

The Kreisau Circle

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Introduction

For twelve and a half years the German people lived within prison walls. What actually took place inside those walls never reached the public ear. The Nazis had many adversaries in Germany. These adversaries stood against Hitler and Nazism from the start of the regime. This thesis is concerned with one such opposition group known as the Kreisau Circle. There were many other groups in Germany, but the Kreisau Circle was peculiar in so far as it never took any active steps against Hitler and Nazism, but through its meetings attempted to set up a form of government which would be effective until the people could set up the type of government they preferred by a free election.

Summary of Thesis

During the reign of Hitler and Nazism there was much opposition to him and the government. There were many attempts made on his life by underground movements. The Kreisau Circle was an underground movement but for another purpose. Its purpose was to re-establish Germany, after the fall of Hitler and Nazism, according to Christian principles. What sets the Kreisau Circle above the many other underground movements is that it was composed of those who should have been the ruling class in Germany. After the imprisonment of Helmuth Graf von Moltke, the leader, who was opposed to any active attempts to overthrow Nazism, many members joined the activists in the plot of July 20, 1944. As a result of this they were arrested and the death sentence was carried out. From their meetings resulted the Kreisau Documents which contained precepts on which to rule Germany after the fall of Hitler.

Outline

- I. Background to the Opposition to Hitler
 - A. Hitler's policy antagonizes the German people.
 - B. Reaction to Hitler's policy.
- II. The Kreisau Circle
- III. Conclusion

During the reign of Hitler the opposition to him and to Nazism was present in every class of German society. This opposition was outright or, as in most cases, consisted of under-ground movements. The opposition largely resented the corruption and arbitrariness of Nazism with which it had to cope in fulfilling its duties. Although loyal to the nation, it resented the government by which it was ruled, viz., Nazism. It resented the Nazi slogan, "Gemeinnutz uber Cigennutz",¹ "general good before individual good". We may ask why the people allowed Hitler to take power. The answer is threefold. First, Hitler, known as one of the greatest demagogues in history, duped the people into accepting Nazism without their knowing exactly what it was. Secondly, Germany was in a depression and Hitler promised prosperity. Thirdly, Nazism attracted anti-democratic and anti-republican elements in Germany and merged them into a disciplined movement based on military organization. The army accepted Nazism because it realized that a larger part of Nazi leadership was made up of ordinary criminals with no moral scruples. To the army this was a step toward the militarization of the German people and preparation for war. Industrialists and businessmen accepted Nazism because they expected a Nazi government² under which workers could freely organize. Once in power, Hitler showed his true colors, but he was so powerful that

there was little people could do to oppose him. Thus, opposition sprung up all over Germany. In short, Germans were ashamed of their country under Hitler.

The opposition to Hitler came mainly from two sources; a) from those who were driven by Nazi invasion of their prerogatives and privileges into moral resistance to Nazism and opposition to its doctrines; b) from those whose dissatisfaction with Hitler's leadership and methods led them to conspire to overthrow the government. The first group came from the universities, the legal profession, and the clergy. The second group was composed of nationalist soldiers, civil servants, middle and lower rank officers, and underground groups such as the Kreisau Circle.^{3.}

Hitler held in contempt professors and intellectual academic life. He said that education is not a mere stuffing of knowledge but a building of healthy bodies.^{4.} All schools were Nazified; the only textbooks allowed were those written in the Nazi vein, the others being burned. Music and the theater were barred to Jewish composers, playwrights, and actors.^{5.} Newspapers were told what to print.^{6.} Radio and motion pictures were harnessed to serve the propaganda of the Nazi state.^{7.} The German worker was an industrial serf, the victim of low wages and high taxes.^{8.} People were forced to join a Nazified Protestantism, an accommodation of Christianity and racism, which "professed" belief in Christ.^{9.} Catholic teachers were dismissed and

the picture of the Fuhrer hung in place of the crucifix.^{10.}
Priests and nuns were convicted of perverse sex activities.

Many soldiers and officers were opposed to Hitler because he lacked the qualities of a good leader; because he suffered from megalomania; his generals had no faith in him. The officers knew that the army was not ready for war, but Hitler pushed them on. Hitler was a mad stratagist who was leading the army to suicide attacks.

Among the underground movements opposing Hitler, there was one called the "Kreisau Circle". The Kreisau Circle takes its name from the estate in Upper Silesia, where its members had met since the summer of 1940 to discuss what was to be done with Germany after the fall of Nazism. The Kreisau Circle, made up of men between the ages of thirty and forty, included socialists, left-wing intellectuals, right-wing politicians, Jesuits, Protestant clergymen, land-owners, economists, former trade union leaders - in fact, a cross section of what should have been the German ruling class. The Kreisau Circle was never in any way a political party or even a conspiracy; or if a conspiracy, then only so in view of the fact that members of the circle had to adopt conspiratorial methods to exchange their ideas, because free thought and discussion were illegal in^{11.}
National-Socialist Germany. Most of the members had a share in the German youth movement of the twenties, whose main purpose was simplicity of life, purity of morals, and a

sense of social responsibility. Although the leaders of the Kreisau Circle were from Prussian aristocracy, the binding force of its unity was a kind of Christian Socialism which could unite both Catholic and Protestant intellectuals with the underground Social Democrats and trade union leadership.^{12.} The Kreisau Circle was unalterably opposed to any violence. It was a heterogenous group of young intellectual idealists which epitomized opposition to Hitler and Nazism.

LEADERS OF THE KREISAU CIRCLE

The leaders of the Kreisau Circle were scions of two of Germany's most renowned and aristocratic families, the Moltkes and Wartenburgs.

Helmuth James Graf von Moltke was the great grandnephew of Field Marshall von Moltke who led the Prussian Army to victory over France in 1870.^{13.} Helmuth James Graf von Moltke was born March 11, 1907 at Kreisau in Silesia.^{14.} He was brought up as a Christian Scientist, but as he grew older he abandoned it. By profession a Berlin lawyer, he also interested himself in farming during the depression. Just before the war, von Moltke was a leading figure in the organization of work camps. During the war from 1939-1944 he became an expert in martial and civil law in the O.K.W. (Supreme Command), serving also in the Intelligence service as an advisor on international law.^{15.} As leader of the Kreisau Circle he was strongly opposed to any active steps to rid Germany of Hitler. Nevertheless, Moltke was arrested and sent to

prison in January, 1944, for warning a friend of his approaching arrest. He said later in prison, "Ever since Nazism has come to power, I've tried to mitigate its consequences for its victims and to prepare the way for a change."^{16.} He was not charged with any real acts against the state. His case dealt with an entirely different thing. It was bound up in the sentence which the Freisler shouted at him during the trial, "Herr Graf, there's one thing Christianity and we Nazis have in common, and only this one; we demand the whole man."^{17.} In this sentence the fundamental question of Christian resistance on the whole is opened. He was executed January 23, 1945 at Plotzensee.

