Homburg realizes the seriousness of his crime and accepts the death penalty. Modern scholarship emphasizes that the law, in portraying the betterment of Homburg, serves a more important purpose than punishment; it elevates a man to a higher moral level. Peter Salm, in his article on Prinz Friedrich von Homburg, says:

Walter Silz, Gerhard Fricke, and Benno von Wiese...hold that...the prince attains to an expanded and loftier existence which encompasses personal inclinations as well as the imperatives of his society.⁵

Graf F... in Die Marquise von O... also undergoes a self-trial. He, like Homburg, is compelled to try himself, as it were, at the bar of his own conscience. He first tries to atone for his crime, the rape of the Marquise, by marrying her. She does not accept his proposal immediately, and when she decides to publish her predicament in the newspaper and to ask her rapist to reveal himself, Graf F... confesses to having committed the misdeed.

⁵Peter Salm "'Confidence'" and the 'Miraculousness' in Kleist's 'Prinz Friedrich von Homburg,' " German Quarterly, XXXIV (May 1961), 238.

Hearings appear in five works. The primary purpose of a hearing, like that of a trial, is to arrive at the truth. It is different from a formal trial, however, in that no formal judgment or sentence is handed down. The hearing of Alkmene before all of the Thebans in Amphitryon (1805/06) resembles a formal trial. It is, however, a hearing, since the decision spoken by Alkmene is by no means formal. Alkmene is called upon to decide in the presence of the entire people whether Amphitryon or Jupiter, who had disguised himself as Amphitryon, is her real husband. She erroneously chooses Jupiter.

In the administrative hearing in Der zerbrochene Krug, it is Adam, the judge himself, who is tried. He is questioned by Walter, the Counselor of justice, about his wounds, which he had suffered in his hasty departure from the room of Eve Rull. It is significant that Walter's questions in part lead to the exposure of Adam as the true culprit. Ironically, the lawsuit portrayed in the work is only in some degree responsible for establishing Adam's guilt.

The hearing in Das Kätchen von Heilbronn takes place when Graf vom Strahl assumes the role of prosecutor by going before the Emperor, whom he accuses of being Kätchen's father. Graf vom Strahl's only evidence is his dream in which Kätchen appeared to him as an Emperor's daughter. The Emperor, after reflecting upon the matter, remembers having seduced Kätchen's mother during the great tournament in Heilbronn.

In Die Marquise von O..., the heroine, who is pregnant and who has no idea who the father of her yet unborn child might be, is tried, or at least tested, by her mother. The mother says that the Marquise has

been raped by Leopardo, the chasseur. By observing the Marquise's reaction to this false assertion, the mother comes to realize her daughter's innocence.

Kohlhaas is questioned by Prince Christiern of Meissen. Nagelschmidt, who had continued to pillage after Kohlhaas had laid down his arms, claims that he is Kohlhaas' lieutenant. The Prince of Meissen, on hearing this, asks for permission to question Kohlhaas immediately. Kohlhaas, in this hearing, has little difficulty in convincing the Prince of his innocence, since he has papers which prove that he and Nagelschmidt had parted bitter enemies.

The many trials and hearings in Kleist's dramas and Novellen show conclusively his preoccupation with the problem of man and the law. In no less than nine of the eleven works considered in the study, formal trials are either directly or indirectly portrayed. Only two works, Penthesilea and Amphitryon, portray no formal trial at all. However, the trial by steel in the former and the trial before the Thebans in the latter are considered "legally" binding in the works. It may be significant that these two works are the only writings of Kleist which are set in classical antiquity, where European legal proceedings, with which Kleist was familiar, would of course be out of place.

A number of different types of trials and hearings occur in the works. As has been noted, the court trial, the hearing, the Fehmgericht, the military trial, and the trial by steel are depicted. More important than the sheer number of trials is the fact that there are two types of

trials in five works: Der zerbrochene Krug, Das Käthchen von Heilbronn, Michael Kohlhaas, Der Zweikampf, and Prinz Friedrich von Homburg. One work even portrays three types of trials. In Die Marquise von O... a formal trial, a self-trial, and a hearing are depicted.

The mere existence of more than one type of trial in over half of the works discussed suggests an examination of the criminals and their prosecutors (Chapter II) and the crimes themselves (Chapter III) in order to determine how the crimes and their trials are related and in what way such relationship may contribute to a better understanding of Kleist's views on man and the law.

CHAPTER II

CRIMINALS AND PROSECUTORS

In surveying Kleist's criminals and prosecutors several significant peculiarities are discernible. In six of the works under consideration a character appears who is both criminal and prosecutor at the same time; seven writings portray relatives as prosecutors; and in two of Kleist's dramas the prosecutor is a person who represents blind obedience to the law.

In discussing self-trials, both Die Marquise von O... and Prinz Friedrich von Homburg have been mentioned. Obviously, in a self-trial the criminal and prosecutor must be the same person. Graf F..., like Prince Friedrich, is compelled to judge himself.

