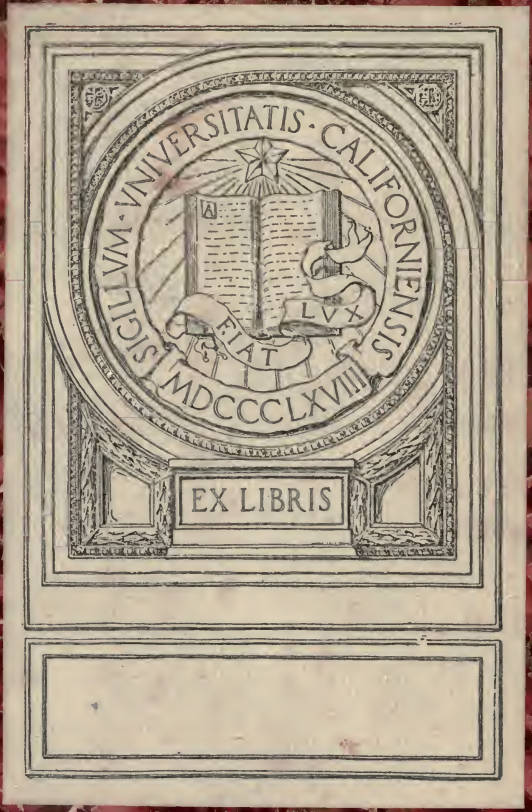
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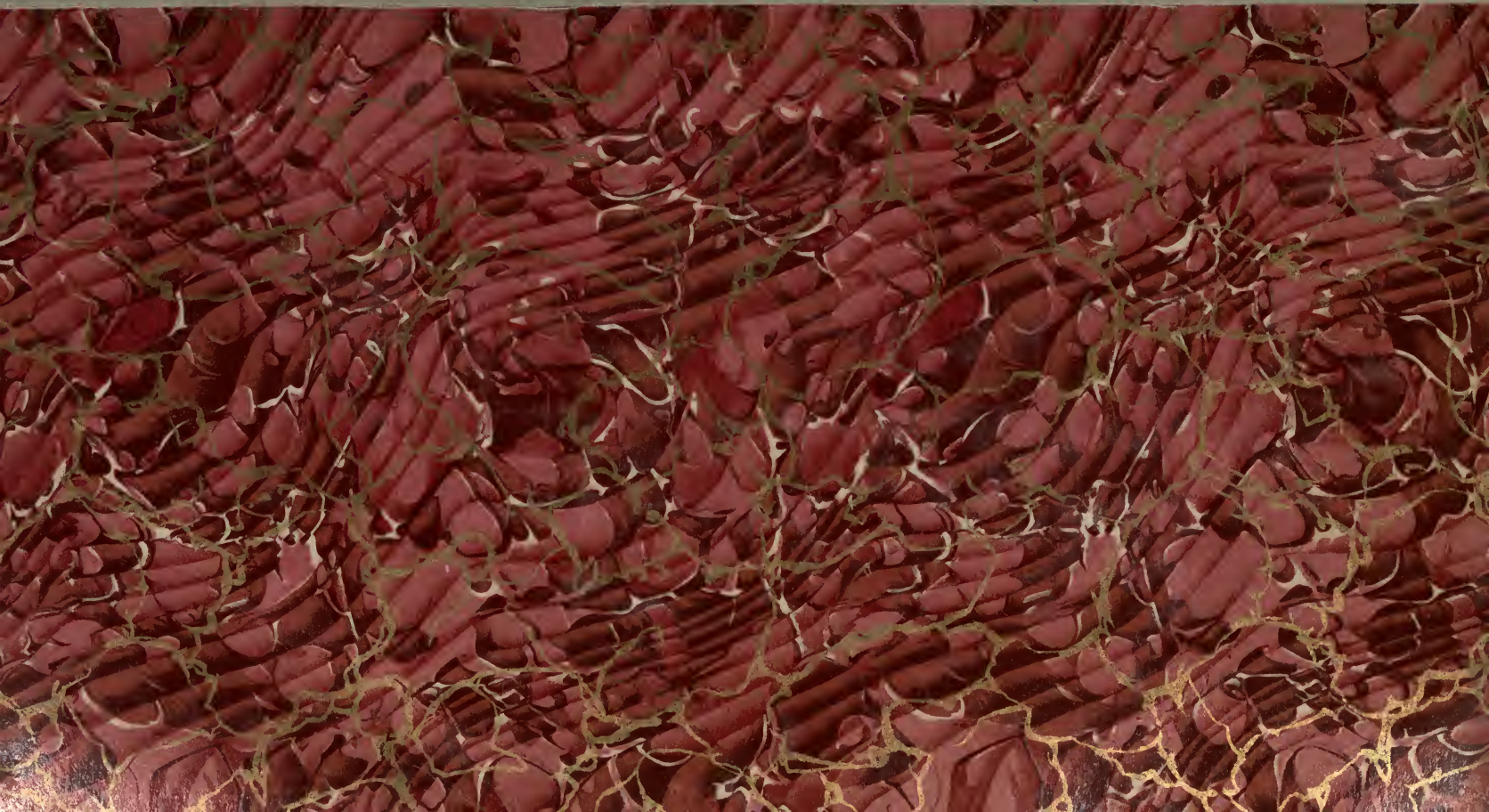

SUMPTUARY LAW IN NÜRNBERG

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SUMPTUARY LAW IN NÜRNBERG

A STUDY IN PATERNAL GOVERNMENT

BY

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INTRODUCTION

Sumptuary regulation prevailed throughout Europe in the legislation of all varieties of sovereign authority from an early date in the Middle Ages until the opening of the nineteenth century. Statutes of the English parliament, ordinances of the French kings, decrees of the emperors and diets of Germany were issued from time to time with the intention of restricting the different classes of the population in the indulgence of what was thought to be luxury. Alongside of these acts of general legislation some of the most interesting forms of sumptuary ordinance are to be found in the little governments of the free cities of the mediaeval Roman Empire, particularly in Germany and Italy. One of these communities affords the subject of this study.

In the weakness of the national power the German cities at an early date shook themselves free from the larger political units in which they were situated, and were able to establish a practical independence in the management of their internal affairs, which they extended to many of their relationships with the outer world. Within the contracted circles fixed by their ponderous walls there developed homogeneous communities of a peculiar type. They were not so populous but that the burghers were thrown into more or less intimate relationships with each other in their crafts and trades, as well as in the frequent social encounters of a small society.[1] The mere physical

[1] It is easy to get an exaggerated notion of the size of the mediaeval communities. At the end of the Middle Ages only a very few of the German cities had a population of 20,000. Strassburg and Nürnberg, the largest, slightly exceeded this figure. Not a great many could count over 10,000. The majority of the imperial free cities numbered between 5000 and 10,000. The greater proportion of them did not reach the 5000 mark (Inama-Sternegg, Deutsche Wirtschaftsgeschichte, vol. iii, part 1, pp. 25–26).

nearness of the authority which had jurisdiction over them brought to pass an intimacy of control which corresponded to the literally personal familiarity of the magistrates with their lives and interests. The city councils early attained a position of power in their communities which made it possible for them to exercise the most intensive supervision. As champions of the burghers in their struggles to break away from external authority, they firmly grounded their own power, while they multiplied their functions until these included the whole compass of dominion, from mustering an army to fixing the price of bread. Such conditions, social and political, favored a development of the paternalism of which the sumptuary regulations are a pronounced expression.

The sumptuary ordinances have an important incidental value in furnishing an interior view of mediaeval life. In restricting luxury they reveal in the act of enumeration the customs, the dress, the furnishings of the age. They enable one to look directly into the private doings of the men and women, and to catch them in attitudes and engagements which otherwise escaped record because they were too familiar, but which to the later world are both picturesque and significant. They make the people seem more human, and help us to visualize a life which at best is too remote.

Studies of sumptuary legislation are not without precedent, but historians have been interested in the subject chiefly for its sidelights upon manners. They have displayed a certain curiosity for the picturesque and the antique. Careful enumerations have sometimes been made,[2] but too often these laws have been treated as a phenomenon of interest because they were odd. Consequently the task of relating the sumptuary legislation to the total scheme of mediaeval law-making yet remains to be done. For sumptuary law was not an excrescence. It

[2] For instance, H. Bodemeyer, Die Hannoverschen Luxus- und Sitten-gesetze; Schwarten, Verordnungen gegen Luxus- und Kleiderpracht in Hamburg (Zeitschrift für Kulturgeschichte, 6.); Liebe, Die Kleiderordnungen des Erzstifts Magdeburg; etc.

claims the serious interest of the student of jurisprudence and of civilization because it registers the high water-mark of the mediaeval spirit of government, that paternalism which the authorities openly avowed as their "väterliche Fürsorge" for the governed. It carries to ultimate expression the idea of the Middle Ages that the state was responsible not only for "the enforcement of thrift in industry," but as well for the economy and the conformity to moral standards of the family life of every person under its care.

Sumptuary regulation was of a piece with the whole design of mediaeval municipal law-giving. We have learned to accept as normal to that period the minute regulation of prices, the strict supervision of purchase and sale, the fixation of wages, and the prescription of the quality of goods and the conditions of production. It is only a step from these matters to that regulation of personal expenditure which is the typical feature of sumptuary legislation. In the sumptuary ordinance we may see reflected at its clearest the paternal attitude of the legislators, and realize in its purest expression the sense of responsibility which they felt for the whole round of the activities of the citizen, from economic to moral. The town fathers required him not only to transact his business in accordance with standards of equity which they authorized, but also to adjust his personal economy, to dress, to curtail his luxuries, after their ideas of propriety. When the government undertook to dictate what a citizen should spend on his clothes, his wedding, his feasts, the christening of his baby, the burial of his kin, it laid its hand directly upon some of the liveliest of human desires. These laws therefore serve to illustrate the relationship of citizen and state on the plane of most intimate contact.

The sumptuary legislation prior to the Reformation has an interest of its own, which has been heightened by a popular misconception. It has been the custom to associate close governmental supervision of personal conduct with a sharpening of conscience that followed the Reforma-

tion. When we think historically of Blue Laws, our thoughts at once run to Geneva and the Puritans. But, as Professor Vincent pointed out some years ago,[3] laws of the same type as the regulations of Protestant Geneva or of the Puritans were part of the normal program of legislation in the free cities of Europe long before the day of Calvin or Cromwell, and while Roman Catholic faith still enjoyed its monopoly. Professor Vincent's later studies in Basel and Zürich have supported this conclusion with fresh evidence. The enactments of the reformed cities, which have monopolized attention by their exaggerated strictness, were by no means unique, however much their rigor and particularity may have been stimulated by fervid religious impulses. They were of a piece with legislation that had prevailed throughout Europe since the thirteenth century. It therefore becomes of especial interest to study the paternal regulative policy as it prevailed in the Middle Ages proper, in order to know to what extent it was pressed, what motives it discloses, and what conception of the duty of the city state to the citizen in the realm of his economies and morals it exhibits, before the influences of Protestantism began to tell.

The interesting results of the studies in Switzerland suggested the desirability of investigating, upon a similar plan, the sumptuary legislation of communities of the same type in Germany. The range of choice was wide, physically limited only by the accessibility of materials; for the making of sumptuary laws was a widespread phenomenon, and went on actively in cities as distant and as diverse in circumstances as Cologne and Hamburg, Stralsund and Görlitz, Hanover and Ulm. For the selection of Nürnberg as the subject of this preliminary study there were several good reasons. Apart from the fact that the extant sumptuary laws of Nürnberg for the centuries preceding the Reformation are numerous and are within reach, the constitution and the political position of the city offered

[3] J. M. Vincent, "European Blue Laws," in Annual Report of the American Historical Association, 1897, pp. 355–373.

in an unusual degree the conditions of a normal experiment. The stability of the city government, which with a momentary interruption remained unaltered for some five hundred years,[4] gave its laws the character of a continuous policy, and made it unnecessary, in tracing the course of sumptuary legislation, to allow for disturbances due to shifting authorities. The government itself, monopolized by a few old families, was peculiarly in position to exercise paternal oversight of the most characteristic sort. Furthermore the public life of Nürnberg had a cosmopolitan quality. Its traders had continual intercourse with the rest of Germany and with the world.[5] One has only to read the Jahrbücher of the fourteenth century, mainly from the pen of a brewer of the city,[6] to recognize the breadth of horizon that lay open to the citizen of Nürnberg. He breathed an atmosphere astir with significant interests. One may therefore expect to find in the Nürnberg laws a minimum of provincialism, or fewer of the antiquated customs which might survive in more sequestered communities. The place was apparently abreast of the times; and however strange to modern eyes its sumptuary laws may seem, they were characteristic and typical of the period.

In the present study attention has been directed mainly to the Nürnberg ordinances that appeared before the Reformation. The object has been to determine to what extent paternal interference had been proposed, to what extent the government felt responsible for the conduct of persons in their private capacities, before the Reformation could have had any influence over the authorities in enlivening their conscience or modifying their notions of government. We can measure the extent of this intention to interfere only by the particularity of the regulations, and by the signs of alert watchfulness. The endeavor has been

[4] For full account of the Nürnberg government, see below, Chapter I.

[5] Johann Müller, "Regiomontanus," selected Nürnberg as his residence and the seat of his studies because of its centrality in thought and trade, and its consequent stimulus and convenience for the scholar (J. Janssen, History of the German People, vol. i, p. 141).

[6] Chroniken der deutschen Städte, Nürnberg, vols. iv and v, pp. 47–706. (Paged continuously.)

to record any indications of either slackening or invigoration of the interest of the city fathers in the laws; and further, to trace any lines of development in the social theory which they sought to apply. It has also been continually an object to decipher the motives of the council, and to define, as far as they could be inferred, the grounds on which it proceeded against what seemed to it extravagance or impropriety in conduct. It will be seen that motives and lines of regulative policy that have been attributed to the impulses of the Protestant movement had been operative long before, and in fact originated when mediaeval conceptions of life were still reigning undisturbed.

It would be misleading to leave the impression that the sumptuary laws of Nürnberg are interesting only in relation to the Reformation. They have their primary significance in themselves and in reference to the age and the society in the conceptions of which they are rooted. They introduce the student of the Middle Ages directly to a philosophy of government and of life which has entirely passed out of our experience; and in this they have their first value. The picturesqueness, which has absorbed much attention, detracts nothing from their usefulness for this more serious purpose. It gives them a certain appeal to the imagination, and helps one to reconstruct the framework of the social life which they serve to interpret. This is my reason for describing the ordinances in more detail than the main objects of the study seem to require. It is a great aid to appreciation of them always to bear this framework in mind. To have it pictured in the background of one's thinking is part of that reconstruction in imagination in which one seeks the external aid of contemporary art, and with all such materials rebuilds the city: the lofty gables; the shadowed streets; the massive girdle of moat and battlemented wall; the men and women who came and went in costumes which have grown curious and strange in the long lapse of time. This reconstruction is something more than a pleasant exercise of fancy. It kindles curiosity to know how life appeared to these people, what comforts

they enjoyed, what limitations hemmed them in, and what thoughts and ambitions they evidently entertained. One task of this study is to find out, if possible, the sentiment of the ordinary citizen toward his city government, and to ascertain how far its minute regulation was accepted as natural and proper. Almost every clause in the sumptuary ordinances discloses some legal obstruction, some new reminder of the government, which the citizen was liable to meet in his daily walk as a result of the paternal attitude of the council. By the variety and the multiplicity of these items one may calculate the points of personal contact with the state.

The present investigation must be regarded as introductory, even in respect to the sumptuary legislation of Nürnberg. It deals only with the ordinances as issued, and omits many questions which cannot be answered except by a study of their actual administration. It is important to show first what the council believed to be its duty in the matter of regulation; and for the determination of theory the statutes have been diligently compared over a considerable period of time. The actual pressure of the laws upon the citizen, and other interesting problems which turn upon their enforcement, have been left for further observation.

In the first of the chapters that follow I have undertaken to relate the making of sumptuary ordinances to the general scheme of government in Nürnberg, and to indicate its place in the other legislative activities of the council. I have then given an analysis of the wedding regulations, because in Nürnberg, previous to the Reformation, these were the fullest of the sumptuary laws, and they are best adapted to exhibit the distinguishing characteristics of the ordinances. They are taken up with special reference to the increase of wealth that came to the city in the fifteenth century. The main object of the chapter is to discover what light they shed on the vigor of the regulative policy and on the motives that underlay their making. The fact that the comprehensive wedding ordinance of 1485, the

Hochzeits-büchlein, as it was called, was still in effect and was subjected to revision in the year after the council had committed itself to Protestantism, made it seem desirable, where it was convenient, to point out the immediate effect of the Reformation on at least this one class of sumptuary law, and to indicate the path of further investigation.

The chapter on Wedding Regulations and the Reformation includes a sketch of the Protestant movement in Nürnberg, which assists in explaining the nature of the changes wrought in the paternal ordinances. At that point the argument required a brief indication of the extent to which moral legislation other than sumptuary had been enacted before the Reformation; and this forms the subject of the fifth chapter. The study then returns to a discussion of the main divisions of the sumptuary ordinances, and takes up in successive chapters those which regulated christenings, funerals, and apparel, one object being to exhibit the many different directions in which the citizen was likely to encounter the paternal restraints of the government. In the last chapter a specimen of clothing regulation of the seventeenth century is considered, in order that the contrast with those rules which date from the Middle Ages may set in relief some of the ulterior problems of sumptuary law, to the further illumination of which this study has undertaken to contribute.

CHAPTER I

Government of Nürnberg

The council of Nürnberg, which constituted its government, was aristocratic throughout the history of the city. In some of the great mediaeval towns, as in Cologne, Brunswick, Magdeburg, the old families ("geschlechter") were unhorsed during the fourteenth century in those uprisings of the gilds which occurred in rapid succession throughout Germany and whose interrelations have never been fully illuminated. The Nürnberg geschlechter had a narrow escape in 1348; in that year the gilds for an instant triumphed; but the families were restored by a favorable stroke of fortune, and they returned to settle a grip on the government which they were able to render secure and retain permanently.

At some time during the eleventh century the settlement that was to become the city of Nürnberg began to cluster on the north bank of the Pegnitz River about a rocky prominence which was crowned with a castle of the Franconian emperors. Attracted by the shelter of this stronghold and by a neighboring shrine of St. Sebald, which contained some wonder-working relics of the saint, settlers swarmed upon the open ground between the rock and the stream, and engaged in trade on the strength of a grant of market rights from the king, and for a while looked to the castellan ("burgvogt") both to guard and to govern them.[1] With the germination of independent government, of which nothing is to be known except by chance and uncertain glimpses, we are not concerned. Suffice it to say that by the middle of the thirteenth century a council had definitely appeared as an organ of the community, and probably had

[1] K. Hegel, in Chroniken der deutschen Städte, Nürnberg, vol. i, pp. xiv–xv.

been operative for some time previous; and this, with the "schultheiss," a royal appointee, with important functions as judge and executive, and the jurors ("schöffen"), who sat in his court, made up the local administration.[2] The police ordinances of the later years of the thirteenth century are issued in the name of "Schultheiss und Bürger des Rats";[3] judicial documents, on the other hand, in the name of schultheiss and schöffen.[4]

The jurisdiction of the "burggraf," which we saw to have been at first all inclusive, was whittled away until it shrank to the limits of his castle.[5] The schultheiss, whose entry on the scene as a second royal official had seriously curtailed the burggraf's power and marked the beginning of his loss of control over the town, for a while played the most conspicuous rôle in administration. But in time his prominence in turn declined, and in the opening of the fourteenth century he is found subordinate to the council.[6] As other authorities declined in power, it was the city council that grew at their expense. By purchase, or by grace of imperial grant, it gathered into its hand the full judicial powers, the imperial tolls, the office of schultheiss, and the residue of the burggraf's rights and perquisites. The process was finished, and the city had become its own master—or, to be more exact, the council had become fully master of government in the city—by the middle of the fifteenth century.[7]

We know something of the forms into which the government had settled in the fourteenth century, before the outbreak of the gilds. The jurors of the court of the schultheiss (who was at first an imperial functionary) had become amalgamated with the "bürger des rats" in the ruling body. Thirteen jurors ("schöffen") and thirteen councilors ("consuln") made it up. These were the twenty-

[2] Ibid., pp. xvii–xviii.
[3] Hegel, in Chroniken, Nürnberg, vol. i, p. xviii, citing Murr's Journal zur literarischen und Kunst-Geschichte, vol. vi, pp. 47–70.
[4] Hegel, in Chroniken, Nürnberg, vol. i, p. xviii.
[5] Ibid., pp. xviii–xix.
[6] Hegel, in Chroniken, Nürnberg, vol. i, p. xxi.
[7] Ibid., pp. xxi–xxiii.

six burgomasters of the city, half of them senior burgomasters, half junior burgomasters. Pairs of these, a junior and a senior, in alternation conducted business, under the style of "frager." Beside this ruling council stood a larger council in a subordinate position. Its members were the "genannten," so called. They were brought in for consultation and assent only in the most important matters. Such, in bare outline, was the great organ of the community at the opening of the fourteenth century, when, as noted above, it got the upper hand among the authorities that had claims to jurisdiction over Nürnberg.[8]

One cannot interpret a body of statute law with intelligence without knowing by what class of the community the making of it was controlled. It is a point of extreme importance in a study of paternal legislation to learn the social complexion of the legislative power. It is ascertainable that at least as early as 1340 the right to sit in the Nürnberg council had been narrowed down to a patriciate; that is, to an inner circle of distinguished families, whose exclusive eligibility was a prerogative of birth and was passed on to their sons. What it was that originally set them above the unprivileged is not clear. They were not "altbürger"—descendants of those who came over in the Mayflower, so to speak; for families which did not move to town until the fourteenth century, or even later, were admitted to the charmed circle. The patriciate probably originated in an imperial official class which grew by accretion from the surrounding country.[9]

The council as the main instrument of government was monopolized by the patriciate at the time when the uprising of the gilds and the coup d'état of 1348 took place. The upheaval was an incident of the tempestuous days in the

[8] Hegel, in Chroniken, Nürnberg, vol. i, p. xxiv.

[9] "As the city proceeded principally from the castle, and as even in the thirteenth century several Nürnberg family names appear among the knights and vassals (Ministerialen), we may pretty safely suppose that the nucleus of the Nürnberg patriciate was formed by 'Burgmannen' of knightly rank, to whom in time other 'Ministerialen'-families from the Franconian imperial district also attached themselves" (Hegel, Chroniken, Nürnberg, vol. i, p. xxiv).

empire that ushered in the rule of Charles IV of Bohemia. The council of Nürnberg made a declaration in favor of Charles; whereupon a majority of the crafts gilds, taking local advantage of the faction that was rending the empire, declared for the Bavarian party; and with the support and under the leadership of Markgraf Ludwig of Brandenburg and certain renegade aristocrats of the city, the craftsmen drove the ruling notables from the community. The insurgents constructed a council from among themselves and held out until the fall of the next year. Then Charles came to terms with the Bavarian party. Nürnberg, with its deeply committed government, was in difficulty, and had to submit. The old council was reinstated. The heads of the revolt were punished by the reseated aristocrats with death or banishment.[10]

Before the end of the century, however, eight craftsmen were to be found seated in the council among the aristocrats. When they came there or how is not ascertainable. It is supposed that they were admitted not long after the restoration of the patriciate, as a concession to the popular feeling that had been generated and crystallized in the uprising.[11] But other new figures appeared by the side of these. "Alte genannten," they were called. There were eight of them, as there were eight craftsmen. They were selected from the retired burgomasters at first, afterwards from the large council, but in either case they belonged to the old families. Hegel thinks that they were introduced in connection with the addition of the eight representatives of the crafts gilds.[12] At any rate they were a counterpoise for the craftsmen, and their presence operated to annul whatever numerical advantage in the council the craftsmen had gained by admission to the government.

We have a most interesting and satisfactory picture of the council when it had become the exclusive government of Nürnberg, in a letter of the humanist Christoff Scheurl to

[10] Hegel, Chroniken, Nürnberg, vol. i, p. xxv. See also L. Rösel, Alt-Nürnberg, pp. 109–119.
[11] Hegel, in Chroniken, Nürnberg, vol. i, pp. xxv–xxvi.
[12] Ibid., p. xxvi.

Johann Staupitz, Luther's friend, and vicar-general of the Augustinian order.[13] It was written in 1516, when the city had reached the height of its prosperity; and it portrays not merely the governmental structure, but facts as to its operation, and the way in which its offices were regarded by contemporaries, which would not appear in a constitutional document.

The craftsmen had even less weight in the decisions of the council than the extent of their representation might lead us to suppose. The passive attitude which their deputies had come to take in view of the restraints that had made their position almost purely a titular one, is reflected in Scheurl's curt description of them. "There are also in the city eight crafts from each of which one man is elected to the council. . . .These have the liberty, when they wish, of coming to the council and casting a vote; when this does not suit them, of staying at home. They administer no office, acquiesce in what is concluded by the other councilmen, and when a question goes around, they agree with those whose vote is regarded as nearest the just thing."[14] "All government of our city and commonwealth," says Scheurl in another place, "rests in the hands of those who are called 'geschlechter,' that is, persons whose ancestors and great-ancestors have since long ago also been in the government here and ruled over us. Foreigners who have rooted themselves here, and the common people have no power"; and the legal theorist goes on

[13] A most satisfactory text of the letter is to be found in Chroniken der deutschen Städte, Nürnberg, vol. v, Anhang A, pp. 781–804. Scheurl was a native of Nürnberg, born in 1481. He completed his higher education at Bologna, where after a course of eight years he obtained the doctorate "beider Rechte." One of his friends at Bologna was Johann Staupitz, and at his recommendation Scheurl was called to take the chair of jurisprudence at the new university at Wittenberg. He taught there till in 1512 he was appointed "rechtsconsulen" in Nürnberg. In this capacity he served until his death in 1542. He was therefore a trained observer, and, writing in 1516, was treating of a subject with which his business made him thoroughly familiar. The German translation (the original was in Latin) was not done by Scheurl, and it lacks the conciseness of the original, but it is more valuable as a historical document because it describes the offices and functions of the council in their current German names.

