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RAND Daily Mail

THE TIMOL CASE DELAY

EVERYONE, no matter their views, will regret the delay that must now take place in hearing the inquest into the death of Ahmed Timol, who died while being detained by the Security Police. Anxiety — and complacency — feed on inaction. The delay arises because counsel for the Timol family asked for access to all the documents available to the prosecutor and the request was rejected by the magistrate. This ruling is now to be tested in the supreme court, and the inquest must wait.

The request for the documents was unusual — but then this is an unusual inquest. It involves rather more than just the death of one man; a death which, in any case, was not officially acknowledged until after the Rand Daily Mail had been informed of it from other sources. So far, all we have to go on is rumour and an ex parte statement by the officer in charge of the police investigation.

The Prime Minister has suggested that, in his view, the inquest will disclose as much information as any formal commission of inquiry. If this is indeed to be so then this inquest will be conducted in much greater depth than is usual, a factor that argues in favour of Mr. Maisels's application. The advantage in establishing exactly what went on seems to be there.

The prosecutor has already offered to allow counsel to cross-examine at length and to call witnesses on request. But Mr. Maisels wants an additional safeguard. Clearly, he feels there may be details in the documents which would be of value to him even though they seem irrelevant to the prosecution. Some points, for instance, could hold a special significance for the family that would be quite lost on anyone else. Undoubtedly the public, unaware of the legal niceties, would be happier to see such a safeguard approved. But that is a matter now for the supreme court.

The circumstances justify treating the application as urgent and giving it special priority. Then we can get straight back to finding out about Mr. Timol's death with minimum delay. Last night's information — that the matter is likely to be heard on December 14 — is therefore most welcome.

CRUELTY IN LAW

IN TERMS OF THE LAW, the decision to give Mr. Sobukwe and Miss Naidoo exit permits has now been proved to be no more meaningful than a cruel joke. The highest court ruled yesterday that neither may take up the permits offered by the Minister of the Interior because a restriction order placed on them by the Minister of Justice would be violated by their travelling to a port of departure. So they must stay and face timeless punishment imposed extra-judicially and against which there can be no appeal. Said the Chief Justice: "At first sight it would certainly appear to be somewhat anomalous that a permit . . . granted with full knowledge of the circumstances by one Minister of State functioning under one Act of Parliament should be wholly ineffective and nugatory because of the attitude adopted by another Minister of State functioning under another Act of Parliament." But, he found, this was indeed the legal position.

We hold no brief for the political views of the two, but their situation is barely tolerable and the Government must concede the cruelty of tantalising anyone in a way that violates our sense of justice. The remedy still lies in the hands of the Minister of Justice. He can lift the restrictions and let them go.

Timol: date arranged

Staff Reporter

THE SUPREME Court application by counsel for the Timol family will probably be heard in Pretoria on December 14, according to the instructing attorneys, Cachalia and Loomat.

The application will be in the form of an appeal against the refusal by the presiding regional magistrate, Mr. J. J. L. de Villiers, at the Ahmed Timol inquest on Wednesday to allow Mr. I. A. Maisels, QC, to study the inquest file.

Mr. Maisels, who is acting for the Timol family, said on Wednesday that he wished to test Mr. De Villiers's ruling in the Supreme Court, and the inquest was then postponed pending the outcome of the Supreme Court application.

Mr. M. S. Cachalia, one of the attorneys, said yesterday it was hoped that the application would be heard in Pretoria on December 14.

The inquest would proceed in January.

TERROR ACT: INDIAN IS RELEASED

By CLIVE EMDON

A FINAL YEAR BSc student at the Indian University, Durban, Miss Fatima Wadi, 22, was released from Security Police detention yesterday after being held for 45 days in terms of Section 6 of the Terrorism Act.

Miss Wadi, whose parents live in Heidelberg in the Transvaal, was due to write her final microbiology and physiology examinations a week after she was detained. She is a relative of the families of four men who were detained.

The wife of Mr. Indhris Moodley, a lecturer in pharmacy from the same university, who was detained at the same time as Miss Wadi, is in her eighth month of pregnancy. She is expecting their first child.

It is reported that another Indian from Durban had been detained, though this was not confirmed yesterday.

It has also been learnt that Mr. Edward Sebastian, 23, a general clerk in a Krugersdorp factory, who was reported to have been released from Security Police detention after one day on November 24, is still in detention. He is a former student of the Indian University College, Salisbury Island, Durban. Originally from Barberton, he was a teacher before working on the Reef.

At present 36 people are known to be held by the Security Police under the Terrorism Act since police raids on October 23. They include 16 Indians, a Malay woman, six African men, nine South African Whites, three British nationals and an Australian.