

# The trial before the Reich Court-Martial

## Judicial competence

Franz Jägerstätter was to be proved right in his surmise that, after being transferred to Berlin, he would still have to reckon with the maximum charge.

In accordance with the Wartime Code of Criminal Procedure of 17<sup>th</sup> August 1938, court-martial proceedings were always conducted only at one level of jurisdiction. The Reich Court-Martial in Berlin was not, therefore, a court of appeal – rather, cases involving a special group of people (higher-ranking officers), as well as special cases, were reserved for it. According to Section 14, Paragraph 9 of the Wartime Code of Criminal Procedure, the charge of “undermining military morale” was also one of the criminal offenses reserved for the Reich Court-Martial, although it was also permissible for “less serious cases” of this offense to be dealt with by another court. Through being relegated to Berlin, Jägerstätter’s case had therefore already been indirectly classified as serious.

Even before the records of the former Reich Court-Martial at the Military Historical Archive in Prague were made accessible to the public, it was evident that the way that the courts viewed refusal to do military service on religious grounds was different from the way they viewed refusal on political grounds. The men from Lorraine, who for a time refused to take the oath for patriotic reasons, were tried in Linz. Jehovah’s Witnesses, however, as well as the few Christians from the larger churches, were brought before the Reich Court-Martial in Berlin. Even then, it was generally assumed that the authorities strongly feared that such cases might set a powerful example to other Christians.

The available records in Prague confirm this assumption. They also offer an insight into relations and discussions within the decisive military judicial authority. Looking at the records, it is surprising how much space is taken up by refusal on religious grounds. This is already apparent from

the sheer number of death sentences: in an “Overview of persons condemned to death by German court-martials, registered during the period from 26<sup>th</sup> August 1939 to 31<sup>st</sup> January 1941”, a total of 896 are registered under “sentence carried out”; 149 of these death sentences were imposed by the Reich Court-Martial, and of these, 103 were death sentences given by the Reich Court Martial to soldiers “for undermining military morale (Jehovah’s Witnesses)”.<sup>131</sup> However, the note “Jehovah’s Witnesses” or, simply, “Bible”<sup>132</sup> is also found next to the names of Catholics, so evidently any refusal on religious grounds was classified under these codes. Thus, we find that the two members of the (Catholic) Christ the King Community, Michael Lerscher, sentenced to death on 2<sup>nd</sup> August 1940 and Josef Ruf, sentenced to death on 14<sup>th</sup> September 1940, were classified as Jehovah’s Witnesses, as was later, too, Franz Jägerstätter.<sup>133</sup>

This focus of the proceedings at the Reich Court-Martial in Berlin presumably arose from an Endeavour to as far as possible isolate any ideas which linked the war to religious belief. Judgments against those who refused military service on religious grounds repeatedly address this point. In the verdict of death pronounced on P. Franz Reinisch by the Reich Court Martial on 7<sup>th</sup> July 1942, the court stated that his action was capable of “exercising a dangerous persuasive power”. In the verdict against the Jehovah’s Witness Franz Oswald from Vienna, pronounced on 6<sup>th</sup> April 1943, the court stated: “Moreover, due to its inherent persuasive power, his behavior is particularly capable of undermining the morale of others. It was therefore necessary to impose the death penalty.” A similar statement was made concerning Oswald’s fellow Jehovah’s Witness, Walter Möller, on 13<sup>th</sup> July 1943: “... due to their inherent persuasive power, such persistent refusals to perform military service are particularly capable of undermining the will of others to fight. It was therefore necessary to impose the death penalty.” In the reasons given for the death sentences imposed on four Jehovah’s Witnesses from Alsace, Alfred Benedick, Ray-

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131 Military Historical Archive in Prague, Reich Court Martial, Box 53/IV/ Sheet 295

132 Expl. note: In German, Jehovah’s Witnesses are also called “Bible Researchers”: hence “Bible” for short.

133 Cf. MHA/Prague, RCM, Register 1940, No. 65 and No. 116; and Register 1943, No. 53.

mund Gentes, Karl and Heinrich Merling on 18<sup>th</sup> May 1943, another point is mentioned: "In view of their persistence in refusing to perform military service and the dangerousness of their conduct, it appears necessary to impose the severest possible sentence. This penalty is also intended to act as a deterrent."<sup>134</sup>

