

IN THE SUPREME COURT OF SOUTH AFRICA.
(TRANSVAAL PROVINCIAL DIVISION).

Before: The Honourable Mr. Justice DE WET.

In the matter of:

THE STATE vs. NELSON MANDELA AND OTHERS.

1st May 1964.

- EXTRACT FROM EVIDENCE -

Belt 80E LIONEL BERNSTEIN, s.s.

EXAMINATION BY MR. BERRANGE:

Mr. Bernstein, you are aged 43 years of age?

--- 44 now sir.

Oh 44 (the statement is out of date).--Quite so.

And your occupation is that of an architect?---

That is correct.

Self-employed as such?---That is right.

And you qualified at the University of the Witwatersrand?--That is correct.

I think I can put it to you, Mr. Bernstein, that you have been engaged in political activity for most of your adult life?---That is correct.

Have you ever been abroad?---Only once, when I was on active service with the South African Army.

That is the only time?---That is the only time.

I would like to go through your history - you joined the Labour Party League of Youth in approximately 1937 or 1938 did you not?--That is correct

And the South African Labour Party some months later?---That is right.

And you became Secretary of the Labour Party League of Youth in approximately 1938?---That is right.

In 1939 you joined the Communist Party?---That is correct.

And you remained a member of the Communist Party of South Africa until its dissolution in 1950?--That is so.

Thereafter, where did you carry on your political work?---My lord, I joined the Springbok legion, an ex-Service organisation, while I was on active service, and after the dissolution of the Communist Party I carried on political activity in that organisation.

And were you elected to any executive position in the Springbok Legion?--Yes, I served on the National Executive Committee from I think perhaps 1949 or 1950, I am not very clear on the date, until the organisation more or less collapsed in I think 1954 or 1953. My lord, may I just say that I have an extremely bad memory for dates and all the dates I am giving in my evidence are very approximate indeed. I am not terribly clear on these points.

And did you ever belong to the South African Congress of Democrats?--Yes sir, I was a foundation member of the Congress of Democrats, and I remained in that organisation until I was issued with a banning order in 1954.

Did you have anything to do with the founding of the body?---Well I was present at the meeting which was called by the African National Congress and the South African Indian Congress at which a proposal was made by the speakers that an organisation of Europeans subscribing to the aim of equal rights should be formed, and I in fact moved the Resolution at that meeting finally to found the Congress of Democrats.

I wonder whether you would elaborate a bit Mr. Bernstein, in order to give his lordship a clearer picture of what the South African Congress of Democrats consisted of,

and what its aims and objects were?---My lord, this was an organisation formed by European South Africans who subscribed to the aim of working for equal rights and opportunities for all South Africans, irrespective of race or colour, and for the total elimination of the colour bar in South African society, and membership was open to anybody who subscribed to that point of view.

Only white membership?---European membership only.

And I believe you delivered the main political report at the founding conference of the Congress of Democrats?--Yes that is correct. That was an exhibit in the Treason Trial. I don't remember its exact title, I think it was something like "The Path Before us".

Actually it was "The Task Before Us."--Possibly. I am not quite sure.

And did you hold executive positions in the Congress of Democrats?---Yes, from its foundation until the time I was banned from it, I was a member of the National Executive Committee.

Now during this period there was the removal from the Western Areas, Africans living in the Western Areas---Yes I remember.

What did you have to do with that?---Well during that period a committee called the Western Areas Protest Committee I think was formed under the Chairmanship of Father Trevor Huddleston, and I was one of the members of that Committee. I think I was representing the Congress of Democrats on it, I am not quite certain.

Now then do you remember the Congress of the People?---Yes I remember it well.

Held at Kliptown - when was that?---1955 I think.

I am sorry, I should not bother you with dates should I?---No I am very bad on dates, I am afraid.

And what did you have to do with that Mr . Bernstein?---My lord, when the decision was taken by the Joint Executives of the Congresses to convene such an organisation, they set up a special committee to carry out the actual preparations and the work of convening the Congress of the People, and I was a member of that special committee until 1954 when I was banned.

And it was then that the Freedom Charter was adopted?---At the Congress of the People yes.

And also I would be glad, Mr. Bernstein, if you would give his lordship some idea of how the Congress of the People came into being, and what it consisted of?--- My lord, the proposal was made, as I say, at a Joint Executive Meeting of the Congresses, that a broad assembly representative, as far as possible of all the people of South Africa should be convened; an assembly really of delegates picked by people either on a residential basis, sent by factories, organisations and clubs and so on, and at that assembly a Charter of the views, demands, of the South African people should be adopted. And the way that Charter was prepared for was that over a period of about 18 months to 2 years during which the Congress of the People was being campaigned for and prepared, groups of people all over the country were asked ^{to} formulate for themselves whatever demands they would like to see written into such a Charter. All those demands were then collected on the eve of the Congress of the People, summarised into systematic form, and when the Assembly actually took place these summarised demands were put before the Congress of the People as a draft of the Freedom Charter which was then adopted, I am not sure if it was in toto or with amendments, I am not sure.

Was only a certain part of the population of South Africa approached in regard there, or was it open to everybody?--It was open to everybody. Very extensive efforts were made to get all sections to participate, including even sections which did not subscribe to any of the point of views of the Congresses such as for instance approaches to the Nationalist Party and the United Party...

They were also approached?--- Very much so.

Was this a Communist Organisation?---Not in any way at all, sir. The Communist Party did not participate in the joint meeting which decided to convene the Congress.

Do you remember that at the Treason Trial it was suggested that the Freedom Charter was a Communist Party and had been drawn up by Communists?---That is correct, it was so suggested by not sustained by the Court.

Now when was it that you first began to write extensively on political matters?---My lord I have been writing for a large number of years, but I think extensively probably from 1946 onwards.

I see. And I think many of your writings were exhibits at the Treason Trial?--A very large number.

You spoke about being banned from attending gatherings and belonging to organisations---That is so.

That I think was in 1954?---That was the first time[^] yes.

And the period of the first ban was one of two years, was it not?---Two years I think for the first time, followed I think by a further 5 years and I think thereafter a further 5 years.

So the bans were renewed in 1956 for a further period of 5 years and again in 1961?--That is correct.

In 1962 were you confined anywhere?--I think, subject to correction, my lord, it was 1962 when I was confined to the magisterial area of Johannesburg.

Now you say that you have been politically active for the most of your adult life. Since 1954 when you were first banned from attending gatherings, how did you thereafter continue with your political activities, in the main?--In the main sir my political work has been writing. I have been writing extensively.

On political matters?--On political matters.

So it became ^{then} impossible Mr. Bernstein for you only to carry on your political activities, or mainly to carry on your political activities through the medium of the written word?--Virtually, sir.

Now when you practice, which I think was in 1956? --That is correct.

Did you take up any occupation on any magazine?

--Yes when I started my practice I took up a job which was part time as the editor of a magazine called "Public Works of South Africa."

What was that journal devoted to?--It was devoted to civil engineering of a public character, works of Government, municipal and provincial administrations - that sort of thing.

One of the few non-political writings that you did?--Very few yes.

When did that job end?--My lord I kept that job until I was arrested on a charge of high treason at the end of 1956 and I think the owners felt that somebody charged with high treason was not quite the right person to be editing a journal which circulated chiefly in Government and provincial departments, and they dispensed with my services.

And in devoting yourself to writing on political matters, what did you find it necessary for you to do?---
My lord..

In order to enable you to do this?---To be able to write on the sort of things that I wrote about it was constantly necessary for me to meet with and discuss matters with people who were active in the political movement. It was necessary to do a large amount of research and reading and that sort of thing.

Did you have anything to do with the journal called "Fighting Talk".---Yes my lord, I was a member of the editorial committee of "Fighting Talk" from about 1948 right up til 1963.

And were you ever the proprietor of any bookshop?---Yes my lord, I was the proprietor of a non-profit-making bookshop which was known as "The Book Stall" which operated in the late 1950's.

For what purpose was that established?---
Liberal
Circulating ~~Religious~~ and Left Wing literature which was not otherwise available through the normal bookshops.

Belt 01E

Now you have expressed your political views Mr. Bernstein in a number of articles and journals?---
Yes I have.

Will you indicate to his lordship some of them?---Well my lord, this magazine "Fighting Talk" I have written articles over the years I think in practically every issue. I have written a fair number of..

Before you go on, what period of years?---
Well from 1948 to 1963, that is 15 years.

Yes?--I have also written a fairly large number of pamphlets which were issued by the Springbok Legion and

by the Congress of Democrats. I have written articles for "New Age", "The Guardian", "Spark", "Counter Attack" which was the organ of the Congress of Democrats..

Did you write any pamphlets?---Yes, pamphlets for the Congress of Democrats and for the Springbok Legion, and I was also associated with Africa Publications, where I did a fair amount of editorial work, and arranging and writing of the publications which they produced.

And when topical, or as we were told today, current political issues came into being, did you write and collect material about such issues?---Constantly.

I have particularly in mind at the present moment the Indian Border Dispute.---Yes my lord. I collected a fair amount of material about that dispute, and I was asked to summarise it in the form of a summary of both sides of the dispute, so that people could understand what it was all about, and I did so. I think that document is actually an exhibit in this case.

Yes well that is why I mentioned it. Did you have anything to do with the..Ruth First's Book on South Africa?---Yes my lord, when she did the first draft of that book she asked me to assist in the editing, correcting and writing of the book, and I did a considerable amount of work on that. I think in fact it is acknowledged in the Foreword, although I have not seen it myself.

Mr. Bernstein, in all this writing that you were engaged on, both..for these years, what was the nature of the writing? Was it Left Wing, or Conservative or of a Right wing nature?---No my lord, it was of a Left Wing Nature. I think in general it expressed one of two points of view, either a socialist point of view, where that was appropriate, or otherwise a point of view of the

Congress Alliance in this country.

Do you regard yourself as being a Marxist?---
Very definitely.

An informed Marxist?--Well, I have made a long study of it, sir. I would not like to judge how informed I am, but I have made a long study of it.

Now you remember the Exhibits being produced which were issued by Africa Publications on Congo, Angola, Cuba and Algeria?--Yes I remember.

What have you got to say about those publications?
---My lord, first let me say that the suggestion has been made that these were something in the nature of training manuals in Guerilla warfare..

Yes that is what I wanted..---Well, the suggestion won't bear any examination at all, if you read the content of the pamphlets. Perhaps I should explain how they came to be published. During the Treason Trial a few of us got together to produce a book about the Treason Trial, for the purpose of raising funds to assist with the defence. And for that purpose we formed this body, it is not a company, I suppose a partnership or something, called Africa Publications. Then when the crisis developed in the Congo in 1960 there was a tremendous need in this country, particularly amongst supporters of the Congress movement which they expressed for some material which would enable them to understand what was happening in the Congo at the time.

Were you unhappy about newspaper reports?---
Well the newspaper reporting was very inadequate, and very difficult to follow, sir, and it did not give any of the historical background about the Congo and how this crisis

had developed, so we decided we would publish a booklet about the Congo, and in fact I think the entire content of that booklet is a single article which was borrowed from a British magazine. None of it was written in this country, it might have been slightly edited. That booklet sold extremely well, and it sold out, and the result was we were pressed to produce other booklets dealing with topics of this sort which were of general interest. I can't remember which was the second, I think it was the booklet dealing with Algeria which at that time was of course also very much in the news in Africa. The war was at its height, and that booklet dealt with the history of the Algerian National Movement, and dealt with the economy and politics of Algeria. When that sold on we went on and produced a booklet about Angola which was coming into the news because of the uprising which was taking place there, and finally we produced this booklet about Cuba, which was described here in Court yesterday. I know something, ..quite a lot about the Cuban one, because I actually did the summary myself which appears in the first part of that pamphlet. It is a summary of a book by two American professors who had been on an extensive visit to Cuba, Huberman and Sweazy(?) and the second part is a digest of a speech made by Castro to the United Nations.

At any rate, the books will speak for themselves in corroboration of that?--Yes I think so.

Now you have told his lordship that at one stage you were elected to the National Executive Committee of the Congress of Democrats?---That is correct, sir.

And we have heard a lot in this Court about the Joint Executives, the Congress Alliance, the National

Liberation Movement and the Consultative Committee?--Yes.

And I would like you Mr. Bernstein, point by point, to make clear, if you can for his lordship, what each one of these bodies means and what they stood for, and how they were composed. Let us start first of all with the National Committee for Liberation?--National Committee for Liberation, or the National Liberation Movement?

National Liberation Movement.--My lord, the National Liberation Movement is not an organisation, it is not a body. I suppose the best description would be to say that this is a broad current of opinion which is agreed on, the general need for the abolition of the colour bar. I don't think one can narrow it down narrower than that.

BY THE COURT:

It is a reference to a particular ideology, really that is all it is?--Virtually yes my lord, in the same way I suppose one could speak about the Afrikaner Nationalist Movement embracing dozens of different organisations, different characters and aims, but all forming part of the Afrikaner Nationalist Movement. So one speaks of the National Liberation Movement as embracing all those currents of opinion which stand for the abolition of the colour bar.

EXAMINATION BY MR. BERRANGE (CONTINUED):

Would it mean the same thing to everybody insofar as its constituent bodies are concerned?--My lord I don't think it would. There would be, for instance, argument not about perhaps the most important central bodies of the National Liberation Movement, but..

1 Which would be?--Which would be the Congresses, and I think everybody who speaks about the National Liberation Movement would use that term to embrace the Congresses. But when one comes...

 That is the four, the Coloured, the Indian, the African..?--And the Congress of Democrats and even probably the South African Congress of Trade Unions.

 Yes?--But when one gets beyond that to the other organisations which do subscribe to the abolition of the Colour Bar, there one has differences of opinion, I think. One person talking of the National Liberation Movement will take it to include such a body let us say as the Unity Movement which exists in the Cape, and other people will not include that in their meaning when they use the phrase.

 I take it it could even include the P.A.C. and Poqp, in the eyes of some people?--I personally, if I used the phrase, would probably include it, but I think that there are probably a large number of people who would use the phrase excluding it.

 Yes.---So it is not a fixed concept with definite boundaries.

 Whilst we are on this topic, will you tell his lordship something about the P.A.C. and/or Poqp, as opposed to the African National Congress. Whether there are, and if so, what the fundamental differences are?--My lord, as I understand the position of the Pan Africanist Congress, its fundamental difference with the African National Congress..

 First of all, they both strive for the abolition of the Colour Bar?--Oh yes, yes definitely, but the fun-

damental difference between them is that the Pan Africanist Congress, in my view, does not subscribe to the idea that minority groups in South Africa, that is to say, whites, Coloureds and Indians, are necessarily as a matter of right, entitled to equal rights in the new South Africa when they have established it, whereas the African National Congress is absolutely unequivocal on this question, and it makes its stand very, clear at all times. I think that is the main difference between them. There are minor differences as for instance their attitude towards co-operation with the Communist Party, where they have slight differences, and so on. I think the main policy difference is on this question.

It may be relevant, Mr. Bernstein, for purposes of these proceedings, because of different documents to which the State made reference - what is the attitude of the African National Congress and the P.A.C. towards the Communists?---My lord, if we are speaking about post-1950, the African National Congress has at all times been willing to co-operate with the Communists on matters of common interest where their policies or immediate aims coincide. The Pan Africanist Congress, on the other hand, is extremely hostile to Communism, and has not at any time, as far as I am aware, ever co-operated in any way whatsoever.

And to put it shortly, they stand for Africa for the Africans?---Well, that is the slogan, but I think by that they mean that they are not recognising as a right the rights of minority people in the Africa that they would like to make.

I see. Now Mr. Bernstein, insofar as the Congress Alliance is concerned, I think that speaks for itself.---Well this was again, my lord, not an organisational thing. There is no organisation one can look to as the

Congress Alliance. It is merely a working together of the four or five congresses.

It is not a body?---It is not a body at all. It is..it just does not have any form. You can't ever find a meeting of this thing.

But it is an alliance between the various Congresses to which we have made mention.--In the sense that they work together and they co-operate.

Towards the same.--Towards the same ends, yes that is so.

And the Joint Executives?---My lord, each of the Congresses has a National Executive Committee most of which are fairly big bodies, and usually drawn from the four Provinces of the Union. From time to time, at very rare intervals, when a big political decision is about to be taken, they find it convenient to convene a joint meeting of the National Executives of all these bodies. That is referred to as a Joint Executive. It meets as I say very rarely, and when it does it is an extremely big body, comprising 4 or 5 national executives, it can be anything up to 100 people present at a meeting of the Joint Executives.

And it includes all the members of the executive of each body, and not just delegates therefrom?--No sir, it is a full meeting of the full national executives of all the five bodies.

And the Consultative Committee?---My lord, this is a small standing committee which has been set up by the Congresses for purposes of day to day consultation and co-ordination of joint activities. It consists of I don't know, 2 or 3 representatives of each of the National Executives, and they meet from time to time. It is a standing committee.

not like the Joint Executives, which is only convened on a special occasion.

Do they meet at any particular place, any particular intervals, ---Well no I don't know that sir. I think that the difficulty is that the headquarters of these bodies are not always in the same town, so I am not sure quite where they meet, or how often.

Mr. Bernstein, I am sure it is relevant for you to place before his lordship your political beliefs and your political attitude, and the way in which you have viewed the historical development in this country during the time that you have been engaged in your political activity.---Yes.

For how long have you been a Communist?---My lord, my views have been Communist for 25 odd years.

And I take it all your political works and your writings reflect your belief in the validity of Marxism?--Well I would not say all of them, sir. Sometimes when I am writing for a particular organisation, such as the Springbok Legion, or the Congress of Democrats, which do not themselves subscribe to my Marxist views, then I try to the best of my ability to obliterate my Marxist viewpoint from what I write.

I see.---But otherwise, generally speaking, I should think my view emerges.

Well you have been very open in this Court about your views - have you ever concealed them at any time to anybody?--No sir, I don't think anybody who knows me is in any doubt about my views.

And insofar as South Africa is concerned, how do you regard it, in the sense of its political set up and its economic set up?--- My lord, I would say that I

regard South Africa as a country which has a large number of features, colonial features, features of a colonial type which are a drawback to the development both of the economy and of the social conditions of the whole population, and that therefore the main political problem in this country is the abolition of these colonial type conditions which entails the abolition of the colour bar in general, and in particular it entails the lifting of discriminatory legislation against the African people who constitute the majority of the population.

Why do you use the expression "Colonial-type"

Mr. Bernstein?---Because this is not a classic colony in my view, but nevertheless, if one looks at the conditions under which a large number of the African population in particular live, one can see very close parallels between those conditions and the conditions which apply to the indigenous people in classical colonial countries, so I say of that type.

And you have told his lordship that you yourself have participated actively in the struggle against the colour bar and colour oppression?---Yes I have.

And what have you been trying to secure, or achieve?---Well my lord in an immediate sense, what I have been trying to achieve is the lifting of the colour bar, and its abolition generally, so as to enable all people to enjoy equal rights and opportunities. In addition, of course I have also where I have had the opportunity to do so, been making propaganda, issuing my views about socialism..

A propaganda expert?---Yes as a propagandist I have been, when it has been appropriate and possible to

do so I have been advocating socialism as a long term suggestion for the future development of this country.

And in doing this, have you been working faithfully with the organisations to which you made reference?
---Yes sir, I worked very closely indeed with all these organisations.

With the African National Congress?---And the Indian Congress, and the..well to a lesser extent, the Coloured Peoples Congress, and the Congress of Trade Unions, all these organisations.

And on major issues of policy, have you ever found yourself in opposition to the main lines of policy, despite your Communist ideology?--No sir, I have never found, in the time I have been in politics, that I have ever had a major conflict with the point of view of the Congress movements.

What does the Congress movement endeavour to do?
---Well that has just a simple aim of abolishing the colour bar and instituting a regime of equal rights and opportunities.

Has it any particular ideology of its own?---
No sir, no ideology whatsoever, it is a sort of hold-all for people of all ideologies, who are united just by this single aim of the abolition of the colour bar.

That is the immediate aim?---That is their only aim.

And whatever your long-term aim may be, did they interfere in your endeavours to assist to accomplish this immediate aim?--No, not at all, sir, not at all.

Now in so far as the congress policy is concerned, what would you say about its policy in relation to

THE EMPLOYMENT of violence in order to achieve its ends?---
My lord the policy of the Congress movement has always been non-violent. Up to 1960 or 1961, I would not like to say exactly when, it in fact preached what I would call positive non-violence, that is to say, it went out of its way to tell its people not under any circumstances or under any provocation to resort to violence. It went out of its way to discourage violence in fact. We have heard in this Court that from I think round about the middle of 1961 the African National Congress at least decided that from then on they would no longer continue to actively discourage violence, but my knowledge of them, and from what I know of meeting them and discussing with leading people in these organisation, at no time have they gone out and preached violence.

They have not preached a positive policy of violence?
--They have never preached a policy of violence, sir, right up to this very moment.

So what would you say is basically the change that has come about as from say 1960/61 in the Congress movement?---My lord the change is that they have stopped preaching positively that under no circumstances or provocation can anybody resort to violence. They themselves have continued to conduct their activities in a non-violent fashion..

Even since 1960?---Since 1960, but they have merely in this new period, in the last three years, they have recognised that they can no longer justifiably continue to tell everybody that the use of violence would be completely unjustified, and wrong.

Do you want to draw any distinction between this policy employed by the Congress Movement, and the Pan Africanist Congress?---My lord I would not claim to be terribly well-

informed about the Pan African Congress. I can only judge from some very wild and reckless statements which were issued by them early in 1963 which seem to indicate that they were calling themselves for a revolution with armed uprising, I don't know what. That is all I can say about that.

I want to deal with that a little bit more later on. We will leave it at the moment. You yourself, do you subscribe to the policy of passive..pacifism? --No my lord, I am not a pacifist at all. But I must say that during all this period I have always and I think Communists generally in this country have always endorsed and supported a positively non-violent view of the Congress movement up to 1960. I never found myself in any way opposed to it, although as I say I am not a pacifist, but it seemed to me in that period that that was the correct policy, and one which I personally supported and participated in, and propagated.

Do you believe that the pacifist ideology such as we have mentioned in all circumstances~~xxx~~^{can} be observed?--- No sir I don't. If I did, I would be a pacifist. I believe there are circumstances in which completely non-violent political action becomes completely impossible, and in many cases completely unjustifiable and completely incorrect. It would not be correct to follow such a policy.

Mr. Bernstein, there are two methods of endeavouring to achieve political change, one is the employment of violent methods, and the other is through the employment of non-violent methods?---That is correct.

What do you say about that?---Well my lord, I think if people have a free choice, every sane person, every reasonable person will of course choose non-violent methods. But there come times in history where I don't think people have a free

choice, and I can see occasions when methods of either sort are both correct and justified.

So far as the leaders of the Congress movement are concerned, what would you say about them in this regard? ---My lord, from what I know of them...

And you know them all don't you?---Well I know practically all of them, I think, with few exceptions, I would say that they are people who practically without exception have grown up in the tradition of positive non-violence, and those of them who have moved away from that position, have moved away very slowly and reluctantly indeed. Far more slowly and reluctantly, in fact, than a large number of their followers did.

Now what exactly are you referring to when you speak about their moving more slowly from this than their followers did?---Well..

I want you to relate the situation as you saw it in this country?---My lord, mixing with large numbers of supporters and members of the Congress movement, one could not fail, from 1960 onwards to be aware of the fact that many of these people were beginning to question very, very seriously indeed whether the policy of non-violence followed by the Congresses was correct, and many of them were beginning openly to advocate violent methods of struggle and resort to violent activity of one kind or another, and my experience of this situation was that the leaders of the Congress movement responded to this sort of pressure very slowly and reluctantly indeed. They were far from inciting it, they were to some extent trailing along behind it, if I may put it that way.

And Mr. Bernstein perhaps you would indicate to his lordship what was the reason, so far as you could see, for the fact that the people themselves were becoming impatient

with the positive policy of non-violence?---My lord I think the reason can be put down to experience, and chiefly I suppose to the experience of the 1960 period, the Sharpeville shootings and the Emergency which was declared immediately thereafter, in which people began to realise that the Government at any rate was no longer prepared to talk to them, or to listen to them, or to tolerate any of their point of view, but was determined now to crush any sign of opposition and of protest by force. And that experience was strengthened still further in 1961 when the leaders of the Congress, and others made a public call on the Government to convene a National Convention at which civilized round-table discussions could be held on the future constitution of South Africa between the white and non-white peoples, and when they prepared to back that up by a peaceful stay-at-home, they were met with again very forcible reprisals, mass arrests, preventive arrests, show of force through the townships, armed demonstrations, calling up of the army and all this sort of thing. These, I think, were the experiences that made people, many people, feel that they can no longer persist in this policy of non-violence.

Belt 02E

You mean they felt that there was nothing open to them than violence?---There was just nothing open to them. They were now pursuing a policy of non-violence in the face of armed force, and the only ^{reply} ~~reprisal~~ was armed force and forcible suppression.

And Mr. Bernstein who would you in your opinion say is the person who would be responsible for the situation that has arisen?---Well I would say my lord the responsibility lies four-square with the Government of this country, and those sections of the population that have supported them in this policy, because at all times they have had open to

them the possibility of sitting down round a table and attempting to negotiate a settlement. They have never made any attempt whatsoever to do so, and whenever such a suggestion has been made, it has been rejected out of hand. I would place the responsibility squarely on their shoulders.

I think, Mr. Bernstein, that you saw the direction to which this country was moving some time ago, and you have actually written about it, in which you have expressed your own views?---That is correct, sir, I have.

You wrote about it in a pamphlet called "Face the Future" which I propose to hand in my lord.---That is correct. I wrote that, which has a foreword by Chief Luthuli, that is correct.

In which you paint the developments in South Africa, and I think you expressed very much the same views that you have been expressing here now.---Partly, sir, and then partly ..I think this pamphlet was written in 1960, immediately the State of Emergency ended, and in it I stated my point of view which was that this country is drifting towards a situation which will end up as Algeria has ended up, in civil war, unless some sane and sensible attempt is made on the part of the European population and the Government to negotiate a settlement before it reaches that stage.

What were you yourself urging?--I was urging them to negotiate on the basis that the demands of the non white people will have to be met sooner or later. They better be met, in part at any rate, at this stage, than face a long drawn period of civil war such as Algeria has faced, and then have to be met at the end of it in a situation of great civil bitterness.

" Which was the very thing you were trying to avoid?
---Exactly what I was pointing to.

And that is why you wrote this pamphlet?---That is right.

You say here "To this there can only be one end." You were talking about the Algerian situation. "France and the white settlers will ultimately give way, either gracefully now, or painfully later. They have tried shooting it out and in the course of these 6 years proclaim that they have failed and suffered grievously in their failing."
---That is correct.

"This is the experience that we South Africans need to face" and you are warning them against this?---I am warning them against this policy of trying to solve the problems of this country by shooting it out.

You say "If shooting out is the only path that our superior white political ability shows us for the future, we have no future here." Talking about 'we' the white man?---We the white man yes.

"Not one that is worth contemplating, anyway."
---That is so.

So you were viewing with horror the idea of any form of civil war such as took place in Algeria?---That is correct.

And you say "Yet this is exactly the path along which the Nationalist Government is leading, and the future for which it now prepares." You say "We are on the edge of a crisis which may burst with explosive violence at any moment. A ferment of protest, a clamour for change, and of assertion of their rights as human beings has grown up amongst the African population. Every oppressive measure of

the Nationalist Government, every new attempt to beat them back to tribalism, every police campaign of terrorisation serves only to fan the flames of ferment higher. What is now at stake is no longer just the peacefulness and [?] of the South African daily life, what is now at stake is the future of the white community of South Africa."--That is correct.

You were obviously very worried at this time, Mr. Bernstein?--I am still worried.

And you are still worried. You end up by saying: "For those white South Africans who call this country home, for those who really love this country, not as slab of soil but as a living place for people, for those who want to live here, bring up children, spend our days in peace, this is the price which needs to be paid." The price being?---The price being to stand up for a civilized policy of democratic rights, regardless of the persecution the Government...

"It is a small price reckoned against the fearful cost of the dark night of civil war to which the Government leads us, the price we must pay for our own future." And you say "Only one way is open to us, we must take it or be engulfed. We must speak out for a multi-racial South Africa with citizenship rights for all South Africans now while there is still a moment of time it is still possible for us to show to Africans that we " that is the Whites, "are determined to live in peace here in our country, and in theirs. There is room here for both white and black." That is so sir.

I hand it in my lord. (Exhibit D.L.) TRANSCRIBER'S NOTE: Mr. Barrange reads very fast and softly from this exhibit, so that it is not possible to clearly distinguish every word. The above quotations are to the best of my ability).

Well Mr. Bernstein, you say that the time came round about 1961/62 where it appeared that all avenues of peaceful exploitation of their grievances had been closed to the non-whites?--Were closing.

Or were closing. What alternatives did they then have to face?--My lord, it seemed to me that the Congresses at that stage had to face the alternative of finding new methods, or alternatively of losing leadership and ..well leadership I suppose, of the non-Europeans people entirely, and allowing the leadership to slip into irresponsible, reckless, adventurous hands of other people That is the alternative before them.

And in view of the fact that the people themselves appeared to be leading in their desire to adopt new methods of struggle, what would under those circumstances have happened, do you think?--My lord, my opinion is if the Congress leaders had not moved with the times to some extent, reckless adventurous people would have led the non-European population of this country into suicidal and reckless acts, as in fact some of them did at a later stage.

Can you give some examples?--Well my lord, at a much later stage, when the overwhelming majority of responsible, experienced and sober leaders of the Congress movement had been virtually rendered inoperative by bans and prescriptions of one kind and another, then reckless and adventurous people did come to the top with what I would describe as absolutely reckless and adventurous calls for revolution, and of dragging Dr. Verwoerd in chains to Naseru - and I don't have to describe to this Court what happened in fairly recent times, the beginning of 1963, as a result of exactly this situation.

What are you referring to?---I am referring to the call made by Mr. Leballo from Naseru, I am referring to the action which was taken by Poqo in Paarl, and by people alleged to be Poqo at the Bashee River and other places, which were in my opinion of a reckless, adventurous and finally of a suicidal nature.

And completely unorganised?--It seemed to me so, sir.

Now in contra distinction to that, what would you say has been the policy and the actions of the Congress leaders?---Well as I say the Congress leadership moved slightly to the extent that they abandoned this policy of what I would call positive non-violence to the extent that they said "We recognise that violent forms of struggle in this situation are justifiable, and we will not regard them as incompatible with Congress membership if people in our ranks decide to go in for such things."

If people in their ranks decide to join an organisation like Umkonto We Sizwe?---That is correct.

How did you view the Umkonto We Sizwe insofar as what it was setting out to do?---My lord, I read the Manifesto issued by Umkonto on the 16th December 1961, and it impressed me very greatly indeed as a highly responsible, sober and well-considered document, because it seemed to me that this document, coming from people who were leading a semi-military or violent organisation nevertheless in their starting manifesto state that their aim is, even by their violent semi-military activity, to bring about a situation in which a peaceful negotiated settlement of disputes between white and non-white in this country can be settled around a table. I felt that was an

extremely sober, well-considered and responsible statement indeed.

And so far as you are aware, what effect did it have insofar as the irresponsible acts of violence are concerned, which were manifesting themselves in various parts of the country at the time?---Well my lord, I think it has had an effect of checking the growth of recklessness and individual acts of irresponsibility, because people who now felt moved to take violent action of a political type one way or another now found themselves a home in which they could do it, where they would come under some sort of responsible and experienced leadership, and not left to their own resources. I think it had the effect of checking irresponsibility and adventurism.

If I understand you correctly, Mr. Bernstein, the explanation for this ~~appears~~ is based upon the fact that it appeared as if (a) the people themselves were being put in a position or the people themselves were taking action, violent action, which should be canalized, and secondly it appeared as if no means of struggle were longer open to them of a non-violent method?--I think that is a fair summary.

Do you draw any distinction between that situation and the situation during the War years in the Second World War,?---I think there is a very great distinction to be drawn between this period of the formation of Umkonto and the period during the Second World War with the formation of the Ossewa Brandwag, and more particularly the Stormjaer organisation, because those two organisations which were formed, both of a semi-military character,

both of them designed to carry out acts of sabotage, both of them conducting their activities in a military fashion, and violent fashion, were formed at a time when the people on whose behalf they were fighting had open to them every possible legal channel of political activity. They were capable of participating in Parliamentary elections, of voting, of standing for Parliament. They had a legal press which had not been suppressed, and they could express their views in writing; they were able to move about the country and hold public meetings, and organise, and agitate, and make propaganda in perfect and complete legality. And in those circumstances, when they chose to use violent methods, I say they were being absolutely reckless and irresponsible and wrong. But if one confronts that with the situation which faced the leaders of the African people then one will see that the situations are by no means parallel.

And what do you think is the main issue at the present time Mr. Bernstein?---My lord I still think the main issue is exactly what it was when I wrote that pamphlet, and that is the necessity for the Government to sit down around the table with the leaders of the non-European people and negotiate a settlement before it is too late.

You say before it is too late - what do you think is inevitable unless this is done?--I think it is absolutely inevitable, unless it is done, my lord, that this country is going to face a prolonged period of violent struggle in the course of which racial bitterness is going to grow so acute that in my view at the end of it there is going to be no future for any European in this country. We will be able to pack our bags and go.

You are a white South African - I should think that is the last thing you want?---Well it is the thing I have devoted my life to trying to avoid.

Mr. Bernstein, I wonder whether you would devote a few..some time, to explaining what you conceive the position to be when it is suggested that the Umkonto We Sizwe is the military wing of the African National Congress? Now we know that that is an expression which finds itself in certain documents, it has been suggested here that the A.N..C. has at a stage adopted a 'positive policy of violence' and I think the suggestion, if I understand it correctly, is that in adopting such a positive policy of violence, it set up its own fighting organisation, the Umkonto We Sizwe. What is the position as you see it?--- My/lord, as I understand the position from all I have been told over the last few years from people who are in both organisations, Umkonto is a completely separate organisation, many of the leaders of which and probably most of the leaders of which are also members of the A.N.C. and who individually, therefore, draw their political inspiration and guidance from the African National Congress. When one speaks about this as a wing of the African National Congress it sounds to me as though the intention is that it is attached to the main body by some organic link. As I understand it, there is no organic link or attachment between Umkonto and the African National Congress except this one: and that is that members in the African National Congress

constitute the bulk and the bulk of the leadership of Umkonto and therefore draw their political guidance and inspiration from the African National Congress.

Would you say that so far as the African National Congress is concerned, it itself has changed its attitude towards the question of violence or non-violence?---Well, I have stated that it has changed its attitude to the extent that it no longer disapproves of people who conduct violent action.

So it won't condemn any of its members if they joined an organisation which was endeavouring to achieve its ends by violent means?---It does not condemn its members and it does not even condemn the organisation which is attempting to achieve its ends by violence. But it has not itself, at any time, participated as far as I am aware in the perpetration of any acts of violence, and it has not incited people, as far as I am aware, to perpetrate acts of violence.

So far as you are aware, would it be possible for the A.N.C. as such to adopt a completely new policy and itself to engage upon acts of violence? What would be the reaction amongst its membership and its members? ---Well I suppose it is possible, but I think the reaction would be tremendous turmoil and confusion in its own ranks, and possibly even a very extensive split, because this organisation has over a large number of years been built up, after all, in the single tradition of not committing acts of violence, and overnight for it to attempt to change that I think would probably spell the end of the organisation, in my opinion.

Now I would like you to deal with the accused, starting with No. 1 accused, and to tell his lordship what you can about each one of the accused, when you met them, how you got to know them. Would you start with Mr. Mandela?---My lord, I met Mr. Mandela - I can't put a finger on it exactly, but in the 1940's I would say, late nine-teen forties probably and in the course of activity when he was a member of the A.N.C. Youth League, and we ran up against one another in joint political activities of one kind or another, I can't say which. I don't know how extensive you want me to be on this?

