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From Prussia to the People's Court

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advisor, and judge. Mosler's key proposition was that states cannot derogate supreme principles of the international legal community because these have constitutional character. At the same time, he emphasized the importance of sovereign states as key actors of this legal community.

Lange presents the lecture as a key text in international legal scholarship and provides us with an impressive commentary that contextualizes the text, traces ideas back to their roots and first discussions, embeds it in the current academic framework, and juxtaposes it with other contemporary ideas about the international order. The chapter on Mosler's lecture is beautifully framed by two other chapters. The first of these focuses on the alternative and equally prominent approaches by other German jurists at the time, which, however, eventually did not come to yield the same influence. Felix Lange avoids the biographical illusion of hindsight when he acknowledges that, at the time that Mosler was writing, it was by no means clear that his conception and his scholarly work would ultimately exert such influence and

win out over alternative approaches. Chapter eleven goes back to examining Mosler's personality behind the text, his convictions and normative beliefs, and his socialization derived from both his Catholic upbringing and a deep engagement with natural law theories.

Felix Lange has written an impressive account of Mosler's life and work that is simultaneously a grand tour through international legal scholarship in the post-war world. He has unearthed a great amount of previously unstudied archival material that enables him to analyze and contextualize Mosler's work at a depth that is eye-opening. His book takes a biographical and historical approach; it earned him the award that carries his protagonist's name (the *Hermann-Mosler-Preis*), awarded by the German Society for International Law in 2017. The award recognizes that Lange's book has the potential to serve as a reference point for both future scholars of modern international law as well as legal historians. ■

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From Prussia to the People's Court*

On 21 December 1944, two former *Staatssekretäre* met in the main chamber of the National Socialist People's Court (*Volksgeschichtshof*) in Berlin. Apart from having served the German state as senior civil servants, both were men in their fifties, both had earned doctorates in jurisprudence, and both had served as part of the XI Corps on the Western and Eastern front during the First World War. In any other respect, they could not have been more different. One man sat in the judge's chair – Roland Freisler, one of the most notorious jurists of the »Third Reich«. The other man – Hermann Pünder – was the former head of the Reich Chan-

cellery where he had served three different Chancellors between 1926 and 1932. Now he stood in the dock, accused of having committed high treason in the wake of the failed military coup of 20 July 1944.

In den Fängen des NS-Staates (»in the clutches of the Nazi state«) is an account of Pünder's trial and the immediate context. What makes this trial noteworthy is not merely its verdict – Pünder was acquitted while his co-defendant, Eugen Bolz, was sentenced to death – but also its aftermath. Despite the acquittal, Pünder was seized again by the Gestapo and handed over to the SS, surviving

* TILMAN PÜNDER, *In den Fängen des NS-Staates. Staatssekretär Dr. Hermann Pünder 1944/45*, Münster: Aschendorff 2018, 224 p., ISBN 978-3-402-13310-1

the war only by hair's breadth. After his liberation, Pünder was appointed Lord Mayor of Cologne and Director of the Bizonal Economic Council by the British before joining the first West German *Bundestag* in 1949. Given Pünder's significant role in German twentieth-century history, it is not surprising that he has already been the subject of two major biographical studies by Hildegard Wehrmann and Philipp Gatzka, respectively. In addition, we have the edited files from the Reich Chancellery as well as Hermann Pünder's own memoirs, *From Prussia to Europe* (1968). In *den Fängen des NS-Staates* differs from these publications not only because of its narrow focus on the previously neglected period of Pünder's life between 1944 and 1945 but also because the author, Tilman Pünder, is the son of the book's subject. Given his familial ties, he is able to draw on a wide range of hitherto untapped sources, including personal correspondence, diaries, and other material from the family archive, in addition to his own recollections of the events as a twelve-year old.

Tilman Pünder has provided a highly readable account of his father's ordeal at the hands of the Nazi dictatorship. Although the book is chiefly aimed at a non-specialist audience, it provides a useful case study of internal competition within the »Third Reich« and the impact of legal and extra-legal terror on one particular family. By showing that the proceedings at the People's Court cannot be isolated from the broader web of terror woven by the various institutions of the Nazi state, the book offers a useful addition to the burgeoning literature on resistance and repression. In combining personal record-keeping with serious scholarship, the book stands out both from highly subjective personal memoirs and from detached historiographical analyses. What sets the book apart, however, is not only the unique filial perspective but also the clarity with which the defining institutions and their representatives are sketched out. Pünder's family, the ever-present Christian Church but also the Wehrmacht constituted important frames of reference and eventually saved his life. At the same time, the Nazified legal system, the Gestapo and the SS, were beholden to their own logic and exerted ever-growing pressure on Pünder.