In the summer of 1940 Helmuth James Graf von Moltke met Peter Yorck von Wartenburg and through discussions between these two men and their wives, the nucleus of the Kreisau Circle came into existence. Von Wartenburg was born November 13, 1904 in Silesia.^{19.} He was a direct descendant of the famous general of the Napoleonic war who with Clausewitz had signed the Convention of Tauroggin with Czar Alexander I, by which the Prussian army changed sides and helped bring about the fall of Bonaparte.^{20.} During his university days he studied jurisprudence and political science in Bonn and Breslau. He eventually became the Government Assessor of the Upper Presidium in Breslau and later Chief Government Councillor in Berlin with Reich Commissioner for Price Formation. During the war, he took part in the Polish campaign. After 1942 he

found employment in a Defense Administration Office and in the setting of this activity was able to make connections for the German Underground in Berlin. He was executed on August 9, 1944 on the charge of participating in the famous "July 20" attempt in that year to overthrow Hitler's regime. In his last letter to his mother, he states, "My actions were in now way motivated by ambitious thoughts or desire for power. My actions have been determined purely by a patriotic feeling, by concern for my Germany".^{21.}

In addition to von Moltke and von Wartenburg, the Kreisau Circle included a number of other prominent Germans.^{22.} Adam von Trott zu Solz was born August 9, 1909 at Potsdam. He studied law in Munich, Gottingen and Berlin, and philosophy, politics and economy at Oxford under the Cecil Rhodes scholarship. At his second state examination in 1936 he concluded (likewise made possible through the Rhodes Foundation) a period of study in East Asia, especially Peking, for which he spent six months preparing in the United States. From the spring of 1940 he found his sphere of activity in the Foreign Office at Berlin, where he was active in the Information department by strictly secret agreement with the Kreisau Circle, with agents of the working class, the Church and aristocratic friends. He joined the Kreisau Circle in the spring of 1940.

He opposed the war and did all he could to prevent it, believing war solves no problems. He worked for a

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democracy in Germany and as a result stood before the National Court of Justice on August 15, 1944. On August 26, the^{23.} death sentence was executed in Berlin-Platzensee.

Two Jesuits active in the Kreisau Circle were Father Roesch, S.J., Provincial of the Bavarian Jesuits, who joined in 1942, and Father Alfred Delp, S.J., from Munich. Through Father Roesch, a contact was established with a Bavarian anti-Nazi movement of which Colnel Speer was the leader. This^{24.} group came to be known as the Augsburg Circle. Father Delp, the more active of the two, was introduced into the circle at the wish of his Provincial Superior, Father Roesch. They were linked with Bishop Count Preysing, a Catholic Bishop of Berlin. Since 1942 Father Delp had willingly taken part in the discussions of the Circle. His particular problem area dealt with the question of a Christian social order with which he had already been occupied when he gave a report on sociology in the Stimmer der Zeit, a Jesuit publication. Father Delp had to pay for his co-operation with the Kreisau Circle with his life. On February 2, 1945 he was murdered in Berlin, "by the enemies of the Faith", inscribed on the^{25.} memorial tablet in the Jesuit College of St. Blaise. Before^{26.} his death he said, "My crime is that I had faith in Germany." For biographical sketches of other members of the Kreisau Circle, see Appendix I.

They professed belief in justice and a sense of responsibility for the future. Not all the members of the Kreisau

Circle agreed with von Moltke's views, that is, opposition to any active steps. But, after his arrest in January, 1944, some members of the group became actively involved in the plot of July 20, 1944 to kill Hitler and overthrow Nazism. Although the group in the beginning was less concerned with planning the overthrow of Hitler than the future of their country, there were many personal links between them and the activists.

Problems for the overthrow of Hitler fell under three aspects: 1) problems of gaining the support of the army and police, 2) the problem of creating a substitute to replace Nazism; and 3) the problem of making changes in the government acceptable to the Allies so that war could be ended without degradation of Germany. The Kreisau Circle was mainly concerned with aspects two and three. The main objective of the Kreisau Circle was to return to a state based on the rule of law. The members of the Kreisau Circle were opposed to a morally nihilistic and criminal regime; they set out to draw up among themselves a set of fundamental principles on which a moral and cultural renaissance might be founded once the nightmare of Nazism was over. Their thinking in these matters was ethical, philosophical, and theological. They traced the form that the future German society and economy should follow. They were not builders of ideological systems or abstracted constitutions.

The three major questions that preoccupied the Kreisau

Circle were: 1) how so disgusting a plight as National Socialism came to be accepted by a country as civilized as Germany; 2) what should now be their attitude towards their infamous government and its suicidal wars; and 3) what preparations could be made for the future when the present infamy should have passed away. Most of the work done by the Kreisau Circle dealt with the third point.

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Their answer to the questions, "How did National Socialism come to be accepted by civilized Germany" was not to be found in the Allied propagandist view that National Socialism was a purely German phenomenon with its implications that Germans were somehow endowed with more than their share of original sin. However they did not go to the other end and say that Germany was a victim of circumstances, and thus shelve the responsibility of the German people for the crimes that were being committed in their name. To try to arrive at an answer to this question we must know what Nazism did. It developed the "mass" man into a being incapable of forming his own judgment resulting in the crisis of age which was the loss of fundamentals upon which a stable order could be constructed. Without those fundamentals, mob propaganda, which one author describes as an insult to the human soul, has a clear field. A man incapable of judgment can and will believe anything. To show how successful it was, in 1919 Nazism first began and by 1933 there were seventeen million Nazis in Germany.