[14] Chroniken, Nürnberg, vol. v, p. 796.

complacently to justify this fact: "it belongs not to them because all power is from God, and to rule well belongs to few, and only those who are endowed by the Creator of all things and by nature with peculiar wisdom."[15]

Roughly speaking, in Scheurl's time the government of Nürnberg was administered by two councils, a large council of genannten and a small council above this, the "ehrbar rat." But Scheurl's analysis reveals within this simple structure an intricate gradation of powers, wheels within wheels. The broad basis of the government, the college of the genannten, was itself by no means popular. Its membership, in so far as it did not consist of members of the patriciate, who needed only to marry to qualify, was under control of the small council.[16] The genannten chosen outside the pale of aristocracy were "persons of an honorable life and vocation, who," says Scheurl, "obtain their living by honorable trades [mit eherlichen dapfern gewerben], and not by despised crafts [verachten hantwerke], except some few craftsmen who have obtained a respectable position and bring tangible good to the common city by their handiwork, more than others."[17] In the curl of the lip with which this enlightened aristocrat refers to the crafts one gains an immediate insight into the gaping differences in social rank which occupation made in the Nürnberg of the time. It was an honor to sit in the large council. Its seal was highly valued, and it participated, as we shall see, in the election of the vigorous body that stood above it. But as far as law-making went, its powers were slight. Its "sentence, opinion and vote" were taken only when a tax was imposed, war was levied, or "the subjects [underthanen] [were] warned of contingent dangers."[18]

There were forty-two members in the small council, which stood at the head of the administration. This group was divided and subdivided by lines which marked off ascending grades of power. We have already noticed the eight depu-

[15] Ibid., p. 791.
[16] Rösel, pp. 146–147.
[17] Chroniken, Nürnberg, vol. v, p. 787.
[18] Chroniken, Nürnberg, vol. v, p. 787.

ties of the crafts, and remarked on the listless attitude which they assumed toward business.[19] Of the thirty-four aristocrats in the council, eight were the alte genannten.[20] The remaining twenty-six were known as burgomasters. Thirteen of the burgomasters were schöpfen, and sat as jurors in the criminal court.[21] The twenty-six burgomasters were cut by another division into thirteen senior and thirteen junior burgomasters. From the inner circle of senior burgomasters was taken a still more intimate circle of seven elders ("eltern herrn"), who were the real heart of the government. But still the concentration went on. From the seven elders were selected the three headmen ("hauptmänner") of the city; and two of these were made the treasurers, and were known as "losunger." Finally one losunger, distinguished by seniority in office, was recognized as formal chief of the administration.[22]

These narrowing circles represent distinctions not merely titular. Actual administration and power were concentrated toward the center and summit. The two losunger as treasurers had more importance than the other hauptman, who shared with them the custody of the seal, the keys, and so on, together with the military leadership of the community.[23] The three hauptmänner, again, had this authority of custody and leadership in addition to that investing the remainder of the seven elders. The seven elders in turn were sharply distinguished by superior power from the other senior burgomasters, from whom they were selected. Scheurl's statement is that "all power of the whole Nürnberg administration rests in the hands of the seven 'eltern herrn,' for all secret affairs are handled by them, and all grave matters passed upon, before they come to the other councilmen, so that the highest authority is in them, and the others have very little knowledge or power in comparison with them."[24] Finally, in the outermost and

[19] See above, p. 19.
[20] See above, p. 18.
[21] Chroniken, Nürnberg, vol. v, p. 796.
[22] Chroniken, Nürnberg, vol. v, pp. 786–787.
[23] Ibid., pp. 793–794.
[24] Ibid., p. 794.

least influential circle stood the eight alte genannten. They were not burdened with exacting duties. Scheurl compares them with retired veterans. When the vote was taken in full council they cast theirs or not, as it pleased them. It is notable that these eight persons, who seem to be supernumeraries, had dormant powers just sufficient to balance, and if necessary neutralize, those of the eight craftsmen. Scheurl remarks that the position had declined in esteem. Any three of the alte genannten, as we shall see, were eligible as electors, and the three selected ranked as senior burgomasters.[25]

Scheurl imparts a fact, not apparent in the formal constitution, which clothes these gradations with added significance. He tells us that there were corresponding degrees of rank among the families. The inner doors of the council were not open even to all of the patriciate. "Although there are many families in our city from whom the council is composed," he remarks, "still many of them are to be found who cannot rise further than to the grade of senior burgomaster; then the families from whom are taken the seven elders are very few; much fewer are those from whom the headmen are taken; those, however, from whom the treasurers are chosen are the fewest of all."[26] These arrangements, he goes on to say, were not required by law, but they were matters of uninterrupted usage. They put the most important powers in the hands of a very small innermost ring of an aristocracy itself highly exclusive. Incidentally it was made almost impossible for discontented craftsmen to break the hold of the families upon authority—certainly unless they could enlist the aid of a foreign enemy. It was provided, for instance, that in case of disturbance the citizens were to resort to the hauptmänner to take oath and obtain leadership; and under the existing hierarchy this fact meant that the loyal would be directed by the bluest of the aristocrats.[27]

The council was formally elective, and the election took

[25] Chroniken, Nürnberg, vol. v, p. 795.
[26] Ibid., p. 792.
[27] Chroniken, Nürnberg, vol. v, p. 792.

place yearly, in the springtime. The intricate arrangements by which the powers of government were exercised by an ascending scale of aristocrats were safeguarded carefully from being disturbed on this occasion by means of a peculiar method of election. The populace had nothing to do with it, except to call upon God to take care of the process.[28] First of all, the large council—itself aristocratic and seated for life—came together on the third day of Easter week, and selected two electors. The field of choice in this selection was limited to the small council, and further, within it, to the seven elders or senior burgomasters. Then the small council completed the electoral commission itself by selecting three of its own number, who had to be alte genannten. This electoral commission of five, a majority of whom had been selected by, and two of whom had been selected from,[29] the body of men on whose election they were to pass, proceeded to shut themselves up in a chamber especially guarded, and so made proof against outside influence, and to elect "a whole council except the eight alte genannten." Their task was simple enough, for, as one might expect, they regularly chose those who were already seated in the council. Sometimes an old man would ask to be retired; on rare occasions a councilman would be dropped for misconduct; otherwise only when death intervened did they have to exercise their right of choice. "It is held a great disgrace," writes Scheurl, "when anyone is removed from the council against his will."[30]

The designation of persons to fill the more important offices within the small council was not left even to the electoral commission, deeply dyed in aristocracy as it was, but was assumed by the burgomasters themselves, and accomplished by another elaborate electoral process. Thus when a vacancy occurred among the seven elders or in the office of the two losunger, the two hauptmänner selected

[28] Ibid., p. 785.

[29] The two senior burgomasters were the only electors themselves in line for election.

[30] Chroniken, Nürnberg, vol. v, pp. 788–789.

five from the council, who made four nominations. The nominee who received the highest number of votes was elected. The eight alte genannten were also the choice of the small council.[31]

I have traced in detail the mechanism of the Nürnberg government and the safeguards in which it was encased in order to show how free it was of all tangible restraints imposed by the people over whose lives it presided. Its forms were such as to offer freest opportunity for manifestation of paternalism. If in the laws it enacted we find it laying its hand on the wheels of private life and undertaking to regulate personal economies and conduct by moral chronometers of its own, we are justified in presuming these interferences to be, as far as form of government is concerned, typical. In respect of government, Nürnberg offers the qualifications of a perfect experiment. A single class of men, those to whom the citizens would be inclined to look with respect on account of their ancient lineage and station, and with something of pride, at least in the fifteenth and early sixteenth centuries, inasmuch as they were then leaders in the enterprises that made the city wealthy and famous—this single class, with the solidarity of a common pride and of responsibility long supported, had gathered into its hands all the political power of the growing city. These men had succeeded in dissipating the force of a concession made to the gilds under constraint, and had removed their power from the disturbing touch of hostile interests, by means of a series of internal adjustments that have all the appearance of clever contrivance, and by a mystery of election that was in no wise calculated to jeopardize their position. They were safely entrenched in authority, and they remained so until the beginning of the nineteenth century. They were in a position to exercise over the lives of the citizens a paternalism of the purest type.

This is not the place to discuss the character of the Nürnberg patriciate; but the statements of a recent book on the Reformation[32] make it of interest to note that most

[31] Chroniken, Nürnberg, vol. v, pp. 792–793.
[32] H. C. Vedder, The Reformation in Germany.

of the members were merchants, and thoroughly identified with the burgher class.[33] As an explanation of the prompt adhesion to Luther of the free cities—such a critical factor in his success—it has been asserted that the Roman Church had the dislike of the burghers because of the support it gave to the sumptuary laws, which discriminated against them in favor of the knights, and thus compromised their social standing.[34] But in Nürnberg, at least, any sumptuary laws which bound the rising commercial class—covetous of high station, and as sumptuous in display as the gentry—were of the merchants' own making. If the wives and daughters of the burghers could not shine in as resplendent velvet, diamonds, and ermine as their perhaps less wealthy sisters who chanced to have knights and ladies for parents, it was not because they were forbidden by some distant body composed of the husbands of the envied, but it was by reason of the decrees of their own husbands and fathers. It is undoubtedly true that the church had a considerable influence in securing the passage of sumptuary laws, but it is not to be supposed for a moment that a free-handed council like that of Nürnberg would submit to laws dictated by the clergy, and so framed as to discriminate against the burgher class and deprive them of the insignia of a social rank upon which they had set their hearts. Certainly this influence would not bind them so tightly as to drive them to break with the church to be rid of it, or even as to be a serious consideration when they were meditating the advantages of going over to the Protestant camp.

As regards the courts of the city, we are chiefly interested to note their complete subordination to the council. In 1459, when it received from Emperor Frederick III a perpetual grant of criminal jurisdiction, the council had gathered into its hand the last of the rights necessary to

[33] Rösel, p. 139. Such prominent families as those of Ebner, Behaim, Pfinzing, Gross, Praun, Tucher, Paumgärtner, Kress, Grundherr, Rummel, Muffel, Nützel, Schürstab, Imhoff, early came to special distinction in commerce; and "even industry did not remain foreign to the Nürnberg 'Geschlechter.'" See also p. 142.

[34] Vedder, pp. xxxv–xxxvi. For an example of ecclesiastical influence upon sumptuary law, see below, p. 110.

complete its judicial supremacy; and the constitution of the courts shows how jealously it wielded them. Penal cases were heard by such of the seven elders as were also jurors (schöpfen); and cases that involved capital punishment were tried by the thirteen schöpfen, who were incorporate members of the council. Even these last were required to follow in their verdict the vote on the case of the council in full session.[35] The civil court was constituted in the same manner as the criminal until 1497;[36] after that date it was separated from the council and was composed of eight of the genannten, who had independent means and could give their whole time to its business. Still, two members of the council sat in it as assessors; the learned doctors who advised it on points of law were appointees of the council; and appeal from its decisions could be taken to the council. Again, the "pfänder," the sheriff, was taken from the genannten, but four members of the council sat with him in cases arising under the laws by which the gilds were regulated; and they, with him, had the power to appoint the masters of the crafts. "In short," says Scheurl, "what the guild-masters are elsewhere, the five 'rügsherrn' are with us."[37] All the vital judicial organs were administered either by members of the council or by its appointees under close supervision.

It is difficult to discover in the terms of the sumptuary laws the court by which they were applied, but what evidence we have points to the "fünfergericht."[38] This was a court composed of five members of the council. "Among these are always the two whose term as burgomasters ended in the previous month, and the two whose term as burgomasters has just begun this present month." The fifth was appointed in rotation from the whole number of the council, the two losunger excepted. The court was therefore renewed every month in personnel. The mem-

[35] Chroniken, Nürnberg, vol. v, p. 796.
[36] Hegel, in Chroniken, Nürnberg, vol. i, p. xxviii.
[37] Chroniken, Nürnberg, vol. v, p. 799.
[38] See below, p. 123.

bers sat three times a week, on Monday, Wednesday, and Friday, in the afternoon, in three-hour sessions.

> Before them all cases of slander and injuries are adjudicated, and those who have disobeyed the laws punished. In all cases brought before them they proceed dispatchfully and briefly, without discursion and the red tape of courts. They accept no written plaint, and permit no party attorney or advocate. They seldom hear witnesses, but for the most part decide the causes on oath. No one may take an appeal from their verdict. Nevertheless when a case is grave they carry it to the honorable council.

Scheurl stops to eulogize this practice as a very salutary one.[39] It is important to notice that this was a purely secular court, and in no sense a consistory; and furthermore that it came together not as there was business to despatch, but in appointed and regular sessions. This fact shows that the body which initiated the sumptuary regulations applied them itself in the person of five of its members; and that the court which had cognizance of infractions of them was never closed, as it was in some cities, solely from lack of interest in their enforcement.

Merely to name over the instrumentalities of the Nürnberg government is to realize in some measure what a multitude and a variety of duties the council had to discharge. As we have seen, it performed the most of them in person. It had come to possess, and it wielded with its own hand, powers sufficient to meet the multifarious needs of a mediaeval free city,—legislative, judicial, executive, political. In thinking of these powers it is difficult not to let one's conceptions be colored by the nature of the modern municipal government and to conceive of the mediaeval city council in terms of the city council of today. In reality it was a very different thing. It is true that the council of Nürnberg had the same range of local duties to cover as its modern namesake. It was responsible for policing the streets and for good order. It made building regulations,[40] and had a special officer to look after them (the "bau-

[39] Chroniken, Nürnberg, vol. v, pp. 796–797.

[40] J. Baader, Nürnberger Polizeiordnungen aus dem XIII bis XV Jahrhundert, p. 285 ff. This is Volume LXIII of the Bibliothek des Litterarischen Vereins in Stuttgart.

meister"). It made provisions for keeping the streets clean,—after its own mediaeval notion of cleanliness.[41] It issued ordinances that looked to the prevention and extinction of fires.[42] It levied taxes and administered the finances. It looked after the poor.[43] But beyond these and the like domestic duties the modern parallel halts, and in two directions a wide field of activities opens, which today is occupied by superior authorities, or is barred by our political principles to any governmental intrusion.

First of all the Nürnberg council had the trades to regulate; and it felt called upon to control a multitude of economic relations which are now left to the automatic adjustment of private interest and honor. Through its agent, the constable (pfänder), it saw to it that bread, meat, and other necessaries were brought to market in sufficient quantities to feed the city, and sold at a just price.[44] When famine prices set in, it baked bread.[45] It watched narrowly the craftsmen and small traders, and brought them to book when it caught the tradesmen buying or selling in violation of the laws which it laid down from time to time for business,[46] or the craftsmen turning out work that was fraudulent or scamped.[47] One has only to glance at a collection of its ordinances,[48] and note the complex of regulations that falls under such heads as Handelspolizei, Gewerbspolizei, Victualenpolizei, to appreciate to what degree law-making in the economic sphere engaged the attention and energies of the council, and to realize what familiarity with the busy economic hive of the city was required—familiarity to be had only by close contact and incessant attention—in order to make these laws and give them effect. The council further had a considerable meas-

[41] Ibid., p. 275 ff.
[42] Ibid., p. 294 ff.
[43] See Chroniken, Nürnberg, vol. iv, pp. 378–379, where in the Jahrbuch for 1486, Deichsler the chronicler tells of his own appointment as "bettelherr," and the measures he took in office.
[44] Chroniken, Nürnberg, vol. v, p. 799.
[45] See Jahrbücher, passim, in Chroniken, Nürnberg, vols. iv, v.
[46] For examples, see Baader, p. 122 ff., and p. 191 ff.
[47] Chroniken, Nürnberg, vol. v, p. 799.
[48] Such, for instance, as that of Baader, cited above.

ure of responsibility for the ecclesiastical bodies within the walls. Even before the Reformation it appointed the provosts of the city parishes.[49] It deputed a councilman to have oversight of the relations of the municipality with each of the local religious institutions.[50] After the Reformation the council appointed the clergy, fixed their stipends and paid them, prescribed the ritual, and, in short, was bishop of Nürnberg.[51]

On the other hand an entirely different class of duties fell upon the same men by virtue of the fact that the city was in itself a state. The ring of masonry which was the shelter of their independence in a land of turmoil and lawless enmities itself imposed upon the community a care and an expense, and was a visible indication of the posture of defense in which the rulers of the city were perpetually obliged to stand. To command respect in the foreign relations into which the city was drawn by its far-flung commercial enterprises, and to give it a weight in the empire commensurate with its wealth and interests, the council had to prepare a military force and keep it in readiness. These offices were but preparatory to the far more difficult one of steering the city, a powerful free political factor, in the treacherous and changeful waters of imperial politics. The councilors had to be much more than village statesmen to measure up to the task. The council made its very first appearance in the act of joining the league of Rhine cities in 1256.[52] As another instance of its foreign activities, a delegation from its number was to be found conferring with representatives of other cities at Speyer in the spring of 1523, how best to thwart the plan of the estates to lay a tax on trade; and Scheurl, the ratsconsulent, was despatched as the plenipotentiary of the council, along with the deputies of Augsburg, Metz, and Strassburg, to interview the emperor in Spain and bring him around to their

[49] Chroniken, Nürnberg, vol. v, p. 781; Jahrbücher, Tucher'sche Fortsetzung, 1477.
[50] Chroniken, Nürnberg, vol. v, p. 800. Scheurl's letter to Staupitz.
[51] Rösel, pp. 460–461.
[52] Chroniken, Nürnberg, vol. i, p. xviii.

way of thinking.[53] Delegates of their number sat in the imperial diets.[54] The council waged war, entered into leagues and alliances, negotiated treaties with other powers. It was one of the appointed functions of the senior burgomaster to "receive foreign legates and messengers."[55]

This important place in imperial politics was not of a sort to let the minds of the councilors stagnate in local concerns. They were continually called upon to exercise judgment in affairs that looked beyond the city walls, and to shape the policies of a little state by considerations that were of moment to the whole empire, often to all Europe. The point that strikes us as curious and interesting is that these same men, without feeling that they were doing anything exceptional, could turn in the natural course of business "to deliberate how the extravagance [in dressing] children during Holy Week might be prevented;"[56] or to despatch a letter to the Bishop of Bamberg to say that in compliance with his request they had ordered the cobblers, "on pain of a definite penalty, henceforth to make no more peaks on the shoes."[57]

It has possibly seemed to take us afield to describe here the council and its multifarious activities; and yet the description is entirely germane to our study. The fact that such was the character of the council and such the extensive compass of its duties adds greatly to the significance of the paternal laws. They would have little or no interest if issued by some parochial body. It is the fact that a busy, capable, and important public authority like the Nürnberg council should for centuries feel it a grave duty to turn daily from interests of state to look into the wardrobe and the personal account-book of the citizen, to see to it that he did not indulge in vanity or extravagance or improprieties,—

[53] Rösel, pp. 444–445.

[54] Their deputation to the Diet of Worms in 1521 consisted of Kaspar Nützel, Leonard Groland, and Lazarus Spengler (ibid., p. 436).

[55] Chroniken, Nürnberg, vol. v, p. 790.

[56] Rats-Manual, 1499, April, quoted in editor's note, no. 5, Chroniken, Nürnberg, vol. v, p. 607.

[57] Briefbuch, no. 23, fol. 259, quoted in Chroniken, Nürnberg, vol. iv, p. 197, note 1.

it is this that makes the paternal regulation peculiarly significant as reflecting a theory of government and of life that is strange to our experience. One has to be always reminding oneself that it was not some consistory, some board of clergymen, with consciences professionally tender to the shortcomings of others, that made these regulations; but a body of men in the thick of affairs, whose daily business was of an importance and a breadth to school them in sagacity and to cultivate in them the broadest practical intelligence. The sumptuary laws were not the expression of sectaries or radicals or of men in an eddy, but of representative public minds.

CHAPTER II

Marriage Festivities

One of the major passages of life in which the citizen encountered the paternal action of the council was his marriage. Weddings are much the same in all ages; and the exchange of gifts, the feasting, wine, and music, the festive attire, and the lavish hand, expected as befitting the joyousness and the freedom of the occasion, offered a temptation almost impossible to resist; hence the city fathers were engaged from an early time in seeking to curb what they felt to be extravagance in these matters. In Nürnberg, legislation on the subject of weddings was the most complete of the varieties of sumptuary law previous to the Reformation. A review of it will serve to exhibit the nature of the sumptuary ordinances in general, at the same time that it tells its own story of the course of regulation in one important field.

The earliest regulations of weddings that have come down to us are little more than miscellaneous fragments. There is nothing by which to determine their dates except within very wide limits; and it is almost impossible to know anything of the order in which they appeared. The form in which they survive makes it difficult to draw conclusions whatever as to the conditions of their origin, unless it is this: that, although they appear on record in sequence as if articles of one ordinance they are clearly the products of a diversity of circumstances, and were made at different times.[1] We shall see that their piecemeal character is in itself of some significance. It sets them in interesting contrast with the comprehensive ordinance from

[1] The manner in which Dr. Siebenkees, in his Materialen zur Nürnbergischen Geschichte, vol. i, pp. 395–402, edits a large group of early wedding regulations is misleading. He calls them the "älteste," and dates them "ums Jahr 1340." This date is assigned without explanation, and upon scrutiny seems to be open to criticism. There is nothing on the face of the regulations to support the opinion that they originated

the close of the Middle Ages, the Hochzeits-büchlein of 1485, which we shall take as a sample of later wedding regulation. The absence of dates makes the order of discussion a matter of little consequence, but the haphazard and apparently occasional nature of the early laws would not be exhibited so clearly if they were to be arranged for description under topics. I have therefore taken them as they came in the records.[2] The detail which might be tedious in describing other kinds of law is lent a saving interest by its disclosure, in glimpses, of the social life of that old time. The picture is misty and obscure; to many of its meanings we have lost the key; but it presents to the imagination a hint of the forms in which some of the most intimate and lively of human experiences clothed themselves for the man and the woman who lived in a mediaeval town.

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at any one time, or within a few years. They are a miscellaneous series of articles, not classified, and sometimes contradictory in their prescriptions. They would seem to represent an accretion of provisions put in force at various times and thrown together for convenience of reference in the statute book. A number of the same regulations are printed by Baader (Nürnberger Polizeiordnungen) among ordinances of the "XIII and XIV centuries"; and he leaves the reader to infer that they ranged in date over a long period of time. Baader found them in a codex which was begun in the thirteenth century and continued in the fourteenth. The earlier entries, forming the body of the volume, extended no further than 1330. Additions, however, in the form of amendments or of fresh enactments, were made which date from 1325 to 1350. These, Baader tells us in his preface (p. 2), he has printed in parentheses. "Those ordinances," he says, "which, to judge by the writing, might come from between 1325 and 1350 I have enclosed in round brackets." All of those which are not enclosed in round brackets belong to the first half of the thirteenth century" (ibid., p. 3). Now only one of the articles inserted by Siebenkees "ums Jahr 1340" is bracketed by Baader. The remainder, according to Baader's notation, may have arisen at any time during the last half of the thirteenth century or the first quarter of the fourteenth. It is not even necessary to suppose that they were entered continuously on the pages of the original statute-book. Baader says of the provisions generally of this codex that "nowhere is a systematic order observed" (p. 2). "This," he says, "can only be established by the several indications scattered through the whole volume."

The Materialen of Dr. Siebenkees is in four volumes. Volumes i and ii and volumes iii and iv are paged continuously; but in spite of possible confusion, references to the separate volumes have been maintained.

[2] Certain exceptions will be necessary as noted.

One of these early regulations, like many of those which were to follow, was concerned with the attendance at the wedding. It limited the number of guests to twelve, six men and six women. A party of this same number might attend the bridal party to the church. If more were present, each was liable to a fine of ten pounds haller,[3] and

[3] A note on coinage, to elucidate the terms that occur in the text, is likely to muddle still more a confused and confusing subject, yet a word or two of the most general sort may be of help. The theoretical basis of currency was a pound of silver. Twenty solidi (schillinge) made a pound; 12 denarii (pfennige) made a solidus. These proportions hold in the currency of England today; and for a long time they obtained in the reckoning of Germany, amid infinite fluctuations of value. The denarius or pfennig was for a great while the commonest coin. The pound, and for the most part the schilling, were simply coins of account; that is, not actual but imaginary coins, used in reckoning values. In the eleventh century the mark began to take its place beside the pound. A Cologne mark contained 12 schillinge and 144 pfennige. The mark, in general, must be understood as a measure of weight, out of which at different times various numbers of pennies were struck. At the same time the pound remained constant; that is, it always consisted of the same number of pennies.

The denarius or pfennig circulated in Germany in various disguises of form and name. Half-pfennige, or even smaller fractions of the pfennig, were called Heller, after Halle, which was the "numismatic capital" of southern and western Germany. These are the "haller" of the text. They were adaptable little coins, and were used as a subdivision of the Florentine, and later of the Rhenish gulden.

The heller and the penny and the "Pfund pfennige," which were first measures by weight (pound of pennies) and gradually became standards of value, or "coin of account," all steadily depreciated, and it is extremely difficult to ascertain their value at any given time and place. For instance, in the fourteenth century it took 960, a century later 1200, pfennige to make up the value of a mark of silver.

Since the time of Charlemagne the silver standard had prevailed in Europe, but with the spread of trade in the age of the crusades, and as a result of the depreciation of the silver media, gold coins came to be demanded. In 1252 Florence coined its Goldgulden or Florin; in 1280 Venice its ducat; and these won their way through Europe by their purity and their constancy of value. From 1325 onwards gulden began to be minted in Germany. From the time of the Rhenish Münzverein of 1386, the German goldgulden were called Rhenish gulden in contradistinction to the silver gulden of Cologne, a coin of account. The German gulden suffered debasement, despite efforts to prevent it. Its ratio to foreign silver coins remained fairly constant, however, because of the high value of gold in the fifteenth century, due to its scarcity. The equivalent of the gulden in pfennige or heller varied as a result both of its own fluctuations and of theirs. See Handwörterbuch der Staatswissenschaften, vol. vi, pp. 839–877, s.v. Münzwesen (Mittelalterliches); Encyclopedia Britannica, 11th edition, vol. xix, p. 897, s.v. Numismatics; Engel and Serrure, Traité de Numismatique du Moyen Age, vol. ii, p. 524, and passim.

the host to the same penalty.[4] A second regulation was aimed at the extravagance of promiscuous interchange of gifts. All presents to friends in advance of the wedding[5] were forbidden, except in the case of mother and father on both sides and bride and bridegroom.

The remaining phrases of this provision afford a glimpse of a method which the council was using at this time to catch persons who were breaking sumptuary laws. Any one who learned that gifts were being passed, contrary to the law, was enjoined, whether he was under oath or not—that is, even if not a sworn officer of the city—to inform on the transgressors to the frager.[6] The specification that "no one on that account shall bear enmity" was probably intended to give the informer an immunity bath against the odium which he was apt to incur by tattling.[7]

Having bath-parties—that is, going to the public baths in companies for a good time—was forbidden by another of these early laws, except to the bride with two friends, and the groom with two of his friends. If more than these went, a pound haller would be exacted of each, and five pounds of the person who was providing the entertainment.[8]

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[4] Siebenkees, vol. ii, p. 396; Baader, p. 62.

[5] This is the meaning of "santunge, die man vor ze den hochzeiten tet." Santunge is old high German for Sendung (Schade, Altdeutsches Wörterbuch, s.v. santunga).

[6] The title of the two executive burgomasters of the month. See above, p. 17.

