

Hubert Seliger

Political Lawyers: The Example of Dr. jur. Alfred Seidl, Defence Attorney at the Nuremberg Trials and Bavarian Interior Minister

Endurance of a Mindset?¹

In September 1978, one month before the Bavarian parliamentary election, the heading “Endurance of a Mindset” (*Kontinuität einer Gesinnung*) leapt in bold letters from the pages of a thin brochure promoted as “documentation” regarding the former Bavarian Interior Minister Alfred Seidl. It presented quotes from Seidl’s parliamentary speeches, his dissertation, and recapitulations of various legal arguments, all for the purpose of exposing this “radical in public service.” One could have dismissed the pamphlet as excessive left-wing campaign rhetoric aimed at the conservative Christian Social Union (CSU), except that the author of the brochure made one sit up and take note: the Munich lawyer and political scientist Dr. Rudolf Schöfberger (b. 1935) was a leading grandee of the Bavarian Social Democratic Party in Germany (SPD), a longtime SPD member of parliament, and in the 1970s, the president of the historically prominent human rights organization, the German League for Human Rights (*Deutsche Liga für Menschenrechte*).

Schöfberger had long been an opponent of Seidl. In 1972, he founded the Association of Democratic Attorneys (VDJ) (*Vereinigung Demokratischer Juristen*) on the initiative of defence attorneys specializing in state security matters, which included members of the German Communist Party, as well as people who were close to the SPD. In October 1975, while still serving

¹ This essay is partly based on excerpts pertaining to Alfred Seidl in Hubert Seliger’s *Politische Anwälte? Die Strafverteidiger der Nürnberger Prozesse* (Baden-Baden, 2016), [Dissertation, Universität Augsburg, 2014].

as the state secretary of the Bavarian Ministry of Justice, Seidl rejected the appointment of the law-candidate Charlotte Niess as judge in Nuremberg, who was linked to the SPD, on the tipoff that she was a member of the VDJ; he did so on the strength of the 1972 Anti-Radical Decree (*Radikalenerlass*), a ban designed to keep political extremists out of the civil service. Seidl's explanation, however, raised questions about his objectivity in the matter. Among other things, a prison letter identified as written by the lawyer Kurt Groenewold, one of the leading lawyers for members of the Red Army Faction (RAF) (*Rote Armee Fraktion*), was used to justify the anti-constitutional stance of the VDJ. According to the magazine *Der Spiegel*, Seidl failed to mention passages where Groenewold distanced himself from the VDJ on the grounds that it kept too low a "revolutionary" profile. For Schöfberger, a strident critic of the Radicals Decree, this was proof of an attack by the conservatives and an "expansion of the professional ban" to include the Social Democratic Party.²

Schöfberger's primary point of attack in the "documentation" was aimed at Seidl's role as a defence attorney in the Nuremberg trials. Indeed, Schöfberger emphasized that the basic right to effective legal defence included the perpetrators of the National Socialist regime:

"No one is accusing him of this. Every defendant has the right to defence. No defence attorney should be identified with his client. The defence can, indeed, it must be one-sided, to the benefit of the defendant. However, Seidl's summing up abandons every criminological necessity and reveals through its tone a disposition that is barely distinguishable from the cynical and brutal ideological justifications that were used by the Nazi criminals."³

For Schöfberger, Seidl's performance in Nuremberg was evidence of the "endurance of a [National Socialist] mindset" that carried over directly into Seidl's activities as Bavarian interior minister.

Schöfberger's conflict with Seidl provides a good illustration of how the actions of lawyers can be understood as highly political. The following argument will rely on the definition developed by Otto Kirchheimer, who is

- 2 For more on the "Niess case", see 'Aha, der Sumpf', *Der Spiegel*, (November 24, 1975). Niess was legally represented in this case by the Munich lawyer Gerd Tersteegen, also a member of the VDJ and a specialist in professional bans. The criticisms from the press and other politicians bounced off of Seidl. Later, as Bavarian interior minister, Seidl even supposedly endorsed the surveillance of students for the purpose of imposing professional bans. See 'Schüler im Schraubstock', *Der Spiegel*, (July 31, 1978).
- 3 Rudolf Schöfberger, *Alfred Seidl: Die Kontinuität einer Gesinnung. Vom NS-Verteidiger zum Innenminister: Eine Dokumentation* (München, 1978), 5-6.

widely regarded as the political scientist of “political defence lawyers,” and applied to Alfred Seidl, one of the central defence lawyers at the Nuremberg trials.