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Concerning the second point, the attitude toward the crimes that were committed by the government and its suicidal wars was that once Christianity is discarded, any philosophy of life (Weltanschauung) can take its place. Without God there is no true law; sin is death. And if any society is to live, then it must be so constituted that there is a place in it for God, and for God in the soul of man. A belief in Christian ethics was common denominator of the varied ideas of the Kreisau Circle. In their documents an important section of the first paper and a greater part of the third were devoted to the question of how a future German society could be imbued with Christian principles.

Despite differences in their background and thoughts, the members of the Kreisau Circle were able to find a broad common ground which enabled them to provide the intellectual, spiritual, ethical, philosophical, and political ideas of the resistance to Hitler and revival of Germany after the fall of Hitler and Nazism. This can be seen in the documents which were drawn up by the Kreisau Circle. The documents provided for the future government, for economic, social and spiritual foundations of the new society. What they aimed at was a sort of Christian Socialism in which all men would be brothers and the terrible ills of modern times - the perversions of the human spirit - would be cured.

There were three meetings in Kreisau in which the whole circle participated, each meeting lasting several days. At these meetings the documents were drawn up. The first meeting was held in the Spring of 1942, the second in the Autumn of 1942,^{31.} and the third in the Spring of 1943. The primary purpose of these meetings was not conspiratorial activity, but to lay the groundwork for a post-Nazi Germany and post-Nazi Europe.^{32.}

Documents referred to in the following section are taken from Officers Plot to Kill Hitler, by Constantine Fitzgibbon, originally published as July 20. Authority of July 20 is substantiated by information received from the Library of Congress by the author of this thesis dated May 12, 1961. The Library of Congress also refers to the Hoover Library on War, Revolution and Peace at Stanford University, Stanford, California as the possessors of twenty-six pages of "Kreisau Circle Documents".

The Kreisau documents were five in number. The first document, Document A, is the draft of August 9, 1945. It contains the first instructions to the land commissioners - a group of carefully selected men who were to take over their respective districts immediately upon the fall of Nazism. The area under their jurisdiction was to consist of five million people, since Germany was to be divided into areas of this size. They were to be given all necessary powers to perform their duties. The land commissioner was

to be held responsible to the Reich for shaping the political cultural, and economic forces of the land. He was to insure law and order, liberty of the person, and a genuine co-responsibility on the part of the entire population of his assigned district. He was to take steps to create a Christian system of education and thus a genuine renewal of spiritual life. In particular the land commissioners were to arrange for responsible co-operation by the workers in administrative and industrial matters. They were also to establish immediate contact with the officials of the German Trade Unions who were to be recognized as the only rightful representatives of the workers.

Annex I to Document A contains the details to the first part. It states that closest colleagues should be selected for the appointments necessary to insure an orderly administration and preservation of law and order. All leading National-Socialists are to be dismissed from important positions. In case of Martial Law, the military will be subject to the directives of the land commissioners.

Annex II states that all laws and decrees directed against individuals as members of a nation, race or creed will be suspended.

From this first document the primary task of the land commissioner was to build a system of self-administration.

Document B is a draft of August 9, 1943, in which is contained the basic principles for the new order.

The opening paragraph states, "The Government of the German Reich regards Christianity as the basis for the moral and spiritual renewal of our people, for the overthrow of hatred and falsehood, and for the rebuilding of the European community of nations.". It provides for reconstruction based on "freedom loving labor" and on the Christian Churches. Absolute freedom of conscience, protection of family life, and social cooperation. Schools were to be maintained by the state and were to be "Christian Schools". Religious instruction will be a compulsory subject for the adherents of the two Churches (German Evangelical and Roman Catholic). The instructions would be carried out by the clergymen acting under the instructions of their Churches. The publication of religious writings was to be permitted. The heritage of Christian thought was to be allowed once again in education and literature, as well as in films and radio.

For the organization of the Reich power was to extend far down in the districts (Kreise) whose population total approximated a couple hundred thousand, and even in the much smaller parishes (Gemeinde). Each district or parish would have its own council. The councils were to be chosen by the entire electorate by secret and direct ballot.

Everyone over twenty-one and those who served in the armed forces in wartime could vote. The head of the family had an extra vote for each child below the voting age. To be eligible for office, the candidate had to be twenty-seven

and he also was to be sponsored by a number of enfranchised citizens, determined by the size of the parish or district.

From the council in the parish or district would be elected members to the Landtag and hence ultimately to the Reichstag. The Reichstag was to make decisions concerning the budget, taxation, and laws of the Reich. It had the right of interpellating the Reich Chancellor and to pass resolutions concerning all matters of Reich policy. The election of the Reich Commissioner depended on the nomination of the Reich Council.

The Reich Commissioner, the central authority of the Reich, would be responsible for foreign affairs, armed forces, and economic matters which were too extensive to be dealt with lower down.

Christian ethics and "dignity of man" were to underlie the economic system. The mines, steel productions, basic Chemical industry and power plants were to be nationalized. In the other industries competition was to be encouraged, this was a direct blow against monopolies. Workers were to be given greater interest in the profits of work, and industry was to become an act of cooperation between the owners and workers who were to receive a share in the profit. This was to be the responsibility of the trade unions. By this it was hoped that the working man would regain pride and interest in his work which the industrial revolution stole from him.

The trade unions were to be de-centralized down to the regional level. Each region would have its Regional Economic Chamber which would consist of members elected from union and representatives of industry and which would arbitrate in case of dispute. This proposed system of decentralization was to be begun at the earliest possible moment that Germany was free of the Nazis.

Document C contains the conclusions of the discussions held between May 22nd and 25th, 1942. Everything in this document is set in theory in Document A and B. Principally, it contains the declaration of principle of Church and State and Education with general directives for Universities and High Schools.

Document D contains the methods of punishment of law-defilers. In this document a law-defiler is defined as one "who has broken the essential principles of divine or natural law or of international law or of positive laws generally accepted within the community of nations, and who has done so in a fashion which makes it clear that he has wantonly disregarded the binding force of such laws.". There is also a clause which allows for punishment of defilers of the laws that were under the Third Reich. It states that a court is able to find guilty of the law such defilement that took place before the promulgation of the new law.