[7] Siebenkees, vol. ii, p. 397; Baader, p. 59. The fine for breaking the law regarding prenuptial gifts was five pounds haller. This fine is not large compared with those assessed for similar offenses. One might argue from the moderate fine that the offense was not extraordinary, surely not such as to require resort to unusual inquisition; and therefore that private informing was contemplated as one of the regular methods of trapping offenders. The specific mention and endorsement may have been given it in this law because it had fallen into disrepute, and needed a coat of legal whitewash.

In Siebenkees's text this provision is dated 1352, "festo sei Egidei." Some uncertainty is cast on this dating by the fact that Baader includes the article among the first, which are presumably the earliest, of the provisions which he prints, and that he does not enclose it in round brackets, by which we are to infer that it originated at some time before 1325.

[8] Siebenkees, vol. ii, p. 397. This section bears a trace of separate enactment in its beginning: "My lords and burghers of the council have decreed, etc.," instead of plunging straight into the matter with the usual "item."

On the night on which the bridegroom took the bride to himself no one was to sit down to a feast with them except immediate relatives, "fathers, mothers, fathers- and mothers-in-law, brothers and sisters, brothers- and sisters-in-law." Also on the morning afterwards a becoming (erleichen, ehrlich) meal might be provided, but no servants, nurses, or maids were to take part in either occasion. If these rules of the council were violated, the giver of the breakfast incurred a penalty of ten pounds haller, and every guest who came in spite of the law one pound. Out-of-town guests were as usual excepted.[9]

Another regulation forbade giving or sending anything to musicians who were not residents of the city. The "varnde man," as he was styled, was an important functionary in the mediaeval wedding, and to the last he figured in the ordinances. He led off the procession to the church with his tunes. He gave the measures to the wedding dances. His fiddling or piping was heard on the streets in the serenades rendered before the houses of the wedding party. By the ordinance before us the council forbade people to encourage out-of-town players, probably in order to save the city from being overrun with strollers. Violations were to be visited with a fine of five pounds haller per minstrel.[10]

A further section with regard to bath-parties appears. It was at the same time less severe and more attentive to details than the provision cited above.[11] It allowed the bride to take four companions to the bath with her, instead of two. But they were not to dance, before or after.[12]

[9] Siebenkees, vol. ii, pp. 397–398; Baader, p. 61. This provision also starts off with a formula of its own: "Our lords, the Schultheiss and the burghers in common of the council." Baader's text has besides: "-mit willen und wort der genannten der stadt Nürnberg." This formula, including the name of the schultheiss in the title of the legislative power, indicates the very early origin of the law (see above, p. 16). The inclusion of the genannten, the large council, is also of interest as indicating its participation in this kind of law-giving.

[10] Siebenkees, vol. ii, pp. 398–399.

[11] Page 35.

[12] "Rayen," reihen. Lexicographers think this was a special sort of dance in which the dancers joined hands (Grimm, Deutsches Wörterbuch, s.v. reihen). "Tanzen" is also used later in the provision: "rayet oder tantzte."

The guests at these bath-parties, men or women, were not to be asked home afterwards or to celebrate the party with feasting, drinking, or dancing. If these limitations were transgressed, the person responsible for the entertainment was subject to a fine of ten pounds haller, and one pound was exacted for each guest present in excess of the number permitted.[13] If a lady wished to give a party or a bath-party in honor of a wedding, she was subject to the same limitations. She might not entertain more than four women with the bride without risking a mulct of five pounds haller.[14] If any father wished to have his daughter conducted from church to his home after the ceremony ("Swer sein tohter haim ze haus füren will"), not more than six women were to be invited to walk with her.[15]

We have already met with a restriction on giving presents before the wedding season.[16] Another section related to gifts at the marriage. It was a prohibition. The council forbade giving or sending presents at a wedding or a baptism[17]—jewelry, money, or anything else. Both giver and recipient exposed themselves to a fine of five pounds. If it was a woman who offended, her husband was held responsible for the penalty.[18]

These regulations were framed to prevent involuntary expense, as well as wilful extravagance. Two articles regarding servants-in-waiting seem to be intended to keep down attendance at weddings. No woman might take with her more than one maid, unless she had with her a daughter who was her host's friend. She was liable for a fine of sixty haller for each additional maid.[19] The other article was more severe, and prohibited taking maids and men-servants to weddings.[20] In one of these early regulations an endeavor to maintain social distinctions may be

[13] Siebenkees, vol. ii, pp. 399–400; Baader, p. 62.
[14] Siebenkees, vol. ii, p. 400; Baader, p. 62.
[15] Siebenkees, vol. ii, p. 400.
[16] See above, p. 35.
[17] In the text is here inserted in brackets, as if an amendment, "nor to a monk or nun before or after."
[18] Siebenkees, vol. ii, p. 401.
[19] Ibid., vol. ii, pp. 401–402; Baader, p. 60.
[20] Baader, p. 60.

traced. It forbade serving-maids to take part in the "raien" or "tantz"[21] of the burgher ladies.[22]

Another enactment in regard to musicians amplified the one described above. It extended the law to the number of them that might be employed, and forbade giving a fee to more than six players at a wedding, or "senden varnde man und frawen mit einander;" finally, it forbade patronizing minstrels from out of town.[23]

There are a couple of provisions with regard to wedding presents. It will be recalled that gifts were wholly forbidden by a section that we have already encountered.[24] It would be of interest to know whether that or these were earlier, but there is no clue to the date. First, father-in-law and mother-in-law were forbidden to give their son-in-law a silver girdle. By the terms of an ordinance which is to be reviewed presently, a silver girdle was the gift which the bridegroom was permitted to receive on the bridal morning. Second, persons intending to make a gift were not to present the bride, in the matter of linen clothing, with more than a jacket ("rockelein") and a "mursnitz." Chemises one might give her to his heart's content.[25]

One section, which may be placed with reasonable safety after those on the same subject reviewed above,[26] is to the effect that, first, no one was to have an "open" wedding. This probably meant a celebration at which any one was free to drop in and satisfy his neighborly curiosity and his appetite. Further, it was made unlawful to feast or dance on the day of the wedding, in the morning or the evening. This prohibition was probably intended only for persons not of the family, for an exception was made of out-of-

[21] See above, note 12.

[22] Siebenkees, vol. ii, pp. 401–402; Baader, p. 60.

[23] Baader, pp. 59–60. Whether put in effect earlier or later, this provision shows no signs of correlation with that cited above, p. 36, and serves to illustrate the piecemeal character of this early legislation.

[24] See above, p. 37.

[25] Baader, p. 60. Other sections printed by Baader in this group relate to the dowry. Two are clothing regulations, and will be treated later.

[26] It is enclosed by Baader in round brackets, and is thus indicated to have arisen, in his opinion, somewhere between 1325 and 1350.

town guests, which would mean nothing unless a celebration of some sort went on. A party might be held, and friends invited to join it, a fortnight after the wedding. If at the time of the wedding anything to eat was given to any one but the household servants, the host risked the infliction of the comparatively heavy penalty of one hundred pounds haller, and each of the unlawful eaters a fine of ten pounds.[27]

In one of the documentary collections is printed a series of wedding regulations which are less disjointed than those we have been considering, and have more the appearance of a homogeneous ordinance.[28] There are no points of similarity that link them with the miscellaneous provisions described above. Either they treat of new matters, or of the old in a new way. The only coincidence is in the prohibition of eating and drinking at bath-parties. They relate entirely to parties and gifts.

At the outset a flat prohibition was laid by these regulations on serving anything to eat at a wedding, in the house or out of it. Further, a sort of "closed season" was

[27] Siebenkees, vol. ii, pp. 395–396; Baader, p. 62.

[28] There are on the surface of the articles that make it up certain evidences that they were issued as a single law: (1) That of the title, quoted by Siebenkees from the manuscript: "Von Hochzeiten, alz der Rate Schepfen und die genannten gelobt haben." (2) Each of the sections after the first refers to the preceding for the amount of the fine, in the terms, "Under the aforesaid penalty." (3) In the final section, relating to application, the person who wished to have a wedding was instructed to come and read the "above-written law."

The fact that the fines and values named in this ordinance were assessed in gulden, while those of the regulations reviewed above were expressed in pounds haller, is possibly evidence that it was of later origin. The gulden came into use as a common measure of value long after the pound, which had been the usual silver coin of account from the time of Charlemagne (see above, note 3). I have not been able to discover when gulden began to circulate as familiar currency in Nürnberg, but it was probably not until after the German goldgulden were minted; that is, about the middle of the fourteenth century (see Handwörterbuch der Staatswissenschaft, vol. vi, pp. 845–846, s.v. Münzwesen). It is possible, of course, that this ordinance is a sporadic instance of the use of the gulden to measure fines, one which might have occurred at any time during the period of the regulations noted above; but the chances of this are less in proportion to the range of years over which those extended. An example of the use of gulden would be very likely to crop out among them in a long period, if gulden and pounds haller were used indifferently. But not a single example occurs among them. If this criterion is worth anything, the ordinance above belongs to another period, probably a later one.

decreed, to extend two months before and two months after the wedding, in which it was forbidden even to send anything to eat out of the house, in the shape of dainties, fish, or game, whether raw or cooked. Certain exceptions were made, however, so that it was possible to provide entertainment for the bride's or bridegroom's father and mother, for guests who came in from the country with bride or groom, and for musicians. When it came to assessing the penalty, the proportions that held in the other regulations were reversed, and the host was required to pay one gulden, and the eaters each ten, for transgression.[29] If any one wished to have a party with maidens present, he was to give them nothing but fruit to eat and wine to drink; the young ladies were not to stay all night for the wedding; and not more than six of them were to be present.

The authorities seem to have been troubled by the excess of festal celebration that took place, not merely in the nuptial season proper, but afterwards. It had perhaps become the custom and socially obligatory to follow the wedding with a round of parties which imposed a great deal of expense. This law allowed persons who had betrothed their children or given them in marriage, and their friends, to have but a single party during the half year after the wedding, and to invite to this ten persons, not more.[30] The law further provided that "not geld" (probably fee or tip) might not be bestowed or received. Exception was made in favor of the household servants. To these one might give moderately. In the way of refreshments, no "dresene" [31] or confections might be served without incurring a penalty.[32]

In the part of the ordinance that relates to gifts one may trace the beginnings of the amplified provisions of

[29] Siebenkees, vol. iii, pp. 371–372.

[30] Siebenkees, vol. iii, p. 372. Compare with article noted on p. 39, where permission was given to have a party a fortnight after the wedding.

[31] The meaning of the word seems to be lost. It is probably the "trysanet," spiced drink, of the Hochzeits-büchlein. See below, p. 57.

[32] Siebenkees, vol. iii, p. 373. These last two articles are the first appearance of regulations that were carried into great detail in the Hochzeits-büchlein, promulgated a century later.

the later law; or, let us rather say, here one may see reflected the same social customs as there. The ordinance starts from a base level of absolute prohibition. At betrothals and weddings (and note here that the betrothal is for the first time brought under supervision) no gifts might be exchanged. But exceptions were made. When one took a wife, or gave his son in marriage, he might bestow upon the bride a brooch ("heftel") worth not more than ten gulden, and a girdle weighing not over three marks. The bridegroom, on the other hand, might be presented with a three-gulden jewel,—nothing more handsome. The morning after the marriage the bride might receive two silver bowls, of five marks weight; and the bridegroom, in his turn, a silver girdle of four marks, "with fülle, borders and all." The limitations on the weight of the bride's girdle and on the value of her brooch are repeated as if for emphasis.[33]

A most interesting feature of this ordinance is the series of provisions for its enforcement. The person who expected to have a wedding in his house had, in order to refresh his mind in regard to the requirements, to go to the rathaus and read the laws as written, and give his word of honor ("sein trew geben") to a burgomaster that he and his wife and all who acted for him would observe them. Failing to do this, he was liable to the heavy fine of one hundred gulden.[34] All upon whom the hand of the council was laid in official relations were bound by oath to obedience. "Schepfen, Rate und die genannten,"[35] and after them the head-officials [hawptlewte] and their subalterns [untertan], all must take the oath that in connection with weddings and baptisms, and to persons who were to take religious vows, they would give nothing in jewels, money, or the like, except as the law permitted. The final section seems to

[33] Siebenkees, vol. iii, pp. 373–374.

[34] The words of the text run: "der muste geben hundert gulden in an die stat, zu der vorgeschriben puzz, die vor bey den gesetzen steet." It is not clear whether this means a lump sum of 100 gulden in addition to the penalties, or instead of the penalty assessed in each case the greater penalty of 100 gulden.

[35] That is, the members of the greater and smaller councils.

have reference to other regulations besides those of the ordinance in connection with which it here appears. It runs: "And with regard to the above-written mandate concerning christenings and weddings and wine and bread all Rate, Schepfen and all genannten have given their word that they will keep the same, and each of their wives shall also give her word that she too will keep them; and those who are not named, they also shall keep the above-written mandate under the penalty which is set therein."[36]

Such, as we have reviewed them, were the points at which one who was married in Nürnberg during the thirteenth and fourteenth centuries was likely to feel the restraints of the law. These will support few generalizations as to the tendencies of sumptuary regulation during the period over which they extend. Seeking lines of development, one is baffled by the absence of dates. As has already been noted in reviewing them, the evidences of their order of enactment are few and treacherous, and will not safely support inferences as to their evolution. One is confined to noting a few characteristics. These will be reinforced and will gain in interest as we go on to examine later sumptuary legislation.

(1) The very fragmentary character of the early laws, which makes them so hard to treat, is significant. In lack of detail and of comprehensiveness they are in contrast with later enactments. Instead of canvassing thoroughly in one law all the events and usages likely to give offense during the nuptial season, and directing how each should be or should not be carried out, they singled out for prohibition or restriction certain practices which called forth disapproval, perhaps as innovations, perhaps as old observances that had run to excess. There is apparently no correlation among the provisions. Until we come to the gulden-ordinance (I have chosen to call the last ordinance reviewed above by this name for convenience of reference) the legislation seems haphazard; and the form it took and surface indications suggest that it increased piece by piece as abuses

[36] Siebenkees, vol. iii, p. 375.

called it forth, or as their persistence seemed to require repetition or modification of the law.

(2) These early regulations are in conspicuous contrast with those of the late fifteenth century and after, in directness and simplicity of statement. None of them has a preamble. They entirely lack the elaborate self-conscious explanations that accompany the later ordinances: the declarations of the motives of the council; the references to excesses and abuses that had provoked new legislation or seemed to call for a sharpening of the old; the frequent invocation of moral and religious sanctions. They restricted or prohibited in bare, matter-of-fact statements, and assigned no grounds or reasons. In this respect, of course, the sumptuary legislation of the time was not peculiar. The same directness shows itself in contemporary law-making in other spheres; and in this, too, as time went on, there were increasing complications and more frequent references to conditions and reasons.[37]

(3) The motives which, in the absence of explanatory phrases, may be argued from the nature of the regulations themselves were comparatively simple. The council might have had in mind "protection of the home industry" when it forbade the burghers to patronize any but resident musicians, though its main object was probably the simple one of preventing the city from being infested with strolling singers and players. In one of the regulations—that which forbade serving-maids to dance in the dances of the burgher ladies—there may be a trace of the motive which was to become so prominent later: the desire of the council to preserve intact the lines of social stratification. But in the remaining regulations the aim appears to have been the fundamental one of keeping the expenditures of the burghers and their indulgences within limits which the observant city fathers considered necessary to the good order and the welfare of life. Perhaps these limits were suggested by old usage, which, as departures from it occurred with the change of times and the increase of wealth, seemed to the

[37] See Baader, passim, and contrast the laws of the thirteenth and the fourteenth century with those of the fifteenth.

council to call for definition and formal statement in the laws as the metes and bounds of propriety; but this idea, in the absence of commentary, can be only a surmise. On their face these early articles are paternal regulations of a clear type. The festal practices which were restrained by them were put in legal hobbles not as a measure of police regulation in the modern sense, not because they threatened public peace and order, but because to the fathers of the council they did not seem good for the burghers whose lives they had in charge and whom they felt a responsibility to restrain from excess.

(4) If the gulden-ordinance may safely be given a later date than the other ordinances, certain differences from them which it displays may be taken as foreshadowing some tendencies of development. The gulden-ordinance covered with somewhat closer particularity the two subjects of which it treated—wedding parties and gifts. The fact is not so marked in the section relating to parties as in that regarding gifts. In one of the regulations prior to this one, a party at the house of the wedding two weeks afterwards had been permitted; in another a family party on the night of the wedding, and a moderate feast the next morning.[38] In one article bath-parties had been limited in the number of guests to two men and the groom, and two women and the bride; in another to four women with the bride, with a prohibition of eating and dancing afterwards.[39] This had been the extent of the regulation of parties. The provisions of the gulden-ordinance partly supplemented these and partly crossed them, and were a little more specific. They forbade serving anything to eat at a wedding, in the house or out of it, and they fixed a period, extending from two months before to two months after the wedding, in which it was unlawful to send anything to eat out of the house, in the shape of dainties, fish, or game. Friends were permitted to have but one party in honor of the wedding during the half year after it occurred, and to this they might invite ten guests. Regulation of refresh-

[38] See above, p. 36.
[39] See above, p. 35 and pp. 36–37.

ments that mentions the names of the dishes appears for the first time: it was forbidden to serve dresene or confections; and if a party at which maidens were present was held the night previous to the wedding, the guests were to be refreshed with nothing more than fruits and wine.[40]

A greater particularity of regulation is not so hard to trace in the paragraphs that deal with gifts. The law on this point as it stood previous to the gulden-ordinance laid a flat prohibition on giving or sending presents at weddings or christenings—"jewelry, money or anything else," in one article;[41] in a couple of others the council laid its hand on fathers- and mothers-in-law desirous of giving their sons-in-law silver girdles, and forbade presenting to the bride more in the way of linen clothing than a jacket and a mursnitz, while allowing the giving of chemises ad libitum.[42] The gulden-ordinance likewise started out with prohibiting at a sweep all exchange of gifts at betrothals and weddings, but it proceeded to make exceptions much more liberal and specific than those of former laws. It allowed the father-in-law or the bridegroom to present the bride with a brooch, the price of which it set at ten gulden, and a girdle which might weigh three marks. It privileged the bridegroom to receive a jewel worth three gulden. And on the morning after the pair had been united, the lady might without risk of the law be the recipient of two silver bowls, of five marks weight, and the groom of a silver girdle of four marks.[43]

The gulden-ordinance differs only a shade from the detached regulations which, on the assumption we are making, preceded it; but the differences which it does present are in the direction, first, of a better coordination of the articles; that is, of comprehensive regulation of a number of points in a single ordinance, instead of occasional and more or less haphazard restrictions; second, of greater particularity; third, in the part dealing with gifts at least, of less drastic, though perhaps more watchful, regulation.

[40] See above, p. 40.
[41] See above, p. 37.
[42] See above, p. 38.
[43] See above, p. 41.

CHAPTER III

The Hochzeits-büchlein of 1485

In the Hochzeits-büchlein of 1485[1] we are to see the developments of a more advanced stage of sumptuary legislation. From the completeness of the ordinance, and from the fact that several of the previous provisions of which we have record are to be found imbedded in it, the Wedding-manual would seem to be a codification, perhaps with amendments, rather than an entirely fresh enactment. Such is more likely to be the case since at this particular time overhauling the law was the order of the day at Nürnberg. Just in the year before the council, with the help of jurists, had finished subjecting the whole body of the civil law and legal procedure of the city to what was called a "Reformation," and had codified it.[2]

Whatever the circumstances under which it originated, the Wedding-manual of 1485 is in striking contrast with the regulations of earlier date in the matter of completeness. It is a series of articles, arranged by chapters, which, instead of merely selecting certain abuses for correction, visited with restriction apparently every form of expenditure, every sort of festivity, that could arise in connection with a wedding. From the celebration at the time of the engagement to the tips and the doles of wine lawful to give to the servants and attendants, nothing, it would seem, was exempted from supervision. The ordinance apparently was intended to serve as a complete manual of the law with respect to weddings, revised and brought up to date.

[1] The Hochzeits-büchlein, literally the "Wedding-manual," of 1485, is printed in Baader, pp. 71–73, and in Siebenkees, vol. ii, pp. 449–485. The texts are somewhat differently arranged, but are substantially the same. I have referred only to Siebenkees in the following chapter.

[2] D. Waldmann, "Nürnberg Rechts-'Reformation' von 1484," in Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. xviii (1908), pp. 1–98.

There is other evidence that this was its purpose in the fact that it remained the staple and basis of legislation on the subject as late as 1557, perhaps longer. Subsequent enactments, as we shall see, were incorporated in it, and served to brace it at weak points or to repeal provisions with which improper liberties had been taken. It "was renewed, bettered and changed the 7 Feb. 1526," according to the title which it bears in Siebenkees's text. It seems still to have been in effect and subject to another revision in 1557.[3] In an entry in the "Aeltermanual"—the journal of the seven elders—on December 13, 1599, the lords of the council detailed for the purpose were instructed, in the course of making a stricter application of the new "hoffarts-ordnung," to "proceed with the wedding ordinance and cause certain ladies of honorable rank [ehrbar] to see a copy of the same."[4] Whether this is the Hochzeits-büchlein of 1485 still in operation or not, the passage at least indicates that after this publication the law with regard to weddings continued to stand in the form of a single comprehensive ordinance, and had not relapsed into the straggling regulations which seem to have been the rule before the promulgation of the Wedding-manual of 1485.

A much greater variety of matters was brought under regulation in the Wedding-manual of 1485 than in previous laws; but this fact cannot be taken as due entirely to a stricter paternal attentiveness of the council to details of personal conduct. Another cause must be taken into account, in the case of this as of all the sumptuary legislation. The interval between this ordinance and those described in the previous chapter was a period in which wealth had been increasing in Nürnberg at an unprecedented pace. The city had shared with Augsburg, Ulm, Regensburg, Frankfort, and Strassburg, the famous southern circle of towns that stood on highways leading across the Alps to Italy, the profits of the commerce with Genoa,

[3] Siebenkees, vol. ii, p. 460, where the editor refers to a clause as "inserted in the revision of 1557."

[4] In Mitteilungen, vol. vii (1888), p. 274.

Venice, and Milan, and through these ports with the Orient; and in the fifteenth century they were at the summit of their prosperity.[5]

Nürnberg had risen very rapidly in commercial importance by reason of its location. It was at one of the cross-roads of Europe. It stood between the two great streams that floated the bulk of German commerce, the Rhine and the Danube; and it was also on the route from north to south, transmitting the traffic between the Mediterranean and the Baltic. In the fourteenth century it had already developed substantial trade connections with the Rhine valley and the Netherlands on the one side and with Bohemia, Hungary, and Poland on the other. It was dealing in the spices of the Orient which came up from Venice, and distributing to the Slavic borders and to Italy the linen and cloths of Flanders and the furs of the North. But it was in the fifteenth century that the commerce of Nürnberg rose to its climax, and the wealth in which it issued accumulated in great personal fortunes. It was then that the merchant princes built the houses which, "with their spacious courts encircled with columned galleries, and with their richly panelled chambers and their ornate oriels and turrets," caused Aeneas Sylvius, visiting the city about the middle of the century, to exclaim that "the kings of Scotland would consider themselves fortunate if they could live like a simple citizen of Nürnberg."[6] The councilors, who were themselves the leading merchants and had a great stake in the matter of commerce, were able to secure advantageous terms of intercourse with the principal cities and powers of the empire. A lively exchange developed with the Hansa cities of the North. Old relations with the Rhine and the Low Countries were cultivated vigorously and multiplied. Nürnberg had its permanent depots, under the superintendence of members of the families of Ebner, Tucher, and Scheurl, in Lyons and Paris; and the enterprise of its merchants had planted commercial houses

[5] K. G. Lamprecht, Deutsche Geschichte, vol. v, part 1, p. 62.
[6] Rösel, p. 299.

in far-off Lisbon, at the portal of the great trade which was to open with the yet undiscovered West.[7]

Furthermore the group of southern cities to which Nürnberg belonged, in contrast with the purely commercial Hansa cities of the North, began in the fifteenth century to be centers of industry as well as marts. As early as this period their manufactures had reached a phase of development in which the distinction between day-wages and piece-wages was familiar, and the division of labor had gone on to a considerable degree. It was a time when the merchants, as we have seen, were amassing great fortunes; but not only they were benefiting by the multiplication of wealth. If we are to believe Lamprecht, after the turn of the fifteenth century the artisan had been increasingly able to put aside a surplus above his working capital, and became increasingly better off; a fact witnessed by the great numbers of small dealers, trading on their own capital, which appeared early in the fifteenth century.[8]

Men of all classes, it would seem, were better off. They were coming into possession of means to satisfy the elastic range of appetites that stretches beyond the demands of necessity, in meeting which demands all their energies had formerly been absorbed, and we are not surprised to hear that they adventured freely in their new pleasures. As the century wore on, a departure was noted in many quarters from the simplicity and frugality of the old times. What seemed to the conservative reckless luxury and extravagance broke out in the life of the cities. The years just previous to the Reformation were stigmatized by such humanistic critics of manners as Wimpheling, Erasmus, Sebastian Brandt, and Geiler von Kaiserberg as the most luxurious and self-indulgent epoch that had occurred in German history.[9] Whatever we may say of the power of the change to corrupt, which was the aspect of it that concerned our

[7] Ibid., pp. 290–303.

[8] Lamprecht, vol. v, part 1, pp. 68–72.

[9] See Janssen, vol. ii, pp. 62–67, for pertinent quotations from the critics and satirists of the prevailing luxury.

informers, it was a change certain to involve a departure from the style of living of more frugal times, and to introduce a life of multiplied tastes, wants, and enjoyments. One turns from the earlier regulations to the Wedding-manual of 1485 to see at once this greater complexity of life reflected in the law. The numbers present at the parties, even as permitted by the law, were much larger; the gifts that might be given were more costly and numerous; and there were mention and regulation of ways of celebrating the nuptial season, the appearance of which in the statute cannot, in view of the change of the times, be charged up entirely to more diligent paternalism on the part of the council.

In the preamble of the Wedding-manual of 1485 the council declared that its object in framing the statute was to reach with the wedding laws the lower ranks of the population. It had passed laws and set penalties to restrain extravagance at betrothals and weddings before, but these had been "operative only against the well-to-do."[10] "The common man" had been exempted in them; the result was that "manifold injury and mischief" had come to him "in the interruption of his work with processions to church, feasts, gifts, donations and other display." To avoid this injury and secure "a just uniformity among their subjects," the council enacted the provisions of the ordinance, to be observed without distinction.[11]

It is very interesting to find that up until this late date only the upper classes, perhaps only the "ratsfähige Geschlechter," the families eligible to the council, had been subject to the wedding regulations. The reason why the "common man" had been left unregulated may well be that he had not had the means to offend. On the eve of the Reformation it was the merchants who figured in the eyes of the humanist-preachers as the chief sinners against the old simplicity. It was the soft raiment, the luxurious

[10] "Statthaftig," in mhd. "wohlhabend"; in some parts, "ratsfähig."

