

Peter E. Quint

# Constitutional Problems of German Unification



Born in 1940 in Detroit (Michigan), studied history and literature of England at Harvard College (A. B. 1961), and law at Harvard Law School (LL. B. 1964) and Oxford (Diploma of Law 1965). After law practice and teaching in Detroit and practice in New York, joined the faculty of University of Maryland School of Law in 1972 as Associate Professor; Professor of Law, 1976; Jacob A. France Professor of Constitutional Law, 1993. Major areas of interest: freedom of expression, separation of powers in American Constitutional Law; freedom of expression, unification problems in German Constitutional Law. — Address: University of Maryland, School of Law, 500 West Baltimore St., Baltimore, MA 21201, USA.

Over the previous three years I had observed the process of German unification — and its complicated and in many cases unsatisfying results — with considerable fascination, and so it was a great pleasure to spend a year at the Wissenschaftskolleg working on a book on the constitutional problems of unification. Berlin was, of course, a marvellous location for this project. Many of the participants in the events of 1989/90 were still living in Berlin or in the vicinity, and many of the important agencies of the post-unification period — such as the *Treuhandanstalt* and the *Gauck-Behörde* — were located here also. So it was possible to supplement work on written sources with conversations or interviews with people who had some unique historical knowledge or present expertise. For example, it was possible to have interesting interviews with historical figures of the period, such as Lothar de Maizière, first and last democratically elected *Ministerpräsident* of the GDR, and Peter Michael Diestel, *Innenminister* under de Maizière. It was also illuminating to talk to individuals whose lives were deeply affected by the events and constitutional decisions of that period: GDR researchers and professors whose careers were cut short by unification, former GDR judges who also faced new career choices, psychologists from East Berlin who found that their young patients faced a new set of emotional problems arising from unification. There were also

very useful talks with officials in Berlin and in Brandenburg and some of the other eastern *Länder* about new state constitutions and the manner in which various statutes and other legal regulations following unification were actually being enforced. But the interviews, fascinating as they were, could only be a secondary part of a study in constitutional law and politics which must rely primarily on written sources. So I particularly tried to set aside long undisturbed days at the top of the Villa Walther devoted to untangling — or trying to untangle — the legal and constitutional problems of the period 1989 — 90 and its aftermath.

But, of course, one cannot live in Berlin without being impressed — maybe overwhelmed is a better word — by the quite extraordinary array of museums, concerts, theater, and lectures available here. Indeed, a certain amount of strategic planning is necessary because, without defensive measures, a good part of almost every day could probably be filled with cultural activities. In any event, I decided primarily to concentrate on the theater, because that was what seemed to me to be truly most unique in Berlin. But interestingly and somewhat unexpectedly, the theater also contained much that was relevant for my work. The Berlin theater, which has always been political, seemed fascinated with German unification and its resulting problems. On the East Berlin stage, for example, there were two post-unification dramas relating to the *Stasi*. Another genre of theater — represented most completely in the productions of Frank Castorf at the *Volksbühne*, but not only there — could be called "the bad dreams of the GDR". These were productions in which unresolved anxieties of the GDR past appeared in somewhat unexpected places. For example, in one production of a play that had nothing to do with the GDR, a sofa with a life-size model of Erich Honecker descended from the ceiling and remained on the stage for the rest of the performance, including curtain calls. In a gripping production of the "Tales of Hoffmann" at the *Komische Oper* in East Berlin, the famous barcarolle was not accompanied by a backdrop of sparkling waves, but rather by a polluted stream, complete with oil drum: eastern Germany of the *Wendezeit*. Excellent productions of works written in the late 1980s by GDR writer Heiner Müller (*Deutsches Theater*) and Volker Braun (*Maxim Gorki Theater*) showed what could be produced (and what could not be produced) on the East Berlin stage in the last days of the GDR. And, of course, Rolf Hochhuth's "Wessis in Weimar" provided the season's minor *succès de scandale*. In any case, this year afforded a unique chance to see a lot of German theater, both classic and contemporary.

But, of course, the true center of life during this year was the unique institution of the Wissenschaftskolleg itself and the group of Fellows assembled from many places and many disciplines. Lunches and the

memorable Thursday night dinners served as a backdrop for enormously varied personalities and styles in conversations that tied together a great variety of life histories and projects — not to mention a great variety of Berlin experiences, whether in Grunewald, Prenzlauer Berg, or Weissensee. Certainly, it is for all of these reasons — conversations and friendships, projects and work, and the exciting life of Berlin — that this year at the Wissenschaftskolleg will always have a very special place in my memory.