Characters who are at the same time criminals and prosecutors of other people appear in four works. In Der zerbrochene Krug Adam is both criminal and judge. He assumes the role of prosecutor, however, in his attempt to shift the guilt from himself. He tries first to transfer the guilt of breaking Frau Marthe's pitcher to Ruprecht, then to Lebrecht the cobbler, and finally even to the devil himself. In Das Käthchen von Heilbronn, Graf vom Strahl, himself a suspected criminal who had stood trial before the vehmic court, prosecutes the Emperor.

Kohlhaas, in trying to prosecute Tronka, becomes a criminal. Piachi in Der Findling also becomes a criminal in trying to do justice by taking the law into his own hands. Nicolo, Piachi's stepson, has

tried to rape his stepmother. When Piachi finds it impossible to prosecute Nicolo for this act, he kills him and thereby becomes a criminal. Nicolo is also both criminal and prosecutor. He is criminal in his attempt to rape his stepmother and because he committed adultery with the Carmelite Bishop's concubine. Nicolo is a prosecutor when he initiates legal action to have his stepfather expelled from the house.

Relatives are prosecutors in a number of works. In both Die Marquise von O... and Der Zweikampf relatives attempt to prosecute an innocent party on charges of sexual immorality. The Marquise's parents, like Wittib Littegarde's brothers in Der Zweikampf, assume the role of prosecutors in forcing their relatives to leave home. In Amphitryon a husband prosecutes his wife, and in this case, too, the alleged criminal is actually innocent of any conscious crime.

In accusing Ruprecht of breaking her pitcher, Frau Marthe Rull in Der zerbrochene Krug is indirectly and unwittingly prosecuting her daughter Eve. Frau Marthe seems neither to know nor to care that her daughter's reputation is at stake. Theobald, in prosecuting Graf vom Strahl, also indirectly prosecutes his daughter, Kätchen. In both of these cases, too, the women being prosecuted indirectly are actually innocent of any conscious wrongdoing.

In three works, Der Findling, Das Erdbeben in Chile, and Die Verlobung in St. Domingo, persons who are actually guilty of the crimes of which they are accused are prosecuted by their families. Piachi, like Littegarde's brothers and the Marquise's parents, attempts to prosecute a relative by turning him out of his house. After finding that

his stepson Nicolo had tried to rape his wife, Piachi demands that Nicolo leave his home. Nicolo then tries to prosecute his stepfather by getting the Carmelite Friars to help him prove that the house is legally his. Piachi's murder of Nicolo is a criminal act and at the same time an attempt to prosecute Nicolo for his evil deeds.

In Das Erdbeben in Chile Josephe's father prosecutes her by sending her away from home to a convent. Jeronimo's father, also, is among the crowd which attempts to execute judgment on the fornicators. It is he who kills his son.

Toni, in Die Verlobung in St. Domingo, is prosecuted by her mother for breaking tribal law. Her mother reports Toni's defense of von der Ried to Congo Hoango, the Negro who insists upon ridding the island of all whites. Von der Ried, who misinterprets Toni's benevolent action of tying him up, is her judge, jury, and prosecutor. Like Jeronimo's father, he is also an executioner. It is von der Ried who murders Toni because he thinks she has betrayed him. An almost familial relationship exists here, for he and Toni were engaged by oath even though neither had said a word about it. This fact is revealed in von der Ried's words after he has killed Toni:

'Gewiss!' sagte er, da ihn die Vettern von der Leiche wegrissen, 'ich hätte dir nicht misstrauen sollen; denn du warst mir durch einen Eidschwur verlobt, obschon wir kein Wort darüber gewechselt haben.'¹

¹Werke, p. 781.

A character who symbolizes blind obedience to the law is the prosecutor in both Penthesilea and Prinz Friedrich von Homburg. After Penthesilea has viciously attacked the Amazon laws, the High Priestess, who is responsible for enforcement of these laws, reprimands her and expels her from the tribe:

...Frei in des Volkes Namen, sprech ich dich;
Du kannst den Fuss jetzt wenden wie du willst,
Kannst mit flatternden Gewand, jetzt ereilen,
Der dich in Fesseln schlug [Achilles], und ihm den Riss,
Da, wo wir zersprengten, überreichen:
Also ja wills das heilige Kriegsgesetz!...²

The following assertion by the Prince Elector is comparable to the statement of the High Priestess:

Gleichviel. Der Sieg ist glänzend dieses Tages,
Und vor dem Altar Morgen dank ich Gott;
Doch wär er zehnmal grösser, das entschuldigt
Den nicht, durch den der Zufall mir ihn schenkt.
Mehr Schlachten noch als die hab ich zu kämpfen
Und will, dass dem Gesetz Gehorsam sei.
Wers immer war, der sie zur Schlacht geführt,
Ich wiederhols, hat seinen Kopf verwirkt,
Und vor ein Kriegerrecht lad ich ihn...³

Representatives of society as the actual prosecuting body appear in many of the works. Walter and Gongo Hoango represent the law of the society to which they belong. No single person symbolizes the law in Michael Kohlhaas, but Kohlhaas' prosecutors enforce the laws of the state and the Empire. In Das Erdbeben in Chile the lovers are killed by the mob, who actually carry out the sentence demanded by the religious state.

