B. Leonard

35

TRIAL IN BERLIN

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A FORMAL LECTURE DELIVERED AT ST JOHN'S COLLEGE

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The place of the trial was Berlin, the time January 1945; the court the so-called People's Court, the highest court for political crimes, such as treason. It was meeting in a requisitioned building, the court building having been destroyed by bombs. The presiding judge was Roland Freisler, the same that had tried and sentenced some rebellious students in Munich in 1943. He had tried many cases since. The present one now was one of his last. Three weeks later he was killed in a massive air raid on Berlin. The chief defendant in this trial in the last winter of the war was a thirty-seven year old lawyer and landowner by name of Moltke, Count Moltke. He had a whole string of names. The court only used the first, Helmuth.

The war was approaching its end. The British and Americans had sustained and defeated Hitler's last gamble, a winter offensive in the West, in the Ardennes. The Russians were about to enter Germany on a broad front in the East.

The trial in Berlin was a treason trial. But, as the defendant wrote to his wife, "This affair is really somewhat better than the celebrated Huber case. For even less actually happened. We did not so much as produce a leaflet."

What he meant by "the celebrated Huber case" was the case of those Munich students and their Professor, Kurt Huber, who had been sentenced to death for writing and spreading leaflets against the Nazis. The group had chosen "The White Rose" as its name. I lectured about it in Annapolis a couple of years ago. In the subsequent discussion the name of the group and the students who chose it were referred to as rather too "exquisite" and concentration on leaflets as a way of fighting the Nazis was criticized as unrealistic: why didn't they rather gather arms. My response was to ask what a handful of students could be expected to do against the kind of regime I had tried to describe. I had probably failed to set it off clearly enough against a mere police state, let alone pre-revolutionary America, or, for that matter, Richard Nixon's. Incidentally, those students had, in fact, carried arms, for strictly tactical purposes: when they went out at night to write slogans on walls and expected to have to shoot their way out if the police arrived.

That question "why didn't they?" and the counter-question "what could they do?" stand for a whole range of "why didn't they" questions, questions of methods and purposes, means and ends. And together they raise the question of

what is sometimes called "realism."

Why did the defendant in the Berlin trial two years later consider his case "even better" than the case of the White Rose? Because, he said oddly enough, "even less actually happened."

We shall have to see what in fact did happen. And then we might try to discuss whether we agree or disagree that such a case was "better." The discussion may be difficult and should be delicate; it must be conducted with some awareness of the prevailing circumstances -- which there is now no time to describe. When I say that the Nazi system went beyond a mere police state I mean that its legal and extra-legal methods and instruments of persuasion and of coercion were more comprehensive and more dreadful. It was a one-party state in which all rival parties and organizations were forbidden. The press, the media, all publications were strictly controlled, and so were the pulpits, though the regime did not dare go all out in a frontal onslaught on the churches. But National Socialism had the character of a counter-religion. It was especially intent on the indoctrination of the young. To have any kind of career at all presupposed membership in the Hitler Youth, which was officially compulsory, though some managed to escape it. The Nazi Party, or, to give it its full name, the National Socialist German Workers' Party, was not only a party, but a Movement, one which swept much before it that had seemed quite stable before. Once in power it engendered and exploited psychological pressures among the people that were unprecedented in modern society, or, for that matter, in any society. There was, in addition to new laws, prisons and the legal administration of justice, the whole universe of concentration camps, even in peace time; during the war they proliferated and once Hitler had decided on the destruction of the Jews of Europe, death camps were added in the East. Their existence and operation was secret, a State Secret. Rumor was always rife -- and always punishable -- and reliable and comprehensive information impossible to come by. In peace-time the unauthorized getting and spreading of information could be punished as defamation of the state or of the Party or Movement; in war-time it might rank as treason. Anyone resisting the system had a hard time and a short expectation of life.

For someone who had opposed the Nazis from the beginning, the defendant in that trial in Berlin in January 1945 had had a surprisingly long life. But then Helmuth James von Moltke, who achieved the age of thirty-seven, bore a name that was renowned in the annals of German history; and he was a trained lawyer. Hitler hated lawyers. He knew why.

