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WAR CRIMES COURT PROCEDURE PLANNED

The Soviet Home Service broadcasts a commentary on the international War-Criminal Tribunal by Prof. Trainin, excerpts from which follow: "The legal procedure of the international tribunal is not a mechanical repetition of the principles of the ordinary national legal proceedings on an international scale--the essence of internationalism finds here its logical and consistent expression. There are two recognized systems of legal procedure, the Continental and the Anglo-American criminal laws. In the courts under the first system the principle of contesting a case; that is, the participation of both Prosecutor and counsel for the defense, is combined with the active part of the Chairman and the members of the court in the investigation of a case.

"In courts run on the Anglo-American system the part of the court is considerably more passive, while the Prosecutor presents accusations extremely actively, proves them, and then proceeds to dispute the statements of the defense. The court of the international tribunal will develop along its own line, corresponding to the interests and peculiarities of international justice. In a comparison of various principles of the proceedings Soviet legal procedure proved to be the most expedient in guaranteeing a full and precise investigation. Many of the rules of the Soviet Criminal Code were, therefore, included in the Statute of the international tribunal.

Soviet Principles

"The following are among them: The reading of the indictment, which is drawn up considerably more fully than is done under the Anglo-American system; the interrogation of the parties concerning their petitions and the passing of decisions on any such petitions; the questioning of witnesses for the prosecution and the defense; the pleas put forward by both sides, and the last speech of the accused. At the same time, the international military tribunal provides for a free appraisal of the evidence.

Differences in Procedure

"There are, of course, in the statute of the international military tribunal also certain enactments with which Soviet legal procedure is not acquainted as well as proceedings which have been evolved by the peculiarities of the trials of Hitlerites. Such procedure is, for instance, that of having an opening speech by the Prosecutor and his indictment speech after the speech of counsel for the defense, instead of before it. These deviations and the shifting of the center nearer to the prosecution, so characteristic of Anglo-American procedure, are founded on considerations of reality. The major war criminals will stand before the international tribunal, the authors of the greatest catastrophe and of unprecedented crimes, the evil-doers who have flooded the vast spaces of Europe with blood.

Rights of Defendants

••Therefore, the voice of the Prosecutor must sound particularly imperative and severe. It must also be borne in mind that a special clause of the statute of the international military tribunal contains a provision for the guarantee of the proceedings for the accused which include the obligatory passing on of a copy of the indictment material to the accused before the opening of the trial and in language accessible to him, and the right of the accused to give explanations, call in witnesses, and invite the services of a counsel for the defense. The trial of the major war criminals is thus built on principles guaranteeing the political impartiality of the court and the legal conclusiveness of its sentence. The trial is the route along which justice, brought about by law, will come leading up to the final goal—the sentence. It must establish exactly what crimes the accused has committed and then determine the just punishment. These questions are of primary importance' in every court of law. They assume exceptional significance in international justice where the conception of crime and punishment are only beginning to take shape." (Soviet Home Service, Sept. 7, 194-5, 1:30 p.m. EWT)