In a letter to the President of the Reich Court-Martial, Admiral Max Bastian, dated 14<sup>th</sup> April 1940, the Senior Attorney at the War Office, Reh-dans, stated his basic principles concerning legal proceedings: "Re: Criminal cases brought against those who refuse to do military service, particularly the International Jehovah's Witnesses ... The German people and the German Military Forces have now entered upon the final decisive battle, which has been forced upon them. The struggle for the life or death of the German people which has now begun is such a tremendous event, that it must also have a cataclysmic effect upon us at the Reich Court-Martial, upon the realizations gained in earlier phases of the struggle, and upon our hitherto-cherished views, guiding principles and the measures implemented in accordance with these. This particularly applies to all the viewpoints which have up to now – partly in accordance with agreements with the Military Judicial Administration – governed the treatment of those who refuse to do military service, particularly those belonging to the dangerous, international sect (nurtured and influenced by our opponents) of the Jehovah's Witnesses. Anyone who even now, when his people are entering upon their final decisive struggle for survival, still refuses to participate in this struggle in any manner and for any reason whatsoever, must be combated and annihilated by means of the severest methods possible."<sup>135</sup>

In a letter to the Head of the Army Judiciary, dated 26<sup>th</sup> September 1942, the "Head of the Supreme Command of the German Armed Forces", Wilhelm Keitel, expressed himself as being "generally satisfied with the work of the Army Judiciary. It has recognized its task and done its part in nipping in the bud all occurrences of the undermining of military morale, which are unavoidable when any war continues for long."

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134 Collections of verdicts of the RCM, MHA/Prague, copies in the author's possession

135 MHA/Prague, RCM, Files of the Senior Attorney at the War Office, Sheet 87 (No. of the file folder has been lost), copy in the author's possession

With regard to the character of judges, Keitel stated: “Not least, it goes without saying that it is a prerequisite that each judge, of whatever rank, should be firmly rooted in the National Socialist (Nazi) worldview, and should orient his work according to its principles.”<sup>136</sup>

Norbert Haase has based his important work on the Reich Court-Martial on the accessible records on file in Prague.<sup>137</sup> He characterizes that institution as follows: “During the war, the Reich Court-Martial had jurisdiction over a whole series of criminal offenses of outstanding military and national political significance. Over 1400 death sentences are on record for the years 1939 to 1945. The Reich Court-Martial, which was moved to Torgau at the end of 1943, was no Freisler-style tribunal like the notorious People’s Court. However, the apparent legality upheld by its jurists was merely a sham. Their jurisdiction served to safeguard the rule of the Nazi state. After 1945, the history of this court was suppressed. This also had consequences for the victims, and influenced the law in action in the Federal Republic of Germany.”<sup>138</sup>

## **Condemned for undermining military morale**

In a letter from the Senior Attorney at the War Office, dated 9<sup>th</sup> September 1943, Franziska Jägerstätter was informed: “In the criminal case against your husband, the driver Franz Jägerstätter, for undermining military morale, he was condemned to death by the Reich Court-Martial on 6<sup>th</sup> July 1943, as well as being stripped of his worthiness to serve in the army and of his civil rights.”

The transcript of the verdict against Jägerstätter states that he was “sworn in to serve the Führer and Supreme Commander of the German Armed Forces” in Braunau am Inn in June 1940. It clearly states that “due to his religious attitude, he refuses to perform armed military service ...

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136 MHA/Prague, RCM, Box 64; Document reproduced in Norbert Haase, Reichskriegsgericht (Reich Court-Martial), p.55 f

137 Norbert Haase, Das Reichskriegsgericht und der Widerstand gegen die national-sozialistische Herrschaft. (The Reich Court-Martial and the resistance against Nazi rule) Gedenkstätte Deutscher Widerstand (Publ.), Berlin 1993

138 Haase, Reichskriegsgericht (Reich Court-Martial), p.31

He stated that he would be acting against his religious conscience were he to fight for the National Socialist (Nazi) State.” Jägerstätter said that he “could not be both a Nazi and a Catholic; it was impossible”. It was twice mentioned that Jägerstätter was ready “to serve as a military paramedic out, of Christian brotherly love” ... “he said there are some things in which one must obey God more than men; due to the commandment ‘Thou shalt love thy neighbor as thyself’, he said he could not fight with a weapon.” The court-martial verdict against Franz Jägerstätter makes it clear that the judges understood his reasons; conscience and religious conviction were cited, but not recognized as a valid basis for his conduct.