The defendant's great-grand-uncle Helmuth von Moltke was the general who had enabled the Prussian chancellor Bismarck to beat the Austrians and the French and to unite the German states in the second German Reich. The name of Moltke still had some magic in Hitler's Third Reich. The family estate Kreisau, in Silesia, which had been the old Moltke's reward for his services to the fatherland, had passed to his great-grand-nephew. In fact Helmuth James had had to take it on, quite suddenly and not at all enthusiastically, in 1929, at the age of 22, during the world economic crisis produced by the Wall Street crash, which coincided with the discovery that Kreisau was very heavily in debt, with bankruptcy quite probable. He set to work with a will, and within a year he had, by dint of great skill, extremely hard work and negotiations, made Kreisau solvent once more.

The defendant's mother was of British-South-African descent. James Rose Innes, her father, was a famous chief justice in South Africa, renowned for his liberalism. His grandson Helmuth James von Moltke's legal flair and training may have been a factor that prolonged his life. In the end it did not save it, though it enabled him to go exhaustively into all the possibilities of defence against the charges brought against him. He even had the effrontery to argue in mitigation the fact that he had never made a secret of his critical attitude, but on the contrary had, as he thought it was his duty and that of any servant of the state, warned against policies and practices he saw as dangerous and harmful.

The court's reaction to this line of defence is not recorded. In fact all we have on the course of the trial is Moltke's own fairly full account and comment which he smuggled out to his wife in three letters between being tried, sentenced, and hanged; and the official Top Secret text of the sentence, with reasons.

What were those reasons? That the defendant had had knowledge of a plot to overthrow the government, declined to join it and warned his friends against it, but did not report it to the authorities. And that he himself formed a circle to seize power, in case of a German defeat, with people who were not National Socialists.

These reasons were spelled out in greater detail, as follows: The accused was administrator and finally owner of the family estate Kreisau in Silesia. He was also a lawyer, specializing in international law and admitted at the British Bar. His membership in Nazi Party organizations was minimal, just enough to allow him to carry on his farming and legal practice. In the war he was employed as legal advisor to the Supreme Command of the Armed Forces. He always took -- the official account now adds somewhat suddenly and incongruously -- an interest in religious and ecclesiastical questions, in the relationship between church and state and the question of "rechristianization", as well as in agrarian policy and the decentralization of administration.

Around 1941, the official account goes on, he began to think about the future in case the war should be lost, and started discussing it with friends and acquaintances, none of whom were National Socialists and some of whom had since been convicted as traitors. In 1942 and 1943 there were two longer meetings at Kreisau, the first dealing with re-christianization and the relations of church and state. The Jesuit father Alfred Delp -- who was a co-defendant at this trial and also sentenced to death -- spoke about the Catholic view on social policy, with special reference to the papal encyclical Quadrageesimo Anno. And Moltke later checked with a Catholic Bishop that the hierarchy still endorsed that document. The second Kreisau meeting dealt with questions of administration and the relationship of the states and the Reich. There was also a search for people who would be suitable and willing to carry out the policies that were discussed.

Meanwhile there had been contact with the conspiratorial circle of Carl Goerdeler, the former Mayor of Leipzig, to which Moltke was opposed because

he considered it reactionary, (while he, let me interpolate, was interested in establishing common ground between socialists - many of them very anti-clerical - as well as conservatives and liberals and Christians, between trade unions and the churches of both denominations; the Protestant church being far more to the Right in Germany than the Catholic.)

The official document summed the case up in the following words: "All Count Moltke did constitutes treason: high treason in the midst of war. He cannot lessen its gravity by saying that he was only thinking and did not proceed to carrying out plans. For he did more than think : he also gathered a circle for the discussion and development of plans; and finally he looked for men to carry them out..." The reasoning of the sentence goes on to argue that even thinking about the case of defeat is criminal; and that the definition of treason cannot be limited to a man out to rob us of our way of life by his own exercise of force. In peace that might be an acceptable limit. But in war the outer enemy counts on the internal opponent and vice versa. Moltke's treason must be regarded as a particularly grave case. He spread defeatism and helped the enemy.

At this point two articles of the penal code were adduced: paragraph 83 (on organizational cohesion) and paragraph 91b (on aiding an enemy); in addition, paragraph 5 of the Special Penal Ordinance for War which dealt with activities or utterances detrimental to the national defence or to morale, and which was evidently made to apply to Moltke's defeatism and its infectious effects or potential.