²Werke, pp. 318-319.

³Werke, p. 541.

Kleist reveals through his works his own opinion of the various types of law which he portrays in his works. He seems to feel that the laws in Prinz Friedrich von Homburg, Michael Kohlhaas, and Der zerbrochene Krug are completely necessary, even though they can result in injustice if they are not administered properly. He appears to be convinced, however, that the laws portrayed in Penthesilea, Die Verlobung in St. Domingo, and Das Erdbeben in Chile are so unnatural that even when properly administered, they can only lead to injustice.

It is significant that in over half the works discussed characters appear who are both criminal and prosecutor at the same time and that the relationship of the prosecutor and the crime is revealing. In four of these works, characters are criminals before they become prosecutors. The criminal prosecutes either his own crime or a crime directly related to the one with which he is charged. In Prinz Friedrich von Homburg, and Die Marquise von O... characters attempt to atone for their crimes by prosecuting themselves. This Kleist implies, is ideally what the noble person will do. In Das K tchen von Heilbronn and Der zerbrochene Krug, characters prosecute other people. In both these cases the criminal or alleged criminal looks for someone else to blame. In the former Vom Strahl, who is actually innocent of any crime, feels obligated to find the real criminal, the Emperor; in the latter Adam, who is guilty, tries to shift guilt to Ruprecht. Vom Strahl's action is, of course, a method of obtaining justice, while Adam's is an attempt to impede justice.

In Michael Kohlhaas and Der Findling the relationship between prosecution and crime is quite the reverse. Here the characters become

criminals after they have been unsuccessful in their attempt to prosecute. When Kohlhaas and Piachi are unsuccessful in their attempt to prosecute those who have wronged them, they take the law into their own hands and thus become criminals. Both characters are defended by Kleist; they are blameless. Kohlhaas' blamelessness is emphasized by the fact that he, who might have been able to save his life by giving his capsule to the Elector of Saxony, elects to die and atone for his crimes. Kleist seems to be saying that even one who is without guilt can not avoid becoming a criminal if he insists upon absolute justice.

In portraying characters who are both criminals and prosecutors at the same time, Kleist implies that it is impossible for man, imperfect creature that he is, to avoid incurring guilt as long as he lives in a society governed by law. Kleist's views seem to be that of the Harfenspieler in Wilhelm Meisters Lehrjahre:

...Ihr fñhrt ins Leben uns hinein,
Ihr lasst den Armen schuldig werden,
Dann überlasst ihr uns den Pein;
Denn alle Schuld rñcht sich auf Erden.

In selecting members of the family and representatives of the law as prosecutors, Kleist actually depicts society in the process of dealing with those who have allegedly or actually broken its laws, and here the imperfection of both man and the law is emphasized. When relatives prosecute, their ostensible reason is usually that they wish to preserve the honor of their families. This is evident even in Der zerbrochene Krug and Das Kñtchen von Heilbronn, even though Eve and Kñtchen are only indirectly tried. In the former Frau Marthe's pitcher represents the honor of her family; in the latter Kñtchen's action is a blight on

Theobald's family honor. In these two works the result would probably have been ostracism by the family had the two women been found guilty. In almost all the other works where a member of a family prosecutes his relative, the result is expulsion from the family. Kleist's sensitivity to honor and family code may well stem from his own experience when he went against the wishes and traditions of his family by leaving the military. It is known that his family was quite upset with his action.⁴

Just as members of the family often prosecute, the tribe or nation is the prosecutor in many of Kleist's works. The nation, like the family, prosecutes in order to keep and preserve its order and existence. Kohlhaas' breach of peace must be squelched, because the state ceases to exist if a private citizen is permitted to raise an army and go to war with it. Penthesilea must be arrested in her attempt to search out one warrior as her husband if the Amazon tribe is to remain in existence. If Jeronimo and Josephe were allowed to do as they wish, church law would become invalid. Similarly, one exception to the racism demanded by Congo Hoango could undermine the dominion of the blacks in St. Domingo which he demands. The problem of national preservation is most clear in Prince Friedrich von Homburg, where adherence to military law is necessary, since the insubordination of one soldier, particularly one of Homburg's rank, could cause the downfall of the army, and the army is necessary to the preservation of the state.

⁴John G. Blanenagel, The Dramas of Heinrich von Kleist (Chapel Hill: The University of North Carolina Press, 1931), p. 1.