Otto Kirchheimer and the “Political Lawyer”

Otto Kirchheimer attempted to define “political justice” as a scholarly term in his book *Political Justice*, published in the United States in the early 1960s. Robert van Ooyen has rightly shown that the book’s most significant contribution was that it challenged the “myth of apolitical law” (*Mythos vom unpolitischen Recht*), which is a stream of thought that continues to dominate German academic legal doctrine and political science up to this very day.⁴ For Kirchheimer, the quintessence of a political trial is the influence that it has on the division of political power, that is, how it influences the current constellation of power from the forum provided in the courtroom. The political trial is a place of struggle over the shift of concrete political power relations: “Political justice must, without blocking the achievement of power, make power legitimate in such a way that the prospect of winning the people’s acceptance of the power structure is not put in danger or, at the least, only minimally interferes (with that process).”⁵ Therefore, for Kirchheimer, the legitimacy and protection of the political order is of central importance. Political justice, again, according to Kirchheimer, is “a struggle over the right order” (Otto Suhr) that relies on the tools provided by the justice system.

This understanding of politics as a struggle by the ruling powers for political legitimacy is directly reflected in Kirchheimer’s definition of “political defence lawyers” (*politische Verteidiger*). For Kirchheimer, a lawyer is an independent actor standing alongside the client. At a trial, he can either “allow the individual person to withdraw behind the matter at hand, or under-emphasize the matter at hand so much that it provides only a pale background.” This is a creative process in which the lawyer aims to plausibly integrate the diffuse elements of a case in such a way that a favourable outcome is reached for the client. However, when approaching a trial in this particular way, it is sometimes difficult to separate the professional identification of the lawyer from the case due to a closer relationship with the client or the cause of the client. Naturally, a lawyer can always fall back on the argument

4 Robert Christian van Ooyen, ‘Die dunkle Seite des Rechtsstaats: Otto Kirchheimers “Politische Justiz” zwischen Freund-Feind, Klassenjustiz und Zivilisierung’, *Juristische Zeitgeschichte*, 13 (2012), 241–66 (243–7).

5 Otto Kirchheimer, *Politische Justiz: Verwendung juristischer Verfahrensmöglichkeiten zu politischen Zwecken* (Hamburg, 1993), 14.

that everyone has the right to legal counsel and that the decision of right and wrong is a matter for the court (to decide), not the lawyer. [...] But this only outwardly solves the lawyer's problem; if he has decided to take a case, relying on an appeal to principle might deflect some of the opposition's pressure. However, whether he places himself on the side of his client, or whether he decides to represent some defined interests, still depends on how he reconciles the demands (or – in some cases – the perspectives) of the current social order with his own personal inclinations regarding the character of a society and what this character should be. Unlike a doctor, the lawyer does not help every person who is seeking assistance, and he does not always or necessarily serve the client who pays him the most for his services.”⁶

Therefore, according to Kirchheimer, a defence lawyer becomes a *political* defence lawyer when, during a trial, he makes statements about the social order of the past or the current social order, or the affiliation of certain groups to this social order, thus exceeding the client's pure interest in an effective defence, that is, not limiting the defence to a contextualization of the defendant's concrete acts, but rather, taking up the “struggle for the right order”. Often, the political lawyer is politically active. In contrast, a lawyer is not a political lawyer when he operates within the given rules of a justice system, emphatically representing his client's interests to such a degree that he directs criticisms toward individual legal norms or the conduct of proceedings, but avoiding, as a practitioner of the law, any general statements about the justice system or the underlying political or social order, whether past or present.

In some cases, it is difficult to determine when a lawyer, as a practitioner of the law, crosses the line and turns into a political lawyer. Political motives do not necessarily exclude the desire for recognition, professional curiosity, and simple monetary gain. What might be in one instance a legitimate means of defence, could be construed in another situation as a profound political act. Attempting to have a judge dismissed on the apprehension of bias because he made derogatory statements regarding the defendant in the period before the trial is a standard weapon in the arsenal of the defence lawyer. However, when a lawyer attempts to have a judge dismissed solely because a judge's apparent “Jewish nose” or his supposed membership in a political party disqualifies him from passing judgment on a “national” client, then this is a profound political statement.

