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Graf Rudiger von der Goltz, lawyer: Member of the Reichstag, the Prussian 'Staatsrat', and the 'Volksgerichtshof'.

Ad Personam: Count Goltz is an adroit and gifted speaker and certainly an able attorney. For a period of months, perhaps even years, he has been occupied with his own case, i.e., his role in the NS Regime. His statements made during the interrogation constitute a well-prepared and well thought-out 'Plaidoyer' in his behalf, in which the word 'alibi' is frequently used. He is well aware of the fact that he is in the position of a defendant - at least in the moral sense. It is significant that a man of Count Goltz' education still feels no remorse about his political activities under (or against) the Weimar Republic, but, to a certain extent, defends them. Goltz was a zealous propagandist for the Nazis, a violent opponent of Republican Law, an institution which he helped bury. He defended indicted SA men, Dr. Goebbels in a libel suit (1930), the "Holstein Saboteurs" (1931), as well as several "Fememorder". He also attacked the Weimar Republic violently in a pamphlet called "Tribut-Justiz". His merits in the struggle against the Republic were rewarded with a series of positions after the Nazi rise to power. During 1933-1934 he was President of the Pomeranian Provincial Legislature, Pomeranian Labor Trustee, member of the Criminal Code Commission, member of the Prussian "Staatsrat", and from 1936 onwards, member of the Reichstag and the "Volksgerichtshof".

The Defense: As early as 1934 Goltz claims to have felt repulsion for the men, bosses, and officers of the Party, and a growing concern about the ultimate development of the Party. Little by little, on the basis of a series of experiences (the most impressive of which was the Case v. Fritsch; see appendix) he claims to have recognized the intrinsic baseness of the System, and therefore to have adopted a hostile attitude toward it.

"The cause of this deterioration of the Party was, in my opinion, its breach with the basic ideas and ideals of the "Kampfzeit", ideas which had formerly justified and paved the way for the Movement: The magnificent volunteer-spirit of those years, the crusade for justice, the unselfish and sacrificial will to serve the cause. In their place appeared force, terror, deceit, boss-rule - isolated instances at first - which grew during the course of the war into a system which imperceptibly drew its net around the German people, strangling and fettering all oppositions.

Goltz further states that he tried to influence important personalities (mostly members of the Reich Ministry of Justice) as far as possible. His purpose was to remove the sting of Nazi policies, or at least to prevent their becoming even more radical. In his position as barrister, he claims always to have adhered to principles of right and decency, and to have handled suits even against Party officers and men in this spirit also. Upon receiving

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his appointment to membership in the Volksgerichtshof in 1936, he claims to have written immediately to the Reichsjustizminister telling him that he did not feel he could accept this appointment. He states further that after considerable to-do he succeeded in circumventing invitations to proceedings, and consequently did not take part in a single session during the course of these years. In a similar manner, he explains his role as member of the Reichstag, from which he also attempted to withdraw. He states that in March 1943 he wrote a letter to Dr. Frick in which he explained that he considered himself freed of his obligation as a member of the Reichstag.

After he realized the sort of company and methods he had become identified with, he claims that the question of leaving the party and adopting an oppositional stand was one that he quite often considered. "That would have meant, however," explains G., "that a declaration of that sort would be immediately construed as a provocation, and that at the earliest possible moment one would have been jailed and, following the sentence of the 'Volksgerichtshof', executed. Experience taught one that this line of action was not to be followed because the brutal extinction of one's life was to be reckoned with. No official would have dared to receive me. Every possibility to be of help - at least in a few individual cases - or to ameliorate the effects of the system was of necessity blocked. Actually one would have played into the hands of the other side, in whose lively interest it was to remove its opponents. As long as I was a Party member and, for a time, member of the Reichstag as well, I could not be reproached for the individual cases which I handled in my capacity as attorney, since there could be no doubt as to my general attitude."

Goltz cites a series of such individual cases, which he presses into service as his "alibi". He states that as a result of his efforts to serve law and justice he clashed with some of the leading men of the Regime. Obergruppenfuehrer Heydrich, he says, termed him a "queer duck" and other officers regarded his actions with mistrust.

Accessories to the Fact of July 20th: In 1942 he claims he finally came to the conclusion that a change of Government and Regime would have to be brought about through force. Consequently he claims to have got in touch with General Beck, Count Fritz von der Schulenburg, Count Treskow, Count Hartenberg and others who were later involved in the affair of July 20th. He says that he was pleased to find that such a plan of attack was already in process of formulation - a plan which dated back to the time of Stalingrad.

