

Treason Trial

(Continued from page 1)

Judges Ludorf and Kennedy, "my attitude was one of indifference. I was never asked to nominate or recommend nor did I recommend Mr. Justice Ludorf or Kennedy."

As to the press and Hansard reports, said Mr. Justice Rumpff, "whatever was said by the Minister it is my duty to state the facts to the accused. I repeat I did not recommend the appointment of Justices Ludorf or Kennedy."

Only the Minister can now clear up this conflict in evidence. The interests of justice demand that he should make a statement at the earliest possible opportunity.

Seeing Eye

Present in court on Monday, when the two judges dealt with the application for their recusal, was Mr. John Vorster, M.P. for Nigel and a member of the Johannesburg Bar, who is tipped by some as the next Minister of Justice should Swart succeed Strijdom as Premier.

Was Mr. Vorster on the spot as Mr. Swart's "seeing eye" so that he could personally give Mr. Swart a picture of the court proceedings?

* * *

Defence Application

When the Treason Trial opened on Friday, August 1, the stage was all set for the opening of the Crown case. The prosecution's surprise witness, the Polish Roman Catholic priest Father Joseph Bochenski, who is guarded night and day by Special Branch men as though he were in danger of assassination, sat just behind the tables of Crown counsel.

The press galleries were crowded, the flash bulbs outside were constantly popping, three observers from international bodies of jurists were present.

Mr. Pirow, in a strained croaking voice, announced the names of the Counsel appearing for the Crown and then sat down.

Mr. Maisels rose to do the same for the defence, and then went on to make his dramatic application for the recusal of two of the three judges. He, and he alone, dominated the proceedings on that first day.

Mr. Justice Ludorf should recuse himself, said Mr. Maisels, because he had been an advocate for the Minister in a 1954 case in which the facts at issue were largely the same as in the present case.

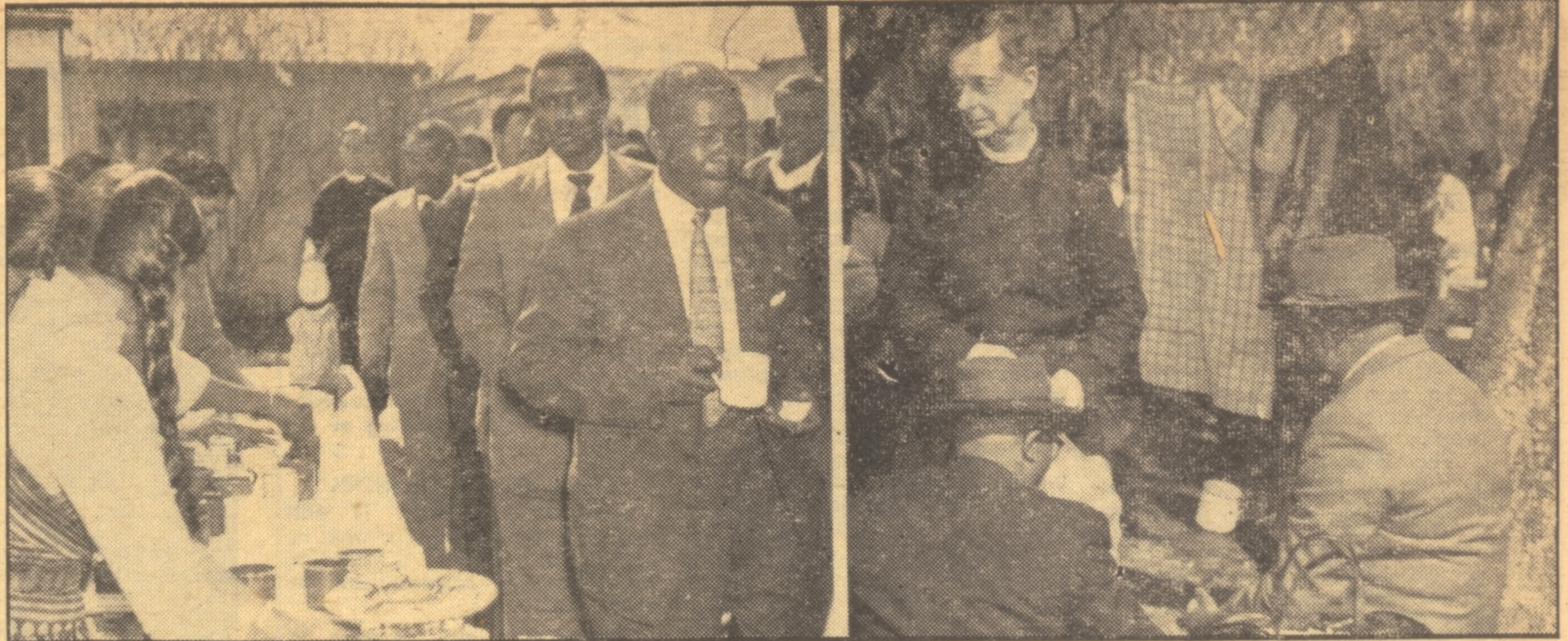
Dealing with the 1954 case, Mr. Maisels stressed that an affidavit placed before the court at the time by Brigadier C. I. Rademeyer, then Assistant-Commissioner of Police and head of the C.I.D., stated that