The media are important tools for political lawyers in bringing the central issues of a given trial beyond the tight boundaries of a courtroom. As an “insider” and bearer of information in trials that are of particular interest to the media, the lawyer often consciously interacts with the public. To be

6 Kirchheimer, *Justiz*, 363.

sure, apolitical defence lawyers also occasionally resorted to publicity stunts attracting more pronounced media coverage in order to engender more favourable attitudes towards their clients, though not infrequently the motivation was self-glorification and self-promotion. However, with political lawyers, the media also serve to disseminate political goals. Frequently, this effect is achieved indirectly through deliberate, media-effective provocations that expose the court as being biased.

Political lawyers are supported by interest and lobby groups that use their resources to strengthen the media presence of the lawyer, but also provide access to unofficial channels, for example, government offices. The political lawyer is not only an important contemporary witness to political processes, but can also become, under certain circumstances, a public historian, that is, a historical researcher working beyond the realm of academic research, when he attempts to exculpate his client by using new sources as evidence while seeking to promote his own interpretation of them.⁷

Precisely during times of unrest, such as the Weimar Republic, or the transition from the Third Reich to a democracy provided courtesy of the Allied occupation forces in Germany, when legal proceedings indirectly play a part in supporting either the previous regime or the new order, political lawyers find that a greater scope of interpretative licence is open to them. Because of their dispute with “Nuremberg” as a political symbol, many of the defence lawyers who participated in the Nuremberg trials provided, as more or less voluntary representatives of their clients, the first answers to questions regarding the actions of elites in the “Third Reich” while also attempting to justify those actions.

Example of a Radical: Alfred Seidl

More than two-hundred and sixty lawyers were present as defence attorneys at the Nuremberg trials, including simple provincial lawyers, refugees who had fled from Silesia to Bavaria, but also judges, state attorneys, and administrative attorneys who had been relieved of their duties by the various occupation authorities, as well as the heads of legal departments of corporations of accused industrialists, and finally, prominent lawyers, such as Rudolf Dix, the last democratic head of the German Bar Association. Many of these lawyers did not harbour political intentions and saw Nuremberg primarily as

7 For more on the term “public historian”, see Frank Bösch and Constantin Goshler, ‘Der Nationalsozialismus und die deutsche Public History’, in Frank Bösch and Constantin Goshler (eds), *Public History: Öffentliche Darstellungen des Nationalsozialismus jenseits der Geschichtswissenschaft* (Frankfurt am Main-New York, 2009), 8–9.

a professional assignment, mostly to earn income during a period stamped by material want following the war. However, one group of Nuremberg defence lawyers, generally those whose careers had begun during the Third Reich, saw their task at Nuremberg as a profound political act, in some ways even a continuation of the war by other means. For this reason, the defence attorney for Karl Dönitz, the naval judge Otto Kranzbühler, could plausibly speak of “young radicals”.⁸

One of these was the Munich lawyer Dr. jur. Alfred Seidl (1911-1993). Little is known of his life before 1945. In a few retrospective snippets of information pertaining to his youth, this son of a baker tried to portray himself as a man of action, emphasizing his athletic successes as a skier and amateur boxer. Like many other law students, Seidl joined the SA shortly after the Nazi seizure of power (Machtergreifung). Allegedly (at least according to sources of the East German Ministry of State Security) he was also a member of the NSDAP “Jungsturm” (the party’s youth organization at that time) from 1924 to 1927. In 1937, Seidl joined the NSDAP and was occasionally active as an acting *Blockleiter*.⁹ His dissertation, which focused on a specific topic in criminal law, relied heavily on the works of Roland Freisler and advocated war against “socials and criminal elements.”¹⁰ He eluded denazification because, as a low-income earner, he qualified for the Christmas amnesty of 1947.¹¹ Even though Seidl later stated that he had always thought “as a soldier”, his war service was limited to time spent as a clerk in a medical unit in Munich. After being admitted to the bar in 1942, he practiced law on the side, for instance, serving to a limited extent as a public defender for the special court in Munich. In sum, his record shows that he was a Nazi of negligible rank and fellow-traveller who, at the beginning of the Nuremberg trials, only possessed a limited amount of professional experience.