But, the explanation of the sentence went on, this was not all. From 1940 onward Moltke heard about and members of his circle were in contact with the group of Ludwig Beck (a former chief of general staff) and of Carl Goerdeler. This group was plotting to overthrow the government. Moltke was against it, on the grounds, inter alia, that he knew from his visits to London before the war that Goerdeler's British contacts were confined to right-wing reactionaries. Yet finally he agreed to a meeting of the two groups at which he explained his opposition to Goerdeler. The meeting broke up in

acrimony. Moltke continued to warn his associates against the Goerdeler group. Yet he did not report it to the authorities. This omission alone would be punishable by death under paragraph 139 of the Penal Code. But the real point was that all these things were part of a whole and meant that Moltke made himself into a servant of the enemy and therefore had to be punished by death. -- So much for a summary of the sentence.

Actually the death penalty was not mandatory under any of the laws that were adduced. Much therefore depended on the judge and his impression of and reaction to the accused. The judge was Roland Freisler, the most radical and ruthless of the Nazi judges -- Hitler himself once referred to him as a 'Bolshevik' in his Table Talk. He was, as I have said, the same judge that had presided over the court that sentenced the Munich students. But that was nearly two years earlier, in February 1943. During the last winter of the war and after the initial rage and vengeance against all who were connected with the plot of July 1944 was spent, after thousands of arrests and hundreds of executions, during the winter of the Russian advance on Germany and the last German offensive in the West, it was observed that the People's Court was perhaps getting a bit more lenient in its sentences. Therefore Moltke, who had been opposed to assassination, indeed to any attempt to overthrow the regime by force, and who had been under arrest since January 1944, six months before Stauffenberg planted his bomb and failed to kill Hitler, on 20 July 1944, Moltke had, it would seem, a chance of getting away with a prison sentence.

The official arguments, for all their harping on his education and elevated position and the greater responsibility these carried with them, were not very convincing on the need to kill him and Delp, but not Eugen Gerstenmaier, a Protestant cleric, or church official, another Kreisauer and co-defendant who, unlike the other two, was actually arrested at Stauffenberg's conspiratorial headquarters in the war ministry in Berlin in the evening of 20 July 1944, and who nonetheless got off with a seven year jail sentence.

There were, of course, plenty of other things Moltke had done that the court did not know about and that would have laid him open to severe punishment. In the absence of such knowledge and of convincing arguments in the official

explanation of the sentence, we must now turn to the trial itself.

Moltke's own account of it is reliable and has been preserved -- I am tempted to say "as by a miracle" or a whole series of miracles. First the very fact that he was able to write it, able not only psychologically but physically. Usually those condemned to death were hauled straight off to the gallows. Moltke was taken back to his prison cell. Then, the Protestant prison chaplain, Harald Poelchau, was a friend of his and had been a member of his circle, a fact that was never found out in the year of investigation. This chaplain smuggled letters from Moltke to his wife and back. He also managed to smuggle out the account of the trial. And she managed to keep it out of the hands of the police, as she managed to keep all his other letters and the Kreisau plans and papers, though Silesia became a theatre of war and is now Polish.

When we turn to Moltke's own account, we find that all those flat phrases in the official sentence about Moltke's interest in questions of church and state and in "rechristianization" -- phrases that were tucked away among other things like agrarian policy and decentralization -- that even the mention of Kreisau discussions of Catholic views on social policy concealed rather than revealed the drama of the trial, and concealed it for good reason, the same reason that made Moltke urge his wife to get his account of the trial to people who would make it known. Three times he stated it in his letters. The first time he called it the crux and climax of the whole thing, the second time "the single idea" that got him convicted, the third time the drama or dialogue of the trial.

What was that crux, what filled him with such relief and gratitude about the way the trial had gone, the trial that condemned him to death? It was the judge's explicit recognition of the incompatibility of Christianity and Nazism, a recognition the Nazis had always taken a great care not to make openly and officially explicit, however much their actions might bespeak it.

The arguments of the official sentence were flat, tortuous, and unconvincing because, although the document was Top Secret, the court did not dare put in writing what had been elicited from the mouth of the judge, forced from him by the complete and incontrovertible non-violence of the defendant, a defendant who was able and willing to take his stand on principle, willing to

stake his life, able to manage his defense in a way that did not permit his accusers to pervert the cause of his condemnation as was commonly done.

