

## *Chapter 9*

October 1945

I am engrossed in my position as chief prosecutor of the war-crimes division for the Third Army, whose present sector of occupation includes all of Bavaria and western Austria. Under my command are ten lawyers and about 55 translators and clerk-typists. We are preparing the trial cases for all four concentration camps in the area—Mauthausen and Buchenwald in the Russian zone, as well as Dachau and Flossenburg in the American zone. (Dachau has 85 subcamps, Buchenwald and Flossenburg about 60 each, and Mauthausen 19, as it was mostly a gas-and-burn murder mill, commonly called Auschwitz West.) The work here engages me about ten hours a day, 6½ days a week.

Dachau is the first case scheduled for trial. This seems natural as it was the first concentration camp (called a “mother” camp) in Germany, built when Hitler became chancellor in 1933. All camps since

constructed have been patterned on Dachau. Reichminister Albert Speer had a hand in designing the subcamps.

I am trying two cases at Dachau, the central place for trial of all cases arising in the American sector. The first involves unarmed American fliers who were shot dead by German SS following Hitler's order to kill all captured American fliers. The second case, also involving the killing of American fliers, is unique for two reasons. It will, for the first time, follow a new procedure designed by General Eisenhower's JAG, and it will provide an orientation for the court named to try the Dachau case that immediately follows.

I study the new procedure. It combines parts of the pre-Hitler German court system with parts of the American system and is designed to give defendants maximum protection. Defendants know they will be afforded a fair trial. In fact, in my cases and in the Dachau case, no objections to the procedure are made by the defense. The court, its president, Gen. Reese M. Howell, and six full colonels are eager to comply with it.

The courtroom is formal. The court, which acts as judge and jury, is seated behind a high bench. At its left is defense counsel, and at its right I sit with my assistant. The table I use is from Hitler's "Eagle Nest" retreat. In the middle, in front of the court, is the reporter and a witness chair; the translators sit around the witness. Behind a railing is seated an audience of 300.

The defendant, Heinz Endress, is accused of killing four unarmed American fliers in March 1945, while standing at parade rest in the town square at Neckarsulm, near Mannheim. The fliers were being transported from Verona, Italy, and they parachuted from their disabled plane to the POW camp at Oberorsel, near Frankfurt. When

## Witness to Barbarism



*The author queries witnesses to the killing of unarmed American fliers.*



the truck failed to function at Neckarsulm, the German sergeant and a corporal went to find a mechanic, leaving another corporal as guard.

Heinz Endress and Clemens Funder, local leading Nazis, saw the fliers, dashed out of their houses, each with a pistol, shouting, “They must die.” Disregarding the corporal, who objected but later helped them, they shot four of the fliers. Two other fliers began to run. A German officer interceded, and the Nazis captured them unharmed.

Investigation for the case is incomplete, so I go to Neckarsulm to get all the facts. I find that Funder has died, but I interview several German civilians who saw the shootings and are willing to testify. They are as appalled at the murders as I am. I take measurements and order a large-scale drawing of the town square, the positions of the American fliers when they were shot, and the positions of the witnesses across the street from the town square.

The case is tried according to the new rules, but because of defense objections to the evidence, the court recesses a few times to be sure its rulings are in compliance. (See appendix.)

## Witness to Barbarism



*The author, left, addresses the court in final argument. Endress is at lower right.*

Defendant Endress, SS, was a gardener before the war. He is an impressive, tall figure. His loyalty to Der Fuehrer is unbounded. Finally, the court finds the defendant guilty and sentences him to death by guillotine at the Landsberg prison, not far from Dachau.

After automatic review by the Third Army JAG, the trial record finally reaches Eisenhower's headquarters. I hear he blows up and orders death by hanging only, the most ignominious execution. The order is carried out by a special session of the court.

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The Third Army chooses the trial judge advocates (attorneys for the prosecution) for the Dachau trial. Lt. Col. William D. Denson, ideally suited for the job, leads the team of several men. He is a 1934 graduate of West Point and a 1937 graduate of Harvard Law School. The JAGD chose the rest of the team of seven from the regiments, battalions, and divisions of the Third Army.

## Witness to Barbarism

The trial team arrives at Dachau about the same time I do, on October 1, 1945. Denson tells me later that his team has worked long hours to select 40 defendants representative of the camp staff. They include the kommandant, the Gestapo, protective custody people, the labor allocation and medical department heads, and the crematory and administrative chiefs.