From the above considerations it is clear that Kleist was deeply concerned about the basic problems of man and the law. Although he sometimes attacks the law as unnatural, he realizes full well that law of some sort is necessary, for without it neither family nor state can exist, and family and state are in reality the form of society.

The dilemma of the law is most clearly depicted in Prinz Friedrich von Homburg and Michael Kohlhaas. In both works the heroes do what they think is right; but if they were allowed to continue in their actions, the entire order of the society in which they live and which indeed they wish to preserve would be threatened. Man's tragic flaw is that his inclinations often lead to conflict with that which is best for the society in which he chooses to live.

CHAPTER III

THE MOTIVATION FOR THE CRIME

Kleist portrays a vast number of different types of crimes. In the works considered almost every type of crime imaginable appears. There is everything from Kohlhaas' breach of peace to Penthesilea's violation of tribal law, from Alkmene's unwitting adultery to vom Strahl's alleged abduction by sorcery.

Although many different types of crimes are depicted, the crimes fall into two definite categories when the state of mind of the real or alleged criminal is considered. The first may be labeled "conscious." The criminal, in this type of crime, is entirely cognizant of his actions. When Kohlhaas, Plachi, and Jakob der Rotbart commit murder, they are fully aware that they are violating a basic law of society. Toni knows that to harbor a white man is forbidden by tribal law of St. Domingo, just as Jeronimo and Josephe are conscious that their love is regarded as sinful by the laws which the church has established in regard to sexual morality. Penthesilea is also fully aware that it is against Amazon tribal law to pursue one particular warrior.

The second type of crime, which may be termed "unconscious," takes place when the wrongdoer is unaware of his misdeed. This type of crime also includes accidental and unavoidable offenses. Both the Marquise and Alkmene commit a sex-crime unconsciously. Alkmene had no idea that she was committing adultery with Jupiter, for she took him to

be her husband Amphitryon. Similarly Adam did not even know that he had broken Frau Marthe's pitcher, as his aside indicates:

Verflucht! Ich kann mich nicht dazu entschliessen---!
 ---Es klirrte etwas, da ich Abschied nahm---¹

Prince Friedrich's failure to comply with orders on the battlefield is, to some extent, a result of his preoccupation while the orders for battle were being given out and is therefore not entirely conscious. Although vom Strahl is tried for abduction by sorcery, the real criminal is Kätchen, who in her naïvete, goes against all the customs and mores of the times by following vom Strahl. Her desire to be with him is almost involuntary, as if imposed from without.

All crimes, whether conscious or unconscious, are directly or indirectly related to another conscious crime or at least a conscious attempt to deceive. Even in Kleist's first work, Die Familie Ghonorez (1802), a cause-and-effect relationship of crimes can be ascertained. Here the central character, Raimond, takes the law into his own hands in seeking justice. Although no real crime causes Raimond and Alenzo to kill their children, it seems that Kleist was already developing the idea of cause-and-effect relationship in crime, for it is the mere thought that Alenzo may have killed his child that leads to Raimond's revenge and ultimately to the murder of their own children, Rodrigo and Ignez, whom each mistakes for the child of the other.

¹Werke, p. 116.

A conscious crime is ultimately responsible for the major crime in Penthesilea. The fact that the Amazons had been raped by a group of Scythians accounts for the laws of the Amazons which decree that no Amazon woman may be subservient to one man. Thus Penthesilea's passion for Achilles is a crime against tribal law. The Amazons take Penthesilea away from Achilles after he has been victorious over her. That the Amazons' action is in violation of the law of chivalry, is seen clearly in the following words of Penthesilea:

Verflucht sei dieser schändliche Triumph mir!
 Verflucht jedwede Zunge, die ihn feiert,
 Die Luft verflucht mir, die ihn weiterbringt!
 War ich, nach jeder würdiger Rittersitte
 Nicht durch das Glück der Schlacht ihm zugefallen?
 Wenn das Geschlecht der Menschen unter sich,
 Mit Wolf und Tiger nicht im Streite liegt:
 Gibts ein Gesetz, frag ich, in solchem Kriege,
 Das den Gefangenen, der sich ergeben,
 Aus seines Kriegers Banden lösen kann?²

Die Verlobung in St. Domingo presents a chain of interrelated crimes. Toni goes against tribal law in aiding von der Ried, just as Penthesilea violates Amazon tribal law by pursuing Achilles, and the fact that Toni aids von der Ried leads indirectly to his murder of her. The conscious crime in Das Erdbeben in Chile also leads to further crimes. The fornication of Jeronimo and Josephe causes the revenge of the people of the church. In pursuing the couple, the mob commits the crime of killing innocent people.

²Werke, p. 318.

Der Findling and Michael Kohlhaas again present a conscious crime or attempted crime as responsible for a further crime. Nicolo's attempted rape of his stepmother causes Piachi to murder him, and Tronka's theft of Kohlhaas' horses leads Kohlhaas to take the law into his own hands.

