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9th of March, 1951.

COURT RESUMES: APPEARANCES AS BEFORE, EXCEPT THAT CERTAIN
OF THE ACCUSED ARE NOT PRESENT.

BY THE P.P.:

BY THE P.P.:

Your Worship, all the accused are present with the
exception of accused No. 2, Thaddea Ntoampe, accused No. 3,
Michael or Nyakana Tsolo, and accused No.8, Emmanuel Teketsi.
These three accused are not present this morning, the rest of
the accused are all present.

BY MR.UNTERHALTER:

Your Worship, all my clients are present, with the
exception of accused No. 2.

BY THE P.P.:

Your Worship, I propose to deal with accused No.8
first of all. I was handed a medical certificate by accused
No.38, Stefaans Lepee, which I hand in. That will be Exhibit
No. 111.

BY THE COURT:

That is in respect of Emmanuel Teketsi, i.e. accuse
No. 8. That certificate reads that Emmanuel Teketsi is in
hospital, i.e. the Queens Hospital, in Maseru, with a Pott's
fracture of the right leg. Will somebody explain to me?

BY THE P.P.:

Your Worship, I telephoned the District Surgeon,
Dr.Lambinon, and he explained to me that a Pott's fracture
is a fracture just above the nakle involving the tibia and the
fibula. Dr.Lambinon expressed the opinion that it is
usual with a Pott's fracture to be out of action for a month.
I don't know of course when the man broke his leg.

BY/...

BY THE COURT:

Now, the doctor did not perhaps explain to you that if a person had this in plaster of Paris, he could come along, or hobble along on crutches?

BY THE P.P.:

No Sir, not at that stage. I have no further information about accused No. 8, Your Worship. Now, regarding No. 2 accused, I had better explain matters in sequence. This morning my colleague, Mr. Robinson, received a message through the instructing attorney in his case that there was a motorcar which had broken down, and in it were six persons involved in both the Vanderbijlpark and the Sharpeville trials. Mr. Robinson ascertained that four of those persons were his accused, which left two who might have been involved in this trial. I have subsequently received a message from Mr. Robinson to the effect that accused No. 2, i.e. Thaddea Ntoampe, is at Excelsior in the Union. I am not sure where exactly it is, but I think it is in the Free State. He is apparently making his way to the seat of this Court, and it is unlikely that he will arrive before this afternoon. I have no information at all about accused No. 3, i.e. Nyakane Tsolo, who may or may not be somebody in the car with Thaddea Ntoampe that was not ascertained. Perhaps my learned friend might be able to throw more light on the matter.

BY MR. UNTERHALTER:

Your Worship I have no instructions in regard to accused No. 2.

BY THE COURT:

You have no further information in regard to him. May I ask if any of his co-accused have any information as to the whereabouts of any of these three? Have any of the accused

any/...

any information as to the whereabouts of accused No.2, Thaddea
toampe, and Nyakana Tsolo and Emmanuel Teketsi?

BY THE INTERPRETER:

All the accused state that they have no information.

BY COURT TO ACCUSED No. 38:

Accused No. 38, how did you get hold of this medical
certificate in regard to accused No. 8?---I obtained that
medical certificate from Emmanuel Teketsi, accused No. 8.

Where?---At the Maseru Hospital in Basutoland.

BY COURT:

I see. Were you there with him?---Yes.

Did you see him in hospital?---Yes.

Was his leg in plaster of Paris or what?---Yes,

his leg was in plaster.

When was that?---It was on the 25th of last month.

BY MR. INTERPRETER:
It was then that he got injured.

Oh, on the 25th of February accused No. 8 got
injured. Now accused No. 38, did you not perhaps hear from
him as to how long he expected to be unable to walk?---No,

that he did not explain to me, i.e. how long it would take him
to walk again.

And if I postpone this case, can you let him know
what the new dates is? Will you do so?--- Yes.

All right, you may stand down now.

BY COURT:

Mr. Prosecutor is there anything else that you
want to place before me?

BY THE P.P.:

Your Worship, I have two applications to make. The
first one is for the issue of a warrant of arrest for all three
of these persons. The second application is that the issue
of the warrants of arrest be deferred until to-morrow.

BY/..