Let me give you those three places in Moltke's own words, translated: I am convinced they are an accurate reproduction of what went on in that court. He had a lawyer's memory.

The first. After the discussion of the charge of defeatism and of preparations for the time after the Nazis, Moltke goes on to Freisler's diatribe:

> But now came the crux of the whole thing. "And who was present? A Jesuit father! Of all people a Jesuit father! And a Protestant minister, and three others who were later sentenced to death for complicity in the July 20 plot! And not a single National Socialist! No, not one. I must say: that does remove the figleaf! A Jesuit father, and with him, of all people, you discuss questions of civil disobedience! And you also knew the Provincial Head of the Jesuits! He too came to Kreisau once! A Jesuit Provincial, one of the highest officials of Germany's most dangerous enemies, he visits Count Moltke at Kreisau! And you are not ashamed of it, even though no decent German would touch a Jesuit with a barge-pole! People who have been excluded from all military service because of their attitude! If I know there is a Provincial of the Jesuits in a town, it is almost enough to keep me out of that town altogether! And the other reverend gentleman. What was he after there? Such people should confine their attentions to the hereafter and leave us here in peace! And you went visiting Bishops! Looking for something you had lost, I suppose! Where do you get your orders from? You get your orders from the Fuehrer and the National Socialist Party! That goes for you as much as for any other German; and anyone who takes his orders, no matter under

> what camouflage, from the guardians of the other world, is taking them from the enemy, and will be dealt with accordingly."

"And so it went on," commented Moltke, "but in a key which made the earlier paroxysms appear as the gentle rustlings of a breeze." After this climax, he added, the end came in about five minutes.

He summed up this first account of what went on in court in these words:

> This concentration on the church aspect of the case corresponds with the intrinsic nature of the matter and shows that Freisler is a good political judge after all. It gives us the inestimable advantage of being killed for something which (a) we really have done and which (b) is worthwhile.

A bit later in the same letter he commented:

> The best thing about a judgment on such lines is this: It is established that we did not wish to use force; it is further established that we did not take a single step towards setting up any sort of organization, nor question anyone as to his readiness to take over any particular post -- though the indictment stated otherwise. We merely thought ... And in face of the thoughts of ... three isolated men, their mere thoughts, National Socialism gets in such a panic that it wants to root out everything they may have infected. There's a compliment for you. ...We are to be hanged for thinking together. Freisler is right, a thousand times right; and if we are to die, I am in favour of dying on this issue.

But he hoped that their death could be turned to some immediate account and added:

> I am of the opinion -- and now I am coming to what has got to be done -- that this affair, properly presented, is really somewhat better than the celebrated Huber case. For even less actually happened. We did not so much as produce a

> leaflet. It is only a question of men's thoughts without even the intention to resort to violence... All that is left is a single idea: how Christianity can prove a sheet-anchor in time of chaos. And just for this idea five heads...look like being forfeited tomorrow,..Because he made it clear that I was opposed in principle to large estates, that I had no class interests at heart, no personal interests at all, not even those of my outfit, but stood for the cause of all mankind, for all these reasons Freisler has unwittingly done us a great service, insofar as it may prove possible to spread the story and make full use of it. And indeed, in my view, this should be done both at home and abroad. For our case histories provide documentary proof that it is neither plots nor plans but the very spirit of man that is to be hunted down...

All this was written after the prosecutor had asked for the death sentence for Moltke and four co-defendants, but before the court had pronounced. The next day, January 11, brought the decision: Moltke and Delp and one other were to die, Gerstenmaier got off with a prison sentence. On that day Moltke once more returned to the drama of the 10th when he wrote:

> The following, as it turned out was the really dramatic thing about the trial. During the procedings all factual charges had proved to be untenable and were dropped... Schulze (the prosecutor) in his summing-up expressly stated that this case "differs radically from all parallel cases, for in the conversations there was no mention of violence or organised opposition" -- whereas the question under discussion was the practical demands of the Christian ethic, nothing more. And it is for this alone that we stand condemned.