A facsimile of the court-martial verdict against Franz Jägerstätter can be found in the Appendix.

Due to the court-martial verdict, we now know the names of the members of the Reich Court-Martial Senate who tried Franz Jägerstätter. Of particular interest is the jurist in charge of the trial, Reich Court-Martial Counsel Werner Lueben. Lueben, who shared the responsibility for over a hundred death sentences pronounced by the Reich Court Martial, escaped being involved in another obviously unjust verdict by committing suicide on 28<sup>th</sup> July 1944. On that day, under pressure from Himmler, he was to have pronounced a sentence of death on three Catholic priests from Stettin, including the Pro-Vicar of Innsbruck, Dr. Carl Lampert. In the course of the proceedings, he had already attempted to cast doubt on the authenticity of the Gestapo records and to at least conduct the trial in accordance with the legal provisions of that time. In Dr. Lampert’s case, Lueben was, through his own death, only able to delay the priest’s execution by a couple of months.<sup>139</sup>

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139 Cf. Haase, Reichskriegsgericht (Reich Court-Martial), p.74–76 and 144–149, and also Benedicta Maria Kempner, *Priester vor Hitlers Tribunalen* (Priests Before Hitler’s Tribunals), Gütersloh o. J.(about 1966), p.218 f.

## Attempts to change Franz's mind

As a prisoner under sentence of death, from 6<sup>th</sup> July onwards Franz Jägerstätter was bound in tight handcuffs day and night. However, the isolation of the two first months in Berlin was lifted. Franz's court-appointed lawyer Feldmann arranged for the Berlin pastor and responsible prison chaplain Heinrich Kreutzberg to be contacted, and also informed the priest in Franz's home village St. Radegund. His intention was clear: the pastors were supposed to persuade his client to change his mind.

In the case of an indictment or a conviction for refusal to do military service on religious grounds, the court staff had strict instructions "to preserve the life of a serviceable fighting man for the armed forces even up to the very last moment, in the gravest times of war."<sup>140</sup> Heads of inquiries, such as judges, were supposed to persuade a conscientious objector to abandon his stance of refusal. In the event that he took back his refusal, the accused was given a prison sentence to be served after the end of the war. The men concerned were sent straight "to the front, on parole". Next to many names in the Penal Executory Register of the Reich Court-Martial, there is a note simply saying "Killed in combat on ... in ..." Six months was regarded as the maximum period that anyone could survive in the penal i.e. parole units of the German Armed Forces. A prisoner's refusal had to be retracted unconditionally.

In the letter to his family dated 8<sup>th</sup> July 1943, Franz Jägerstätter mentioned nothing about the main trial which had taken place two days previously, or about the verdict; however, he did prepare them for a worsening of the situation. He wrote to his mother: "... don't fear and fret about my safety, whether something still worse may befall me, but that doesn't matter, for the good Lord won't send me more than I can bear." Jägerstätter reassured his wife by referring to his spiritual state: "Dearest wife, as long as I'm not unhappy, you've no need to have a heavy heart on my account ... I can tell you something joyful too, that I had a visit yesterday – namely from a priest, and next Tuesday he'll be bringing me the Most Holy, so God doesn't forsake one even here."<sup>141</sup>

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140 Statement by the President of the Reich Court-Martial Admiral Bastian to his Senate Presidents in August 1942, quoted by Garbe, "You should not kill", p.98.

141 Franz to Franziska, dated 8<sup>th</sup> July 1943 (81)

Pastor Kreuzberg did not, however, influence the prisoner in the direction intended by the court – on the contrary, he strongly supported him in his resolve.