BY THE COURT:

Well, can I put it this way? To be issued on the 10th of March, 1961, if still necessary?

BY THE P.P.:

Yes, Your Worship. The other applications/ is for the estreatment of the bail of these three persons, and that this application be postponed until tomorrow, or that the hearing of the application be postponed until tomorrow. Finally Sir, I apply for a remand until tomorrow.

BY COURT:

In other words, the practical effect of your application is that we postpone the hearing until tomorrow?

BY THE P.P.:

That is so.

BY MR. UNTERHALTER:

I have no objection to that. (The undefended accused have no objection to the hearing being postponed until tomorrow).

BY THE COURT TO P.P.:

Mr. Prosecutor, do you suggest this issue to take place only tomorrow because accused Nos. 2 and 3 may genuinely be on the way?---Yes Sir. I envisage tomorrow making a further application in regard to accused No. 8 for a longer period.

BY COURT:

Yes, in any case it is just merely to see whether these people turn up. There can be no question of a hearing tomorrow in view of the medical certificate in regard to accused No. 8?---That is so.

What I propose to do is simply postpone the hearing until tomorrow, when the Court will consider these

two/...

two applications, and to extend the bail of the accused before
the until tomorrow morning at 9.30 a.m.

BY COURT TO THE ACCUSED:

The hearing is postponed until tomorrow morning at
9.30 a.m. Now there is apparently some difficulty about
persons not coming to Court on their bail. On the information
before me at least two persons are in default. They may be
on the way, and I don't want to hear tomorrow morning that any
of you are "on the way to Court", I want you here. If a man
is on bail he undertakes to be here at the time named by the
Court, and not to have some other affairs keeping him busy
until after the Court has started. He must see that he provides
himself with efficient transport which will bring him here in
time. There is no restriction on any of you as to what you may
do between hearings, but it is advisable, in view of this short
postponement, that you don't go about, so that you cannot be
here tomorrow morning.

COURT ADJOURNS UNTIL 10.3.1961.

Mr. Prosecutor, is there any doubt that

Well, that disposes of his case.

I want to apologise to your Honours.

COURT RESUMES: APPEARANCES AS BEFORE.

BY THE P.P.: Your Worship, the accused who were present yesterday are all present, with the addition of one person, i.e. accused No. 2, Thaddea Ntoampe.

BY THE COURT: That means the absentees are accused Nos. 3 and 8. Mr. Unterhalter, I propose to deal with the absence of accused No. 2 yesterday, i.e. your client.

BY MR. UNTERHALTER:

As Your Worship pleases. Your Worship, I have been instructed that he left Basutoland at half past five in the afternoon of Wednesday, the 8th of March, in company with certain other persons concerned in another case, and they arrived in Excelsior at half past seven that evening and the car broke down. They were unable to proceed with the journey and the reported to the Police Station there and asked the Police to convey a message, which apparently they did, because Your Worship were told yesterday that they were at Excelsior. He arrived here yesterday morning of early yesterday afternoon when the Court had already adjourned. Worship's leave to lead evidence?

BY THE COURT: TO P.P.:

Mr. Prosecutor, is there any reason to doubt that so far as the Crown is concerned?---No, Your Worship.

Well, that disposes of his absence.

BY MR. UNTERHALTER:

I want to apologize in any event, Your Worship.

Beakik u our enige is BY/...in verband met
beskuldigde/...

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Discussion.
W.J. WESSELS.

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BY THE COURT:

The position then in regard to accused No. 8 is the same. You have got a medical certificate which you are accepting, I take it Mr. Prosecutor?

BY THE P.P.:

Well Your Worship, a telex message was sent away yesterday by the Police, putting certain questions, and until that comes back I cannot accept or reject that medical certificate as such.

BY THE COURT:

Ja. I did understand the position yesterday that you were not disputing the fact that the man's leg was broken?

BY THE P.P.:

Well, according to that certificate, Sir, but I...

BY COURT:

And according to a statement made by one of the accused, i.e. No. 38.

BY THE P.P.:

Yes Sir. Well, might I put it this way Sir, that I accept it until such time as I have information which can lead me to think otherwise. In respect of accused No. 3 I ask Your Worship's leave to lead evidence?

BY COURT:

Very well.