Document E contains the directive for the arrangements to deal with defilers of the law through the community of

nations. This deals with "the grave and abominable" crimes committed under the National-Socialist rule. The Hague Court is suggested as the proper court to handle the crimes committed against international laws. The judges of the Hague Court would be six in number, three from the victorious powers, two from the neutrals, and one from the vanquished. By this document the members of the Kreisau Circle wanted to avoid the force of war crime trials that followed World War I. They believed the effect of the trials would be greatly increased if they could avoid the appearance of an act of legalized vengeance by the victors over the vanquished.

Unfortunately these documents could not be put into effect because after the imprisonment of Moltke many of the members became attached with the activists in the plot of July 20, 1944. After the failure of the plot most of the members of the circle were tried and given the death penalty.

Footnotes

1.

1. Dill, Marshall, Germany, (Ann Arbor, 1961), p. 359
2. Ebenstein, William, and Chandler, Albert R., Collier's Encyclopedia, (New York, 1959), XIV, p. 390
3. Passant, E. J., A Short History of Germany 1815-1945, (Cambridge, 1959), p. 227
4. Shirer, William L., The Rise and Fall of the Third Reich, (New York, 1960), p. 248
5. Idem., p. 241-243
6. Idem., p. 244
7. Idem., p. 247
8. Idem., p. 263
9. Dill, Marshall, op. cit., p. 366
10. Idem., p. 369
11. Fitzgibbon, Constantine, Officers Plot to Kill Hitler, (New York, 1956), p. 69
12. Passant, E. J., op. cit., p. 228
13. Shirer, William L., op. cit., p. 1015
14. Leber, Annedore, Das Gewissen Steht Auf, (Berlin, 1956), p. 202
15. Idem., p. 202
16. Idem., p. 202
17. Idem., p. 202
18. Idem., p. 202
19. Dying We Live, ed. Helmut Gallwitzer, trans. Reinhard C. Kuhn, (New York, 1956), p. 133
20. Shirer, William L., op. cit., p. 1015
21. Gallwitzer, Helmut, ed., op. cit., p. 133
22. Leber, Annedore, op. cit., p. 221

Footnotes

23. Idem., p. 222
24. Fitzgibbon, Constantine, op. cit., p. 76
25. Leber, Annedore, op. cit., p. 198
26. Gallqitzer, Helmut, ed., op. cit., p. 150
27. Passant, E. J., op. cit., p. 228
28. Fitzgibbon, Constantine, op. cit., p. 76
29. Ebenstein, William, and Chandler, Albert R., op. cit., p. 390
30. Fitzgibbon, Constantine, op. cit., p. 77
31. Rothfels, Hans, The German Opposition to Hitler, (Illinois, 1948), p. 112
- 32.. Leber, Annedore, op. cit., p. 199
33. Idem., p. 216
34. Bullock, Alan, Hitler, (New York, 1952), p. 675
35. Leber, Annedore, op. cit., p. 60
36. Idem., p. 62

Footnotes 32-36 inclusive correspond to footnotes 1-5
in Footnotes to Appendix 1.

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Appendix I

Doctor Harold Poelchau and Eugen Gerstainmair. a representative of the Bishop of Wurttemberg, Bishop Wurm in Berlin, both Protestant ministers, were also members of the Circle. Eugen Gerstainmair was a Lutheran Pastor and Doctor Harold Poelchau was a Lutheran chaplain at Legel Prison in Berlin.

Among the other prominent members of the Circle were Hans-Bernd von Haeften. Born in Berlin in 1905, he was a son of a high-standing officer, studied jurisprudence, and continued his studies at Cambridge as an exchange student. In addition to his activity as aid in the German Consulate at Geneva, he was secretary of the Stresemann Foundation.

His entrance into the Foreign Service in 1933 brought him to Copenhagen, Berlin, Vienna, Buchrest, and in 1940 back to the Foreign Office in Berlin, where he was finally occupied as lecturer-councillor of the legation in the cultural-political section. At this time he became closely bound up with Adam von Trott zu Solz and Adolf Reichwein.

Haeften had previously taken part in the effort of the Berneuchen Circle for the renewal of ecclesiastical life. On the basis of his co-operation with the Kreisau Circle he was condemned to death August 15, 1944 by the National Court of Justice and several hours after the announcement of the^{1.} condemnation, he was executed.

Fritz-Dietlof Graf von der Schulenburg was a lawyer and civil official, as lord lieutenant of Upper and Lower Siberia.

In 1939 he got in trouble with the Nazi party and he was tabbed politically unbearable.

During the war he set up a communication network from group to group, from Stauffenberg to the Military administration in Paris, from the police to the reserve battalion, from Goerdeler to the trade unionists and Socialists, from the Kreisau Circle again to the military. It was arranged after the fall of Hitler's regime, he should rule the Department of the Interior as Secretary of State - jointly with Leber.

^{2.}
Theodore Haubach, born September 15, 1896, was a Press Reporter in the Prussian Ministry of the Interior, then Press Chief in the Berlin Police Garrison. He was also editor of the Social Democratic paper, the Hamburger Echo.^{3.} In 1943 he joined the Kreisau Circle. In January, 1945 he was executed.

^{4.}
Adolf Reichwein was born October 3, 1898, and grew up with strong ties to the Wandervogel (group which originated the German Youth Movement). Immediately after graduation from school in 1916, he was drafted and in 1917 he was severely wounded. Afterwards he undertook the study of philosophy, history, and political economy, and took his Ph.D in 1920. While very young he entered the Prussian Ministry of Education and Public Worship, but soon went into the practical work of popular education, first in adult education courses, and later as a University professor.

Nazism kicked him out of his job as professor so he became a village schoolmaster on an island. But in spite of his joy in this work, he now began, deeply hurt, to get more and more involved in resistance to the development of Hitler's State. In the closest confidence he became a fellow-conspirator and mediator of the systematic preparation, because he was able to tie threads on all sides, thanks to his unusually numerous friendly convictions. The union of the Kreisau Circle which brought him together with many old and new friends in a close association of aims, which brought him to the most varied groups, especially to certain labor groups, above all engulfed Reichwein himself. On July 4, 1944 he was arrested after being betrayed by an informer. He was^{5.} tried and on October 20, 1944 he was executed.

Other members of the Kreisau Circle were: Theodor Steltzer, a Landrat from Holstein who had been active in a movement to unify Protestant Churches. Jakob Kaiser, a former leader of the Christian (Catholic) Trade Unions. Hans Peters, a Professor of State law at Berlin University. Paulus von Einsiedel, an economist, Han Lukaschek, a Catholic lawyer, former Oberprasident of Silesia, and a member of the Centre Party.