He trained with Fritz Sauter, a well-known Munich defence attorney, whom the American military authorities assigned as counsel for Hans Frank, the Governor-General of occupied Poland, at the main Nuremberg trial. Following the end of the war, Sauter offered Seidl the position of legal assistant

8 “We three were almost of the same age, Dr. Horn, Dr. Seidl and I [...] and one might say these three youngsters, in their opinions, perhaps as we would say today, were also the most radical.” Bundesarchiv Koblenz, Ton 1040 (Interview Kranzbühler).

9 Information 64320/9/78: Hinweise zur faschistischen Vorgeschichte des bayerischen Innenministers Seidl, June 18, 1978, in: Die Behörde des Bundesbeauftragten für die Stasi-Unterlagen (BStU), HA IX/II PA 2516.

10 Alfred Seidl, *Der Beginn der Straftat* (Würzburg, 1938), 89.

11 Notice of discontinuance from April 14, 1948, in: Staatsarchiv München (StMü), Spruchkammerkarton 1508 (Seidl, Alfred), as well as a bill of indictment from December 15, 1947, and evaluation of the supervisory committee from August 1, 1946, in the same.

and sent him to Nuremberg to sign the necessary powers of attorney. Even though Seidl made no secret of his lack of any significant professional experience, Frank surprisingly requested Seidl's services as his defence lawyer. Whereas with Sauter, Frank felt he was something of a fifth wheel, Seidl seemed to be a godsend. Since Frank was himself a lawyer, and given that he could unburden himself in his diaries, Seidl's inexperience did not matter. As it turned out though, this would prove to be a significant mistake, as Frank's diaries, on which Seidl largely based his defence strategy, became the primary evidence for the prosecution.¹²

Seidl soon earned a reputation for being the most aggressive of all of the defence lawyers at the central Nuremberg trial. Even Göring was supposed to have said approvingly that if he had got to know Seidl sooner, he would have taken him as his attorney.¹³ This was perhaps why Hitler's deputy, Rudolf Hess, chose Seidl as his lawyer in February 1946 after his initially assigned counsel Günter von Rohrscheid had an accident and was temporarily unable to appear in court, which gave Hess the opportunity to get rid of von Rohrscheid.¹⁴ Seidl supposedly never knew the real reason why Hess chose him, since Hess, already at the first meeting with Seidl, refused to share information with his lawyer, and no longer participated in his own defence. One could assume actually that a silent agreement existed between Seidl and Hess, that Hess would stonewall the Nuremberg tribunal in every way possible. Seidl's defence of Hess was difficult in that he received no support from his client, and Hess's wife implacably rejected a plea of insanity. During the course of the trial, Seidl was provided (as he assumed, by the British prosecutors) a copy of the secret protocol that had been a part of the German-Soviet non-aggression pact of August 1939, thus providing him evidence of Soviet complicity in the invasion of Poland. Because there was no consensus among the other defence lawyers as to how this treaty should be handled, Seidl believed himself forced on to the offensive, having been given an opportunity to drive a wedge between the members of the "inter-Allied tribunal". However, because of its unusual provenance, the document was not admitted as evidence by the court. Nonetheless, Seidl succeeded in proving that the document was real using the testimony of several witnesses.

Seidl's closing speech in Hess's defence began with a provocation cut short after only a few sentences: "When the German army laid down its weapons in 1918 after more than four years of heroic struggle, it did so trusting in the

12 See Hauptstaatsarchiv München (HStAMü), Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 1, 13.

13 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 3, 7.

14 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 2, S. 28ff., PR 650, Nr. 3, 1-3 and Nr. 4, 7-9.

assurance of President Wilson, an assurance which had been given again in 1918. In his speech before congress on January 8, 1918, the President of the United States of America offered in fourteen points, among other things, an open and publicly agreed-upon offer of peace ...”¹⁵ Even though the judges had repeatedly indicated that the Versailles settlement had no bearing on the issues that were standing before the court, Seidl attempted in spite of interruptions on multiple occasions to set out on a discussion of the “struggle for the revision of the ‘brutal peace’”, continuing on until his summing up was finally cut short. The summing up was only allowed to continue after it had been reviewed by the judges. As Seidl openly admitted forty years later, he very consciously included these provocative statements in his summing up in order to show that the Nuremberg trials were unjust because it was forbidden to bring up the Versailles peace settlement. He wanted, thereby, to expose the tribunal and show that Nuremberg was not a real court of law.¹⁶ Members of the press and other interested observers “tore” at one another to get their hands on unedited versions of this summing up.¹⁷ In light of his radical approach, Seidl knew that he was sure to receive the approval of the other defendants. However, not all of the defence lawyers agreed with Seidl’s radical course of action. Of all people, his earlier mentor, Sauter, later distanced himself from Seidl in private correspondence with Nuremberg prosecutor Robert Kempner.¹⁸ But it was irrelevant to Seidl, who assumed the role of the “lone fighter”. He never once tried to coordinate his strategy with any of the other lawyers, precisely because some of them had warned the prosecutors about Seidl and wanted to enter into arranged plea bargains.¹⁹

