

Def Offr: Mister President, my friend has put his finger right on the point. He is going to use other witnesses to bolster up his evidence. He says that the evidence will flow throughout. That means that that is exactly what he proposes to do. He has not got a strong case and he is going to try to bolster up one from the other which he thinks he can establish. It doesn't make any difference to the Court what the situation is so long as I'm not unreasonable. I submit I am not unreasonable. We are asking for separate trials. My client is under a very serious charge and I think and I submit that we must be fair to the accused and if our request that we be tried separately on these charges is not unreasonable, I submit we should be entitled to the request that we be tried separately on these various charges. You will hear sir, when the evidence comes out that, if it is anything, I submit like the Summary of Evidence, it is a complete lot of hearsay evidence which my friend undoubtedly is trying to use to make the evidence flow from one charge to the other. I submit that not only would I be embarrassed but I submit that my request is not unreasonable.

Pros: Mister President --

Def Offr: How many replies do we have here?

JA: I don't think you should reply unless with the permission of the Court.

Pros: There is just one point - to the effect that I require these charges to be tried jointly purely and simply because I intend the evidence from certain witnesses on certain of these charges to bolster up the evidence on other charges. That was not my intention in the first case. I submit that the evidence in all the charges, with the exception of the last is inter-changeable.

JA: Do you want to reply to that?

Def Offr: No sir.

JA: I would like to advise the Court before settling this question. The motion you have heard is in accordance with RP 62(E). There is no definite rule laid down for the convening officer nor for this Court as to the placing of the charges in one charge sheet or separate charge sheets. There are however, some principles that are laid down which you will find in the foot-notes you have heard read. There are three suggestions made where the charges should be in different charge sheets. That is, if the charges are complicated or if the alleged offences were committed at different times or if different sets of witnesses are required. Now there are also general principles laid down where charges should not be put in different charge sheets but in one charge sheet only. One of these is the following: "Repeated instances of offences of the same or similar character should be included in a single charge sheet." And sub-paragraph (d) says: "Offences of different descriptions should be entered in separate charge sheets except where they form part of or are relevant to one transaction." You have the power and you should allow this motion unless you think it is unreasonable. Foot-note 5 to the RP gives you entire discretion. Now as to what is reasonable, you must consider whether the accused will be prejudiced, whether the exigencies of the service require it. If the motion is granted, the Court will proceed on a separate trial for each charge and the witnesses will have to be recalled to give evidence on every charge instead of giving evidence at one time. Now, this is entirely at the discretion of the Court and your guide is in the foot-notes and in the arguments that you have heard from both Prosecution and Defending Officer.

President: The Court will be closed to consider the motion.