*Forty defendants in the Dachau concentration-camp war-crimes courtroom.*

*L-r, Row 1 from bottom: Martin Gottfried Weiss, Friedrich Wilhelm Ruppert, Josef Jarolin, Franz Xaver Trenkle, Engelbert Valentin Niedermeyer, Josef Seuss, Leonhard Anselm Eichberger, Wilhelm Wagner, Johann Kick, and Dr. Fritz Hintermayer.*

*Row 2: Dr. Wilhelm Witteler, Johann Baptist Eichelsdorfer, Otto Foerschner, Dr. Hans Kurt Eisele, Dr. Klaus Karl Schilling, Christof Ludwig Knoll, Dr. Fridolin Karl Puhr, Franz Boettger, Peter Betz, and Anton Endres.*

*Row 3: Simon Kiern, Michael Redwitz, Wilhelm Welter, Rudolf Heinrich Suttrop, Wilhelm Tempel, Hugo Alfred Erwin Lausterer, Fritz M. K. Becher, Alfred Kramer, Sylvester Filleboeck, and Vinzenz Schoettl.*

*Row 4: Albin Gretsch, Johann Viktor Kirsch, Emil Erwin Mahl, Walter Adolf Langleist, Johann Schoeff, Arno Lippmann, Fritz Degelow, Otto Moll, Otto Schulz, and Friedrich Wetzell.*

*The court also named Hans Aumeier and Hans Bayer on its charge sheet.*

## Witness to Barbarism

Denson has drawn the indictment alleging violations of the Rules of Land Warfare—namely, the killings, beatings, torture, starvation, and other abuses from January 1, 1942, to April 29, 1945, when the Americans liberated Dachau. He says the worst offense was the starvation of prisoners through embezzlement. The administration of each camp received a check by mail from the Himmler headquarters in Berlin, the amount depending on the number of prisoners. But they bought as little food as possible for prisoners, pocketing the remainder of the funds. (See appendix.)

Many prisoners will testify in their native languages. We will require many interpreters, in some cases to arrive at English only after a series of translations.



*From rear, the audience, court, prosecutors (upper left), and defense plus tiers of defendants (upper right).*

For each day of the trial, we issue 300 tickets to civilians in different towns near Dachau. American personnel trucks will pick them up. They will receive a warm lunch and be returned to their homes about 5:30 P.M.



Signs to this effect are posted in each town. The tickets go quickly. The German civilians who attend the trial see each prisoner point out his torturer, according to a defendant number (1 to 40) hung on his chest. This is the first time that most of the spectators hear the truth.

American soldiers who dress as locals and speak in the local dialect give us before-and-after reactions of the civilians. Before distributing tickets for each town, two soldiers listen to groups of civilians, who usually say, in effect: "Those Americans on the radio are lying about what went on in the Dachau camp." The two then return to the town to listen again, after the civilians have heard some of the testimony. This time they say, "It was terrible what went on in that camp."

From the accumulation of evidence, we know that German civilians living near main camps or subcamps occasionally saw the gaunt, ill-clad prisoners being marched along roads toward nearby factories. At times, a civilian close to a main camp caught the stench from a tall chimney and perhaps deduced cremation. The civilians certainly knew the prisoners were foreigners working against their will. But the only information the civilians received from the controlled media was that the workers were common criminals or enemies of the Reich.

We learn from *Stars and Stripes* that Hitler ordered Himmler to haul the prisoners by truck or railroad car from any concentration

camp in danger of being overrun by American troops. If no transportation was available, they were to be marched toward Bavaria. Those who couldn't walk were to be killed and buried in mass graves. Hitler wanted no witnesses to fall into American hands. He told Himmler to give the order in secret. This accounts for the mass graves and burning alive of prisoners at Gardelegen in mid-April 1945 and the burning alive of Jewish prisoners at Landsberg near Dachau on April 28 (see chapter 23). What amazes me is that the killings continued even after Hitler's death (April 30). The SS was indeed loyal to Hitler.

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One day the master sergeant comes to my office and says, "There is a guy waiting to see you. I don't know if you want to see him. He is dressed so crazy. He is in formal dress with a silk hat. He says he was the official executioner in the pre-Hitler time at the Landsberg prison. Do you want to see him?"

I hesitate, then say, "Show him in."

A tall man, about 60, with severe demeanor and a long face, enters. I ask him to be seated. He is wearing a black swallow-tailed suit and a black silk hat. He tells me about his long experience as an executioner by hanging, guillotine, and three types by firing squad. He says his dress is the same he used at executions. He wants to be our executioner. He shows me a certificate stating he is the official executioner at the Landsberg prison.

"What are the three forms of execution by a firing squad?" I ask.

"The worst is when the victim has a hood over his head with his hands tied behind his back, and the captain orders the squad to fire. The next worst is when the victim has no hood on his head, but his hands are tied, and captain makes the order to fire. The last is when

the victim has no hood, his hands are not tied, and *he* gives the order to fire. The type used depends on the severity of the crime.”

“The victim’s grandchildren can be told of the last type with pride, as if he were a hero,” I say.

“Exactly,” he concludes.

I stand up, indicating that the conference is at an end. “I will find out who has charge of executions.”

He stands up, clicks his heels together, bows, and hands me his fancy card. With military precision he does an about-face and departs.

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Denson and his team take six weeks to get the Dachau case ready for trial. Meanwhile, I have time to visit Mauthausen, near Linz, Austria, and subcamps in Austria and Czechoslovakia.



*U.S. Sen. Claude Pepper, Florida, congratulates the author on his win in the Endress case.*