Moltke continues:

> In one of his tirades Freisler said to me: "Only in

> one respect does National Socialism resemble Christianity: we demand the whole man. I don't know if the others sitting there took it all in, for it was a sort of dialogue between Freisler and me -- a dialogue of the spirit, since I did not get the chance actually to say much -- in the course of which we got to know one another through and through. Freisler was the only one of the whole gang who thoroughly understood me, and the only one of them who realized why he must do away with me. There was no more talk of me as a "complex character" or of "complicated thinking" or of "ideology," but: "the figleaf is off." But only so far as Freisler was concerned. It was as though we were talking to each other in a vacuum. He made not a single joke at my expense, as he did against Delp and Eugen. No, in my case it was all grimmest earnest. "From whom do you take your orders, from the other world or from Adolf Hitler? Where lie your loyalty and your faith?" Rhetorical questions, of course. At any rate Freisler is the first National Socialist who has grasped who I am.

Then there was a pause during which the Catholic prison chaplain visited Moltke and he was shaved and given some coffee and something to eat, and then he resumed the letter:

> The decisive phrase in the proceedings was: "...Christianity has one thing in common with us National Socialists, and one thing only: we claim the whole man."

And later this letter, which supplements and amplifies his earlier report, goes on to describe how the Christian component of the case came to be singled out, by the providential elimination not only of all connections with plans for a violent overthrow of the regime but also of co-defendants and charges and motivations that would have enabled the court to pin blame on individual

or sectional interests. "And so finally I am selected," Moltke writes,

> as a Protestant, am attacked and condemned primarily because of my friendship with Catholics, which means that I stood before Freisler not as a Protestant, not as a big landowner, not as an aristocrat, not as a Prussian, not as a German -- all that was definitely eliminated earlier in the trial...No, I stood there as a Christian and as nothing else. "The figleaf is off," says Freisler. Yes, every other category had been removed.

You can read those letters in a little book.* There is also a full-length biography** that gives some of the historical and sociological context of the life that culminated in this trial. The question is -- though it does not figure very prominently in that biography -- whether there is a real and necessary connection between the Christian convictions of this political convict and his life and actions up to that final dialogue. I think there is. Moltke himself certainly thought there was.

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It was in the summer of 1940, when France had fallen, Russia was still neutral and in league with Germany, and Hitler was at the pinnacle of his power and seemed invincible, that Moltke had started, systematically, to collect the secret standing seminar of conservatives, liberals, socialists, Protestants and Catholics, for the discussion of a <u>human</u> political order to supersede the Nazis' so-called New Order. One of the first things the group found itself in agreement on -- and that included the socialists -- was the need to rechristianize Germany if it was to be re-humanized. This did not mean a clericalization of politics or education. It meant a restoration and defence of the freedom of religion and of conscience.

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*<u>A German of the Resistance. The Last Letters of Count Helmuth James von Moltke</u>. Third Edition. Berlin: Henssel Verlag, 1972.

**Michael Balfour and Julian Frisby, <u>Helmuth von Moltke: A Leader Against Hitler</u>. London: Macmillan, 1972, and New York: St. Martin's Press, 1973.

This experience of the rediscovery of the central political relevance of Christianity during the years of Nazi rule is described at greater length in a chapter of Dietrich Bonhoeffer's Ethics. I have often been struck by the way Bonhoeffer's writings are exemplified or paralleled in Moltke's life. The two men knew each other. They even travelled together to Scandinavia on a wartime mission, in the spring of 1942, for the Abwehr or Counter-Intelligence department, the "outfit" Moltke referred to in his prison letter, a hotbed of conspiracy against the Nazis, whose heads, Canaris and Oster, were later executed too. Otherwise Moltke and Bonhoeffer had little contact and they did not see eye to eye on the desirability of assassinating Hitler. But more of that anon. What matters here is the discovery both men and many others made in the Nazi years that there was a close connection between Christianity and civilization and between apostasy and barbarism, or,as Bonhoeffer put it, that "Reason, culture, humanity, tolerance, and self-determination, all these concepts which until very recently had served as battle slogans against the church, against Christianity, against Jesus Christ himself, had now,suddenly, surprisingly, come very near indeed to the Christian standpoint."Or, more starkly, also in the Ethics: "There seems to be a general unconscious knowledge which, in the hour of ultimate peril, leads everything which desires not to fall victim to the Antichrist to take refuge with Christ." After which Bonhoeffer goes on to comment on the truth of both statements in the Gospels that "He that is not against us is for us" and "He that is not with me is against me."