THE P.P. CALLS:

WYNAND JACOBUS WESSELS b.v.:

VERHOOR DEUR DIE P.A.:

Sersant, is u in die Suid-Afrikaanse Polisie en op die Veiligheidstaf te Vereeniging?---Ja.

Beskik u oor enige inligting in verband met beskuldigde/...

BY/..

beskuldigde Nr. 3, d.w.s. Nyakane Tsolo?--Edelagbare, ja.
 En die inligting kom dit vanuit n bron ~~waareer~~ wat u nie
 wil openbaar nie?---Ja.

Sersant, wat is die inligting waaroor u beskik in
 verband met beskuldigde Nr. 3? --Die inligting waaroor ek
 beskik is dat Nyakane Tsolo voortvlugtend is en tans in Basoe-
 toeland verkeer. Dat hy nie van voornemens is om sy verhoor te
 staan nie, en dat hy die land wil verlaat.

DEUR DIE HOF:

Het u rede om te glo dat hierdie inligting betroubaar
 is?---Ja.

GEEN KRUISVERHOOR DEUR MNR. UNTERHALTER.

GEEN KRUISVERHOOR DEUR BESKULDIGDSE Nrs. 1,4,8,39 en 39 nie.

BY THE P.P.:

Your Worship, I apply for a warrant of arrest in
 respect of accused No. 3 to be issued, or the application for
 the issue to be granted, and I also apply for the estreatment
 of the bail of accused No. 3, which is an amount of £30. I
 have not got the Bail Bond available at the moment, but I shall
 have it shortly.

There is another papplication which I would like to
 make, Sir. It is for the amendment or the increase of bail in
 respect of all the accused and the imposition of ~~ertain~~ condi-
 tions in regard to their reporting which do not stand at the
 moment. My suggestion is that the present amount which stands
 at £30, i.e. R60, that that be increased by R40.

BY THE COURT:

What is the attitude insofar as you and your
 concerned, Mr. Unterhalter, in regard to these
 Are all the accused on the same amount of bail?
 being...

BY/..

being inserted?

BY MR. UNTERHALTER:

I oppose it, Your Worship, i.e. both applications

BY THE COURT:

Well then Mr. Prosecutor, you must place something before me on which I can decide these applications. So far I have only got an application.

COURT ADJOURNS.

COURT RESUMES:

BY THE P.P.: I submit with the greatest of respect, Sir

Your Worship, I do not propose to lead any evidence as I did have in mind to. I would merely mention to Your Worship that there have been a number of these types of trials throughout the country and according to newspaper reports, there have been people who have left the jurisdiction of the Court, and I ask Your Worship to bear that in mind in support of my applications in respect of the imposition of conditions and the increase of bail in this particular case.

BY MR. UNTERHALTER:

Your Worship, my submission is that nothing has been made out that could persuade Your Worship at this stage to exercise a discretion to accede to the Prosecutor's request. I may say that through a very lengthy trial - I understand from the statistics compiled yesterday, it is 54 days of evidence actually being taken - the accused whom I represent have attended punctually on every occasion, and with the exception of No. 2, whose explanation I submit Your Worship will accept, they have not been guilty of any breach of any of the conditions of bail. It would appear, Your Worship, that

my/..

My learned friend is fearful of something happening by reason of the behaviour of one of the accused, and I would make the very simple submission to Your Worship that whatever the reason for that may be - and I don't want to traverse it - surely all the others should not be tarred with whatever brush bars him. They are fortuitously joined together in this trial for reasons that were set forth right at the outset of the case when there was an argument on joinder, and by reason of that fortuitous joinder I submit that they should not have to suffer because one of the accused has decided for reasons best known to himself to absent himself. I submit with the greatest respect, Sir, that it would on any elementary principle be unfair to say in respect of these people that they should be punished because one person has acted in the way that he has done.