Unconscious crimes are without exception the result of a consciously attempted crime or at least a deception practiced on the criminal. Alkmene's unconscious crime of adultery springs directly from Jupiter's conscious lust for her and his deception in impersonating Amphitryon. Jupiter's impersonation has criminal elements. Sosias, in talking to Mercury, refers to Mercury's impersonation of him as theft (Diebstahl) of his name.³ By analogy Jupiter's impersonation of Amphitryon is no less a theft.

In Der zerbrochene Krug Adam's lust and his conscious attempt to seduce Eve leads directly to his accidental breaking of Frau Marthe's pitcher. It is because of his conscious crime of attempted seduction that Adam can not simply admit that he broke the pitcher.

The Prince Elector's deception of Prince Friedrich von Homburg is responsible for all of the further action. When the Prince had been found sitting under a tree half asleep twining a wreath, the Prince Elector had taken the wreath from him and handed it to Natalie. The Prince had followed Natalie, calling her his beloved, and, in trying to seize the wreath, had grasped Natalie's glove. The Prince Elector's

³Werke, p. 186.

trick on the Prince causes the Prince's preoccupation while the orders for battle are given out, since he was concentrating on Natalie's glove at the time. To some extent it also causes his later failure to comply with those orders on the battlefield. At first glance, the Prince Elector's action does not seem criminal in nature. In the last act of the drama, however, Hohenzollern tries to make it a crime by saying that the Prince should be freed, because it was the Prince Elector himself who caused the Prince's preoccupation. He does this by presenting the Prince Elector with a letter making him responsible for the Prince's action. The Prince Elector, in reading the letter, responds as follows:

'Beweis, dass Kurfürst Friedrich
Des Prinzen Tat selbst' ---Nun beim Himmel!
Das nenn ich keck!
Was! Die Veranlassung, du wälzest sie, des Frevels,
Den er sich in der Schlacht erlaubt, auf mich?⁴

Again passion is important, for it is the Prince's passion for Natalie which in part preoccupies him at the meeting at which the orders for battle are issued.

In Das Käthchen von Heilbronn one conscious crime leads to the trial for another one. The fact that the Emperor committed adultery with Käthchen's mother makes Käthchen the daughter of an Emperor. It was predestined by the dreams of vom Strahl and Käthchen that vom Strahl would marry an Emperor's daughter and Käthchen was the Emperor's daughter whom vom Strahl saw in his dream. Käthchen's recognition of vom Strahl as the man in her dream causes her to follow him. Her dream-like

⁴Werke, p. 570.

pursuit of vom Strahl leads to Theobald's accusation before the vehmic court that vom Strahl had abducted his daughter by sorcery.

The conscious attempt of the five men to rape the Marquise in Die Marquise von O... leads to Graf F...'s rescue of the Marquise and eventually to his rape of her while she was unconscious. The Marquise was entirely conscious of the fact that the five men were trying to violate her, and she did not become unconscious before Graf F... actually did rape her:

...Er [Graf F...] stiess noch dem letzten viehischen Mordknecht, der ihren schlanken Leib umfasst hielt, mit dem Griff des Degens ins Gesicht, dass er mit aus dem Munde vorquellendem Blut zurücktaumelte, bot dann der Dame unter einer verbindlichen französischen Anrede den Arm und führte sie, die von allen solchen Auftritten sprachlos war, in den andern, von der Flamme noch nicht ergriffenen Flügel des Palastes, wo sie auch bewusstlos niedersank...⁵

It is significant that in all the works under consideration except Die Familie Ghonorez and Michael Kohlhaas, sex or passion is ultimately responsible for a major crime in the work. The only work among these in which a transgression against sexual morality is not the sole cause of the major crime is Prinz Friedrich von Homburg. In this drama it is both the Prince's desire for Natalie and longing for greatness which in some measure lead him to disregard the law of war. That the Prince desires both is seen in his words:

Hoch auf, gleich einem Genius des Ruhms,
Hebt sie [Natalie] den Kranz, an dem die Kette schwankte,
als ob sie einen Helden Krönen wollte.
Ich streck, in unaussprechlicher Bewegung,

⁵Werke, p. 596.

Die Hande streck ich aus, ihn zu ergreifen,
Zu Füßen will ich vor ihr niedersinken...⁶

Just as sex or passion is often the ultimate motivation for a crime, no less than eleven of the twelve works under consideration show how one crime leads to another. No matter whether the central crime, is conscious or unconscious, it always stems from a conscious crime or a conscious attempt to deceive. In the light of these facts it becomes necessary to observe the relationship of these crimes to justice or injustice.

⁶Werke, p. 520.

