

Tom Dodd's Nuremberg

*John Q. Barrett**

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When Justice Jackson was appointed in April 1945 to prosecute top Axis leaders, he inherited a small number of attorneys in the War Department, including the Judge Advocate General's Department, who had been preparing for prosecutions of war criminals. Jackson added to this staff some trusted former Department of Justice colleagues, a few attorneys in private practice, a leading criminal prosecutor from Brooklyn and, as executive assistant, his twenty-five year old son, William Eldred Jackson. (Bill was concerned about an appearance of nepotism, but his father waved the thought away, writing to Bill's mother-in-law, "Whose son would you expect me to hire?")

As a staff that was preparing to prosecute the most novel, prominent criminal case in history, it was light on prosecutorial experience.

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Thomas Joseph Dodd, Jr., born in Norwich, Connecticut in 1907, graduated from Providence College and then Yale Law School. He became a FBI Special Agent and pursued John Dillinger, his gangster-physician "Doc" May and "Baby Face" Nelson, among others. In 1935, Dodd joined the New Deal, becoming Connecticut State Director of the National Youth Administration.

In 1938, Tom Dodd was recruited to Washington to become special assistant to U.S. Attorney General Homer S. Cummings, a Connecticut native and Yale man who had mentored Dodd and encouraged his FBI and NYA stints. Over the next seven years, Tom Dodd was nominally a special assistant to five consecutive Attorneys General of the United States:

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For a selected archive of Jackson List postings, see my homepage at www.law.stjohns.edu. To subscribe to the Jackson List, send a note to barrettj@stjohns.edu.

Cummings, Frank Murphy, Robert H. Jackson, Francis Biddle and Tom C. Clark.

Despite his “special assistant” title, Dodd did not actually know or work directly for each Attorney General. He was, instead, a federal prosecutor handling investigations and trials nationwide. Dodd worked first under Assistant Attorney General Brien McMahon in the Criminal Division, becoming part of its new civil liberties unit. Dodd prosecuted anti-labor conspiracies, including the famous cases against Harlan County, Kentucky, coal companies, executives and law enforcement officials. He also prosecuted, in the South during the late 1930s, civil rights cases against Ku Klux Klan members and others.

In early 1942, in the first months of World War with Japan and Germany, Main Justice sent Tom Dodd to Hartford, Connecticut, to prosecute a major Axis spy ring case. Five defendants were accused of conspiring throughout 1941 to gather and deliver to Germany or Japan information about the U.S. Army, Navy and defense industries. Four of five defendants, including German-American Bund national leader (the *Bundesführer*) Gerhard Wilhelm Kunze, pleaded guilty, and Dodd won the final defendant’s conviction at trial.

At later points during World War II, Tom Dodd handled other major federal prosecutions, including fraud cases, alien enemy cases, selective service cases and sabotage cases. By summer 1945, Tom Dodd had been the federal government’s lead trial counsel in 285 cases around the country.

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That summer, Brien McMahon (by then a United States Senator from Connecticut) and others prevailed on Attorney General Clark to appoint Tom Dodd, as a Department of Justice representative, to Justice Jackson’s staff. In late July, Dodd traveled from Washington to London and, soon, to Paris. He did not know Jackson. Dodd was an unsought civilian addition to what had become a top-heavy staff filled with military men. He was, at first, unutilized and deeply frustrated.

Gradually, Tom Dodd’s role grew. In Paris, he became involved in interrogating Nazi prisoners. Relocating to Nuremberg that fall, he became involved in trial preparation. In October, Jackson named Dodd to his senior Trial Board, where he was at the center of drafting the indictments against

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24 individuals and selected Nazi organizations. After the trial began in late November, Dodd presented to the International Military Tribunal evidence on Nazi economic preparations for aggressive war, evidence on Nazi slave labor, and evidence, including horrific captured films, on concentration camps.

In January 1946, Jackson named Tom Dodd his Executive Trial Counsel. That made him Jackson's number two and involved him in all aspects—including prosecutor and evidence supervision, planning to respond to defense cases, meeting with Allied counterparts, personal daily presence in court, and administrative responsibilities—of the massive job that was, at the point position, Jackson's.

Dodd also continued personally to prosecute. During spring 1946, he cross-examined defendants Wilhelm Keitel, who had been Field Marshal of the German Army; Alfred Rosenberg, the former Nazi minister for the eastern occupied territories; Hans Frank, the former governor general of occupied Poland; Walther Funk, who had been president of the Reichsbank; Baldur von Schirach, who had led the Hitler Youth and later was governor of Vienna; Ernst Sauckel, the former head of Germany's conscript labor organization; and Arthur Seyss-Inquart, who had been Nazi commissioner of occupied Holland.

On August 2, 1946, Jackson, having summed up the cases against the individual defendants (and having awarded Tom Dodd, through military auspices, the Medal of Freedom), returned from Nuremberg to Washington. Before leaving, he appointed Dodd acting Chief of Counsel. During the next month, Dodd supervised presentation of the cases against the indicted Nazi organizations. This final trial phase concluded with Dodd's own summation to the Tribunal.

At the end of September 1946, both Chief of Counsel Jackson and Executive Trial Counsel Dodd were present when the Tribunal returned its Nuremberg judgments, including convictions of eighteen individual defendants.

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Thomas J. Dodd was a top prosecutor at Nuremberg during 1945 and 1946, and he thus was at the center of everything that that undertaking embodies, including its fundamental commitments to evidence, fair

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procedure and the rule of law. Dodd also was, during that year-plus, a husband and father away from his wife and young children. On most days throughout that year (and really during many evening hours, when some of his colleagues were carousing or just goofing off), Dodd wrote a diary-type letter to his wife Grace Murphy Dodd in Connecticut.

This essay is book recommendation. Tom Dodd's Nuremberg letters, preserved first by his wife and then by his children, were published earlier this fall by his son, Senator Christopher J. Dodd. The book, *LETTERS FROM NUREMBERG: MY FATHER'S NARRATIVE OF A QUEST FOR JUSTICE*,* is fascinating and profoundly important. It unfolds "Nuremberg" in real time, portraying its human dimensions and frustrations and its precarious moments. The book offers Tom Dodd's daily perspectives, which are sometimes debatable and always eloquent.

The collected Dodd letters manifest Nuremberg as a fundamental choice—by its large staff but really, in the scheme of things, by its small number of leaders in their daily decisions—to take a high path.

* The book is CHRISTOPHER J. DODD WITH LARY BLOOM, *LETTERS FROM NUREMBERG: MY FATHER'S NARRATIVE OF A QUEST FOR JUSTICE* (New York: Crown Publishing Group, 2007). For its publisher's catalog page, [click here](#). For its Amazon.Com page, [click here](#).