

SECRET

II/6
28th February 1944

UNITED NATIONS WAR CRIMES COMMISSION

COMMITTEE II (ENFORCEMENT)

Notes of speech made by Lord Atkin at the Meeting
of 25th February 1944

Lord Atkin considered the discussion should proceed on two assumptions, (a) an inter-allied court (as he preferred to style it) was desirable, and (b) its jurisdiction was likely to be wide rather than narrow, e.g. it would deal with crimes not falling under national law - gaps in national law - as for example, crimes committed in Germany by Germans against German Jews or other German nationals, and other outrages which shocked the conscience of humanity.

Questions arising were:

- (1) What law the court would apply.
- (2) What acts were to be considered as crimes under that law.
- (3) How was the court to be composed?

In Lord Atkin's opinion the Court should consist mainly of persons trained as judges, in order to ensure the application of legal standards, but military assessors might be included, and there should be a judge belonging to the country bringing the charges before the court. Three, or, at most, five judges should hear cases. There might be a panel, formed by each United Nation nominating three suitable persons, out of which the judges would be chosen. Lord Atkin expected the court to be divided into a number of branches meeting in different countries. There might be a President at the head of the whole organisation.

There could be no question of trial by jury.

The substantive law applied by the court should not be laid down by it. The United Nations should lay it down. The only question for the court would be whether the accused was guilty of the act defined in the charge which it had before it.

It was important that some uniform rule should be prescribed as to the defence of superior orders.

The court must be free to decide the admissibility and value of the evidence laid before it, as Lord Atkin said he understood was the case on the continent of Europe. Rigid rules of evidence, such as applied in English or the United States law, would be wholly out of place.