Cape A.N.C. Conference

PORT ELIZABETH.

There is a general feeling of optimism here that the Conference of the ANC (Cape) which takes place at Paarl on August 16 will pave the way for a fresh and more determined effort to undertake the tasks that lie ahead. The conference follows after one that took place earlier in the year at which a decision was taken to elect a Caretaker Committee. This was done to save the organisation from the confusion which had arisen in the ranks of the then Provincial Executive.

The rank and file are determined to raise the organisational level of the ANC, and they state that they are going to Paarl to ensure that proper steps are taken to achieve this end. It is expected that the majority of branches from the entire Eastern Cape will be represented at the Conference, at which the President-General will preside.



he had been acting with the knowledge and approval of the Minister of Justice, who instituted the present prosecution . . .

Mr. Pirow (rising quickly to his feet): "The Minister of Justice has nothing to do with this prosecution."

Minister's Advocate Then— Judge Now

The facts in the background of those proceedings in 1954 were the same as those at issue in the Treason Trial, said Mr. Maisels.

"What has been established in the minds of the accused at least is that the Minister of Justice (for that case was his case) has appointed as one of the judges in this case his advocate in that case.

"Mr. Ludorf should therefore in law recuse himself.

"It would be difficult to say that the fear of the accused that they will not get a fair trial is an unreasonable one.

"Linked with this is another matter. It is accepted by us that a judge appointed to the Bench sheds his politics. In an ordinary case the past political views of the judge would not be of any consequence.

"But this is not an ordinary case. It is a case of Treason, where law and politics must meet.

"Exception is taken to your private association as a lawyer in a directly related case, but it is my duty to remind you of your close and active political association with the political party against whom and whose policies the accused are alleged to have directed strong and intemperate attacks, which attacks are part of the allegation of Treason against them.

"The accused fear, and it is not unreasonable as this is not an ordinary case, that Your Lordship, with the best will in the world, as one actively concerned with supporting this party, may not be able to take a completely dispassionate view of the conduct of the accused."

Justice Rumpff Too

Mr. Maisels then addressed the presiding judge Mr. Justice Rumpff.

He referred to the debate in Parliament on the legislation to validate the appointment of the Special Court. According to reports in Die Burger, Die Transvaler, the Star and the Rand Daily Mail the Minister of Justice had told the House that after discussing the appointment of judges with the Judge President Mr. Justice Rumpff had been appointed to preside over the treason trial and he had then asked Mr. Justice Rumpff to recommend two other judges to sit with him.

The Hansard report version said the Minister had consulted Mr. Justice Rumpff on the appointments.

"Bluntly, it would appear to the accused that Your Lordship was a party to the appointment as a judge in this case of the Minister's advocate in a case in which you presided, in matters where the allegations were the same.

"How does this look?"

Mr. Justice Rumpff: What if the facts are different?

Mr. Maisels: I would still ask for your recusal. If the Minister of

Justice makes this kind of statement and allows it to go uncorrected, certain consequences must follow.

Mr. Pirow Silent

Asked if he had anything to say Mr. Pirow said: "I'm precluded from saying anything. I wish I were not."

Mr. Justice Rumpff said the newspaper reports were incorrect. "I never recommended the appointment of my two colleagues. I wasn't asked to do so and would never have had the audacity to do so."

The case was then adjourned till Monday to enable the judges to consider the applications for recusal.

Judges' Reply

On Monday the crowded court was agog as the red-robed judges filed in to give their answer to the recusal application.