It could, of course, be argued, and often is, especially once the crisis is over, that decency could be restored and defended without religious sanction. Moltke himself thought so in the earlier phase of the Nazi regime. But subsequent experience taught him otherwise. During the war, in the spring of 1942, in a long letter on the German situation which he managed to get to a friend in England, he wrote:

> Perhaps you will remember that, in discussions before the war, I maintained that belief in God was not essential for coming to the results you arrive at. To-day I know that I was wrong, completely wrong. You know that I have fought the Nazis from the first day, but the amount of risk and readiness for sacrifice which is asked from us now, and that which may be asked from us tomorrow, require more than right

> ethical principles, especially as we know that the success of our fight will probably mean a total collapse as a national unit. But we are ready to face this.

This last consideration must have been a very serious one. Among his oppositional friends and associates Moltke was probably unique in not only not being a nationalist but not even a patriot. The others felt that in opposing Hitler they were the real patriots, however much the Nazis might arrogate a monopoly of patriotism to themselves. But Moltke was above even those considerations and the consolations and conflicts they gave rise to. Yet he knew that the fight against the Treaty of Versailles had been Hitler's trump card at home and abroad and that the threat of another such treaty or a worse one made domestic resistance a desperately lonely undertaking.

In such an undertaking one needed a faith to sustain one, faith that fortified one against being overwhelmed by the historic events of the moment and their massive psychological effects, and faith that had indeed a connection with "another world" from that dominated not only by the Nazis but by all those who thought like them elsewhere: or those who, at any rate, could not free themselves from the coils of collective thinking.

This, of course, is natural enough in time of war, even one that, like the second world war, has an aspect of international civil war about it. Even in peace people find it difficult or even undesirable to think of themselves and others except as parts of collectivities. In fact nowadays that is how "identity" tends to be defined: in terms of membership of this or that collective: black, white, red; racial, religious, national, or sexual. But in war the need to feel one <u>belongs</u> to some group or other becomes even stronger. And nations, naturally, lay claim to their nationals and require them to perform services and observe loyalties.

Moltke, incidentally, did at one time think of emigrating, leaving his Silesian estate — to which he was very much attached — leaving his law practice in Berlin, leaving his German roots and connections, and trying to make a go of

it in England where he qualified as a lawyer by virtually commuting across the Channel in the late 1930's;but he had understandable hesitations, and when the war broke out, he was in Germany.

He then worked as a legal advisor to the German High Command and did his utmost to persuade his superiors of the benefits of international law. He laboured to prevent or reduce breaches of it by the Germans, even to interpret infractions by the other belligerents in ways that favoured them. In human terms this meant, for instance, getting people classified as prisoners of war whose status under the Geneva Conventions might be rather dubious, or arguing against the slave trade that foreign labour should not be forcibly drafted to Germany but that people should rather be allowed to man their own industries at home in the occupied countries, or it might mean fighting against Hitler's order that any captured Russian political Commissars should not be treated as prisoners but were to be shot at once.

Moltke was indefatigable in this work and achieved an amazing amount of success considering his relatively junior rank. Some of his successes might not be lasting -- but even just prolonging someone's life or liberty was worth the effort. His powers of persuasion must have been prodigious. What he ascribed them to himself, apart from hard work (he was always in command of his facts), was the appeal he could make, beside all arguments of expediency he might marshal, to the residual decency in people, who might even be relieved, on some occasions, to hear someone say things that had once been generally accepted as true and good, but which were now as generally relegated to the status of sentimentality or worse.

In the pursuit of such "sentimentality," or one might call it "justice" or "humanity", he had to keep and use his head. Theatrical gestures would have helped no-one. But this need to keep his head worried him at times, when he wondered whether he was getting hardened, just as he had already worried earlier whether the mere fact of staying and carrying on might not help maintain the facade behind which the Nazis did their devilish work. The strain of this sometimes became almost unbearable.