CHAPTER IV

JUSTICE AND INJUSTICE

When one considers the crimes, their motivations, and their ultimate punishment, Kleist's major works seem to fall into two definite categories, those which portray justice and those which portray injustice. Kleist's dramas do not usually end with death; they end primarily with justice. In the dramas the prosecutors, who for the most part are interested in seeing justice done, are successful. That *Amphitryon* is interested in justice is revealed by the fact that at the end he is convinced beyond the slightest doubt that Alkmene was innocently confused concerning the identity of her husband. Graf von Strahl, who appeals to the Emperor not out of selfish motives but in order to see justice done, is successful in his entreaty. Adam's attempt to pervert justice is in the end unsuccessful; he is thwarted by Walter, the ultimate prosecutor, who unlike Adam is not dishonest. When the Prince Elector in Prince Friedrich von Homburg is apprised of the extenuating circumstances in Homburg's crime, he treats him fairly. The only drama which ends with injustice and death is *Penthesilea*. Here the Amazon law is so unnatural and so much in conflict with Penthesilea's natural and normal inclinations that she is actually deranged during the duel and thus kills the very object of her desire, the Greek who is attempting to feign defeat.

All the Novellen except Die Marquise von O... end with the death of main characters, and this death is, in most cases, the direct result

of moral injustice. The prosecutors in the Novellen, who want to use the law to achieve their own selfish ends, are ultimately successful in thwarting justice. To compare Der zerbrochene Krug, the drama which has the most legal problems, with Michael Kohlhaas, the Novelle which is most concerned with the law, is to compare the eventual execution of justice with the ever-present impossibility of attaining justice. Whereas Adam's efforts to pervert justice are thwarted by Walter, Kohlhaas is deceived by his prosecutors, and his execution is arranged by those who wish his death. Piachi is unjustly prosecuted by Nicolo, who has the government issue a decree declaring him the owner of the house, which is morally Piachi's, if not legally his. In Das Erdbeben in Chile the people of the church kill not only innocent people but also Jeronimo and Josephe, whom Kleist defends. The death of Toni and von der Ried probably presents the clearest case of rank injustice, since the unjust tribal laws upon which Congo Hoango insists ultimately cause their death.

In surveying the striking difference between Kleist's dramas and his Novellen, an attempt must be made to find the reason for the prevalence of justice in the dramas and injustice in the Novellen. It is significant that wherever the central crime is a conscious act, a feature primarily of Kleist's Novellen, the main character is executed. When the crime is unconscious or has semi-conscious elements, however, a feature primarily of the dramas, the main character lives.

Penthesilea and Die Marquise von O... are the two works which are

most different from the categories of drama and Novelle into which they respectively fall. Penthesilea is Kleist's only real tragedy. It is the only drama which ends with death, and it is the only drama in which the central crime is not unconscious, since Penthesilea knew full well that she was committing a crime by following Achilles. Die Marquise von O... is the only Novelle which does not end tragically. It is also the only Novelle which does not end in death, and it is the only Novelle, with the possible exception of Der Zweikampf, in which the central crime has unconscious elements.

Penthesilea and Die Marquise von O... are similar, in that in both works the role of the sexes is somewhat reversed. In Penthesilea, the great hero Achilles wishes to submit to a woman and is willing to sacrifice his pride by feigning defeat in the duel. Graf F... in Die Marquise von O... also assumes at times a clumsy, unmasculine role. At his wedding with the Marquise, for example, the Count is portrayed as unmasculine, and even after he has married the Marquise he is allowed to see her only rarely.

Penthesilea and Die Marquise von O... are different, however, in that the motive of the hero and the type of law are what lead in the one work to injustice and tragic death and in the other work to true justice. In the former work Achilles tries to conform to an unnatural law; in the latter Graf F... conforms to one which Kleist apparently accepts as natural and necessary to society.

Der Zweikampf presents a problem, for it is a Novelle which, unlike

most of Kleist's Novellen, ends with true justice. Jakob der Rotbart is found to be the real villain. It has, however, elements of the majority of Kleist's Novellen and of his dramas. It has been stated that in the dramas the semi-conscious crimes do not result in death. The problem in Der Zweikampf occurs because there are two crimes, one semi-conscious and one conscious. Jakob's crime of seducing Rosalie has semi-conscious or at least accidental elements, for he thought he was seducing Wittib Littegarde. This leads to what Donald H. Crosby has referred to as "legal stalemate."¹ In the duel with Trota, Jakob does not die for the crime of which he is not consciously aware. He is, therefore, in some measure similar to the characters in Kleist's dramas, who do not die for their semi-conscious or accidental crimes. It is only after having confessed to the crime about which he has no confusion, that of having killed his brother, that Jakob, like the heroes of Kleist's Novellen, dies.