Not at all, I just want you to tell his lordship which of the accused you know and which you don't know, and the ones you know, more or less when it was you met them and under what circumstances. I don't want you to give a biographical essay on each one of the accused.---Well I have dealt with Mr. Mandela. Mr. Sisulu I think is in much the same position, in the late 1940's or the early 1950's we came up against each other in the course of joint work of one kind or another in politics.

It sound as if you were opposed to one another?--- Well that is why I asked how extensive you wanted me to be, because in fact my first real experience of both Mr. Mandela and Mr. Sisulu was in I think in 1950 when the Communist Party together with I think the Council of Non-European Trade Unions (I am not very sure about that) had called for a strike on Mayday 1950 and the African National Congress Youth League was opposing us very very vigourously indeed, and I think in fact so vigourously

vigourously that meetings in various areas ended in blows, and I think that Mr. Mandela and Mr. Sisulu at that time were leading protagonists of the opposition camp.

I hope they were not adopting violent methods! --- I don't think they were, but as I say meetings ended in blows, probably equally provocative from both sides at that time.

And Mr. Goldberg, when did you first meet him, if you met him before?--I met him in 1960 or 1961 when I was on holiday in Cape Town socially, and I saw him again the following year, 1961 or 1962 whichever it was when I was again on holiday in Cape Town, and I did not see him again until the day we were arrested.

And Mr. Mbeki?---I don't think I had ever met Mr. Mbeki to the best of my knowledge, until I met him at Rivonia during 1963.

And Mr. Kathrada?---I have known Mr. Kathrada since probably the early 1940's. I have been closely associated with him in political work over the years, of one kind or another of political work.

And Mr. Mhlaba?---Well my lord Mr. Mhlaba claims he met me in 1948 or 1949 at a conference in Cape Town, which is possible. I have got no memory of it myself, and after that the next time I met him was at Rivonia in 1963.¹/₂

And Mr. Motsoaledi?---I have known him since probably the 1950's. I think I met him first in the Communist Party, something of that sort, round about 1950 I would think, or 1953 I think.

Mhlangeni?---Mr. Mhlangeni I think I met probably in 1960 or 1961 or some such time when he worked in the offices

of Real (?) Printing and Publishing Company. I used to go in there quite often, and I met him there about that time, the nineteen sixties."

Now between the years 1957 and 1961 how did you spend most of your time?---I spent most of my time sitting in the Treason Trial. When I was not sitting in the Treason Trial I was working on preparations for the next days's sitting of the Treason trial, and in between I was trying to earn a living.

You started your practice as an architect when?---
During 1956.

I see. And shortly after that, before you had really got going, you were arrested and you were an accused for more than 4 years in the Treason Trial?--That is correct.

Did you try and carry on your practice during that time?---Well I did carry on a practice of sorts.

In the hours when you were not in Court?---I carried on a practice of sorts, working nights and weekends on a very inadequate basis.

And I think that you were also detained for a period of 4 months during what is known as the Emergency in 1960?--That is correct.

And in the result Mr. Bernstein by 1961 when the Treason Trial ended, how did you find your practice?---Well by that time I had not got one. And it took me some months before I had anything approaching a practice again.

So was it then that you started to try and build a practice?--Well that was the third time I started to try and build a practice - I had made two previous attempts.

And when was it that your personal problems began

to ease somewhat?--I should say about the middle of 1962 I was beginning to make some headway with my practice.

Now you had also been banned and you had house arrest orders placed on you?--I had a house arrest order placed on me I think in October 1962.

And what did that do to your practice?---My lord, that practically knocked out what little there was of it, and it made my life very, very difficult indeed.

why was that?---I had a 12 hour house arrest order, which means I could not move out of my house in the evenings, and part of the order prohibiting me from receiving visitors at my house, which is my office.

That is where you were carrying on your practice? --From 1958 or 1959 I moved my practice to my house because I could not keep my office open, so I was practising from my house. The prohibition on visitors at the house meant that nobody could call on me, neither clients nor commercial travellers nor builders or anybody else. It meant every time I wanted to see anybody or get any piece of information that I required for the purpose of my work, I had to go and see them. If I wanted a piece of information, were normally I would pick up the phone and they will send a representative around to tell me something about this, I would have to do a two hour trip into town and back again..

What about seeing your clients?---Seeing my clients, also. They could not come and see me, I had to go and see them, and most of them are not prepared to see me during the day. The sort of clients I had they are not building as a business, sort of a sideline, they want consultation in the evenings.

I was not able to go out in the evenings. I had extreme difficulty in getting to see them at all.

And I think at that time you also had to report at Marshall Square between the hours of 12 and 2?--That is correct.

Was that more time wasted---That was a great deal of time wasted, because if I happened to have an appointment in town that finished, say at 11 o'clock I was now faced should I go home, half an hours trip home and half anhours trip back, or should I waste in town an hour doing nothing, waiting for 12 o'clock to come so that I could report, and the result was that 2 hours of my working day went on this reporting problem.

So that it would appear as if your time was more than fully occupied Mr. Bernstein, during this period?---Well my daytime hours were very much more than fully occupied.

And you at that time, so far as political work is concerned, were confining yourself to writing?---Well that was about all I could do, because I only had nighttimes to work, and then I was confined to my house.

I see. Were you a member of the Umkonto we Sizwe?
-----I have never been a member of Umkonto sir.

And it follows of course that you could not have been a member of the High Command?---No Sir, I have not been.

Now what do you know about the purchase of Lilliesleaf Farm - when did that first come to your knowledge
---My lord sometime in the middle of 1961, I am not clear when it was, I was approached to go out and inspect Lilliesleaf Farm which at that time was on the market and was up for sale in order to give a professional view of the

quality of the buildings and also a valuation of the property for purposes of purchase. That is the first time I got to know about it.

Who approached you?---I was approached by Mr. Harmel.

Whom you have known for many years?---I have known him since 1939.

He was closely associated ~~by~~ with you politically?---

Yes sir.

What did you think the property was being bought for?

---Well he did tell me sir that the property was being bought for political purposes. I think he mentioned that people would hide there in case of emergencies, and so on, and that political work would be done there.

Did he tell you whether any organisation was buying it, and if so, which organisation?---No sir he did not tell me any more than I have told you now about the purpose of it.

I suppose you had a shrewd suspicion?--I had a very shrewd suspicion.

It was not necessary to ask?---Well it was not necessary to ask, and I deliberately did not want to ask.

Why is that?---Because I don't want any information that it is not absolutely necessary for me to have. I have been interrogated prior to this, under conditions where I was told by the Police officers (it was in 1960 when I was detained) that I would be detained indefinitely, and unless I answered all questions to their satisfaction, which I could not find it in my conscience to do, so I just felt it would be much easier not to know anything that I did not have to know, because I had a feeling I would be interrogated again at some future date.

You had a shrewd suspicion?--I had a shrewd

suspicion.

And did you go out to Lilliesleaf Farm in order to inspect it?--Yes I did, my lord. I went out and I inspected it. I met the previous owner, Mr. ~~xxxxxx~~ Fife I discussed various technical aspects of the building with him, the question of the roof construction, the water supply and so on, and I did a valuation of the property, and I think in fact I recommended that 12 or 12½ thousand would be a reasonable purchase price for this property.

Do you remember how Mr. Fife referred to Mr. Harmel?--My lord I am not absolutely sure. I think he probably referred to him as Jacobson. I know this name Jacobson came into conversation either between Harmel and myself or between Harmel and Fife I can't be sure, but..

You have heard the evidence?---I have heard the evidence that Harmel used the name of Jacobson, and as I say, he might have told me, or I might have heard Mr. Fife calling him Jacobson at that time. I am not sure how it came about.

You don't dispute it?--No I don't dispute it at all.

In any event, it was apparent to you from what you had been told that this property was being purchased for a secret purpose?--Yes quite.

And thereafter I think you were told that the deal had been completed?---Yes/^{some}time afterwards, I am not quite sure how long, I was told that the deal had been completed, and I was told that it was necessary to make certain building alterations out there, and I went out again with Mr. Harmel to have a look at the place. I think this was after Mr. Fife had left already. The Place was empty, and he told me the

that what was required was a self-contained flat and dwelling unit in which a manager which they were going to take on for the farm would be able to leave separate from the tenant of the main house. I am not sure that the manager even was there at that time. It is possibly that at that time the manager was on the premises.

You don't remember?---No subsequently the manager was on the premises, that is Mr. Jelliman, and he lived in the main house at some stage, when the house was still empty. That is before Goldreich moved in.

And these ~~these~~ alterations were alterations for the purpose of enabling the manager to go and reside there?---So that he could have self-contained premises separate from the tenant of the main house.

That is what you were told?---That is what I was told, and in fact I made two alternative suggestions about how this could be done. One was a fairly simple alteration to the main house itself, which has two bathrooms, and the other was to convert this outside cottage, add a bathroom into the outside cottage, and turn that into a self-contained flat.

Mr. Jelliman, had you ever known him before?--Yes my lord I knew him in the 1940's or perhaps even the 1930's. I had not seen him for many, many years before I saw him out there at Lilliesleaf Farm.

That is when you went out there to have a look at the place?---Either to have a look or to actually do the alterations whenever it was that I saw him there at Lilliesleaf Farm.

Oh you went out again in order to supervise the

alterations?--I met the plumber once and the electrician once I think my lord.

Did you see Mr. Mandela out at Lilliesleaf Farm?---

Yes my lord, on one of these visits, perhaps to meet the builder, or one of those visits, I saw Mr. Mandela there. I chatted to him. He told me he was living there. And he seemed anxious to chat, I think he was probably lonely, and he asked for reading material, and on a subsequent visit I took him some books to read.

Did you realise that he was hiding then?---Oh I knew he had been hiding from round about June when it was announced publicly by the African National Congress, I think, that he had decided to go into hiding round about June or July 1961.

I take it you were not at all surprised to see him there?---Well I had not quite expected to see him there, but I was not surprised to find him hiding there, put it that way.

You say you took him some books, and you dropped in on a couple of occasions to talk to him?---That is right.

Now do you remember an occasion when you were asked to take some literature and some books out to Lilliesleaf Farm?---Yes my lord. Much later - you are talking about much later?

Yes, 1963.--Yes in 1963 my lord Goldreich called on me and said he had some chaps staying at his place who were very interested in the dispute which was then taking place between the Chinese and the Indian Government on the question of the border, the frontier, and he wanted to know if I had any material relevant to this thing that they could read.

I said I had, but it would take me some time to find it, my house is rather cluttered up with this sort of stuff.

Well we have heard that your house consists of very little else but books.--That is a fair summary! He said he would not be able to come back and collect it, he was going away on a trip somewhere, but he asked me if I would take it out there, you know, when I got it together, and I said I would do so.

Mr. Bernstein, you had been told originally that this house was to be used as a place for hiding what shall we call them..politicos?---Yes.

You had seen Mr. Mandela there, you knew he was in hiding, and when you were asked by Goldreich to take books out on this issue to some chaps, as you say, I take it you had no hesitation in thinking what sort of chaps these were? ---No I certainly assumed they were political people, otherwise he would not have asked.

Who were in hiding?---Who were temporary residents of some sort.

We have been told that you have got an extensive library of political books. I understand that you received political magazines and newspapers and publications from all over the world?---Yes, many countries of the world.

And the police are well aware of it?---Well they raid my house regularly, my lord, and they regularly take the stuff away, and they have been doing so for a large number of years. They must have a better library than I have at this stage.

Anyway you say you did not have the stuff ready at the time,

did you get it together?--I got together some of the stuff that I had on this issue, and I went out to Rivonia. I found there Mhlaba, living in room No. 1. I gave him the stuff, and I had a short chat to him, and then I went at sometime later to retrieve the material, and I had a subsequent discussion with him on this very issue of the border dispute, and my interpretation of the documents which I had left with him and so on.

If I remember rightly there was a deal of controversy about this border dispute?--My lord it was a matter of tremendous interest to everybody in the National Liberation Movement in this country because to a large extent these two countries have, both in different ways, been something of an inspiration particularly to the non-europeans. They are two countries who have achieved their liberation within our own generation. It was a matter of tremendous concern that these two countries were at loggerheads over such an issue, and actually fighting a war, and one of the things which we found it very difficult to understand.

And I take it there was a great deal of discussion about it among your circles?---All sorts of people were discussing it sir.

Can you remember how many times you went out altogether? Approximately how many times you went out to Rivonia during 1963?--I can't be sure. I would say probably 4 or 5 times prior to the 11th July.

I think some of them said you were seen there two or three times - you think it was more?--I think it is probably 4 or 5 but I can't be certain.

And was there an occasion on which you were asked to take out more material to Rivonia?--Yes sir, subsequently, I think it must be April or May I received a request for material of this kind, relating to the disputes of matters of political theory between the Soviet Communist Party and the Chinese Communist Party, and I gathered some of this material together, and took it out to Rivonia. This time I met Mr. Mbeki, who was staying in the cottage, and I went out perhaps 2 or 3 times to discuss this, which was a very difficult and intricate problem, and also one of interest to..

Why was it difficult and intricate?--This is a question...

BY THE COURT: Does it fall within the bounds of this case? Does it matter for the purposes of this case?
MR. BERRANGE:

No I merely wanted to indicate the reason why he went out two or three times..

BY THE COURT:

To discuss this because people were interested in this dispute.

EXAMINATION BY MR. BERRANGE (CONTINUED):

Anyway, it was a matter that was also creating a great deal of discussion in your circle?--In Left Wing circles now I mean this is a matter..

Well I am talking about your circles.---Yes in my particular circle.

And were there different points of view?--Yes I think there still are.

And were there many arguments about it when you went out there?--Yes, and very heated too some of them were.

By the way, it has been said by one witness for the State that you had something to do with the erection of a radio aerial at the house?---There is not a word of truth in it.

And it was suggested that this took place in the afternoon, some time after one o'clock on a Saturday.---Well my lord, on Saturdays my house arrest order in this period confined me to my house at 2 p.m. and I had to report to Marshall Square between 12 and 2 p.m. I think the check of the records at Marshall Square will probably make it clear that I could not have been at Rivonia at the time after lunch, and have been at Marshall Square, and have been home in my own house by 2 o'clock that afternoon.

Mr. Bernstein, would you ever dare to break a house arrest order? I am not talking about it from the point of view of the moralities, but..?---As far as the confinement to my house goes, sir, I would not have dared, because the police have been making it a practice, from the time this order was issued on me, to drop in at irregular hours just as they said, for checking up. They would just arrive, have a look if I was there, and go away.

So you would never know when they might call?--- Never knew when they were coming.

And was it at any time during the night? During the afternoons, over a weekend?---That is right.

Nothing has been said by any of the witnesses about your visiting Rivonia in 1962. Did you visit Rivonia in 1962? --I did on some occasions my lord.

Did you see people there?--I saw people there. I don't want to be understood to say I saw people living there though.

What part of the premises did you go to in 1962?---

In 1962 when I went there I visited the main house.

Did you go there often?---Not terribly often, my lord. I should say once in 6 weeks perhaps, or something like that.

Was there any reason for you..no that is a matter for argument. Now at the beginning of July - you knew Mr. Hepple of course,---I have known Mr. Hepple since he was a young child.

Did he get in touch with you?--Yes my lord, he got in touch with me. He asked me to come into his office, which I did, and then he told me that some of the people at Rivonia..

Why did you go to him?---I had to be in town, the day he phoned me I had to be in town anyway to report between 12 and 2 with the police so it was convenient. And he told me that some of the people at Rivonia were getting very disturbed about the 90 day detention position, and the fact that detentions were taking place without sufficient protest and outcry amongst the public. And also the fact that families of detainees were in considerable distress, and that they wanted to have a discussion on the question of what should be done to improve this position, and what arrangements could be made to try and alleviate the distress that had been caused, and he asked me whether I would be prepared to go out to have such a discussion at Rivonia, and I said I would do so, and we fiddled about a bit, we had a bit of difficulty, I think we had one or two false starts in an attempt to find a date, and we finally fixed a date for 11th July.

At 3 p.m.

What did he have in mind for you to do?--My lord, he had in mind particularly that I would write, write material for publicity and propoganda purposes, articles for the press, either here or abroad - that sort of thing.

And what type of stuff would you write, on what theme?---Oh on this theme of the 90 day detention.

Was there any talk about embarking upon a fund-raising campaign?---Yes, this was one of the proposals to raise funds for the assistance of dependants of people who were detained.

And you agreed to do so?---I agreed to come out yes.

Did he indicate of what race the majority of those detained belonged?---Well he told me and I knew of my own belief that the majority of them were Africans.

You knew of course at that time that Mbeki was at the farm?--Yes I had seen him..well I did not know that he was still there. I knew he had been there some weeks before when I was there last.

Did you know where Mr. Sisulu was?---No sir, I knew that he was underground, as the expression has it, that he was in hiding, but where I did not know.

Mr. Bernstein, did you at any time know that Lilliesleaf Farm was being used for work in connection with Umkonto We Sizwe?--- No sir, I never knew until I heard the evidence in this case.

To have it formally on record, did you have anything to do, at any stage, with any acts of sabotage, either directly or indirectly?---No my lord, I never had anything to do, either directly or indirectly, with acts of sabotage.

As you have already indicated, you of course knew of the existence of the Umkonto we Sizwe?---Oh yes I knew of it well.

And you knew that acts of sabotage had been carried on?--Oh yes.

And on the occasions when you went out to Lilliesleaf Farm, as you have told us, to take literature out there and engage in discussion in regard to the topics that were then current, was the question of violence, sabotage, the general political position discussed?---It must have been, my lord. I can't remember clearly the discussions, but when people of a political nature of our sort get together in this situation, we must discuss politics and I am sure if we discuss South African politics we could not have omitted discussing questions of violence and sabotage and so on which were in the forefront of South African politics.

Quite. Now you have told his lordship that it was necessary for you to report at Marshall Square every day between 12 and 2 o'clock?---That is correct.

On Thursday the 11th July did you so report?--Yes my lord, I reported as I think was admitted here by the State in Court. I reported at 1.55 at Marshall Square. Then I had certain business to conduct in town..

Did you go to Marshall Square by car?---Yes, I was there by car.

And from having reported at Marshall Square, where did you go to?---I had an appointment..not an appointment, I had to call on a firm of consulting engineers whose offices are on the corner of Rissik and either Cedric or Albert Sts.

That is opposite the new Receiver of Revenue's office.

I drove to Marshall Square, it was somewhere in that vicinity, parked my car and went up to their office.

What was the name of the firm?---The firm is called Elgin's Structures.

Was it on a professional matter that you were calling?

---Yes my lord, they were structural engineers for a building of which I was the architect, and I had to take some plans in to them, and discuss with them some of the problems arising from those plans. I did so. I discussed the matter then, then I left their office.

Did you discuss it with one of the partners?---I

discussed it with one of the partners of the firm. From their office I went to the Central News Agency, which is further up Rissik Street, and I bought some magazines, for which I have got a standing reservation, they keep them for me. And then I went from there out to Lilliesleaf.

So at what time approximately, or as closely as you can say, did you arrive at Lilliesleaf Farm?---It was very close to 3 o'clock. I can't say if it was a couple of minutes before or a couple of minutes after, but it was very close to 3 o'clock.

Approximately how long did it take you to drive from the Central News Agency to Lilliesleaf Farm?---I would think the best part of half an hour my lord.

And on arrival, did you see anybody there?---Well, I did not see anybody outside, I only saw people inside room No. 1 when I went in there.

Who did you find in the room,?---There I found Mr. Sisulu, Mr. Mbeki, Kathrada, Mr. Mhlaba and Mr. Hepple.

They were all there.

What happened then, Mr. Bernstein?--My lord, we spent a couple of minutes just chatting, greeting each other, some of these people I had not seen for some time. We were making light social chatter when Hepple suddenly announced that the police had arrived. I think he was in a position where he saw the truck drive in. And then there was a state of confusion which has been described here by several of the accused.

Did all the persons remain in the room?---No sir. Sisulu, Mbeki and Kathrada went out through the window. Nhlaba, Hepple and I remained in the room.

And were you all thereafter arrested?--That is so.

You have heard the evidence that the engine of your motorcar was examined by Mr. Dirker that afternoon, and that he found the engine cold.---Yes I heard that.

Did Mr. Dirker examine the car in your presence?---No sir, not in my presence at all. And I must say I rather doubt whether he examined it at all during the time that I was at the farm.

Now would you tell his lordship why you say that? ---My lord, my car was fitted from the day I bought it with a burglar alarm device which was so rigged up that if you opened the bonnet, the hooter started blowing, and there was no way of stopping the hooter other than closing the bonnet, or switching off the device, a tiny little switch which was buried inside the glove box. I did not hear the hooter go off during the time I was at the farm, which was until after dark I think or very nearly dark.

AT THIS STAGE THE COURT ADJOURNS.

N.B. PAGES 49 to 53 MISSING ARE THE PAGES, PREVIOUSLY
NUMBERED 1 to 5 IN CONNECTION WITH THE PROPOSED EVIDENCE
OF TWO PROFESSORS, etc. AND SHOULD BE INTERPOSED BETWEEN
PAGES 48 and 54 OF ACCUSED NO. 6'S EVIDENCE.

ON RESUMING AT 10 a.m. ON THE 4th MAY 1964.

LIONEL BERNSTEIN, still under oath:

EXAMINATION BY MR. BERRANGE (CONTINUED):

I would like to go back a little bit Mr. Bernstein to one aspect that you dealt with when you were giving evidence, and those were your visits to Lilliesleaf Farm, Rivonia during 1962.--Yes.

I think you told his lordship that you went there approximately once every 6 weeks?---Something of that sort.

Were your visits fairly regular?---Fairly regular.

Did you go during the daytime or the night time?---During the evenings, my lord.

And who did you go to see? What did you go there for?--My lord, I went out there to meet colleagues of mine for the purpose of political discussion.

You mean political, not architectural, colleagues?
---Political colleagues, yes.

And then until when did these visits of yours continue?---Until I was placed under house arrest which I think was October 1962, at which stage I was not permitted to leave my house after 6 p.m.

Were you..did you find yourself able to go there during the day time?---Only with the greatest difficulty. I have explained I think in evidence that this house arrest order kept me extremely busy during the day.

And furthermore, towards the end of 1962 what about the colleagues whom you used to meet with a certain measure of regularity during 1962?---Well my lord, some of them were also at one time or another placed under house arrest. Some of them left the country.

Others were unable to meet me during the day at all, because they were in occupations where they had to be on duty during the day, and so my contact with them declined very seriously.

So these visits of yours thereafter ceased?---That is right.

But you say that during 1963 you went out during the day time on some odd occasions, you think possibly 4 or 5 occasions, so far as you can remember?---That is correct.

And you told his lordship that when you were first approached by Mr. Harmel to examine these pamphlets, premises, you told his lordship it was intended to buy them primarily for the purpose of having a place of refuge for persons who were hiding?---That is correct.

Persons who were hiding from the police, and also for the purpose of carrying on political work.---That is correct.

And at that stage he gave you no further information and you asked no further questions.---That is so.

You told his lordship that you had a very shrewd suspicion on whose behalf these premises were bought.--- That is correct.

I take it thereafter, Mr. Bernstein, when you went out to visit people with a fair measure of regularity thereafter at Rivonia, at Lilliesleaf Farm, Rivonia, you then confirmed your suspicions?---Yes my lord. I did. The question of who bought the farm came up in discussion on one occasion, and my suspicions were confirmed.

So it was clear to you that this had been bought by the Communist Party as far as you could ascertain?---

That is correct my lord.

Lastly I want to deal very shortly with the question of your visits to Mr. Kantor's office - I don't know whether anything turns on it, but would you kindly explain to his lordship whether you went there, and if so, why you went there.---I did go to Kantor's office, for several years, I should think from about 1960 onwards, when Golpe became a partner in the firm. They handled all my legal work, both work arising out of my profession, and some legal matters which arose out of my political work.

I think you had certain actions for damages which you instituted in connection with your political activities?
---That is correct my lord.

What was your first introduction to Kantor's office?---In approximately 1957, or it might have been 1958 I was approached by Mr. Makda of Kantor's office to appear as an expert witness in a hearing for either the Group Areas Board or the Resettlement Board, on the question of valuation of properties which were being expropriated. And I did so on several occasions thereafter. That was my first introduction to the office.

And thereafter you retained them as your solicitors?
---Yes, at a later stage.

Did you at any time do any political work there, other than work that was concerned with actions or trial matters that you had there?---No.

Did you attend any political meetings there,?---
No meetings at all in his office.

When, Mr. Bernstein, did you for the first time see this document which has been referred to as Operation Mayibuye?--My lord, that document I saw for the first time during this case, at some stage during the preparation of it.

Did you know of its existence before?---No sir I did not know of the existence of such a document.

I don't remember very well Mr. Bernstein, your lordship will forgive me if I am repeating myself, your lordship will inform me, I don't know whether I put it to you formally, you were never a member of Unkonto We Sizwe or on the High Command.---No sir I was not.

MR. BERRANGE: No further questions.

CROSS-EXAMINATION BY DR. YUTAR:

May it please your lordship. Mr. Bernstein, did this Operation Mayibuye come to you as a surprise?--- Well sir it depends what you mean quite by that. The existence of the document I said I was not aware of. The details of the document certainly came to me as a surprise. The fact that such a document should be in existence did not come as a surprise.

The fact that such a document should not..? ---Or perhaps I should say, a document discussing this topic did not come to me as a great surprise.

Did not?---No.

And what then came to you as a surprise? The details thereof?---The details certainly.

What details?---Well, the precise operation for guerilla warfare which is proposed, the suggestion of ..that it is feasible within a very short space of time. These things surprised me.

And the formation of units of M.K? or as the document puts it 'the proposed formation of units of M.K. to commit acts of sabotage' - did that come to you as a surprise?---I am not sure if I am quite following you. The formation of units of M.K. I had known about for a long time.

"Organisation" (I am reading from the document - perhaps it is only fair that you should have it in front of you) paragraph 4 on the very last page: "Organisation of Areas, organisers and setting up of proper M.K. machinery!" We know that units of the M.K. were set up to commit acts of sabotage. Did that come to you as a surprise?--- Do you mean at the time it was done, or are you now speaking of..?

At the time when you read this document for the first time?---I am still not sure if I am following you. It did not come to me as a surprise, I was aware that units of Umkonto had been set up from 1961, December.

You were aware of that?---Well, I had seen their Manifesto and I had heard talk that the organisation was in operation.

And you of course knew that their main targets were strategic roads, railways and other communications, power stations police stations, military camps, military forces and major industrial installations?--No sir, I would not put it that way. I think there are a number of things included there which I did not understand to be their main targets.

You knew lines of communication?---Yes, lines of communication, certainly.

Power stations?---Power stations yes.

Police stations?---No my lord. I have never heard any suggestion that Umkonto is attacking police stations.

Bantu Administration offices?--Yes I had heard such suggestions.

And irredeemable Government stooges, whatever that may mean?--No sir I won't accept that as being one of

the thing. I understood Umkonto to be attacking.

Mr. Bernstein, you have been in the Communist Party an awful long time?--- A number of years.

Twenty-five years, to be exact?--No sir, I did not say that.

What did you say?--I said I was in the Communist Party from 1939 until it was dissolved in 1950.

That did not deter you from being a Communist? ---No it did not deter me from being a Communist.

Shall we put it this way then: you were a Communist in 1939 and you are still one today?--My belief, yes.

And an ardent Communist?--I think that is fair enough, yes.

A very loyal disciple of Karl Marx?--Yes, sir, I think that is fair.

And all Karl Marx stood for?---Well, in general. You stressed the 'all' - there might be things I might disagree with, but in general I accept the theories and doctrine put forward by Marx.

And you were a member of the Communist Party from 1939 until 1950 when it was disbanded?---Dissolved.

Yes - well up to 1950 you were then a member for 11 years?--- That is correct.

And may I also pay you the compliment and say you were one of its leading members, by reason of your 'flair' for propaganda?---Well, there are two parts to that question, sir. I think I could be described as one of its leading members. Whether it is because of my flair for propaganda or not I would not like to say.

Alright - let us put it this way, you were certainly well-read in Communistic literature?--Yes sir,

I think that is fair.

Not only did you provide yourself with an adequate library, but you were the instrument of the police providing themselves with, as you put it, perhaps an even better library on Communism?---That is correct.

You read far and wide?--Yes I did.

And you were called upon from time to time to prepare, and issue, articles dealing with major disputes within the international Communist movement?---Are you now speaking ~~of~~ prior to 1950, or speaking generally? ---Well, generally.---Yes, I did prepare some documents on those subjects.

And you edited "The Fighting Talk"?---Not really my lord. I was one of an editorial committee, I was not the actual responsible editor.

And you yourself contributed a number of articles to that magazine?---That is correct.

And you have written for other publications, such as Spark?--Yes.

New Age?---Yes.

And even Assegai is not unknown to you?--- It is not unknown to me, no sir.

And what rank did you hold in the Communist Party until 1950 when it was dissolved?---My lord, at the time the Communist Party was dissolved I was a member of the Johannesburg District Committee of which at one time, I think in 1941 or thereabouts, for a year I was the Secretary of the committee.

That was a district committee?---The Johannesburg District Committee yes.

Well the only other committee above that would be the Central Committee?---The Central Committee yes.

Were you ever a member of the Central Committee?

---No sir I was never a member of the Central Committee.

And then when the Communist Party dissolved in 1950, it was revived in 1953?---That is correct.

You were still a Communist.--Yes.

Did you rejoin the Party?

MR. DERRANGE:

I think my lord that I should ask your lordship to warn the witness that this is a question which might tend to incriminate him - an offence other than that with which he is charged.

BY THE COURT (to Dr. Yutar)

Yes; well - are you prepared to give him an indemnity or not?---Yes my lord, I give him a blanket indemnity.

WITNESS: Well my lord, if that offer is seriously made, I would like to have an opportunity of discussing the question with counsel.

DR. YUTAR: Oh yes, I make this offer in all seriousness. I give you, on behalf of the Attorney-General, a complete indemnity from prosecution by reason of your becoming a member of the Communist Party from 1963 onwards, if in fact that be the case.

MR. DERRANGE: He wants to discuss it.

BY THE COURT (to the witness)

Well, why do you want to discuss it? Perhaps I can tell you that that is a valid indemnity. Mr. Yutar has the authority to give you that indemnity.

WITNESS: No I am not doubting its validity, sir. It is a question of the scope of that indemnity that I would like to discuss with counsel.

DR. YUTAR: Let me put it to you very clearly: it does not, of course, affect the proceedings in this case, the four charges in this case. But I undertake to indemnify you against prosecution against any charges that may be brought hereafter the conclusion of this case against you arising out of the evidence you now give.

WITNESS: My lord, is it unreasonable for me to have a small adjournment to discuss this matter with counsel?

BY THE COURT:

Well I think Mr. Yutar can go on to some other aspect in the meantime. (to Dr Yutar) Unless you would prefer to have this matter settled?---My lord it does form the foundation of certain important questions I propose to put to the witness my lord. But might I just follow that up, my lord?

Yes.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Mr. Bernstein, you understand the terms of my indemnity?--Yes I do.

In other words, it does not affect the present case, the 4 counts.---Correct.

But anything that you may say, in cross-examination, if it reveals that you committed an offence by reason of your joining a banned organisation, you are here and now completely indemnified against prosecution.

MR. BERRANGE:

My lord, I don't want to interject, but I myself would like to have a discussion with my learned friend in order to formulate the terms of the indemnity. If my learned friend can go on with something else in the meantime, perhaps..

BY THE COURT:

Well Mr. Yutar says it will make it inconvenient for him in disturbing the thread of his cross-examination.

AT THIS STAGE THE COURT ADJOURNS UNTIL 11.30.

Belt 05E

ON RESUMING AT 11.30 a.m.

MR. BERRANGE ADDRESSES THE COURT:

My lord, it would appear as if we, at any rate - I don't know if anybody else was under any misapprehension, but on a perusal of the Code it seems, my lord, that there is no power for the Attorney-General to offer any indemnity. The only section that deals with that, my lord is Section 254 of the Code, in which it is the Court that ultimately gives the indemnity, and that refers only to persons who are called as witnesses by the prosecution, and who are accomplices.

BY THE COURT: (to Mr. Berrange)

Hasn't the Attorney-General an inherent right to give a person an indemnity?---There is no such provision in the Code, as far as I can see. But my lord, if I can draw your attention to Section 5(3) of the Act, may I make it clear that I don't for one moment trust my learned friend's bona fides in this matter : It says

"Every Attorney-General shall exercise.....(quotes)perform any such function."

So it would appear, my lord, that even if we were prepared to accept my learned friend's undertaking - that is really what it amounts to, not an indemnity, - an undertaking not to prosecute, the Minister himself has the

power to reverse such an undertaking. If my learned friend were able to obtain the consent of the Minister, or an undertaking from the Minister, not to prosecute the witness in respect of any charges which may flow as a result of his answering this question, not only in this, but in other Provinces, my lord, then we might reconsider our position - or may we put it this way, the witness might reconsider his position. The position is my lord, that when we went to discuss the matter with the witness, he wanted to know what authority (he obviously seemed to know the law a bit better than we do) he wanted to know whether my learned friend had the authority, and that is why we went into this matter, and it does not seem to me that he has any authority. He can, of course, give an undertaking, but that is subject to reversal by the Minister. And I think the attitude that is adopted by Mr. Bernstein in this matter is that if he can obtain an undertaking from the Minister, which is applicable not only to this but to all the Provinces of the Republic, in terms of the so-called indemnity that my learned friend has offered to him, then he might very well re-consider his position.

DR. YUTAR:

May it please your lordship. My lord, I have given an offer of an indemnity, and it is true, in terms of sub-section 5 of section 7 as inserted by Section 45 of Act ~~22~~ 60 of 1957, the Minister can reverse my decision in granting indemnities. Now my lord, the position quite simply is this: the Minister has in no way interfered with me in the conduct of this prosecution, and I have no doubt that he would not reverse my offer of an indemnity, but be that as it may, if the indemnity in the

terms I have offered is not acceptable, then I am obliged, my lord, to ask your lordship to tell the witness that he must answer the question because of the provisions of Section 228(d). Your lordship will recall that in Count 3 of the Indictment the accused are charged with the contravention of the Suppression of Communism Act to the effect that they committed acts which were calculated to further the achievement of one or more of the objects of Communism.

That being so, Section 228(d) applies:

"An accused person called as a witness...(quotes)
..... then charged."

DR. YUTAR CONTINUES TO ADDRESS THE COURT IN THIS CONNECTION.

BY THE COURT: (to Mr. Berrange)

You are not contending that the matter is not relevant, are you Mr. Berrange?--My lord that is a matter which we propose to place in argument before your lordship at the argument stage.

MR. BERRANGE REPLIES TO DR. YUTAR.

BY THE COURT (to the witness)

I think you understand, Bernstein, what the position is.---Yes I do my lord.

According to the law you must answer this question. If you refuse to answer it all I can do is to detain you for 8 days, which is not going to do much harm to you in present circumstances. So you must make up your own mind whether you are going to answer the questions or not.
---Thankyou my lord.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Alright Bernstein, we understand each other now.
I repeat the question formally: when the Communist Party

was revived in 1963, did you re-join it?---My lord, I am afraid I must decline to answer that question.

On the ground you say that it may incriminate you---It may incriminate me in charges which are not before this Court.

Of course, Mr. Bernstein, if you had not re-joined it, the answer would have been a simple No. --- Well, that is a deduction, sir, which I leave to the Court to draw.

Mr. Bernstein, one of the objects of the Communist Party - by the way, despite your reluctance to answer that question, or refusal to answer that question, you still remain and continue to be a Communist?--By belief, yes sir.

By belief. In fact you issued a number of documents?--No well..

You wrote a number of articles?---Oh yes, I wrote a large number of articles.

And you subscribe to communistic literature? --Yes I do.

And you follow at least the events, the fortunes of the Communist Party in this country?--Yes I do.