A letter of October 1941 may give you an idea of this. It was written at a time when Russia was but America was not yet in the war. In his official position Moltke had access to classified information, the kind of thing that never got into the press. He writes:

> The day has been so full of ghastly news that I can't write collectedly although I came back at 5 and have had tea. What I mind most at the moment is the inadequacy of the reaction of the military. Falkenhausen and Stuelpnagel [they were the generals in charge of Belgium and France] have returned to their places instead of resigning after the latest incidents, new and horrible orders are going out and nobody seems to care. How can one bear one's share of guilt?
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> In one part of Serbia two villages have been reduced to ashes and of the inhabitants 1,700 men and 240 women have been executed. This was called the "punishment" for the attack on three German soldiers. In Greece 240 men were shot in one village. The village was burnt down, the women and children were left on the spot to mourn their husbands and fathers and homes. In France extensive shootings are going on as I write. In this way certainly more than a thousand men are being murdered every day and thousands more Germans are being habituated to murder. And all that is child's play compared to what is happening in Poland and Russia. Is it right for me to learn of these things and yet sit at my table in a well-heated room and drink tea? Do I not thereby make myself into an accomplice? What shall I say when I am asked: "And what did you do during this time?"

> Since Saturday they have been herding the Berlin Jews together. They are collected at 9.15 in the evening and shut into a synagogue overnight. Then they are sent, with what they can carry to Lodz and Smolensk. The authorities want to spare us the sight of how they are left to perish in hunger and cold and that is why it is done in Lodz and Smolensk. A friend of Kiep's saw a Jew collapse in the street; when she wanted to help him get up, a policeman intervened, prevented her and kicked the body as it lay on the ground, so that it rolled into the gutter. Then he turned to the lady with a last vestige of shame and said: "Those are our orders."
>
> How can one know of such things and still walk about a free man?

His actions gave the answer. It was not a question of the "right" to refrain from an instant reflex. It was a case of duty. There were things he could do or could try to do, and those he did, accepting the risk of arrest, but not courting it.

Hatching or joining a plot to kill Hitler was not among those things. This was not because he lacked the courage but because, unlike Bonhoeffer, he judged it to be wrong, for several reasons. One of them was his conviction that the assassination of Hitler -- even if it succeeded, and he had his doubts about that -- would not cure the Germans of Hitlerism but might, on the contrary, make a martyr of him and give rise to another legend, worse than the one that had vitiated politics after the first world war, when it was said and widely accepted that the undefeated German army was stabbed in the back by traitors at home. Moltke was convinced that the only cure for the German disease was a clear military defeat -- not the whole cure, of course, but a necessary part. And the Nazis would have to be in charge until that defeat was accomplished so that the responsibility for it should be unmistakably theirs.

This does not mean that he was enthusiastic about the Allied policy of

demanding "Unconditional Surrender," especially about the way that slogan affected propaganda. It was launched by Roosevelt and accepted by Churchill at the Casablanca Conference in January 1943, at a time when the Russians were bearing the brunt of the war and clamouring for a second front in the West. The battles at Stalingrad and in North Africa were, at last, turning the tide of the war, and Roosevelt probably got carried away by historic echoes, by the elation of America's growing power, and by the desire to assure the hard-pressed Russians, and more particularly the ever-suspicious Stalin, that the Western allies would never conclude any kind of negotiated peace with whatever kind of German regime. Whenever Germans opposed to the Nazi regime tried to establish contact with the West, Roosevelt refused to have anything to do with these "East German junkers" as he called them and the British government rejected all such feelers as aiming at a "soft peace" or a split in the coalition between the West and Soviet Russia. When Stauffenberg finally tried and failed to kill Hitler and remove his regime, the official mood in London was one of relief at the failure; the reason given was Moltke's: that the plot, if it had succeeded, would only have meant another stab-in-the-back legend. Publicly Churchill made a scathing comment, in the House of Commons, on the German top-dogs now being at each other's throats. Much later, after the war, he made amends for this and paid tribute to the plotters.

But there was another reason for the unwillingness in London and Washington to consider any oppositional German approaches. It was the feeling that Germany needed a thoroughgoing social revolution or re-construction and that this would have to be brought about or facilitated by Allied occupation, by American, British, and Russian occupation (the French were included at a later stage, at de Gaulle's insistence). The Russian part has, actually, happened.

Moltke and his friends had their own plans for social change -- including, incidentally, the nationalization of some key industries. They proposed to take mining, iron and steel, the basic chemical industries and fuel and power into public ownership. They also had their own plans for the purgation of the body politic and the punishment of war criminals and of Nazis who had committed crimes in Germany. They were convinced that punishment <u>by Germans</u> in conjunction

with the International Court at The Hague, rather than by the victors, was not only desirable and possible, but would also be more efficacious.