[11] Siebenkees, vol. ii, pp. 449–450.

tables, and the sumptuous living of the merchant class that drew their shafts of sarcasm and rebuke.[12] It was inevitable that the lower classes should imitate the bourgeoisie as soon as they had the means. It seems to have taken a good while for the shower of wealth to filter down to the lower strata of society; or else the taste for the new enjoyments that were put within reach was slow to awaken among the artisans; for Wimpheling could write in the last days of the fifteenth century that "the least affected by the growing spirit of luxury are the working class and the peasants, who continue to live in the simple style of their fathers."[13]

But the ferment spread at last; and early in the new century the moralists and the civil authorities began to deplore with increasing frequency the obliteration of social distinctions in dress and manners, the affectation by the lower classes of clothes and usages proper to their superiors; and we shall find that the sumptuary laws paid increasing attention to maintaining the lines of classification. Just when the infection of luxury began to manifest itself among the artisan class in different cities would be hard to determine; but it was probably in view of the early symptoms of it in Nürnberg that in 1485 the wedding regulations were extended to embrace "the common man." The council had become aware of a change, and had realized that the artisan, for the first time financially in a position to do so, was overstepping the limits of a due moderation, and would henceforth require the same curbing as his wealthier fellow-citizen. It is important to notice that the change was as yet apparently in its incipient stages; the council saw fit to bind the artisan with the same restraints, and not yet, as it would later, to discriminate between him and his social superiors, binding him with the stricter limitations.

For convenience of analysis we may break the Wedding-manual into three parts: (1) the regulations relating to the betrothal, and the events and observances that occurred

[12] See quotations in Janssen, cited above, note 9.

[13] Janssen, vol. ii, p. 62, quoted from the close of "De arte impressoria."

before the wedding; (2) the prescriptions relating to the wedding proper, and to the parties, dances, gifts, employment of helpers and musicians, and so on, that attended and followed it; (3) miscellaneous.

In reviewing each of these rough divisions our interest will be occupied in observing, first, the treatment of matters that are not handled in earlier statutes, and the possible reasons why they are now taken up; secondly, the reappearance of the old provisions, and the tendency, if any is perceptible, of the modifications in them. Certain sections of the manual represent changes made after it was put into effect. These will be reserved for consideration in the discussion of the ordinance in its relations with the Reformation, where they become especially significant.[14]

The public announcement of the betrothal, the "lautmerung," as it was called, was almost as important an event as the wedding, and a variety of festal practices had gathered about it which are first revealed in the terms of this ordinance of 1485. Upper limits were set upon the number of guests to be admitted at a series of parties accompanying the celebration, and even the kinds of refreshment to be served were specified. A formal ceremony of some kind seems to have been observed first. The law required that this should take place at home or at the rathaus, and forbade its being performed in a monastery. It might be witnessed by a company of men and women, which the law limited exactly to thirty-two, sixteen for the bride-to-be, sixteen for the man. When this rite was over, the groom might gather a band of his friends, the number of which was fixed by the law at seventeen, and go to wish the bride happiness, "zw der preut gen und Ir glücks wünschen." The statute declared with singular liberality that any one who fell in with the party on the way without an invitation was not punishable. The bride was permitted to show her appreciation of these attentions by regaling her visitors with native or Rhenish wine, or other wine of the same grade—with this and nothing else. The council would

[14] See below, Chapter IV.

seem to have been careful to provide against the possible dulness of a party all of men by its permission to the bride to invite a couple of girl friends (or, if she should be a widow, two matrons) to meet her betrothed and his comrades.[15]

The particularity of the law is evident in the completeness of the picture it furnishes. After the "glückwünschen" of the men, the bride-to-be and her two friends might be visited for further congratulation by women to the number of twenty-four—half of them on the part of the bridegroom, half on the part of the bride. Those who came on the groom's behalf might bring gifts to the bride, provided these observed the limits of the articles on gifts. The company of women visitors, like the men, were to be refreshed with nothing but inexpensive wine.[16] Still the round of entertainments recognized by the law was incomplete. On the evening of the announcement the bride-to-be might have her betrothed and two friends of his to dine, and with them two women friends of hers, to pair off, it is to be presumed, with the extra men. The menu was to include nothing more than what was permissible at the wedding dinner; and the law intruded this further restriction on this little dinner party—that the women guests were not to stay all night. The law seems liberal in all its provisions, at least when compared with the older regulations of parties;[17] and its pressure was further relaxed by the clause which declared that brothers and sisters of the betrothed couple, with their husbands and wives, were not to be counted in the number of guests. The penalty was moderate—five gulden for breaking any article.[18]

In the regulation of serenading on the night of the betrothal-announcement we come upon the first provision avowedly made to reduce to the normal a new situation. In its foreword the council complained of "a new unnecessary extravagance" that had arisen. Fellows were

[15] Siebenkees vol. ii, p. 451.
[16] Siebenkees, vol. ii, p. 452.
[17] See above, pp. 36–40.
[18] Siebenkees, vol. ii, pp. 452–453.

in the habit of going about the streets serenading their friends with the "city-pipers," in honor of the betrothal and the bride, and costly things to eat and drink were passed out to them. The council ordered this refreshing of musicians stopped. The serenading was allowed to go on under certain conditions. The person who was arranging it might "bestow a moderate tip but not more than a Rhenish gulden."[19] As for refreshments, he might give the musicians and the persons invited to the serenade fruit, cheese, and bread to eat, to be passed around once and not oftener; also native or Rhenish or other wine of the same quality to drink, in discreet measure, and nothing else.[20]

Gifts were presented at the lautmerung as well as at the marriage, and restrictions upon them similar to those of the gulden-ordinance are imposed by the Hochzeits-büchlein. In the old prescriptions the gifts permitted to be given at the betrothal had been simple and modest: a brooch worth not more than ten gulden, and a girdle weighing not over three marks for the bride, and a three-gulden jewel for the groom.[21] According to the Wedding-manual, they were to be a silver brooch, and a chain for the bride—a chain instead of a girdle perhaps because of a change of fashion. The values permitted had been scaled up somewhat. The brooch might be worth from fifteen to twenty-five Rhenish gulden, the chain fifteen gulden.[22] Besides these things the law allowed the bride to receive from the hand of her betrothed an engagement ring, "the maiden-ring, as one calls it"; but even in this matter of sentiment the council interposed, laying down the condition that the ring was not to be worth over ten gulden. So, again, when they went to the church, the bridal pair might exchange wedding rings; but these, with the stones, might not, with-

[19] See above, Chapter II, note 3.
[20] Siebenkees, vol. ii, pp. 453–455.
[21] See above, p. 41.
[22] The gulden had depreciated, and the whole difference in value, therefore, cannot be taken to measure a permission to use costlier jewelry.

out risk of public penalty, cost more than from ten to fifteen Rhenish gulden.[23]

The provision of the older laws that on the morning after the bridegroom had taken the bride to himself the bride might receive from him or his friends two silver bowls of five marks weight,[24] was altered only by the qualifier that "other jewels gilded or not" of the same worth might be substituted for these. Her gift to him of a jewel was not mentioned, probably because it was no longer customary. Other customs are reflected, however, in the paragraph which forbade her or her friends to make presents of any kind of shirt or garland to the friends of the groom, to the bridal-escorts, the inviters, the servants—to any one except the groom himself. Him she might present with a shirt, and a bath-suit, and, according to a clause apparently thrown in later, a bonnet of prescribed value. Also within the privilege of the law she might bestow upon the bridal-escorts and the dance-bidders a cheap garland apiece, "without ribbons and without other costliness." The fine if she broke these articles was five gulden, while that for infraction of the other regulations of gifts was twenty gulden.[25]

There is a clause with regard to the manner of inviting to the dance interesting only as adding a detail to the picture of old manners which shows so distinctly through this law. The "tanzlader," the inviters, were each to have not more than three horses, and the "hegelein,"[26] the fool, only one, as they went about giving the invitations. A fine of three gulden was to be inflicted for each additional horse.[27]

[23] According to a provision which appears only in Baader, p. 73, and which may have been of earlier or later date, the engagement ring was to cost only eight gulden; and the bridegroom was to give his fiancée nothing in addition to this and the brooch and the gold chain, till he led her to the church; then, according to the old custom and tradition, the wedding-ring, customary for the couple to give the one to the other in front of the church, was exchanged.

[24] See above, p. 41.

[25] Siebenkees, vol. ii, pp. 455–458.

[26] The municipal fool was called "hegelein," "hängelein," from the shields with which his official garments were hung.

[27] Siebenkees, vol. ii, pp. 458–459.

The provision with regard to tipping was more particular than the old sweeping prohibition of it except "in moderation" to servants in the house.[28] It prescribed exactly the amounts lawful to bestow. The bride, and any one acting in her behalf, might not give to any one who did the bridegroom a service in connection with the betrothal more than fifteen pfennige. When the bride and the groom were given a dinner for the first time in honor of their engagement, they were not to bestow more than fifteen pfennige as a tip. But this was a special concession. Other persons at such a banquet, or at any other, must observe the custom of the city, and give as a fee not more than two pfennige.[29]

Looking back over this first group of regulations, one can find little to signify either a greater strictness or a greater leniency of supervision. More points were brought under regulation, to be sure; but when we remember the complication of life and its enjoyments that must have taken place since the earlier legislation, we cannot be certain that the greater particularity meant a more inquisitorial attitude of the city fathers. Perhaps when all discounts have been made, we may take this part of the ordinance as somewhat more liberal than the earlier laws. It was certainly so in letter, if not in spirit; and it was decidedly more comprehensive and systematic.

When we come to the wedding itself, again the variety of events was greater, and the particularity of regulation was such that we obtain a detailed portrayal of what took place. The procession to the church was permitted to be a much larger affair than formerly. The spare dozen of the old time were increased to forty-eight—half, as before, on the part of the bride, and half on the part of the groom; and the procession might be swelled by any out-of-town persons who had come especially for the wedding.[30]

The feasts in connection with the wedding were subjected to elaborate supervision and restriction. First of all the attempt was made to repress a practice that had newly

[28] See above, p. 40.
[29] Siebenkees, vol. ii, p. 459.
[30] Siebenkees, vol. ii, p. 460.

arisen. It seems that it had become a custom for the bridegroom to gather his comrades in a stag-party at "the cook's" ("kochen"), or a tavern. The council, without remark except to say that the practice was an innovation, ordered it abandoned, under a penalty of five gulden.[31] The provision of the older law which forbade inviting any one to the wedding feasts except immediate relatives and out-of-town guests was repeated.[32] It was softened by the qualifying clause, that in the absence of father or mother, or both, other persons might be invited to take their places. The fine for making the feasts anything but family affairs was comparatively heavy—twenty gulden.[33]

The council dealt in particulars and used the language of the caterer when it undertook to regulate the dishes that might be served. It specifically ruled out partridge, hazel-hen, pheasant, "norhannen," grouse, peacock, capon, either boiled or roasted, venison, heron, fish, and wedding herbs. A roast capon might be served on a side table, without danger of fine; and if there was any one present who could not eat meat on the day of the wedding, a dish or two of fish might be especially prepared. The penalty one risked in offering these unlawful delicacies was twenty gulden.[34]

The two items of the older regulations with regard to giving confections and notgelt[35] turn up in this ordinance, united but little modified. Neither spiced wine nor serenade money was to be bestowed at the wedding, except upon the house servants a gulden or less.[36] The prohibition in the old law of sending out of the house anything to eat or drink was reiterated. Perhaps the quarter in which it had been most violated is pointed out by the specification of the organ as a place at which one was to serve nothing to eat and bestow no fee. An exception was made of the warder at the door of the parish church into which the

[31] Siebenkees, vol. ii, pp. 460–461.
[32] See above, p. 36.
[33] Siebenkees, vol. ii, pp. 461–462.
[34] Siebenkees, vol. ii, p. 462.
[35] See above, p. 40.
[36] Siebenkees, vol. ii, p. 462.

wedding passed; one might give him a measure of native wine. The whole provision was probably intended to save the bridal party the cost and the annoyance of having to give tips and doles of food and wine to all the doorkeepers, sextons, janitors, and so on, who would put in a claim of service and make a draft in their own favor on the good-will of the season. The council gave the bridal party a legal refuge in the case of the city servants when it prohibited tipping them except when they did a definite service, and then only to an amount which it prescribed. When there were two of them or more, the fee was not to exceed one gulden; when there was but one, nine haller was the limit.[37]

The ordinance skipped from one thing to another somewhat at random. From its excursion into the regulation of tips it returned to the question of refreshments. The menu was visited with the official blue pencil; the drinks were regulated by affirmative prescription. The wines were to be Franconian, Rhenish, or others of the same grade, and only such. The fine was the high one,—twenty gulden.[38] There was even exact provision as to "what one may give the dance-bidders to eat and drink"; namely, to them and their attendants at a breakfast one or two boiled chickens, and with these wine of the permitted quality.[39] If in any respect this ordinance shows decided advance in particularity, it is in these prescriptions with regard to eating and drinking.

The guests at the wedding feasts were limited, as we have seen, to the family and out-of-town people. After the feast, however, one might invite in to dance whomever one wished. But the council laid it down as a condition that these guests at the after-dinner party were to be refreshed with nothing but fruit and confection, and wine of the permitted sort.

The simple provisions regarding musicians in the old statutes, to the effect that only such as were resident in the

[37] Siebenkees, vol. ii, pp. 463–464.
[38] Ibid., pp. 464–465.
[39] Ibid., p. 466.

city should be employed, and not more than six of these, appear in the Wedding-manual considerably amplified. By its terms the only musicians or funmakers one might employ were either those who came from the country with bride or bridegroom, or else those wearing the escutcheon of the city, together with the fool. This fool and the musicians who wore the city coat-of-arms seem to have been regular servants of the municipality, and were kept on hand for state occasions, and for the use of bridal parties, with the other wedding paraphernalia described below—like the livery and the colored waiters of a modern catering establishment. Should a prince happen to be in town on the wedding day, the law permitted giving his minstrels refreshments if they visited the wedding. Provision was made for the person who did not desire, or was not able, to hire the minstrels that wore the city emblazonry; he was left free to have in their stead one, two, or three others.[40]

On the wedding day a treat or "schenck" was permissible. Again the greater size of the wedding parties is apparent. Thirty-two men might be invited, besides strangers in town for the wedding. The law strictly prescribed the refreshments: fruit, cheese, and bread, and simple wines to drink—native Franconian, Rhenish, or others of the same quality. If the host had more on his menu than these, he exposed himself to a fine of ten gulden.[41] If he wished to hold a dance in connection with his wedding, and a schenck with it, he was not free to choose the scene, but was required to hold it at the rathaus, in chambers especially set apart for the purpose. The object of this arrangement was probably to make certain of having the festivity where it could be freely visited and observed by the city officials. At the banquet no silver bowls or drinking vessels might be used, or seat-covers, tablecloths, or napkins, except those "which the council has set apart for the purpose, and given orders to the steward to use." The refreshments were limited to those enumer-

[40] Siebenkees, vol. ii, pp. 455–456.
[41] Siebenkees, vol. ii, pp. 466–467.

ated in connection with the schenck held on the wedding day. Not more than two measures ("virteil") of wine might be given into the hands of the steward. If one did not comply with these terms, he was subject to a fine of ten gulden.[42]

In a provision of the older laws it was forbidden to have a wedding party or feast during the half year after the wedding except on a single occasion.[43] The prohibition was repeated in the ordinance of 1485, slightly qualified and rendered somewhat more liberal, perhaps by way of allowing what the attempt had been made in vain to prevent. It was specified that the one party permitted must be held the day after the wedding, and held in the house where the wedding took place. But the strict lines drawn upon the hospitality of the house by the main provision were loosened considerably in the sequel. For one or two mornings a party of twelve might be entertained at breakfast, and in the evening, at a supper, these same persons or others, to the number of seven, besides bride and bridegroom. And when the bridal pair had set up housekeeping for themselves, they might give a "wedding-party," and invite seven friends. The penalty for violating the conditions imposed in this permission to entertain was relatively high,—fifty gulden. A heavy fine was threatened probably because the practices at which the provision was levelled were hard to break up.[44] The restraints imposed by the article as a whole were evidently intended to save the parents and the young couple from the tax of having to keep open house during the bridal season and afterwards; and on the other hand to prevent the rich, who could afford to do it, from setting a pace in lavish entertainment which others could not follow without bankrupting themselves at the outset of their wedded career.

It will be noticed that the parties of the wedding season were regulated with greater watchfulness than before, although the more specific limits imposed might be less

[42] Ibid., pp. 467–468.
[43] See above, p. 40.
[44] Siebenkees, vol. ii, pp. 468–469.

exacting. For instance, the council extended its control to the parties that might occur in the interval between betrothal and wedding, which in the old regulations received no attention. A friend might entertain bride and groom but once during this period; he must do it at his own house; he might invite not more than six guests, and, to keep the law, he could regale them with nothing but fruit, cheese, bread, and simple wines. The same six persons, or six others, he was allowed to have for the "nachtmall"; but this permission was granted only on condition that he should observe strictly the limitations respecting guests and viands, and only if he was an immediate relative of the bridal couple. If his hospitality stepped over this chalk-line drawn by the council, he was liable to a public fine of three gulden.[45]

There remains for consideration what I have arbitrarily chosen to call a third division of the Wedding-manual, the portion made up of provisions that can be classified only as odds and ends. Two of them, with regard to gifts, were manifestly intended to bolster up the law in the face of evasions. An easy way to dodge the regulation concerning gifts would be to postpone giving until after the wedding day. This subterfuge was forestalled by a provision that neither party was to give to the other any jewel, money, or money's worth, except as expressly allowed; and no one was to make the bridal couple a present in the two months following their betrothal or marriage. Violation in the first instance was punishable by a fine of twenty gulden; in the other by forfeiture of the value of the gift and five pounds in new haller besides.[46]

One section is dated 1436, and its appearance is significant of the heterogeneous character of the whole ordinance and the impossibility of determining when any of its undated provisions originated. This one is definitely marked as having been proclaimed "1436 A.D. 10 Dezember, Sunday." Even the old preamble, long obsolete, was

[45] Siebenkees, vol. ii, pp. 470–471.
[46] Siebenkees, vol. ii, pp. 470–471.

retained as it had been read out from the chancel that long-past Sunday morning, and was incorporated in the Manual of 1485. It runs to the effect that a previous law with regard to costuming at weddings had failed of its purpose; the council therefore decreed that neither bride nor bridegroom, nor any one on their account, at their expense or at his own, was to dress in the bridegroom's color. None but a servant or a boy might be dressed in his color. The person who disobeyed would be punished by a fine of ten gulden.[47]

The old provisions as to bath-parties disappear, and their place is taken by a simple one that forbade "treating" to a bath, or paying another's bath-fee, or having refreshments after the bath. One cannot argue from this a relenting toward bath-parties. They were probably no longer the fashionable amusement they once had been, or perhaps they had fallen into the disrepute which everywhere came to attach to the public baths as harbors of license. The fact that it was the household servants of bride and groom of whom exception was made in this provision indicates the class of people who used them.[48] It would seem to be no longer necessary to forbid the burghers to frequent them in celebration of their weddings.

One other variety of party was brought under regulation, the "ayrkuchen," evidently a traditional wedding observance.[49] It was a party for women. The law did not allow over ten to be invited, on the part of bride and of groom, in addition to their sisters. The refreshments were restricted to "eierkuchen"—flat cakes or larded cake—and the usual wines, Franconian, Rhenish, or others of the same grade.

An interesting provision was inserted in favor of the bride who came to Nürnberg from the country or from another city. She was not to be subjected to the sumptuary regulations of her new home for the first three months of her residence in Nürnberg. During this time she might

[47] Siebenkees, vol. ii, pp. 471–472.
[48] Ibid., p. 473.
[49] "Ayrkuchen" is plainly seen to be "eierkuchen."

wear what she would. It was probably supposed by the city fathers that three months would give her time enough to wear out the clothes which she brought with her, or at least to wear them enough to make it less of a hardship for her to give them up or to adapt them to the terms of the law.[50]

Among these miscellaneous provisions there appears one of a different type, different in its occasion and in complexion. It did not propose, like the majority of the prescriptions of this ordinance, to set permanent standards of conduct, but attacked a specific abuse. The attack, moreover, was on grounds of propriety. It seems that it had become the practice of the ladies of the city, the married as well as the gay and single, to go serenading on the streets by night, upon the occasion of a betrothal. The council brought down upon this innovation a heavy hand of disapproval, because, as it declared in the preamble, such behavior did not become "maiden and matronly modesty." The council proceeded to cut off social encouragement by forbidding any one to invite the serenaders to eat or drink; and it forbade these to partake of any refreshment—a prohibition hardly necessary if the main clause was obeyed and the serenading suspended. The motive of this interference with the merrymaking of the burgher women may have been in part a sense of police duty, or the shock imparted by a new practice to the consistent feeling of the council that what had always been was proper; but the regulation was based on grounds of moral propriety, and to this extent is quite in the manner of Geneva.[51]

The remainder of these scattering provisions were devoted, so to speak, to stopping small leaks. For instance, it was provided that the restrictions of the numbers that might be present at the festivities were not to be eluded by having relatives issue the invitations. Drinks were no longer to be served in front of the houses after the procession to church; the bride must be blessed only at one

[50] Siebenkees, vol. ii, p. 476.
[51] Siebenkees, vol. ii, p. 477.

end of the house; the bridegroom was to thank the persons who went home with him not more than once, namely, the evening after the dance (probably because it was expected that his thank-you should be accompanied by something more substantial); bride or bridegroom were not to ask or appoint any man to escort ladies at the wedding, except sisters and out-of-town guests.[52] Finally there was an injunction to the constables and their deputies and the "rügern"[53] to have diligent supervision, and to bring persons who transgressed to justice without sparing—a formal clause which might attach to any law, and which is disappointing in failing to shed light on the administration of the sumptuary regulations.[54]

Looking back over its provisions, it is apparent at once that the Hochzeits-büchlein of 1485 was distinctly fuller and more complex than were the earlier enactments. It embraced a greater variety of details, and treated them with a thoroughness in which the old laws were lacking. It would be hard to demonstrate that it was at bottom different from them in spirit. As was said before, the multiplication of details cannot be taken as conclusively proving that sumptuary legislation was being more vigorously pressed. Times had changed; the enjoyments and expenditures to be regulated had been diversified; and there must always be the question whether the particulars of conduct visited with restriction are found in the law in greater variety and number because the council had made the meshes of its drag-net finer, or whether on account of renewed activity there were more people to be caught. One may safely say, however, that the policy of governing from the city hall private expenditure and manners is shown to have been still vigorously in operation, and it had apparently been kept abreast of the times. The very form in which these regulations were published—a büchlein, with preface, ostensibly intended to cover every form of

[52] Siebenkees, vol. ii, pp. 477–478.

[53] Probably here means simply informers, although it may refer to the "rügsherrn." See above, p. 26.

[54] Siebenkees, vol. ii, p. 478.

expenditure likely to arise in connection with a wedding—when it is set over against the simple and random prescriptions of the earlier time, indicates that the regulative policy had gained in definiteness and consciousness of purpose, to the point of being distinctly specialized as a branch of municipal law-making.

As regards the temper of the ordinance, none of the provisions, as we have seen, marks it as distinctly more strict than the older laws. None of them, on the other hand, shows any increase of liberality that cannot be charged to the compulsion of changing usage, to which the law had had to yield. In the Wedding-manual the city fathers at many points descended further into particulars than in their old prescriptions. They defined exceptions more frequently and generously. They displayed the wisdom of experience in seeking to shut up certain loop-holes against escape and evasions, and discount must be made for the effect of a maturer legal experience and development. The features of the statute which have just been noted are nevertheless to be regarded as evidence that the city fathers were more alert in their interferences with conduct, at weddings at least; that their supervision, if not harsher, was in plan certainly more thoroughgoing. It may be impossible to determine whether the standards of the council had been stiffened or liberalized; it is clear that they were applying to the conduct of the burghers a moral spirit-level, sensitive not merely to extravagance and over-lavish expenditure, but to improprieties of behavior as well—such a criterion as it would not surprise us to find in the hands of one of the reformers.

CHAPTER IV

Wedding Regulations and the Reformation

Consideration of the provisions scattered through the Wedding-manual that were evidently added after 1485, the date of its first publication, has been postponed because their main interest is lent by the occurrence of the Reformation. One of the most interesting questions about the paternal regulative policy touches the effect upon it of the Protestant Reformation. The answer should shed light upon the real quality of the Protestant movement, as well as illustrate the developments of paternalism. It is generally supposed that the Reformation quickened state supervision of manners. Most of the instances of intensive regulation that pass as typical have been taken from Protestant communities. The whole policy has become familiarly associated with Geneva and the Puritans; and it is a popular notion that it was peculiar to authorities highly charged with Protestant spirit.

Another impression, much more respectable, obtains; namely, that up to the Reformation the civil authorities laid hands on the citizen in the realm of conduct chiefly when his behavior threatened good order, and left all more intimate discipline to the church, as custodian of morals; but that when the Reformation came, and robbed the ecclesiastical authority of much of its awe, the secular magistrates felt obligated to step into its shoes and maintain moral discipline. In this rôle they proceeded to enmesh the private life of the citizen in restraints of law that looked to his moral welfare. The Reformation, according to this view, was a point of departure in paternal regulation. Not merely did it sensitize the moral consciousness of those who made law, but it cast upon them a burden of responsibility for the behavior of the citizen, his expenditures, his

dress, his indulgence in luxuries, his chastity, to which they responded with an elaborate body of ordinances of a new character.

It is true that in some places, as in certain of the Swiss cities, the Reformation gave the regulative policy fresh impetus. Existing statutes were given keener edge. The councils watched for trespassers with renewed interest, and prosecuted them more energetically; but even in these cities laws just as inquisitorial in principle had long been operative. For some centuries the authorities who after the Reformation took the citizen more strictly in hand had felt it part of their function and duty to set him, by statute, standards of propriety and of decent restraint; and they had undertaken, with more or less show of purpose, to hold him to them by fear of court and fine. The Reformation stimulated a sense of duty that had been from of old one of their springs of action. It set them forward with new keenness upon lines of policy which they had accepted and pursued for generations, following in some cases, as at Geneva, some zealous leader who gave them energy and persistency.

The Nürnberg Hochzeits-büchlein of 1485 was overhauled in 1526, the year after the council committed itself to Protestantism; and it contains further amendments dated as late as 1557. It will accordingly serve to exhibit whatever effect the Reformation may have had upon the sumptuary policy of the Nürnberg city fathers in respect to weddings. Evidence which will be discussed later indicates that the statute was not remodeled in 1526 in such a way as to obliterate the form it had when first issued, but it was simply revamped with amendments. It is to these amendments that we must look for the imprint of the Reformation.