And you had no reason to depart or dispute any of the terms of its policy?--In general not, sir, no.

And we do know that the immediate short-term policy of the Communist Party was to alleviate the 'oppression of the oppressed peoples' in this country, as the Communist Party puts it?---That is correct.

And that of course, we have heard from another witness, is the long-term policy of the African National Congress?---That is correct.

But so far as the short-term policy of the Communist Party is concerned, and the long-term policy of the A.N.C. is concerned, that policy coincided?--In general, yes.

Now we know that up to a certain stage Albert Luthuli was the President of the African National Congress? ---That is correct.

We know Accused No. 1 was one of his deputies? --I am not sure if I would say that. He was certainly one of the leading members of the African National Congress.

We do know that accused No. 2 was Secretary-General of the A.N.C?---At one time, yes sir.

And at another time, when he was banned, he also went underground, and still continued in the service of the A.N.C?---That is what he said in Court, yes.

Who is the leader of the Communist Party in South Africa?--My lord, I am afraid that is another question I must decline to answer.

On what ground?--I am afraid my conscience ^{me} will not permit/to disclose the names of people who participated in unlawful organisations.

You know of course who the leader is?---Well I know some of the leaders, sir.

You know who the chief leader of the Communist Party is?--I don't know if there is such a thing.

Well, the head of the Communist Party.--I don't think there is such a thing. The Communist Party is led by a leading committee which acts as a sort of collective body. I don't think one can designate a single individual as the leader.

Who are the members of that committee?---The same answer.

You know who they are?--I know some of them.

But you are not prepared to answer?--No I am afraid not.

Not on the ground that you may incriminate yourself, but on the ground that your conscience won't allow you to?--That is correct.

Who was the Secretary of the Communist Party?

--The same answer.

And where was the headquarters of the Communist Party?--My lord, the headquarters of the Communist Party were in Johannesburg.

Whereabout?--That I could not answer sir.

Why not?--I don't know quite what that means. If you mean, where did they have a permanent office, records, and so on, I don't know sir.

Take it in stages: up til 1950 when you were a member of the Communist Party, where was its headquarters? --Its headquarters my lord were in Cape Town in all the time I was in the Party.

Johannesburg had no headquarters here?--It had a District Committee.

And then when it was revived in 1953 you don't know where its headquarters were, except to say in Johannesburg?--That is so.

And the Communist Party managed to exist from 1953 to 1961, obviously underground?--I am not sure of this 1961 date. My lord, my impression is that the Communist Party first showed signs of its existence in 1960. I think that is so.

Right. Well what did it do from 1953 to 1960?-- My lord, I can only assume that it operated secretly.

Underground?--I take it so, yes

And during that period you continued writing articles?--I did sir.

By way of explanation on conflicts in the Communist movement?---I don't think in that period, no. I don't think there were any such issues in that time that I can remember.

You certainly wrote articles defining the Communist Party policy and furthering its aims and objects? --No my lord, that is not so. I wrote articles dealing with political problems in South Africa, and possibly international problems. I think that is as far as I can take it.

Well I propose to take it a little further almost immediately. And in..oh yes, now this National Liberation Movement, you have explained to his lordship, is not an organic body?--That is so.

As his lordship put it, it represented a certain political ideology?--That is correct.

But it did consist of certain constituent bodies?---Both bodies and individuals.

And individuals, yes. And the bodies that I am concerned with, of course, are the Communist Party of South Africa, the African National Congress, the South African Indian Congress and the coloured Peoples Congress.---Yes. That is so.

And SACTU, the South African Congress of Trade Unions.---That is so.

And you have explained to his lordship that these bodies functioned by way of what is termed Joint

Executives?---Insofar as all the bodies you have mentioned are concerned, except the Communist Party, that is true.

Well how did the Communist Party function?--- My lord, it is an independent organisation. It functioned independently, and the broad line of policy was similar on many issues to those of the Congresses, but it did not meet as an organisation, to the best of my knowledge, with the leading bodies of the Congresses.

But it issued statements from time to time?--- Oh yes certainly. In its own name and on its own behalf.

BY THE COURT:

Are you now talking about this Joint Consultative Committee?---Yes my lord...

Was there no representative of the Communist Party on it?--Never at any time my lord.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

That you know?---Well, I know from having attended meetings of the National Joint Executives of the Congresses, and at no time when I was present, and at no time that I have heard of at all were representatives of the Communist Party present as representing the Party.

In what capacity did you attend?--I attended as a National Executive member of the South African Congress of Democrats.

And we know, of course, the South African Congress of Democrats comprise a large number of Communists? ---There were many Communists in its ranks, and many non-Communists, and several anti-Communists.

Yes. And is it not a fact, Mr. Bernstein,

that the Communists acted that way by infiltration into various other organisations?---My lord, I don't think I would accept that as a formulation. I think it is true to say that Communists, generally, don't restrict their activities to the Communist Party. They join organisations whose aims and objects they approve of and they support, and they become members of those organisations in the normal way.

And in that way they capture and control these various organisations into which they infiltrate?---My lord on some occasions when their point of view of the majority point of view they no doubt manage to achieve control of some of these organisations. It is not invariable.

It dominated the Trade Unions, didn't it?---
No I don't think that is correct, if you are speaking about the Trade Unions in South Africa?

Yes.--No sir I don't think that is true.

Did it dominate the South African Congress of Trade Unions?---There are several Communists, or many Communists, possibly, ~~are~~ in fairly important positions in the South African Congress of Trade Unions.

There are Communists in the African National Congress?---Yes there are, sir.

There are Communists in the South African Indian Congress?--There are, sir.

And there are Communists in the South African Coloured Peoples Congress?---My lord, I have very little knowledge of the South African Coloured Peoples Congress. I would not like to speak of that.

And the Congress of Democrats, was it not in fact Communistically controlled?--No sir, I don't think that is correct either.

Well, who was the leader of the Congress of Democrats?--Well my lord at different times it had different secretaries and chairmen. I think the President of the organisation at all times was a Mr. Peter Byleveld, as far as I can recall.

A Communist?---I don't think so, sir.

A man who has been restricted under the Suppression of Communism Act?--Yes my lord.

Right, who else?---Well that is the President or Chairman. The secretary of the organisation varied from time to time. I think, as far as my memory goes, my lord, I think Mr. Cecil Williams was the original secretary of the organisation.

And he is also a co-conspirator in this case.
--Yes.

Is he also not a Communist?--Yes he is my lord.

Yes?---And at a later stage Mr. Ben Turok.

Also a Communist?---I am not sure about that.

But he is the one who placed the bomb in the drawer of the President of the Native Divorce Court in the Rissik Street Post Office?---That is so.

Mr. Bernstein, I don't want to beat about the bush. Let me put it to you quite bluntly - the policy of the Communist Party is abhorrent to the West in general?
--My lord, it is abhorrent to many people in the West, and it has many supporters in the West.

It is abhorrent to the majority of the people in this country?---No I will not subscribe to that, sir.

Why not?---Because the opinion of the majority of the people in this country has never been tested on the question.

Well, we know what the claimed membership of the A.N.C. is - 120,000 out of 12,000,000.---That is so.

What is the membership of the Communist Party? --My lord I can't say - it is very small.

What is the membership?--I can't say.

When you say 'it is very small' what figure have you in mind?--My lord, I think at its peak in round about 1946 or 1947, as far as I can recall, its membership did not run to more than about 2000 at its very peak.

Well we will add the 2000 to the 120,000 and make it 122,000. Do you think that is representative of the people of this country?--My lord, I did not say that. I think, when one is dealing with the Communist Party, it must be borne in mind that mere support of the Party's objects is not sufficient to qualify a person for membership.

My. Bernstein, are you prepared to concede that during 1953 to 1960 or 1961 the Communist Party, even assume it had a peak membership of 2000, managed to function secretly?---Yes I am prepared to concede that.

And what follows, underground?--Yes.

And it was one of the constituent bodies of the National Liberation Movement?---My lord, as I explained, different people use the phrase different ways. In my view it was one of the constituent bodies.

I am accepting your explanation on Friday.

And is it not a fact that in the National Liberation Movement the African National Congress was the senior partner?--Yes that is a fact.

And is it not a fact, too, that the Communist Party used the African National Congress in order to propagate its aims and objects?---No I don't accept that. I don't think the leaders of the African National Congress are people of a calibre who allow themselves to be used by just anybody who wants to make use of them. They are leaders in their own right, capable of deciding their own direction, and they do so, sir, not because they are being used by others, but because they have decided for themselves what is correct.

You know of course Nelson Mandela, Accused No. 1, he was one of the leading members of the A.N.C?--- He was, sir.

Would you not describe him as a Communist as well?---No sir.

Although he took the trouble to write articles on "How to be a good Communist?"---My lord, from my point of view, those articles prove substantially that he is not a Communist.

Don't you approve the contents of those articles?--No sir, I don't approve of them.

Why not?---Because I don't think they accurately state the point of view of Communism.

Don't you agree with the Statement that a Communist is a revolutionary?--Yes I agree with that.

Do you remember the evidence of Mr. "X"?--- I do, sir.

Who said that accused No. 1, on his return from Africa and Europe, reported to the Natal Regional Command,

and amongst other things said to them "Let it not be known among the rank and file that we are being supported by the Communists."---I heard that evidence.

~~would-that-be-true?~~ If that be true, do you think it lends colour to my suggestion to you that the Communists were in fact using the African National Congress? ---Sir, all I can say is that I don't accept that it is true, or that it could be true.

And I want to put it to you that the Communist Party, in fact, have managed without the African National Congress, certainly up to 1960,?--I am not following you very well - manage what?

To propagate its aims and objects?---Oh no I don't agree at all, sir. The Communist Party propagated its aims and objects for itself, in its own name, issued its own propaganda.

The reason why I suggested 1960 was this, Mr. Bernstein: from 1953 to 1960, whereas the Communist Party was a banned organisation, yet the National Congresses had not yet been banned.---That is correct.

And there was a wonderful opportunity for those members who were members, and who were members of the A.N.C. to use the A.N.C. in order to propagate the aims and objects of the Communist Party.--My lord, as I have said before, the aims of Communists in this country, and the aims of the African National Congress virtually coincide on immediate problems, and therefore there is no necessity in the African National Congress to use that organisation for any purpose. He supports it because he approves fundamentally of its aims and policy, and he would propagate those aims both because he is a Communist and because he is a member of the A.N.C.

Are you suggesting, Mr. Bernstein, that in fact the Communist Party and the A.N.C. did not work together as partners in the National Liberation Movement?---No sir, I think that one could say that there was co-operation between them from time to time. What I did say was that they did not meet together in Joint Executive Committees as far as I am aware.

I am going a little further than co-operation. I say that they worked together as partners, full partners, in the National Liberation Movement?---That would imply that they met together, and decided common policy together. I am not aware that that took place during the period you are speaking of, sir.

Belt 86E.

Tell me if the Communist Party managed without headquarters from 1953 to 1960, why did the need arise in 1961 to establish a headquarters?---If you are referring to Rivonia..?

I am.---Well I have explained the purpose, so far as I was told, for which Rivonia farm was necessary. It was not to establish headquarters, but to provide a place for hiding, for people who might be in hiding, and to provide a convenient place where political work could be done.

A two-fold purpose then - could I have it again, Mr. Bernstein? Sorry to trouble you.---Yes, to provide a place for persons who required hiding, and to provide a place where political work could be carried out.

Now did in fact the Communist Party use Rivonia to carry out political work?--My lord, it is clear from the evidence here that it did.

Now how required seclusion? What political

refugees were there who required a place for a hideout?
--My lord, at the particular time when Rivonia was bought, I don't know if there were any. I think it should be borne in mind that during the 1960 emergency there were some several thousand political workers, supporters of political movement, who were arrested and detained; a large number of people who were being looked for for detention, who managed to escape the net, and I think everybody in the political movement was conscious of the fact that a similar situation could arise at any time again in this country, and that the need could well arise on a very large scale.

Now up til then, who were the Communists who were, first of all, in hiding? Who were actually in hiding? Any?---As I say I can't recall that anybody was actually in hiding until Mr. Mandela went into hiding in 1961.

But you said he is not Communist.---No sir.

But I am talking about Communists.---Well, as I say I don't know of any other person at all, of any kind.

Now, even after the state of Emergency, what Communists were in hiding at Rivonia?---My lord....I don't think that I can...are you still speaking about 1961, or are you talking right through up to..?

No, I am speaking of 1961.---Oh I see. My lord, I don't think I can answer that question. The people who I knew to be in hiding during that period at Rivonia are all people who are accused here in the dock. I don't know of any other people who were in hiding at Rivonia during that period.

So you cannot name a single Communist who was

in hiding in Rivonia during 1961?--No sir, except any of the ~~Gemma~~ accused here in the dock..

Who are also communists?---Who might be Communists

Now if membership of the Communist Party was a mere 2,000, I don't suppose much money could have been raised by the Communist Party by way of subscriptions from those members?---My lord, a fair amount of money was raised by way of subscriptions - subscriptions in the Communist Party have always been very high, by comparison with other political organisations.

What amount, Mr. Bernstein?---I can't say my lord, but they are extremely high, and they tend to be on a sliding scale, on the basis of income - the more your income, the more you pay.

But what is the total amount? If we had a balance sheet of the Communist Party, what would be the capital?--I could not even venture a guess sir.

Not even a guess?--No sir.

Not even a semblance of a guess?---No sir, not even a semblance of a guess.

Well, would you say it was in very affluent circumstances?---My lord, in the time when I know details of it, it never had sufficient money for all the things it was trying to do.

Like most organisations?---That is so.

If that be so, where did the Communist Party.. why did the Communist Party in 1961, embark upon a scheme to purchase Rivonia to serve as a hideout at a cost of R25,000?--I can't answer that question.

You can't answer that. And also why, if it was only a hideout that was required, why buy a place

of 28 acres, approximately?---Again I can't answer that question precisely. I take it that it was a secluded place, and convenient for a hideout.

Well I am told Travallyn was also a secluded place and convenient for a hideout, according to one of the documents. And that is only a matter of an acre or so, costing only R8,500. Can you see the need for a Party, not in affluent circumstances, desiring to carry on political work as it had done in the past, desiring to house political refugees, embarking on a project costing 25,000 Rand?--- My lord I can't explain it. I can only say that when I valued the property, I told Mr. Harmel, as I said in evidence on Friday, that I thought at that price this was a very good buy indeed from a commercial point of view. That is the only thing I can say.

Right you say that you first learnt of the purchase of Rivonia from Mr. Harmel who asked you to make a valuation?--That is so.

Harmel of course is a Communist?---Yes.

Was, still is, always has been.---Well in belief, certainly sir.

A member of the Communist Party?---Up to 1960, yes, sir.

And beyond?-- I can't answer that question.

And in 1961?---No I am not prepared to answer that.

Then what made you have a suspicion, when he approached you in 1961, that Rivonia was being purchased by the Communist Party?---Well my lord I had known Mr. Harmel's political views for many many years. I have no doubt that when he is active, interesting himself in a political

problem, he is doing so largely because his beliefs are those of a Communist.

Yes?--Also my suspicions were confirmed when I found Mr. Jelliman had been engaged as manager of the place, because my only knowledge of Mr. Jelliman was as he said here in evidence I think that he used to sell Left Wing literature at Communist Party meetings on the City Hall steps.

And attend meetings.----Attend meetings and sell literature.

You see, seeing you have mentioned Mr. Jelliman, we find you at Rivonia in the latter half of 1961, according to Mr. Jelliman.---Yes.

In fact Mr. Jelliman went further and said one month you paid his salary.--I heard him say that.

Is it true?--My lord, I would say not it is not true, but I would just like to add this, that it is just possible that at that time I could have been asked by Mr. Harmel, since I was going out to meet a builder, to take Mr. Jelliman's wages and hand them over to him. It is possible. I have no memory of it at all.

And we find you at Rivonia on the day of the police raid.---That is so.

And on your own admission you are at Rivonia during 1962 and 1963.--That is correct.

Now Harmel you knew was a Communist, and you knew he had a house somewhere in Orchards, wasn't it?--- That is so.

And so he was not buying the house for himself?--- No sir he was not.

And he was a colleague of yours?--Yes he was.

A close colleague of yours?---He has been a

friend of mine for many years.

Did you ask him why this place was being bought?

---No sir, as I say, he gave me an explanation why it was being bought, and that is as far as I took the matter.

Did you never ask him where the money was coming from?--No I did not.

You never asked him why this huge place?--No sir.

Although you could have?--I could have, yes.

What stopped you?--My lord I think I indicated I deliberately did not want to know more about this sort of thing than I had to know, and I deliberately refrained from asking any questions.

Mr. Bernstein, you know who the leaders of the Communist Party are, but that has not prevented you from taking up an attitude in this box "I refuse to disclose their identity"---That is so.

You could have made those enquiries, and taken up the same attitude saying "I refuse to disclose any further details."---I could, sir, but under conditions where one is being interrogated under duress I much prefer not to know, than have to rely on my own morale to refuse to answer.

You say your suspicions were confirmed at a subsequent meeting that Rivonia was being purchased by the Communist Party?---I heard it said at a subsequent occasion, yes.

Where was that occasion?---At Rivonia itself.

Who all were present?--No sir, I am afraid I must decline to answer that.

When did this take place?---During 1962.

And your suspicions that this property was

purchased by the Communist Party was confirmed?--That is so.

But you decline to tell us who was present?---

That is so.

Although you know who they are?--Yes.

Was the purpose for the purchase discussed at that meeting?---My lord, not as far as I can remember. I mean, the purpose was by that time quite obvious. It was, as I said, for carrying out political work.

This is 1962 now?--Yes.

How many Communists had been using Rivonia as a hideout in 1962?---

The score is nil for 1961.---I think, to the best of my knowledge, the score is nil for 1962.

The score is nil for 1962. And let us complete the picture now, and get it out of the way - what is the score for 1963?---Well, as I have said, my lord, the only people..

Communists.---..that I am aware of are those amongst the accused, and they will answer for themselves as to that.

So Mr. Bernstein we have this position then: that although one of the first reasons you give for the purchase of Rivonia by the Communist Party was to serve as a political hide-out, throughout its whole existence not a single Communist, as such, was ever housed there or ever used Rivonia as a hideout?--To my knowledge.

In fact, who do we find there? We find No. 1, who is one of the leaders of the A.N.C; No. 1 Accused?--That is so.

We find No. 2 there, another leader of the A.N.C.---That is correct.

We find No. 4 there, a nother leader of the A.N.C?--Yes sir.

We find No. 7 there, another leader of the A.N.C?--Correct.

Mr. Goldberg - what is his political colour?---
My lord, I know that he was a member of the Congress of Democrats.

Was it Mhlaba you met over there, or Motsoaledi?
--No it was Mhlaba.

No. 7. Well then if no Communists were hidden at Rivonia, we can take it then the second reason applied, that Rivonia was used to do the work of the Communist Party.
---Some of the work of the Communist Party certainly.

Well, where else did the Communist Party operate?
--I am afraid I don't know that.

Well why do you say 'some of the work' then?---
Well I am assuming some. It might be all, but I don't know.

Well, if a party spends £25,000 on a palatial place like Rivonia, and it is so beautifully secluded, do you think it would run the expense of having another headquarters, or a sub-headquarters?--Not likely my lord, but it does not follow that all the work of the Party was in fact done there.

No, I should imagine that some of the work is done at the houses of some of the leaders.---That could well be.
It could be.--Yes.

Now I want to put to you some documents. The first one is Exhibit C.M. no C.O. (page 24). Now Mr. Bernstein, that is a document issued by the South African Communist Party, right?---That is so, sir.

"Vorster's Nazi Law can Never Destroy Communism." "This message is to you from the South African Communist Party."--Are you quoting from the document?

Oh I beg your pardon, at page 27. Now let us just look at page 24, the first page. You see this document - have you seen it before?--Yes I have my lord.

BY THE COURT: Which document are you referring to now?

DR. YUTAR: ^{C.O.} ~~My~~ my lord, page. 24.

It deals with 1950 when Swart first brought in the Suppression of Communism Act, and then the seventh line "But these laws did not and could not destroy Communism." That is a correct statement?---Obviously, sir. The Communist Party was still there.

I just wanted it on record.--Yes.

"No@ Nazi Vorster has brought in a new Police State or the so-called Sabotage Act. Again the Nats/^{say}they will put an end to Communism and sabotage. The truth is that the law will put an end to freedom, but will not put an end either to sabotage or to Communism." Is that right? ---That is right.

Communism was still there?--Yes.

And so was sabotage?--Yes.

When was this document issued?--My lord, I can only fix a date from the internal evidence. I would have to read the document.

Yes. Well we know when the Sabotage Act was brought in. We know the Sabotage Act was assented to on the 27th June 1962.--Yes.

So this is some time after that?--It would appear to me to be about that time from the wording. I am not very sure of that.

We do know, of course, that acts of sabotage had taken place on a fairly large scale up til then?---That is correct.

xk The Communist Party is here supporting it, not so?--I don't know if that is so, either.

Well, it says here "It will not put an end either to sabotage or to Communism."--Well that is a statement of opinion or of fact, whichever you like to put it.

" Why sabotage? Why do people resort to violent acts like sabotage? They only do so when there is no other way of expressing their aspirations for freedom. When all peaceful legal methods of obtaining social progress are suppressed by force and terror, by reactionary ruling class. So Vorster's Nazilaw means more violence, more sabotage, in South Africa." Is that correct?---You mean, is that a correct political statement, or is that what is in the document?

Yes, is it a correct political statement?---
My lord, I would say in general it is probably correct.

Let us make it perfectly clear, then. It sums up the situation in this way: the Government does not want to heed any representations made by the African National Congress or other speakers on behalf of the National Liberation Movement, they pass the Sabotage Act. Sabotage had already taken place, and will continue to take place?--That is so, sir.

You knew of it.--You mean that it would continue to take place?

You knew that acts of sabotage had taken place?
--Yes I knew that.

You felt that it would continue to take place?

--I still feel it will continue to take place.

And you did not raise your hand in any way to stop it?--I did, sir. I raised my hand to stop the suppression of legal and legitimate expression by the non-European people which had led directly to the commission of acts of sabotage.

And when you raised your hand to stop the ~~situation~~ suppression ~~when~~ you knew perfectly well, of course, that what you called suppression would not be stopped?--I am sorry could you repeat that.

When you raised your hand to stop the suppression which led to sabotage, you knew perfectly well that what you called 'suppression' would not cease?--My lord, I suspected it would not cease, because I did not think we were able to force our point of view on the Government, but I sincerely attempted to see that it ceased.

And you are not a Pacifist?--No sir I am not.

In fact, being a Communist, you are a revolutionary?--Yes, in the sense of wanting a radical change in society, yes.

And let us face it, the aim of the Communist Party is the overthrow of the South African Government?--Yes, that is so.

If need be, by force and violence?--My lord, in certain circumstances yes.

A policy to which you subscribed?--Yes.

A policy which you advocated?--Well now I am not sure - if you mean, did I ever advocate the violent overthrow of the South African Government, no sir.

as a leading member or as a leading supporter of the Communist Party

the Communist Party?--My lord, the ultimate aim of the Communist Party was the overthrow of the South African Government, yes.

Yes, if needs/^{be}by force and violence?--If needs be by force and violence.

Is that not the history of the Communist Party throughout the world, the overthrow of the Government of the day by revolutionary methods?--Yes that is so.

I need only mention Cuba and Algeria.--Yes, quite correct.

Whose literature we have been enjoined to read and study in this case?--Yes that is right.

Now let us take the last line on that first page "Such a law makes it certain that sabotage and other forms of violence will increase." Is that right?---Yes. Quite correct.

And who is it addressed to, this document?--- I take it to the public my lord.

To the public. Let us take the next page. Under the heading "Won't stop Communism" and would you please help me there in case I misread because my page is rather blunt "Laws and threats can never stop the spread of Communist ideas, nor can they stop the African Communist carrying on its struggles for the workers and oppressed people." is that correct?---The South African Communist Party carrying on its struggle.

And look at the middle with the three.--black dots.

Three black dots yes, "That the Soviet Union and other Socialist countries are foremost in providing a better life for the people and striving for world peace."

There referring to the Mother Country of Communism?--Yes.

Is that right?--Yes.

Are you not there indicating that the Communist Party in South Africa is going to join hands with the African National Congress in order to get a better ~~living~~ life for the people and strive for world peace?---No sir, I don't read it that way at all. I don't see any reference to the African National Congress.

"But all the lies of the Nationalists, together with /the capitalist press and the Nat. Radio South Africa cannot hide the fact that the Soviet Union and other Socialist countries are foremost in providing a better life for the people and strive for world peace." Is it not suggesting that the Communist Party, wherever it exists, takes the lead in the struggle to relieve oppressed people?---No sir, what it is suggesting is that the Soviet Union is foremost in the world in attempting to provide a better life for its people.

"That Communists everywhere are the most tireless and courageous fighters for the peoples rights, for freedom and democracy". Does that include the Communists in South Africa as well?--I think it does, sir.

Right. "That Communism is the answer to poverty, exploitation, injustice, unemployment and capitalist society, the bright future of all mankind." Does that apply to the Communists in South Africa?---Certainly.

Right. And just one other line on that page - you see the second last paragraph "Secondly the Nats. do hate Communists, because they hate every kind of freedom, and Communism means the greatest possible freedom for the greatest number of people."---Yes.

That was the aim and object of the Communist

Party in this country, to achieve what it called the liberation of the native people in this country?--That is correct.

Did you not join hands and forces with the native people in this country in order to achieve that ultimate goal?--My lord, that is a bit of a difficult question to answer. I don't know quite what it means, join hands with the native people.

Yes, the Communists were going to achieve the freedom of the native people in this country?--Yes.

I am suggesting that to do that you have got to work hand-in-hand with the native people?---Quite correct.

That is all I suggested to you. And then you give a pledge on the last page "We South African Communists solemnly pledge that we shall work for the ending of white domination, and the building of a non-racial democratic society in its place." That is a solemn pledge? ---That is so.

A pledge which the Communist Party on its own could not achieve? Could not realise?---My lord, that is a matter of opinion. I think that possibly, even on its own, if there was no other organisation working in this direction, ultimately, even on its own, the Communist Party would realise this aim.

Ultimately?---Ultimately yes.

With the Communist Party's peak membership at 2000, do you think that on its own could achieve that ultimate goal?--My lord, I believe that ultimately even on its own, it would convince the overwhelming majority of the people that that goal is worth fighting for, and would by that means achieve that goal.

For that purpose you had to make propaganda amongst the non-European section of the population?---

That is so.

That is in fact what the Communist Party did?

--Yes.

And I want to put it to you bluntly that in fact the Communist Party incited the non-Europeans in this country.---To what?

To overthrow the South African Government, if needs be, by violence.---I don't think that is so my lord.

Well, what is the position?---It urged the people to struggle against the South African Government, to bring about its downfall. I don't think that at any time that I know of they actually incited the people to the violent overthrow of the South African Government.

Isn't that the hallmark of Communists everywhere, to achieve its ultimate goal by revolution if necessary?--If necessary, yes.

Yes!---'If necessary' is the ϕ important part.

Well Mr. Bernstein, let us just pause there for a moment, to contemplate the position. The Communist Party had striven ~~xxxx~~ until 1950 as a legal lawful organisation to achieve that ultimate goal?--That is so.

And it failed.---That is so.

The African National Congress continued in its fight until 1960 when it was banned, and it also failed?---That is correct.

But both organisations continued thereafter, not so?--That is so.

And was there any appreciable relenting on the part of the Government to the demands of either the Communist Party or the African National Congress ?--No my lord,

no appreciable relenting.

None at all. So had we not reached..now I am going to quote a word in a document I am going to present to you just now.. had the National Liberation Movement not reached what it called an impasse?---I think it was reaching very close to that position. I still think there were, and there are even now prospects.

Belt 87E. And if these organisations or that movement reached an impasse without any concessions from the Government, what was the answer thereto?---My lord, it has been in the position of not receiving any concessions from the Government ever since the Government was elected, which was in 1948.

What is the answer thereto?--The answer thereto is to maintain your pressure, and keep on pressing for what you stand for, sir, in the hope that ultimately you will convince the overwhelming majority of the people that you are right.

Yes, but the Communists tried it, failed, and was banned, the African National Congress tried it, failed, and it was banned - we are now reaching the critical years of 1961/2/3, and is it not a fact that the Afro-Asian nations got together and earmarked the year 1963 as the year of liberation?---That is what they said sir.

And we have passed 1963, and there has been no appreciable concession to the demands of either the A.N.C. or the South African Communist Party?--That is correct.

What is the answer to that?---The answer is to maintain that pressure, and keep up with it.

What about going over to a policy of violence?
---My lord, the question of going over to a policy of

violence is not because the demands of the African National Congress or the Communist Party have not been met; both these organisations date back over 30 years, and in the whole of that period I think they can both say that their demands have not been met. The going over to violence was not as a result of the fact that their demands had not been met, but of the fact that no possible means of expression their demands were left open to them.

You know, don't you, that in fact the A.N.C. had changed its policy from one of non-violence to violence? ---Well I think my lord I said in chief that they changed their policy from one of non-violence to one where they would no longer coddle people who engaged in violent action.

So you are not prepared to accept the position so clearly enunciated in a Communist document that the A.N.C. had now adopted a new line, it had gone over to violence, and it was now the duty of the leaders of the A.N.C. to educate the masses in terms of this new policy of violence?---My lord, I would not accept that as a correct statement.

Although I am almost quoting to you verbatim from a Communist document?---My lord, I think Communists are just as fallible as other people - they also make mistakes.

So if that appears in a Communist document, it is mistaken?--It is a mistaken interpretation of policy. OF THE African National Congress.

Let me just finish this document please, under the heading "Hit Back" you have got here "Let us all, Communist and non-Communist alike, unite in a stern and dedicated fight for freedom". What exactly is meant by that, Mr. Bernstein?--My lord, the Communist Party has used this sort of phraseology ever since its

foundation. It means, just what it says, let us unite, and dedicate ourselves to a struggle, if you like, to ..I can't think of a better word, to a fight for freedom. It does not connote necessarily arms or violence. It is a phrase that was used - for three years in the Treason Trial we heard this phrase being quoted from every speech and document produced at that case. The word was used over and over again. It did not connote a policy of violence, and still doesn't.

BY THE COURT:

There is one difference, though, Mr. Bernstein, when this document was issued, acts of sabotage were being done.--Yes.

And everyone knew that the acts were being done under the auspices of the African National Congress or of Umkonto.---Yes.

Now how would any reader of this document understand this? Wouldnt he read it as an incitement to join them in what they are doing?---Well my lord, I don't read it that way. What it calls for is unity between Communists and non-Communists.

I agree with you that at a time when there was no violence being done in the country, this would simply be the ordinary propaganda, but this propaganda is made in the light of certain events that were taking place, and were known by every reader to be taking place.--- My lord that is so. I am not trying to say that this doesnot connote that the Communist Party would be prepared, under certain circumstances, to use violence. I only say that that can't be read as an absolute...

Well isn't it an incitement to the readers to join in the violence?---I would not read it that way. I

would read it as an incitement to the people to join in the general struggle which is going on, whatever the means might be.

Well the form of the general struggle at that time was violence.--One of the forms of it, my lord.

Well, the only form of it.---No sir I don't think that is the correct summary.

Well, what other form was there at that time in 1962 that anybody knew about?---My lord, there was a great deal of propaganda, of agitation going on; a great deal of attempts made - this was 1962 was it? a great deal of attention being paid for instance to the preparation of a campaign against passes, and possibly leading up to the burning of passes, or some such thing. I don't think that one can say that the only activity that was going on was violence.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Mr. Bernstein, let us not quibble with words, if I may just follow up his lordships' observations. Up to 1961 you had tried all methods, pamphlets, strikes, defiance campaign - that had failed.--Correct.

By 1962 your main form of attack was violence. ---Your meaning whose?

I mean the Communist Party and the A.N.C.?--- My lord I don't accept that at all. Possibly one of the forms or methods they were prepared to consent to or accept as justifiable, but I will not accept that it was either the main or the only method.

And is it not a fact that all these other suggestions that you have now told his lordship about, defiance campaigns, burning of passes, were merely acts to set aflame even more vigorously the spirit of the people

to fight, by violence if needs be?-- My lord, I would put it just the other way around. I would say the acts of sabotage were an attempt to inspire the people to carry on the political struggle. That seems to me..

And might I suggest to you one other difference - in 1962 the A.N.C. had what they termed Freedom Fighters. ---My lord, I don't know what is implied by that. The A.N.C. had spoken of their members as Freedom Fighters for many, many years.

Amadela Kufa.---Well my lord the Amadela Kufa date back to 1952.

Yes, with this difference - they were now being sent to Algeria, Ethippia and elsewhere for military training.---Some few were.

How many?---Well according to the evidence we have had there in this case my lord I think a couple of hundred.

Isn't that an important difference?---They were few, if you take the overall numbers of the volunteers of the African National Congress, that is a very small part of them.

And these 300 (I think Suliman said 364) but take 300, they were to go and come back, and each one was to train others.---That is what he said.

And just imagine how that was going to snowball,---Yes that may be so.

That may beso! Now let us turn, in the light of your reply to his lordship, let us turn to the very next document, Exhibit C.P. (Page 27). Mr. Bernstein, this is a document it is headed "1950 the Communist Party of South Africa, in 1960 African National Congress who will they ban next."---That is right.

And then the second part of it "The Communists call for Action." Now both these documents are issued by the South African Communist Party. Mr. Bernstein, I can't of course read all, and I am not going to read all. I am only going to read certain lines. You are at liberty to take these with you, to study, in case I leave out anything you want to add.---Yes sir.

BY THE COURT (to Dr. Yutar)

Have we any date for this document?---No my lord I was going to ask for that.

There is no date in the evidence?---No, no date in the evidence.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED)

Now Mr. Bernstein..

BY THE COURT: During 1960 or after 1960. WITNESS: During or after my lord, I am not sure when.

DR. YUTAR (CONTINUED):

Well it is obvious, not so, Mr. Bernstein, that it is sometime during or after 1960?---That is so.

Now just a comment I want to make about the second paragraph "They live on lies." Have you got that? Third paragraph?--Yes.

Just a comment I want to make: did the Communist Party also not..did the Communist Party not live on lies?--No sir.

No?--No.

Is there no Communist document which has not falsely represented the position to the people?---My lord, there might be misstatements of fact in Communist documents here and there. In general I do not believe that the Communist Party have ever misrepresented the position in this country to the people.

I want to put it to you Mr. Bernstein, that not only the Communist Party has falsely represented the position to the people, but that you yourself, personally, whether as a member of the Communist Party or not, but you yourself have disseminated false propaganda abroad about conditions in this country.---My lord, I will deny that. I admit that I may be fallible. I might have on occasion made a mistake on facts, it is possible.

I will come to your own document presently. Now we come to the next paragraph "The ~~XXX~~ Truth About Communists." Have you got that?---Yes.

I want to read the sixth line.--Yes.

"For 30 years the former Communist Party of South Africa stood in the front ranks of the struggle for equality and human ranks. It was dissolved. Most of its members carried on with the struggle for the interests and needs of the people as they had always done." Is it not a fact that the Communists carried on the struggle in Trade Unions?---Well, as members of Trade Unions, yes they did.

And likewise in the A.N.C?---Those who were members of the A.N.C. yes.

And likewise in all other similar organisations that constituted this National Liberation Front or Movement? --Yes sir that is correct.

Now look at the last paragraph - just read it to yourself. "We Communists pledge ourselves to work loyally and courageously with democratic South Africans of all political views to destroy racialism and colour bars. Let us unite in the great fight for freedom and democracy to which win for every single person in our land" and then follows what I might term the Communists Manifesto. Mr.

Bernstein have you read that?---Yes I have read it.

Is it not a fact that here the Communists indicate quite clearly that they are joining hands with the non-Europeans in this country?---European and non-European sir - all democratic South Africans.

Partnership - partners in the struggle?--Yes.