Those who were former members of the Social Democratic Party and Trade Unions were, Carlo Mierendorff, a former Socialist Deputy in the Reichstag. Also Julius Leber, another Socialist Deputy and a former trade union leader and editor-

in-chief of Lubecker Volksbade. Wilhelm Leuschner, a former leader of the Christian (Catholic) Trade Unions.

Footnotes To Appendix I

1. Leber, Annedore, Das Gewissen Steht Auf, (Berlin, 1956), p.199
2. Idem., p. 216
3. Bullock, Alan, Hitler, (New York, 1952), p. 675
4. Leber, Annedore, op. cit., p. 60
5. Idem., p. 62

Appendix 2 - The Kreisau Documents

Document A - Draft of 9 August, 1943

First Instructions to the "Land" Commissioners

The internal and external misery of the German people can only be lessened and a vigorous rejuvenation of its fortunes only be undertaken, on the basis of a clear and coherent vision of Germany's future. Such a closely reasoned design is all the more necessary since military and political developments may produce a state of affairs in which certain regions are under military occupation and separated from the rest, or even in which there is no government of the German Reich or at least no means by which such a government can communicate its orders.

It is a matter of urgent necessity that in such circumstances responsible leading persons in the individual Lander and districts will act on uniform lines and on identical principles, even though they may be unable to consult one another or exchange their views: this must be ensured in order to maintain and strengthen the cultural homogeneity of the German Lander as parts of one national body.

The principles, outlined below, are limited to basic matters in view of the great diversity of the possible future developments; they are intended to ensure that should the military situation take an unfavorable turn, the German people will be able to present a homogeneous attitude to the other nations.

The German working class, which believes in freedom, and the Christian Churches represent and lead those popular forces with which the reconstruction can be undertaken. At this time only they, on account of their enduring spiritual traditions, offer a guarantee that the cultural substance of the German people be preserved and that its national coherence be saved from the perils which now threaten it. Supported by those forces, we assign to you the high responsibility to assume the office of a Land Commissioner in the region delimited on the attached map, and to take possession of the necessary powers to perform your duties. The commanders of the Military Districts are being told to follow your instructions.

The Land Commissioner is responsible to the Reich for shaping the political, cultural and economic forces of the Land:

1. He will ensure Law and Order, liberty of the person, and a genuine co-responsibility on the part of the entire population of the Land. By doing he will make prevail the natural course of political self-determination, and see to it that self-administration will develop according to the particular character of each district.

2. In close co-operation with the recognized representatives of the cultural activities, the Commission will take steps to recreate a Christian system of education and thus a genuine renewal of spiritual life. In this field it is

essential that collaboration between Land and Church, based on mutual trust, be initiated forthwith.

For this purpose you are immediately to establish contact with the leaders of the Churches within your Land.

3. In particular, the Land Commissioner is to arrange for responsible co-operation by the workers in administrative and industrial matters. You will therefore establish immediate contact with the officials of the German Trade Union who are to be recognized as the only rightful representatives of the workers.

For further details see Annex I.

The following general lines will be pursued in carrying out these principles.

Annex I

1. In the matter of appointments, you may have complete freedom to carry out all measures you may consider necessary to ensure an orderly administration and the preservation of law and order. On principle all leading National-Socialists are to be dismissed from important positions.

After selecting your closest colleagues, you will first appoint absolutely reliable persons to fill key positions. Your right of appointing personnel also extends to officials of Reich departments and regional authorities operating within your Land.

Final appointments carrying civil service status can only be made after your confirmation in office as Land Commissioner.

2. In the case of the proclamation of a State of Siege (Martial Law) the military plenipotentiary will remain subject to your political directives.

3. As regards necessary arrests, the amount of personal guilt, particularly with regard to the provisions of Annex II concerning law-defilers, will be criterion; offences are so far as is possible to be tried and judged according to the normal processes of law. In addition, all persons are to be arrested who may be suspected of attempting to hinder the State in carrying out the measures deemed necessary. Persons unjustly deprived of their freedom are to be liberated at once.

It is your responsibility to take all the necessary steps without awaiting instructions from higher authorities.

4. The adjustment of frontiers, necessitated by the redivision of the Lander, is to be carried out at once in co-operation with the Commissioners of the adjoining Lander. Means for a constant exchange of views with the Land Commissioners of all neighboring Lander are to be ensured as a matter of urgency. The spheres of the postal and railway administrations, as well as of the Armed Forces, will for the time being remain unaltered.

Annex II

1. All laws and decrees directed against individuals as members of a nation, race or creed will be suspended; all discriminatory measures based on such laws or decrees will be lifted immediately. Apart from those, the laws and administrative decrees at present in existence will, in principle, continue in force.

2a. All measures intended to serve the battle-worthiness of the German armed forces or, at a later date, their orderly demobilization, are matters of Reich responsibility and as such to be carried out with priority over all other tasks; the necessary actions will be taken regardless of any possible resistance.

2b. The orderly continuation of the existing economic system of production and distribution must in no circumstances be interfered with. Requisitioning of supplies in transit and a break-down of the rationing scheme present the greatest danger.

3. In addition to maintaining the integrity of your Land and ensuring law and order with your Land, your primary task is to build up a system of self-administration in accordance with the principles laid down in Annex I above. In so doing the economic interests and the political forces existing within your Land are to be incorporated in the self-administrative edifice to the maximum extent, while the bureaucratic administration is to be reduced and your own personal

authority is to be placed on a firm basis of support derived from below.

4. You will do what is needed to ensure that industry is capable of carrying out the necessary measures of re-organization, if possible without external help and while maintaining a proper level of employment. In order to stabilize conditions, the emigration of non-resident workers is to be encouraged. No regulations limiting the immigration or residence of Germans will be permitted.

5. To fulfill your necessary cash obligations you are entitled to claim the necessary disbursements on the basis of the Reich Appropriation Law.

Document B - Draft of 9 August, 1943

Basic Principles for the New Order

The government of the German Reich regards Christianity as the basis for the moral and spiritual renewal of our people, for the overthrow of hatred and falsehood, and for the rebuilding of the European community of nations.