Some of the changes can be assigned to a specific date. Elaborate regulation of the wages to be paid musicians of various sorts was made in the ordinance; the fees of a new variety of entertainers were fixed in a provision added on the Sunday after St. Andrew's Day, 1509. If one wished

the music of the bell-ringer, with his wife and men, at the wedding or at one of the parties, one must pay him and his troupe half a gulden a day, besides their keep, not more. If the wedding and the eierkuchen party[1] were held on the same day, and he therefore had to do double duty, he was to receive a gulden; if on successive days, a half gulden on each occasion.[2]

Further regulation of the same kind was added in April, 1511. It had been provided that the bidder to the wedding might receive on the wedding day altogether one gulden. The amendment allowed the like sum to the "schwennter" for his services—a trifling alteration, which shows, however, with what trivial points the council was concerning itself.[3]

In the provision regarding the "statpfeiffer" in its first form, the wage to be paid them for playing at night was set at one gulden, and for this sum they were expected to make music at eight different stands. If they were ordered to play at other places besides, they were to receive for each performance one gulden. This provision was modified later by an inscription in the margin declaring the pipers "to be bound to play only in front of the houses of the bride and of both of her maids; and before more than these three houses they shall not play previous to the wedding or afterwards, under penalty of five gulden." Finally, on December 23, 1522, a further amendment was written in, which relaxed the grip of the former. It provided that in future, "music should be played before the houses of the parents of bride and groom, and of the bridesmaids."[4]

In the revision of 1557 the prohibition in regard to the giving of a public stag-party[5] by the groom was qualified in its terms so as to cover all places where it might be celebrated, and in particular certain public resorts—"weder bey denn wirten auff meiner herrn trinckstube, Im Schiesgraben."[6]

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[1] See above, p. 62.
[2] Siebenkees, vol. ii, pp. 474–475.
[3] Ibid., p. 475.
[4] Siebenkees, vol. ii, pp. 475–476.
[5] See above, p. 57.
[6] Siebenkees, vol. ii, p. 460.

Such are the amendments to which a date can be affixed. There are a number of others that may have been added at any time during the period in which the statute was operative. Nothing about them gives a clue to their date. It is entirely possible that they were written in at the revision of 1526, and represent the mind of the city fathers under the inspiration of their new Protestantism. Some of these undated amendments softened the terms of the law. One was inserted in the section regarding gifts, and permitted the bridegroom to bestow on his bride a "maiden-ring" worth ten gulden.[7] In another the bride was forbidden to give garlands except to bridegroom, dance-bidders, bridal escorts, musicians, and out-of-town guests.[8] To all of these except the bridegroom she was already restrained from giving by the earlier provision.[9]

One clause, apparently also an amendment, was presumably designed to repair the net of the law at a point where frequent evasion had revealed a flaw. It was attached to the section in which were described the gifts that might be exchanged on the morning of the wedding. It forbade bride and groom to borrow the articles which had been named as legitimate presents, or, in order to avoid the penalty of the law, to borrow from one another things costlier than the law permitted, and to retain them. One can see through these terms the clever practice aimed at. High-priced presents were given, and when the officers or some "catty" neighbor spied them, it was easy to answer embarrassing questions by saying that the forbidden objects were simply borrowed. The council was trying to put a stop to this subterfuge by making borrowing also an offense.[10]

Another amendment rendered the original provision more explicit and less easy to evade. It fixed definitely the cost of the bride's gifts to the groom, which were required at first simply to be inexpensive.[11] Under its terms the

[7] Siebenkees, vol. ii, p. 455.
[8] Ibid., p. 472.
[9] See above, p. 53.
[10] Siebenkees, vol. ii, p. 456.
[11] See above, p. 53.

bathsuit which she might give him must cost not over five gulden, the shirt not over ten; and furthermore the latter was not to be worked with gold or silver. The amendment took a liberal turn at the end. An additional gift was allowed—which the original provision is modified to cover—a headgear ("hawben"), to cost not more than ten gulden.[12]

Certain of these amendments that are not dated tightened the bands of restraint imposed by the ordinance in its first form. It may be recalled that in the original provision regarding serenades it was permitted to pass out light refreshments and a discreet measure of certain not too costly wines to the thirsty musicians and invited guests. But the practice came to seem excessive to the city council, and by an amendment "the extravagance with the wine, which is served the city-pipers at serenades," was ordered abolished, under penalty of five gulden.[13] In another amendment the council repealed its previous permission that at weddings and other festivities a measure of wine (a viertail), or a less quantity, might be served to those who came in on account of the wedding. This change was made on the ground that the custom had led many people into notable extravagance. Thereafter no wine at all was to be dispensed, on pain of a fine of ten pounds.[14] It will be noticed that in neither of these instances were moral grounds advanced for the closer restriction, but simply the expense in this form of good cheer.

On the same ground—the burden of superfluous expense imposed on the entertainer—another amendment was aimed at a practice that had arisen and perhaps was growing socially obligatory, of inviting people in after the lawful feasts to dance and have refreshments. The amendment had a little preamble of its own, in which its reasons were set forth. "Although already definite and well-adapted laws have gone forth and been proclaimed under the authority of the honorable council, for the avoidance of needless and superfluous cost in betrothal-announcements,

[12] Siebenkees, vol. ii, pp. 457–458.
[13] Siebenkees, vol. ii, p. 455.
[14] Ibid., pp. 478–479.

weddings, etc. . . . nevertheless a special innovation has recently arisen besides"; namely, of inviting, on the day or evening of the wedding-betrothal, many women and maidens, in addition to the persons allowed, to eat and dance. This was "not only an expense but much trouble and over-tax." The council ordered the practice discontinued and the law obeyed, but not without a reservation. If bride and bridegroom had brothers and sisters or nieces and nephews, they might invite these in to dance after the feast on the evening of the betrothal announcement, but the privilege was extended to none of the other wedding-feasts or parties. The amendment was nailed fast with a penalty of ten gulden.

The paragraph that follows in the text of the statute throws some light on the structure of the ordinance, besides stiffening the terms of the law. "If any other or additional persons," it runs, "besides those who are permitted and allowed to be invited according to the tenor of the Hochzeits-büchlein and the law just read" (the reference evidently being to the preceding section as an addition to the Hochzeits-büchlein subsequent to its first publication), if any such superfluous persons came bidden or unbidden to any of the parties or celebrations connected with the betrothal, they should each pay a fine of three gulden, which should be "exacted without sparing of each and all."[15]

The last of this congeries of sections that permit of being identified as amendments is one which was not a specific addition to the requirements of the law, but a kind of enforcing clause, perhaps added at some moment when the council resolved to screw down the ordinance with a new vigor. "And since," runs its foreword of explanation, "and since in the Hochzeits-büchlein it is declared in specific laws, who and what persons bridegroom and bride may invite home after the betrothal-announcement and before the wedding," the council commanded that no other persons should come, invited or not invited, to feast or dance, except as those laws allowed. Whoever invited

[15] Baader, p. 75.

others, or whoever attended uninvited, contrary to the statute, should pay the fine which the law imposed.[16]

Such are the provisions that can be distinguished as amendments to the Hochzeits-büchlein. Ranging in date from 1485 to 1557, they cover, with ample margins, the period of the Reformation. We are looking for marks of the Reformation, and may discard at once the amendments which by their own confession antedate it; namely, those of 1509, 1511, and 1522.[17] This pruning leaves a limited number that might have been added under the reforming impulse. It is by no means an inevitable conclusion that these undated additions were actually all written into the ordinance at one time, and under a Protestant inspiration. In fact the probabilities are against such a conclusion. It is easily possible that some of them were inserted before 1525. There is nothing in their terms or in their temper to show that they were not. But one must admit, in the absence of some positive testimony to the contrary, that they all may possibly have been drafted after the conversion of the council, and may reflect its frame of mind under Protestant influences.

It is apparent from rehearsing these amendments that taken altogether they did not radically alter the statute. They show hardly more than a tinkering with it in minor particulars. One stopped a loophole. Another was more definite than the original about the value of gifts and was therefore harder to elude; but it was softened at the end by permission of an extra present. Several articles set the screws a little closer,—three meeting an extravagance that had unexpectedly arisen and extending the law to cover it;[18] another extending the penalties of the provisions regarding the number of guests to the guests as well as the hosts (a device in use for centuries);[19] finally, one which has a somewhat more positive look, declaring that the rules and penalties as to guests would be strictly enforced. These

[16] Ibid., p. 75.
[17] See above, pp. 67–68.
[18] See above, pp. 69–70.
[19] See above, pp. 35, 36, 39, etc.

articles represent scarcely greater alterations of the law than the amendments dated 1509, 1511, and 1522. If we did not know from other sources that a Reformation had occurred, certainly we should not detect it here. It is hardly to be imagined that the citizen who was about to marry felt that he was suddenly straitened in his prospects by such amendments, and would now have to do with a council that had suffered a change of heart, and would frown with a new puritanical disfavor upon his pleasures. A more vigorous execution of the laws on hochzeits-luxus may have followed the conversion of the council in 1525; but a change of policy, if it occurred, exhibited itself but faintly in the terms of the law. The fact has already been noted that the sharpening of the law that may have taken place as its result did not proceed upon moral grounds. Simply the extravagance of the customs forbidden was cited as condemning them; and no new motives were professed, or needed to be called in, to account for the changes made. In fine, if we knew nothing about the Reformation, we might very well take this patching of the wedding code as a mild response to the exhortations of the orthodox diet of the empire, meeting in 1524. Convened at Nürnberg, that Catholic body of notables had complained loudly of the new extravagance breaking out everywhere, and it had declared that "with regard to burghers, artisans, and peasants, new sumptuary dress laws must be made," and extraordinary measures taken to enforce them.[20] If the amendments to the Wedding-manual were made under the influence of the Lutheran movement, they were in character such as might have been formed in the spirit of this utterance, and under the conditions of the old régime.

But my assumption with regard to the evidence is open to the question whether possibly the whole ordinance, as well as these undated amendments, was not a product of the converted council. It was entitled the "Nürnberg Hochzeitsbüchlein of the year 1485, which was renewed, bettered, and changed the 7 Feb. 1526."[21] This title lends

[20] Expressions of the diet quoted in Janssen, vol. iv, pp. 145–146.
[21] Siebenkees, vol. ii, p. 449.

color to the suggestion that we have the statute in a form in which it issued from a thorough revision in 1526. If such is the case, one is confronted with the possibility that the draft of 1485, perhaps much less puritanical in its terms, was swallowed up in this revision; and if so, of course the opportunity which the Hochzeits-büchlein seemed to offer for comparison of the law just before the Reformation and just afterwards, is lost. To put the question in another form, we are called upon to consider whether we have before us the ordinance as it was framed in 1485, with the revisions of 1526 in the form of amendments; or whether this is the ordinance as it was published in 1526, after the council had turned Protestant.

There is certain internal evidence to show that we have the ordinance substantially as it was framed in 1485, with the revisions of 1526 in the form of amendments. First, a number of the amendments bore dates earlier than 1526.[22] The fact that these survived intact in 1526 indicates that no attempt was made in the revision of that year to draft a law uniformly new, or to consolidate the provisions already on the books, and the amendments that had gathered, in a fresh and compact statute. It would not be surprising, then, if whatever changes the council saw fit to make in 1526 should be found likewise tacked on in the shape of amendments.

It is true that it is extremely hard to distinguish the provisions of the ordinance that might have been amendments. Those recounted above were manifestly such, but many provisions may also be which superficially do not show it. The possibility that this is true is raised to probability by an accidental revelation in the terms of one provision, which otherwise would pass unquestioned as a piece of the original law. It is in the section on forbidden meats.[23] Partridge, hazel-hen, and other game fowl were forbidden, as were capon and fish. The law went on, however, to permit serving a roast capon on a side table, and

[22] See above, pp. 67–68.
[23] See above, p. 57.

further to grant that if there should be any one present who could not eat meat on the day of the wedding, a dish or two of fish might be especially prepared for his benefit. Now an exception in favor of those who might have scruples about eating meat on set days would mean nothing unless issued after the Reformation. This clause, although not dated, was certainly added after 1485, and there may be others like it which cannot be distinguished.

The considerations of structure noted above support with a fair degree of probability the assumption that the main provisions belonged to the ordinance of 1485, except where there is evidence, perhaps in the preamble, of enactment to meet some particular emergency.[24] On the other hand the amendments, when not otherwise labelled, were possibly the work of the reformed council in 1526, and if so, make up probably the sum total of its work in changing this variety of sumptuary law.

But let us suppose that the ordinance has indeed come down to us as published in 1526, with the features of the ordinance of 1485 indistinguishably plastered over by the alterations of that year. This alternative does not force us, in the lack of a comparative standard, to say that the law shows no effect of the Reformation on the local sumptuary policy. First of all, we have a comparative standard of a sort in the articles imbedded in the statute with specific dates earlier than the Reformation—one of them from the year 1436, others from 1509, 1511, and 1522. They seem to be of about the same severity as the surrounding provisions, which do not strike one as having been uttered in a temper decidedly more rigorous. It must be admitted, however, that these few dated sections are scarcely sufficient criteria. They are samples which are not large enough to show the pattern. If then we give up all nearby standards as impossible to establish with sufficient definiteness, we may still make good use of the distant enactments

[24] For examples, see above, pages 56, 57, 63. The date of these occasional provisions is usually problematic. They are a common feature of sumptuary laws, and not peculiar to the Reformation period.

of previous centuries.[25] When one compares this whole ordinance with them, as is done above in detail,[26] one sees that the Hochzeits-büchlein was only more elaborate, and not more stringent; that, if different at all, it was more liberal than these.

If therefore we must take the Hochzeits-büchlein in the form in which we have studied it as representing the mind of the council under the influences of 1526, and must say that we cannot know whether or not it was a sharpening of the laws on the subject in force just previous to that time, it may still be seen that it represented no wide departure from the curve which the policy had been describing for centuries. This fact, though falling short of all that we should like to know, is after all the significant point. Whatever its effects in the long run, the Reformation did not immediately change the direction of this species of sumptuary legislation, but gave whatever acceleration it may have imparted, along lines projected from the past.

It is impossible to reach a fully intelligent understanding of the effects of the conversion of the council of Nürnberg on its sumptuary policy, without inquiring into the conditions of the Lutheran movement there, and the nature of that conversion. A study that wanders somewhat from our main line is involved, but it justifies itself in the light which it sheds on the motives of the council in adopting Protestantism, and consequently on the spirit that was to be expected to animate it in its acts of reform.[27]

The soil in Nürnberg was prepared for a friendly reception of Luther's teachings by the personal popularity of Johann Staupitz, the vicar-general of the Augustinian Order. Staupitz had been heard by overflowing crowds at the time of his visitations in 1512 and 1516, and a number of prominent men of the town, attracted to his person, formed a club, held meetings at pleasure in the refectory of the

[25] See above, Chapter II.

[26] See above, Chapter III.

[27] I have followed the narrative, without always making use of the inferences, of Rösel, in his Alt-Nürnberg, pp. 424–461. Rösel approves the Reformation, and may be trusted, in doubtful passages, to set forth fairly all that is creditable to the Protestant side.

convent of the Augustinians, and called themselves the Sodalitas Staupitziana. Among them were the men who later pressed the Reformation most vigorously in Nürnberg: Jerome Ebner, Kaspar Nützel, Lazarus Spengler, Dr. Christoff Scheurl, who was the council's legal adviser, Jerome Holzschuher, Andrew and Martin Tucher, Jacob Welser, and the provost of St. Sebald's parish, George Behaim,—all sons of the old ruling families of the city; these, besides such famous men as Albrecht Dürer and Willibald Pirkheimer. The attitude and the sympathies of such men were apt to have a considerable influence, at least in setting the fashion of thought. The feeling of the Staupitz club toward Luther just before the Diet of Worms is reflected in pamphlets published at the time by two of its members. One was a "Schutzschrift für der Lehre Luthers," by Lazarus Spengler, clerk of the council,[28] a controversial tract in which he seriously attempted to demonstrate the accord of Luther's teachings with Scripture and reason. The other was the noted satire, published anonymously under the title "Eccius Dedolatus" (Eck planed down), the work of Willibald Pirkheimer. The result was that Eck had the names of Spengler and Pirkheimer thrown into the bull which was directed against Luther; and the two Nürnbergers got off only by the intercession of the council with the Duke of Bavaria and the Bishop of Bamberg, and by seeking absolution from Eck. That the standing of Spengler in the community was not damaged by his championship of Luther is indicated by the fact that he was one of the three deputies of Nürnberg at the Diet of Worms.

The test of the Edict of Worms showed that the council was orthodox, but not eager in its orthodoxy. It delayed

[28] He seems to have been one of its dominant personalities. Lazarus Spengler, "nominally only a scribe or a clerk, was in reality the author and director of all the decisions of the council" (Camerarius, Life of Melancthon, quoted in Janssen, vol. iv, p. 62). Speaking of Spengler and Osiander, Pirkheimer says: "A conceited scrivener without any sense of propriety and a presumptuous priest . . . are forsooth to rule despotically over such a worthy town as Nürnberg, and to alter and reform everything according to their wisdom; whatever they want must be right, and must be done" (quoted in Janssen, pp. 62–63).

the publication of the decree until October. Its long hesitation seems to have been due to uncertainty as to what effect an attempt to enforce the edict might have, and may therefore be taken to measure roughly a pro-Lutheran sentiment gathering head among the populace. When at last the councilmen determined to act, they spoke decisively, and declared their intention to enforce the edict to the letter.

In 1521 an element was injected into the local situation which, it seems not unlikely, prevented the Reformation in Nürnberg from taking the course to be expected amid so many favoring circumstances. Nürnberg was made the seat of the new experiment in imperial administration. The Reichsregiment and the Reichskammergericht were installed in a chamber of the rathaus, where they were separated only by partitions from the deliberations of the council. This proximity was certain to have its effect. The new régime might be weak in influence, but it would nowhere be more impressive than in the town in whose midst its members resided—particularly when their presence was a favor and privilege which the burghers, if only with an eye to business, did not desire to lose. Whatever the reason, while the imperial authorities remained the council gave no questionable grounds for complaint respecting its orthodoxy or its loyalty to the emperor's policy in religious matters.

In 1523 division of opinion over religion had gone so far as to lead to discord and ruptures in the monasteries. Among the Dominican brothers one Gallus Korn, a son of Nürnberg, began to use the conventual pulpit to inveigh against monasticism. When the prior threatened him with the dungeon, he took refuge with the Augustinians, where a radical spirit seems to have been present from the first. A Carthusian, Franz Kolb, found the same asylum under like circumstances. The council refused to interfere in these cases, not necessarily because it looked indulgently on the Protestant malcontents,[29] but very likely because it

[29] As Rösel implies.

regarded these quarrels as outside of its jurisdiction; for as soon as the monastic squabbling took a political turn, and a Barefoot friar, one Kettenbach, began to ventilate his Lutheranism in animadversions upon the emperor, the pope, and Henry VIII of England, the council promptly laid its hand on him, and stopped the sale of his writings. Its coolness toward violent breaks with the established order was further exhibited when it banished from the city four monks who had escaped from the Carmelite cloister.

There was apparently a strong anti-Romanist ferment at work among the populace. One may not feel justified in taking the demonstrations of the noisy and vulgar—the "katzenmusiken" heard on the streets in the evening, the window-breaking, the ribald catches sung before the nunneries—as tokens of a universal popular sentiment in favor of Protestantism.[30] There is other and safer evidence that such a sentiment was growing, in the many pamphlets that began to be passed around, despite rescripts from the council and the vigilance of the police; and further in the quarrelsome discussions which are described as continually going on in taverns and at the baths. In 1523 Hans Sach's "Wittenberger Nachtigall" was produced, and became immensely popular.

The evidences of heresy at last grew so obnoxious to the papal nuntio and the imperial viceroy that each entered complaint with the council. The vicegerent summoned the city fathers to him on the 11th of December, and took them to task for the trade in Luther's books that was being pushed, in contempt of the edict. The result of the conference was the issuance of a sharp reprimand to the book-dealers. Presently the legate appeared to demand the arrest of the fugitive monks, and of the four preachers of the city, who apparently had for some time been teaching Luther's doctrines. A sample of the high pitch of their sermons is furnished the day after the legate's complaint, when they freely attacked the pope as willing to subvert

[30] Rösel makes much of these expressions.

the teaching of Christ with lies, and admonished the people not to put up with this misleading instruction.

One can gauge the height to which popular antipathy toward the Roman clergy had run in 1523 by the circumstances of the legate Campeggio's entry into the city on his commission to the diet. Instead of approaching with calvacade and pomp of ceremonial, upon the advice of princes who met him beyond the suburbs he came in as a private citizen, in order to attract as little attention as possible, and went to his lodgings without even visiting the churches. His presence seems only to have excited the preachers to rasher utterances. Osiander cried to his hearers: "And though the pope should add to his three crowns yet a fourth, he would not turn me aside one inch." Thomas Murner, coming to the diet from the Bishop of Strassburg to lodge complaint against the Strassburg council, was hooted and dogged through the streets by gamins bawling, "Murrnarr," "Katzenkopf." Even the Bishop of Bamberg, the ecclesiastical superior of Nürnberg, was attacked with mockery and satirical songs.

At several points the old ecclesiastical régime was visibly crumbling into decay, and the intention of the council to stay and restore it was plainly growing weaker. At first there appeared little breaches like negligence of the lenten fasts, which the council sought at once to correct by forbidding the burghers to eat meat on fast-days and the butchers to sell it. A lesion of a much more serious character had appeared during the previous year when the congregations of the churches had petitioned the provosts to administer the Eucharist in both elements. Although we have not the means to know with what unanimity the populace were taking critical steps of reform for themselves, it is clear that they were moving in that direction. The provosts referred the matter to the council; but no one in authority seemed to relish assuming responsibility. The council referred to the Bishop of Bamberg, and he to the ecumenical council expected to be called; but the Augustinians refused to depend upon such an uncertainty, and

the prior went on to administer the Supper in both kinds to his monks and to a number of the burghers. In Holy Week of 1524 no fewer than three thousand persons partook of the communion at his convent under the Lutheran form.

His bold initiative removed the lingering scruples of the provosts in the two great parishes of St. Sebald and St. Laurence. They stopped at nothing now, but changed the mass, abolished confession, Latin hymn-singing, and masses and anniversaries for the dead, set feast days, and had the gospel and the epistle read in the German tongue. The council did what it could to recall them from these headlong measures of reform, but had to confess, in a letter of self-exculpation to the Archduke Ferdinand and the Bishop of Bamberg, that it was unfortunate but true that the magistrates could not proceed against the innovations without provoking a storm which they dared not face.

Events now approached their crisis. Probably stirred to action by the sequel of the Regensburg convention, the Bishop of Bamberg at last made up his mind to deal summarily with the insubordinate provosts of Nürnberg. They answered his citation, but took high ground and refused to accept his judgment on the plea that he was an interested party to the action. When they appealed to the expected council, to which previously he himself had referred them, he excommunicated them, but neither the Nürnberg council nor his own deputy in the city would assist in giving effect to the ban.

The council had evidently been pursuing a policy of expediency. Whatever may have been the religious convictions of its members, it had been looking out first for the public interests of Nürnberg, and had steered a middle course, growing more and more difficult, between the Protestant sympathies of the people and the orthodoxy expected of it by those with whom it had to do in its imperial relations. When the Reichsregiment had finally proved itself a phantom, neither to be wooed nor to be feared, and when the cities had united at Speyer and Ulm in 1524

openly to deprecate persecution of "the good teachings of Luther," the chief reasons for holding out against popular sentiment and personal inclination were removed.

At the same time the inducements at home for the council to turn Lutheran were strengthening, and its cupidity began to marshal it in the way of its Protestant inclinations. The factions, wordy and violent, which had shattered the ancient quiet of the cloisters, offered a tempting excuse to the council to step in as arbiter, and with a good show of equity to lay a hand upon the rich monastic properties for the benefit of the city. In December, 1524, the Augustinians discarded their cowls, and deeded over their convent to the council. Whether or not their action bred in the city fathers a bad suggestion, it is easy to believe that it sharpened an appetite which asserted itself plainly in their dealings shortly afterwards with the Carthusians. A faction of the Carthusians, headed by Prior Blasius Steckel, purposed to follow the example of the Augustinians; whereupon Brother Martin and the remainder of the friars stood up in opposition. The council was loath to see such good purposes fall to the ground. It packed off Brother Martin into exile, as a disturber of the peace, then essayed to bring his recalcitrant comrades to terms by making them listen to the sermons of reformed preachers. Having overcome the hesitancy that attends the first step, the council went on to deny to the Barefoot monks and the Dominicans the exercise of the cure of souls in the two nunneries.

In March, 1525, after going through the formality of hearing a public discussion of the religious question, the council committed itself to the work of introducing the Reformation. Its policy was directed by the two losunger then at the head of the administration, Jerome Ebner and Kaspar Nützel. They were vigorously seconded by the clerk of the council, Lazarus Spengler, of "schutzschrift" fame; and by Osiander, the hot-headed, radical young preacher of the parish of St. Laurence. The council now made laws embodying the reforms which the ecclesiastics had undertaken at their own peril. It permitted the eating

of meat on fast-days; it abolished the whole series of "popish holidays," and put the monasteries under regulations conformable to Lutheran teachings.

It was not long before it laid hands on the monastic properties. Even Protestant writers admit that the motives of the council were not unmixed,[31] and that it probably looked upon the monastic houses with a more indignant and zealous eye because it coveted the wealth which these contained. As the summer of 1525 wore on, one after another of the convents was coaxed or pressed to the point of surrender: the Carmelites in May, after their prior had been removed by banishment; the Carthusians in July as the result of long and painful negotiations; in the same month the wealthy Schottenkloster. The Barefoot friars and the Dominicans contested stoutly the dissolution of their retreats; and the council had to content itself with instituting a siege. It took an inventory of the property; forbade the monks the cure of souls; and refused to permit the admission of new members. The Dominicans held out until they were reduced to five; the Barefoot monks until, a half century later, the last of them was removed by the hand of death.

The fate of the nunneries forms a long and interesting story, but for our purposes one needless to follow. The council adopted the same policy as in the case of the monasteries. The resistance of the sisters was much more stubborn, and provoked the reformers to acts of force which have been hard for their apologists to defend, and which go far to justify such animadversions as Janssen's.[32] The nuns clung to their convents to the end. It is significant of the attitude of the council in its reforms that it did not confiscate these outright, but suffered the sisters to retain the use of them as long as they refused to give them over. The house at Engelthal fell to the city in 1565, while the prioress, Anna Tucher, and one sister were still living. The cloister at Pillenreuth and the Clara-Convent in the

[31] Rösel, p. 455.
[32] Vol. iv, pp. 64–84.

city passed into the hands of the fathers of the council only when in 1591 the sole survivor in each died. The Dominican nunnery of St. Katherine, whose inmates obtained favor because of their activity as copyists, survived until in the year 1596 the solitary candle of the last sister flickered out.