And at a time when violence had been raging and ravaging this country for a period of over a year.

BY THE COURT: One does not know whether it had started when this document was issued. DR. YUTAR: Oh I am so sorry.

Probably not.---Yes.

WITNESS: It is the same phraseology my lord, a standard phraseology!

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

But now you are uniting hands to achieve the following: the right to vote for and share in the Government?---That is so.

Communist aims and objects?---Yes sir.

And likewise the others, 'equal rights and opportunity, enough wages, a life of ? peace and freedom.'
---Correct sir.

Now the next page, "The Communist call for action: organise, unite and mobilise." Now can you tell his lordship when more or less this was issued?--My lord, only if I read the document and there is something in it..

BY THE COURT:

This is not the same document?

DR. YUTAR: It was found like that, my lord, and they have both been numbered C.P.

BY COURT: Well it should be numbered C.P. 1 and C.P. 2.

---As your lordship pleases. But we found it like that,

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Now "the Bantu Law Amendment Bill which they state will improve race relations in this country" - what date is that bill?---I am afraid I can't answer that, mylord. I don't know.

Isn't that the 1963 one?

BY THE COURT: (to Dr. Yutar)

Well it came before Parliament last year, but it was not passed. ---That is so my lord.

DR. YUTAR (to the witness)

The Bantu Law Amendment Bill -isn't that the one which was before Parliament last year, which was debated, and then postponed until this year, and it was in fact before the Parliament this year?--My lord it might well be so. I really can't say with certainty.

Yes alright - we will fix on a date later. You go and think about it, and I would like to read to you just some lines. You see "What do we do in this Situation?"--- Yes.

Have you got that?---Yes.

"To be silent is to say that we accept this monster law. In the best traditions of the fighting spirit of our forefathers, and our great African leaders and martyrs of the past, we must fight back as we have never fought anything in our lives." Well, did the forefathers of the non-Europeans of this country fight by way of sit-down strikes, defiance campaigns, burning of passes, or did they engage in warfare?---My lord, some of them engaged in warfare, and some of them engaged in constitutional action, petitions to the King of England, and all sorts of things.

And what do you think the Communist Party referring to here?---My lord I must point out this

says on the bottom "Issued by the D & D Committee of the South African Communist Party." If I remember the evidence it was indicated that another document I think with this inscription on it came from Durban.

Yes.--I have never seen this document before.

What does D & D stand for?---I take it Durban and District.

That is right. Of the Communist Party. And look what it goes on to say "As it is to be alive in South Africa is so little, when this bill becomes law life for the African masses will be worthless. We must do or die in the effort to fight this bill. It is better to die fighting than to be disciplined.."--Than to submit.

"than to submit to this dastardly act on our knees." Is this document not inciting the people to "Do or Die?"--My lord it says so, but if you look at "Our Tasks" which are presumably the tasks of doing and dying, I think it is set out there quite clearly what the tasks are.

Yes - let us look what 'our tasks' are. "Are you a member of the Congress? If you are, then get you unit to mobilise the people in your area, your factories. Explain the changes of the Bill." Member of Congress - what Congress is that referring to?--I would think the African National Congress.

Good. Now we come to the second task. "Are you members of a Trade Union"? "or an area resident organisation." There too the Communist Party is now seeking to act firstly through the African National Congress, and now through the Trade Union.--Yes.

"Attend all meetings on this subject and voice your opinion.... in the bill" I am not quarrelling with that, but look at No. 4 now "In the rural areas do what your brothers and sisters are doing in the towns and

the cities - organise, mobilise, be prepared. Be ready for any call for action your leaders and organisation may call upon you to take." And then it goes on "beready for the battle." What were your brothers and ^{sisters} ~~etities~~ doing in the towns and the cities in 1961, 1962 and 1963 Mr. Bernstein? ---My lord, as I read this leaflet, that clearly refers to these 1, 2 and 3 above, what they were doing, they were organising the people in their areas or factories, explaining the danger of the bill 'get the people mobilised, attend meetings, voice your opijions8 - this is what, presumably, brothers and sisters in the town are doing, and this is what it is suggested should be done.

"And be ready for any call for action your leaders and organisation may call upon you to take."---Well, that is perfectly clear.

Of course it is. Is it not inferring to the armed struggle ahead?---Well, if the leaders and organisations called upon them, possibly it did.

And then follow the words "Be ready for the battle". Which battle? Not the battle of words, Mr. Bernstein! --I think the battle against the Bantu Laws Amendment Bill.

Just against that, and nothing more?---My lord, this is how I read the leaflet. I think this is political language - it might be over-dramatic, rhetorical, I don't know what, but this is political language - all parties use it.

And this is addressed to?--To the public, as far as I can make out.

And if the African National Congress members were to interpret it the way I am suggesting to you?--I think they would be misinterpreting it. That is my view.

There is not a single word in these two docu-

ments to say now "Be ready for the battle, fight for freedom, but please avoid violence?"---No sir.

AT THIS STAGE THE COURT ADJOURNS UNTIL 2. p.m.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Mr. Bernstein, we have finished ~~with~~ Exhibits CG and CP. I want to take you on to a new Exhibit CD. (Your lordship has not got it in that volume, but I hand in CM, which is the identical copy. Now there is no date to that, Mr. Bernstein?--That is so.

But the Exhibit which I have given to his Lordship C.N. has an envelope attached to it, a Reverend ^{it} Crawford, of Capetown, who said he had received/through the post, and the postmark there is the 1st August, 1961? ---Yes.

So we can say that it was printed some time just before then. Now I want to put to you that this document fully supports almost everything that I put to you this morning. I can just perhaps put it to you, very briefly, and again I am only going to read some of the lines. You will see "In every struggle of the people against social discrimination, poverty and oppression, the Communist Party fought in the front ranks."--Yes, I see that.

Now the next line "The African people will never forget the Communist Party." and then they go on to recite what the Communist Party did for the African people, and mentions names like Marx and goes on "Ceaselessly the Communist Party works to rouse the people to unite, to build the African National Congress" and so forth?---Yes.

Now there is a document issued by the South African Communist Party - an admission that they were not

only in the forefront of the fight, they were building up the African National Congress?--That is quite correct.

Not only the African National Congress, the next paragraph deals with the Indian people?--Yes.

"..of this country cannot forget how the inspiration...(quotes)..but also the coloured people know the role the Communists have played in fighting against apartheid and bad conditions."---That is correct.

And the very next paragraph deals with trade unions. The second last line before "The sworn enemy of nationalism"--Yes.

Is it not a fact, then, that the Communist Party, banned in 1950, small in numbers, propagated its aims and objects by building up the African National Congress, the Indian Congress, the Coloured Peoples Congress, and the Trade Unions?---My lord that is correct, not just after the Communist Party was banned in 1950 but throughout its existence it advocated the building of these organisations and attempted in every way to assist and strengthen them.

And I want to suggest that not only did you ..did the Communist Party build up the organisations, but also invited the members of these organisations to become members of the Communist Party?---That is correct.

So that one day when the African National Congress takes over, in effect the South African Communist Party will be able to dominate the scene?---That depends on whether the members of the Communist Party at that time are in a majority position in the African National Congress which nobody can say with any certainty.

And now to explain the change in the name - the Communist Party was formerly known as the Communist Party of South Africa, it is now known as the South African

Communist Party, and that appears in the second last paragraph.---Yes.

The very last paragraph on that page "And all South Africa knows that shoulder to shoulder with non-Communist democrats and fighters for freedom the Communists have continued to play glorious parts in every great movement of the masses against the hated nationalist regime." Again I say to you the Communist Party were partners, was a partner with the others, in this struggle to relieve the oppressed people from their oppression?---My lord that is correct, unless this word 'partner' means there was some ~~xxx~~ sort of written agreement or..?

No, no.---Or continuous joint meetings or something, in which case I would not accept it.

No, but ~~the~~ they worked.--They worked in the same direction and in co-operation.

They did have Joint Executives, the National Liberation Movement.--The Congresses had Joint Executives.

And now let us look over the page, and see how you are going to fight. "The African Revolution which is sweeping through our Continent has won one victory after another until independence has been won everywhere except in a few pockets of imperialism such as the Portuguese colonies, and the vicious white colonialism practised in this country and the Rhodesias." The African Revolution - that was not a peaceful one, was it?--My lord, in parts it was. I would say probably in the major part it was peaceful. If one has regard to countries like Ghana, Nigeria, the Sudan, it was certainly peaceful. In regard to countries like Algeria not so.

The Congo?--The Congo I think was peaceful

until the transfer of power to the Congolese Government. What disturbance there was took place after the winning of independence in the Congo.

And now go on "People do not get freedom served up on a plate. They have to fight for it. Sometimes they even have to fight with arms in their hands, as is now being done by the patriots of Algeria and Angola."---That is correct.

Is that not an incitement to arms?---No I don't read it that way. I think it is a plain statement of fact.

You see Mr. Bernstein by August 1961 Rivonia had already been bought by the Communist Party.--Yes.

By August 1961 talks had already taken place for the formation of M.K? Sisulu said so.--I am not quite clear on what the evidence is.

Sisulu said that after the stay-at-home strike on the 28th, 29th and 30th May..31st May, 1961, there was a demand to the Government to call a national convention and it was ignored, then began talks to resort to violence. ---Subject to correction, I ⁿ have just tried to recall the evidence, I think what Sisulu said was that at this period the prosecutor is talking about, the African National Congress revised its view to this preaching of positive non-violence. Then I think, if I remember correctly, he said that discussions to bring Umkonto into being as an organisation were October/November 1961.

In October already acts of violence were taking place.--Yes but they are not admitted to be acts of Umkonto.

I understand that - you remember a quotation from Mandela's speech to the Pafmessa Conference?--Yes, acts were certainly taking place.

And then the last paragraph "Build up everyone, your underground African National Congress and other organizations ^{which} ~~and~~ fight for freedom. Support your South African Communist Party the voice of the oppressed... South Africa."
---Yes.

Dr. Bernstein, you edited "Fighting Talk" didn't you?---I think I have explained, sir, I was one. ..

You were on the editorial board, I am sorry, I was not trying to catch you. You were on the editorial board in September 28 1961?--Yes sir I was.

Alright - here is an article, and I am reading from Exhibit B.156. "Fighting Talk" dated September 1961. Sound about the newspaper we are talking about in the pamphlet I have just dealt with. There is an article there "These Bantu Homelands" - The Grave of Apartheid, says Walter Sisulu" - that is accused No. 2. Have you read that article?---My lord I almost certainly read it at the time it appeared. I can't just recall it now if you want to question me about it.

Is it familiar to you, the heading?---As I say I must have read it at that time.

I will just read the last paragraph, which I have taken the liberty to mark with red, part of it in bold typing. (handed to the witness). Have you read that?
--Yes sir I have read it.

May I trouble you for it? do you agree with it?---As an accurate prediction, yes I think it is probably accurate.

"Sooner or later the country will be faced with Zeerust and Pondoland on a large scale." What happened at Zeerust?---At Zeerust there was a struggle between the supporters of bantu authorities I think and the opponents

of bantu authorities, which led to fairly widespread disturbances.

Bloodshed?---Bloodshed, yes.

Pondoland?--Pondoland, a similar sort of situation.

Here accused No. 2. is now telling the readers of "Fighting Talk" THAT SOONER OR LATER the country will be faced with Zeerust and Pondoland on a large scale - what are they referring to?--My lord I think it is perfectly clear - they are saying that as things are going in this country, sooner or later large scale disturbances are going to take place, of the character of Zeerust and Pondoland.

"The African people cannot be expected to abandon their legitimate political struggle because the Government is preparing for civil war. This is an issue which must concern everyone" and shortly after this sabotage started in this country.--That is correct.

Let me now refer to an article written by yourself, also in "Fighting Talk" April 1962 Exhibit R.131. Unfortunately it is the only copy we have got, and it is headed "Going down in Blood - Mr. Fouche's Invasion Myth" By L. Bernstein. That is yourself?---That is myself.

(Page 7 my lord). "Going down - in blood." When you have sufficiently refreshed your memory, I would like you to let me know, please. Do you remember the article?--I remember it yes.

What did you mean by the heading "Going down - in blood". ---My lord, I am not certain that the heading was mine - as I say, I am not the editor of the magazine. It seems to me that the heading could have one of two possible meanings. Before the heading there is reference to the critical stage that has been reached in the Algerian war. It might have reference to that. It might suggest

that what is happening is that France's attempt to hold Algeria is going down in blood. It is possible that it might have reference to the South African Parliament which at this time, and the subject with which this article is concerned, decided to place South Africa virtually on a war footing, and it might have reference to that as a preparation to defending their position by violent means, and going down in blood.

I somewhat assisted you in reading this article by marking the passages in red - you see what I am going to draw attention to.---Well, you assisted yourself, sir. I would have marked different passages.

I am going to let you have this article, so that you can draw attention to others. In the first place is it not a fact that you are here quoting The Minister of Defence, Mr. Fouche, who spoke about military action against the Republic being openly advocated and secretly planned - and in effect you were telling your readers that he is just telling a tissue of lies?--I think that is approximately so.

And you go on to say " we are not expected to take it seriously - it is not even presented in a manner which makes it credible".--That is so.

In point of fact sabotage was taking place on an ever-increasing scale by April 1962?---But the reference there is to an armed invasion by African States.

Yes, that is right 'military action against the Republic being openly advocated and secretly planned.'
We go on: then you complain about a Mr. George ?
of the United Party rushing to promise the Government full co-operation in combating Fifth Column activities, putting down p..

...movement, and helping to put saboteurs in concentration camps." You are there attacking the United Party for supporting the Government in order to enable the Government to put saboteurs in concentration camps? ---That is perhaps an over-simplification sir. I am attacking them for supporting the Government in a plan to place South Africa virtually on war footing.

In point of fact acts of sabotage were taking place in South Africa at that time on an ever increasing scale?---They were.

So when you talk about saboteurs you knew what you were talking about?--Yes.

Then on page 8 this is what you say there: oh yes, you first refer to the Government's slaughter of Sharpeville. That is your point of view?---I think that is the only possible point of view.

You have not read the inquest proceedings?-- No I have read summarised digests of it.

You have not read the official inquest proceedings?--No I have not.

Pity - because then you might have changed your view and not have called it "The Government's slaughter of Sharpeville". But be that as it may, we pass on; this is what I want to draw your attention to: "But for such a claim it is now too late. They know what they are starting. They know that already before this decisive week of March the non-white people have made a start towards creating their own armed force to back their claims with violence. They know that already here, as in Algeria, and in Angola(quotes) must expect to be challenged with the rifle. They know that there are only two alternatives before South

Africa today, to talk out a peaceful settlement, or to shoot it out to the death." That is what you wrote in April 1962, Mr. Bernstein.---Precisely the type of thing that counsel quoted as having been written by me in 1960 as well.

Yes but you are repeating it in 1962?---

That is so.

You might have been a prophet in 1960, but now you are telling them bluntly a fact in 1962?---That is so.

That is the impasse that has been reached - the Government refuse to talk it out round the table, and now there is only one alternative, and that is to shoot it out to the death.---I don't think it implies that this is now a finished issue. The two alternatives were still open in 1962 - they are in my view still open in 1964.

Although you have had the answer of the Government?--Yes.

And you conclude this article with a quotation from the Rand Daily Mail, and you end with the words "It is time for deeds, not tears."---That is right.

What deeds did you have in mind?---Deeds of opposition to the Government who were taking this incorrect policy.

I want to put it to you that the alternative which existed today, existed in April 1962. You knew perfectly well that the Government was not prepared to sit round the table with the Communist Party or the African National Congress or the Indian Congress or the Coloured People's Congress to talk it out.---That is so.

Then the only alternative is in your own words to shoot it out to the death?--- Yes there were two alternatives.

Wasn't that the alternative that had already begun?

to be applied in this country, first by sabotage?--Yes I think it was.

And secondly by guerilla warfare?--I think that is the position.

And now let us just turn to some of the Rivonia Exhibits which we found, and I can deal with it very briefly. The first one is Exhibit 20 - my lord, if I may crave your indulgence - I forgot to put this. What was your connection with The New Age?---Nothing, except that I occasionally wrote articles.

And you read it?---And I read it yes.

Let me just show you Exhibit R.135, that is the Northern Edition, dated 28th December 1961. What is meant by the Northern Edition?--My lord this paper was published in Cape Town, and they produced a Southern Edition for the Cape Province and a Northern Edition - I don't know how different they were, I really could not say.

Now the two things I want you to look at - on the very front page is Umkonto We Sizwe. You remember the evidence of Lieutenant van Wyk that a poster, Exhibit 16? AD was pasted on to the walls and they tried to take it down, they could not but they took a photograph of it?--- Yes sir I remember.

Is that a photograph of it?--This appears to be a photograph of the same poster that he is referring to.

And it gives some details by way of subscription. ---Are you talking about the caption to the picture?

That is right.---No sir the caption only says that this is a poster which was pasted on Johannesburg walls.

Now turn to page 5 please - the right hand column - it is a photograph of accused No. 1?---That's so.

And it is headed?--It is headed "Underground Leader."

There is a very short subscription, and it reads..?---"Nelson Mandela, main speaker at the Maritzburg Conference, secretary of the National Action Council which launched the May 29th strike, now leading the freedom struggle from underground."

You read that at the time?--I think I must have.

And what did you think it meant?---My lord, if I did read it, I think it meant exactly what it says.

And remember that Umkonto we Sizwe blazed a new trail during the weekend 15th to 17th December 1961?--- That is correct.

You had no doubt at all about the new policy of violence in the country.---I am not sure what you mean by that.

You had no doubt at all in your own mind of this new policy of violence that had overtaken South Africa,? ---You mean that there was such a thing?

Yes.--No I knew about it.

All designed to overthrow the ^uovernment eventually?---Yes.

Now Exhibit R.20 (your lordship will find it at page 259). You will find there "X Comrade" and there is a Chinese name given "member of the Central Committee of the Communist Party of China says:" (and I only read the first four lines) "We Communist Party members are the most advanced revolutionaries in modern history, and are the contemporary fighting and driving force in changing society and the world." That is a correct statement of Communistic philosophy? (Page 260 my lord, the last paragraph).---I think so sir, yes.

And it applies to South African Communists as well?--Yes I think so.

I will turn to page 262, and it may be difficult to find it - I will read it out. "The aim of studying Marxist philosophy is to enable us to direct more effectively revolutionary mass struggles. To put it in a nutshell, Marxism is a guide to action."---Absolutely correct sir.

And you are a follower and disciple of Marx?---
That is right.

263, the second paragraph. "The pamphlet compiled by the South African Communist Party to mark the fortieth anniversary of the Communist Party of South Africa, which preceded the South African Communist Party, and which was declared illegal in 1950, correctly points out that in spite of all the formidable difficulties that faced it, the Communist Party of South Africa has in existence brought about profound changes in the thinking and political outlook of the oppressed people of South Africa."---That is also correct.

By the way, the pamphlet there referred to is this the one, this small little booklet?--I don't know sir. I think my lord it must be referring to this Exhibit CQ which starts off, the first line of which says "It is 40 years..."

I refers either to CN or CQ. Is that a correct statement what I have just read out (quotes above paragraph again).--I think that is true sir.

And one of the profound changes mentioned in exhibits CN and CQ is 'you can't expect freedom on a plate. It may be necessary to take up arms in achieving it?'---Well my lord, I am not sure if that is one of the profound changes.

I think that has always been part of the philosophy of the National Liberation Movement. I don't think that is one of the changes referred to.

But it is a vital change, isn't it - from non-violence to violence?---That is not quite the same thing sir. No I don't think I would say that that is what it refers to either. Not the change from non-violence to violence.

This is not---I don't think so.

Alright, we won't argue. Now turn to page 265, the very bottom. "The life of a Communist revolutionary is no bed of roses. It consists of serious studies in Marxist literature, of hard work and of constant participation in numerous and endless mass struggles." and it goes on to give further details, and I read the last few lines on page 266 "In South Africa a Communist Party member must take part in mass struggles initiated by the South African Communist Party, the Congress Movement or by other political bodies within the liberation movement." Do you hear that?
--Yes sir I did.

"Initiated by the South African Communist Party."

--Yes that is right.

Did the Communist Party initiate this new policy of violence?--No sir, I don't think it did.

Who did?---Well we have heard the evidence given here as to how it came to be adopted, sir.

Well the evidence of Bruno was that he was a member of the National..the Natal Regional Command, and they carried on planned acts of sabotage on the instructions of the National High Command at Rivonia.---Yes I heard that.

Correct, or not?--I have no idea sir. I mean. I can only say I heard the evidence.

Page 268 my lord. "In spite of this victorious advance, the Communist movement still faces powerful enemies which must be completely crushed and wiped out from the face of the earth before a Communist world can be realised. Without a hard, bitter and long struggle against capitalism and exploitation, there can be no Communist world!" Is that a correct statement of Marxist philosophy?--Yes.

Does that not envisage then in this country that if the Government does not capitulate, it will be completely crushed and wiped out from the face of the earth? --My lord, I don't understand it as referring to a Government. It is referring to social institutions, capitalism, presumably National oppression.

It says here "But in spite of this victorious advance, the Communist movement still faces powerful enemies" Who are the powerful enemies of Communism?---I would say the upholders of capitalism, national discrimination.

The Nationalist Government?--It would be included in that yes.

And the policy of the Communist Party is to completely crush it and wipe it out.---Well, if you are talking about crushing, sir, I don't understand it that way.

I think it means to crush the institutions which it is talking about, which is as I say, in my view, white supremacy, capitalism, to be completely crushed.

Do you think you are going to crush out the powerful enemies of Communism by holding sit-down strikes, or burning passes, defiance campaigns? ---It is a possibility.

It is more likely to be crushed and wiped out by acts of sabotage and guerilla warfare?---Well sir, that depends entirely on the Government.

And if that is not enough, it could be completely crushed and wiped out by armed intervention by foreign countries?---Well, that is a possibility which I personally do not believe is feasible, but it is a possibility.

But it is a possibility within the terms of Marxist philosophy?---My lord Marxist philosophy, generally speaking, has taught for many many years that you can't import revolution by force of arms from abroad. It is a fundamental proposition which was stated at the time of the Russian Revolution by Lenin, and it has been upheld ever since, that revolution is not exportable by force of arms

Communism, throughout the history of the world has not crushed and wiped out what it calls its enemies by military action?---Yes, sir, but not by a foreign invasion which is the point I make. By military action, inside the country, yes.

Aided and abetted by military assistance from without?---Yes possibly.

Let me read from page 269. Just two short paragraphs "Every Communist Party member must possess the greatest courage and revolutionary determination and must be prepared to put his part and carry out all political tasks without fear or hesitation." Right?---I think so sir.

The Communist Party has a code of discipline.---That is correct.

To which every member is bound, hand and foot. ---To which every member is bound - I am not sure of the meaning of that.

And he is required to carry out his instructions without asking questions?---My lord he is required to carry out decisions of a higher organisation of the Party.

Belt 09C, entitled at all times to ask questions, but nevertheless he is expected to carry out the decision.

And he is required..and he must possess the greatest courage and revolutionary determination?---I think that is so.

Which is not necessary to distribute pamphlets? ---Well if distributing pamphlets can earn you a five year gaol sentence, it is very necessary.

"In fighting to change the world, we must start from the very people in close contact with us. We must thoroughly study out own situation and problems, understand them completely and work out appropriate solutions."--That is correct.

That is correct?--Yes sir.

Have the Communist Party not studied the situation in this country?--It has been studying it ever since its inception.

Had it not come to the conclusion that this granite Government of South Africa ~~is~~ cannot be moved one inch?--No sir.

It has not come to that?--No.

Well it has been referred to in those terms, the Government has.---Well, I don't think you will find that in Communist Party documents generally. There might be one as I say which is..

A mistake?---A mistake, but generally speaking I don't think they will accept that any Government is completely immovable, not even the South African Government.

Right, the last quotation from this document, on page 270: "To sacrifice one's personal interests, and evenone's life without the slightest hesitation for the cause of the Party is the highest manifestation of Communist ethics!"

--Yes I think that is correct.

So whatever I have read from this document you have subscribed to?---Yes.

And these extracts, and there are more, were compiled by Accused No. 1, Part One on "How to be a Good Communist."---That may be so sir. My lord, I only looked at the first one in the original, and although it is compiled by accused No. 1 it is a direct quotation from one of the people who is recognised to be a leading theoritician (?) of the Marxist Movement.

Because I understood you earlier this morning to suggest that it was not a very good account of how to be a good Communist.---Well, there are parts which are certainly not a good account, in my view.

Now let us turn very briefly to one extract from the following Exhibit, R.21. (Page 284). Now I want to read this paragraph by paragraph. "the policy of the Nationalist Government which forcibly suppresses the peaceful struggle of the people, has created new conditions under which non-violent and peaceful methods of struggle have become inadequate to advance the struggle of the people and to defend their rights. Under these new conditions it is easy to understand why the masses of the people are searching for a new formula of political struggle to enable them to hit back effectively and halt the violent and reactionary policies of the Government. whilst in the past it was correct to preach non-violence, under present conditions it is not correct to go on stressing it as if nothing had changed. There is nothing ^{inherently} sacred or/superior about non-violent methods of struggle. So long as they are effective weapons to fight for freedom and democracy, they must be employed fully, but it would be wrong to persist with

them mechanically when conditions demand modifications." Now that is from a Communistic document dealing with the Communistic doctrine. It is Part 2 of How to be a good Communist.--Well as a statement, I agree with it.

You have always subscribed to it?--Yes I think so sir.

Personally, and because of your association in whatever form with the Communist Party?---That is so.

Is it not here openly advocating violence?---No sir.

No?--No, I don't think so. I think it is saying, there comes a time, conditions change, when it is not longer correct to stick exclusively to non-violent methods when violent methods become correct and justifiable. That's as I understood it when you read it.

Was that time not arrived?---Oh yes I think that time had arrived.

In 1961?---Well round about that period, yes.

Round about the time when the Communist Party agreed to spend R25,000 on the purchase of Rivonia?--Yes, round about that time, I think that is correct.

Now then there is a reference over here, in the middle of the page "This is what happened for instance in Albania, Bulgaria, China, Czechoslovakia, East Germany, Hungary, North Korea, Rumania, Russia and North Vietnam. Is it a fact that changes were effected in these countries by revolutionary methods?---My lord, yes, that is a fact, but the methods I think - I am just trying to think over these various countries, seem to me to be very vastly different from one country to another. I don't think one can lump them all together like that.

"In all these countries" the author goes on to

say here "The capitalist system was overthrown, and replaced by socialism"---If that is what the lumping together means, it is perfectly correct.

"In our own country capitalism cannot and will not last indefinitely. The people of South Africa, led by the South African Communist Party will destroy capitalist society and build in its place socialism where there will be no exploitation of man by man." Mr. Bernstein, don't ~~z~~ you think it was rather presumptuous of the South African Communist Party to say that the people of South Africa, led by the South African Communist Party?---My lord, they are speaking about the destruction of capitalism and the building of socialism. It does not suggest it is going to happen this year, or even within the framework of what I would call the immediate programme of the Party. It is dealing with a long-term project, and it says that when socialism is going to be built in this country, it will be built under the leadership of the Communist Party. I think it is probably a correct statement, but that is a bit of historical prediction which might turn out to be wrong.

But you know to speak of the Communist Party, which at peak mustered 2000 members, leading the people of South Africa - it is being a little bit immodest in its claims, the Communist Party, to put it at ITS very lowest? ---My lord, I am not quite sure of the figures. I think the time the Russian Communist Party led the people of Russia it numbered some 300,000 members, if I remember correctly and the population was 180,000,000. The size of the party is not relevant, it seems to me. The problem is the support which it obtains amongst the population.

Perhaps the tenacity and the fighting revolution-
ary spirit of the leaders is more important?---That is a
very important factor.

And the degree of agitation?---And the amount
of activity they carry out, yes.

By the way, what is the population of Soviet
Russia?---Today I believe it is over 200,000,000.

How many non-whites?---I really could not say,
sir, but a very large proportion.

What do you mean by a large portion?--I really
don't know the statistics, but there are a large number of
Asian peoples in the Soviet Union, both Asian and Mongolian
people, and I would think they probably constitute a majority
but I am not quite sure.

Now the last passage I would like you to read
deals with the third proposition and is at the bottom of the
page. "Hence the transition from capitalism to socialism
and the liberation of the working class from the yoke
cannot be effected by slow changes or by reforms as reactionar-
ies and liberals often advise, but by revolution. One
therefore must be a revolutionary and not a reformist."
Is that correct policy of the Communist Party?--I think that
is correct my lord, and the sense in which it is used
makes it very clear that it is drawing a distinction between
a reformist who believes that you can bring about a change
in society from capitalism to socialism by small changes,
and a revolutionary, who believes you can only do it
by one radical transformation.

The last paragraph there "Finally, if develop-
ment and change in things take place by way of collisions
between opposite forces, then it is clear that the struggle
between workers and capitalists is natural and inevitable.

Hence we must not try to preach peace and harmony between workers and capitalists. We must stimulate and encourage class struggles. We must call upon workers to conduct a ceaseless war against the capitalist class and for socialism."

Is that a correct statement of Marxist philosophy?---I think perhaps it is a rather overbold statement, but generally speaking it is correct though yes.

"We must not try to preach peace and harmony between workers and capitalists."---That is correct.

"We must stimulate and encourage class struggles" agitate, in other words, Mr. Bernstein?---My lord I don't know agitate in other words - I approve of the formulation there, I think it is correct.

And in point of fact is that not the policy of the Communist Party throughout the world?--As stated there?

Yes.--Yes sir it is.

You know this book, Exhibit I,99...rather I,66 was found at Rivonia "Kill or Get Killed." At Travallyn. Do you know the book?---Never seen it before.

Have you any idea why..it deals with self-defence, doesn't it?---Well my lord, judging by the cover it says it is for police and military, the last word on mob control.

There were no policemen in hiding at Travallyn were there?---Not to the best of my knowledge.

The only people in hiding at Travallyn were, let us take them in turns - accused No. 2 at one stage---So I hear in evidence.

Accused No. 3?--Likewise.

Accused no. 4?--That is so.

Accused No. 7?---Yes.

Now what would any of those be doing with the t

book?---My lord I don't know - they might have been broadening their mind, or they might have had other reasons.

It says Secrets for Police and the military last word on mob control, but it also has this 'secrets of subduing individuals and mobs by a world authority, and hand to hand fighting and mob control . For defence and law enforcement agencies..(quotes)...controlling mobs, step by step illustrations and instructions" and then "Kill or Get Killed is a book which belongs in every institution charged with the training of police officers or soldiers." Was the M.K. not training soldiers?--According to the evidence it was.

Now there is an interesting Chapter 15 in this book and I would like to read it to you because of what is stated here in this paragraph I have read on page 286. You know 'we must stimulate and encourage class struggles' - and you have admitted that is Marxist philosophy?--That is right.

I am going to read from page 372: "Public incidents are used or fabricated to spark riots". By the way, this is under the heading of Communist Tactics and Strategy in Directing Mob Violence." "In the case of ...(quotes)...especially the case in Japan in 1960." Is that true?---My lord, I don't know the facts about the incidents in Bagota but I would say as a statement of Communist policy it is absolute balderdash.

Balderdash?---Absolutely!

"Elsewhere in the world similar tactics...(quotes)...frequent success in the past. The overall strategy is one of armed revolution and ...supported and fostered from outside the target nation. Guerilla warfare is co-ordinated with sabotage, espionage, terrorism and

mob violence. In actual fact violence in a planned mob action can be characterised as just another form of guerilla warfare, although wedged in urban areas." Do you accept that?---No sir.

You don't?--No sir.

This was found at Travallyn?--That may be.

It was not left there by the former owner of Travallyn. You see we had here sabotage?---Correct.

We have here espionage, people trying to get into the police, trying to get into the army, trying even to get into the public prosecutor's division?--I am not aware of any of those sir.

You are not! Terrorism and mob violence - has that not been tried, terrorism?--It has been tried by some people, not by Communists sir.

You have heard the evidence in this case of circulars issued in the Eastern Province, of people who must be got rid of?--I have heard that evidence.

Named, and we find them stabbed - is that not mob violence?--It may well be sir, I am just saying it is not by Communists.

Not by Communists?--No sir.

One last passage: "The discrediting of the ...regular police and military forces whose responsibility and the maintenance of law and order is a prime objective." Has an attempt not been made in this case to discredit the police?---My lord I think the police discredit themselves very satisfactorily, without assistance.

Without assistance?--That is so.

What have you in mind?--Would you like incidents?

Yes.---Well my lord I can't help feeling that the recent case in Bulfontein was a very fine example.

I was hoping you would mention that - who investigated the charges in the Duiffontein case?---The police did.

The police! Did they fail in their duty to investigate that case properly?---No they didnot but the officers who were charged failed in their duty.

I am talking about those who investigated the allegations in that case - did they fail in their duty?---No I don't think they did.

The prosecutors department - did they fail in their duty to bring the case before the Court?---No sir they did not.

And did his lordship the learned judge fail in his duty to make a bold finding?---No he did not sir.

Does this not happen amongst every profession? We have had dishonest attorneys and advocates?---It does so.

We have had evidence of advocates who have been planning sabotage?---That may be.

Does that discredit the whole profession of advocates?---No sir.

"When police and military forces....the Communists can move rapidly to power, and after power has been seized the new Government acts rapidly to disband and destroy professional military and policeforces...all other collected evidence of Communist activity are destroyed. Cuba under Castro is a classic example of this tactic." Is that a true record and account of Communistic strategy?--- Absolutely false, sir.

Did it not happen in Cuba?---What is said there certainly not.

How do you know?---Because I have read authori-

tative accounts by people who are on the spot, observers, who have studied the subject, and none of them would have substantiated that.

Right - and this is a book we find at Travallyn- not so?--Not an authoritative one.

Right. I don't want to argue with you. We come now to Exhibit R.35, page 379. Now this is a circular addressed to Young Comrades. By the way, let me just explain to you about it - that is a circular which was found at Rivonia in bulk in a storeroom complete with the envelope as it is attached there. It is addressed to "young comrades" and is that not the manner of addressing young Communists? --Yes.

In fact, it is issued by the Johannesburg District of the South African Communist Party?---Yes.

And it calls upon them "The South African Communist Party calls upon each and everyone of you to join in the fight for Freedom, for democratic rights for all the people and for socialism." Right?--Yes.

And then it says "Why the Youth?" And then at the last page the answer is given..the last paragraph on that page: "This attitude is contrary to the nature of the youth. In all countries the youth are the first to fight for freedom, to sacrifice their very lives for the noble cause of the people's liberation.

"That is what happened in Cuba when the young workers, peasants and students fought with a book in one hand and a rifle in the other. Now that they have won their liberation it is once again the youth in Cuba who are fighting another battle - the battle against illiteracy and disease." And then it says "Castro is the youngest Prime Minister in the world" Mr. Bernstein, is this not a

direct and blatant effort by the Communist Party of South Africa to incite the youth to take up arms?--No I would not accept that sir.

What does the party mean when it says "This is what happened in Cuba, when the young workers, peasants and students fought with a book in one hand and a rifle in the other"?--My lord, it has got to be read in its context. The context is that some of the youth are inclined to stand aloof in the struggles of their people. They would rather criticise from the safe and respectable side of the fence, as if they need not take part in the struggle. This attitude is contrary to the nature of the youth, as is shown by the experience of Cuba, where the youth in fact, far from standing aside, took a place in the forefront. That is all it is saying.

And are you not asking the youth in this country to do the same?--To take a leading position in the struggle of the people, certainly, sir.

And to follow the example of the young Cubans? --Insofar as they stood in the forefront of the struggle, yes.

And if necessary, therefore, to fight with a book in the one hand and a rifle in the other?--It does not say so, sir, and I don't think one can read that necessarily into it.

By mentioning it then?--My lord, it is saying this is "What happened in Cuba - here is an example of the fact that the youth did not stand aside.