During the years in which General Beck, Treskow and Schulenburg were in conspiracy, he was in constant touch with them and claims to have offered his services to them more than once. He had expressed his willingness, for example, to contact General von Manteuffel and win him over to the cause. His offer had been declined by Treskow, as Manteuffel had, on a previous occasion, refused to become involved in the matter. (General von Blaskowitz, too, had originally assured his collaboration, but later withdrew from the agreement). General Hase, (Town Commandant of Berlin, who was later sentenced to death) was the cousin of Goltz' mother, and had been recommended by him (v.d. Goltz) to Treskow. Schulenburg and Treskow had refused, according to Goltz, to let him in on

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any further preparations for the Putsch, as they did not wish unnecessarily to increase the circle of accessories. Goltz further states that he was told, however, to hold himself in readiness for the time when his service would be sorely needed. Why the assassination attempt was not carried out in 1943, Goltz does not know. He feels that one of the main reasons for the delay was General Beck's illness.

Goltz states that Roland Freisler, President of the Volksgericht, told him that the sentences passed on those connected with July 20th, were based on the following charges: Direct participation in the Putsch, aiding and abetting the attempt, and regret over the failure of the attempted assassination.

Goltz goes on to say that he had been investigated by the Gestapo on two separate occasions in connection with the affair of July 20th, but that the Gestapo was obviously on the wrong track. His cousin Klaus Bonhofer as well as Bonhofer's brother-in-law, Ministerialrat Schleicher were executed in February 1945, according to Goltz. Goltz himself states that he quit the Party in January 1945, when he learned that a monument to one of General von Hase's ancestors had been destroyed by the SS.

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A P P E N D I X

The Case 'von Fritsch' (Excerpts from a memorandum by Count v. d. Goltz):

On a Sunday afternoon, the last week of January 1938, I received a telephone call from Oberleutnant von Both, General von Fritsch's adjutant, requesting me to appear before the Supreme Commander of the Army immediately. When, a half hour later, I arrived at his office in the Bendlerstrasse, General von Fritsch asked me if I were prepared to represent him in a suit which would necessarily throw me into sharp conflict with Reichsfuhrer Himmler, Gruppenfuhrer Heydrich, and the entire S.S. His (Fritsch's) opposition to the SS had finally brought about reproaches of the worst kind attacking his honour. He was accused of being a homosexual (an offense against #175 of the German Criminal Code). He claimed personally to have given the Fuhrer his word of honour that this accusation was nothing but a vicious slander. The Fuhrer, however, did not accept his word of honour and, for that reason, his honour would have to be re-established through court proceedings. The files on this case were to be found in the office of the Reich Minister of Justice who was to decide the issue brought about by

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the accusations against Freiherr von Fritsch. General von Rundstedt, whom I met the following morning, and with whom I discussed the things that had happened and the proceeding which I would have to handle, stated that he had already talked over the matter with the Fuhrer. He claimed to have assured the Fuhrer that the accusations against Fritsch were certainly nothing but slander, and that the matter would have to be taken care of immediately. The Fuhrer insisted, however, that the accusations against Fritsch would have to be investigated by the Reich Minister of Justice.

While looking at the files of the Reich Ministry of Justice I determined the following: The files consisted of records compiled by the Gestapo. I learned from these records that a certain party named Schmidt had, as early as 1936 (I believe it was in 1936, at any rate the records dated back several years) claimed that Col. General von Fritsch was a homosexual. In the same statement he had accused various other public figures of the same misdemeanor. Moreover, to the best of my knowledge, Schmidt himself had been sentenced more than 20 times, in most cases for infraction of #175, but also for blackmail - certainly a person of unsavory reputation. The statements formerly made by this individual concerning General von Fritsch (then already Supreme Commander of the Army) were not used in court. In fact the records were laid aside. These records contained the following statements made by Schmidt: Schmidt claimed that, on November 22, 1934, he had observed von Fritsch near the Potsdamer Bahnhof. There, von Fritsch became involved with a "Strichjunge" (male prostitute) and subsequently had relations with the latter, constituting an infraction of #175. Following this incident, Schmidt stated that he approached von Fritsch and extorted from him the sum of RM 1500.00. After receiving the money, in the waiting room of the Lichterfelde Terminal, he handed von Fritsch a receipt for the sum. Schmidt then trailed von Fritsch further and determined in which house in the vicinity of the Lichterfelde Terminal he had gone.

According to the testimony of a certain Dr. Best the above records were presented to the Fuhrer in 1936 but he had taken no notice of them at that time. The Gestapo had "put them on ice" in order to be able to use them against the Supreme Commander of the Army at an opportune moment.