The council had extended its jurisdiction to cover reform of the church with no authorization but the acquiescence of the burghers. It constituted itself bishop of Nürnberg, and felt no need of forming a consistory to suggest or second its policies. A tenth of the property sequestered was devoted to the support of the church; a portion was invested in charitable institutions; the rest was turned into the city treasury. The costly instruments of worship were melted into money, or inventoried and taken into safekeeping. The monks were given the choice of entering the parish service, or, with the nuns, of receiving a pension, on condition that they married. All ecclesiastics in the new church were put on a salary, but they lost their immunity from taxation, and all had to qualify regularly as citizens.

Such was the Reformation in Nürnberg. It passed through its initial stage without uproar. Manifestly it was a popular movement. From 1522 onward Lutheran sympathies were thriving apace among the mass of the populace, and they spread until by 1524 it would seem that only the monasteries were left as distinct islets of fidelity to the old belief. The council lagged behind public feeling, at least in its avowed policy, and steered a course of prudence. The cardinal alterations in the forms of worship in the city churches were accomplished without its consent. When at last the council committed itself to the Reformation, it would seem to have made up its mind as the result of a balancing of advantages, rather than from a change of heart. However vigorous in its reforms when once committed to Protestantism, it had not been the pioneer, nor had it set the pace. Perhaps in part explaining this was the fact that there was no big, emphatic minority in Nürnberg to contest the advances of Protestantism and force

consolidation of its friends. The council could therefore well afford to bide its time, and reap all the advantages of an orthodox front, in the certainty of what the event would be.

This apparent calculation, and the large part which ulterior motives seem to have played, scarcely prepare one to expect a thoroughgoing moral zealotry in reform. Not that much violence to private beliefs was not likely to be done, and a new attention and interest turned upon moral questions as a result of the stirring of the waters of religion; but even in the dealings with the convents, where the incitements were sharpest, with all the disgraceful cajolery and vexation[33] there is absence of extreme fanaticism, of pressure to the point of blood, so to speak; and the rights of the religious orders in their coveted property were treated, if all things are taken into account, with a considerable degree of restraint. A certain leniency in the sumptuary policy which this character of the Reformation in Nürnberg may help to explain is illustrated by the amendment to the Hochzeits-büchlein noted above, in which even the scruples of Catholics about eating meat on certain days were respected, although one of the acts of reform had been to refuse public recognition to the set days of the church. Perhaps we may find in the presence of mixed motives, and in the qualified intolerance of the council, one reason why the Reformation produced no abrupt accentuation in the policy of controlling manners, certainly at least as far as that policy is reflected in the Wedding-manual and its amendments.

[33] Janssen, vol. iv, pp. 64–84; Rösel, pp. 456–460.

CHAPTER V

The Reformation and Moral Legislation

One of the modern historians of Nürnberg, when he has described the Reformation, points to the sumptuary laws for proof that the conscience of the city fathers was quickened by Protestantism.[1] They instituted a housecleaning of community morals at the impulse of "the stricter views regarding public life which came to prevail through the teaching of Luther." Their other reforming activities, such as their dissolution of wealthy convents, might have had a mixed motive; but the historian cites as indubitably wholesome fruits of the local Reformation the attempts to rectify morals in the city, in particular the limitations and prohibitions laid upon "gambling, with cards and dice, and at bowls"; the interdiction of ribald singing in the streets; the institution of a close watch over the vice of tippling; the restriction of carnival abuses; the sharper lines drawn upon the excessive luxury indulged in at weddings; the subjection of marriage relations to severer public scrutiny and discipline. It has already been shown that the sumptuary wedding laws fail to support this contention. The sumptuary wedding code, drafted a generation before, was revised just after the conversion of the council; but it was not given a severer tone than previously; in fact, as we have seen, it bears no marks of the reforming wave that can be identified except doubtfully and by aid of external evidence. Unfortunately nothing is said in the narrative just cited to prevent one from receiving the impression that the public discipline of manners described—the repression of gambling, boisterous singing, drinking, carnival revelry, extravagance at weddings—was a new departure in the city; or that, if it had been on the statute books before, it

[1] Rösel, p. 461.

now received an emphasis only to be accounted for by the inoculation of the council with Lutheran ideas.

The recommendations of the orthodox imperial diet of 1524[2] suffice to indicate that in fact no stricter views on public moral policy were pronounced by Luther than by men whom he did not inspire, and that as distinct a sharpening of sumptuary legislation might well have occurred at Nürnberg in 1526, in obedience to Catholic authorities, had Luther never preached. The extant Nürnberg ordinances of earlier date show that the council had long felt it to be its duty to restrain manners in just such particulars as have been ascribed to an access of Protestant zeal. The authorities sought to control gambling and tippling in laws that date from the fourteenth century. Laws which evinced a still more tender regard for uprightness and decorum in personal conduct made their appearance repeatedly for two centuries before the Reformation; and these had by no means ceased to be passed or been allowed to grow obsolete in the period that preceded Luther's outbreak. Enactments that renewed these laws when they were slipping into neglect; amendments which signified the alertness of the council, and an intention to keep the policy of restriction abreast of new abuses bred of new conditions, are at hand in plenty, dating from the latter years of the fifteenth century and the opening years of the sixteenth. Many of these, as will appear, have a moral cast and in explanatory passages contain professions of motive which, after such a view as that cited above, would cause us, in the absence of an express date, to stamp them as products of the Reformation. The spirit of the Reformation may indeed have excited the city fathers of Nürnberg to apply the sumptuary laws with a new energy; but examination of earlier enactments shows that it did not lead them to make radical departures in the character of the laws.

Tippling is cited as one of the matters of conduct "taken under strict supervision" as a result of the Reformation.[3]

[2] See above, p. 73.
[3] Rösel, p. 461.

But the council had for many generations been taking measures that contemplated restricting the liberties of the citizen in his cups. In the fourteenth century it gave notice that the person who should furnish drink in his house or before his door after the curfew would be subject to a fine of one pound haller, and the person who imbibed the drink to one of sixty haller. If it was a tavern or a public bar, the tapster was liable to a fine of sixty pfennige.[4] This law was repeated in the fifteenth century with heavier penalties. The penalty upon the host was raised to five pounds of new haller, and the fine of the person found drinking after the curfew to two pounds.[5] Later the law was renewed, with its net mended to catch certain offenders who pled, when arraigned, that they had been dining at the inn.[6] Another ordinance forbade any one to have a drinking saloon without the permission of the council.[7]

These measures do not look strange to us because we still keep the sale and consumption of liquor under close municipal supervision; and indeed it would be hard to show that the laws cited above were not merely police regulations, enacted in the interest of public order and safety. In the fifteenth century appeared laws in regard to drinking which may be classified less doubtfully as paternal legislation. In one of them the city fathers ordered drinking places of all sorts to close their doors on specified holy days; namely, Christmas Day, Easter, Whitsunday, "Oberstag," Corpus Christi Day, Ascension Day, "on all the days of our dear Lady," on the days of the Twelve Apostles, and during Passion Week. The council here again may have had the peace of the city foremost in mind, for on the days of the church in the Middle Ages the working people had their liberty, and idleness was apt to end in drunkenness and excess. But the prohibition extended to the homes of private citizens, and any one, man or woman, who gave another to drink, or allowed games to be played for money,

[4] Baader, pp. 63–64.
[5] Ibid., p. 254.
[6] Ibid., pp. 254–255.
[7] Ibid., p. 115.

in his house at Christmas, Easter, or Whitsuntide, was liable to a fine of five pounds.[8]

Just at the close of the fifteenth century, and in the generation of the Reformation outbreak, the council had been provoked to enact a law against treating, whose basis of paternal and moral purpose is manifest. The council had been informed, it declared in the preamble, and could see for itself, that "punishable, disorderly treating" had "broken out in the city," a practice from which proceeded "much sinfulness and blasphemy, also strife, anger, injury, and murder"; therefore, "to the praise of Almighty God, also to prevent and abolish this abuse, with which much frivolity" was connected, the council, in pointed terms, forbade it.[9] This profession of motives, with its puritanical twang, makes it difficult to regard as a new thing at the time of the Reformation, or as peculiarly the expression of the Protestant impulse, any attempt, by supervision of drinking, "to stamp upon the public mind a more serious character."

"Gambling with cards, dice and bowls was partly prohibited, partly limited"; such was another of the reforms which the Nürnberg council has been represented as introducing, to put in effect "the stricter views of public life, which came to prevail through the teaching of Luther."[10] Again a glance back over the regulations of gambling which the council had been enacting from the time of the earliest of its decrees that survive, shows that actually this was no innovation, and might have occurred without the Reformation. From the beginnings of the fourteenth century, perhaps from a date even behind this, comes a law which limited to sixty haller the stakes a burgher might set upon his game, on pain of the winner's forfeiting to the city the excess, together with a fine of five pounds upon him and the loser alike. Any third person who backed a wager in excess of sixty haller risked the same penalty. The law was to cover all "'hande spil,' bowling, disk-throwing, dice

[8] Baader, p. 255.
[9] Baader, p. 115. The year of this ordinance was 1496.
[10] Rösel, p. 461.

and other games," with the exception of running. A person caught playing, whether winner or loser, and unable to pay the fine, was required to leave the city until he could pay it.[11]

In the latter half of the fourteenth century, ordinances with the same general provisions, but with heightened penalties, and with much more careful safeguarding of the limitation upon stakes, appeared on the law-books.[12] The council did not stop short of total suppression, when it saw fit, in this early time. In the fourteenth century it summarily ordered all gambling places in the city rooted out, and armed the constables with authority to confiscate their property, and put whomever they caught breaking the law in the stocks, at the discretion of the council. Again it flatly prohibited "weltzeln"—probably a game played with balls—under penalty of forfeiting the winnings, and sixty haller; and, in default of the haller, of sitting in the stocks at the pleasure of the council.[13] The keeper's punishment was to sit in the stocks for eight days, and be banished a year from the city.[14]

In a series of restrictions and prohibitions which appeared at the time of the Wedding-manual, in 1485, the city fathers sought to regulate gambling with still greater particularity. The intention of the law seems to have been to drive the practice into the light. In general a fine of five pounds haller was suspended over any one, man or woman, who engaged in a game for money. The host in whose house the playing was going on was liable to a mulct of two pounds, "if at the time he is serving his liquors with his sign out, and his saloon open," but to one five times as great "if he is not serving liquors at the time in the aforesaid manner, and has not his bar at the time open to the public."[15] In order to ferret out playing in secret where a censor could not get

[11] Baader, p. 63.
[12] Ibid., pp. 63–65.
[13] Baader, p. 65.
[14] Ibid., p. 65. A final clause of this ordinance forbade pitching pennies. "Also it is decreed that no one shall with haller or pfennige shoot in a ring," under the same penalty.
[15] Ibid., p. 87.

at it to see that the law was observed, the council decreed that when any one heard of such illicit gaming, he should report it; and the proprietor of the establishment in which it was going on should be haled before the council and bound by oath to disclose and designate who had been playing at his house during a stated period previous, say a quarter year. These persons informed upon should then be summoned and likewise be bound to name any one who they knew had played. The law was drastic not only in its publicity clauses. When any one lent money to a friend to play and he lost, the ordinance authorized the lender to demand the sum of the winner, and if necessary to bring suit for it. The winner did not acquire legal title to his ill gotten gain even in default of suit. If the parties interested failed to enter suit within a quarter of a year, then the burgomaster might claim it. He was to deliver half of it as a fine to the city, and, it is to be presumed, might keep the rest for his pains. Certain games played for limited stakes were exempted from the frown of the law: "cards, draughts, bowling, for a pfennig," or for drinks, or for a small purse, "chess, running, and shooting."[16]

This law seems not to have worked effectively, at least not enough to suit the conscience of the council. Later, but still before the Reformation, the members revised and sharpened it. In the preamble they referred to the former enactments regarding the matter. These were in force, and they had "repeatedly punished transgressors of the same." But they saw them still violated in contempt of the consequences, and much excessive gambling practised, especially certain "suspicious playing for lucre at cards and dice, into which and the like transactions it befits the council to look and protect their community from damage and mischief." The former laws, they ordained, should remain in force. But no one hereafter might play "schanntzen, passen, faren," or the like, with dice; or at cards the game called "puckenmendlens," or any sort of costly game for gulden, in any form whatever. Offenders exposed

[16] Baader, pp. 87–88.

themselves at each offense to a fine of ten gulden, and one half of the winnings.[17]

In its deliberations of July 18, 1503, the council decided to prohibit "card-playing and dice upon the 'Schutt und hallerwiesen,'" but to suffer playing at bowls and shooting; this, however, not "on feast-days before singing and preaching, or on work-days."[18] These last pieces of law-giving are especially significant as indicating that the city fathers did not need the prick of a reforming impulse to waken them to the harmfulness of gambling in the city. Before the Reformation they had the matter on their consciences; and these cases in which they tightened the restraints of the law show that they were likely at any time, of their own accord, and with only the stimulus of the menace offered to public peace and morals, to draw the rein upon excess.

One might point to the old regulations of the carnival revelries, restriction of which again has been cited as a manifestation of the reforming spirit, to show that these festivities too had long been watchfully restrained by the council.[19] But our object is something beyond tilting against the errors of one writer. It is rather, by the test of their legal pronouncements, to measure the extent to which the fathers of the council felt a responsibility for the moral welfare of the burghers, and for personal conduct and a scale of living which appeared from the city hall as proper and decent. Perhaps this sense of duty was intensified, certainly it was not engendered, by the Reformation, with the injection of the Protestant spirit. The laws already cited in correction of the statements of a previous writer serve our broader purpose. There are others arising in the pre-Reformation period which support it still more pointedly.

Take, for instance, the laws with regard to dancing.

[17] Baader, pp. 88–89.

[18] Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. viii, p. 244.

[19] See the elaborate regulation of mumming and masquerades on Fastnacht and at other times, dating from the fifteenth century, in Baader, pp. 92–94.

Here was a matter which the council would regulate only in view of its moral incidents. The earliest rule may have been prompted by mixed considerations. It forbade artisans, apprentices, and menial servants to go about the streets dancing, accompanied by fiddlers and pipers, except on the three days before Ash Wednesday, the day of the great gild carnival. If the offender could not pay a pound haller, he must cool his heels for an hour in the pillory.[20] This prohibition dated from the fourteenth century. Another, of the same time, was more inquisitorial, and had a moral tinge. The city fathers forbade any one to dance after seven o'clock in the evening, unless he got express permission from them. They would fine the person in whose house the dancing occurred twenty pounds, and each of the dancers two gulden. They threatened to inflict corresponding fines of half these amounts upon men or women who danced "longer than between the two meals," and did not stop when they heard vespers sounded.[21]

In its deliberations on the 18th of July, 1503, while the Nürnberg Reformation was still a quarter of a century away, the council among its other business of the day concluded to put a stop to "the dancing which takes place on Sunday and other holy-days upon the streets," and directed that an ordinance to this effect should be proclaimed on the next Sunday.[22]

A specimen of dance regulation, interesting for the motives professed in it, as well as for the curious picture disclosed, comes to us from the fifteenth century. It runs:

> Since it has definitely come to the knowledge of the honorable council, that many unwonted shameful immodest and novel dances are daily encouraged and practiced, which is not only a sin and without doubt displeasing to Almighty God, but also may produce much dishonorable light-mindedness and scandal besides, among men and women, the same to prevent, our lords of the council earnestly and strictly command, that henceforth no player or minstrel shall pipe, play or cause any but the customary dances which have come down from of old;

[20] Siebenkees, vol. ii, pp. 676–677.

[21] Ibid., p. 677.

[22] Mitteilungen, Nürnberg, vol. viii, p. 244. The minute continues: ". . . also to add to the proclamation that no one shall shoot the knobs off the towers."

also no one whoever it be, woman or man, shall dance the same, and in dancing shall not take by the neck or embrace one another.[23]

Let us set beside this ordinance one of the same kind from the late sixteenth century, when the Reformation had had ample time to work in the blood of the council. For the sake of a complete comparison I quote freely also from this one, which like the other opens with an elaborate announcement of motives.

Inasmuch as it has not only been definitely made known to the Honorable Council but also is manifest to the eye and in plain sight of day in what measure at weddings and other dances here an altogether unseemly and immodest abuse prevails, in that women and maidens are excessively whirled and swung around by those who dance with them, wherefrom no small mischief and scandal proceeds, with the result that it is not improperly displeasing to all modest, honor-loving persons to behold it; Therefore the Honorable Council recognizing themselves responsible by virtue of their bearing office to plant and to further whatever is conducive to modesty and honor, but on the contrary to prevent and extirpate all that is opposed to this,—they our Lords have resolved no longer to look upon this unbecoming abuse,

but herewith command "that everyone, of whatsoever rank, at all dances which shall be held . . . in the gardens and other places about the city" and suburbs, "in and outside the houses, shall wholly refrain from all immodest dancing, besides all swingings round and whirlings, likewise from dancing in breeches and jacket only, without any garment put on over them." The penalty was two gulden. If the accused made light of the matter, the council might lay the fine on thicker at discretion.[24]

In comparing these two parallel ordinances it is hard to find in the second any differences to be attributed to the Reformation. To all appearances they are two expressions of a continuous policy. In the ordinance of the fifteenth century the city fathers used fewer words, but they ran their probe in as deep as in that of the sixteenth. In the sixteenth century law they attacked an abuse with which they did not deal in the other, the dancing that appeared to the council to be in dishabille; but they proceeded upon the same grounds—the immodesty of the dances, the scandal

[23] Baader, pp. 91–92.
[24] Siebenkees, vol. i, pp. 172–174.

they were likely to breed; and their tone was no more puritanical. The sense of obligation was the same in both cases. "Recognizing themselves," they say, "by virtue of their bearing office responsible to plant and to further whatever is conducive to modesty and honor, but on the contrary to prevent and extirpate all that is opposed to this," they were prompted to make these laws, and, in fact, to utter all the sumptuary and paternal laws of the period. It is an excellent conscious expression of the relation in which they believed they stood to the community, a relation which in fact had underlain the paternal legislation from the beginning of the story. At least in this expression of its basis, the policy had not suffered any change that is traceable to the Reformation.

The regulations of profanity furnish another interesting test of the attitude of the council toward the moral state of the citizens. In an ordinance apparently from the early part of the fourteenth century the council decreed, "In order to increase all blessedness and to the praise of God, that all loose usage with words shall be done away with, and especially they ordain that no one henceforth shall swear by God's corpse, His head, His heart, His blood, nor by his other members, nor by other creatures, [in connection with] which God is named in dishonor, nor with the new oaths, which now are many in the world." To get at the offenders, they charged the officers and magistrates of the city by virtue of their oaths of office to censure any swearing that came to their ears; other persons by the oath which they took in connection with the taxes were also authorized to act as censors of profanity. These might hold the person caught in his blasphemy for six haller, half of which they must make over to the council as a fine, the other half to go to the informer. Any one who resisted the constable made himself liable to banishment for eight days; and if he made light of the punishment it assumed terrifying proportions, and from a trifling fine mounted into a liability to have his eyes gouged out, his ears lopped off, or other

heavier punishments, not, however, without due process of law.[25]

The guilty party felt in his flesh the punishment for blasphemy also under the terms of an ordinance of the next century. "To the praise of Almighty God our lords of the council decree and command that no one shall swear wickedly or grievously, as by God, or our dear Lady, or the like, or use any unseemly blasphemy." The council would set the offender in the stocks, or have him whipped through the city; and if the profanity was serious enough, might at its discretion inflict capital punishment according to the form of the offense.[26]

Such tenderness of the ears to blasphemy and such sense of duty to suppress it would not be surprising in a Puritan town-meeting of the eighteenth century or in the consistory of Geneva. As a matter of fact the expressions quoted are taken from the lips of a group of men entirely secular, busy with administering the multifold affairs, domestic and foreign, of a great commercial city, in a day when the forces that eventually brought Luther and Protestantism to light had as yet not rippled the surface of mediaeval life.

[25] Baader, p. 68.
[26] Ibid., p. 114.

CHAPTER VI

The Regulation of Christenings

Given the theory that control of personal extravagance is a duty of government, the need of regulating weddings and clothes explains itself. To understand the occasion for ordinances regarding christenings one must have contemporary usages in mind. At the birth of a baby the mother was visited for congratulation by companies of women, whom she was expected to provide with refreshments. These visits were made while she was still confined to bed, and before the baptism; and the burden and expense of the social duties laid upon her provoked the interference of the council. If the distinction between these parties at the bed of the mother and the events of the baptism proper be kept in view, the social observances with which the arrival of a baby was celebrated in the Middle Ages explain themselves with sufficient clearness in the terms of the ordinances regulating them.[1]

The regulations of baptisms which the council of Nürnberg enacted in the fourteenth century were, like the early wedding regulations, direct and simple rules. By one, a party of more than twelve women at the bed of the mother was forbidden; and friends were to do no dancing in honor of the baby until the mother had taken it to church for

[1] One is aided by contemporary art in visualizing the event that required the most regulation, the party which the women of the neighborhood held around the bed of the mother. Dürer's picture of St. Anne in the "Life of Mary" series may be taken as representing a typical party of its kind in the Nürnberg of the artist's day. St. Anne lies in her high canopied bed; and about a dozen neighborly women are in the room, chatting and enjoying the refreshments, or ministering to the saint. At the opposite side of the bed two of them are serving her with a beverage. The artist has sketched a stout woman sitting in the foreground, with head thrown back and face buried up to the eyes in a pitcher. The baby, over in a corner, and apparently attracting little interest, is about to have its bath.

christening. The parents were held responsible for the keeping of these rules, under a penalty of ten pounds; and each person who broke them by taking part in the forbidden festivities was liable to be fined one gulden. Again only twelve women were allowed to be invited to the baptism. If more attended, without invitation, each was exposed to a fine of a gulden. Furthermore the council signified its displeasure with drinking parties at the time of the baptism by attaching a penalty of three gulden to attendance at them.

Overdressing the baby was another extravagance incident to christenings which led the council to interfere. It ordered that no one should "carry a child to the church in a baptismal garment of silk, or in a dress that has been bordered or sewed with silk, gold, silver or pearls." It was found needful also to set limits to the number of godfathers, probably in view of the involuntary taxation in the shape of gifts which standing as godfather involved. An enactment of the fourteenth century made it an offense subject to a fine of five pounds for any one to have more than one godfather for his child.[2] In the next century the council fixed the maximum of the gift which the godfather might bestow at thirty-two pfennige.[3]

Ordinances of the fifteenth century again fixed at twelve the number of women who might be invited to a christening.[4] It was a women's event; the only men who were permitted to attend were the father and the godfather.[5] One article allowed neighborly women to visit the mother on condition that they gave to neither children nor nurses, on one day, more than four pfennige.

Also of the fifteenth century was an ordinance that regulated closely the entertaining which was expected to accompany a birth. This law was designed, the preamble states, "to abolish and avoid unnecessary and superfluous expense." Holding any sort of party in connection with

[2] Siebenkees, vol. i, pp. 47–48.
[3] Baader, p. 70.
[4] Ibid., p. 69.
[5] Ibid., p. 70.

the birth of a baby or its baptism, or during the two months that followed, was forbidden. The entertainer risked a fine of five pounds, and every one who had anything to do with the party a fine of two pounds; but the prohibition was not unconditional, and certain guarded exceptions were allowed. For instance, one might serve the women who came home with the baby from the christening—and also their maids—with sweet cakes and some inexpensive wine. The mother might also on one occasion invite in after dinner her female relatives, provided she gave them nothing more and nothing else to eat or drink than "in moderation one dish of unforbidden food," and besides this, small cakes, raw fruit, cheese and bread, and ordinary wine. If any friends dropped in during the time that the mother was confined to her bed, she might serve them with the same light refreshments. If she added anything, she risked a fine.[6]

An ordinance which was promulgated in the latter half of the following century repeated these provisions almost word for word. The Reformation left no visible traces on the sumptuary regulation of christenings. The law of the fifteenth century, fitted with a new preamble, answered the requirements of the council in the sixteenth, after that body had become Protestant. In the foreword as altered the city fathers complained that their "several honorable, sensible and good ordinances," enacted "to avoid extravagance and mischief," had been "in manifold ways overlooked and transgressed, wherefrom harm and ruin have come and issued."[7] The rules limiting the men who might be present at the baptism to father and godfather, and fixing at a small sum the gift which visitors might bestow on children or the nurse, were also repeated. A new clause was added which looked to effective enforcement of the statute. Midwives were enjoined to warn mothers in child-bed of the terms of the laws affecting baptism, visiting, and entertainment. If they failed to do this, and assisted

[6] Baader, pp. 70–71.
[7] Siebenkees, vol. i, p. 176.

in violations or were privy to them without protest, they should be held accountable equally with the mother, and be punished by infliction of the appropriate penalties.[8]

The christening laws disclose a new range of points in daily life at which the citizen of Nürnberg felt the paternal hand of the council. The motive prominent in the wedding regulations, an apparent sense of a duty both to make possible and to enforce regularity in the citizen's domestic economy, recurs in these, and an attention to intimate and petty details indicates careful supervision. The failure of the Reformation to leave any mark on the christening ordinances confirms the observations made in the foregoing chapters as to the influence of the Protestant movement upon sumptuary policy.

[8] Siebenkees, vol. i, p. 176.