Mr. Justice Ludorf weighed in with his reply as soon as the early morning formalities were over. He

recalled the 1954 case, he said, but had forgotten the facts until reminded of them on Friday. However, there was sufficient overlapping in the two cases for the fear of the accused to be not unreasonable that he could be biased against the accused.

On the defence objection that he had been associated with the Nationalist Party, Mr. Ludorf said Mr. Maisels had overlooked that the accused had fulminated not only against the Nationalist Party but with equal vigour against the United Party, Mr. Strauss, Mr. De Villiers Graaff and even Mr. Paton's Liberal Party.

It was not necessary for him to deal with these grounds of objection, but he told the court that if these had been the sole grounds of objection he would not have recused himself.

Mr. Justice Rumpff said he thought the submission that Mr. Justice Ludorf should not sit because he had acted as counsel for the Minister in the previous case was correct. The grounds for the

Lunch was provided by the Pretoria committee of the Treason Trial Defence Fund in the grounds of the rectory of Rev. Mark Nye, chairman of the committee. Our pictures show (left) Indian Congress women serving the accused, and (right) the Rev. Nye with (backs to the camera) Mr. Moses Kotane and Prof. Matthews during the lunch hour.

application for his own recuse were that he had recommended Mr. Justice Ludorf knowing that he should not sit.

Mr. Justice Rumpff then made the statement denying that he had recommended Mr. Justice Ludorf which has already been referred to at the beginning of this report. He added:

"The fear of the accused was based on wrong information, I have no choice but to follow the dictates of my conscience and refuse the application for recusal."

NO APARTHEID IN THE DOCK

From Hilda Watts

PRETORIA.

PERHAPS we only imagined it, but there seemed to be an air of expectancy as we drove into Pretoria, as though this calm civil-service town was alerted for the big trial. We did not need to ask the way to the Old Synagogue. We simply followed the clusterings of khaki uniforms. Where they were thickest, that was the place.

Two queues had formed outside the iron gates—white and black. At the head of one queue was Ida Mtwana, formerly one of the accused, who had waited since before six in the morning so that she would be sure of a place inside. People stood in groups around the building, but the greatest activity centred around the press representatives and cameramen. There were masses of them. One man had three different cameras slung round his neck. The newsreel people were busy. They did not want to miss the important people. The legal representatives were the centre of attention for a while, then they went inside and the newsmen scuttled around elsewhere.

Inside and out, the Old Synagogue bears not a vestige

of religious atmosphere. In the courtyards, on different sides (everything is strictly divided into 'European' and 'Non-European') are waiting rooms for witnesses, interview rooms, lavatories; inside, there is a formal atmosphere about the old building, with its high narrow galleries, ornate columns and fancy mouldings. The whole place contrasts sharply with our memories of the Drill Hall, which was just one big hall where all were massed together, and where casualness and informality prevailed, and muddle and inefficiency characterised the police. Perhaps that was why some treated the whole case as a big joke.

It is no joke, and that must be plain to all.

But soon there is a sound of singing, we look up—the buses have arrived! The songs, the raised thumbs, the spirit of courage and unity, all this arrives with the accused in their buses, just as it came with the kwelas that morning more than a year and a half ago when they were first brought from the prisons to the court.

The spectators pack the public galleries, white along one side, non-white on the other. The press galleries are all packed. The spectators are high above the well of the court, and they stand and crane to see what is going on.

The red-robed judges file in

and take their seats. The public and pressmen strain to identify leading counsel in their black robes and white bibs. The Clerk of the Court opens the proceedings in both official languages, and the prosecutor explains the absence of some of the accused: the ones who are ill, and cannot come; the man who is 'in custody' at Port Elizabeth—but someone blundered and failed to deliver him for the trial; the man who 'missed the bus.'

THEY ARE UNITED

The rest of the 92 accused are sitting in rows on benches, closer together than ever before. Indian, European, African, men and women. All around is apartheid and the sharp division by notice and by order—black this way, white that.

BUT HERE, IN THIS COURT, ONCE AGAIN THESE 92 ACCUSED DEMONSTRATE SO VIVIDLY THE TRUTH FOR WHICH THEY STAND. THEY WORKED TOGETHER FOR JUSTICE AND EQUAL RIGHTS FOR ALL, REGARDLESS OF COLOUR. THEY ANSWER—THE CHARGES SIDE BY SIDE, UNDIVIDED. AND SO THEY WILL BE, TO THE BITTER END.

The formalities are over, and defending counsel rises to his feet. The court is hushed. South Africa's treason trial has begun.

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