Let us just read now, in the light of what you have just told his lordship, on page 2 of that document, (page 380) "The youth of our country have shown that they can fight bravely for their rights. At Fore Harc, Turfloop, Healdtown, Lovedale, Kilnerton and the Both High School,

for example, they stood up and took militant action, regardless of the consequences. When nurses were caned, they went on strike. When the workers in a factory demand better conditions, the youth are with them." By the way, what is meant there by militant action?--I think militant means vigorous - that is the nearest word I can put to it.

You know of course, from Fort Hare, according to the evidence, some students were sent across the border for military training?--They were on their way but they were arrested?----- I don't remember that evidence, it may well be.

Now that document is the same as Exhibit 96, and now we come to Exhibit 36 (361). Did you draw this up, by the way? "Differences in the Communist Movement, a Summary for Information"---Yes my lord I did.

It is drawn up on your typewriter?--I don't think so, but..

Have a look at it,---I can't recall. You mean this actual typewriter here is not mine.

This is not typed on your typewriter?--This is not mine.

But you drew this up?--Yes sir I did.

Well I am not going to deal with that document, it deals with the differences in the Communist Party movement - who asked you to draw that up?--My lord, I think I was requested by..Bob Hepple sir.

When?--When I went out to Rivonia to discuss this question with Mr. Mbeki, which was April/May of 1963, and ~~was~~ ^{was} one of the discussions I/having Mr. Hepple happened to drop in at Rivonia - I think he had come to see Mr. Mbeki for something. He entered into the discussion, and when we were having the discussion he said "Look, people are crying out for information on what this dispute is all about.

Will you summarise it for us" and I said yes, and I did so.

What were you doing at Rivonia?--I was discussing this very question with Mr. Mbeki.

Why?--My lord he had sent a message to me asking me to come out and bring documents about this thing because he was interested to find out what it was all about.

Mbeki of course was one of the leaders of the M.K?--So the evidence says, yes.

You did not know that before?--No I did not.

Mbeki during April/May of 1963 was in hiding?

---That is so.

He, as far as you knew then, was just a member of the A.N.C?---As far as I knew, yes.

Did you ask him "What are you doing here?"---No sir.

Why not?--Because I knew he was hiding there sir. It was not necessary.

Did you know what he was doing there?---No sir.

Was that not the time when the acts of sabotage were reaching a crescendo in this country, April/May of 1963?--I am unable to say, sir. It might be so, I don't know.

And he wanted you to come out?--He wanted some information, documents dealing with this stuff, and I took them out.

About this subject?---This very subject.

What was his interest in it?--My lord I take it he is interested - a major dispute on political questions between the Chinese Communist Party and the Soviet Communist Party is a matter of great interest to people.

Is he a Communist?---I am afraid you will have to ask him that question.

I am going to! But don't you know?--No sir, I am

not prepared to answer that question.

But you do know?--Yes I do.

You are not prepared to answer?--No.

And how long did you spend with him?--My lord, I discussed with him on two or three occasions, probably an hour or an hour and a half at a time, something like that.

Was he a banned person at that time?--I think that is correct.

And you had no compunction, despite the banning order served on you, in meeting up with a banned person?--- My lord, perhaps I should explain that when I met Mr. Mbeki at Rivonia he was using the name Dhlamini. I have said in evidence that I had not met him before. At the time he used the name Dhlamini, and I accepted him as Dhlamini. As to whether I had any compunction about meeting banned people, sir I did not.

You had no compunction?---No.

You see you complained, I won't say directly, certainly implicitly in your evidence, that because of the action of the Government in banning you, house arresting you, restricting you, and all that, you had no time to eke out a living. You were confined to work during the day?---That is correct.

You complained very bitterly because of that banning nobody could come to you, you had to go to them in order to see them about building specifications?--That is correct.

And you stayed in Eksteen Street Observatory?
--Regent Street.

But you get a message from Mr. Goan Mbeki "Come out" and you comply with that, and you go out to Rivonia.---

Yes my lord, when I found that I had an hour or an hour and a half to spare.

You went out to Rivonia - by car, or were you taken there?--No by car.

And you spent some time with him - and all he wants to know from you is "Mr. Bernstein, what is all this trouble about differences in the Communist movement",--- A matter of great importance to him.

And you took the trouble to explain to him, and you wrote this 11 paged document?---Well when you say that you will see that it is practically all quotations from publications, it is just a matter of scissors and paste, really

He could have done it too?---Possibly.

If he had more time, but perhaps he was too busy with M.K. but you would not know that?--I could not answer that sir.

Now you knew he was a member of the A.N.C?---I had heard of him as a member of the A.N.C.

In Port Elizabeth?--In Port Elizabeth.

Did it never strike you to ask him "what are you doing here?"---My lord, it struck me, but as I said before I don't want to know the answers to these questions when it is none of my business.

But you do know the answers to quite a few questions I have put to you, and although you know the answers, you refuse to tell me?--When information came my way, sir, I could not help hearing. That is too bad, but I never went out of my way to get information which is not my business

Selt 90E

Now you know Mr. Bernstein by that time, April of 1963, the State alleges that over 150 acts of sabotage had been committed?---Yes.

That is why I said it had reached its crescendo. Did you not stop to find out "Now who is directing this?"--- But my lord who was directing a lot of it, and that was Umkonto We Sizwe.

Who told you that?--I saw their original Manifesto, it was common talk in Congress circles sir. People in the political movement were all aware of this.

Name some of the people who spoke about it?-- My lord, people one meets in politics, discussing political events in this country, were all aware of this.

Name some of the people?--People one meets in politics were all aware of Umkonto we Sizwe who said it was going to conduct acts of sabotage, and from time to time claimed actual acts by statements in the press and so on. There was no secret about it.

When did you first hear about acts of sabotage committed by H.K. units?--After the 16th December sir.

And it was discussed in political circles?-- Yes certainly.

Could you mention some of the people with whom you discussed it?--My lord, there are lots and lots of people I have discussed politics with. I can't remember any precise person I discussed this particular question. I have had discussions with most of the leaders of the African National Congress who were in Johannesburg; I have had discussions with leading people in the Indian Congress and in the Congress of Democrats, Communists, all sort of people. I could not say who talked about this.

Now you discussed it with leading members of the A.N.C?--Yes.

Such as?--People like Nokwe, people like Sisulu, I used to meet these people from time to time.

Leading people from the Indian Congress or the Indian Community?---Yes.

Such as?---Mr. Kathrada I would see on occasions.

Mr. Cachalia^(?) I would see on occasions.

Jusuf Cachalia ?---And his brother.

And leading members of the Communist Party?--- Well people whom I regard as Communists, people like Ketane and Harmel and Marks and so on. I had discussions with all these people.

You still won't mention who the leaders were?

---No sir.

And you never stopped to ask with what they were committing these acts of sabotage, or where they were getting it from---I don't understand.

The material, the explosives?--No sir, it is not my business.

Or who was financing it?--No.

But did you know the M.K. was drawn from the A.N.C?--I knew that a large number of their members were members of the AN.C. yes.

Did you know that the A.N.C. like the Communist Party was also not in affluent circumstances?---
never
It has/been in affluent circumstances to my knowledge.

Did you wonder therefore where the M.K. got its money from to finance this campaign of hatred?---Well, I had my suspicions sir.

What were your suspicions---That they were collecting money, both here and abroad for the purpose.

So this evidence about Mandela's visit abroad, collecting money, gave as no surprise to you?---Well I knew that he had been abroad on this tour sir.

Dr. Letile (?) you know him?--Yes I do.

Treasurer of the A.N.C?--I think that is so,
I am not absolutely sure.

Member of the Communist Party?---Not to the
best of my knowledge?

A Sympathiser?--Not even that to the best of my
knowledge.

Not even that?--As far as I am aware.

Turn now to Exhibit R.39 (page 391). Oh by
the way, to round off this conversation with Mbeki, you
promised to draw up this article, and in fact you went back
and set about it?--I went back two or three times to discuss
matters with him.

And you eventually gave him the finished article?
--No I gave the draft of the article to Hepple.

And what was he to do with it?---Hepple was
to circulate it amongst interested people in the political
movement.

Well you must have been a most important ad-
herent to the Communist Party if they called upon you to
draft ..make this exposition on the differences in the
Communist Movement?--I did not say that the Communist Party
asked me, sir, I said Hepple asked me.

I know!--And Hepple may have a high regard
for my ability, I don't know.

Now Exhibit 39 "Present South African Communist
Party" - you know that booklet?--Yes sir I have seen it.

Did you participate in its..in the drawing
up thereof?--My lord I was asked to comment at one time
when a draft of this document was circulating. I was asked
to make my comments on the draft, and I did so.

And you did so?---Yes.

Who asked you?---I am afraid I am not prepared to reveal that.

What drafts were you given?--My lord I was given a roneoed document, which was a draft of this one, that is all I can say.

And you are not prepared to tell his lordship who asked you to check the draft?---No sir.

But they asked you to check the drafts..---No, not to check the drafts, to make my comment on this draft document.

And you did so?---And I did so.

And this final product, is that a correct statement of the South African Communist Party?---I take it it must be.

You have seen this before?--Yes, oh yes. I take it it is a correct statement.

You must have known an awful lot about the Communist Party if they ask you to make your comments on the programme of the South African Communist Party?--My lord, I have said that I have been a Communist for a long time, and everybody knows it, and when they want opinions on a document of this sort, they are likely to ask opinions from people like me.

Now here is the Exhibit which goes with that, Exhibit 78. This was found at Rivonia, and it is headed "On our new draft programme, a message from the Central Committee of the Communist Party." Isn't that so?---That is correct.

MR. BERRANGE: (to the Court)

My lord it seems to us apparant that the witness will at some stage wish to have a look at the Exhibits that have been placed before him for the purpose of giving further evidence in regard thereto if necessary.

through your lordship, ask the witness to make notes as he goes along of which Exhibits he would like to look at during the interval.

BY THE COURT (to the witness)

Well will you just bear in mind which you particularly want to see.--I will do that my lord.

DR. YUTAR: In fact Mr. Bernstein I am going to help you - I have got a list here of the Exhibits I am dealing with, and you can check with me, and then you can have them all.--- Thankyou.

Now that document R. 78 does that explain why R. 39 was brought into existence?--Yes, why a new programme has been drawn.

So I think it will be more logical to deal with R. 78 first. We are now dealing with R. 78 which you admit gives the reason why Exhibit R.39 came into existence? ---That is so.

And R. 78 just look at the reasons "A message from the Central Committee of the South African Communist Party" - that of course is the highest committee of the S.A. Communist Party?--That is so.

And you are still not prepared to tell us who constituted the Central Committee?---No.

Now look at that first page "Since our 1933 programme the world Communist movement of which the S.A. Communist Party is an integral part, has made a number of important theoretical advances." have you got that?--Yes.

Look at the last three lines "South Africa itself is ripe for, and is approaching the beginning of, a national democratic revolution." Do you know when this was drawn up?--My lord I don't know precisely - I know that this document, the programme itself, that is R.39

would think early in 1963. That is approximately right.

"South Africa is ripe for and is approaching the beginning of a national democratic revolution." What is meant by that?--My lord, this is an involved question. There is a chapter of this programme here which is headed "The national democratic Revolution" which attempts to explain what it means. I would not like to try and summarise it in one sentence.

What appears there on pages 53 to 55 are those the page references?--No 49 to 55.

That is right. And I am going to quote from pages 53 to 55 which sets out what is meant by this revolution.---This national democratic revolution.

Let us summarise it now) does it not mean violence and sabotage and guerilla warfare?--No sir - it has not got anything to do with the question of methods.

Nothing at all?--No sir not at all. It is dealing with changing society. When Communists talk about a radical transformation of society they call it a revolution and that is completely independent of any consideration of methods whatsoever - it has got nothing to do with methods at all.

Nothing at all?--Nothing.

Well then bear your answer in mind when I come to deal with that document, because this document R.78 gives us an answer over the next page. "The Vóerwoerd Government is isolated and hated by the people at home and in the entire world, the country is pregnant with mighty changes" - are you following me?--Yes.

"which cannot much longer be postponed. New problems arising out of the new situation face us with questions which we had to seek answers for beyond the scope of our old programme. Faced with ever-increasing rep

and terror against nearly every form of peaceful activity, the people have been compelled to seek and find new methods of struggle." What were those new methods of struggle which the people had been compelled to seek and find?--I think this is a clear reference, my lord, to sabotage.

A clear reference to sabotage?---Yes.

Right. And then we can miss the next two paragraphs and take two lines of the third: "The present draft is intended for publication on as wide a scale as possible." Is that right?--Yes that is what it says.

That was the intention?--I can't speak about the intention - that is what it says.

Distribute this publication as widely as possible, and then on page 518 my lord, it deals with eight sessions to be held in order to frame this draft and at the sixth session Section 5 of the draft under the heading "African Revolution" (page 518) look what is said: "Suggested reading: nearly all issues of the African Communist deal with this question. In addition discussion leaders are recommended to read the books by ? of Africa, The Roots of Revolt and the Lion Awakes, works of ? dealing with the Chinese Revolution, material on the Cuban and other anti-colonialist revolution would also be useful if available." Mr. Bernstein, did you hear the evidence of Mr. X?--I did sir.

Remember he told his lordship he was given this book by Jack Wallace(?) on Africa, "The Roots of Revolt".--Yes I remember that.

Why was he given that book, can you just tell us, if South Africa was not ripe for revolution?---My lord, one would have to look at the book "The Roots of Revolt" to answer that question. It deals with the origins

of the national liberation movement throughout Africa, taking practically every country in Africa one by one and listing the history of the development of the national liberation movement. The title, the "Roots of Revolt" is the origins of the National Movement - that is what this book deals with. Why he was given it to read, sir I can only say, to broaden his mind.

To broaden his mind, and possibly make use of it when similar revolution overtakes South Africa?--Yes possibly sir.

The works dealing with the Chinese Revolution for the same purpose?---Possibly so yes.

And of course Cuban and others. This "African Communist" - we have got a lot of those booklets over here. Where were they published?--According to the imprint on them, they were published in Great Britain

Do you know who the publishers are, the authors are or the editors?--No.

You don't know. But it was received in this country?--It was received in this country.

By whom?--That I cannot say.

Did you receive that?--Occasionally I received, not always.

And you will notice some of those books came here under false covers, plain covers?--That is not the African Communist, sir, That is Africa.

And also the African Communist, blank white covers.--- White covers, not false covers.

Well blank white covers, and underneath that you get the "African Communist".---That is correct.

And that also dealt with the activity of the Umkonto Wesizwe?--Yes I think there were articles touching on that.

Where did they get their information on the Umkonto WEsizwe?---My lord, I assume they get their information from either members of Umkonto wesizwe or possibly from members of the Communist Party who themselves are members of Umkonto Wesizwe.

One last passage here, page 519. "Our proposals in the National Democratic Revolution. Suggested reading; not only discussion leader but all members of the group shall obtain and re-read the Freedom Charter to refresh their memory of its contents. Programmes of other Communist Party, particularly those in colonial countries, e.g. that of the Communist Party of India should also if possible be obtained and read by the discussion leader." You know we found about six copies of the Communist Party of India. What differentiates the Communist Party of India, that causes it to be read so carefully?--My lord, I don't remember - I may be wrong - I don't remember any exhibits of the programme of the Communist Party of India being put in - I may be wrong. I think there were some newspapers put in, published by the Communist Party of India.

Those are what I had in mind.---Presumably people, either Communists, or Indians, or Indian Communists, are interested in this sort of thing.

And their history is also one of bloody revolution.---No sir. Not at the stage with which we are dealing here. India is the country, I think, my lord, which you can say achieved its national independence, its national democratic revolution, if you like, by non-violent means.

Completely?--Not exclusively, but overwhelmingly by non-violent means.

There were violent means employed?--Occasionally there were violent outbreaks in the course of non-violent struggles.

Now having obtained the reasons for the programme let us go now to the programme itself, Exhibit R.39 and I would like to read to you just a few passages (page 53). Have you got that?--Yes I have.

"In the face of these provocations the liberation movement has had to reconsider its attitude towards non-violence as a universal principle. The patience of the people is not endless. They are determined to win freedom in our lifetime. They would prefer to achieve their liberation by non-violent means, but today they are left with no alternative but to defend themselves and hit back, to meet violence with violence. The Nationalists are forcing the situation in South Africa in which patriots and democrats will take up arms to defend themselves. Organised guerilla armies undertake various acts of armed resistance culminating in a mass insurrection against white domination. In such a conflict, however long and costly, the fighters for freedom must win, for they will enjoy the support of the overwhelming majority of the people of our country and the whole world." Is that a correct statement of the programme of the Communist Party?---Well I take it it must be, otherwise it would not appear in this document.

You see they speak there "The fight is for ~~the~~ freedom" and it is not the "fight is for freedom" about which so much is talked about in the ^Treason Trial; as his lordship pointed out to you this morning, at this stage already acts of sabotage were being committed. You say 'I take it this is the correct policy' - is there any doubt about it? Is it not an official document of the

Communist Party?--No I take it that this is an official document, and therefore this would be official policy.

And you, as a loyal Communist, support it.---I think it is a correct statement.

And you as a loyal Communist support it?-- As a Communist I think it is quite correct yes.

And I think you support it?--Yes.

This goes on then "The Communist Party considers that the slogan of non-violence is harmful to the cause of the democratic national revolution in the new phase of the struggle, ^{disarming} ~~disheartening~~ the people in the face of the savage assaults of the oppressor; damping their militancy, undermining their confidence in their leaders. At the same time the Party opposes undisciplined acts of individual terror....(quotes)..and continues to advocate the use of all forms of struggle by the people including non-collaboration, strikes, boycotts and demonstrations." Correct? --Quite correct.

"The Party does not dismiss all prospects of non-violent transmission to the democratic revolution. This prospect will be enhanced by the development of revolutionary and militant peoples forces." Let us pause there a moment: is that not what I was trying to tell you this morning, or suggest to you this morning? The official policy now of the A.N.C. - we are now dealing with the official policy of the Communist Party - was one of violence. The non-violent methods you had still in mind was 'to enhance the development of the revolutionary and militant peoples forces." Isn't that so, Mr. Bernstein?--No sir.

Doesn't this document say that?--I think you are reading it absolutely upside-down, sir. What it says is

that the prospect of non-violent transition will be enhanced by the development of militant peoples forces.

In other words, the prospect of peaceful transition in this country has been improved by the emergence of militant and if you like, violent, peoples forces.

Sabotage?--That is right, but it improves the prospect of peaceful transition - that is the point that is made here.

Well you know we have a document of course which speaks about power comes out of the barrel of a gun. Do you call it peaceful..if you have a firearm, and you say 'Give me your money' to someone, and he hands it over peacefully - would you say that is a peaceful method of obtaining his property?---My lord, that is not the analogy. If the gun is being pointed at a man who is unarmed, it is being pointed by the Government at the unarmed non-white people. and what enhances the prospect of peaceful negotiation and settlement in this country is that, if one man is going to point a gun, the other man should have a gun to defend himself. Then there might be prospect of talk. That is what this document is saying.

If the Communist Party..or the M.K. units, let us put it that way, was to derail a train and kill innocent people, that would enhance your peaceful methods of pamphlet distribution and strikes?--No I did not say that sir. I said that if the development of militant forces of the peoples movement to face the armed forces of the Government, to assist is likely/to bring about peaceful settlement of the dispute - more likely, than if the situation is maintained where one side is heavily armed, and the other side is completely disarmed. That is what I said.

What do you mean by the development of the militant forces?--I am speaking about for instance the growth of such an organisation as Umkonto.

Development of that?--The emergence of this the fact that it exists at all is in my view a help in this situation.

The fact that it embarked upon a policy of sabotage?--Also a help.

The fact that it was already employing guerilla war tactics?--No I don't accept that it was sir.

You don't accept that it was?--No.

And the fact that it planned the acquisition of arms from outside countries?--This is part of the process of building up the peoples forces as I understand it.

And that would enhance the peaceful methods? --Not peaceful methods, sir. The prospect of a peaceful settlement in this country, the peaceful transition from what we have now to a democratic society. That is what I am saying.

Pointing the gun in effect?--I am saying that there is only one gun being pointed in this country, in the first place, and that was pointed by the Government. This is an attempt to even the situation up so that the sides will talk. That is all.

In other words, then, you agree then that the only way to force the Government to talk peacefully around a table is to embark on sabotage and guerilla warfare?-- It is not the only way sir. I think that this is a help.

Well we have 193 acts of those acted.--That is so.

Has it helped?--Unfortunately not sir.

What is the next stage?--My lord, as I said

before the next stage in the struggle is the continuation of what you have been doing.

I will read on "The crisis in the country and the contradictions in the ranks of the ruling classes will deepen...(quotes)...whatever its end, ~~whether~~ whether its end is brought about by such a peaceful transition or by insurrection, the vicious type of colonialism...(quotes).. certain in the near future." I want to read one paragraph more: "The Communist Party unreservedly supports and participates in the struggle for national liberation, headed by the African National Congress in alliance with the South African Indian Congress, the Congress of Trade Unions, the Coloured Peoples Congress and other patriotic groups of democrats, women, peasants and youths....(quotes)...It considers that it is important and urgent for all the forces and movements for freedom to agree upon all their main goals and aims at this time." Is that a correct statement of the policy of the programme of the Communist Party of South Africa?---Quite correct.

You subscribe to it fully?--Yes I do sir.

You support it?--Yes I do.

And of course, not being a pacifist, but being a revolutionary, you actively supported it?---I am not quite clear what you..?

Well you are a Communist ?--Yes.

Therefore by nature a revolutionary?--Yes.

Not a pacifist?---Correct.

Belt 91E.

In fact not even a reformist. Therefore you as a loyal Communist supported this programme of the Communist Party?---Yes I supported it sir.

And how did you support it?--My lord I support it in my outlook and my opinions which I have expressed

through my writing.

And no other way?--My lord, I could have participated in movements in this direction - I can't think offhand.

Yes, writing articles encouraging people to revolt?--My sir, I have written articles calling for this very thing, a national convention of the South African people to settle the thing, I have written these articles.

You of course did not take part in any of the acts of sabotage?--No sir I did not.

No that was left to the rank and file of the natives in this country.--No sir.

Well who did it?---Members and units of Umkonto Wesizwe.

Any Europeans among them?--I understand there are Europeans among them.

Apart from Strachen who else?--I don't know who they are, sir, but I understand there are Europeans in their membership.

Name them?--I am unable to name any of the members of Umkonto.

Well how do you know there are Europeans among them?--I say I understand there are because I have been told so

By whom?--This is general discussion in the movement, and it is borne out by the statements issued by Umkonto itself that it is composed of people of all races.

But can you name anyone, apart from Casrils (?) of the Natal Regional Command and Strachen, of East London.. of Port Elizabeth?---Well my lord, according to the evidence there has been in this Court, one can add in Hodgson and Goldreich and Wolpe and a few more.

Oh no - those gentlemen were very careful. They merely taught the natives how to blow up, they did not do any blowing up themselves!---Well it seems to me you are jumping to conclusions sir, there is no evidence to that effect.

Did Hodgson blow up any places?---No, I say there is no evidence to the fact that they only taught Africans.

Well do you know of any places that they blew up?--I don't sir.

You don't! Do you know of any places that Goldreich blew up?--I don't.

Do you know of any places that Harmel blew up? --No sir.

Well then you cannot tell us of a single European who blew up anything?---And I cannot tell you of a single non-European who blew up anything either sir.

But the evidence in this case shows that part from Casrils, all the non..only the non-Europeans were employed to do, and I must repeat the phrase I used the other day, to do the dirty work.--My lord, it might be according to the evidence in this case. I say it is not according to my understanding of the position.

And I forgot to mention one other, Benjamin Turok.--That is correct.

He placed a bomb in a drawer. Now we come to Exhibit R.40. This is a statement by the Central Committee of the South African Communist Party. I am not going to go into this in detail because I covered this with Kathrada in detail, but I must show it to you - that is a Communist document? We will come back to that later - turn to Exhibit 51. --Yes.

(Page 446). "New Problems of a Democratic Movement." Now this document, Mr. Bernstein, was found at Rivonia.--Yes.

In the fourth room. It was also, an exact copy of it, Exhibit R.81 was found in the studio of Goldreich in the main house - you get me?--Yes.

And then another exact copy of it, Exhibit D.E. was found in the Durban office of Naicker. Found in the wastepaper basket. So this document, therefore, we find in two places at Rivonia and in Natal. It is a document issued by the Communist Party, it does not say so expressly, but it is quite clear from the reading of it.--Yes I think it is clear.

Is it correct what is stated there on page 447, the first paragraph under The new Line of Congress: "All of us are probably by now well aware that the A.N.C. ["]has _" finally discarded the line of 'non-violence' which characterised the organisation for many years; that it has adopted the attitude that force must be met by force; that the African people must learn to defend themselves and hit back - an eye for an eye and a tooth for a tooth."---My lord, in my view this is not a correct statement.

How does it come about that the Communist Party prepares a document dealing with the new line of the African National Congress?--My lord it is quite clear that the communist Party produces documents which deal with all sorts of political matters in South Africa; matters of the Congresses themselves, matters of the United Party, of the Nationalist Party of the Progressive Party and so on,

so there is nothing peculiar, to my mind, that the Communist Party should be expressing itself on a new policy of the African National Congress.

But whoever wrote this, made a mistake?--I think he stated the position incorrectly.

Just one further paragraph "But the fact remains that the masses of the African people are not aware of this new line of the A.N.C. The many years of non-violence propaganda, which continued right through the Treason trial and even persisted after the emergency cannot be dispelled merely by one or two rather ambiguous statements. It has now become a matter of great importance that Congress should announce and campaign for its new line among the masses." A correct statement?---I think it is probably correct, yes.

Probably correct?--I think so.

So when Kathrada says..when Sisulu says it is wrong, it is a wrong statement? You disagree with him?---well my lord, as I understand what this statement is saying, it is saying that the African National Congress has discarded its former line of non-violence, which is what I have said here in evidence, and I have explained the context in which I make that statement. Then it goes on to say that the mass of the African people are not aware of this new line. I think that is probably correct, & they are not, because I cannot remember the African National Congress publicly proclaiming that its advocacy of positive non-violence had come to an end. I can't remember them doing so. So I think this is probably correct. Sisulu might disagree.

Might I just reinforce that by saying that throughout the treason trial the defence, including yourself, laid great stress on the fact that the policy of the A.N.C.

was one of nonviolence?--Correct.

And that policy was put across successfully?

And that defence was put across successfully?--That defence was upheld by the Court sir yes.

And that is what the whole rank and file, in fact the whole public of South Africa was led to believe to be the true position?--It was the true position.

I am not denying it - the Court found it to be so.---Correct.

I don't dispute a decision of our Courts.---Yes.

But now we find it is the leaders of the A.N.C. who have decided on the policy of violence and now the leaders are enjoined to put that across to the masses?--- My lord, what I think would be a better statement is that the A.N.C. has abandoned its former policy of positive non-violence. This is known to the members of the African National Congress and to the leaders of the African National Congress, but because that fact was not publicised, the African masses are not aware of that fact - the fact that the A.N.C. has abandoned that policy - the masses are not aware of it. That is what this is saying, and that is why I say I think it is a correct statement.

Of course this does not say the way you are interpreting it?--No but speaking of the new line, which I have explained is my understanding of the new line.

Now page 448 you will find under paragraph 3 "The Image of the Movement at Home and Abroad", the paragraph commencing "serious and harmful consequences" - have you got that?--Yes sir I have.

"Serious and harmful consequences have flowed from these departures. Since the A.N.C. is the senior

partner, representing the majority of the population who of necessity carry the brunt of the struggle, the C.O.D. and to some extent the S.A.I.C. have tended to adopt the role of mere auxiliaries and assistants to the senior partner, neglecting their essential and primary function of working among their own population groups." Miss the next paragraph and then go on to the final one: "we in the movement know very well that the A.N.C. is the senior and leading partner in the alliance, but also and mainly because it represents the cause of African national liberation which is the core and essence of the democratic struggle in this country. Because of this the question of numerical representation and 'voting' has never arisen at meetings of the Joint Executives, etc. " Remember I put to you this morning that you were all partners in this one scheme, is that not so?--Yes you did put that to me.

Is it not so? --I am not sure which one scheme, and who you 'all' is referring to?

The C.B.D.---The C.O.D. yes

The S.A.I.C.--Yes.

The Communist Party?--No sir - you see, if you read the paragraph before the one you started with, this document is dealing with something amorphous called the Congress Alliance. Now I said in evidence before that the Communist Party was not ever part of this Congress Alliance. The Congress Alliance is an alliance of Congresses, and does not include the Communist Party.

Yes?--And to the extent that you call those a partnership, they are partners, but it does not include the Communist Party.

The African National Liberation Movement?---

Yes the National Liberation Movement would in my view include the Communist Party.

And the Joint Executives?--The Joint Executives does not include the Communist Party.

Why was the Communist Party left out of the Joint Executives? ---My lord, for the precise reason that these were the Joint Executives of the Congresses, and the Communist Party was not one of the Congresses. It is a simple proposition.

Now let us turn to page 451 for a final reference on this document. You know my learned friend read this out to Sisulu in re-examination as if I had left it out deliberately. "An unreasonable proposal." "We have indicated above the undesirability of mixing up legal and illegal activities; ^a particularly harmful suggestion which seriously infringes this principle would be any suggestion that the U.W.S. as the military wing of the movement should place itself under the control and direction of the N.C.C." The N.C.C. of course if the National Consultative Committee?---That is correct.

Now if the author of this document not making U.W.S. the 'military wing of the movement.'--He clearly does, sir, yes.

Rightly or wrongly?--My lord I think I have answered this question before too. If the phrase is intended to mean that Umkonto has an organic link somewhere with the National Consultative Committee, then wrongly, because it clearly has not and what this document is saying is that the proposal that it should have such an organic link is a wrong proposal. If it just means it is a military group which falls within the ambit of the National Liberation

Movement then it is quite a correct statement sir.

On that let me show you Exhibit R.61. (Page 501).

Now this document - tell his lordship who the author of this document is, what movement or party?---I think I will have to read this document. I don't think I have read this before.

"The Crisis is Deepening in South Africa." Well perhaps you can read it - might I just read to you one passage on page 2 (page 502). "The masses of the people on the other hand have also become impatient and desperate. The National Liberation Movement, led by the A.N.C. was engaged in extensive preparations as revealed by the ? Conference in Tanganyika for an armed struggle. It found expression through what the A.N.C. calls the military wing of the National Liberation Struggle, Umkonto WE Sizwe which has been deliberating one blow after another at Government installations and institutions, including an attack on the officers of the Minister of Agriculture." Mr. Bernstein, if this is a document drawn up by the Communist Party, then it has again made a mistake when it calls the M.K. a military wing of the A.N.C?--No I don't say that. I say if by this phrase military wing you are reading into it that therefore it has an organic connection, then I think it is a mistake. But if you can talk of a military wing, and not imply by that phrase an organic connection, then it is a perfectly satisfactory phrase, as far as I am concerned.

What do you mean by 'organic connection'?---

That is not under the immediate direction and control of the African National Congress or whatever the document says..

BY THE COURT:

What do you mean by 'immediate direction' - do you mean it is under the general direction, but not under the day to day direction?---My lord, in a general sense Umkonto is under the direction of the African National Congress. If I can explain it this way sir : if Umkonto Wesizwe were to take a decision that in future it will conduct its struggle by the systematic assassination of white people, regardless of which white people, they would just systematically assassinate. My lord, there is nothing constitutionally which can prevent them taking such a decision. They can take it, and they can attempt to carry it out, but the minute they take such a decision, which runs clearly counter and contrary to the policy of the African National Congress, the African National Congress will inform all its members, both in the leadership and in the units of Umkonto We sizwe, that if you follow out this policy, you are breaking the policy of the African National Congress and you must choose: either you follow our policy, or theirs. Since the African National Congress is the older organisation, it has much longer and stronger loyalty from its members in my view than Umkonto, I think if such a situation developed, my lord, the members and those in the leadership of Umkonto who ~~xxxx~~ owe loyalty to the A.N.C. would say 'In this situation we cannot persist in this decision, we have taken a bad policy" to So/this extent, as I understand it, the African National Congress exercises a virtual veto over the broad general policy of Umkonto.

Isn't there very much more, even accepting the evidence of accused No. 2, that there was a constant touch through him - he used to attend the meetings of the High Command?---On occasions, yes.

On occasions, on frequent occasions and on the question of policy, whatever you may mean by policy, the Umkonto was guided by the A.N.C?---Well, for this reason that I am expressing, my lord. Not because it had any constitutional provision which said they could not decide on their own, or that there was any obligation on them to report to the African National Congress.

Well any illegal organisation, Mr. Bernstein, which is not bound by any legal ties with another organisation obviously can't be controlled by that organisation.--- That is so.

I mean, you here have an illegal organisation which is either sponsored or allowed, which is the word which the accused preferred to use, to take its members, and draw its members from the A.N.C. members, and carry out a certain task.---That is so. But once they started doing something beyond that task, my lord, then they would be faced with the problem "Is the A.N.C. going to withdraw its members at this stage?"

Well that situation has never arisen?--No, but I say if one is speaking about the A.N.C. controlling this organisation...

In fact, what is the difference between this and a company which forms a sub-committee and allots a certain task to that sub-committee? What is the difference? ---Well my lord the difference is that it has formed the sub-committee, it has nominate the personnel, and presumably given it its terms of reference. That did not happen in this case, as I understand it.

Some people say it did not happen that way.--- I am going by the defence evidence which I accept, my lord, that it did not happen this way.

Belt 92E.

ON RESUMING AT 10 a.m. on the 5th MAY 1964.

FURTHER CROSS-EXAMINATION OF ACCUSED No. 6 BY DR. YUTAR (CTD).

Mr. Bernstein, yesterday you conveyed to his lordship whilst the South African Communist Party was a limb of the National Liberation Movement, it was not in fact a limb of the Congress Alliance?---That is correct.

as
And/you rightly pointed out, for the simple reason that the Congress Alliance was a Congress alliance of the African National Congress, South African Indian Congress, South African Congress of Trade Unions, South African Coloured People's Congress and the Congress of Democrats?--That is so.

When was the Congress of Democrats formed?---
I think it was formed in 1951 or 2, during the defiance campaign.

And by whom was it formed?---It came to be formed in this way: the African National Congress and the S.A. Indian Congress jointly invited several hundred Europeans in Johannesburg to a meeting at the Hall. They suggested there very strongly that it would be in the interests of South Africa as a whole that there should be a vocal and effective body of Europeans putting forward the view which they themselves were putting forward, that this country should become a non-racial society, and as a result of that a Resolution was moved at that meeting, which I myself moved, to found such an organisation, and it was adopted by the meeting.

All very interesting, but what I wanted to know is who was the leading figure in the formation of the Congress Alliance?--Of the Congress Alliance?

I beg your pardon, of the Congress of Democrats.

---My lord that is hard to answer. As I say, I moved the Resolution, if that makes me the leading figure, I don't know.

Who launched it?--A provisional committee was elected my lord. I can't remember now if it was at that meeting, or a subsequent meeting and that committee then set about the job of organising branches and units of this organisation in different parts of the country.

Who led it,?---Well I would say the Committee led it. I can't think of any single individual who one would describe as the sort of undisputed leader of the organisation.

Are you serious when you say that?--Quite serious.

Quite serious. And you are telling his lordship the truth?---Yes that is my view of it.

Your view?--Yes.

Were you on the editorial board..when did you join the editorial board of "Fighting Talk"?--I am not very sure my lord but I think it would be about 1949 or 1950.

And you wrote articles under yourname?--Both under my name and under pseudonyms, and anonymously.

Such as?---On occasions I wrote under the name of Ben Giles(?) on occasions I wrote under the name of Elwood Cholmondeley (?) and on occasions anonymously.

And you sometimes signed your articles L.B?---Very likely yes.

I am not trying to be familiar, but you are also known as Rusty?--That is so.

And you are married to Hilda Watts (?)?---That is so sir.