The letter written to the priest of St. Radegund by the lawyer also proved to be very important for Franz and Franziska Jägerstätter. Already on the day of the trial, Feldmann had written to the priest of St. Radegund to say that in the event that one of Jägerstätter's relatives should come to Berlin, he wanted "to request the Reich Court-Martial to suspend the confirmation and execution of the sentence for a time."<sup>142</sup> Father Fürthauer received this message on Saturday, 11<sup>th</sup> July and immediately informed Franziska Jägerstätter. In order that Franz's wife should not have to make the long journey to Berlin alone, the priest accompanied her. At midday on Sunday, they both took the train from Tittmoning railway station, and arrived in Berlin on Monday at 10 a.m. The telegraphed message arranged by the lawyer must have arrived in time, for they were able to talk with Franz and also the lawyer in the building of the Reich Court-Martial, which was located in Witzlebenstrasse. After their arrival, Franziska Jägerstätter and Father Fürthauer waited for about half an hour in the courthouse for Franz to arrive. Franziska stood at a window opening onto the courtyard. She saw a locked truck drive into the yard and armed soldiers jump out. When the rear door was opened, Franziska caught sight of her husband, whose hands were bound. He was brutally pushed off the cargo area onto the ground, so that he fell heavily. In her horror, his wife cried out "Franz"; he heard the call, and later told her that it had seemed to him like an angel.

During the roughly 20 minutes of the meeting, the couple had little opportunity to talk together. Most of the time was taken up by Father Fürthauer's attempts to persuade Franz. That evening, Franziska Jägerstätter wrote from Berlin railway station: "... I meant to tell you so much about things at home, I forgot lots of things, you probably felt quite annoyed yourself, but the Reverend Father did mean well." One month later, Jägerstätter summed it up: "Seeing you again did bring me joy, although not the purpose for which you both made such a big sacrifice. I do feel sorry that I could speak so little with you. I'm not angry with the

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142 Feldmann to the priest of St. Radegund, dated 6<sup>th</sup> July 1943 (601)

Reverend Father because of it, please ask him to forgive me for all my vain words, which maybe hurt his feelings very much and only brought me remorse afterwards anyway. For I achieved just as little through my words as our Reverend Father did with his.”<sup>143</sup>

In a letter dated 11<sup>th</sup> December 1991, Father Ferdinand Fürthauer described the meeting in Berlin: “I tried to persuade him, Jägerstätter, to enlist in the army after all, for his family’s sake. He said to me: ‘Can you promise me that if I join that movement I shall not fall into mortal sin?’ ‘That I cannot do’, I answered. ‘Then I won’t enlist,’ was his reply.” Almost 50 years later, Fürthauer saw the case differently: “Today, I would not try to persuade him to change his resolve, but would just give him my blessing at the close.” At that time, the pastor also pointed out that Franz would be exempted from all penalties if he enlisted, but Franz said to him: “Father, believe me, if I enlist, I’ll be sent to the penal company and I’ll be killed. They also asked me ‘Did the pastor advise you against enlisting?’ I was glad to be able to say that the pastor hadn’t advised me against it. Otherwise, you’d surely have been executed. I’m sticking to my decision not to fight for Hitler.”<sup>144</sup> In the same letter, Fürthauer recalled: “The military chaplain also told Jägerstätter about a priest who had refused military service too, and was executed: that comforted him.”

Franziska must have talked to her husband very differently, for as the priest remembers: “Then Frau Jägerstätter spoke with her husband. She was convinced that he should not change his resolve.” She tried to give Franz some of the food she had brought with her, but was stopped by the guards. In a note, her husband referred to this incident: “I know that it certainly wasn’t easy for you, when you were on the visit here and weren’t allowed to hand me a little of your food. That soldier was only doing his duty and he didn’t have to harm anyone doing it, and yet you maybe wondered to yourself how someone could be so hard-hearted.”<sup>145</sup> Franz used this example to show that, as a soldier, he would have been obliged to do far worse things.

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143 Franz to Franziska, dated 8<sup>th</sup> August 1943 (82)

144 Ferdinand Fürthauer to Erna Putz, dated 11<sup>th</sup> December 1991

145 (87) Gefängnisbriefe (Letters from Prison) p.71

Despite the shortness and the difficult circumstances of the meeting, it was very precious for both of them: they were able to hug each other for one last time and knelt down together for the priest's blessing. Franziska's letter to her husband, written the same day, is also remarkable with regard to what it does not say. Not a single time does she say anything like "Think of me and the children!" Her only concern is for him: "... I hope that, with God's help, everything will turn out all right again after all ... I will surely pray for you a great deal; and please don't give up hope in your difficult situation ... Your loving wife, who is anxious about you, Fanny."<sup>146</sup>