CHAPTER VII

The Regulation of Funerals

The authority which controlled the ceremonies attending a man's entry into the world followed him in his departure, and laid paternal restraint on demonstrations of grief over his death, as well as on the monuments by which it was sought to perpetuate his memory. The rites of the church for the dead offered a temptation to rivalry of display which must have inevitably led to extravagance, and to the setting of standards that imposed a severe involuntary tax upon persons who were not well off. As early as the thirteenth and fourteenth centuries the Nürnberg council was making such rules as this: "It is forbidden that any one expend on a corpse more than twenty-five pounds of wax"; and this: "One shall also not make more than twelve candles; that each candle have not over two pounds of wax"; and again, that no one should place candles on the grave except on the set funeral anniversaries, the "siebente," the "dreizigste," and the "jahrzeit"; and that one should not have singing at the grave except when one laid the corpse away.[1]

The law interposed further by regulating the burgher even in the masses which he might have said for his deceased. On the memorial days he might lawfully offer one mass or sacrifice in the convents, and not more than two in the two parish churches, St. Sebald's and St. Laurence's. If any one wished to offer more for his dead,[2] he was now not restricted in the sum of money to be expended, but required by this early law to make it not less than a groschen or a schilling haller.[3] By other articles one was directed to give

[1] Baader, p. 67.
[2] "Swer Dar uber mer opphern oder messe frümen will."
[3] Siebenkees, vol. i, pp. 203–204.

the priest in person but a schilling or less for the anointing oil; and it was prohibited to offer sacrifice or a requiem mass in the convents at more than one altar.[4]

The paternal interference of the council with the last rites of the dead had an additional motive in a burial ordinance which dates from the fifteenth century. This motive was set forth in a preamble, in which complaint was raised of "the great assemblings of men" that had become customary at the mourning for a dead person, "whereby comes much waste of time in their trades and occupations to the persons repairing to such gatherings." In the desire to prevent this interruption of business the council forbade the attendance of any one but the immediate male relatives and the household servants of the dead.[5] Likewise on the funeral anniversaries only the men and women who were closely related to the deceased might take part in the memorial observances. The secret of the crowds which the council found it necessary to limit is revealed in another section in which the council forbade inviting friends to eat, or their eating without invitation, at the mourning.[6]

It was the fear of extravagance again which led the council to regulate in the same ordinance the ceremonial incidents of death. "Our lords of the council have considered and observed the notable extravagance, pride and superfluity, which are yet unbecoming to the same, which are practiced and take place to no good use in the burial of deceased persons," in the "seelwein," the tapers, the nuns employed to offer prayers; and they accordingly laid down several rules, as that there might not be more than two of the "seelschwestern" with each corpse; that these were to receive for wages, meat, and drink not over twelve pfennige, and on the memorial days, eight pfennige; that they were not to sit by the graves between the burial and the siebente, the first day of memorial rites; and furthermore, if any one asked, paid, or permitted the seelschwester to sit by

[4] Ibid., p. 205.
[5] Baader, pp. 109–110.
[6] Ibid., pp. 109–111.

the grave between the siebente and the dreizigste, he should forfeit to the city one pound haller for each day.[7]

A considerable portion of this fifteenth century ordinance was devoted to regulating the pall. First, the pall was forbidden to be spread except in the week between the interment and the close of the siebente, and again on the dreizigste. Use of it at other times exposed the person responsible to a fine of a pound haller a day. Furthermore, no one was allowed to have a pall of his own; but any one might hire those of the parish, according to his rank. The terms on which the palls might be hired were fixed in the law. If a person used a first-class pall,[8] and would have it spread at all the occasions when it was permissible, he must pay the church four pounds for it; if he employed it only at the burial, sixty pfennige. The corresponding charges for a middle-class pall were sixty pfennige and thirty pfennige; for the third-class, twenty pfennige and ten pfennige. "In all this are excepted the palls which are presented and designed beforehand for the corpse 'um gottes willen'; also those which the craft gilds have for themselves." Even the hire of the woman who laid out the dead was stipulated in the ordinance. This "ausrichterin der todten" was to have not more than thirty pfennige for her services at the funeral, ten pfennige at the siebente and dreizigste, and otherwise through the year for her trouble sixty pfennige.[9]

Memorials for the dead offered a field in which there were many inducements to costly display; and in the fifteenth century, elaborate regulations "von den Leichschilder, Grabsteinen, und Gemälden" were issued. The council in one ordinance forbade erecting or hanging up a memorial shield or tablet costing over three gulden, taking this action, it declared in the preamble, "for particular and important reasons thereto moving it, and before all, for the suppression of vanity, extravagance and waste." If a

[7] Baader, p. 111.

[8] "Vorder leychtuch." The others were the "mittelleychtuch" and the "geringsten leychtücher."

[9] Baader, pp. 111–112.

more costly tablet was already in place, it was to be at once removed, and a fine of ten gulden paid to the city; and the workman who fashioned the tablet, or put it up, was subject to the same penalty. Another regulation, which seems to be a revision of the foregoing, was more particular. The council gave its reasons in a diffuse preamble. "Inasmuch as hitherto manifold superfluity in the matter of hanging memorial shields of great size and costliness in the churches" had been practised, the honorable council, to the praise of God, and for the common good, "in consideration of the vanity of such waste, also in anxiety as to the falling of such shields, obstruction of the light, and other reasons," forbade any one to set up in a church or convent of the city a shield for the dead greater in size and weight than was ordered and prescribed by the council, and fixed in the measurements given to the churchmasters at St. Laurence's and St. Sebald's. The law then proceeded to declare that the arms of the dead were to be painted on ordinary planed wood, and not carved or in relief, and with a plain inscription, that might meet the approval of the council and the warden of the church.[10]

The burial ordinances widen our view of the intimate field in which the choices of the individual were limited by the paternalism of the government. They show again that the council sought both to curb the extravagant leadings of the citizen's own desires, and on the other hand to protect him against extravagance into which he might be thrust because his neighborhood expected it of him. He was afforded a legal refuge from the petty tyranny of social usage and criticism. As in the other sumptuary legislation, the careful supervision of the magistrates descended into minutiae. A fresh aspect of paternalism is visible in the law by which attendance at funerals was limited because of the interruption occasioned to business. Here the council stood forth as not merely the guardian of personal economies, but as taskmaster of the city, evidently acting under a sense of responsibility for personal procedure when this

[10] Baader, pp. 113–114.

was such as to interfere with a man's productiveness as a unit in the industrial community. The same conception of duty is traceable in the preamble of the Wedding-manual of 1485, where the council declared that it felt obliged to extend the wedding regulations to the "common man" because of the injury that resulted from "the interruption of his work with processions to church, etc."[11] The motive, however, that evidently ruled in the burial ordinances, as in the other sumptuary laws of this period, was opposition to extravagance and to excessive display, as wasteful manifestions of unworthy pride. A respect for class distinctions was present, though not strongly pressed, in the rules with reference to the use of the funeral pall.

[11] See above, p. 50.

CHAPTER VIII

The Regulation of Clothing

Apparel was everywhere a prominent subject of sumptuary regulation, and the council of Nürnberg did not fail to extend its surveillance to clothing and adornment of the person. Ordinances which govern in great detail the dress of the citizens appear from early times. Men and women, in literal truth, were regulated from the part in their hair to the soles of their shoes. The reason for this prominence of clothing in the sumptuary laws is obvious. If the authorities were seeking extravagance, they were sure to find it in dress. The tempting chance for display offered by the necessity of wearing clothes has always been too much for frail humanity; hence the rare and expensive fabrics, the costly finery, the fantastic cuts and colors, the changes of fashion, involving needless expense and unsettling the customary, were matters which almost continually exercised these early city fathers, to whom these things appeared to threaten that moral balance and decent composure of life which they felt called upon to maintain.

The clothing ordinances seem curious to us now. It strikes us as odd, because it is a thing outside of our experience, that a sovereign government should pass in the natural course of its business from making treaties, raising an army, or regulating trade to the grave matter of prescribing the pattern of coats and breeches, the length of trains, the quality of silk or velvet, the cost of trinkets, which the men and women of its jurisdiction might put on. At present railways may be debatable as a subject of governmental regulation, but not clothes. This very look of oddity, this quaintness of the ordinances, throws into more striking relief the theory of government of which they

were manifestations, and which we are seeking to understand.

A Nürnberg clothing ordinance, probably from the later years of the fourteenth century,[1] was comparatively simple. It covered with broad provisions certain styles, certain varieties of apparel and ornament, certain stuffs, which men and women might not wear, or only within given limits of value. The object of keeping things as they had been seemed to be foremost. The Nürnbergers, the mercantile element at least, were beginning, even in the fourteenth century, to realize, in the possession of more to spend on luxuries, the profits of the expanding commerce of the city. Changes that seemed dangerous were evidently taking place in dress and ornament. The influence of the free intercourse with Italy is reflected in the ban laid on "Roman jackets," "silver Italian knives," and "silver cloth from Venice." The city was beginning to look out on the world, and was giving signs of departure from primitive German simplicity and plainness.

In this early ordinance young and old were forbidden to wear specified ornaments which were evidently regarded as extravagant or dandified, and which included silver girdles worth more than a half a mark; silver bags; silver knives from Italy, perhaps disapproved of as a foreign affectation; fine pearls; slashed shoes, or slashed coats—coats "slashed under and on the sleeves";[2] or any sort of paternoster worth more than twelve haller. The anxious conservatism of the city fathers is displayed in the further provision that the wearer of the paternoster "shall not hang them over the backside; he shall wear it in front at one side, as has been done from of old."[3]

The council turned its attention to certain fashions that seemed to require curbing, whether for their cost or simply

[1] Schultz, who makes use of this ordinance in his Deutsches Leben, dates it by a reference to slashed sleeves, which he thinks sufficient indication that "the statute has in view the fashions prevailing about 1400" (Deutsches Leben im XIV und XV Jahrhundert, vol. i, p. 304).

[2] "In order that the undergarments of brighter color or precious material might show" (Schultz, vol. i, p. 304, note).

[3] Baader, p. 66.

their freakishness is not declared. Men and women alike were to refrain from wearing any sort of clasps or rings or buttons on their sleeves higher than the elbow, on pain of forfeiting one pound haller a day. Burgher ladies, married, unmarried, or widowed, must not put on a veil or a headdress that had in it more than a certain quantity of material, and were not to wear it in such a way "that the ends in front lie upon the head." If they wished to put on an extra veil or headtire on account of sickness or cold, they might do it provided they put it on over "twerch," and must not pile two or more one upon the other.[4]

The remainder of the law, as far as it applied to women, attacked the use of expensive goods in dress and personal adornment. Women were classified in the terms of the ordinance as "married women, maidens, and widows." Matrons and widows were forbidden to wear any "reisen"[5] except of a cheap grade, which was white or red, "as they have done from of old." The husband was held responsible for the payment of the fine of five pounds haller; or, if he was dead, the widow was liable, or the person "whose bread she eats." All women—matrons, widows, or maidens—were prohibited from wearing any garment of silk, or Roman jackets, or garments trimmed with "zendal" (a light silken fabric) or with gold or silver, or bordered with these last; and they might have only two garments wholly of fur.[6] They must smother their longings for ermine, fur coats, and coats of "spalt," or pay a fine of ten pounds haller; and on pain of the same penalty they must abjure the vanity of ear ornaments "which are made with beaten gold, or with silver, with fine pearls or precious stones."[7]

The council dismissed the men with the broadest restrictions in two brief paragraphs. Its regulation of them would seem to be in the interest of propriety. If men had passed fifty years they must stop wearing red buckram,

[4] Baader, p. 66.

[5] Schultz calls "die Reise" "a kind of Haube," that is, headdress (vol. i, p. 304). Baader explains it as a "kind of woven stuff" (p. 66, note).

[6] Baader, p. 66.

[7] Ibid., p. 67.

perhaps because this was not becoming to advancing age. Furthermore "no burgher, young or old, shall wear his hair parted; they shall wear the hair in tufts as it has been worn from of old." Offense against either of these prohibitions invited a fine of five pounds haller. Finally no burgher, young or old, was thereafter to "wear any silver cloth from Venice."[8]

A clothing ordinance which has come to us from the next century, probably from its last quarter, is more elaborate, and in this difference repeats the curious history of the wedding laws.[9] As was pointed out with reference to them, more complex regulations were to be expected in the fifteenth century, even though the execution of them might not be more vigorous, because time and the great growth of wealth in Nürnberg could not have failed to multiply the points at which regulation seemed needful. The ordinance was headed with a preamble in which the council professed a sense of the grave and solemn bearings of the matter on which it was legislating, and maintained a religious tone quite in keeping with the solemnities of the pulpit from which the document was read. The city fathers rested their action upon the broadest grounds of morality and of religious faith as well.

Since, as in various ways is manifest, the Almighty God from the beginning not only upon earth, but also in heaven and in paradise has hated crime, pride and presumption and heavily punished them, has exalted and rewarded obedience, humility, modesty and honorable good morals, also [because] from pride and disobedience have risen and flowed to many an empire principality and commonwealth [commonen] great injury detriment and loss, as lies evident to the eye in many places, therefore to the praise of Almighty God, in the interest of the common weal, and to the honor of this honorable city of Nürnberg, also to the end, that God with his favor may be pleased so much more graciously to guard, to protect . . . and keep us and the city in blessed praiseworthy discipline, as we appear humbly with honorable morals before his divine majesty, therefore have we burgomasters and council of the city of Nürnberg, for the avoidance and suppression of pride, folly and superfluous expenditure,

prepared the ordinances which follow.[10]

[8] Ibid., p. 67.
[9] See above, Chapters II and III.
[10] Baader, p. 95.

When all allowance has been made for stereotyped formulae, such a preamble is still significant of the fact that when the fathers undertook to set bounds to personal indulgence and expenditure, they felt that they were doing something beyond keeping good order. Evidently they assumed that they were meeting a responsibility to preserve among the citizens a scale of living and a manner of life that accorded with standards of morality and was approved by the sanctions of religion.

It is possible to cite an interesting illustration of the relationship in which the council stood to the church as the disciplinarian of manners. Nürnberg was not an episcopal seat. It belonged to a see whose bishop resided at Bamberg. The chronicler notes that in the year 1453 "the long peaks on the shoes began; the vanity came from Schwabia."[11] This invasion of his dominion did not escape the eye of the Bishop of Bamberg. His way of meeting it was to write a letter to the city fathers of Nürnberg and ask them to take measures to check it. On July 17 the council replied that in obedience to his request it had given orders to the cobblers "on pain of a definite penalty henceforth to make no more peaks on the shoes."[12] How often the suggestion of sumptuary regulations came from ecclesiastical sources there is no way of ascertaining, but this instance shows how close the sphere assumed by the council was to that of the church; how without a difference appearing in the resultant law the council might act as the arm of the church or in its secular capacity. The regulation of shoes in the fifteenth century ordinance appeared in the last clause of the statute, and it revealed the same method of reaching the long peaks as that adopted at the bishop's petition. No man or woman, it ordained, should wear any sort of shoe longer, in proportion to the size of the foot, than the standard which was given to the cobblers for the purpose and was also to be found with the city master of measures (marckmayster). The penalty to be inflicted on

[11] Chroniken, Nürnberg, vol. iv, p. 197.

[12] Quoted in footnote, in ibid., p. 197, from Nürnberger Briefbuch, Nr. 23, Bl. 259.

the purchaser was three gulden; and it would appear from the quotation above that a separate penalty was exacted of the cobblers.[13]

As in the earlier clothing ordinance first described, there are in the fifteenth century statute a number of blanket provisions ruling certain materials out of a legitimate wardrobe. Things forbidden to women were cloth of gold or of silver, velvet, satin, or other silk material, as dressgoods or trimming; sable or martin fur, as material or lining; coats of camel's hair; garments of "scharlach" and "scharlatin";[14] linings of taffeta or other silk in their mantles; and pearls, which, however, young maidens might wear if they followed a prescribed manner. Men were forbidden to wear cloth of gold or of silver, velvet, and scarlet; ermine, sable, and weasel fur; gold lace, and pearls. These materials were evidently condemned on the ground of their high cost.[15]

There were other materials which might be worn only in specified measure, or up to a given value. Thus women might wear the silks and the precious cloths, otherwise prohibited, as a border on the collar and sleeves of their cloaks and coats, but not a jot wider than the standard measure given to the tailors, and never so as to use more than a half an ell of goods.[16] Again, women might not have borders of fur on their garments any broader than the measure given the furriers for this purpose, and they were not to have them at all around the bottom of their coats and undergarments.[17] Exception to the prohibition of taffeta and silks as lining for mantles was made of "zendal, schylher, or taffant"; but these were to be worn in such moderation as not to cost, on any one mantle, over five Rhenish gulden.[18] A woman might have her cloak lined

[13] Baader, p. 109.
[14] Scharlach was "a costly material,—dyed red, brown, blue,—originating with its name in the Orient" (Schade, Altdeutsches Wörterbuch, s.v. Scharlach).
[15] Baader, pp. 96–105.
[16] Baader, p. 96.
[17] Ibid., pp. 96–97.
[18] Ibid., p. 99.

with fur, provided it did not as a result, with all appurtenances, buttons, covering, clasps, and the rest, cost over eighteen gulden; or she might have it lined with buckram or the like, if it did not exceed in cost ten gulden.[19] The council felt the need of putting restrictions on the men too, in the matter of extravagant trimmings. No male person in the city was to have a bordering of "velvet, satin, damask, or other silk" on coat, breeches, cloak, or mantle, that contained over a half an ell of goods; and no man was to have any border of silk around the bottom of his garment.[20]

Again, certain sorts and styles of apparel were permissible only within given limits of value. Thus "taphart-hembden" (wide garments caught in the middle with a girdle), with making and all appurtenances, must not cost more than six gulden; "halshembden"[21] must not exceed two gulden in value; head-dress ("hauben"), two gulden.[22] Veils were not permissible that contained over six folds, or with all attachments cost more than six gulden. A "stewchlein"[23] worth a Rhenish gulden or less might be worn.[24] Again, a maiden might wear pearl fringes, tiaras, and fillets, but they must be of such value as not to make her whole headtire cost more than forty gulden.[25] Furthermore the women seemed to the city fathers to have gone to an extreme with gold and gilded chains. They would have thereafter to content themselves with one chain; and this, with all pendants, was not to exceed in value fifteen Rhenish gulden.[26] The paternoster again figured in this ordinance as a feature of apparel where costliness, for display, exceeded the appropriate limit. The council forbade women to wear rosaries of a value exceeding

[19] Ibid., pp. 99–100.
[20] Baader, p. 107.
[21] "Guimps" I suppose we should call them; they began at the neck and extended over the breast, where they were fastened to the corsage. See Grimm, Deutsches Wörterbuch, s.v. Halshemdt.
[22] Baader, p. 97.
[23] The stewchlein was a substitute for the veil, but had sleeves with pouches into which to stick the hands.
[24] Baader, p. 98.
[25] Ibid., p. 101.
[26] Baader, p. 102.

twenty gulden.[27] The men too were not allowed to select their wardrobe without respect to prices. They could not wear breeches or caps which cost them more than one orts-gulden to have made.[28] And they must cease wearing fancy shirts and breast-cloths. Their shirts, with all of the borders, embroideries, and trimmings, and with the cost of making, must not be worth more than six pounds; their breast-cloths not more than three pounds.[29]

The object of such regulations as these was manifestly to check extravagance; and this motive is frequently professed in the secondary preambles with which many of the sections are headed. Restraint was put on wearing pearls in the hair, in order to bridle a "notable extravagance" in this matter which had "broken out and is practiced among certain honorable maidens."[30] In regulating the wearing of gold and gilt chains the council declared that it was seeking "to avoid and repress such useless and uncalled-for costliness."[31] When it ordered the men to wear their clothing closed in front, in order to remove the temptation to have a costly fur lining to show at the openings, and then allowed them only a turned-over fur collar, it declared that it was moved to this because "notable extravagance" had arisen among the men of all classes, "namely in the use of marten and other expensive fur-stuffs on cloaks, breeches, coats and mantles; also expensive sable, marten and [other] fur hats and headgear, all which more befit manifest pride than necessity." It was "to meet such extravagance, also to avoid needless and excessive expenditure," that the council drew this line.[32] Again, it regulated the wearing of fancy shirts and ornamented breast-cloths because "considerable extravagance has broken out," despite former laws on the matter enacted "to avoid unnecessary expense," and the shirts and breast-cloths were

[27] Ibid., p. 103.
[28] Ibid., p. 105.
[29] Ibid., pp. 105–106.
[30] Baader, p. 101.
[31] Ibid., p. 102.
[32] Ibid., p. 104.

made over costly with broidery and borders, "and other needless and senseless contrivances."[33]

Such was the predominant motive apparent on the face of the ordinance: to curb personal extravagance and incidentally to keep in check the moral disorder of pride (Hoffart). Another motive, distinctly moral, also asserted itself. It did not appear at all in the fourteenth century ordinance, but had in this a prominent place, and came to light in the prohibition of certain cuts and styles of dress because they were immodest, or because they violated decency and threatened good morals.

For instance the council forbade women to wear garments cut too low in the neck. "Too low," in the eyes of the city fathers, was anything exceeding one finger's breadth below the throat. In the back the collar might lawfully be a half quarter-ell lower. Furthermore women must not wear their coats and other garments standing open at the girdle, but have them clasped with catches, or else wholly closed. If they had garments which they could not alter to conform with the law, they might wear them only if they wore underneath a breast-cloth and a closed collar. Reproof of extravagance again came uppermost in the proviso that breast-cloth and collar together, and all trimmings and facings on them, must not cost more than the trifle of half a gulden.[34]

The object of ethical discipline reappears distinctly in the provisions forbidding the men certain patterns stigmatized as indecent. It seems that the outer garments of men, which at first reached to the ground, had been growing steadily shorter since the change of styles that went over Europe in the fourteenth century, and had seemed to the conservative at each new abbreviation to offer an outrage to propriety. From this ordinance it is evident that in Nürnberg coat and mantle alike were rapidly dwindling to a jacket; and the city fathers had been reduced to despair of being able to retain more than a mere rag of decency, so

[33] Ibid., p. 105.
[34] Baader, pp. 97–98.

to speak. They confessed their inability to enforce the statute which they had made requiring that garments reach at least as far as the arm extended downward. They had not prevailed against the tide. Such long garments as the law approved had become old-fashioned, "nach gemeynem welltlauff dieser zeyt," and they had perforce to give in. But there was one requirement on which they took a last stand: Coats and mantles had, for decency's sake, to extend two finger breadths over the fly and the man's shame. And the mantle, short or long, must "not be cut out too deeply, or be left open, in order that everyone's shame may be covered, and he may not be found unchaste therewith."[35]

Again the offense against morals was the evident motive of the provision with regard to the flies of the breeches. The fashion, not confined to Nürnberg, was such as to direct attention to these. The color was often one in conspicuous contrast to that of the breeches, and the flap was "stuffed and artificially enlarged."[36] The council pronounced the fashion "unchaste and shameful," and declared

[35] Baader, p. 105. This provision is printed by Baader as an article of the clothing ordinance; but it seems to have been uttered separately, probably at a different date, and in the same breath with ordinances regulating flagrant immorality. See Siebenkees, vol. iv, pp. 602–604. The enactment regarding unchastity and that regarding clothes are apparently covered by the inscription at the close: "Decretum in Concilio feria quinta vigilia Nativitatis Marie virginis in gloriose. Anno ec. lxxx. Proclamatum de pretorio, dominica post Nativitatem Marie virginis Anno domini ec. lxxx." It may throw some light on the character of the article on short clothes to give the substance of the morals ordinance with which it was linked. This runs: "Since the honorable council has been definitely and credibly informed that day and night, within and without the city, and especially at Gostenhof, also on all sides in and before the forest," many and various sins, especially of unchastity, are committed without restraint or shame, tempting the vengeance of God, and likely to bring injury to good people, the council forbids "any woman of the town or other woman" to commit unchastity with a man within a radius of a half a mile of the city, "except in the ground upon the 'Judenpühel,' and besides upon the green and meadows between the 'Wilbolzprunnen' and the 'Staynen Prucken,' which has always been called here the 'plerrer,' there alone and nowhere else, outside the city—this the council will suffer for the prevention of greater evil," with the proviso that such practices shall be carried on so as not to be seen from the gardens and garden-houses near the city.

[36] Schultz, vol. ii, p. 332; also Tafel XXXI.

that the practice of wearing the fly "at dances and on other occasions shamelessly bare and uncovered in the presence of honorable women and maidens" was "not only against God, but contrary to decency and manly breeding." They ordained that henceforth every man in the city "shall wear the fly of his breeches not bare, uncovered, open, or visible, but shall have all of his garments made, and shall wear them in such a manner that his shame and the fly of his breeches may be well covered and not seen bare." [37]

Class distinctions, to maintain which was to become later a principal object of the clothing laws in Nürnberg, did not figure at all in the fourteenth century ordinance described above. In the ordinance of the fifteenth century which we are considering, traces of a regard for social rank appear. For instance, when the blanket prohibition was laid upon wearing precious materials, like cloth of gold, certain exceptions were made in favor of "honorable" women and maidens, as that these might have borders of silk on the collars and sleeves of their coats; the "honorable" matrons, droops of velvet on their sleeves.[38] Again, the preamble of one of the sections regarding men's clothes runs: "And since a notable extravagance has arisen among the men, not only the honorable, but the common man, etc."[39] It was noted with regard to the wedding laws that they were extended for the first time in 1485 to the "common man," and that they probably had not taken cognizance of him earlier because he had not had the means to offend.[40] That social classifications appear so faintly in this clothing ordinance is possibly due to the same cause—the absence as yet of a wealth among the lower ranks that would tempt them to trespass. The likelihood of this is at least sufficiently strong to make unnecessary the inference that social distinctions did not exist and were not sharply marked. It will be noticed that no prohibitions were laid upon the "common" man or woman, except implicitly in

[37] Baader, p. 105.
[38] Baader, p. 96.
[39] Ibid., p. 104.
[40] See above, pp. 50–51.

the special permission to "honorable" women to wear silk borders. It was not yet felt necessary to hold the lower classes in their place by denying them apparel allowed to the ranks above. One need not therefore infer that at this time the artisans and shopkeepers and their wives were wearing at pleasure and with the sufferance of the council the same clothes and the same finery as the great merchants and the members of the aristocratic old families. It is much more natural to suppose that the men and women on the lower levels were still wearing the dress regarded as proper to them because they could afford no others; and that the objection of the council to an obliteration of class lines in costume remained as yet latent only because there was nothing conspicuous to call it into play.

There is one provision in which respect of class distinctly emerges, but in it we do not find the bisection of the community into "honorable" and "common," but lines which cut across. "Henceforth no male person," it runs, "citizen or denizen of this city, except doctors [of the law] and knights, shall wear in any part of his garb any strings, borders or lace, which are made wholly or in part of gold." Here one has a foretaste of the elaborate provisions of a later time designed to mark off the social orders by the badge of dress.[41]

Hostility to the new as such and disapprobation of styles because they broke with the familiar past predominated among the motives expressed or implied in the terms of the statute of the fourteenth century which was reviewed above.[42] Undoubtedly this conservatism mingled with the motives which we have found in the ordinance of the fifteenth century now under consideration, but nowhere in the body of the statute does it show itself definitely enough to be identified, until the end. In a curious omnibus clause it is finally proclaimed emphatically. The city fathers put themselves on record, so to say, as opposed to novelty. Having enumerated all of the extravagances, all

[41] Baader, p. 205.
[42] See below pp. 126 ff.

of the innovations of extravagant tendency, which they could think of, they spread this provision to catch any new ones that might happen to arise unforeseen. The section reads as if tacked on when the insufficiency of the law in the face of unanticipated emergencies of fashion had already become manifest. It is entitled: "Von neuigkeyt und sonndern schnytten inn cleydungen, geschmucke und schuhen." "Although an honorable council," runs the preamble, "has adopted now various and manifold laws for the suppression of pride, nevertheless in spite of these the council has considered and remarked . . . that novel foreign customs have arisen, been adopted and practiced, none of which have been provided against in their laws aforesaid." The council therefore forbade that "any male or female person, inhabitant of this city, shall adopt, practice, or use any sort of peculiar cut or innovation in clothing, trimming, ornaments, or other material, or decoration of the body, in any manner. Then he on whom such innovation, foreign custom or peculiarity . . . is found, [if] he being arraigned . . . therefor, the council or the Five Lords 'am hader' shall recognize it as an innovation or peculiarity," he shall pay the city a penalty of three gulden for each article.[43]

It would seem that this clothing ordinance, like the Wedding-manual of 1485, was not issued en bloc, but represents an accretion of provisions enacted at different times to meet new conditions as they arose. There is no proof of this belief on the face of the document or in its terms, but there are certain indications of it. There is, for example, the appearance in the midst of it of a provision known to have been framed and proclaimed in connection with a law of a different kind.[44] The discovery of this foreign clause raises a suspicion of alien nativity against its neighbors. The clause against innovations was evidently a later amendment. One provision, with regard to making gifts of brooches, refers to the Wedding-manual of 1485, and must

[43] Baader, pp. 108–109.
[44] See above, note 36.

therefore be of later origin than the provision with regard to short clothes, which appeared in 1480. Again, the ordinance from point to point seemed to take a fresh start. It opened with an inclusive preamble. But several sections had separate preambles, complete in themselves, as if they had originated separately, as we know that one of them did, and had afterwards been added to the main ordinance.