Now I don't want to embarrass anyone in this

Court. I am going to show you a document which has not yet been put in as an Exhibit, it is "Fighting Talk" of September 1963. I don't want you to mention names, but did you write that article?---My lord, it has the initials L.B. at the bottom, it is familiar, I think I probably did. I have not read the whole article to make sure.

I am not going to read out the title of the article, and when I refer to the party in question I am not going to mention his name, I will just call him MR. "A" (Not to confuse him with Mr. "X"). "For another man, that alone would be enough, but not for A. He has found time and energy, made time and energy, to launch and lead the Congress of Democrats to carry on the struggle against South African racialism and to hold out a hand of comradeship alliance to non-white fellow-citizens who strive for democratic rights and liberty." Is that correct?--- Yes I think that is correct.

So when you wrote this article September 1963, you knew that it had been launched and led by Mr. "A"?--- Well I would say one of the group, Mr. A was one of the group who launched..

You did not say it in this article?---No sir I did not, but that's..

And Mr. A, shall we say that he is a listed Communist, and leave it at that?---That is correct.

In fact, when you speak for another man, you say just before that "Largely through his efforts and activities there emerged Transvaal peace council and now with wider support and more representative backing the South African Peace Council of which he has been elected Vice-president." So we find the Communists have a finger in the pie of the Transvaal Peace Council and the

South African Peace Council.---They participated in that.

High-sounding names, wonderful sounding names, but with Communistic interests?---I don't know how wonderful or high sounding the names are - they stand for what they say. They stand for the maintenance of world peace and Communists participated in them.

Mr. Bernstein, if you want to read this to refresh your memory you may. I am not putting it in as an exhibit---Well if it is not going in I ..

You can refresh your memory. You don't deny you wrote that article?--No sir I don't.

Mr. Bernstein, you are a listed Communist?---That is correct sir.

So is your wife?---Yes, that is correct.

And according to your bail application addressed to this Court you made it perfectly clear that you were not prepared to have your name taken off the list of listed Communists?--Not under the conditions in which it was offered to me, sir, no.

And your name was listed in the Government Gazette Extraordinary of the 16th November 1962?---That is very likely sir.

And you are not prepared to have your name taken off the list of Communists?--Not on the basis on which the offer was made.

What was the basis of the offer?--That I should give reasons why my name should not be included on the list. I requested, or I don't know if I requested sir, or I objected to the fact that no hearing was given to those people who were being subjected to this form of punishment, that no attempt was being made to provide us with the

evidence on which the Government was acting, and I refused to participate in such a travesty of judicial procedure.

You could of course have said "I am not a Communist, because I am simply NOT a Communist and I don't belong to the Communist Party" but you did not do that.--- The question was not whether I belonged, but whether I had belonged prior to 1960 when it had been legal to do so.

You remember yesterday I referred you to an article..I asked you about the Assegai yesterday, and you said it was printed in London?--No I think that was about the African Communist.

Where was the Assegai printed?--My lord, I don't think I know - I have a feeling, I may be wrong, that one of the issues says 'Printed in France' but this is an impression.

And did you ever contribute to it?--Never.

Did the South African Communist Party pass on information to it?--To Assegai?

Yes.---I would not know. I would be very surprised if it did so.

Do you know who the editors were?--Only from what has emerged from correspondence read here in Court.

I prefer to put those documents to another accused, if he goes into the box. What about the African Communist where was that printed?---In Great Britain.

On behalf of?---On behalf of the South African Communist Party.

As a quarterly journal?--Yes I think so.

Who contributed to that journal?--My lord, there are a large number of names of writers listed in it.

Did you contribute to it?--No sir I did not.

At no stage?--No.

Right. Having said that - you remember the "Fighting Talk" I put in yesterday Exhibit 131 where under the heading "Going down in Blood" you took Mr. Fouche to task?--Yes.

The Minister of Defence, and you spoke about the large amount of money that he wanted out of the tax payers in order to contend with the military action which was being secretly planned?---Yes.

I want to refer you to "The African Communist" Exhibit R.227. that is the issue for July/August 1962.---Yes.

The Fighting Talk I referred to was April 1962, and this is now July/August 1962. And as it says here, it is published quarterly in the interests of African solidarity and as a forum for Marxist-Leninist thought throughout our Continent by the South African Communist Party." And we have an editorial note Fascist South Africa. I just want to read to you a short passage "The statement issued by the Congress Alliance, 50,000 copies of which were seized by the Special Branch of the Police before they could be distributed to the public, points out that if legal and peaceful means of struggle..(quotes)..the people will turn to methods which are neither legal nor peaceful. "New Age" the fighting peoples' newspaper/^{which}for many years has kept the flag of freedom and equality flying in Cape Town, now itself under imminent threat of banning, links the new Fascist legislation with the decision of the Government to spend R120,000,000 on defence under cover of a fake scare of 'invasion'. The Government prepares to rule on war footing; as has been proved by the history of despotisms in all countries, this sabotage bill will not achieve its object and it will merely steel the opposition and encourage it to adopt new and better methods of achieving

its targets. Thousands of leaflets issued by the South African Communist Party on the passing of Vorster's new law are a vivid illustration of what is proclaimed by the text itself, that such laws cannot destroy Communism, because it is true and in the interests of the people. " Can you tell his lordship who wrote that, who conveyed that information to the African Communist in London?---No my lord I cannot.

You will agree that in essence it is in agreement with your article 'going down in blood' in Fighting Talk of April 1962?--I think it has much the same point of view on the subject.

And what is more, the leaflet, The South African Communist Party, the thousands of leaflets there referred to, is the one we discussed yesterday Exhibit C.O. "Vorster's Nazi Law can Never Destroy Communism."--- Yes, that is probably so.

Whilst we are on that - are ~~xxx~~ these the correct aims of the Communist Party, the same leaflet "Down with Nazi Rule, down with White Supremacy, for freedom of speech, of movement, of the press, of organisation for work, land and freedom, votes for all, power to the people?"--Those are slogans which express in a very short and summary way their aims.

Or as said in Exhibit C.P.1. "The right to vote for a share in the Government".--Yes.

"Equal rights and opportunities, regardless of colour"?---Yes.

"Enough wages or land for a decent life"?--Yes.

"A life of dignity, peace and freedom."--That is so.

Apart from those basic principles, I take it the Communist in Russia lives a normal way of life?---I am sorry, I don't follow that question.

Apart from these political and economic principles ~~and~~ for which the Communist Party stands, I take it the Communist in Russia lives a normal life? He buys his food in the shops?--He certainly does so, yes.

He either owns a house or he rents a house?--
Yes sir.

He pays taxes?--Yes he does.

And in that regard he has ^{the} normal obligations of any human being in any country?---Oh yes.

Now I want to show you another document which has not been put in. I want you first to identify it - you see this document here? Is that a document issued by the South African Communist Party?--This is what it says.

This will be EXHIBIT "DM." This is now "A message to you from the S.A. Communist Party" and I think we can date this document. It must be at least November 1961. ---That would be so.

Because it is 44 years after the Socialist Revolution.---That is so.

Which took place November 7th 1917.---Correct.

So this is issued not before, possibly after.

---It would seem so yes.

Now look what this document says "For higher wages, land, freedom, equality, 44 years...(quotes) Socialist Revolution, free bread, free public transport, free education, free medical services, free holidays, free meals at work - no rent." Is that a true statement?---My lord, one has to

read the following paragraph, which says "Sounds like a dream, doesn't it, but that is what Communism is bringing to the 200,000,000 people of the Soviet Union" and I take it, sir, that what is said here is not a description of what actually exists, but of what is coming.

What is coming!--And I think as a description of what is coming in the Soviet Union it is probably accurate.

Probably accurate?--Yes.

For whose benefit was this dream issued in circular form?--My lord, apparently for the public.

For the public. European?--I could not say sir, I would have to read the document to see whether it makes that clear.

Well I can help you very simply. If you turn over the page you will find, also written in two different bantu languages.--Yes that is so.

Don't you agree that this is a wickedly false representation to convey to the native people of this people, telling them that under Socialist regime you can get free bread, free public transport, free everything? In fact, according to this document, the Government pays you to live!--My lord, if one reads on a paragraph further than the paragraph I read, it says "In the next 20 years the Soviet people will be building a Communist society, and by 1970 they will surpass in production per head of population the strongest and richest capitalist country, the United States."

Yes?--And it is dealing, as I say, with what is coming in the Soviet Union, and in my view, probably accurately.

And what is coming in South Africa, under Communistic regime?--Very likely, sir. In the long-distant

future, yes very likely.

But you know, you don't say it here 'in the long distant future' and if a banty reads this, - you know of course bread is one of his staple foods?--That is so.

"Free transport" - transport is a thing that he has got to use every day, and you are holding out to him wonderful bait?--I think it is wonderful bait.

Wonderful bait!--That is so.

And you think this is true?--I think this is capable of realisation, my lord.

But do you think the bantu, Jim Fish from Fish Hoek, or John Mhlaba from Port Elizabeth, or any bantu for that matter, when he reads that, will understand that this is something that is going to happen, not in his lifetime, but in the lifetime of his great, great, great³ grandchildren?---Well it is not telling him about his lifetime. It is telling him what is happening in the Soviet Union. And I think it is going to happen very likely in his lifetime.

You think it is likely?--Yes.

You see I put to you yesterday that in a number of documents the Communist Party has falsified the true position, or has misrepresented the facts to the public, and particularly to the non-Europeans.--I dispute that.

Now we can continue where we left off yesterday, and we were dealing with Exhibit R.61. Now you have had a chance to read this document?---Could I just see it again?

You know "The crisis is Deepening" ---Yes I have read that.

Is that a Communist document or an A.N.C. document?---My lord it is not clear to me that it is issued

by any organisation at all. It could well be a personal statement that somebody *y* has used in my opinion.

Alright - but it shows a fair knowledge of the political position in this country?---Yes, the person is fairly well-informed.

Well I don't want to quibble with words again and argue with you but whoever expressed this viewpoint certainly thought of the M.K. as a military wing of the A.N.C?--May I see it?

Yes sure - I have marked it.--(Handed to the witness). My lord, in fact the expression used here is "The Umkonto we Sizwe is what the A.N.C. calls the military wing of the National Liberatory Struggle."

Yes.---That is the phrase used here.

Now I want to put to you a simple proposition arising out of this: will you agree, Mr. Bernstein that the bantu population of South Africa are in general a very law-abiding population ?--Yes I think that is so.

And as a rule not given to violence? Taking a general cross-section?---Not more than most people.

The policy of the A.N.C. up til 1961 was one of non-violence?---That is correct.

And most probably that policy proved attractive to a large number of the 120,000 bantu who are alleged to be members of the A.N.C?--I should say to all of them sir, or they would not have joined.

Don't you think that if the A.N.C. publicly came out with a change of policy, that it was now going to resort to violence, it would lose a goodly percentage of that membership?--I think it probably would, my lord.

And don't *x* you think that this was then just a subterfuge to say that the M.K. was an independent or-

ganisation, and had nothing to do with the A.N.C. in order to prevent a split in the membership of the A.N.C?--- My lord, you say a subterfuge which implies that in fact the A.N.C. had changed its policy to one of violence?

Yes.--Which I have consistently denied here in the box. So I will not accept that that was a subterfuge.

Right.--If you mean that the African National Congress was aware of the fact that if it itself started conducting acts of sabotage it would lose a large proportion of its members, I have no doubt they were aware of that.

They were aware of that, and therefore it would be most impolitic to put it at its lowest, for the A.N.C. expressly to align itself, publicly and openly, with the acts of sabotage of the M.K?---No I don't even think that follows.

You don't think so?--No.

And is that not the reason why we find in some document they speak of the M.K. as the military wing of the A.N.C. and in other documents we find it deleted, or expressed differently?--No sir, I think the different expressions arise from the fact that there are different people writing, they are interpreting A.N.C. policy in different ways, and probably interpreting the phrase "military wing" in different ways too. I don't think they are attempting to conceal anything.

Alright - I don't want to dwell on that document any further. I want to deal now with a series of six documents which I passed over yesterday because they were being examined by an expert, and here they are. Exhibit R.40 (Page 392. Mr. Bernstein would you just look at this document in the meantime - I am not going to deal with it in detail, I did that with accused No. 5. I am going to show you in

connection with this document the following co-related documents, R. 83, R.84, R 85, R.94, R121B and R.143. Now I put to you the general proposition that you personally, and I will come to your document almost immediately after this and the Communist Party purposely misrepresented conditions in this country to people in this country and abroad. ---No I will deny that.

You deny that. Well, we find on page 399 (R.40) you will find this paragraph "No desperation, no adventurism but firm resolute revolutionary action, planned on local initiative in co-ordination with the national leadership of the liberation movement headed by the African National Congress and its fighting wing the Umkonto WeSizwe - this must be the watchword of the West Cape and all other parts of the country. This is the policy of the Communist Party." Correct, or not?--Yes I think that is correct.

You see what it says, "The African National Congress and its fighting wing, the Umkonto Wesizwe."--Yes.

And that is the policy of the Communist Party. ---No sir, the policy of the Communist party is no desperation, no adventurism but firm resolute revolutionary action.

And in co-ordination?--Yes, in co-ordination with various bodies.

Headed by the African National Congress?--- That is correct.

And its fighting wing Umkonto Wesizwe.--That is what it says.

'This must be the watch^{wo}rd. This is the policy of the Communist Party."--That is right.

Now turn for one last reference page 406. I don't want to dwell on this longer: Now isn't what is

lt 93E

stated in the paragraph beginning with the words "What does this mean?" Is that not a shocking misrepresentation of the truth, the true position in this country?---No sir, I don't think so.

You agree with it?--- I think..

The reference to 'our Courts' - do you think that is a true exposition of the position?--I think the reference to judges who put the preservation of white supremacy before consideration of justice is farfetched. For the rest I think it is correct.

'Points of law and court procedure are thrown to the winds"--That is correct sir.

That is correct?---Absolutely.

Correct of this case, too?---Correct in general of the South Africancourts, sir, and of the procedure.

What courts have you in mind then?--My lord I had in mind procedure, for instance, which has been adopted in the South African Code recently where points of law have been thrown to the wind, such things as for instance holding a person under duress in order to force him to make a statement, which he then gives in evidence. I think this is a new point of procedure in South Africa. Such matters as not releasing a prisoner on the expiration of their sentence which is a new point of procedure in South African law.

That is what you had in mind here?--I don't know what the writer had in mind sir.

But you are justifying it?--As far as it goes, where it says 'points of law and court procedure' are being thrown to the winds' I think that is so.

But as far as the judges, you say that is far-fetched?--I think that is far-fetched.

Now when you elaborate that, that is what you have in mind when you think of points of law and court procedure?--Well those are some of the points that come immediately to mind, sir.

Have you not yourself personally misrepresented not only ~~in~~ the legal position in this country but the events in this very case itself?--I don't understand what you mean..about the events in this case..?

Have you not expressed .. do you remember my learned friend Mr. Berrange cross-examining Mr. X? Remember that?--Yes I do.

And he suggested Mr. X was tailoring his evidence to fit in with the State case?--That is right, that is what he said.

Do you subscribe to that?--My lord, on the evidence which counsel produced of his testimony in previous hearings, compared with his testimony in this case, it seems to me it is quite a reasonable assumption.

You agree with it then?--I think so sir, yes.

Did you ever go further than that?--Me personally?

Yes, you personally?--In regard to..?

Witnesses in this case. Have you ever accused the State of 'coaching its witnesses'?---I possibly have said that sir.

In this case---Yes possibly.

Have you accused the police in this case of acting improperly?---I can't recall if I have sir, but I think it is possible.

What grounds have you for saying that the police in this case have acted improperly?---Well my lord,

I can only refer to the testimony of one police witness who himself said here under oath that when you have a 90 day detainee, and you want to get a statement out of him, you tell him what you know are the facts, and then he confirms them.

Then he confirms them?--that is what he said yes.

And he confirms it?---Well he says this is the only way you can get a statement out of a detainee, is when you tell him what you know, and then you put it to him like that.

And if the detainee denies it, are you suggesting that the police then force him to agree?--No they just keep badgering him.

Until he agrees?---Possibly until he agrees, or possibly they give up at some stage.

Any other examples of improper behaviour by the police in this case?---I am not sure that I can call any to ~~my~~ mind right now.

You say you might have said that the State coached witnesses?--I might have.

That is a reflection then on the State prosecutors?---I am afraid so sir.

Have you any evidence to support that wicked suggestion?--My lord, we did have one incident here in Court. I don't know if I am forced to deal with this question, sir.

It affects your credibility?--Well I would like his lordship to tell me whether this is all strictly relevant to the case?

BY THE COURT:

It is a relevant question, Mr. Bernstein. You can answer it.

WITNESS: Well my lord we did have one case of a witness

who testified here on Friday afternoon, who went away for the weekend, who came back on Monday morning, was asked precisely the same questions he had been asked on Friday afternoon, and gave different answers, from which I deduced that some coaching had taken place over the weekend.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Who is that witness?--I am afraid that I can't recall.

That was a witness where we were having a certain measure of difficulty with the interpreter?--That is so.

But you don't ascribe it then to the difficulty of interpretation, you say directly that the witness was coached?--Well that is my deduction.

That is your deduction?---Yes.

Any other instances of witnesses coached?---I am not sure that I can recall any others sir.

But notwithstanding that, you make these wild statements?---Well I could have made these suggestions. It is possible.

Did you ever say 'apart from police evidence and documents, all the substantial witnesses OTHER than people who gave purely technical evidence, about for example who bought a particular car, etc. ALL the substantial witnesses have been detainees who made statements under pressure and while subject to detention and solitary confinement, and subject certainly to threats of either indefinite detention or prosecution or both?' Did you make that statement?---Yes I did sir.

Is it true or false?--I think it is probably true sir.

You think it is true - what have you to support it?
---My lord, most of the witnesses have testified here that

they are 90 day detainees.

Most of them?---Most of the substantial ones, let me put it that way.

I am sorry that I am being diverted from my Exhibit 40, but I want to put this to you now at this stage: do you know how many witnesses the State led in this case?

--No sir.

Any idea,---No sir.

Well the number is 173.--Yes.

Do you know how many of those were detainees under the 90 day law?--No sir.

Any idea?---No sir.

What makes you say then that substantially ALL the substantial witnesses have been detainees?--My lord a large number of the witnesses in this case have been giving what I regard as purely technical evidence, that an explosion took place, that a motorcar was bought, that an invoice was written out - this sort of thing. I don't doubt that the majority of the witnesses were not 90 day detainees.

You say ALL the substantial witnesses have been detainees.---Well that is my understanding of a substantial witness, a person who is testifying not just to some purely technical formality.

I will give you figures now - of the 173 who were witnesses for the State, 29 were detained under the 90 day detention - 29. Of the 29, now comes the process of elimination, 8 came..consisted of the bantu staff at Rivonia. I need not mention their names, we know who they are?--Yes.

Was any suggestion made to them that they were threatened?--My lord one of them testified here under oath that he was assaulted.

That is right. One of them offered that afterwards, and you heard his lordship ask me to investigate, and you heard what I told his lordship in open Court.--I did sir.

Was anyone of those asked, and that was my question, whether they had been coerced or threatened to give particular evidence?--I don't know if they were or not.

Right. Is it not a fact that the defence have, substantially, admitted their evidence?--Yes. That is so in large part.

So we take away 8. There are the two witnesses Emily Sebone and Eva Hlongwane, the two female witnesses from Mountain View. Has it ever been suggested to them that they were threatened or coerced to give false evidence?--I am not sure, sir. I don't remember.

Right. And in point of fact has the defence not agreed with their evidence, again, substantially as to who stayed at Mountain View and what happened?--Yes I think it has.

That makes 10. Now two others, Ralph Sepple, the clerk in Attorney Furman's office and Ronald First - you remember those two gentlemen?--I do.

Two Europeans?--Yes.

Was it ever suggested to them that they were forced by the police or coerced by the police to give false evidence?--I am not sure, sir. I don't remember.

Well if you can't remember, then it satisfies me because his lordship has the record. I can tell you now that no such suggestion was ever put to them?--That may be so.

Right. Then we have this old lady Florence Ntombela - you remember her?--I do sir.

She was an active member of the A.N.C. a very

active member, and it was never suggested to her that she had been forced or coerced by the police, or coached by the State.---I don't know whether it was or not, my lord. Her evidence was certainly contested by the ~~prosecution~~ defence.

Yes - she denied it?--Yes.

It was contested to this extent, that she said Sisulu said that the young must now hold parties to raise money, the young must now carry out instructions and burn down post offices and railway stations. ---Yes.

And bombs. So we will put her down on the list. You remember the witness Alfred Jantjies?--Yes sir.

This man who went across the border and gave his lordship a detailed study of what training he underwent? --Yes I do.

He was not even cross-examined?---That may be so sir.

Right, we will put him down on the list. And you remember his compatriot Isak Rani, who gave the same evidence, and who was hardly cross-examined at all - at any rate, no such suggestion made, right?---Yes.

Then we got Cyril Davids, who dealt with the Mamre Camp. He was cross-examined but it was never suggested to him that he was forced to give the evidence he gave?--- I don't think there is evidence that either Rani or Jantjies were 90 day detainees.

Oh yes. I am giving you an accurate list of the 29 detainees.---Sorry sir.

Now Cyril Davids, he was another 90 day detainee. He spoke about the Mamre Camp?--Yes he did.

It was suggested to him that this was a spiritual and health camp.--It was not suggested to him - he said it.

That is what he was told?--He said that is what

the camp was for when he was told what the camp was for.

That was suggested to him by Mr. Berrange.---
I don't think that is so sir.

Well I can tell you that definitely. Now he was corroborated completely by a man called Caswell - do you remember Caswell?--Yes I do sir.

Caswell, much to the surprise of my learned friend, said he had never been detained under the 90 days?---
Yes.

So we can rule out Cyril Davids?--Rule him out from what sir?

From being forced to give false evidence, or being coerced?---I won't accept that sir.

Why not?---Because he was held as a 90 day detainee, and his statement ~~was~~ was taken from him under conditions which I regard as conditions of torture.

Of torture?--Yes, having suffered it!

That does not happen in Soviet Russia?--I am not discussing that question sir. If you want my description of Soviet Russia, I will deal with it. I consider these conditions as torture.

You know of course that this one professor Danziger (?) gave ~~xxx~~ evidence in Cape Town?--Yes I understand so.

Now we come to Essop Suliman - he was ~~also~~ another 90 day detainee?--That is so.

And he in effect, I won't go into details, spoke about the conveyance of over 300 recruits across the border.--Yes.

That has been accepted by the defence?--Ø I don't think a word of what Essop Suliman said has been accepted by anybody sir.

Oh?--As far as I am aware.

In fact has it not been admitted by your co-accused that recruits were conveyed across the border?--- Yes sir, but I don't think the dates, the arrangement, the payment or anything else testified to by Essop were accepted.

I am talking about the recruits?---The mere fact that recruits were carried across the border by Essop has been accepted.

That is all I want! You remember Harry Bambane, that is a recruit who is serving a two year sentence. It was never suggested to him - that he has been either coached by the State prosecutor, or forced by the Police to give false evidence.---That may be so) I can't be sure.

MR. BERRANGE: My lord, my learned friend is completely wrong, I don't know where he gets this evidence from - it was in fact suggested that he changed his evidence threetimes.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

You know Mr. X?--Yes.

You heard what he told his lordship?--I did sir.

That he decided, before he had been even arrested, let alone detained, to come out with the whole truth?--Yes I heard him say that.

Are you now suggesting that he was tortured to give the evidence he did?--No I did not say that.

Or coached by the State?--My lord, as to whether he was coached or not, I did not specify that he was coached. I think his evidence is subject to a great deal of suspicion.

I am not denying it, but I am dealing now with the allegation that evidence was forced out of him as a result of detention?--No I don't think in his case, according to his evidence he gave it voluntarily.

And what about Abel Mtambu, Mr. Z? Was he not in the same position?--My lord, he is a man who was not only detained, he was detained, released and re-detained, and then he gave his evidence. I think his is open to grave suspicion.

And you know why he was re-detained? He gave his statement the moment Mr. X pointed him out to the Police?---That may be so.

You remember this old bantu man, the herbalist?
---Yes I do.

He was detained?--He was.

He is a relative of accused No. 9?--He is sir.

It was never suggested to him that he had been forced to give the evidence he did?--I am not sure about that, I am not quite clear, but I think his evidence is very seriously contested by the defence.

Oh yes? Of course! Because he gave most important evidence, that No. 9 brought dynamite to his garage on three occasions, and buried it?--That is so.

But I am talking about - do you suggest he was coached by the State Prosecutors? that he was improperly forced by the police to give evidence?--My lord I have made it quite clear that I say that every detainee who gives his statement under duress and conditions which I regard as torture is being forced to make a statement, and his statement is subject to suspicion. I have dealt with one case in which I think that there was clear evidence in this court that coaching was taking place by somebody.

By somebody?---By somebody.

It could only be by the state prosecutors?--
Or by the police.

But you have got nothing to substantiate that?
----No I am drawing a deduction from the evidence in this Court.

You remember the witness Peter Mvombu who testified to the commission of two acts of sabotage?--Yes.

Do you think he was forced to say that he committed two acts of sabotage and not one?--My lord he was either forced or induced or he was persuaded by some fantasy but it was shown in court here that he made three different statements about the same subject, all under oath, at different times.

So the police must have been awfully inefficient in forcing him to make one statement - they got 3 different statements out of him!---Yes, and they have led all three in evidence!

We are left now with 5..no 7. Let me get another two out of the way. Dondashe Norman and Peter Peyise. Member those two gentlemen spoke about a conference in Lobatsi?--Yes.

Did such a conference take place?--It did.

They say that Oliver Tembo was there. Was he there?--I understand he was.

They say accused No. 4 was there - was he there? --I understand he was, yes.

They say both these speakers, and they were only asked about both these speakers, said that recruits were obtained in South Africa and sent across the border for training?--They did.

Has that been admitted by the defence?--My lord I don't know whether it is admitted by the defence that that was discussed at Lobatsi, but if you are talking

about these two witnesses, they are both testifying my lord to a conference which lasted two days.

Yes?--They were both extensively cross-examined by the defence if they remember any other single fact in these two days other than this one factor which both of them testify to, and neither of them remembered another single thing.

But was it not an important item on the agenda, the recruiting of recruits?--I have no idea at all sir.

No ~~idea~~ Idea?--No.

And to a raw bantu that would be an important thing wouldn't it?--My lord, to anybody it seems to me remarkable that his memory of a two day conference is precisely the same as the memory of the next witness of a 2 day conference.

And because of that are you suggesting that the Police coached them?--I am suggesting that somebody persuaded them that this is what happened.

Now of the 29 then who were detained I have eliminated 24 and we are left with the following 5: Bennet Mashiane, Reginald Mduli, let us take those two just for a moment. Is it not a fact that learned counsel have been quoting these two people, and saying that acts of sabotage were never discussed at the meetings of the A.N.C?--I think that is so.

So if the police were forcing them to make statements to suit the police, they were singly inefficient in not getting them to say that acts of ~~sabotage~~ sabotage were in fact discussed at the A.N.C. meetings?--That is a deduction you are making, I am not.

You don't want to choose that deduction, you want to choose the reverse! And finally we are left with now

3 witnesses of the 29 detainees, and they are John Tshingane, the taxi driver, and the two Nkikelanes, Zizi and Sikumbuzo - who, between / the three of them testified to totally different facets of this case, from the Eastern Province?---I think these are the 303 witnesses of whom the police officer said that their statements were got from them by telling them what he knew. I think these were the three.

One of them.--Or one of them.

Card. And despite what I have done now, the analysis I have made, you still say that "all the substantial witnesses have been detainees who made statements under pressure, and while subject to detention in solitary confinement, and subject certainly to threats about indefinite detention, or prosecution, or both? Their behaviour runs completely according to pattern. All of them have lied or distorted or fabricated their evidence to a greater or lesser extent, some cunningly exculpating or hiding their own part in the events, some not." Is that a fair and honest description of events in this case?---That is my summary my lord. Other people might differ with me.

And you stick to it?--Yes it is still my opinion.

You stick to it? And you go on to say this:

BY THE COURT:

What document are you referring to now?

DR. YUTAR-(to the witness)

You wrote this letter didn't you?---I did.

DR. YUTAR (to the Court)

I am referring to a letter my lord which this witness wrote to two other people on the 8th February 1964 (to witness) and it has not been put in my lord. /I don't want to embarrass anybody and say to whom you wrote it.

THE WITNESS:

Well perhaps you should embarrass people, sir, and say how you came into possession of the letter.

DR. YUTAR (Continued)

Yes - you know perfectly well!---I know sir. It was intercepted by the gaol authorities, to whom it was handed for censoring.

Yes! There is nothing wrong with that - all letters are censored?---That is right.

And this is what you go on to say "So this is now patently # the basis of operations. You arrest a man, hold him in solitary confinement, tell him that he will be held indefinitely unless he answers satisfactorily - that is the key word, and tell him what he knows are the right facts, and just keep at it until he answers satisfactorily." Is that a correct description of what occurred in this case?---I think it is a correct description of what occurs to 90 day detainees.

I am talking about witnesses in this case?--- Those who were 90 day detainees, I think that is very likely what happened.

And then you go on to say, pay me this compliment: "Here too Vernon did a great job exposing this very patent, blatant is a better word, coaching of witnesses." How dare you say that if you have got nothing to support it? ---My lord, I have explained the case on which I think it is an adequate statement.

You think so, and you could only quote one case?--That is the case I am quoting.

The witness where we had difficulty with interpreting?--That is so.

And one final extract from this letter "And yet the whole thing disgusts me, the unprincipled timidity of people and even the more unprincipled willingness, eagerness, of the authorities to use them."---Yes.

You adhere to that?--I adhere to that.

That is a condemnation of course not only of the investigating officer but also of the State prosecutors in this case?--It is a condemnation of the State, sir, which has provided facilities for witnesses statements to be taken from them under duress.

Have you told your friends overseas, to whom.. information this was, most probably for publication ..--It was not at all for publication my lord, and there is no possible suggestion that it was.

No!--Not at all sir.

Did you tell your good friends across the border that the defence have in fact admitted the major part of the State case in this case?--My lord..

Have you done that?---I have only written one letter dealing with this case at all, my lord, and that is the one, and it has been stopped by the gaol authorities. I have not written anything else about this case.

But in this letter did you tell them that the defence was in effect admitting the major portion of the State case?--I cant recall if I did or not.

Well I can tell you, no, and I can show you the letter, and did you perhaps tell your friends overseas that the documents in this case supported the evidence in a large measure, even of the 90 day detainees?--My lord my friends overseas read the newspapers, they see what the

evidence is and what is being admitted.

Yes - it all depends what newspapers they read doesn't it?---I take it that all newspapers which report the proceedings, report the proceedings sir.

Now let us carry on. I am not going to read anymore from Exhibit 40, and I show you Exhibit R83, in support whose handwriting is that, Mr. Bernstein? Do you know the handwriting?--No my lord, I can't identify the handwriting.

Do you know a man called Howwitz, Cape Town?---
Yes I do.

He is an architect?--^Yes - he is no longer in Cape Town.

He was in Cape Town?--He was in Cape town.

An architect?--Yes.

Is that his handwriting?---It is possible, my lord, I just don't know.

Exhibit R84 - do you know whose handwriting this is?--No my lord.

It may be the same person?--Well that is possible.

And then R.85- do you know that handwriting? --My lord they all appear to me to be the same handwriting, but I could be wrong about that.

In fact you are right, because that is the view of the expert - I can't call him now. And by the way, who is Archie?---I don't know my lord.

You speak of an Archie in this letter of yours, don't you?--Oh that is possible, if that is the Archie you are referring to. It would be Mr. Archie Levitan.

Belt 94E.

Archie Levitan?--Yes.

Who is he?--He is an old friend of mine.

What are his political colours?---Reddish sir.

Because we have some documents which we found in the coalshed with Archie's name on top.---Well it might or might not refer to him.

Do you know any other Archie?--I know several, sir, yes.

Who? We know Archie Levitan, he is Red in colour, political colour. Yes, what other Archie do you know? --I know a man called Archie Dumede in Natal, I know an Archie Sibeko in Cape Town.

Red in colour too?--I think they were probably supporters of the African National Congress.

P.94, that is a typed document - do you know whose handwriting appears there on top?---On the document?

No the covering letter.---This here?

Yes.--That is my handwriting.

Mr. Bernstein, you know what questions I am going to ask you on this.--I am not sure if I do.

That is your handwriting. Now you write there "Have made a few notes on the first copy. Will be back for lunch 1.20 approximately." ---Be back approx. 1.20.

Who is Ed?---That is the name that I use on occasions sir.

Eddy?--That is right.

That of course is known to Sisulu isn't it?-- I very much doubt it my lord.

Who is Ethel? Who is Tony?--I am not prepared to answer that question sir?

And who is Ethel?--Likewise.

You are not prepared to answer those questions? --No sir.

Who gave you this document 'Into 1963'?--Is that the document attached?

Yes. It is R.94, and it is headed "Into 1963."

---Who gave you this document?---My lord, I am not clear if anybody gave me this document, because although the first ..the note says "I have made a few notes on first copy" the notes that are in fact made on this document are not my notes at all. These are not my notes at all.

Well look at page 3 - whose handwriting is that? Page 3 in the column?--I think it is of the same handwriting as the documents you have just given me sir.

That is right. And on page 4, the word "Security"? ---It looks as though it is also probably the same.

Now what document was given to you if it is not this? That is how it was found in the coalshed?--My lord I really cannot remember what document this refers to where I say "Have made a few notes on the first one".

Well it is possible that there was another copy of it attached, and you made your notes on that?--It is possible sir. I just can't remember what document..

But it is attached nevertheless to this document?--Yes it is.

Now here I just want to read two very short extracts, page 5 (page 611). Paragraph xxix: "Umkonto we Sizwe. This organisation assumes prime importance in such a time as this when the people are turning to direct and violent forms of struggle, seeking for leadership in such a struggle, and when violent upheavals are imminent. Thus far Umkonto has to some extent stood apart from the general political movement, conducting its activities of sabotage in a way which did not closely and directly link these acts with the political organising and agitation of the rest of the liberation movement. Just as the people's movement does not stand still, but advances constantly to new struggles and new fields of action, so

Umkonto cannot stand still in the position it now holds." Correct, Mr. Bernstein?---I am not sure if I understand it at all, sir.

There are no corrections made!--No the sense of it rather..I don't understand what the meaning is so I could not really say if it is correct or not.

Would you like time to consider it, because I want to read to you the next paragraph, and then the summing up on the next page?--Well I think if you want me to comment on it I will have to read the document. I can't understand the sense of it

But now let us make it perfectly clear - can you indicate to the Court when Tony asked you to go over this.."please run over this redraft in the meantime." It is obvious that somebody had drafted it, it had been redrafted, and you were asked to cast your eyes over it.---That is apparent, sir, from the note.

And can you recall having cast your eye, or run over such a redraft?--Of this document?

Yes?--Not that I can recall my lord.

Is it possible?--It is possible yes, I can't recall it now.

I would like you to read paragraphs xxix and xxx, and then the last page, particularly the summing up. ---I will do that sir.

And now finally I want to put it to you that all these documents I have put to you so far, Exhibit R.40, R.83, R84, R85 and R94 is the one we are dealing with, ~~are~~ compilation ~~is~~ drafts which culminated in the final ~~xxxxxxx~~ of Exhibit 121B. You can check on that. You can perhaps do that at leisure?--Yes I think that better.

You will find it deals with the same subject

matter, higher wages, the pass laws, into 1963 - some of the words are even the same, as that document I have given you, Exhibit R.121B - that was found at Rivonia, and Mr. Dirker said he roneed it from a wax sheet found over there, and the identical copy of it, Exhibit R.143 was found in Goldreich's motorcar.--These that you say are drafts of this document, how far back do they go? Do they include R.40?