According to Seidl, the reason that all of his clients in the subsequent Nuremberg trials wanted him to defend them was that his performance in the central trial had made him famous. However, standing now before a purely American judiciary, he could no longer place his hopes on a collapse of the proceedings. He claimed that the Soviet Union’s accession to the Treaty of London, which was the legal basis for the central Nuremberg trial, had affected the Control Council Law No. 10, the legal basis for the subsequent Nuremberg trials. Since this law explicitly drew its authority from the Treaty

15 *Der Prozess gegen die Hauptkriegsverbrecher vor dem Internationalen Gerichtshof Nürnberg 14. November 1945 – 1. Oktober 1946* (Nürnberg, 1947), Bd. 17, 597-602.

16 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 4, 1-6.

17 Viktor von der Lippe, *Nürnberger Tagebuchnotizen. November 1945 bis Oktober 1946* (Frankfurt am Main, 1951), 401.

18 Correspondence with Kempner, February 24, 1949, in United States Holocaust Memorial Museum, RG 71.001 Robert M. W. Kempner Collection, Folder Anwälte 1945-46.

19 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 3, 13.

of London, its legal validity was equally void.²⁰ Seidl was to maintain his tactic of consciously making provocative statements. For example, in the “Ministries trial” (*Wilhelmstraßen-Prozess*), Seidl began his summing up with remarks to the effect that the Versailles settlement, when compared to the occupation of Germany under the Morgenthau Plan, had been a rousing success.²¹ Furthermore, Seidl resuscitated a defence argument that had been used by decidedly “German national” lawyers, such as Friedrich Grimm, in the great *Fememord* trials of the Weimar Republic, namely, that a so-called “state of emergency” provided legal immunity.²² Seidl even used the “state of emergency” argument to exculpate the defendants in the so-called doctors trial, who were charged with criminal experiments on human beings, or, as in the case against Oswald Pohl, justifying slave labour in the concentration camps, all under the claim that the German army and the German Reich were locked in a war of life and death against the Soviet Union.²³

Seidl also proved doggedly wayward in his lifelong struggle for the release of Rudolf Hess from Spandau, the prison for Nazi war criminals. In the 1950s and 1960s, he initiated numerous media campaigns to that effect. For example, he publicly charged France, Great Britain, Israel, and the United States with breaking the established peace because of the Suez Crisis of 1956 and the Vietnam War, pointing out that Hess had been sentenced for the same crimes.²⁴ Numerous publications that he had published together with the lobby organization founded by Hess’ son, the “Hilfsgemeinschaft für Rudolf Hess”, claimed that an allied conspiracy existed against Hess. When requested by representatives of the German government to abandon his campaign because it would only cause political damage and end with a slap in the face from the allies, Seidl responded uncompromisingly that he was an independent attorney and that he would not take orders.²⁵

Very soon after the Nuremberg trials, Seidl became active as a “public historian”. In 1949, he approached a well-known Munich publisher in an

20 Alfred Seidl’s correspondence with the General Secretary, March 10, 1948, along with Trial Brief concerning “Crime against Humanity” [March 7, 1948], in National Archives, College Park (MD), Record Group 260: Records of the United States Occupation Headquarters WWII, Omgus, OCCWC, Administrative Records of the Defense Center 1946-1949, Witnesses and Documents, Box 173, Folder Case 11, File 3.

21 *Trials of War Criminals before the Nuremberg Military Tribunals* (subsequently referred to as TWC), Washington D. C. 1949, vol. 14, 191.