After the talk with her husband, Franziska Jägerstätter had a conversation with his court-appointed lawyer, Friedrich Leo Feldmann. Her last hope was medical service, which she had heard nothing more about since her husband's first letters from Linz. She asked the lawyer whether her husband could not have been sent to do medical service. Franziska remembers his cynical reply very clearly indeed: "We could certainly have done that, but we didn't." After the end of the war, the case of Franz Jägerstätter was to become important again, with respect to whether or not the same lawyer would be allowed to continue practicing his profession: the chaplain at Berlin prison, Kreuzberg, testified that Feldmann had spoken up in defense of an Austrian farmer who was accused of undermining military morale, and this was decisive in the proceedings to denazify the lawyer. In 1961, Feldmann incorrectly described the case of Franz Jägerstätter to the American sociologist Gordon C. Zahn. He said: "They literally begged him to abandon his standpoint, to at least declare that he was willing to compromise and to accept service without weapons."<sup>147</sup> In the letter written on the day of the trial, however, the same lawyer wrote that Jägerstätter "did not want to fight bearing weapons."<sup>148</sup> The written verdict against Jägerstätter in the Military Historical Archive in Prague, which records that the accused twice submitted a plea for permission to do medical service, casts further doubt on the statements made by the lawyer.

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146 Franziska to Franz, dated 13<sup>th</sup> July 1943 (178)

147 Gordon C. Zahn, *Er folgte seinem Gewissen* (In Solitary Witness. The life and death of Franz Jägerstätter), Graz Vienna Cologne 1979, p.104

148 Cf. Feldmann to the Pastor of St. Radegund, dated 6<sup>th</sup> July 1943.

## Consolation: what Jägerstätter could hold on to

Father Franz Reinisch, whose fate under the military jurisdiction followed a similar course in 1942, described his state of mind during the weeks between receiving the death sentence and his execution as “Total capitulation: mortal fear! It’s setting in now, in the final phase of my struggle. It is quite simply here, whether I want or no – now with more acute, now with less intensity. It is a fire of the soul, a writhing and turning, trepidation, constriction, a feeling of being compressed in brain and heart (physiological). Moreover, the struggle for spiritual grace begins. The recognition and experience of the whole transience of earthly values, of one’s own meanness and helplessness, of one’s piteousness. From the religious point of view, it is indeed an overwhelming experience of being driven into the arms of God. The longing for help forces me to the realization that there is no earthly prop left to lean upon – unless I were to be untrue to myself in my resolve thus far.”<sup>149</sup>

Franz Jägerstätter was to experience a second period of struggle to preserve his faith. In his letter of July, he wrote: “If we can only abide in the love of God, for hard tests of our faith may still come to us, for we don’t know whether we may not be falling into the time when it’s said that even the most righteous will hardly be saved.”<sup>150</sup> In Franz’s last but one letter in August, he once more spoke of “struggles”: “What our last hour will be like, we don’t know, nor what struggles we must still go through at that time, but believe me when I say that I have such great faith in God’s loving mercy, that my beloved Savior, who’s never forsaken me till now, won’t forsake me in the final hour, nor our beloved Mother in Heaven, for as you may well imagine, the prayer of ‘Hail Mary’ rolls from my lips time and again. Dearest wife, just think what Jesus has promised to those who keep the nine Sacred Heart of Jesus Fridays. If not before, then on Judgment Day, everything that so many people argue about today will become clear. I forgive you all and everyone else too with my whole heart, even if many a word that comes to one’s ear isn’t exactly pleasant to hear, for what names wasn’t our Savior called? Then why

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149 Reinisch I,86

150 Franz to Franziska, dated 8<sup>th</sup> July 1943 (81)

should we be spared such words? After all, my merits for eternity will be no fewer even if I'm taunted by many people: the most important thing is only that the Lord may not let me go to ruin for eternity. The Lord God – may He succor us all in the final hour, and be not our judge but our Redeemer.”<sup>151</sup>

In the last days of his life, the suffering which his family was going through caused increasing pain to Franz Jägerstätter. On the day before the execution, he wrote: “I wanted, I would have been able, to spare you all this suffering that you now have to bear on my account. However, you know what Christ said: ‘He that loves father, mother, wife and children more than Me is not worthy of Me.’”<sup>152</sup> In his letter of farewell, Franz expressed the same thoughts in a manner less painful for his family: “Dearest wife and mother. It wasn't possible for me to spare you the pain that you're all having to suffer now because of me. How hard it must have been for our beloved Savior, that he had to cause his dear Mother so much pain through his suffering and death, and they suffered all this out of love for us sinners. I do thank our Savior that I was allowed to suffer for Him, and that I may also die for Him.”<sup>153</sup>