The point of departure is man's obligation to recognize the Divine Order which supports both his inner being and outward existence. Only when this Divine Order has been made the standard of relations between individuals and between states can the disorder of the age be overcome and a genuine condition of peace brought about. The internal reconstruction of the Reich is the basis on which a just and lasting

peace is to be built.

With the collapse of forces that have become rootless and are founded exclusively on technical mastery, it is above all the Europeans who are confronted with this task. The way to its solution lies in a determined and energetic realization of the Christian way of life. The government of the Reich is therefore determined to fulfill the following indispensable demands, using all the means at its disposal:

1. The principle of legality, now trampled under foot, must be elevated once again to a position of supremacy over all conditions of human life. Beneath the protection of conscientious and independent judges, freed from the fear of men, this is the basis for every aspect of the peaceful state of affairs which is to come.

2. Freedom of belief and freedom of conscience will be guaranteed. All laws and decrees which contravene these principles will be repealed immediately.

3. Totalitarian moral compulsion will be broken: the inalienable dignity of the human individual will be recognized as the basis for that legal and peaceful order which is the objective. Each man will work, in full responsibility, in his own field of social, political and international activities. The right to work and the right to property are under public protection regardless of race nationality or creed.

4. The family is the basic unit of the peaceful life of the community. The family is under public protection which

in addition to education, will ensure that the family is provided with the material necessities: food, clothing, lodging, garden and health.

5. Work must be so organized that it encourages rather than restricts the will to personal responsibility. In addition, to promoting the material conditions of work and a programme of vocational training, this requires an effective co-responsibility on the part of every worker not only towards his own industrial unit but also towards industry as a whole, to which his work contributes. He shall thereby co-operate in developing a healthy and enduring way of life in which the individual, his family and the community shall be capable of organic growth within a well-balanced economy. Industrial leadership must guarantee these fundamental requirements.

6. Everybody's personal political responsibility requires his right of co-determination in the administration, which is to be revived on the basis of small, easily comprehensible communities. Rooted and tested in such communities, his participation in the affairs of the state and of the community of nations will be ensured by his elected representative: thus will he be given a living awareness of his personal co-responsibility for the general course of political events.

7. That especial responsibility and loyalty which each man owes to his national origin, his language and the spiritual and historic heritage of his people must be respected and protected. However, those emotions must not be

perverted into the concentration of political power, nor must they be used to vilify, persecute or oppress foreign groups. The free and peaceful expansion of a national civilization can no longer be combined with the maintenance of absolute sovereignty on the part of individual states. Peace requires the creation of an order embracing the individual states. As soon as the freely given approval of all the nations involved has been obtained, the representatives of this order must be given the right to demand of each individual obedience, respect, and, if necessary, the sacrifice of life and property, for the sake of the supreme political authority of the community of nations.

Organization of the Reich

The Reich remains the supreme authority of the German nation. Its political constitution shall be based upon genuine authority and the co-operation and co-responsibility of the people: the family, the parish and the Land. The structure of the Reich follows the principles of self-administration. Within it, freedom and personal responsibility combine with the requirements of order and leadership.

This structure shall ensure the unity and coherent leadership of the Reich and its incorporation in the living community of European nations.

The people's political will shall be realized within a framework that remains comprehensible to the individual. Parish and district form the natural basis of the Lander

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which consist of geographical, economic and cultural units. In order to ensure an effective self-administration, the Lander shall contain from three to five million inhabitants each.

Functions will be distributed according to the principle that each public body will be responsible for the independent performance of all duties which it can reasonably be expected to execute on its own.

It is the immediate duty of all public authorities to ensure that all measures and pronouncements lead toward the final objective of a constitutional system embodying the rule of Law. Together with the elimination of the chaos and the abuses caused by the National-Socialist wa^Rs and the collapse, which now thre^Aten the very existence of the German people, the constitutional organization of the Reich must be undertaken with all speed and with all the forces that shall become available for this purpose, according to the following principles:

1. The Parish

Parish councils will be chosen by the entire electorate by secret and direct ballot.

The right to vote belongs to everyone who has completed his twenty-first year or who has served in the armed forces in wartime; heads of families will have an extra vote for each child below the voting age; everyone is eligible who has completed his twenty-seventh year and whose candidature

has been sponsored by a number of enfranchised citizens, the number to be determined according to the size of the parish; members of the armed forces are not eligible.

2. The District

District and borough councils will be elected according to the principles outlined for parish councils. This applies also to the ward councils within the boroughs. Constituencies which exceed the comprehensibility of the voter have to be sub-divided.

3. The Land

1. The Land Diet (Landtag) of the Lander and the Town Council of the boroughs will be elected by the district and borough (or ward) councils. Every male citizen of the Land or town who shall have completed his twenty-seventh year is eligible. Political officials and members of the armed forces are ineligible. The electoral Law will ensure that at least half of the men elected do not belong to the elective bodies.

The following are the functions of the Land Diet: decisions concerning budget, taxation and laws of the Land; the right of interpellating the Land governor (Landeshauptmann) and to pass resolutions concerning all matters of general Land policy and administration. The election of the Representative of the Land on the proposal of the land Council (Landrat).

3. The Land government consists of the Land Governor and the required number of State Councillors. The Land Governor is elected by the Land Diet on the nomination of the Land Commissioner. The State Councillors are appointed by the Land Governor on the nomination of the Land Commissioner. Members of the Land government must permanently reside within the Land.

In addition to governing its Land, the Land government performs the functions of the Reich government within the Land.

4. The Land Council proposes to the Land Diet the names of candidates for election to the post of Land Commissioner, makes recommendations to the Land Diet and exercises disciplinary jurisdiction over the members of the Land government.

5. The Land Commissioner will be elected by the Land Diet on the nomination of the Land Council for a twelve year term of office. He will be confirmed in office by the Reich Commissioner.

The Land Commissioner is responsible for the supervision of the entire Land administration and for the appointment of the civil servants. He is responsible for the realization of Reich policy within the Land. He presides at meetings of the Land Council.

4. The Reich

1. The Reichstag will be elected by the Land Diets. Every male citizen of the Reich who has completed his twenty-seventh year is eligible. Political officials and members of the armed forces are ineligible. The electoral law will provisionally ensure that at least half of the deputies elected do not belong to an elective body.