22 Friedrich Grimm, ‘Staatsnotstand, Staatsnotwehr und Fememord’, *Die Justiz*, 5 (1929), 329-32.

23 TWC, vol. 15, 188 und vol. 2, 7.

24 See copies of the various statements, in HStamMü, Nachlass Seidl, Nr. 53.

25 Norman Goda, *Kalter Krieg um Speer und Heß: Die Geschichte der Gefangenen von Spandau* (Frankfurt am Main, 1991), 284.

attempt to publish a collection of documents acquired from the files of the German foreign office pertaining to the German-Soviet secret treaty of August 23, 1939. The head of the publishing house declined the offer on the grounds that Seidl's collection was not a historical account of related events, but rather, a politically motivated attack on the legal foundations of the Nuremberg trials. The facts of the National Socialist period were still too little known and, indeed, much of what was now known had come to light because of the Nuremberg trials.²⁶ The collection was later published by a publisher in the French-occupied zone, but provoked little response.

Because of his prominence due to the Nuremberg trials, Seidl became one of the most sought-after West German lawyers in prominent criminal cases of the 1950s and 1960s.²⁷ At the same time, after the Nuremberg trials, Seidl was without question one of the most influential figures in war crimes trials in West Germany in those years. The case against Walther Huppenkothen in the First Munich District Court in Augsburg was particularly important. Huppenkothen was one of the central Gestapo agents in countering military resistance in Germany during the war, and a prosecuting counsel for the Reich Security Main Office (*Reichssicherheitshauptamt*, RSHA). He was decisively involved in the sentences handed down to prominent resistance figures in the last days of the war, such as Admiral Wilhelm Canaris and Major-General Hans Oster. Seidl attempted to have one of the sitting judges of the district court in Augsburg removed from the panel on the grounds that he had been politically persecuted as a "Jewish *Mischling*" by the National Socialist regime.²⁸ Members of the German Resistance movement were candidly characterized by Seidl in his summing up at the Augsburg district court in October 1955 as traitors to the fatherland because they had passed on information regarding the invasion of Poland to Dutch diplomats prior to the invasion. Seidl dismissed sharp attacks by the press, which quite rightly accused him of creating a new stab in the back myth (*Dolchstoßlegende*), by denouncing the press as biased. He claimed that the Western powers had declared war on the German Reich in 1939 only because of the treachery

26 Seidl's letter of September 27, 1947, and Spangenberg's response of January 30, 1948, in: Archiv des Instituts für Zeitgeschichte München (IfZ), ED 42, Nr. 2.

27 Well-known cases in which Seidl participated include the trial of the murder of the high-class prostitute Rosemarie Nitribitt (1960), the trial of the Bavarian Casino Affair (1959), the trial of the cancer specialist Dr. Josef Issels (1961), the Vera Brühne Trial (1961), and the Iller Trial in Kempten (1957), dealing with one of the most significant accidents in what was then still the new German army.

28 Seidl's motion for dismissal, September 12, 1955, and the response from the district court in Wiesenthal, September 13, 1955, in: StMü, Staatsanwaltschaften, Nr. 17452/22.

of the conspirators.²⁹ Along with the press, academic historians also found themselves being challenged by Seidl. In November 1955, during a seminar hosted by the Institute of Contemporary History, Dr. Helmut Krausnick refuted Seidl's arguments in his presence with such a wealth of historical material that at the end of the seminar, Seidl had to admit that he could no longer uphold his claims.³⁰ Seidl's change of heart did not last though. In an interview given shortly before his death, Seidl stated that Oster and Canaris had been "traitors to their country, [...] much worse than one could even begin to imagine."³¹

Just as Seidl continued to view resistance to the National Socialist regime as treason, he also returned to the "state of emergency" argument in the 1957 trial of Sepp Dietrich in the First District Court in Munich for the murder of political opponents during what the Nazi construed as the "Röhm Putsch". The same was true in Munich in the early 1960s for the accused supporters of the right-wing extremist organization "South Tyrolean Liberation Committee" (*Befreiungsausschuss Südtirol*), which had carried out bomb attacks against Italian police officers. Now it was a "people's emergency" (*Volksnotstand*) against the "unjust Italian regime" that Seidl used as a means of exculpating the deeds of terrorists.³² Apparently, however, in Seidl's worldview, no "state of emergency" existed for the state of Israel. In 1963, suspected Mossad agents carried out bomb attacks against German missile technicians in Egypt that the Egyptian military had employed for the construction of surface-to-surface missiles. Seidl travelled to Egypt as their attorney, to press for damages against Israel. According to Seidl's interpretation, these acts ranked as among the most "treacherous" outrages committed in recent criminal history.³³

In general, Seidl showed interest in his clients' body of ideas, and he did not shy away from working together with right-wing extremist organizations either. Writing to Gerhard Frey, a leading right-wing extremist for whom Seidl secretly provided legal counsel beginning in the late 1960s, Seidl, indulging in serious legal pettifoggery, stated that six million Jews could not

29 Transcript from a radio programme of September 23, 1955, and Seidl's statement of October 13, 1955, in HstaMü, Nachlass Seidl, Nr. 10.

