William Donald Patrick at the International Military Tribunal for the Far East, 1946–48

ANN TROTTER

Lord Patrick
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Photo by Drummond Young.

INTRODUCTION

The invitation to nominate a judge to sit on the International Military Tribunal for the Far East to be set up in Tokyo presented the British government with a dilemma. By the time the request was received, the Nuremberg trial was in full swing and leading members of the judiciary in England were involved. As a consequence, the judicial system in England itself was stretched. Nevertheless the government was anxious to participate in the Tribunal on the grounds of British interests in the Pacific and South East Asia and its desire to maintain its position there.

The Attorney General, Hartley Shawcross, the British Chief Prosecutor at the Nuremberg trial, explored with the Americans the
nature of the nomination United States proposed to make for Tokyo. He had hoped they would appoint a soldier, but found they were proposing a senior Federal judge or the President of one of the more important State Courts. He also learned that New Zealand had nominated a judge of the Supreme Court and the Chinese had nominated the Acting Chairman of the Foreign Affairs Committee of the Legislature. This information gave Shawcross pause. In view of the priority that had to be given to the judicial requirements in Nuremberg, he wondered whether perhaps an ‘Indian’ judge or the UK-domiciled Harold Morris or possibly a retired Colonial Judge of ‘adequate status’ might be suitable but, as he wrote to the Lord Chancellor, Lord Jowitt, the question of prestige in relation to the Americans had to be considered.¹

The Lord Chancellor, also conscious of the question of prestige, advocated exploring ‘the possibility of Scotland’. He took soundings on the question with Lord Thankerton and Hugh Macmillan in London about this possibility. They nominated three judges of the Outer House in Scotland² any one of whom, he was assured, would ‘fill the bill’. They were, in order of preference, Lord Sorn, Lord Keith and Lord Patrick.³

Armed with this information, the Lord Chancellor approached the Lord President of the Court of Session in Edinburgh. He explained that having ‘spared’ two judges, Sir Geoffrey Lawrence and Norman Birkett for the Nuremberg trial, he now found the demand on his ‘judge power’ was heavy. He suggested it was ‘very fitting’ that Scotland should be asked to provide a judge and put forward his list of three names for the Lord President’s consideration ‘We must give then someone really good’, he wrote.⁴

Lord Normand, the Lord President, agreed it would be ‘entirely fitting’ that Scotland should provide a judge and believed it would be possible for the courts to carry for some months if a Scottish judge were to be appointed. Normand favoured Patrick who would be, he thought, a good member of a team and, as a bachelor, would be more easily able to manage a period of absence.⁵ Events now moved swiftly as Foreign Office requested an appointment be made urgently. Jowitt nominated Patrick who accepted the role.⁶

**THE BRITISH JUDGE**

William Donald Patrick was born in Dalry, Ayrshire, in 1889. He was educated at Glasgow High School and at Glasgow University from which he graduated MA in 1909 and LLB in 1912. He was called to the bar in 1913 and began practice. When war broke out in 1914 he joined the Royal Flying Corps – the forerunner of the Royal Air Force – and was commissioned as a 2nd Lieutenant in 1916.