The following are the functions of the Reichstag: Decisions concerning the budget, taxation and laws of the Reich; the right of interpellating the Reich Chancellor and to pass resolutions concerning all matters of Reich policy; the election of the Reich Commissioner on the nomination of the Reich Council (Reichsrat).

2. The Reich government consists of the Reich Chancellor and the departmental ministers. The Reich Chancellor is appointed by the Reich Commissioner with the approval of the Reichstag. The ministers are appointed by the Reich Commissioner on the nomination of the Reich Chancellor.

The Reich Commissioner can dismiss the Reich Chancellor: such dismissal becomes effective on the appointment of a new Reich Chancellor. A qualified majority of the Reichstag has the right to demand the dismissal of the Reich Chancellor if it submits simultaneously to the Reich Commissioner the name of a new Chancellor.

3. The Reich Council consists of the Land Commissioners, the Presidents of the Reichstag and the Reich Chambers of

Economics, together with a number of Reich councillors appointed by the Reich Commissioner with the approval of the Reich Government for terms of eight years. The Reich Council will propose to the Reichstag candidates for election to the post of Reich Commissioner: will establish the principles according to which officials are moved from one Land to another or transferred from the service of a Land to that of the Reich: will make recommendations to the Reichstag: and will exercise disciplinary jurisdiction over the Reich government and the Land Commissioners.

4. The Reich Commissioner will be elected by the Reichstag on the nomination of the Reich Council for a twelve years' term of office.

The Reich Commissioner is the supreme commander of the armed forces and presides at meetings of the Reich Council. With the counter-signature of the Reich Chancellor he represents the Reich in external affairs. He executes the laws of the Reich, appoints and dismisses Reich ministers and Reich officials.

Ecclesiastical, Cultural and Educational Matters

The Government of the Reich welcomes the determined cooperation of the two great Churches in the work of shaping public life. Public worship, the cure of souls and the educational activities of the two Christian Churches will not be impeded and are placed under the protection of the Reich government. The publication of the religious writings is

rendered possible once again. In education and literature, as well as in films and radio, the heritage of Christian though is once more assigned its rightful role.

The legal relationship between the German Reich on the one hand and the German Evangelical and the Roman Catholic Churches on the other will be settled on a friendly understanding with these two Churches, in accordance with the principles outlined above. The Concordats will not be affected thereby.

The future legal position of other religious and philosophical communities will be regulated after previous discussions with these bodies.

Parents have the right to educate their children according to the principles of Christianity and the dictates of their own conscience. It is the duty of the state to help the family in overcoming internal and external dissension and strife. There will be no compulsory state activities on Sundays.

Family, church and school will together perform the work of educating the young. In so doing the school will safeguard the right of each child to receive an education suitable to that child. The school shall awaken and strengthen his moral powers and will equip him with such knowledge and ability as conform with the educational standards of his age.

Character training creates a decent human being who, on a religious basis, is capable of making his rules of conduct consist of honesty and justice, truth and uprightness, love of his neighbour and loyalty towards his own conscience. A man so brought up will possess the maturity needed to make decisions in the consciousness of responsibility. Learning serves the moral build-up of the personality and also acts as a preparation for practical life.

Vocational and high schools, based upon elementary and infant schools, will carry on the work of the elementary schools and give the scholar a well-kint body of knowledge and ability and incidentally, impart a growing sense of responsibility.

The state school is a Christian school: religious instruction is compulsory for the adherents of the two Churches. Such instruction will be carried out so far as possible by clergymen acting under instruction of their Churches.

Ecomony

1. All persons engaged in industry have to perform the same minimum duties. These duties include honest and clean leadership as well as loyalty to, and faithful work within the framework of, contractual obligations.

The security of the living standard of the workers, on which depends their dignity as human beings, is the responsibility of the industrial leadership. At the same time every effort is to be made quickly and broadly to raise the

minimum standard of living from the present low level engendered by severe war-damage to industry. The necessary steps to achieve this will be taken by the individual, the factory, the autonomous industrial organizations, the German Trade Union and the state: attention will be paid to ensure also the security of the worker's dependents.

2. The government of the Reich regards, as the basis for the reconstruction of industry, a system of orderly competition, carried out within the framework of an industrial direction by the state and, so far as competitive methods go, under constant supervision of the state.

In cases where existent agreements and organizations (monopolies, cartels, combines) prevent such competition, it is the duty of the industrial leadership to establish the principles of orderly competition and to safeguard the interest of the general public.

Since the big industrial concerns affect industry as a whole, it is desirable that these branches of industry be subjected to a particularly close control by the state. Key enterprises, that is to say the mining, iron and steel industries, the basic chemical industry and the fuel and power industries, will become public property. Nationalized industries will be run and supervised according to the general principles laid down for industry as a whole.

By means of the influence that it can exercise on markets and on the big industries, industrial control by

the Reich will be used to forward the industrial policy of the Lander and to ensure that economic life is carried on with minimum friction. The government of the Reich will promote the development of each industrial concern into an economic community of persons engaged therein. In such communities, called "Working Unions" ("Betriebsgewerkschaften") the owner and representatives of the workers will agree on a system according to which all employees will share in the control and the profits of the concern, particularly in its increment value. This agreement will be subject to the approval of the autonomous industrial corporation of the Land.

The "German Trade Union" is a necessary means to the carrying out of the industrial programme outlined above and to the political structure implied. It will fulfill its purpose by completing this programme and then by handing over its responsibilities to the organs of the state and to the autonomous industrial corporation. Should the task entrusted to the "German Trade Union" require its continued existence, then its structure will be adapted to those of State and industry.

4. Industrial, commercial and trading firms will be members of the Chamber of Industry set up within the framework of industrial self-administration of a Land basis. Agricultural undertakings will be members of the Chambers of Agriculture. The Chambers of Industry and Agriculture will together form the Land Chamber of Economics. Chambers of

Industry and Agriculture will consist of an equal number of elected managers and representatives of the workers. The Land Chamber of Economics will consist of delegates from the Chamber of Industry and Agriculture.

The Chambers will draw up their own statutes. These will be subject to approval by the Land Commissioner. The presidents and deputy presidents of the Chambers will be elected by the Chambers subject to confirmation by the Land Commissioner.