30 "Ah", Wahrheit über die letzten Monate vor dem Krieg. "Institut für Zeitgeschichte" widerlegt Dolchstoßlegende von einer Schuld des deutschen Widerstandes', *Passauer Neue Presse*, (November 22, 1955).

31 HstaMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 6, 6-8.

32 Judgement rendered by the BGH, dated February 26, 1965, in StMü, Staatsanwaltschaften, Nr. 30717/5.

33 Also see Deutsche Presse Agentur, 'Dr. Seidl vertritt deutsche Raketenfachleute in Ägypten. Strafverfahren wegen der Sprengstoffanschläge', *Hamburger Abendblatt* (April 24, 1963).

have been murdered, but rather there could have “only” been “4,581,200 dead at the most.”³⁴ Following the suicide of Hess in 1987, Seidl speculated that a “Jewish organization” had murdered Hess. When Israeli Foreign Minister Abba Eban once said that Hess should remain in prison for the rest of his life, this was for Seidl sufficient evidence for his conspiracy theory.³⁵ However, Seidl was smart enough to avoid publicly showing solidarity with right-wing extremists. He turned down the offer of official membership of the “Hilfsgemeinschaft für Rudolf Hess” on numerous occasions, saying that, to the public, he wanted to appear merely as the organization’s “legal counsel”.³⁶

Though Seidl successfully kept his contact with right-wing extremists out of sight until his death, he was one of the most outspoken politicians of the CSU’s right wing. He began his career as a representative in the Bavarian parliament in the late 1950s, and, because of some of his unconventional ideas regarding administrative reforms, he was compared to Fidel Castro by *Der Spiegel*.³⁷ As a CSU politician, he fought against the Treaty on the Non-Proliferation of Nuclear Weapons from 1969 as well as the treaties associated with Ostpolitik, and thus refused to recognize the Oder-Neisse river as the western border of Poland. All of this was a question of the “self-assertion of the entire German people.”³⁸ The highpoint of Seidl’s political career came in 1977 when he was appointed interior minister of Bavaria, the largest state in West Germany. Occupying that position for little more than a year and a half, Seidl earned a reputation befitting his character. For instance, in 1978, he openly argued the case for the death penalty in the Bavarian parliament for the leftist terrorists of the Baader-Meinhof Gang, while in September 1978, he stated that the right-wing extremist organization “Wehrsportgruppe Hoffmann” did not present an “acute danger” to the legal order.³⁹ Seidl

34 Correspondence from Seidl to Hans Latenser, April 28, 1969, in HStAMü, Nachlass Seidl, Nr. 175.

35 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650, Nr. 5, 6-7.

36 Correspondence from Alfred Seidl to Wolf Hess, October 16, 1990, in HStAMü, Nachlass Seidl, Nr. 132.

37 ‘Verwaltungsreform: In der Praxis Widerstände’, *Der Spiegel*, (May 6, 1959).

38 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 10, 18.

39 Not until January of 1980, and only after great hesitation from Seidl’s successor in office, Gerold Tandler, who blamed the public pressure to ban the group of “half-mad wackos” abroad, was the “Wehrsportgruppe Hoffmann” prohibited. The ban, however, did not prevent a member of the organization from murdering the former president of the Jewish congregation in Nuremberg, Shlomo Lewin, and his wife. The alleged murderer committed suicide. The group’s leader, Karl-Heinz Hoffmann, was later prosecuted in Nuremberg. Since it could not be proved that Hoffmann had ordered the murders, he was found not guilty on these charges, but he was convicted for several other crimes. Hoffmann owed this partial success in court to his defence

made a telling contribution to pushing through the controversial Bavarian law regarding the duties and competencies of the police forces (*Polizeiaufgabengesetz*), which went into effect in the summer of 1978 and allowed for the use of machine guns and hand grenades in police operations. For Seidl, “the Baader-Meinhof era” meant that Bavaria had to pioneer laws governing the police. Seidl never had any issue with the controversial passages of this law.⁴⁰ Likewise, Seidl did not shy away from using the police against political opponents. Only a few months before Schöfberger’s pamphlet appeared, Seidl allowed house searches to be conducted because a brochure on the new police laws also elaborately detailed Seidl’s past.⁴¹