That occurred in the year 1938, when the Fuhrer ordered an investigation since he desired a change in the High Command. Furthermore I have all reason to believe that this was done at the instigation of Reichsmarshal Goering, who, at that time had his eye on the post of Minister of War. In order to strengthen the accusations against von Fritsch two so-called "NSV boys" were interrogated by the Gestapo. Their statements, however, did not produce any evidence against von Fritsch.

Since Reich Minister of Justice, Dr. Gurtner, was of the opinion that these accusations could best be handled by a hearing in chambers of all the parties concerned, the investigation was begun with the approval of the Fuhrer. The "Reich Court-Martial" which was to make a decision on the basis of the evidence produced by the investigation and hearings, consisted of the Supreme Commander of the Luftwaffe, Hermann Goering, as presiding judge, the Supreme Commanders of Army and Navy, Col. General von Brauchitsch (newly appointed) and Grand Admiral Raeder as well as the President

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of the Senate, Dr. Sellner, and the current "Reichskriegsgerichtsrat", Dr. Biron. By virtue of the secret nature of the proceedings Reichskriegsgerichtsrat Dr. Sack acted as clerk of the Court. The Reich Court Martial was supposed to decide solely whether Col. General von Fritsch was guilty or provably innocent.

In the investigation which followed and which was conducted by me, I was able conclusively and without shadow of doubt to prove that the statements of the criminal Schmidt insofar as they concerned the person of Freiherr von Fritsch were without foundation, and I was able further to prove the unreliability of Schmidt on the basis of other untrue statements and unjust accusations previously made by the latter. I succeeded in branding Schmidt as a professional blackmailer who had been in the pay of the Gestapo in order to bring about the downfall of the Supreme Commander of the Army. It developed that he had not met Freiherr von Fritsch on that evening of November 22, 1934, but a certain Rittmeister von Frisch. Rittmeister von Frisch admitted his infraction of #175 and further admitted that he was the person who had paid Schmidt RM 1500.00 in the waiting room of the Lichterfelde Terminal. He could substantiate the foregoing by the written receipt which he still had and which was signed by Schmidt.

Schmidt himself was listed in the documents of the Gestapo as a homosexual, and professional criminal who had already been punished 20 times for his infractions. This was the witness on whom the Gestapo and the Fuhrer based their case, and in whom the Fuhrer had more confidence than in the word of honour of the Supreme Commander of the Army.

After the accusations of Schmidt had collapsed and he had been branded as a blackmailer and denouncer beyond question of doubt, Col. General Heitz, president of the court martial went together with Dr. Sack and Dr. Biron to the Fuhrer in order to inform him of happy clarification and conclusion of the proceedings. He returned thoroughly shocked: The Fuhrer did not believe it! If Schmidt irrevocably maintained his charges and as long as he maintained them, the suspicion as far as he (the Fuhrer) was concerned would not be removed.

Schmidt maintained his accusations against von Fritsch although the entire result of the investigation had clearly proved that his accusations concerned Rittmeister von Frisch.

Nor was the Gestapo resting. On the suggestion of the Reich Minister of Justice a legal investigation had been ordered. The Gestapo had succeeded in getting permission to conduct the same kind of investigation at the same time. It had practically become a race.

My visit to General Keitel, who as Chief of the Wehrmachtsamt was at that time the Supreme Judge was completely unsuccessful. I had attempted to have him intercede with the Fuhrer in order to prevent this overlapping investigation.

The Gestapo introduced a new line into the investigation: They interrogated all available previous orderlies of the General.

The General was so enraged about the enlargement of the suspicion that in spite of the plea of Reichskriegsgerichtsrat, Biron,

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that he remain aloof gave vent to several classic sentences, the gist of which roughly was: "Never before was a Supreme Commander of an Army so treated, never an Army offered such an insult."

The records of the investigation on the part of the chief investigator and of the Gestapo were, on the order of the Fuhrer, to be developed conjointly.

The principal session was fixed for a day in the middle of march (the 12th) and took place in "Preussenhaus" between the Leipzigerstr. and the Prinz Albrechtstr.. Goering presided. The proceeding provided no surprises. Schmidt persisted in his accusations against General von Fritsch. On the basis of his own admissions, the incredibility and impossibility of his statements was demonstrated. Under normal circumstances, the proceedings would have been ripe for a decision, entirely apart from the fact that under normal conditions, the results of the preliminary investigation would have precluded a trial ever taking place. Suddenly a break occurred. The Reichsmarschal announced that the proceedings must be interrupted on grounds of the highest interest of the state.