Yes, starting with R.40, and you can hae the whole series. And not only was this found in Goldreich's motorcar but it was also recovered in Natal, the identical copy. Can you recall when Tony asked you to cast your eue over these documents?--I can't my lord. It would be sometime in the seccond half of 1962 to 1963 - I could not say when.

In fact youoften did this sort of work at the request of people whose names you are not prepared to divulge?--I did a lot of this sort of thing.

Because you wereregarded as a propaganda expert? ---No I would not say that, my lord. I was regarded as one of the writers in the movement.

And you knew the facts of the case so well that you were asked to check / the drafts?--And make comments, yes.

And if necessary delete anything which was false or wrong?---Or which I did not agree with.

AT THIS STAGE THE COURT ADJOURNS.

ON RESUMING AT 11.30 a.m.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Well Mr. Bernstein, you have had a chance now of going through this set of Exhibits?--Yes sir.

Now paragraph xxix, is it not clear to you what it means?---That is of R94 is it?---

R.94 - is it not clear to you now what paragraph xxix means?--My lord, when I read it together with the following paragraph, it seems to me to be saying that what Umkonto should be doing is that it should be co-ordinating its activities very closely with such things as for instance the struggle against the pass laws and against bantu authorities.

Right. Well, we have read paragraph xxix, I would like to get paragraph xxx on record in these words: "In the main, focal points of political struggle during the coming period - the fight against the pass laws and the fight against Bantu authorities - the work of the Umkonto groups needs to be closely co-ordinated with the work of the liberation movement. In the types of activities derived above" is that right?---Well it seems to have been amended to say "described".

"described above in both the pass and Bantu Authorities campaigns, Umkonto units can be a tower of strength and a source of inspiration to the people. Disciplined, effective and determined actions by Umkonto designed to bolster and support the peoples political struggles can also serve to head off reckless and desperate schemes of the Poqo type and give the whole people an important object lesson in how to fight, not to use violence, not for its own sake and blindly, but for the cause of liberation and as a part of the liberation struggle." I notice I have marked part of the following paragraph, which is terribly important Mr. Bernstein, you have read this too? ---Yes I have.

It is paragraph xxxi: "Umkonto's aim is the aim of the liberation movement - the overthrow of the state of white supremacy. That aim, as has all along been understood, cannot be achieved through acts of sabotage, however helpful such acts might be in raising the morale of the people, and undermining the confidence of the enemies. Ultimately the aim of Umkonto will have to be reached by the turn from sabotage alone to the mounting of a full-time armed struggle against the forces of the state. Such a turn does not take place according to a timetable of Umkonto's leadership. It takes place according to the tempo of development of the struggle, and in a way and at a time determined by the course of our history. It is apparent that present developments in the South African situation may well proceed faster than Umkonto's planning, and burst out in directions not contemplated at present by us. It is thus necessary for Umkonto to advance speedily with its preparations for full-time armed military operations against the government, and at the same time to be ready to seize unexpected unforeseen opportunities for entering on such struggles which might arise in the course of political campaigns.

To Sum Up: we are approaching a period filled with revolutionary possibilities, in which new militant and violent forms of peoples struggles become possible and likely" And it continues to sum up, I am not going to read it all, and the last one "The direction of Umkonto's work must be designed to merge with and complement the political struggles of the people, in preparation for the establishment of a full-time peoples armed force for liberation." Can I just sum up Mr Bernstein by saying that these documents that I have shown you, Exhibits 40, R.83,

R.84, R85, R94 have culminated in Exhibit 121B "The Revolutionary Way out" a statement by the Central Committee of the South African Communist Party?--That appears to be the position, my lord.

DR. YUTAR (to the Court)

My lord, after consideration, very deep consideration, in view of certain legal difficulties which I need not put now, I am obliged to put in the two exhibits I referred to this morning. One is "The Fighting Talk" September 1953, an article by L.B. (Exhibit D.N.) It deals with the formation of the Congress of Democrats, and article by yourself, Mr. Bernstein.--WITNESS: Yes sir. (to witness) And then my lord the letter which I have referred to, Exhibit D0, a letter by L. Bernstein, yourself?--That is so, sir.

To two parties staying in London?--In London.

The address is given here. Exhibit D.O.

Now Mr. Bernstein, I think we can very quickly go through what is left. The next one I want to deal with is Exhibit R.92, (page 596 in the third volume). Mr. Bernstein this is another Communistic document, atleast, to put it more correctly, another document of the Communist Party of South Africa?--I think that is so.

Headed "The new Year, some Tasks and Perspectives" In the second paragraph it refers to the new programme of the Soviet Union which was adopted at the 22nd congress held in October 1961." Is that right?--Yes.

And we have got Exhibits dealing with that congress, including the speech by Mr. K?--That is correct.

Not accused No. 5 this time?--No.

And now we come to page 598 and that is paragraph 5 and it is headed "Some local problems." "The recent period

in South Africa has had the appearance of comparative calm without any major mass struggle. Already last May in summing up the experience of May 31st the General Strike we recognised that a combination of overwhelming force and emergency rule by Government had brought the legal mass movement to a turning point in its history. We recognised then that the prospects of legal mass actions were growing more and more remote, and that the way forward lies through illegal actions of both a non-violent and a violent character. Since then illegal actions of a new type, acts of political sabotage against the Government and its installations have been carried out in different parts of the country. The most widespread, coordinated ~~xxx~~ and planned of these actions have been carried out under the direction of the new organisation which has come into being Umkonto We Sizwe." That speaks for itself, not so?--Yes I think it does, sir.

Clearly)--Yes.

No doubt about that! Miss out the next paragraph and I will just read the first part of paragraph 6. "In political statements in the past we have ourselves pointed out that in the conditions existing in South Africa the liberation movement dare not assume that the struggle can necessarily be won by non-violent tactics. Government policy makes it increasingly likely that in the long run the liberation movement will have to resort to arms against the Government. It is for this reason that we welcome the appearance of Umkonto. We regard it as a valuable weapon to supplement the work of mass agitation at present and also a valuable field for the training of militant liberation fighters in the techniques of armed struggle which they may well have to carry out in the future." May I stop there, Mr. Bernstein, and just point out to you that the

liberation fighters are not used in the same context in which the liberation fighters was used in the treason trial?---I am afraid I am not following you sir. I don't see those liberation fighters here?

Oh yes they are! "The training of militant liberation fighters" ---Oh.

Have you got that?--Yes.

Used in this document, it assumes quite a different connotation to that which applied to that phrase during the treason trial and up to the treason trial?---Well it says quite clearly, sir, this is a new field, they will be taught the techniques of armed struggle.

That is right. Now page 599, you will find the last portion of paragraph 6. "Umkonto's Manifesto states that it will act under the general inspiration and in accordance with the line of policy of the established national liberation alliance." In brackets, may I say that included the Communist Party.---Well it is a rather odd phrase sir. I have never used it used, the national liberation alliance. I think it probably does include the Communist Party.

Well it is the same as the national liberation movement?--Yes I think that is what it means.

"It is correct and should do so. It is in our view always bad for the control of political decisions to be in the hands of military leaders selected less for their political than their military ability. Umkonto is not a substitute for the established mass political organisations. It is a specialised organ for a specific and limited purpose." Mr. Bernstein is it not a fact that according to this document of the Communist Party, the M.K. was established to commit acts of sabotage, under the

guidance and direction of the National Liberation movement, from whom it had to receive its instructions in the political field?---When you say under the direction, sir, I would not say that. Under the guidance, certainly, yes.

And if the National liberation movement said to the Umkonto's leaders "Now I don't think you should attack the old Synagogue where the treason trial was held, where accused No. 1 was tried for political reasons" then M.K. would listen to it?--I think it probably would sir, although there is no legal obligation on it to do so.

And if conversely the political leaders of the National liberation movement said to the M.K. military leaders "From the political psychological point of view, it would be desirable that you blow up the old synagogue, the symbol of apartheid and oppression" then it would so do? ---Very likely sir yes.

Paragraph 7, just the first two lines: "We are in full agreement with the need for these new methods to supplement and inspire our traditional methods of mass action." I am leaving out the rest for no other reason than that I want to get on, and likewise the first 3 lines of paragraph 8. Oh I am sorry, I missed that one part in paragraph 7, the lines beginning with the word "Naturally." "Naturally our units will be interested in discussing the part which Umkonto plays in relation to the main political problems of the country."---Yes.

And then 3 lines in paragraph 8 "There are that signs/in our recent activities our whole organisation has tended to focus too much of its attention on discussion of political sabotage and too little on the development of our mass political work." Is that not an admission that

up to this time when this document was drawn, the Communist Party was saying, according to the author of this document, 'too much attention to political sabotage, and too little attention, by comparison, to mass political work'?---Well, if you mean too much attention to committing acts of political sabotage, it does not say that, sir, and I don't think it even suggests it.

Well, what were the discussions then of political sabotage, if not perhaps selection of targets? ---My lord, this is a matter of speculation, and I cannot answer that question.

CONTINUED ON PAGE 197.

1.

L.G. BERNSTEIN.

No. Well, I shall argue about it. I think it is all I need to worry about that concerns you about this document. You can go on now. 92. The next one is 95, my Lord, page 614. This is a lengthy document, I don't propose to read a single portion of it except the heading. It is entitled "A Syllabus on fundamental principles of Marxism for advanced YCL education and for party branch members." Here it is R.95. And then it deals with contents under quiet sessions, not so? --- Yes, that is correct.

Another document drawn up by the Communist Party? --- My Lord, I couldn't say that. I don't know whom it is drawn up by unless I read it.

Well, syllabus on the fundamental principles of Marxism, that's your philosophy? --- That's the International philosophy of Communism.

For advanced YCL, what does that stand for? --- Young Communist League.

Young Communist League education and for party branch classes? --- Yes.

BY THE COURT TO DR. YUTAR: Is there any date on this document? --- No, my Lord, I was going to ask the witness that.

MR. BERNSTEIN: My Lord, I don't doubt that it is drawn up by somebody somewhere in the Communist movement. Whether it is a South African document or not I just can't say unless I read it. That I don't know.

CROSS-EXAMINATION BY DR. YUTAR (CONTD.) Well, just take the heading then. 'Historical materialism, capitalism, development of capitalism to the stage of imperialism, socialism, communism the transition to socialism. All subjects very near and dear to the hearts of Communists? --- Yes. A Communist just any where in the world, that is the point I'm making.

Well, that was found at Rivonia. Have you ever seen that document before? --- No, my Lord, I don't think I have.

2.

.LG. BERNSTEIN.

You don't think you have. So you can't tell us where it was drawn up? --- Neither when nor where, sir.

But the purpose, of course, speaks for itself. The heading makes that clear? --- Yes.

All right then. Now, 96 is the next one, page 638. No, that we have dealt with already. 96, that is a copy of EXHIBIT 35. We dealt with that yesterday? --- Yes, we dealt with that yesterday.

We need not delay in that at all now. R.96 it corresponds to R.35. EXHIBIT R.105. Now, Mr. Bernstein, R105, that is the rules as revised by the sixth National Conference, and it is the constitution of the Communist Party South Africa? Fifteen copies hereof was found at Rivonia? --- Yes, my Lord, I think that is so.

Yes. That deals with membership, organisation, confidence due to the Central Committee, the District Committees funds and discipline? --- Yes, sir.

We need not delay on that then. It speaks for itself, not so? --- Yes, I think it does from what I see here.

And then 121(a) page 650. You will recall this is a document entitled the Central Committee of the South African Communist Party. Mr. Dirker told his Lordship that this was roneed from a wax sheet which he found at Rivonia in the fourth room. That document too speaks for itself? --- That's right.

Now, doesn't this document ring a bell? --- In what respect?

Who drew it up? --- No, that I couldn't answer, sir. It appears to be a resolution from the form of it, I would say.

It deals with the dispute between China and India, you were regarded as the expert on it? --- Yes, it deals with the dispute between China and India.

It deals with the People's Republic of China, Asian African unity, unity between Communist and non Communist and the second last paragraph: "It further directs all members to

3.

L.G. BERNSTEIN.

do their utmost to see that the National Liberation Movement and Working Classes Movement in South Africa throw its full influence into the task of securing a speedy negotiate settlement in the cause of world peace for Afro Asian .. in the liberation of South Africa from white domination." Can't you tell us who drew that up? --- My Lord, it is obviously a resolution from the Central Committee of the South African Communist Party.

And does it coincide with your view? --- Well, I would have to read it. (Witness reads document) Yes, I think it does.

It does? --- Yes.

Could you have drawn it up? --- You mean am I capable of it, sir?

I'm sure you are. I wasn't asking that? --- Oh, I thought that was what you were asking.

Could you have drawn it up? --- No, I did not draw it^{up.}

Were you consulted about it? --- Not as far as I can recall, my Lord, no.

121(a). That is 121(a) isn't it? --- Yes, that is 121(a)

121(b) We have dealt with, that is the document entitled "The Revolutionary Way Out". 121(c) That is differences in the Communist Movement. We've dealt with that. That corresponds to EXHIBIT R36. We don't have to worry about that. And then we come to a new document, EXHIBIT R130, Page 676. That is the document I'm sure you drew up, R130? --- Yes, this is a document I drew up, my Lord.

China and India the Border dispute, and it is a lengthy document. It speaks for itself. I won't delay his Lordship on that.

BY THE COURT: What is the date of this? --- MR. BERNSTEIN: My Lord, the Border Dispute, as far as I can remember, was about the end of 1962. This document, I think, was drawn at the time

4.

L.G. BERNSTEIN.

that fighting had actually broken out at the frontiers, my Lord. I have to re-read it to be quite sure.

BY THE COURT TO MR. BERNSTEIN: Beginning of 1963? --- Possibly, my Lord, about that time. I'm not quite sure.

If you look at page 3 you get down to August, 1961.

DR. YUTAR: And there is October, 1962, my Lord. The same paragraph, my Lord.

BY THE COURT: So it must have been after that.

CROSS-EXAMINATION BY DR. YUTAR (CONTD.) And, Mr. Bernstein, it is obvious from the document that you have in front of you, an original, that it was run off on wax sheet and roneed? --- Yes, I think that is obvious.

Now, 143 we have already dealt with, that is the "Revolutionary Way Out" document, we've dealt with that. 147 we've dealt with, that is also the differences in the Communist Party and now we come to 171, which I'm going to suggest to you is a document which you drew up yourself. 171 Page 709. Now, that, Mr. Bernstein, is on your typewriter? --- That's quite possible, sir.

In fact, if you have any doubt about it I would like to show you this. What do you mean it is quite possible? --- I mean it is quite possible it was drawn up on my typewriter.

Did you draw it up? --- My Lord, I could have. I can't remember doing so, but it is possible I could have done so.

How long have you had your typewriter? --- Years.

You know the type? --- Yes.

Let me show you this document over here. It's a photostatic copy of that document - part of that document - and the bottom part is a sample taken from your typewriter, and there are various point of similarity marked out? --- That is so, my Lord.

Are you prepared to admit that in fact it was your typewriter? --- My Lord, I'm not prepared to deny it. I'm not an expert on this thing, I think it could well have been my

typewriter.

Right. Now, let's read this document. What date do you think we can give to this document, Mr. Bernstein? Perhaps if we read it then you can give us, because the contents is rather important? --- Yes.

"The South African Government is becoming increasingly subject to attacks in the International fields. The recent I.L.O. conference - that is the International Labour Organisation? --- That is so.

show to what extent it is possible to obtain ^{unanimous} agreement on action to condemn and isolate South Africa. An arms embargo has now become a matter of urgent importance. It must be borne in mind that arms to South Africa menace not only the struggle for liberation of South African people, for which they are primarily intended, but are also a possible source of intervention in Rhodesia and Portuguese African territories. We believe, the time is opportune for mass campaign for the application of a complete arms embargo on South Africa." When was a campaign started to obtain a complete arms embargo in South Africa? --- I'm not very certain, my Lord, 1962 or 1963. I'm not very precise about that.

"Certain countries are most directly concerned with supplying arms to South Africa. England, France, Italy, West Germany and the United States of America. Mass pressure of the people of these countries directed towards ending this supply is vital. At the same time campaigns in other countries could substantially influence the issue." Mr. Bernstein, you are here suggesting a complete arms embargo, embargo arms coming to South Africa? --- That is what is suggested, yes, sir.

At a time when we know that Goldreich had been overseas and was endeavouring to make enquiries about explosives and according to these documents arms, in order to equip the revolutionary army in preparation of the final overthrow of the South African Government by force? --- I'm not sure, it might

well have been before Goldreich was overseas.

You were trying to bring a supply of arms to South Africa, whilst the rebels in this country were going to arm themselves as much as possible? --- My Lord, I was certainly in favour of an arms embargo on South Africa, yes.

And have you anything against the supply of arms to the forces of the National Liberation Movement? --- No, my Lord, I don't think I have under these circumstances.

"Through Trade Unions, Political parties and other organisations direct action can be taken. Factory workers, dockers can be drawn to such campaign. Pressure on members of Parliament, deputations, demonstrations to South African Consulate and other forms of activity could be utilized." Were you in fact not just doing that what the document says? --- You mean putting pressure on people to...

Yes? --- Certainly.

"While democratic South Africa greatly appreciate the morale effects of boycott and actions in other fields, we would like to emphasise that the stopping of the arms supply is now a key issue. We, therefore, direct this request to your organisation to do whatever is possible within your own country to further this aim." Now, Mr. Bernstein, to whom was this document sent? --- My Lord, I don't know, I don't know if it was sent. It appears to be directed to organisations in other countries.

And it speaks for itself? --- Yes, I think it does.

Then EXHIBIT 217 page 729. Oh yes, by the way, that previous document, I forgot to mention to you R171, do you know where that was found? --- No, sir.

In room No. 1 at Rivonia? --- That's possible.

Where you were found by the police on the afternoon the police raided it? --- Yes.

Does it merit discussing again? --- No, sir.

Strange that it should be found there, because the

only people there were the six we know? --- Yes, that is so.

All right. EXHIBIT 217 page 729. Who is Basil Ntsikana? --- My Lord, I have never heard of the gentleman.

But he is writing from Dar-es-Salaam, and the letter is addressed to 'Dear Comrades'? --- That is so.

You can't tell us who he is? --- No, I can't.

Now, I've completed the R exhibits and we come to just one exhibit in the T Travallyn exhibits. EXHIBIT T.74 page 149. Now, this document was found at Travallyn, and it is headed "Some thoughts on the situation confront the National Liberation Movement in the final challenging/of white supremuses South African Republican State." Now, we'll go through this document very quickly. You'll find in the fourth paragraph it says: "N.L.M., however, has chosen to stand by its basic principle", have you got that? --- Yes.

The N.L.M. stands for the National Liberation Movement? --- I think it does, my Lord.

And then the next paragraph, the sentence beginning: 'These are the whites who see it clearly that the policy of the Government is leading to a situation where only armed conflict can result.' Do you agree with that? --- Yes, I'm figuring out the contents.

Quite right? --- Well, I think perhaps saying 'only armed conflict can result' is over stating it, but I think it is likely that armed conflict will result.

And then the very next paragraph "The N.L.M. has foreseen this situation and constantly warned the Government." Is it a fact that the N.L.M. have foreseen the situation and constantly warned the Government? --- My Lord, the preceding paragraph says that the ensuing bitterness which must inevitably arise out of such a struggle - that is an armed struggle - will make the - something of building - of a non racial democracy in a multi racial State an ever more difficult task, the N.L.M. has foreseen this situation - and if that's what it

8.

L.G. BERNSTEIN.

refers to then I think it is so, they have foreseen it, that situation.

You notice the bottom of that page 'and the people'?
--- Yes.

Whose handwriting is that? --- No, I don't know.

You don't know the handwriting? --- No.

Page 2. Just the two short little paragraphs in the middle of the page. "It is apparent, therefore, that the situation has reached impasse - you remember I told you yesterday that I quoted documents where that word is used? --- Yes.

and can only be resolved only by resort to armed conflict. It is the ultimate situation which horrifies everyone and from which we cannot and must not flinch. Having arrived very briefly at the conclusion that only armed conflict will resolve the present political deadlock, we must ask ourselves what the objectives of the struggle will be. It is necessary to establish our objectives in more than superficial terms." Is that what the National Liberation Movement has been doing? --- You mean to establish its objectives in more than superficial terms?

That's right? --- I'm not even sure what that means, sir, what does it mean?

Take the two paragraphs together? --- Well, taking them together, my Lord, I would read it to mean that the only possible action which can be taken in this particular situation is to resort to armed conflict. I don't think the National Liberation Movement had arrived at that conclusion at all, sir.

Because an impasse had been reached? --- Yes, I'm sure that an impasse had been reached, sir, but I don't think this conclusion is justified even by that fact.

Does that explain why Accused No. 3 went and made enquiries about orders, about shutes, in order to make 48,000 land mines to be equipped with five pounds of dynamite each? --- My Lord, I can't testify as to why accused No. 3 did any of these

9.

L.G. BERNSTEIN.

things, I have no knowledge of it.

The next page 3, you will notice there the third paragraph "It is vital that the objectives of this problem be clearly defined before the final stage is commenced", have you got that? --- Yes, I've got that.

And now I skip the next two lines and read the last paragraph on that page "Time has come for we Communists to clearly state our beliefs and objectives. We are aware that our .. objectives that we believe are right and are aware that we have the support of the vast numbers of oppressed people, aware that we have the ability to win successful struggle, aware that we have the ability to organise the building of a new society, aware that we are assured of a large measure of International support, we should openly, loudly and proudly proclaim our purpose to the people of South Africa including our organisational partners, and in preferences our organisational partners included the MK."? --- I don't know who it includes, sir. I don't know what this phrase means 'the organisational partners.'

"Because we know the National Liberation Movement and their flag needs a lot of wagging which it has not been getting lately." That speaks for ..(inaudible..)? --- Yes, it doesn't speak for me, sir.

No? --- No, sir.

And page 4 "In achieving State parties clear the final a show down with the forces of the present State must be reached. This is what the struggle must lead up to. It is not a situation which can be achieved by wishing for it, it is going to take hard grinding and selfless work and many lives unfortunately to achieve our objectives." In fact, Mr. Bernstein had not the sabotage movement already claimed a few lives? --- I understand it has.

And is it not a fact that if the transition had been completed through armed invasion, many more lives would have been

10.

claimed? --- My Lord, warfare must claim lives. I'm afraid that's so.

And look what the third line of the next paragraph says "Only by the careful choosing of our people, careful and understanding study/of their needs can they be effectively won and organised into a massive and powerful military and political force." That is what the Communists envisaged, not so? --- No, I don't think it is.

All right, I'm not going to argue with you. Then we come to the last three lines of the fourth paragraph, commencing 'it would be short sighted of us if', you've got that? --- Yes.

'It would be short sighted of us if we were to depend on economic stagnation and learn to bring about the downfall of the regime. We must plan and prepare for a long drawn-out struggle in which the present ruling group will continue until their forces are routed in the field of battle.' That's not metaphorical language, is it? --- No, I don't think it is.

"It is this latter situation which must be gradually worked towards to acquire ultimately the ability of the people to put and maintain an army in the field. This is beyond the resources of the people at this stage. It would appear that the only way to build the required military strength is by starting with military operations of a guerrilla nature, in which it is the intention to hit at the forces of the Government and economic targets of a strategic nature. In all guerrilla operations Government forces will only be attacked when victory is certain. There must be no intention to stand and fight against superior forces. There is ample literature on the tactics and strategy of guerrilla warfare which should be referred to." Mr. Bernstein, had the first stage not been reached, had South Africa in fact not find itself in the midst of the first stage? --- The first stage of what?

Sabotage of Government economic target of a strategic nature? --- No, I don't think so, my Lord, not when you add the

11.

L.G. BERNSTEIN.

words 'of a strategic nature' as I understand what that means.

What does it mean? --- I take it, it means of a military strategic nature. Airfields, bullet installation and so on. I think that's what it means.

Are not lines of communication targets of a military nature - strategic nature? --- Yes, they could be, sir.

And you know the document here says - this is clearly a Communist document prepared by the Communist party..? --- No, I don't accept that, sir. Prepared by a communist, I think

We Communists, right? And we know who stayed at Travallyn. Does it not bear a similarity to 'Operation Mayabuya' when the document also says now 'we don't fight against the superior forces, we attack first targets' In other words, as 'Operation Mayabuya' says 'Shamelessly attack the weak and shamelessly ~~please~~ flee from the strong' Is it not in keeping with that philosophy in 'operation Mayabuya'? --- I think the same sort of thinking.

Belt 96E

'Operation Mayabuya' found at Rivonia, the same sort of thinking found at Travallyn. And now we come to the last paragraph there. "The remaining decision to be made is the defiance of the forces required to commence the action. Also to be considered - whose handwriting is that? --- I don't recognise it, my Lord.

's the degree of self sufficiency the raising material required to ensure success. This last method is closely related to what the literature calls the essence of guerrilla tactics surprise." Now, the very last page and here I have to dwell just a wee bit longer. Page 5. Mr. Bernstein, I will tell you in advance that my suggestion to his Lordship will be that what I'm about to read now, there is a striking resemblance to Operation Mayabuya. Let's take the first paragraph. "For the same reason it is suggested that the operation should be commenced by numerous small forces of 10 to 30 men, depending on conditions, political and terrain, in concentration of

Government forces in many areas simultaneously, these men to be in their zones incognito before the action is first joined" Have we not got that in Operation Mayabuya? --- Something of the sort, my Lord.

Keep 'Operation Mayabuya' in front of you. Look at part 3, the plan, simultaneous landing of four groups of 30 based on our present resources. Look at paragraph 2 'at the initial it is proposed that 30 are split up into platoons of 10 each. Isn't there a remarkable resemblance between the two documents? --- Yes, there is.

And I haven't stopped yet. Let's go on "if it is held that the internal material self sufficiency is a tip off ~~for~~ instead of a pay off in the commencing stages, then other sources of supply must be obtained. In such a situation the enemy forces must provide the bulk of the supplies." Does that not appear in 'Operation Mayabuya' that you must steal and take arms and ammunition from your enemies when you've overrun them? --- I think it does, my Lord, but I'm not terribly clear on that.

"When ensure success it would appear that .. to enable units to be supplied from outside" and read on "with a higher degree of ^{development of} communication it seems at least superficially that overland supplies, assuming supplies available in the Borders, will be extremely difficult" This leaves then supply by airdrop, is that not what is suggested in Operation Mayabuya? "Simultaneous landing of four groups of 30 based in our present resources, either by ship or air, armed and properly equipped to be self sufficient in every respect for at least a month"? --- Is there not a surprising similarity there? --- My Lord, there is similarity in the thinking of these doc....

Yes. "This might work well in the opening stages. The efficiency of the Government Air Force must not be underestimated. Conclusions must be drawn that both overland supplies and air drops will have to be resorted to. This can only be in

L.G. BERNSTEIN.

addition to your regional stocks of material before action is commenced, and the capture of supplies arter." Exactly what Operation Mayabuya says. And then "Trading with supplies from beyond the Border is usually dependend on having a common Border with the ~~pppp~~ country friendly to the people's forces. This does not apply at present in our case. The use of a coastal land supplies by sea also presents tremendous problems, having regard to the stationing of G.F. units on a usable coast and the degree of long range naval patrols carried out by the airports." Do you recognise that, Mr. Bernstein? --- Well, only the reference to landing supplies, sir...

"Suggest then the establishment to be investigated of a true base area at the commencement of the action in the most North West point of Transvaal adjacent to the Bechuanaland Border and within flying distance of Northern Rhodesia and East African States. This establish to take place/^{simultaneously} with the commencement of operation in other areas and zones, so as to ensure the maximum diversified employment of the Government forces from the outset. Simultaneously there should be a maximum effort extended ^{in and} ~~pppp~~ between the main industrial centres to sabotage communications and ^{major} ~~pppp~~ industries which serve the military organisation of the Government. An advantage of the base areas is simplification of diplomatic problems and supply of materials from abroad, assuming that a provisional Government is declared." And we find, Mr. Bernstein in Operation Mayabuya under the plan, part 3, this reference: "Visualise that this authority will in due course of time develop into provisional revolutionary Government." Remarkable coincidence between the two documents? --- Yes, there is.

DR. YUTAR:NO-FURTHER QUESTIONS.

LIONEL G. BERNSTEIN, (s.u.o.)

RE-EXAMINATION BY MR. FISCHER: Mr. Bernstein, I want you to have a look first of all at T.74? --- I have it here.

Now, first of all, ever seen this document before it was put into this court? --- No, my Lord, I have never seen this document before.

Have you ever seen any document issued by the Communist Party which resembles this? --- You mean resembles it in thinking, in contents?

In contents? --- No, my Lord, I have never seen such a document either.

I'm not sure where the first passage was which my learned friend read to you, was it on page 1? --- Yes, it was sort of a little insert right at the top of page 1. "Some thoughts" is that the thing....

No, there was something which suggested that there was no other possible method other than an armed struggle? --- Oh, let me see if I can find that.

I think perhaps it comes later? --- Is that "It is apparent, therefore, that the situation has reached impasse, resolved and can be ~~resolved~~ only by resort to armed conflict"?

Is that on page 2? --- That is on page 2.

Well, then I'll come to it. Whereabouts on page 2? --- It is the fourth paragraph on page 2.

Thanks. Yes well now, Mr. Bernstein, have you ever seen a Communist document which suggests that there is nothing, but to resort to armed conflict? --- No, my Lord, I think that it will be fair to say that the majority of the documents which I have seen in the preparation of this case or that come from the Communist Party suggest, in fact, that there is great possibility of non violent transition in this country.

Yes, I'll come to that later on, because there is a certain document which I'll ask you to read and which I'll put to you later. Now, Mr. Bernstein, I haven't the original, does it appear as if this was issued by anyone to anyone? --- My Lord,

there is nothing to indicate it was issued, and I would say looking at the document it is quite clearly either a first draft or a copy that wasn't intended to be issued. There is a large amount of material that has been x out on the typewriter, there are words that have been written in and corrections made in ink. Page 3 is half a page long and then the rest of the page is blank and it goes on to page 4, and so on, it is clearly not a finished document.

And the title seems to suggest that it was somebody's meditations? --- That's the suggestion there, yes.

Now, I would like you to have a look at EXHIBIT 171, which was the one dealt with, I think immediately prior to this, except for 217 which you didn't recognise at all? --- Yes I have 171, yes.

Just before you look at that, could you pass us 217, which we haven't got, and we'll just have a look at that during the adjournment. I wonder, Mr. Bernstein, whether if you read this carefully, you could fix the date more accurately. There was an I.L.O. conference this year, was there not? --- I'm really not sure, sir. I think there is an I.L.O. conference every year, my Lord, as far as I can recall. I think it is an annual event.

Is there anything just glancing through it again, to enable you to fix this date? --- My Lord, the first paragraph might be a reference to the decision of I.L.O., I can't remember the precise nature of the decision, whether it was to refuse South African delegates or - there was some decision taken by I.L.O. in the last few years, doesn't help me to fix the date.

You said you thought it was possible that this was done on your typewriter? --- That's possible, yes.

Can you remember whether you did it or whether somebody else did it? --- I didn't do it, but I'm inclined to say I don't think I did it, sir, but it is just possible. I don't remember doing it.

Now, Mr. Bernstein, it was suggested to you that this might have some reference to the journey which seems to be common cause which Mr. Arthur Goldreich took, which apparently he had discussions about arms, did you know about that journey? --- No, my Lord, I didn't know about that until the case started.

You had no knowledge of his journey at all? --- I knew he had been overseas, but I didn't know that he had had any discussions about arms or explosives for that matter.

What did you think he had gone over about? --- My Lord, he did tell me on one occasion when I saw him during 1963, he discussed with me a trip to, I think East Germany or West Germany, and he was telling me about buildings he had seen and I thought he had been on a holiday trip.

Now, Mr. Bernstein it may be better to start at the beginning and try and go systematically to some of the points made by you in your evidence. When you were giving evidence, at the beginning of the cross-examination, you said that you had not seen Operation Mayabuya before this trial started? --- That is correct, my Lord.

Then you said that the topic did not come to you as a surprise? --- That is so.

I would like you just to explain briefly why that is so? --- My Lord, the topic is guerrilla warfare ~~and~~ is far from being a new topic in the political circles, the National Movement. It has been discussed on and off as a possibility A theoretical discussion for many years, sir. I think there were documents in the treason trial in this matter, as a matter of fact some of the ^{exhibits by some of the individual} accused writing about guerrilla warfare, that will be prior to 1956. I don't think that anybody who pays any serious attention to the liberation of colonial and dependend countries, in the twentieth century at any rate, can discuss this question intelligently without also discussing the prospects of guerrilla warfare in that situation. I've

heard this sort of discussion over the years, my Lord, perhaps a bit more in recent years than in the past, but it didn't come to me as any surprise at all.

Now, from there I would like you - have you got Operation Mayabuya before you? --- Yes, I have it, sir.

Since the case started and since we've been consulting, you've studied that? --- Yes, I have, my Lord.

And I would like you to say what you personally think of the feasibility of that document, of that so called clan? --- Well, the feasibility of it, my Lord, I think is very very remote indeed, I would say it is probably in the field of fantasy this part of the document. I don't claim to be an expert, however, on this, so that is my opinion.

Now first let me go back to the beginning? --- Yes.

There is - it says obtains a lot from reason? --- Yes.

And you have studied that? --- Yes, I have, my Lord.

I want to know whether you accept that? --- No, My Lord, I think it is extremely confused and illogical, and I think the conclusions it comes to are wrong.

If you would look at the last sentence of paragraph 1 it says "it can now truly be said that very little of any scope exists for the smashing of white supremacy other than by means of mass revolutionary action, the main content of which is armed resistance and leading to victory by military means. There are really three ideas contained in that? --- I think so, my Lord.

Now what about the first idea, that is, very little, if any scope exists in the smashing of white supremacy, other than by means of revolutionary action? --- I think that is a correct statement, sir.

What do you understand that to mean 'Massrevolutionary ...? --- My Lord, I understand by 'mas revolutionary action' to mean mass action taken by large sections of the population who

designed to bring about radical changes, revolutionary changes in society, not minor at all.

I will ask you to deal with the meaning of revolutionary changes later on? --- Yes.

But as far as the second part is concerned 'the main content of which is armed resistance', what do you say about that? --- Well, my Lord, I personally don't agree with that, I don't think that is the main content at this time of the mass revolutionary action which is required in this country, I don't find that that argument is taken further in the rest of the document or proved anywhere, sir, and I regard that as being a wrong statement.

And then finally 'this should lead to a victory by military means'? --- My Lord, I take it that that means that what is visualised is a direct confrontation of the military forces of the State by the opposition's military forces and that that struggle can only be resolved finally by military victory. I don't accept that either, it's a political aim.

Well, if you had any say in the matter as to whether this was to be adopted as a policy for National Liberation Movement or not, what would you say? --- My Lord, I would not accept this document as a policy at all, such policy as it states is the wrong policy.

Now, the next question I want to raise with you, Mr. Bernstein, is this question of the journal Assega? --- Yes.

Mr. Bernstein, have you seen this journal before? --- I have seen copies, I'm not sure if I've seen these particular copies that are exhibits in court, I would have to read it. But I have seen copies of this journal before.

You know anything about the publication, who published it? --- My Lord, it is a subject of considerable questioning amongst people that I met. Nobody was quite clear who published it, since the correspondence that has been placed here as an exhibit in court dealing with this, suggest that

certain people in London are responsible for it, I don't know of my own knowledge whether that is true or not.

So you have no knowledge of who published it? ---
No, sir.

And that is then all you know about it, what appears in the correspondence in this case? --- Of the publishers, yes.

There is something to suggest, Mr. Bernstein, in one or other of these copies this journal purported to be a journal for Umkonto? --- My Lord, in the copies that I saw, I don't know as I say whether it is one of these exhibits in court, I think the organisation that publishes this magazine certainly tries to give the impression that it is responsible for or directing activities of Umkonto. It certainly gives that impression.