The dichotomy in Kleist's works apparently has nothing to do with the order in which they were written. For example the two works Michael Kohlhaas and Der zerbrochene Krug, which are diametrically opposed in their portrayal of the problem of justice, were written at approximately the same time. Der zerbrochene Krug was started in 1802, and it was not finished until 1806, the very year in which Michael Kohlhaas was written. Prinz Friedrich von Homburg (1809/10) portrays

¹Donald H. Crosby, "Heinrich von Kleist's 'Der Zweikampf,'" Monatshefte, LVI (April-May 1964), 197.

justice and was written at approximately the same time as Der Findling (1810), which portrays injustice. The differences between Kleist's dramas and his Novellen have nothing to do with the type of trial portrayed in the works, the sex of the criminal, the epoch in which the plot takes place, the religion of the main characters, the geographical location of the plot, or the crime itself.

There are three possible reasons for the dichotomy in Kleist's works. The first reason has to do with the character of the Novelle itself; the second is concerned with the fact that Kleist employs a basic technique of Greek tragedy; the third possible explanation has to do with Kleist's style of writing.

When one considers E. K. Bennett's comments on the Novelle, it seems that the Novelle itself is superior to the drama for depicting injustice. In distinguishing between the drama and the Novelle, Bennett refers to the following quotation from the seventh chapter of the fifth book of Wilhelm Meisters Lehrjahre¹

Im Roman sollen vorzuglich Gesinnungen und Begebenheiten vorgestellt werden; im Drama Charaktere und Taten... Der Romanheld muss leidend, wenigstens nicht im hohen Grade wirkend sein; von dem dramatischen verlangt man Wirkung und Tat.²

Bennett goes on to apply this to the Novelle:

...If this be true of the novel it is even more true of the Novelle---at least it is revealed in a more striking form. For the

²E. K. Bennett, A History of the German Novelle (Cambridge: Cambridge University Press, 1934), p. 4.

manifest events of the novel are concentrated in one definite, striking, fateful event, which befalls a certain person or group of persons; an event which is often of supreme importance in the life of the person concerned, and always of so much importance that the narration of the changes which it produces in his life seem to the poet worth recording...By its concentration upon one event as coming from without and striking into the life of a person or group of persons like a flash of lightening---not as the outcome of their characters but as something which befalls them---the Novelle presupposes an irrationalistic view of life...³

Bennett applies this definition to Michael Kohlhaas. Although the hero is active in that he seeks justice, the whole action of the Novelle is developed out of the one event which befalls Kohlhaas, the fact that his horses are taken from him and justice is refused him.⁴ Benno von Wiese also agrees with this interpretation, for he dispels the theory that Michael Kohlhaas is a Charakternovelle and says that everything in the Novelle springs from this one Begebenheit.⁵

Although the theories of Goethe do not at all imply that the Novelle is superior to the drama for portraying tragedy, they do seem to suggest that the Novelle is better for depicting justice. The passivity of the hero of the Novelle makes him inferior to the active hero of the drama in solving his legal problems. Whereas the heroes of Kleist's dramas generally succeed because of their activeness in attaining justice, the heroes of his Novellen fail to be justly treated because they are passive.

³Ibid., pp. 4-5.

⁴Ibid., p. 5.

⁵Benno von Wiese, Die deutsche Novelle von Goethe bis Kafka (Düsseldorf: August Bagel Verlag, 1957), p. 47.

In portraying unconscious crimes, Kleist uses a basic technique of Greek Tragedy, the error. Kleist's analytic development in Der zerbrochene Krug has often been compared to that in Sophocles' Oedipus.⁶ It is also important that as in Oedipus a mistake is responsible for further action. In Der zerbrochene Krug, unlike in Oedipus, it is not fate but a conscious action on the part of Adam which is ultimately responsible for further action. It is significant that the breaking of the pitcher stems from his lust for Eve. In this drama of Adam and Eve it is the original sin, lust, which is responsible for further action. Kleist's dramas, unlike the dramas of the Greeks, are written in a Christian framework. His dramatic characters are justly treated or often forgiven for their mistakes. Henn has pointed out that to the Christian a mistake or accident is not a sin. He cites the theologian Tennant:

Sin will be imperfect compliance (in a single volitional activity or in character resulting from such activities) with the moral idea in so far as this is, in the sight of God, capable of apprehension by an agent at the moment of the activity in question both to its content and its claim upon him...

Kleist, unlike Sophocles in Oedipus, seems to say that man may be forgiven for guilt which he incurs unknowingly.

In Amphitryon, which is based on Greek mythology, Alkmene is forgiven for accidentally committing adultery with Jupiter. Man, from

⁶ Joachim Maas, Kleist, Die Fackel Preussens (Wien, Munchen, Basel: Verlag Kurt Desch, 1957), p. 224.

⁷ T. R. Henn, The Harvest of Tragedy (London: Methuen and Co. LTD, 1956), pp. 73-74.

the Christian point of view, can be forgiven for crimes which he commits unknowingly; Oedipus cannot be forgiven for his unknowing incest with his mother. Homburg, who makes the mistake of entering into the battle too early, is ultimately forgiven for his error. Kätchen, who unconsciously, almost unknowingly goes against all the customs and mores of the time by following Graf vom Strahl, is not punished but indeed rewarded for her action. T. R. Henn, in dealing with the role of the error in tragedy, practically describes the military mistake for which Homburg is forgiven.⁸

That in all of the above works a conscious crime is ultimately responsible for further action again shows the Christian framework of the dramas. It is man, not fate as in the Greek dramas, who is ultimately responsible for whatever happens to him and those around him.