As became apparent after a few days that the Fuhrer had ordered the invasion of Austria, and therefore the Reichsmarschal would no longer be available for the trial.

After approximately 8 days the trial was resumed at the same place and on the same basis as before. It lasted two days. Schmidt remained adamant and stood by his statements. The defense succeeded in discovering still another witness who could prove, on the basis of a conversation with Schmidt, that the occurrence in the Potsdam Station had nothing to do with Freiherr von Fritsch. The Reichsmarschal, who in the course of the trial had grown more and more emphatic in urging the witnesses to speak the truth, flew into a rage. Shouting at Schmidt, he demanded whether he believed he could continue deceiving the court. This proved too much for Schmidt. He admitted having lied. He admitted that he could no longer support his original and previous accusations against the General.

The question as to who had incited him to bring these charges remained unexplained.

The question as to whether anyone had threatened him in case he should change his statement - a question which was put to him repeatedly by the Reichsmarschall and always with the assurance of his protection - this question was finally answered by Schmidt on the morning of the second day of the trial after prolonged pressure. He answered with the cryptic sentence that Kriminalrat Meissinger, who had led the investigation for the Gestapo in the Fritsch case, had made clear to him that very morning that, should he not stick to the truth, then...here Schmidt pointed upwards with his right thumb. "Then? What does that mean?", asked the Reichsmarschall. "Then I take a ride to heaven", answered Schmidt.

When called as a witness, Kriminalrat Meissinger disputed this portrayal and explained that he had urged him solely to tell the truth.

The decision was that of proven innocence.

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The attempts on the part of the newly-appointed Supreme Commander of the Army to secure the rank of Field Marshal General for von Fritsch came to naught. He was made commander of an artillery regiment.

In his last letter to me shortly before the outbreak of the war, he stated that no attempt had been made toward the rehabilitation of his military career. Since he obviously could not remain at home, he would go to his artillery regiment and "trail along as target". This statement was followed not four weeks later by his soldier's death on a reconnaissance patrol outside of Warsaw.

In retrospect the background of this trial may very well have been as follows:

Field Marshal von Blomberg took to wife a woman whose name appeared in the records of the Berlin department for the control of prostitutes. The request of the Fuhrer forwarded him through Reich Minister of Justice Gurtner to the effect that he immediately (within 24 hours) have his marriage with this woman annulled, was refused by von Blomberg. He was in Leipzig at the time, still on his honeymoon journey. He could not remain in office.

Consequently a new Minister of War had to be found. According to the Fuhrer's statements made in the presence of Dr. Sack, it was to be assumed that the next in line of succession to become Reich Minister of War was the Supreme Commander of the Army Freiherr von Fritsch. If Fritsch were eliminated, Goering undoubtedly had reason to be hopeful. As Supreme Commander of the Luftwaffe Goering had a better chance to succeed Blomberg than the Supreme Commander of the Navy who, as the third pillar of the Armed Forces, could not be considered for this post. According to the words of Dr. Best I imagine that Goering therefore desired to get Fritsch out of the way and become the successor himself. Himmler and Heydrich undoubtedly welcomed this desire with especial warmth in view of their old opposition to the Wehrmacht clique. Schmidt realized that his head was at stake if he once admitted that his original statement was a lie. That the whole affair had a deeper purpose was proven by the intensity with which the whole theme was followed by the Gestapo, for example, in the case of the interrogation of von Fritsch's orderlies.

After the Fuhrer had appointed himself Supreme Commander of the Wehrmacht, and after Goering was left holding the bag and had to console himself with the promotion to "Field Marshal", Goering no longer had any personal interest in the course the proceeding would take. This was especially true inasmuch as Fritsch had been dismissed from office during the investigation. Goering did not have to worry about future complications even if he had been the perpetrator of the whole affair. The Fuhrer, however, could not make up his mind between Himmler, Heydrich, and possibly also Goering on one hand, and could also not decide in favor of the General, from whom he certainly could not expect faithful service after such shabby treatment.

It appears from this perspective that the case von Fritsch constituted the first thrust of the new power against the Army and its politically independent leadership. It was a purely political machination that cost the Army its Supreme Commander and which the Army tolerated in spite of a violent reaction within its ranks.

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Excerpt from a letter of Freiherr von Fritsch to Graf v. d. Goltz:

(Berlin, March 19, 1945)

Whether and to what extent the Fuhrer will allow me to be rehabilitated still hangs in the air. I fear that he will resist it with all his energy. Goering's closing remarks would seem to indicate this in part.

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