This move was too radical even for Seidl’s party colleagues. Already during the summer, the Federal Interior Ministry had conducted secret investigations into Seidl’s past associations with the Third Reich.⁴² Following the Bavarian parliamentary elections of October 15, 1978, Seidl was not considered for a post in the new cabinet. The newly-elected Minister President of Bavaria, Franz Josef Strauß, had defended Seidl in late September against Schöfberger’s criticism of the defence methods that Seidl had employed in the Nuremberg trials, accusing the SPD of “defaming the professional standing of lawyers in an unheard of manner”.⁴³ Now, the press speculated, it looked as if the Seidl issue had become too much of a political hot potato.

Conclusion

During the Nuremberg trials and other, later trials in West Germany, alleged National Socialist criminals and right-wing extremists found in Seidl a defence lawyer and legal counsellor who was a willing and uncompromising sympathizer of the National Socialist past. But, to be fair, Seidl was less of a National Socialist and more of an authoritarian nationalist. Crimes that were supposedly carried out because the German state was in peril, or because

attorney, Wolfgang Benno Vetter, who had become known in 1968 as the local attorney of the extra-parliamentary opposition in Nuremberg, and who distanced himself quite clearly from his client, calling him a “neofacist”. See Hans-Wolfgang Sternsdorff, ‘Chef, ich habe den Vorsitzenden erschossen’, in *Der Spiegel*, (November 19, 1984) and ‘Nicht nur Pinsel’, *Der Spiegel*, (February 4, 1980).

40 HStAMü, Nachlass Seidl, Zeitzeugeninterview Seidl, PR650 Nr. 10, 1-6.

41 Gerd Heidenreich, ‘Freiheit im Freistaat: Polizeiaktion gegen Münchner Verlage – Hintergrund: die Vergangenheit des bayerischen Innenministers Alfred Seidl’, *Die Zeit*, (October 20, 1978).

42 Information 64320/9/78: Hinweise zur faschistischen Vorgeschichte des bayerischen Innenministers Seidl, June 18, 1978, in BStU, HA IX/II PA 2516.

43 Gert Heidenreich, ‘Freiheit im Freistaat’, *Die Zeit*, (October 20, 1978).

of existential threats from the outside, were, for Seidl, excused by a state of emergency that superseded the limits of the constitution. The Nuremberg trials gave Seidl the opportunity to claim that the Allies were imposing a “victor’s peace”. Still, Seidl greatly exceeded what could be expected from a competent defence attorney and, therefore, provides a perfect example of the “political lawyer” as defined by Otto Kirchheimer. For Seidl, the courtroom was a place where the “national interests” of the German people could be defended and where excessive state actions could be justified. Frequently, the concerns of clients suffered as a result. Thus, in the Munich Huppenkothen trial of 1952, the summing up was again used to initiate a conflict with the judge and the state prosecutor. When the prosecutor accused Seidl during the trial of rehashing the stab-in-the-back myth, Seidl dramatically resigned as counsel for the defence. Seidl took up his client’s case again after a few days; he had been cajoled into doing so by Huppenkothen, who had been taken completely by surprise by Seidl’s actions.⁴⁴ Following the detente in relations with the Soviet Union, Seidl’s shrill tone was not the least reason for making it impossible to have Hess released in the spring of 1985 on humanitarian grounds.⁴⁵ Seidl’s politically motivated approach to criminal defence surprisingly closely corresponded to his conduct as a right-wing conservative politician. Blind in his right eye, he used his positions as state secretary in the Bavarian Ministry of Justice and as Interior Minister to promote excessive measures to protect the state from both real and imagined left-wing opponents. In this respect, one can certainly identify the “endurance of a mindset” with Alfred Seidl.

44 ‘Zuchthaus für Huppenkothen beantragt: Dr. Seidl legt nach einer Kontroverse die Verteidigung nieder’, *Frankfurter Allgemeine Zeitung*, (October 29, 1952).

45 Goda, *Kalter Krieg*, 309-10.