Others of the Kreisau discussions and proposals still have a curiously prophetic ring about them, especially those concerned with the need to create smaller social and political units, units in which people can once more feel they belong and amount to something, feel responsible. The plans for a federal structure of Germany and for a united Europe anticipated some actual later developments. The need for the re-christianization of Germany that they felt so strongly in the hell of the Nazi counter-religion may have found some counterpart in the growth of Christian Democratic parties in Western Europe; and it is probably no accident that it was the Christian Democrats in France, Germany, and Italy who made the first bold moves after the war to get away from the stranglehold of nationalism and the nation state, to found some kind of European unity.

These developments may not quite have taken the form that was or indeed could be envisaged by the internal opponents of Hitler's Fortress Europe, but their recognition of the dangers of totalitarianism in all its forms and of the manipulability of mass societies, their search for remedies, retains its relevance to the problems of our day.

The People's Court in Berlin knew of the Kreisau discussions and their outcome only in vaguest outline. The incriminating evidence was very sparse. Moltke and his associates had been extremely careful and circumspect while at liberty, and brave and resourceful under interrogation, some of it -- though not in Moltke's own case -- accompanied by torture. The court did know of the selection of Regional Commissioners that were to take over after the removal of the Nazis and of the instructions that the Kreisauers had drafted for them. But the chief emphasis in the trial was on their temerity in thinking of and providing for a German defeat; not on working for it, but on thinking about it. Freisler knew as well as Moltke what narrow limits are set to effective action against a totalitarian regime. He had no inkling of Moltke's effectiveness within those limits. But he sensed and said what was the basis of that effectiveness and the real danger to the regime: the faith that was opposed to the Nazi faith.

The Christian faith had, since the Reformation, split Germany into mutually hostile Protestant and Catholic factions and had been subject to erosion in the decades before Hitler, exploiting the split and the loss of faith, offered himself as the new Saviour.

It must have been this realization that made Moltke, the Protestant, so determined and methodical in his contacts with the Catholics, not only with the Jesuits, but also with laymen and with the Catholic Bishop of Berlin, Count Preysing, who happened to be the most clear-headed and recalcitrant member of the German hierarchy as far as the Nazis were concerned. (Incidentally, Preysing had written a rather interesting article on Thomas More on the occasion of More's elevation to the sainthood, in 1935, 400 years after his death, and at a time when such a canonization had clear political overtones.) Moltke saw Preysing quite regularly for the discussion of current problems and what could be done about them, right down to the content and style of pastoral letters.

Moltke had the reputation -- rightly or wrongly -- of being incapable of telling a lie. He was certainly capable of telling less than the whole truth. In the conduct of his court case he withheld as much incriminating information as he could, and that was a lot. He was very careful, as were his associates, to limit the damage, and blame what could not be denied on the dead or on those who were for other reasons beyond the reach of the regime. The prosecution never learnt of the third Kreisau meeting (one concerned with foreign policy, the punishment of Nazi criminals, and the instructions to be given to the post-Nazi Regional Commissioners). It did not know what went on at countless smaller meetings in Berlin, at meetings with resistance leaders abroad or with representatives of the German occupation -- military or even SS --on whom Moltke got to work to reduce the harm they were doing and to increase the good. He did not volunteer information to his interrogators about his part in the rescue of the Norwegian Bishop Berggrav or of the Danish Jews.

So what he says in his letters about his trial is true: he was condemned not for what he had done but for what he <u>was</u>. His widespread and energetic and dangerous activities on behalf of victims of the regime, his

efforts to foil and counteract the purposes of the Nazis and to prepare for a human political order to supersede theirs (and that very preparation, those discussions, were, of course, invaluable for the preservation and fortification of mental health in Hitler's madhouse) - all these activities were the expression of the kind of man he was, a man who took his Christianity more and more seriously. George Kennan, who only knew him in the early stages of his clandestine activities, described him, in his Memoirs, as "the greatest person, morally, and the largest and most enlightened in his concepts" that he met on either side of the battle lines in the second world war.

I did not know him at all. I have only read hundreds of his letters, letters in which he is very much alive, in his integrity, his intelligence, his seriousness, and his caustic wit. They give a picture rather different from that in the literature about him. On the basis of my knowledge of the period and of those letters I would even suggest that he was a realist.