The Chambers are responsible for the self-administration of industry. Functions concerning matters of the Reich and the Land may be imposed upon them by the existent industrial Land authorities (the Land Industrial Office, etc.). Prominent among the functions of these autonomous bodies is the supervision of the vocational training to follow the nine years' schooling; it is to be adapted to the requirements of industry in general and will normally be organized on a two-year basis. Technical and material facilities for further vocational training are to be made available.

The Reich Chamber of Economics, which is the highest authority of the industrial self-administration, will consist of delegates from the Land Chamber of Economics. Economic administration forms part of the general political administration. The Reich Ministry of Economics will deal with the autonomous Land organization of the firms and with the firms themselves, only through the Land economic authorities.

Document E - Directive for the Arrangements to Deal with
Defilers of the Law through the Community of
Nations

Many legal offences have been committed under National-Socialist rule. They are by their nature, extent and intention both grave and abominable. Their punishment is an urgent necessity for the sake of re-establishing the rule of law and thus internal and external peace. The rule of law can be established only through the law itself and not through measures undertaken for political purposes or inspired by passion.

The German nation has the greatest interest in ensuring that suitable punishment be imposed for violation of the law. This is an absolutely direct interest of the Germans themselves. It cannot however be contested that the community of nations is justified in demanding that punishment be exacted.

The re-creation of peace based on mutual confidence between the nations was impaired after the 1914-18 war by an inadequate attitude towards, and treatment of, "war criminals". In Germany at that time serious dissensions were aroused by the subject, dissensions which contributed to the state of affairs that created the new war. However, it cannot be denied that the problem which existed after the World War of 1914-18 was of an entirely different nature from that which exists today. Nevertheless, in view of current demands for a supra-national punishment of "war criminals" guilty of "systematic atrocities" it is of interest to recall the relevant clauses of the Treat of Versailles.

Article 227 accused the Kaiser of "a supreme offence against international morality and the sanctity of treaties" for which he was to be tried before a court of law consisting of five judges belonging to the major victorious powers. Judgment was to be based on the "loftiest principles of international politics" with the purpose of "establishing respect for solemn obligations and international treaties as well as for international morality". The punishment was left to the discretion of the court.

According to Article 228 the Allied governments might arraign persons - whom the German government was obliged to extradite - before their military courts on charges of "offences against the laws and customs of war" and inflict upon them "the punishments provided by law" regardless of any punishment imposed by a German court.

Article 229 established the competence of the military courts of a victorious power to try persons accused of punishable offences against citizens of that power: in the event of the offences being committed against persons belonging to different victorious powers, military courts would be set up consisting of judges drawn from those powers.

So there was no question of trial before courts representing the community of nations but rather before organs of the victorious powers. In contradistinction to the wrong solution then advocated, which made the co-operation of the German authorities virtually impossible, a solution of moral

value must now be attempted, which derives from the nature of justice. Only such a solution can become a corner-stone of, and not a hazard to, peace.

The demand for the surrender of defilers of the law for punishment by the courts of individual victorious powers or of those powers as a whole is a denial of the natural dignity of the statesmen personally responsible for such surrender and of the nation they represent. But the establishment of standards of personal dignity is the prime condition for any happy future concert of nations.

Punishment by a combined court representing the community of nations and the subjection of defilers of the law to the jurisdiction of such a court does not offend justice or dignity. On the contrary, such a procedure could contribute, as foundation and touchstone to the future mutual co-operation of the comity of nations. Only such a court, drawn from all the nations which took part in the war regardless of the side on which they fought, or even from all the nations of the world, would possess the moral and legal authority necessary to pronounce the great weight of moral and legal condemnation which the defilers of the law have earned. A sham sentence, pronounced by courts whose creation does not correspond to true justice, will not have the effect of recreating the law but rather a quite contrary one.

In historical and practical terms, the proper court for this purpose would be the Hague Court. Various legal and

political considerations concerning the advisability of entrusting the task of criminal jurisdiction to the Court have been ventilated from time to time but no basic argument against this can be effective in present circumstances. Non-membership of the League of Nations does not, according to Article 35 of the Statute of the Court, affect the functions of the Court. For the composition of the Court, however, Article 4 would have to be modified. Benches of six judges (three to be drawn from the victorious powers, two from the neutrals and one from the vanquished) in which, according to Article 55 the presiding judge would have the casting vote would seem to meet the case. According to Article 34 of the Statute prosecution would devolve upon the state whose interests have been damaged by the crime. The appointment of counsel for the defence would be the responsibility of the state to which the accused belongs: the appointment of official defending counsel might also be considered. Details of procedure would be laid down by Court regulations. The factual criteria on which the Court would pass sentence should be the same as are outlined above for use in the trial of defilers of the law in the German national courts. The principle of nulla poena sine lege must remain binding for the Court as it has been found binding in international opinion during recent years with regard to actions of the German government. Thus, even as in cases tried before German national courts, the Hague

Court could pronounce the criminal guilty of defilement of the law and could punish him in accordance with the applicable laws which were valid in the country to which he belongs at the time when the action was committed. It can be left to the Court to define the applicability of national criminal laws in cases when offences were committed in occupied territories.

As to the number of persons who should be arraigned before the Court, the experience of English justice before 1689 may be of interest. Macaulay, in his History of England, Vol. I, Chapt. X, p. 312 (London, 1854), defines this as follows:

"The rule by which a prince ought after a rebellion to be guided in selecting rebels for punishment is perfectly obvious. The ringleaders, the men of rank, fortune and education whose power and whose artifices have led the multitude into error, are the proper objects of severity. The deluded population, when once the slaughter on the field of battle is over, can scarcely be treated to leniently."

The custody of the accused who are to appear before the Court should, but special arrangement, be provided by the Government of Netherlands.

Responsibility for carrying out of sentences would be assigned, by the Court, to various states, excluding the State whose interests have been damaged: the Court would retain the rights of supervision and of control.

Should this attempt succeed in banishing legally the obstacles to peace which are a grievous burden to all the parties concerned, a great step will have been taken towards the realization of the rule of law in international relations, and good will have been born of evil. Should, for practical political reasons, a solution be preferred involving courts which are not recognized as legally constituted, then injustice, and might, which must specifically be abolished as the fount of the law, will once again have resumed its position of final arbiter.