In the solitary cell in Berlin-Tegel, the feasts of the Christian year were particularly important for Franz Jägerstätter. He made himself a calendar of these, and always asked his wife to send him the monthly “Communion requests”, the prayer requests issued by the Holy Father, in her letters. The Christian year offered Franz some comfort and support regarding the date of his death: “Over the past week, I've often prayed to our Mother in Heaven that I may die soon, if it's God's will, so that I may already join in celebrating the Feast of the Assumption in Heaven.”<sup>154</sup>

In his two last letters, Franz Jägerstätter asked his wife to thank his Third Order brother Rudolf Mayer for his “comforting” letter. Rudolf Mayer's letter reached his friend at a time when he very much needed this endorsement of his decision. The endorsement is cautious, expressed in

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151 Franz to Franziska, dated 8<sup>th</sup> August 1943 (82)

152 Ibid.

153 Franz to Franziska, dated 9<sup>th</sup> Aug. 1943 (83), *Gefängnisbriefe* (Letters from Prison), p.59

154 Ibid. p.60

Biblical images, but nonetheless clear. Mayer describes his situation at the front: “You’ll be surprised to hear I’m not a driver any more, but with the infantry now ... you know, the way it used to be with us – that you’d stand sentry for two hours and then have a rest: well, it’s not like that any more. Here, you go into the trench in the evenings, and then it’s into the bunker for a couple of hours in the mornings, on the morning of every third day you also have sentry duty for the whole morning, and in between there’s work duty as well, digging out bunkers or making trenches deeper. My feet often hurt, you get so tired, but the general opinion is that the war’s going to end this year, and it’s a comfort if you can hope for something better ... At home, too, there’s nothing but work in our life, but you’re content if you can sleep at night and not have to see any more of this horror ...”<sup>155</sup> In the following, it seems as though Rudolf Mayer almost envies Franz his situation in prison: “You have time, there’s so much to do ... to pray for the salvation of the world, the souls ... You know that in the Gospel Christ said, ‘Mary has chosen the better part, and it cannot be taken from her.’ For just as it’s surely pleasing to God to help one’s neighbors in this life, so Maria Magdalena was more pleasing to God in her devotions.”<sup>156</sup>

For Rudolf Mayer, compared to his own atrocious situation in the dug-out, Franz Jägerstätter was at Jesus’ feet. Mayer’s phrase “chosen the better part” reveals a trace of regret: for a time, he had considered taking the same step as his friend. For Franz, this Biblical image was certainly very comforting, for this endorsement came from someone in whose powers of judgment he could have confidence – no one else in his circle of acquaintances had ever gone so far in agreeing with him. From 12<sup>th</sup> August 1943, Rudolf Mayer was reported missing in action.

The prison chaplain Kreutzberg also gave Franz support and consolation. In his letter of farewell, Jägerstätter wrote that he was able to receive Holy Communion four times in Tegel. After the end of the war, the priest described his meeting with Franz to Franziska Jägerstätter: “You know that in the first meeting with your husband, he and I discussed the arguments for and against his decision for two and a half hours. When I vis-

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155 Rudolf Mayer to Franz, dated 12<sup>th</sup> July 1943 (179)

156 Ibid.

ited him again after eight days, he still stood by the same fixed and unalterable resolve to go to his death. I then told him of the death of his fellow-Austrian (!) Franz Reinisch. You cannot imagine what a sigh of relief he breathed and how hugely encouraged he felt, and he said to me: 'I've always said so – I can't be on the wrong path after all, if even a priest has decided the same and has gone to his death for it, then it's all right for me to do it too.' When he died on 9<sup>th</sup> August 1943, it was clear to me then that the death of the priest Franz Reinisch had found its mirror image in a simple man of the people, and that God's power and grace are revealed no less to humble folk, when they walk God's paths and take His Word seriously and reverently. Be assured that there have not been many in Germany who died as your husband died. He died a hero, as one professing his faith, a martyr and saint! At that time, I also told your husband: 'That priest was called Franz, like you! And he comes from Austria, like you! And now, if you really wish to meet death, then cross over into eternity with the same courage and greatness as he!' I have hardly ever seen anyone happier in prison than your husband after these few words about Franz Reinisch. I couldn't tell you all this before, but now, after that criminal regime has been swept away, we can speak openly ... 'Franz II' is what I like to call your husband, when I speak of him in private. He will hold his protecting hand over us, as he promised."<sup>157</sup>