Yes, Your Worship, in regard to the single argument that my learned friend advances to the Court that it would appear that in other trials things like this have happened, it is a matter of some comment that if and when these came to the attention of my learned friend, he did not then deem it necessary to make an application to Your Worship. It may be of course that he thinks that the plot now thickens because it has come somewhat closer home, but Your Worship, my submission is it has not come so closely home that these other people who have observed religiously every condition that they are supposed to observe, should be put in the position which my learned friend suggests that they be put. I might add that if anyone is of the mind to abscond, the deterrent that he suggests is hardly one that in any event would be effective for a man who has made such a plan, and that being so, Your Worship, I submit that they should be permitted to remain on the same conditions as before, by reason of the fact that each one of them, regarded unless it is a formal one?—No Sir, it will have to be as/..

as an individual, has done nothing that should excite suspicion in the mind of Your Worship, that he will dishonour what he has thus far honoured, and I therefore ask Your Worship, that insofar as the people whom I represent are concerned, the application is not acceded to.

BY THE COURT TO P.P.:

Mr. Laudin, is there not perhaps room for differentiation between different accused in regard to your application? I have evidence before me, or there is information now before me, that accused Nos. 2 and 3 must have gone to Basutoland somehow. No. 2 has come back and No. 3. has not. So that I have evidence that two of the accused had gone to Basutoland. The evidence against these two suggests that they are both members of the Pan Africanists Congress. That is your suggestion, is it not?---Yes.

But there is evidence, or there is very little evidence in regard to quite a number of Mr. Unterhalter's clients which does not prove directly so far that they are active members or actually enrolled members of the Pan Africanist Congress?--- I concede that, Your Worship.

I have suggestions in cross-examination and so forth that for instance one accused is a teacher I think it was said, and so on. I have other information too. Is there no reason for differentiation?---I concede Sir that there is a lot of substance in my learned friend's argument, but what is disturbing is that this has come so much nearer home and it is likely to be an infectious or contagious thing, and there is to be a lengthy remand now, Sir.

There must be one on account of the man with the broken leg. I must take that into account. There is not going to be a postponement from today until tomorrow, I take it, unless it is a formal one?---No Sir, it will have to be a

lengthy/..

lengthy remand.

Have you got information yet as to when accused No.8 is likely to be able to attend Court?---No, that information has not been received yet, Your Worship.

You consulted the District Surgeon yesterday about that sort of injury, and what was his intimation again, how long might it take?---Approximately a month.

Now, if a person does want to evade justice is an increase from £30 to £50 going to induce him not to do so?--- I think so Sir, as you will remember that these are all Africans who have not been working for a considerable time. I consider that that is quite a large increase in the bail and enough to deter them, should they be able to raise that amount, plus the fact that they report twice a day.

And the other increase from £10 to £20 which you suggest, is that going to really make any difference?---I think so Sir. I think if I were asked to find an increase in £10 bail I would have difficulty... You would have difficulty, but if you want to run away you will run away for £10 as easily as for £20, i.e. if you really want to run away!--- It might have some consideration Sir, because I might have to borrow the money and I might be weighed by other ties too Sir. I think it does have a deterrent effect.

Another matter, before I must then give a ruling on all these matters is have you got the Bail Bond of accused No. 3 or the office copy of it?---Yes, I have it, Your Worship. (Bail bond is handed to the Court).

What I want this for is I see somebody else has deposited, Ellen Molapo. Is there such a person here perhaps? ... BY/..

BY INTERPRETER:

Your Worship, accused No. 4 states it is somebody in Johannesburg. He knows her.

BY THE COURT:

I see. I wanted to see that because I always think it is fair in a case of this nature to hear the depositor.

Mr. Unterhalter, as far as you are concerned, do your clients all live in Sharpeville, or do some of them perhaps not live in Sharpeville?

BY MR. UNTERHALTER:

I believe they all live in Sharpeville, Your Worship.

BY THE COURT:

Well, can we make sure that all the accused live in Sharpeville or not. That includes the undefended men as well.

BY MR. UNTERHALTER:

All the accused live in Sharpeville Your Worship, except No. 52 who does not live in Sharpeville, i.e. George Qotzwa. He lives at the sewerage farm of the Municipality apparently. I understand from Sergeant Wesse's it is not far from Sharpeville.