In referring to Aristotles' Poetics, Henn points out that the "error" is a technique typical of Greek drama and not necessarily of the epics.⁹ It is known that Kleist was familiar with Greek drama,¹⁰ and it is possible that it is for this reason that he employed the "error" in the form of the unconscious crime in his dramas and not in his Novellen.

A third possible explanation for the split in Kleist's works is that in the Novellen he employs an almost journalistic style and does

⁸ Ibid., p. 24.

⁹ Ibid., p. 4.

¹⁰ Helmut Sembdner, Heinrich von Kleists Lebensspuren (Bremen: Carl Schünemann Verlag, 1957), p. 74.

not permit the narrator to obtrude his presence. When he portrays injustice, in other words, Kleist does not wish to be the narrator who is actually depicting the story of inequity. That Kleist's Novellen are different from those of other authors is seen in Bennett's words:

The idea of the Novellen as a form of social entertainment is entirely discarded [with Kleist], and with it the sense of a narrator who is present and narrates to a society of his equals...¹¹

Although it would require a complete stylistic analysis to prove that Kleist's Novellen differ from his dramas because the Novellen show a removed narrator, it is a possible answer. The dramas, which generally portray justice, reveal no stylistic peculiarities as the Novellen do.

¹¹Bennett, op. cit., p. 44.

CONCLUSION

Throughout his life Kleist appears to have been preoccupied with the problem of man and the law. Trials and hearings of various types play a prominent role in all his major works. Indeed, in half of the works considered in this study Kleist portrays more than one trial or hearing. He also exhibits a tendency to portray persons who are not only criminals but also prosecutors at the same time. This paradox seems to imply that he felt it impossible for man to avoid violating the very laws set up to preserve the society in which he must live.

In all of his works Kleist shows how one crime is related to another. No matter whether the central crime is conscious or unconscious, it is consistently linked to a conscious crime, and wherever the central crime is unconscious it is caused by either a consciously attempted crime or a conscious deception. This implies that it is not fate but man, in his conscious state, who is really responsible for everything that befalls him and those around him. The ultimate motivation of all crimes, except those in Michael Kohlhaas, is lust, passion, or desire, all of which are manifestations of one of man's basic drives and one of his primary modes of self-assertiveness. Kleist sometimes condemns the law itself, as in Penthesilea, Die Verlobung in St. Domingo, and Das Erdbeben in Chile and at other times the administration of the law, as in Michael Kohlhaas. He seems to contend, however, in Prinz Friedrich von Homburg and Die Marquise von O..., that the noble thing to

do is to realize one's transgressions and try to pass judgment honestly upon oneself.

One remarkable aspect of Kleist's treatment of man and the law is that he tends to portray justice in his dramas and injustice in his Novellen. Several possible reasons for this have been advanced in this study, but further work on this problem is necessary. Although the conclusive reason for this dichotomy in Kleist's works cannot be given in this study, the dichotomy itself and its significance seems evident. Law is necessary if man is to exist at all, but at the same time it restricts man's individual freedom. Man is able to use the law to detect an honest mistake or accident, and this error can be realized, handled justly, and atoned for within the framework of the law. A conscious attempt to go against the laws of society is always arrested through the channels of the law, no matter how noble the motive of the wrongdoer may have been.

BIBLIOGRAPHY

BIBLIOGRAPHY

- Bennett, E. K. A History of the German Novelle. Cambridge: Cambridge University Press, 1934.
- Blankenagel, John C. The Dramas of Heinrich von Kleist. Chapel Hill: The University of North Carolina Press, 1931.
- Crosby, Donald H. "Heinrich von Kleist's 'Der Zweikampf,'" Monatshefte LVI (April-May 1964), 197-201.
- Henn, T. R. The Harvest of Tragedy. London: Methuen and Co. LTD, 1956.
- Kleist, Heinrich von. Sämtliche Werke. Stuttgart: Phaidon-Verlag, 1924.
- Maas, Joachim. Kleist, Die Fackel Preussens. Wien, München, Basel: Verlag Kurt Desch, 1957.
- Salm, Peter. "'Confidence and the Miraculousness' in Kleist's 'Prinz Friedrich von Homburg'" German Quarterly, XXXIV (May, 1961), 238-247.
- Sembdner, Helmut. Heinrich von Kleist's Lebensspuren. Bremen: Carl Schünemann Verlag, 1957.
- Wiese, Benno von. Die deutsche Novelle von Goethe bis Kafka. Düsseldorf: August Bagel Verlag, 1957.