These, however, are slender threads of evidence, and the one important conclusion that might be derived from them—namely, that the ordinance was flexible and constantly molded to new conditions—is sufficiently supported by the express terms of the regulations themselves. For example, the section with regard to "women's robes" declared that, a former law on the point having failed, and in view of evasions to which the women had resorted, it was intended that this regulation should be milder and so secure obedience.[45] Again, the section respecting pearls was declared to be necessary to take the place of a former ordinance held in contempt because its penalties were too slight.[46] The council further declared that in enacting the provision regarding fillets it was moved by the "notable extravagance that has broken out."[47] Likewise the section limiting the display of gold chains was enacted in view of the "extravagance that has broken out among women in the matter."[48] The "abuse and disorder that has arisen" called out a provision against having the face covered on the street.[49] Examples might be multiplied. They demonstrate that a great many of the provisions of the ordinance were occasional enactments. They represent the application by the council of its views of good form in dress to new conditions which they did not foresee, or to a stubbornness of forbidden practices upon which they had not reckoned.

These repeated prefatory remarks, in the form of second-

[45] Baader, p. 99.
[46] Ibid., p. 100.
[47] Ibid., p. 101.
[48] Ibid., p. 102.
[49] Ibid., p. 103.

ary preambles, make this ordinance peculiarly rich in explanatory matter, a condition which enables one to gain some information on the important question whether the council was pressing its restrictive policy with vigor, or letting its laws take care of themselves, in the period from which these enactments date. The provision with regard to wearing pearls obviously represented a sharpening of the law. It was specifically stated in the preamble that a previous ordinance had, "because of the slightness of the penalty, come to be held in contempt by many persons both of the male and female sex." Where the city fathers had before countenanced pearls worn in fillets and hairbands, they now laid an absolute ban upon the appearance of pearls, clustered or single, anywhere on the person, and raised the fine from three gulden to ten.[50]

In the article "von frowen schawben," on the other hand, the city fathers, admitting the failure of a previous law to prevent numerous evasions, and evidently having decided that to get the law obeyed at all they must make it less drastic, declared their intention to "give to this statute a moderate and tolerable air." Accordingly they permitted women to wear fur-lined robes, if their hearts were set upon them, but they might not have them lined with any of the varieties of fur forbidden to be worn,[51] and the value of the garment, with all of its appurtenances, lining, covering, buttons, clasps, and so on, must not be more than eighteen gulden.[52]

Again, as we have already seen, the council bowed to the storm in the clause regarding short clothes, frankly recognizing that fashion had been too much for the law, and conceding "that henceforth clothes may be worn shorter

[50] Baader, pp. 100–101. The single exception made was in the case of maidens, who might wear pearls on their heads up to the value of forty gulden.

[51] See above, p. 111.

[52] Baader, pp. 99–100. The abortive statute which this was to supersede is probably to be found in the paragraph that follows in the text of the law. In this it was forbidden to women and maidens to wear a cloak worth more than ten gulden. The substitute is much more liberal, permitting a value almost double this.

than as before decreed and above indicated." They agreed to insist only upon a requirement of decency.[53]

In another instance the council showed its interest in the enforcement of the sumptuary prescriptions by making a change that was designed, according to an explanatory preamble, to stop a leak that had developed. A previous ordinance had forbidden men to wear plaited shirts and breast-cloths, but they had proceeded to wear unplaited ones just "as costly or more costly than the plaited, with embroidery, borders, and other needless and senseless contrivances." To cover this development the council broadened its law to forbid the wearing of shirts worth, with all ornamentation, over six pounds, and breast-cloths, whether plaited or not, worth more than three.[54]

In all of these cases the city fathers acknowledged the failure of previous laws, but their action varied. At one point they made the law more stringent, or more exact; in other cases they softened the requirements in such a way as to acknowledge, in part at least, the victories of fashion. Their aim, of course, was to get their laws enforced. When possible they made them stricter; but where usage appeared too strong, they lowered the tension of the statute to a point where it seemed enforceable. It is not necessary to suppose that their only incentive in thus watching the success of their decrees was the interest of the legislator in seeing authority maintained; it is evident that a civic paternal anxiety also figured largely in their motives.[55]

A certain vigor in the regulative policy is indicated by these modifications and explanations. The council had the restraint of luxury in dress enough at heart not to let its decrees sleep in the statute-books, irrespective of new outbreaks or of violations that seemed to require some

[53] Baader, p. 105.

[54] Baader, pp. 105–106.

[55] We have seen that it is at least not improbable that a number of articles of the ordinance were amendments, and were added at various times; and in that case, each might well have a different pitch, according to the temper of the council at the moment regarding luxury. Unfortunately these articles lack dates, and the other evidence which would enable one to work out the problems presented seems not to be attainable.

change in the law. The final test of the vigor of the policy, of course, is to be found in its enforcement in the courts, but in the law itself there are problems which would only arise from a more or less active attempt to put it into effect. The value of the law as a document is primarily to reveal the standards sought to be applied and the principles of conduct thought so desirable that they are entrusted to the police power of the city. Among these ideals of the council we have identified a moderate and definitely limited scale of expenditure in dress, a regard for decency in clothing, and a close adherence in style to the past.

Two other interesting features appear in this clothing ordinance with regard to its enforcement. First, not only the wearers, but the makers of unlawful garments were held responsible for them. The borders of velvet or silk which ladies were permitted to wear about their collars and sleeves were to be of exactly the width of the measure given to the tailors for the purpose. Borders of fur were to be no wider than the standard given to the furriers, and also placed in the chancery.[56] Shoes were not to be worn which were any longer, in proportion to the foot, than the standard given to the cobblers—also to be found with the city master of measures.[57] In the case of the cobblers we know that a fine was exacted of them if they made shoes except by this standard.[58] The person caught wearing pointed shoes was bound by the statute to name the cobbler who had made the forbidden peaks. Such a method of applying a sumptuary law attacked abuse at the source, and was a good stroke of policy; for, if successful, it robbed the fashion of the great advantage it had over the law when once it was entrenched in leather, or fur, or velvet.

It was perhaps the insufficiency of a reprimand and a fine to break the attachment for a garment already possessed that led the council to give itself leave in some instances to confiscate the goods. The language in one of the articles would seem to indicate that it was generally expected that

[56] Baader, pp. 96–97.
[57] Ibid., p. 109.
[58] See above, pp. 110–111.

the offender should alter his garment to conform with the law,[59] but in others confiscation was expressly threatened. If a woman wore a fur-lined cloak other than as allowed, "an honorable council may in addition to the aforesaid penalty take away such cloaks as transgress the ordinance."[60] Again, if a maiden decked herself with more than forty gulden worth of pearls, the council would take them in possession, besides the ten-gulden fine.[61] Furthermore, if the council caught a woman wearing at a dance or a wedding a brooch worth over eighteen gulden, it might in addition to the mulct take the brooch.[62] So with all gold chains exceeding fifteen gulden in value.[63] In every case the council was to make compensation for the garment or finery taken, but this was to be measured, not by the actual value of the articles, but by the value which they should have had under the terms of the law. Thus the council bound itself to pay only forty gulden for the pearls worn unlawfully by maidens, whatever their value, or only fifteen gulden for a chain worth more than that. The difference between these sums and the value of the trinket was in the nature of an elastic fine, which the offender increased by the measure of his offense.

The terms of the provisions regarding confiscation would seem to indicate that the council itself undertook the enforcement of the clothing ordinance. They run: "An honorable council may take, in addition to the aforesaid fine, etc." Such a phrase, however, may be taken to cover the action of the council through its agents. In a clause of the regulation of pointed shoes a slender hint escapes as to the court in which the sumptuary cases were heard in Nürnberg. According to this clause it was either the council itself or the "fünf herrn am hader." "Also each person arraigned [for wearing unlawful shoes] shall be

[59] Baader, p. 97. "If a woman has a garment which she cannot conveniently alter to conform with the law," she may wear it with a guimp, etc.
[60] Baader, p. 100.
[61] Ibid., p. 101.
[62] Ibid., p. 102.
[63] Ibid., p. 102.

bound to name the cobbler who made such forbidden points, at the discretion of the council or the 'fünf herrn am hader.'"[64] This presumably was the tribunal which was known officially as the "fünf herrn."[65] Of its jurisdiction Scheurl in his letter to Staupitz speaks with disappointing vagueness, saying that it tried slander cases and punished those who disobeyed the laws. Its procedure was summary and rapid. It did not accept written plaints, or allow attorneys, and seldom heard witnesses, but for the most part decided the cases on oath. No appeal could be taken from its verdict, but when the case was grave the court voluntarily referred it to the council. Such a court would seem well adapted to handle cases arising under the sumptuary laws.

When this ordinance is laid alongside one of the previous century,[66] greater elaborateness in it is at once apparent. The law reflects the increase in variety and costliness in apparel that necessarily attended the accumulation of wealth. Regulation is shown to have kept pace, in some measure at least, with luxury. It is noticeable, too, that the forbidden garments and styles were described more carefully than in the older ordinance. It would seem that the city fathers were seeking to make it harder for offenders to escape through indefinite terms in the law. Again, there were more explanations. The motives were professed, and the situations that had provoked legislation were described. Too much stress cannot be safely laid upon the fullness of the law as indicating that the regulative policy had become more definite or grown more conscious of its purposes. The change may be in some part attributable to advance in the art of legal phrasing.

One feature of the fifteenth century ordinance not to be found in the other is the appearance of articles called forth by special outbreaks of extravagance. They represent an effort of the council to head off luxury wherever it showed

[64] Baader, p. 109. Baader says that the term "herrn am hader" denotes the "so-called fünfergericht" (p. 121, note 1).

[65] See above, pp. 25–27.

[66] See above, pp. 107–109.

itself in some new guise. It is true that all the sumptuary laws were aimed at abuses already existent. They all were intended to restore a normal order that had been violated and seemed threatened with disruption. These articles, however, which were directed against specific outbreaks, would seem to indicate an early appearance of the council upon the scene of disorder; an action taken promptly before the abuse had got beyond control; and therefore perhaps a certain alertness of attention. In no respect does the later ordinance as compared with the earlier display any relaxation in the attempt to enforce by law ideas of propriety in dress. Whether these ideas were stricter or not is practically impossible to determine. One can only say of their content that in the older law the council's notions of propriety seemed to be informed chiefly by a hostility to extravagance first, and then to innovation and foreign importations. In the later law there was revealed in addition to these the consideration of modesty. There was also a certain respect for class distinctions, not, however, as strongly emphasized as later. The hostility to extravagance and ostentation still predominated; but mere novelty or foreign origin, "outlandishness," and suggestive exposure of person appeared as sufficient grounds for making certain forms of clothing unlawful to wear.

CHAPTER IX

Problems of Sumptuary Legislation

If, anticipating for the moment a more thorough study, we turn from a sumptuary law of the fifteenth century, such as the clothing ordinance described in the foregoing chapter, to a statute of the same variety enacted at the close of the seventeenth century, we find that an interesting change had taken place. The council appears to have been no less sensible of a duty to enforce propriety by law, for its regulations in 1693 were of even greater volume than the ordinances of two centuries before, and they were much more particular; but the aldermannic definition had with time developed. To prevent extravagance in dress was still the object, but the council no longer employed a single measure of judgment for the whole community. There was a different standard for each social rank. The rule no longer held that what was permitted to one to wear was permissible to all who could afford it. The respect of social lines which was feebly visible in the ordinance of the fifteenth century is the conspicuous trait of the ordinance of 1693, and asserts itself not only in the professions of the preamble, but in the very structure of the law.

It was natural that this extension of the theory of restriction should take place in a society as sharply stratified as that of Nürnberg as soon as the diffusion of wealth made it possible for the lower ranks to imitate their superiors. At the same time it operated to give the paternalism of the council a new object: the maintenance of social distinctions in dress. The place of importance which this distinct duty had assumed by 1693 in the view of the city fathers is indicated in the preamble of the statute. Enumerating the reasons for a new ordinance, they named among them

the violation of that of 1654, and "the immoderate costly display" resulting, which must be a matter of grievance to "virtue-loving persons." A further grief lay in the fact that "one can scarcely distinguish one class from the other any longer," so that foreigners riding through the city often confused persons of high and low degree; and, finally, they deplored the risk that was run of being "plunged by God, the Almighty Creator and Preserver of mankind into destruction."[1]

The dominating influence of the motive of preserving social gradations in the value and manner of dress was indicated also in the structure of the ordinance. Four ranks were recognized; and the law was divided into four great sections to correspond. The first regulated the apparel, ornaments, and equipage, first of the men, then of the women, married and single, of "the old noble families [des Alten Adelichen Geschlechts] in the foremost rank." The second section laid down parallel rules for the second class, who were defined as including the "respectable merchants" [Erbarn Kauff- und Handels-Leute], who had "no 'offen' business," but carried on commercial and trading enterprises with their own means, and assumed the risks, and whose ancestors had done the like; who also were genannten of the Great Council.[2] The third class was defined in the third division as merchants and traders, and members of the Great Council, who carried on a business which was their own, but which was not as "superior and dignified" as that of the class above them. With these were classified the craftsmen of the small council. In the fourth class, regulated in the final division, were placed the persons engaged in trade who had been in business at Nürnberg only a few years, and had not yet attained the standing of genannten. Along with these were the shopkeepers and craftsmen who were "in the genannten-rank," and the merchants' assistants.

[1] The document used is a manuscript copy of a contemporary print in the British Museum.

[2] See above, p. 17, and Chapter I, passim.

The ordinance enumerated in each paragraph of the long section devoted to the members of the first class, first what was allowed them in dress, then what was forbidden. It followed a parallel course with each of the other social grades, but with a decreasing volume of negative provisions, because it was able at a stroke to deny to each succeeding rank all of the things prohibited to the ranks above. Observance of social precedence was required in everything, down to the ribbons on the horse that drew the coach of a bride. In the uppermost class the horse might have his forelock, mane, and tail tied with a colored ribbon; in the second class only his forelock and tail; in the third class nothing but his forelock. A comparison of a few of the parallel rules laid down for the several classes will serve to illustrate the differences in dress which the law required, and at the same time will show how meticulous the regulation of this period was.

For example take the rules for the headgear of women. Ladies of the first class might wear velvet caps, not too ample, bordered with sable and marten. On festal occasions (Ehren- und Fest-Tägen) these caps might be ornamented with rosettes or buckles of gold, and a few pearls, but no diamonds; and the value of the decoration should not exceed seventy or seventy-five gold crowns. They might wear little hair-caps all of gold, but without pearls, and not worth above thirty or forty gulden. On the other hand, it was forbidden to them to "set diamonds in the hair-caps, and upon the hat-cords, should such again come into use." Gold and precious stones other than diamonds were permissible, and the upper-class maiden was privileged to wear pearl bands in her hair.

Wives and daughters of the second rank might also wear velvet caps, but with a difference. They must not let them cost over twenty-four gulden, nor put gold buckles on them, or gold-lace, but must content themselves with gold mixed with silver. They might wear silk caps without breaking the law, and could have narrow gold borders on them, but they must abjure hair-caps that were all of gold

and hats with gold and silver buckles. The maidens of this class might wear a pearl hair-band, but not over twenty-five or thirty gulden in value. When it came to the maidens and matrons of the third rank, they might wear caps of cut or uncut velvet, with rims of dyed marten or jennet; and they might have their headdresses set with silver, but the value must not exceed ten gulden. Their summer hats, with silver hat-cord, must observe the narrow value-limit of three or four gulden. They might wear silk caps, but instead of gold ornamentation they could have on them only silver or mother-of-pearl bangles. In the fourth rank the wives and daughters of Nürnberg were forbidden all of the things forbidden to the three upper classes and most of the apparel permitted to their superiors. They might have caps of figured "Tripp-velvet," with rims and lining of fur, but not of marten. In case of mourning they might wear crepe veils on their hats not more than four ells long.

The law regulated the elegance of travelling equipages both as a source of extravagance and as an index of social standing. Very particular attention was given to the material of the saddle-cloth and the holster, to the pompons on the heads of the coach-horses, to distinctions in the use of feathers, and to the prohibition of silk or half-silk tassels on the harness. The jealous emphasis on class distinction is further exemplified in the section regulating sleighs. Persons of the first rank were not to have too much gold on their sleighs; but as a matter of fact they had a practical monopoly of sleighing. There were only a limited number "outside of the first rank" who had from of old been "privileged to sleigh"; and these, when they made use of the privilege, were forbidden by the council to have any gold, and but very little silver on their sleighs, or to use "expensive bells, feathers, silk tassels and other ornamentation" which should make the whole equipage cost more than a hundred or a hundred and twenty gulden. Furthermore they were charged to remember that they were expected,

according to the old custom, to seek permission of the ruling burgomasters when they wished to go sleighing.[3]

The coaches, chaises, and "victorias" of persons of first rank were allowed to be upholstered with silk or brocade, but not to be hung with costly fringes and tassels. Persons of the second rank were forbidden entirely to have pompons on their coach-horses and gold or silver fringes on the blankets. They might have their coaches upholstered with cloth, but not red or blue; and silk fringes were allowable. People in the third class could not have horses and coaches, chaises, and victorias at pleasure. They might keep a coach if they needed to drive, on paying fifty thalers a year for the privilege, but their coach must be a plain vehicle without painting or carving upon it, and lined with sober gray cloth. Their horses might not wear harness of silver or bright metal; and the coachmen and servants were not to wear livery, but were to be attired in dark coats of plain gray without cords or borders.

Picturesque details might be multiplied, but the examples presented are enough to illustrate the two features of the ordinance that stand out prominently in a comparison with earlier laws of the same kind: the greater effort to preserve class distinctions in attire, and the increased minuteness of regulation. Both represent an advanced stage of tendencies which were observable in the legislation of the fourteenth and fifteenth centuries, where all varieties of sumptuary law in Nürnberg are seen to have been growing more thorough and systematic, while distinctions in social standing as ground for paternal regulation are clearly traceable. Strong indications of this latter tendency are seen in the extension of the wedding regulations to the "common man" in the Hochzeits-büchlein of 1485, while regard of rank is distinctly present in the fifteenth century clothing ordinance where permission was accorded to "honorable" women to wear specified materials. The peremptory need of sumptuary legislation for the express purpose of keeping social station clearly visible by means of attire was declared by

[3] See below, pp. 131–132.

the Diet of Worms of 1521, and was urged upon the imperial free cities.[4]

This need rapidly developed as a motive of the paternal action of the Nürnberg council during the century of the Reformation. As we have noted before, it had not led in previous times to specific discrimination against the lower classes. It had made itself apparent only in the extension to them of rules which had formerly been thought needful for the upper classes alone, and in special permissions to persons of high degree, which carried an implicit restriction. The definition which it gained in the course of the sixteenth century is shown in the very title of an "Ordinance and prohibition of August 8, 1568 regarding vain display, and what is permissible and proper in clothing and other things for each man according to his rank." The refinements of distinction which were observed in this ordinance are exemplified in the final paragraph respecting "the superfluities of serving-maids," where it is explained that the rules laid down for servant-girls were meant to apply "only to housemaids and not to shop-girls, or those who serve in the shops"; but that these were to dress like the ladies and maidens of the craftsman class.[5] In the sixteenth century, regulation by rank was applied also in the wedding ordinance, from which it had been almost entirely absent as late as 1526; and the title of a wedding regulation of 1598 reads: "Ordinance prescribing how the common Zahl-Hochzeiten shall be celebrated in Nürnberg"; and the title of one of 1603 is: "Renewed ordinance prescribing how the Erbarn und verlegten Hochzeiten shall be celebrated."

The lively interest of the council in the enforcement of social prerogatives at this period was manifested in an order which the seven elders issued in December, 1599. The special occasion was the sleighing, which had begun again with the falling weather of the preceding few days; and the council was taking measures in order that only those whom it befitted might ride in sleighs. The fathers

[4] Resolution "des kleinen Ausschusses," presented April 17, in the Deutsche Reichstagsakten, Jüngere Reihe, vol. ii, p. 336, and p. 340.

[5] Siebenkees, vol. i, p. 100.

ordered the constables to make a list of those who went sleighing on that day, December 13; and to lay this before the council that the members might take it under advisement "to whom outside of the families such a mode of travel should be permitted" and to whom it should be forbidden. They further resolved that "since also vanity is here increasing to such a degree, that one rank can scarcely be distinguished from another, and common shop-keepers and their wives presume to wear almost more than members of the old families, one should instruct the appointed magistrates [deputierten herren] to press the new Hoffartordnung that such disorder may be prevented betimes."[6]

This brief glance at the sumptuary enactments of the sixteenth and seventeenth centuries makes it possible to confirm our observations upon earlier laws. It has revealed two respects in which later legislation of this character differed from that of the Middle Ages proper; namely, in greater particularity, and in stronger emphasis upon the propriety of class distinctions. Yet these were not sudden developments of the later period. Regulation had been growing steadily more intricate, and regard for differences of rank had appeared in the ordinances before the close of the Middle Ages. It may be affirmed, therefore, on the authority of good evidence, that in Nürnberg the essential motives and tendencies of the sumptuary restrictive policy appeared in advance of the Reformation, and had their origin amid the legal conceptions of the Middle Ages.

Our review of the statutes showed that as early as the thirteenth, and repeatedly in the fourteenth and fifteenth centuries, the Nürnberg council was regulating intimate personal concerns, such as the manner and cost of weddings, funerals, baptisms, and clothes, through laws which were neither simply police regulations in the modern sense of the

[6] Ältermanual, December 13, 1599, Nr. 14, Bl. 202; quoted in Mitteilungen des Vereins für Geschichte der Stadt Nürnberg, vol. vii, p. 274. At the same time they were instructed to cause certain "erbarn" ladies to see a copy of the ordinance on weddings, privily however, in order to refresh their memories. These expressions were not intended for public consumption, and are apt to come nearer to the real mind of the council than the preambles of the ordinances.

word, nor were related to the processes of economic industry and exchange, but which evidently proceeded from a sense of paternal responsibility for the conduct of every man and woman in the community. The main object seems to have been to cut off the superfluous, to repress what was regarded as proceeding only from vanity; but examination of ordinances of the fifteenth century regarding tippling, dancing, swearing, weddings, and dress showed that superfluity was not the only ground of regulation, and that the council evinced also a sense of duty to discourage the expression of desires that seemed harmful to good character. The manifestation of such a view of its duty revealed the government of Nürnberg to be standing at the close of the mediaeval period in a relation to the individual which the state has often been supposed to have entered only as a result of the Reformation.

It was noticed that the earliest sumptuary regulation was in the form of brief, almost fragmentary, rules, apparently uttered one or two at a time, as occasion demanded. Later the ordinances grew more mature in statement, and at the same time they regulated with greater thoroughness. By the latter half of the fifteenth century they had grown long and complicated; and there is evidence to show that at this time they were not issued at one breath, but they set forth in codified form an accumulation of enactments. They show the effects of repeated patching, revamping, and alteration, to meet a change of conditions or a difficulty of enforcement. Such frequent readjustment would seem to betoken a continuous interest of the council in its sumptuary policy, and goes to show that the vitality of the impulse to care for intimate processes of the citizen's life, whether economic or moral, had not abated at the close of the Middle Ages.

During the mediaeval period the sumptuary laws, as they became more thorough-going, displayed, if anything, a tendency to be less exacting in their denials, and more liberal in their concessions. It is not necessary to infer from this a decay in the theory of regulation, a decline in the idea of

its desirability. It was but natural that the notions of propriety held by the city fathers should be liberalized, as, with extension of commercial intercourse, life itself and its manners grew more complex, and the outlook upon the world widened. Means of gaining wealth were being multiplied; new tastes were awakened by new objects of imitation; and the most conservative were certain in time to find their standards of criticism revised. The intervals between the surviving laws are too long and the dates of the laws are too uncertain to make it possible to trace with great accuracy the changing views as reflected in them; but the analogy of other cities, strengthening the evidence of the ordinances which we have, suggests that the authorities yielded to new usages and costlier fashions only when they found it impracticable to make the rules of the past generation operative. Then they lowered the tension of the statute to a point where it seemed enforceable, as we have seen them doing in certain articles of the fifteenth century clothing ordinance.

The point of interest is that the slackening was not due to abandonment of the idea that regulation was desirable, but probably was born of the very attempt to enforce it. If the magistrates found it necessary to retreat before the encroachments of luxury, they at least put up a fight; and the vitality of the theory upon which they were acting is demonstrated. Whatever the necessity under which they were placed to give way before usages once thought extravagant that had established a hold, they offered no clemency to new outbreaks, but endeavored repeatedly in the Wedding-manual and in the clothing ordinance to head these off with strong prohibitions. The story of their experience in enforcing the laws, and the degree of determination with which they pressed them, will have to await a study of their judicial administration, but comparison of the laws themselves lays the necessary foundation for this in giving the history of the conceptions on which they were based. It shows that the paternal sense of an obligation to keep the men and women of the city within certain bounds of

economy and personal uprightness awakened early in the council of Nürnberg, and although somewhat liberalized in spirit, had not lost its vigor at the end of the Middle Ages, but was operating to hedge private life about with multiplying legal restrictions.

The observations of this study have been directed upon Nürnberg, and in so far as Nürnberg was a typical community they have a general significance. The evidence assembled has exhibited the sumptuary ordinances as a serious legislative activity of a sovereign body that stood in the main currents of its time. In tracing the laws in their historic growth it has shown the intimate details of conduct over which such a government would press its control under the sense of paternal responsibility; and has served to illuminate the mediaeval view of the relation of the state and the individual at the points of closest contact. In setting forth the restriction which the city fathers of Nürnberg proposed, it paves the way for study of the interesting problem of its enforceability; equips one to proceed with a survey of its course in Nürnberg after the Reformation; and furnishes a basis for comparative observations of its development in communities differently governed and differently circumstanced.

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