BY THE COURT TO ACCUSED No. 4:

Accused No. 4, I see Ellen Molapo incidentally was also the depositor of your bail, so presumably you know the person and you know where to get hold of her?---Yes, Your Worship

BY THE COURT:

I have considered the position that has arisen. I am not going to go into great detail, but there has been an adjournment of just over five weeks in this case. Now, up to

the/..

the adjournment the accused have attended Court regularly, but during the adjournment some of them, certainly accused Nos. 2 and 3, have visited Basutoland. Now, I understand you all to be Basutus because the language you speak is Southern Sesotho, and there was nothing in your Bail Bonds to prevent any such visits, but when I came back yesterday there was trouble about getting on with the hearing of the case. The matter was postponed until this morning, and now we find that there is one man, accused No. 8, in Basutoland with a broken leg, and accused No. 3 is alleged to be in Basutoland but certainly not here, and apparently he is evading standing his trial. Accused No. 2 was in Basutoland but he has come back. Now, be that as it may, there is an unnecessary delay in the further hearing of this case.

At this stage the Court must, on account of the position of accused No. 8, postpone the hearing for another lengthy period. I want to make sure as far as possible that when the Court comes on again, the Court will be able to proceed with the hearing as expeditiously as possible, and on account of that position I am going to impose an additional condition on you who are on bail, which will tend to ensure your prompt attendance here.

Now, in all the circumstances the order of the Court is as follows in regard to all the applications before me. Firstly, the further hearing of the case is postponed to the 10th of April, 1961, at 9.30 a.m. and presumably it will be in this Court room, or otherwise in the adjoining one. In regard to accused No. 2, the order for the issue of a warrant of arrest which was granted yesterday is cancelled. In fact, the warrant has not been issued, and he is still on bail. In regard to accused No. 3, a warrant for his apprehension will be issued immediately, and the question of the estreatment of his bail/...

bail will stand over until the 10th April, 1961, to enable the depositor, Ellen Molapo, to be heard if she so desires. Accused No. 4 has had his bail deposited by the same person, and I don't know if he is prepared to communicate with her and tell her what I have said, so that if she wants to be heard she can be heard. Accused No. 8. The question of the issue of a warrant for his apprehension will stand over until the 10th April, 1961.

Now, the application in general for the increase in the amount of the bail of the other accused I am not granting at this stage, which does not mean that it may not be granted in future if there are different facts placed before me. So the existing bail, insofar as the amount is concerned, will stand.

Now, it is only in respect of accused No. 2, who is before me, 1, 4, 8, and 39, that I am at this stage ordering that an additional condition of their Bail Bond will be that they must report twice daily, i.e. at 8 a.m. and at 8 p.m. to the Charge Office Sergeant at Sharpeville Police Station, and one day when accused No. 8 is before me I may be inclined to insert a similar condition on his Bail Bond, but obviously it is impossible for him now to report; he cannot walk from Basutoland twice daily. On the other accused I am not going to impose that condition. There is no information before me suggesting that they are inclined to go to Basutoland, but it is something which can be imposed if necessary and if further evidence is placed before me.

Now, I repeat that the case comes on again on the 10th April, 1961. The issue of the warrant in respect of accused No. 2, which I ordered yesterday, will not take place.

A/..

A warrant will be issued immediately for the arrest of accused No. 3, and the depositor of his bail can, if she wishes to, be heard on the 10th of April in regard to the estreatment. I hope accused No. 8 will be here by the 10th April, and the question of the issue of a warrant will stand over. I assume the Police will meanwhile try to get full information. Now, in respect of accused Nos. 1, 2, 4, 38 and 39, there is the additional condition that they report to the Police Station twice daily, i.e. at 8 a.m. and 8 p.m. That will include days on which the hearing takes place, because those hours are outside the hours of session of the Court.

BY THE INTERPRETER:

Your Worship, accused No. 39 says that he has some difficulty about reporting in the evening at 8 p.m., and asks whether the Court could not make an order that he reports between 6 and 7 p.m., because after 8 p.m. he is busy with his studies. He states, however, that he will have no difficulty in reporting in the morning at 8 a.m.

BY THE COURT:

Is that the only difficulty he has in regard to reporting at 8 p.m.?

BY THE INTERPRETER:

He states he can report at 7 p.m. but not at 8 p.m. (Accused Nos. 1, 2, 4, and 38 have no objection to reporting at 7 p.m. instead of 8 p.m.)

BY THE COURT:

I will alter my order then to read that the accused should report daily at 8 a.m. and 7 p.m. in respect of these five accused.

COURT ADJOURNS UNTIL 10.4.1961.