As an Austrian living in Germany, the Pallottine priest Franz Reinisch refused to take the oath of allegiance after his conscription into the army. He gave as his reasons the unlawful annexation of Austria in 1938 and his opposition to the Nazi worldview, which he said resulted in "unnatural laws, such as murder, elimination of the mentally disabled, sterilization, school legislation, etc."<sup>158</sup> Death as a consequence of refusing to take the oath was offered up to God by the priest as a "sacrifice of life", whereby, despite all his fears, he said he hoped it would be "accepted".<sup>159</sup> Reinisch said that the "aim of his struggle" was to be "a living protest against the

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157 Heinrich Kreutzberg, Pastor at St. Elisabeth, Wuppertal-Barmen, to Franziska Jägerstätter, dated 18<sup>th</sup> February 1946 (449)

158 Cf. Reinisch I, p.47f.

159 Cf. Reinisch I, p.100

160 Cf. Reinisch I, p. 83

anti-Christian power of Nazi Bolshevism".<sup>160</sup> While the priest saw his own death more as a sign of protest against Nazism, Jägerstätter laid down his life because he feared contracting personal guilt, both through taking part in the war and through being forced to commit acts as an individual, thus risking something more precious than life. Whereas, during the trial, Franz Jägerstätter several times petitioned for permission to do medical service, this would not have relieved the conscience of Father Reinisch, who had from the outset been conscripted into a medical unit. As it was for Jägerstätter, reading the Bible was enormously important to Father Reinisch during the final period of his imprisonment.

### **The Bible as a guiding precept and firm foothold**

Franziska Jägerstätter says that her husband read the Holy Scriptures every day at home. In the solitary cell at Berlin-Tegel, Bible-reading became more important than ever for Franz, in view of the inner and outer torments he suffered while waiting, in fetters, for his execution. Franz filled 52 pages of an A5-size exercise book with the thoughts which arose from his study of the Holy Scriptures. Jägerstätter himself numbered the 208 points of his extensive writings, under the heading "What every Christian should know". He devotes special attention to passages containing ethical or political statements. Here are a few, though typical, examples of the way in which Franz Jägerstätter applies the Bible to his own situation: "16) To follow Christ calls for a sense of heroism. Weak and wavering characters aren't suited to it ... 19) Belonging to Christ calls for the courage to stand up and be counted ... 21) Great graces increase responsibility! ... 24) He who sacrifices everything for God's cause has made the best exchange ... 76) No earthly power has the right to enslave one's conscience. God's law shatters man's laws ... 119) The whole Christ does not only contain the 'broken, downtrodden figure' of Good Friday, but also the vanquisher of death of Easter morning."<sup>161</sup>

In his study of the Letters of John, Franz Jägerstätter gives up formulating and interpreting the text. Instead, he simply transcribes these

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161 Gefängnisbriefe (Letters from Prison), p.184 – 220

hymn-like texts, which speak of love for God and for human beings: they must have been in keeping with his state of mind at that time. Under the last point, we find a lengthy passage from Matthew (10, 26–42) – here is an excerpt: ... “And do not fear those who kill the body, but are not able to kill the soul ... Are not two sparrows sold for a farthing? And yet not one of them shall fall to the ground without your Father ... Whoever therefore shall confess me before men, him will I confess also before my Father who is in heaven ... Think not that I am come to send peace on earth, but a sword! ... He that loves father or mother more than me is not worthy of me ... And he that takes not his cross and follows after me, is not worthy of me ... He that finds his life shall lose it: and he that loses his life for my sake shall find it ...”

Franz’s cell-mates in the prison at Linz remember that Franz read in his prayer book a great deal. He had been given a new edition of the prayer book of the Third Order in 1940, and one can still see where he most often opened the book during those months in prison: at the pages of the “Devotions for Mass”.

