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The prosecutor as hero *Author's presentation recounts a little-known WWII war crimes tribunal*

The heroic story of a 32-year-old lawyer who led the largest U.S. war crimes prosecution of Nazis following World War II was told to a rapt audience Sept. 26 in O'Brian Hall. The trials at Dachau – site of an infamous German concentration camp – were much larger than the better-known Nuremberg trials. From late 1945 to 1948, 21 Army prosecutors brought charges against more than 1,600 prisoners – concentration camp guards, officers, doctors, kapos and other war criminals who administered a reign of death at Dachau, Mauthausen, Flossenburg and Buchenwald.

Drawing from his book *Justice at Dachau*, presenter Joshua M. Greene told a riveting tale of young prosecutor William Denson, a genteel Southerner thrust into a world of unimaginable horror.

Denson was teaching at West Point when the Army tapped him to head the Dachau prosecutions. At first, Greene said, Denson refused to believe the accounts of eyewitnesses to the slaughter. But as he heard the same stories again and again, he was forced to accept the reality of the crimes.

"He did not know what he was getting into," Greene said. "He grew up in the Jim Crow South, and was raised as a devout Presbyterian. He was very naïve about war.

"The evidence room has two tons of paper documents, all pointing to numbers of people killed that just baffled Bill Denson's imagination. After studying the evidence for a long time, he realized it was true. For Bill Denson, this suddenly became monumental. If fu-



Joshua M. Greene

ture Hitlers were to be deterred, his job was to obtain righteous convictions — righteous in the sense that, despite

enormous pressures to finish the trials quickly, due process was paramount. The rule of law had to be respected."

The Dachau trials, Greene said, were characterized by a series of legal protections afforded the accused that included court-appointed counsel or the right to call German counsel at U.S. expense; a limit of 10 witnesses against any one accused; the defendant was not obliged to take the stand; and the right to cross-examine, to remain silent and to present one's own witnesses.

"These could not be just kangaroo courts," Greene said. "This could not be just victor's justice – motivated by revenge rather than justice."

The sheer volume of defendants demanded a creative approach to case management. Denson's solution was to try 177 individuals in so-called "parent trials." These established, for example, the legal precedent that contributing to the running of a concentration camp was a crime. The "sub-trials" that followed thus had that fact as a given, saving huge amounts of time in trying hundreds of defendants.

The overall argument was that the defendants had violated the rules of war under international conventions through their participation in a "common design." Essentially it was a conspiracy charge, alleging that they had aided, abetted or taken part in the operation of a camp whose purpose was to kill prisoners. "If you were delivering potatoes," Greene said, "you were just as guilty as the guard who pulled the trigger."

Greene's presentation was rich with photographs and artwork of the time,



Joshua M. Greene showing his multimedia presentation on the Dachau trials

and pointed up the dramatic nature of the scene. In a crowded former prison camp barracks, lawyers on both sides argued before an eight-judge tribunal, with a gigantic American flag as backdrop.

Denson's work took a terrible toll on the young lawyer. His weight dropped from 170 pounds to 116, and he developed palsy-like trembling in his arms and legs. At one point he collapsed in court and had to be hospitalized for two weeks.

But Denson and his team of lawyers in the Judge Advocate General corps were largely successful. In the first trial, all 40 defendants were found guilty as charged, and 37 were sentenced to death. Hundreds more convictions fol-

lowed. The convicted included Dr. Karl Schilling, who used prisoners to test cures for malaria; August Eigruber, overseer of the Mauthausen death camp; and Ilse Koch, the infamous sexually disturbed "Bitch of Buchewald."

Only a relative handful, however, were hanged. In 1948, when America's priorities shifted from punishing Nazis to winning Germany's support against Soviet Russia at the outset of the Cold War, the Dachau convictions were overturned in a series of commutations and reversals of sentences. The scandal of those reversals led to a Senate subcommittee hearing that exonerated Denson and condemned the Army's release of Nazi criminals. Denson, outraged, left the Army and never set foot in a criminal courtroom again. He returned to his Alabama hometown and pursued a quiet law practice until his

death in 1998.

Today, Greene said, Denson is recognized as a hero of universal human rights, and the precedents he established at Dachau are used in international courts.

Greene's presentation was sponsored by the Jewish Law Students Association under the auspices of the Foundation for Jewish Philanthropies, the Baldy Center for Law and Social Policy, and several student groups.