The book begins with a quick sketch of Hermann Pünder's background and his involuntary retirement in 1933. Tilman Pünder skilfully evokes the predicament of a committed civil servant who

was unwilling to submit to the »complete totality« of the Nazi movement, but also resented having to witness the further development of Germany without any opportunity to wield influence (14). As a surrogate activity, he turned to the army and was eventually called up for military service, working chiefly in military propaganda (15). Pünder's sense of duty did not impede the growing realisation that the terror exercised by the Nazis was there to stay. In fact, two members of his wider family died as a result of Nazi persecution. Erich Klausener, a cousin of Pünder's mother, was murdered during the so-called »Röhm putsch« in 1934, and Leo Statz, his uncle, was sentenced to death by Roland Freisler and executed in 1943 (19). Following the failed attempt on Hitler's life on 20 July 1944, Hermann Pünder himself was repeatedly interrogated by the Gestapo and eventually put into »honourable captivity« (23–37) before being taken to Lehrter Straße Prison in Berlin (38–42).

While Pünder was now at the mercy of the Gestapo, including the notorious SS-Sturmbannführer Herbert Lange, his family began to mobilise a substantial network of supporters, including the director general of the Prussian state theatres, Heinz Tietjen (46–78). After weeks of interrogation, it became clear that the Gestapo was primarily concerned with Carl Friedrich Goerdeler's assertion that he had met Pünder at the beginning of 1943 in Münster to discuss a potential intervention »possibly even against the *Führer*« (62–63). Hermann Pünder and his supporters now sought to refute Goerdeler's claims by pointing out inaccuracies and by »painting a picture of [Pünder's] personality as being rooted in patriotism and dedication to the fatherland« (69). Amidst air raids and economic woes, Pünder's family began to send out letters, appealed to sympathetic officers in the Wehrmacht, and planned the defence. They also exchanged secret messages, made publicly available for the first time in this book, in which Roland Freisler was referred to by the codename »Aunt Orlanda«, and Gestapo chief Heinrich Müller became the »mill owner« (82).

Pünder was lucky that his counsel for the defence, Reinhard Neubert, President of the Reich Bar Association, took his job seriously, and that his supporter Tietjen made liberal use of written credentials given to him personally by Hermann Göring for his services to Prussian culture (95). Out of the 156 defendants who stood trial in front of the People's Court in the wake of the 20 July plot,

104 were sentenced to death (including Erwin Planck, the son of Max Planck and Pünder's successor in the Reich Chancellery). Only 19 defendants were acquitted. That Pünder survived his brush with Freisler came down to the »meticulous preparation« of his defence, but also, as Tietjen recalled not without self-interest in 1947, the »blind obedience« of the day. When Freisler saw Göring's letter to Tietjen, »he fell silent immediately« (96), and his reference in the verdict to Pünder's efforts to contribute to the Four Year Plan might well have been an attempt to ingratiate himself with the powerful Reich Marshal (95). It is striking that strictly legal considerations played only a minor role in the entire ordeal. As Neubert conceded, the justification of the indictment was »meagre« to begin with (82) and Freisler's eventual verdict showed »no relation to the relevant legal norms« (93). Instead, what mattered was Pünder's performance within the courtroom in order to make a »clear impression« on Freisler. Special care was taken even regarding the defendant's choice of pocket handkerchief (92). However, his exhilaration at being acquitted was to be short-lived. The Gestapo immediately took Pünder back into *Schutzhaft* (»protective custody«) and sent him off to Ravensbrück concentration camp (104–123). As SS-Obersturmführer Paul Valentin made clear, »the verdict of the People's Court has no bearing on the measures taken by the Gestapo« (120). With reference to Lothar Gruchmann's seminal study of the legal system in the Third Reich, Tilman Pünder

shows that this conflict between judicial authorities and the Gestapo was far from unusual (103, 120).

As the military situation worsened, Pünder's predicament grew ever more precarious. Alongside several other prominent prisoners, including Léon Blum, Friedrich von Rabenau and Dietrich Bonhoeffer, Pünder was ultimately sent further south to Buchenwald and Dachau (124–160). His last stop was the so-called »Alpine Fortress« in South Tyrol, which the SS had chosen as their final holdout. When some of their fellow prisoners, including Bonhoeffer, were murdered, it became clear that the SS was also contemplating executing the remaining captives (161–171). In this perilous situation, the Wehrmacht managed to wrestle control over the prisoners from the SS in a dramatic standoff (171–176). The book concludes with the liberation of the prisoners by the Americans and the chaotic aftermath of the war. After a few months in limbo, Pünder was eventually reunited with his family in Münster (177–196). The final pages contain a brief epilogue, short biographies of the key protagonists, and facsimiles of the key documents. Hermann Pünder concluded his own memoirs by appealing to Prussian virtues, including »incorruptible legal officials« (548), European institutions, and international reconciliation. The book at hand makes clear that they should not be taken for granted.