Yes, I see all that one can ascertain from this is that subscriptions and correspondence should be sent to Michael Turner, Hadison Road, London. Have you ever heard of a gentleman called Michael Turner? --- No, my Lord, I have no knowledge of him at all.

Were these people with whom you discussed this matter prior to the trial, this journal, were they unable to inform you about its source or origin? ---- Well, there was speculation, my Lord, but nobody seemed to know who it was coming from.

Incidentally, Mr. Bernstein, at the early part of the cross-examination some mention was made about the restriction placed on one Byleveld? --- Yes.

Does the restriction placed on a person means that he is a communist? --- No, my Lord. Restriction can be placed under one of two acts, I think. Either the Suppression of Communism Act or the Riotous Assemblies Act. It doesn't require, as far as I'm aware, for you either to be a listed communist or an actual communist in order to be restricted under the act.

And of course people have been listed as communists under the Suppression of Communism Act, who are not communists at all? --- That is so, my Lord. I think the Act provides that anybody whoever attended a meeting of the Communist Party can be listed on that list - even a public meeting.

And tell me, Mr. Bernstein, do you know of people who are listed who are in fact anti communist? --- I know of people who have had restriction orders served under the Act, who are anti communist, I'm not sure if they are listed members. Listed or on the list.

Patrick Duncan was listed? --- I think he was restricted, sir, under the Act, but I'm not sure if he is listed.

As far as you know, is he sympathetic to communism? --- He is a fanatical anti communist, my Lord.

And now, Mr. Bernstein, just to deal with one general matter before we proceed to some other specific topics. You declined to answer a number of questions. For instance, you declined to say who you met when you went out during 1962 at Rivonia? --- That is so, my Lord.

Did you realise in declining to answer you might prejudice yourself? --- Yes, my Lord, I'm aware of that fact.

I just want to get it quite clearly why you refused to answer? --- My Lord, the reason why I refused to answer is because I fear that anybody whose name I mention in this respect will be subject to persecution, and I'm not prepared to open anybody with whom I've ever associated up to persecution at all.

The next thing, Mr. Bernstein, also about Rivonia As I understood the cross-examination, it was suggested to you that that was a hide out for communists only. Do you think from what you know that that was the case? --- Well, from what I know of who hid there, I would say the reverse is the case in general. But when I was told about it, it was

1.
97(E)

RE-EXAMINATION BY MR. FISCHER: Now I would like Mr. Bernstein to deal with some of the subjects which arise from the documents, and if you will give me some general statements first then we can perhaps examine the documents to see whether they bear out what you've put as general propositions. First of all, I want you to state just briefly, what is the Marxist connotation of the word "revolution". Does that mean that the revolution must be violent?—I think the understanding of /the way in which Marxists choose this word "revolution" is to describe a change so radical that it changes the entire social and economic basis of society. It has nothing to do with the question of how that change takes place, whether it is violent or non-violent, it would be a revolution. 10

So that one could have a revolutionary change which was entirely non-violent?—Yes, one could have for instance, the position where a Parliament sitting decided overnight to Nationalise entirely all private ownership of the means of production in the country. Such a thing could take place quite without any upheaval or violence at all, but such a change would transform the whole social and economic basis of society, and in my view would be a revolution. 20

That would be a revolutionary change?—Yes, I want to go to the documents in a moment, insofar as they recognised to be Communist documents, / to see whether they substantiate that point of view, but just before I do that, I want to ask you about another aspect of the theory, and that is whether the Marxist approach regards any political situation as a static and fixed situation?—It's fundamental to Marxist theory that all human and social phenomena are continually in a state of change, and Marxists always in viewing any situation, attempts to view it as a situation in a state of change, not to be regarded as fixed and unchangeable, but to regard it as something 30

which is in the course of change while it is being discussed.

Now has that any bearing of importance on the view which a Marxist would take, for instance, of the situation in South Africa?—Yes my lord, it certainly has. I would say for instance, that a Marxist looking at the South African Government would say well granite walls are capable of shifting and being shifted and changing and crumbling. So the fact that it is a granite wall or that it appears to be a granite wall, at this precise moment does not mean that therefore, it is going 10 to remain completely unchangeable, inflexible for all time. A Marxist looking at such a thing as a Government which is inflexible, would say well in certain circumstances in different circumstances it will be forced to become flexible or it will fall over. It cannot stand where it is inflexibly forever.

So you say that is of practical importance?—Very much so, because it determines one's policy and tactics. If for instance, one were to regard the South African Government as being so inflexible, so immovable 20 that nothing whatsoever could be done to shift it ever, or to change it's policy ever then one would have as a logical conclusion of that to give up political activity, because you'll have quite a useless proposition. If one does not accept that survey, obviously one visualises that in certain circumstances this seemingly immovable object will move.

Now in the ... that of course is part of the basic theory isn't it?—Absolutely basic to all Communist thinking, on every subject. 30

That is one of the essential foundations of Marxist philosophy?—That is so.

Now let's turn to a completely practical view

of the situation. Let's take Africa Mr. Bernstein. You mentioned one or two of the countries which had obtained freedom by peaceful means?---Yes, I did.

If one casts one's mind back about ten years, did it appear likely that there would be a mass of new independant states in Africa?---I would say, well, thinking about the time at the end of the war, which is slightly further back, it seemed extremely unlikely that there would be a mass of new states without a mass of local wars, major international wars, and so on, to bring them into being. 10

In fact, just cast your mind back for a moment to 1952/1953, when there was fighting in Kenya?---That is so.

What appeared to be the prognostication ^{at that stage} /for that?---My lord the prognostication at about that stage, was that British Administration there ^{had entrenched itself} ~~itself~~ by severely smashing the local liberation movement and that Kenya would remain a British Colony for an extremely long time. 20

And in fact, was there then any question were there plans known to readers of newspapers to make it a military centre?---It did in fact become I think the major British military base in Africa for a short while.

Now the change which has occurred in so many States in Africa, would you describe that change as a revolutionary change or would you not so describe it?--- Yes, I think when you have a change from dependant people ruled completely by foreign administration, to self-Government, I would describe that as a revolutionary change in the nature of the country. 30

Now you mentioned three countries, ^{Ni}Algeria, Ghana and I forget for the moment what the other one was?

---I don't remember either.

In fact would you be prepared to cast your mind over the Continent and tell the Court where has there been violent revolution in order to achieve freedom?

---I think there are, as far as I can recall, only two countries in Africa which have achieved their national independence by violent military means, that is Algeria and Angola. Well Angola hasn't yet achieved, so it is in fact only one which has achieved by violent means, that's Algeria. One might possibly describe Egypt as a violent revolution, although this was in the nature of a coup de ^{etat} ~~theatre~~ rather than a popular revolution I think. 10

For the rest?---For the rest my lord, the transfer everywhere in Africa I think, has been non-violent.

That would cover about thirty States?---Yes, cover practically the whole of Africa down to the Limpopo.

Mr. Bernstein, what about a country like India?---My lord India achieved it's national independence by what I would describe as a non-violent insurrection. The circumstances were that there was a mass upheaval, uprising of the population, not with arms in their hands, but non-violent methods of one kind or another which forced the British Government to transfer power to the Indian population. 20

So that Mr. Bernstein, if the last ten years of history serve us at all, they serve to show that the, what is commonly called, the national democratic revolution can take place in a completely peaceful fashion?---It can. 30

Leaving aside altogether the question of

Socialism?---Yes that is so.

Mr. Bernstein, I wonder if one could give an illustration of a sudden change of that kind in South Africa itself? You've no doubt read about the period when this country went off the Gold standard?---Yes.

Was there any sudden change, perhaps of not so great a character, a sudden change there?---A sudden change?

In the form of Government? In the Government itself, a sudden coalition which no one expected?---Oh 10
yes, you mean?

Possibly have foretold the year before?---Oh I think I was too young at that stage to be taking an intelligent interest in the subject sir, but I should think only very few people could have predicted the coalition which followed, in that period.

And that came along Mr. Bernstein, as a result of economic pressure?---As a result of economic circumstances largely outside this country, and which this country was completely incapable of controlling. 20

Do you exclude the possibility that sort of thing happening again?---Not at all, I think it's highly likely.

AT THIS STAGE THE COURT ADJOURNS UNTIL 2 P.M.

ON RESUMING:

RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, we were talking at the adjournment about the possibility of States..the historical fact, that States in Africa have gained there freedom without having to fight. Just one or two points. You know you've 30 described what is meant in Marxist language by a revolutionary change. Now that is usually described as a condition for a transformation from Capitalism to

Socialism?---That is so.

Is that necessarily so with regard to an extension of the French franchise?---Do you mean would that necessarily be a revolution?

That would that necessarily be a revolutionary change, or could it be done, to use another technical ~~term~~ ^{term}, in a reformist fashion?---Yes, I think that change could be brought about by piecemeal reform over a period, sir. It would not require a sweeping change all at one time.

In other words a franchise could be gradually extended?--Yes certainly sir.

And if it were seen by the people to whom it was being extended as something which was on the way, then naturally that would have a considerable effect on their view of what action to take? ---Yes I think it certainly would.

Then another matter which was mentioned by my learned friend was the suggestion that the Congo achieved its freedom by violence - what do you say to that?---My lord, I don't think that is historically correct. Independence of the Congo was achieved without any form of military struggle at all. There had been political activity of a non-violent character for some time, and it was against that background that the Belgian Government decided to concede independence to the Congo. What violence took place, took place thereafter as a result of disputes between warring factions of the Congolese people themselves.

So that that would not be an illustration of obtaining freedom by violence?--No, far from it sir.

Just one further word about this Mr. Bernstein. You will remember that yesterday you argued that the danger

lies in one man holding the gun? WHEREAS there is more chance of a round table conference and ability to agree when both hold the gun?--Yes sir.

Could you just expand on that for the moment?
---My lord, what I was trying to convey was when one side of a dispute is heavily armed, and the other side unarmed, there is always a very strong temptation on the part of those who hold the arms to settle the dispute by force. When both sides are armed, I think there is less of a temptation in that direction, and I think in fact, if one looks at the field of international disputes, one will see that this is in fact the point of view which is followed up by diplomats on both sides of what is at present referred to as The Cold War, where each side claims that only by having atomic weapons of parity or near parity with the other side will they be able to negotiate a peaceful settlement of whatever disputes lie between them.

Well now Mr. Bernstein I want to turn to some of the documents that were put to you. First of all I would like you to have a look at these Exhibits which my learned friend treated as a bundle, that was 83, 84, 85, 94 and 121B. and R.40. I had a rather hurried look through them during the adjournment, and if you just look at the first paragraph in each one, leaving out 85 which I can't make out, it is probable that they were written in the following order, 84, which the whole of which is in manuscript, so presumably that was an early draft,-- the whole of that is in manuscript?-- Yes the whole of that is in manuscript.

Then if you look at 83 I think you will see signs that that probably follows on 84.---Yes quite likely.

I don't think this is of great importance, we can do it in argument, but I think that is correct. Then

R.40
in all probability/is the next one. ---Yes, that seems to be a much more advanced stage of the document.

And then 94?---Well I am not quite clear if your order is correct. It is quite possible.

It is possibly correct?--It seems so yes.

I don't think it is of great importance. What is of importance is that 121B would appear to be the last draft?--That I think is clear. That appears to be the finished document. The order of the draft I am not very clear on.

Actually I will take you into that in a little greater detail presently. I just wanted to ask you this: did you ever see R.40 in the form of a document that would be circulated, R.40 itself?--No sir I did not ever see it.

Do you know R.40 at all? Had you known it before this case?--Not before this case sir. I have read it prior to today.

Yes, during the preparation?--That is right yes.

But you had never seen R.40 before?--No sir.

Now I want you, having established that, I would like to take you through certain of the documents which are of importance, apparently, in relation to the position of the Communist Party, the A.NC. and Umkonto we Sozwe. I want you to start with R.92. What we will need is 92, R.104, R.51, R39, and we have got R.40 and R141 here. Now I want you to take R.92 first. It is not dated, but you will see that there is certain internal evidence dating it. First of all, paragraph 2 on page 1 speaks of the.. "For the first time....(quotes'..adopted in October 1961" so this is post October 1961?--That is so.

And then May 1961 is mentioned on page 3 and on page 2 there is the date December 1961 in the first part of paragraph 3. I think we can safely say that the

new year referred to here is the new year of 1962. Will you just assume that that is so?--Yes I think that is fair.

Now then I want you to turn first of all to paragraph 5. This has been read by my learned friend, but I want to read it with slightly different emphasis. You see the second sentence starts "Already last May" summing up the experience of the May 31st general strike "we recognised that the combination of overwhelming force and emergency rule by the Government brought the legal mass movement to a turning point. We recognise that the prospects of further legal mass actions are growing more and more remote." That is further LEGAL mass actions.--That is right.

Would That refer to such things as processions, demonstrations, plakards?--Yes. I think that must be what is intended.

then
"We recognised that ~~that~~ that the prospects of further legal mass actions were growing more and more remote, and that the way forward would lie through illegal actions of both non-violent and of violent character. Since then illegal actions of a new type acts of political sabotage against the Government and its installations have been carried out in different parts of the country." And then it refers to the most widespread being that of the new organisation. I want to take the next paragraph which my learned friend skipped. It is dealing with these operations, and the organisation: "Umkonto stated in its first Manifesto that its purpose was political, the liberation of non-white people. It will confine itself to direct military-style attacks on Government installations and apparatus. It will not attempt to supersede existing political organisations." So that expresses the point of view that has been put by various

witnesses, that Umkonto was not to be a political force?---
That is correct sir.

And then in paragraph 6 is set out the sort of thing Mr. Sisulu spoke about when he gave evidence "In political statements in the past we have pointed out that in conditions existing in South Africa, the liberation movement dare not assume that the struggle can necessarily be won by non-violent means. The Government policy makes it increasingly likely that in the long run the liberation movement will have to resort to arms against the Government. It is for this reason that we welcome the appearance of Umkonto. We regard it as a valuable weapon" and then it seems to me that the emphasis is placed on "to supplement the work of mass agitation at present, and also a valuable field for the training of militant liberation fighters, in the techniques of armed struggle which they may well have to carry out in the future." Then there is another portion which was omitted by my learned friend. "Umkonto provides the basis for the rapid establishment ..(quotes)..liberation army should such a step become necessary in the future." So one can say fairly, Mr. Bernstein, that this contemplates something in the future?--Yes very clearly.

"it also ensures that the liberation movement will have ready at hand its own peoples armed force to take over the defence of the country from its enemies when power has been wrested from the white state." Then follows the portion that my learned friend read, I don't need to read that again. It quotes from the Manifesto, but paragraph 7 is of some importance. "We are in full agreement with the need for these new methods to supplement and inspire our traditional methods of mass action, but we must take care

both at leadership level, and in our groups, to see that we are not diverted from our main tasks of mass political work by focussing attention on the new theme." Now there is reference to the phrase which you have discussed, Mr. Bernstein, "mass political action",---Yes sir.

And the document clearly says that that is the main task?--That is correct.

"Our membership must not be drawn off in an unplanned fashion from vital tasks of maintaining our organisation, spearheading the mass movement.s" Presumably that refers to non-violent tasks?---Spearheading the mass movements, you mean?

Yes the main tasks of mass political works.--- Yes, of agitation on political subjects.

* You don't know of any mass violent movements?
---No sir, clearly this refers to mass movements against the pass laws and bantu authorities, and that sort of thing.

"Naturally our units will be interested in discussing the part which Umkonto plays in relation to the main political problem, but they should not divert their attention to details of its work and actions." And then my learned friend has read the most important part of paragraph 8 but just beyond that, the second sentence, the document proceeds "This wrong emphasis has been seen, for example, in our reaction to the new Verwoerd plan for the Transkei. Our organisation and to some extent the Congresses is sternly critical of this scheme, but the fact that we are critics does not and should not mean that we do not enter into a mass campaign of struggle against the scheme. We have tended to sit back as critics, almost as spectators. The issue of the Transkei's future

we have left to the Government and to the Chiefs without attempting to rouse the masses to participate in the decision." Does that suggest to you anything in the nature of violence?--No not at all sir. I think it suggests agitation against the Bantustan scheme.

Lastly I want to refer to the second part of paragraph 9 on the next page. "All our leading organs must start the new year in the new way. They must turn their attention constantly to the main problem of our movement, the mobilising of the masses to political activity, and seek at all times to make our line the line of the people. We must throw ourselves into the job of putting new life and drive into the second phase of non-collaboration campaign, and the campaign for mass recruitment into trade unions. Let us fight tooth and nail against the mood of apathy and hopelessness, of waiting to see what will happen, which seems to affect some supporters of the movement. New methods by ~~umkonto~~for solidarity action outside this country may inspire and assist us, but they are no substitute for mass action by the people of our country, the key to national liberation." Now there again is there any suggestion, in your view, of any violent action? ---Well only the new methods by Umkonto which are described as secondary and auxilliary, as I understand it.

Do you know to what the phrase refers, the "second phase of non-collaboration"?--My lord, I think I am correct in saying that the Pietermaritzburg Conference, which took place in 1961, to which there was reference here in evidence, decided on two things, one was the General Strike ^{which} ~~to which~~ a great deal of attention has been paid in this case, which took place at the end of May, and the other was to follow that up with a campaign of non-

Belt 98E

collaboration with the Government in all sorts of activities; that people should not serve on Government boards, participate in institutions set up under Bantustan scheme and Group Areas schemes and so on. I think that is what is referred to here as the second phase of the non-collaboration campaign. That was the phrase they used at the time, non-collaboration.

Right Mr. Bernstein - now those are the relevant parts of the document which is the first part of 1962?--That is so.

Now I think we will take Exhibit R.104, that is the April/May edition of the 'African Communist.' It is also Exhibit Y my lord. Now Mr. Bernstein, I don't want to take up much of the Court's time. You will see that at page 44..43 just states an adherence to the Freedom Charter; then 44 to 45 refers to the condition of non-violence, and gives practical reasons why that has been followed, as a sound policy; practical reasons rather than the somewhat mystical Ghandi-ism.---Yes.

Then if you turn to pages 45 to 46 I gather the author tries to describe the change in the situation. He says at page 46 though the policy of non-violence appears not to have achieved much, in the third paragraph "It would be incorrect to asset that these struggles have been fruitless. Far from it. In the course of defiance, pass-burning and other campaigns, strikes, demonstrations, boycotts and other forms of non-violent mass action, the political consciousness of the masses has been tremendously raised. Steele d and disciplined fighters for freedom have been developed and trained." That of course would also not refer to soldiers?---No sir, I think that is just referring to politically active people.

In the last paragraph of that section, the Situation has Changed, there also is this said, that all these things add up to a major shift in the political situation, "where no further progress is possible along the traditional paths by adhering rigidly to non-violent slogan.. quotes...where every democratic demand is treated as an act of rebellion." And then there is a section which deals with the question of power and says that the demand from the Maritzburg Conference for a National Convention was a demand for revolution. That appears in the last line but one.--Yes I have that.

Now that is in the same way in which you were describing the use of that word?---That can be the only possible meaning to it, sir. There was no demand for armed uprising.

It was a demand for a convention?--Yes.

I want you now to turn to page 49 - incidently, just before you go there, at the foot of page 48 that emphasises that the Manifesto makes it clear that this is the first move in a long-term plan of campaign. I want to refer particularly to the last paragraph just before the section "Approval of the Masses".---Yes I see that.

It quotes from the Manifesto "We of Umkonto have always sought, as the liberation movement has sought, to achieve the liberation without bloodshed and civil clash. We hope even at this late hour that our first actions will awaken everyone to the realisation of the disastrous situation" and expresses the hope that matters will not reach the desperate stage of civil war. Now then Mr. Bernstein, at the foot of that page again is expressed the view that political action remains at the present stage the

main form of the freedom movement.--That is so.

And if you turn to the next page, the last page I want to refer to, at the top it says the Government will have to reckon with the knowledge that future violence will meet with stern reprisals, and then in the second paragraph "Until now it has been the Nationalist Government alone which has taught and spoken of settling the future of this country by violence. The sort of violence they had in mind was the suppression of every peoples movement for liberation and democratic change, by means of the army and militarised police, with the aid of a mass mobilisation of part-time white civilians armed and organised for civil war by the State." I skip the next sentence, and then proceed "It is very doubtful whether this enthusiasm of the white colonialists for forcible solutions would continue in a situation where the people were organised and equipped to fight back, to conduct a protracted guerilla war which would exact casualties not on one side only, and have profound effects on the economy of the country and aggravate immensely its already grave international relations. There indeed lies the sole prospect of forcing the colonialists to re-consider their adamant and intransigent attitude towards peaceful transition to a non-racial democratic society. In a word, before the racist oppressors can be made to listen to reason, their ears must be opened by speaking to them in the only language they can understand. So long as the prospect of such re-consideration remains open, the armed struggle of Umkonto will remain the supplementary, not the main, form of struggle." So that takes it up to June.--Yes.

No April/May of that year. Then there is the document R.51 which has been referred to on several occasions,

and about which I think you have expressed an opinion too?

---Yes I think I did.

There are passages on page 2 in paragraph 2 which suggest that the A.N.C. itself has adopted a policy of violence.---Yes I think I said I thought that was a wrong statement when it was put to me sir.

I don't know what this document/^{is,}- it does not appear to have been issued to anybody at all ---That I could not say.

You don't know what it is?--No.

Well, if one follows that up - first of all, I want to try and fix the date of this, I have an idea I found somewhere that it was approximately July or August. --I think from page one the paragraph numbered 1, it suggests that the campaign against the Sabotage Act has been completed. In other words, it gives me the impression that this is shortly or sometime after the passing of the Sabotage Act.

That is right. And then you will see at the foot of page 2 the last paragraph but one says "The main content of the South African democratic revolution, as formulated in our own draft programme, is the national liberation." So apparently this preceded the publication of the Communist Party programme?--Yes it would appear to come between the publication of the draft and the publication of the finished document.

And then if you will look at the programme itself, briefly, I want to investigate whether it contains any formulation similar to this which we have just seen in R.51. This is a matter very much for argument, so I don't

want to quote at length. This programme deals in Section 5 with the National Democratic Revolution. And I want to refer only to page 4..at page 53 the programme refers to the long and difficult struggles..national liberation organisations..in which they have always sought peaceful methods?--Yes.

Then 54 really contains the summing up of the situation. At the top there is the usual warning that the Government policy will lead to open organising of guerilla armies, etc.--Yes.

Then in paragaph 2 the programme expresses the view that the slogan of non-violence is harmful, and it proceeds in the second sentence as follows:"At the same time the Party opposes undisciplined acts of individual terror; it rejects theories that all non-violent methods of struggle are useless or impossible, and will continue to advocate and work for the use of all forms of struggle by the people. The Party does not dismiss all prospects of non-violence transition to the demccratic revolution. Its prospect will be enhanced by the development of revolutionary and militant peoples forces. The illusion that white minority can rule for ever over a disarmed majority will crumble before the reality" and then that paragraph concludes "The possibility would be open of a peaceful and negotiated transfer of power to the representatives of the majority."---Yes.

Once again, militant there does not mean military does it?--No I don't think it ever means military, sir. It means vigorous.

And then the demand is stated on page 55, viz. for the summoning of a sovereign national convention. --Yes that is so.

Mr. Bernstein, that leaves the document R.40 and R.121B. Now I think we shall be able in argument to point out to his lordship the clear reasons for saying that R.140 precedes R.121.--R40.

Yes, R.40. One can see for instance that the paging is such that it was still in the stage of preparation, there is a page 6a and a page 6b---That is right.

And then I think there are directions for the typist at the top of page 6.--Yes.

New section to be added, about 2 pages.--Yes.

I want to deal just briefly with some of the important omissions. Take page 1 on R.40. I have asked you to examine these documents, haven't I?--Yes I have examined them.

The last sentence in the first paragraph "More and more the oppressed masses are seeing violence and retaliation as their only answer". That is a passage that has been omitted altogether hasn't it?---As far as I can see, sir, yes.

Take page 2 paragraph 2: there is a paragraph which reads "Without doubt these measures have taken heavy toll of the freedom movement. They have greatly narrowed the area of legal opposition and ~~xxxx~~ demand for change. They have closed to road to peaceful democratic progress."---Yes.

Now if one finds the relevant passage in R.121 you will find instead of using the phrase "closed the road" the phrase is "greatly narrowed any hope" which is used. ---That is correct sir, I have got it here in front of me.

And then lastly I would just like to refer you to the last paragraph on page 8. That is the paragraph which the State has placed great reliance on, but "such acts of sabotage are not enough and have never been considered

enough by themselves to achieve the common aim of Umkonto and the rest of the liberation movement, the overthrow of the white supremacy state. These activities can only be of ultimate effect if they are regarded as a preparatory stage intended to broaden out into a full-scale campaign of armed full-time guerilla and military operations to engage and eventually defeat the forces of the state."

You have that?---Yes I have that.

Now that does not appear in R.121?--^INo/don't think it does.

There is a completely different formulation I think right at the end?--Yes near the end of the document.

And R.121 makes it quite clear that these drastic revolutionary proposals are only made in the event of the Government persisting in its attitude, only then, says the fifth paragraph, on page 11, 'the only effect can be that the present outbreaks of sabotage will develop into full-scale war.'--Yes I don't think they are even proposals at that stage, sir. They are a prediction of what is going to happen inevitably.

So if I can produce evidence that it was the latter of the two that was issued, then that would be the final statement?--It would appear so, my lord.

Now I turn briefly to some of the documents which were put to you. Mr. Bernstein in C.R. for instance, which is also called CO. one of the first documents which was put to you, you remember this pamphlet:--I remember it was put to me.

"Vorster's Nazi Law" and ends up "Let us all, Communists and non-Communists alike unite in a stern and dedicated fight for freedom."---Yes.

Have you any doubt as to how members of the Congress Alliance would read that?--No sir, I think they will understand that means a political campaign, a political battle fought with political means, meetings, demonstrations and so on.

This word is very frequently used, isn't it? ---Oh it is a standard word, not just to the Congress Movement, let me say sir, but I think in practically all political parties and organisations this word is used.

Now it has been suggested to you Mr. Bernstein that the average Congress member whoever it might be would read this in a different fashion because of the establishment of Umkonto. What do you say about that?---My lord, I would be inclined to dispute that. I think that this sort of leaflet which is issued to the public, issued to the ordinary man in the street. The ~~xxxx~~ people who write them are well aware that the ordinary man in the street does not sit down and study the document, or attempt to find a hidden meaning, and interpret it in the light of some other circumstances or something he has heard at some other time. He would take it at its face value, he will take the simplest meaning of the word, the obvious meaning of the word, and not attempt to interpret it in the light of a lot of of conundra of other circumstances. And I think it is written in that way and it is intended to be read in that way.

You see, it was also suggested Mr. Bernstein, that in ~~xxx~~ R.158, where you wrote ...I know there was a reference there to fighting, or sooner or later disturbances would take place like Zeerust - that was in an article on the Bantu Homelands.--Yes.

And then in the next Journal referred to which R.131, an article in "Fighting Talk" Going Down in Blood,

which referred to...that was the phrase in an article?---
Yes, it was the heading put on an article.

Is it conceivable that anyone would recommend in public journals that there should be armed insurrection? --My lord, it seems to me one must distinguish between journals or documents issued by organisations which are functioning quite openly and legally and organisations which are functioning secretly and illegally. If you take a document like "fighting talk" or "New Age" or any of these documents which are issued from offices which are known to the authorities; they have got their address on them; the people working on these journals are known, such organisations certainly would never issue calls to people to plant bombs or to conduct guerilla warfare operations. But when one comes to documents like these, issued by the South African Communist Party, or by the African National Congress when it is unlawful, now there I believe my lord that if these people wanted to say "Go and plant bombs in pass offices" they would say it, just like that - because they are not known, they are secret organisations and the purpose of being secret organisations is so that they can say what they think without having to go into circumlocution and so on. So I would say that when one deals with documents issued by illegal organisations, one cannot read into them hidden meanings. If they intended to say to people "Commit Sabotage" they would say it - as in fact Unkonto did say in the documents it issued.

Now Mr. Bernstein, I want you - I don't know whether it is a long task or a short task, I would like you to make it as brief and simple as possible - you remember that you

made the statement yesterday that the Exhibit R. 20, R.21 and R22 were not sound Marxism.---Those are "How to be a Good Communist?"

Yes. Now I have not naturally been able to discuss this with you, but possibly - you have had these copies?--Yes.

I think if you can avoid giving the Court a lecture on these documents you should Perhaps you could make, you know, half a dozen clear points.---Well I don't even know if I will make as many as that, sir, but I would take the first paragraph of Lecture 1 my lord, which says that "A Communist is a member of the Communist Party who understands and accepts the theory and practice of Marxism-Leninism as explained by Marx, Engels, Lenin and Stalin." Now this is a wrong statement. There is a document before the Court which gives the rules for the South African Communist Party which makes it clear that a member of the Communist Party is not required to understand the doctrine. The requirements for being a member of the Communist Party, is that one supports of the policy of the Party and undertakes to do active work under the direction of a leading committee of the Party. Whether you understand and accept the theory and practice of Marxism-Leninism is completely a matter which is outside the scope of whether you are a member of the Party or not. The Party encourages people to do this, but it never lays down anywhere in the world, not even in the Soviet Union where they teach Marxism-Leninism to people as a matter of policy, not even there is it laid down that to be a Communist must you understand. And you will find that interpretation of what constitutes a Communist running right the way through Lecture One sir, and in my opinion it is a completely incorrect statement. You will find it repeated for

instance on page 3, under the heading (a) "One's something I don't know what, 'in the practical struggles of the oppressed people." It repeats the same thing. It says that it is not enough to understand Marxism. In addition to that, to be a Communist, you must participate in the struggles of the people. I think this is an exact reversal of Marxist and Communist policy. If one wanted to say anything at all, one would say "It is not enough to participate in the active political struggles of the people - to be a Communist you must also understand Marxism." On lecture one I think this thread runs all the way ^{through} ~~though~~ I won't burden the Court with it, but it seems to me this is a fundamental misunderstanding which indicates to me that the person who wrote these did not understand the position of the Communist Party on the Question. If I turn to ~~Exxxx~~ Chapter Two, sir, the second paragraph says "Dialectical materialism was founded by Marx and Engels. " I think it is a very odd word - it might just be a matter of English, but I don't think it is a word any Communist would use at all, sir. It is a system of philosophy which was put together, perhaps, by Marx into a coherent whole, but dialectics date back to ancient Greece and materialism probably just as far, or further. In paragraph 3 it says that the philosophy of Marxism 'is a dialectical philosophy because it studies things concretely and objectively, and because its approach on all things in nature is always based on data established through scientific investigation and experience. Now my lord, this is not so at all. A dialectical philosophy,

Belt 99E.

as is said correctly that a dialectical philosophy is one which attempts to establish truth by exposing contradictions. I think that is the basis of it. What this says is that a dialectical philosophy is nothing of the sort, it is what I would say a concrete approach, or perhaps it might even be described as a materialist philosophy. I don't know how long I should carry on?

Just deal with the Third. Have you found similar.---I have found similar things, my lord, which indicate to me that the person who wrote these has not got a profound understanding of Marxist theories.

Or of the Communist Party. Now I want you.. Mr. Bernstein I don't know if you have had an opportunity of looking at this book (T.66). --No I have not. Not at all.

I think perhaps if you just look at the inscription on the flyleaf.---Riot control techniques.

Yes, and then it says by whom it is issued. --- It says "Riot control techniques, manhandling and close combat for the police and the military by Liet.-Col. Rex Applegate, U.S.A. (Retired) and apparently issued by the military service division of the ? Company, Pennsylvania.

It does not purport to be a Communist Journal describing how Communists should work?

BY THE COURT:

I don't think that was the suggestion. The suggestion is you must study that to see how you can counter the police methods. That I think is the suggestion that the State makes.

MR. FISCHER: No, it was suggested by my learned friend, that Mr. Bernstein, as I understood him, terrorism and mob violence was part of Communist methods.---Well I disputed

that at the time.

Now I want to turn to Exhibit R.35 which is
sorry, 96.
the same as R.69, / I have the original here, might I just
unpin this for the moment to give you one copy and keep one
for myself. Now this was said to be, I am quoting my learned
friend, a "blatant incitement to take up arms." I can't
remember from what he inferred that - oh it was the reference
to Cuba?--Yes it was the top paragraph on page 2 actually.

Oh yes that was it, where the students fought
with a book in one hand and a rifle in the other. Now
Mr. Bernstein, this refers in the third paragraph on page
2 ; "The youth of our country have shown that they can
fight bravely for their rights. At Fort Hare, Turfloop,
Healdtown, Lovedale, Kilnerton and the Botha High School
for example, they stood up and took militant action, regardless
of the consequences. When nurses were caned, they went on
strike. When workers in the factories demand better con-
ditions, the youth are with them." Do you know what
happened at any one of these colleges? ---My lord, I don't
know if that is what this document is referring to,
but there have been from time to time student protest strikes
at I think most of these places. And I think a large number
of students got expelled as a result of that.

From time to time that does happen?---^Yes.
I am not sure if that is what this document is referring to.

Have you ever heard of the students of these
colleges taking up arms?--No sir.

Or taking violent action?---Apart from the one
case that was quoted to me by the prosecutor of a student
who has been charged with sabotage, I don't.

Well anyway the document sets out what it calls

on the youth to do, at the foot of page 2.--Yes.

Which include such things as building students and youth organisations to look after our interests, building factory committees and trade unions, fighting the colour bar and sports clubs.))That is right.

Oh then the next document referred to Mr. Bernstein was referred to apparently for a different purpose. That was your document "Differences in the Communist Movement"R.36.---Yes.

And how it was that you would find time to go out to Rivonia with this document and other documents as well. Had you any particular reason for going in that direction?--Well my lord, as I said, I was asked on these occasions to go out with this material. At the time, sir, I was supervising a building operation job in Bryanston. From my house to Bryanston via Rivonia is not much longer than any other way round, and so on occasions either to or from Bryanston I used to take the opportunity, being in the district, just to drop in there. It was not as far out of the way as it sounds.

Yes. Incidentally, there were these two topics, the Chinese/Indian dispute, and the theoretical dispute between the Soviet Union and the Chinese Communist Party. ---Yes.

Were those matters which were very keenly discussed?--Yes my lord, very keenly discussed indeed. I would say the second one was more of interest to people of a Communist bent, or interested in Communism, but the first one, the dispute between China and Indian over the frontier was a matter of tremendous interest to everybody in the liberation movement, regardless of his political ideology.

India was one of the countries which had achieved its freedom, and so was China?---Yes, and India was the home of the passive resistance movement, which has been a tremendous inspiration to the movement in this country.

In fact, it was a great shock to the movement? ---That these two countries should come to blows, certainly it was sir yes.

Now I want you to have a look at R.61. That was mentioned yesterday and then dealt with more thoroughly today. That is a typescript document?--I did have one typescript document yesterday, I am not clear what one it was.

It is not a roneo-ed document.---Is that the one something about a crisis?

It is called "The Crisis is Deepening in South Africa."---The document which was shown to me yesterday, I think it was the original, is a typescript document.

For the rest I think we dealt with it earlier. Might I have Exhibit D.M. a new one handed in today? You remember, Mr. Bernstein, this was the document which deals with the 44th anniversary of the Socialist Revolution in the Soviet Union, headed "For Higher Wages, Land, Freedom and Equality."---Yes.

It is what my learned friend characterised as aw onderful bait, for Jim Fish. Mr. Bernstein, what is meant by a Communistic State, just in 3 words - or perhaps 61

BY THE COURT:

XXX Utopian state!---

At the moment, sir, it is Utopian in the sense that it never existed.

Many people think it can never exist, some people think it can.--Some think it can, some think it can't.

I think that is near enough

Q Q RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, you know that certain things are free in the Soviet Union.--Yes certain things are.

Amongst these that are mentioned here, free bread, free public transport, free education, free medical services, free meals - do you know which are free?--Medical services, sir are free, and there is one other that you read.

Education?---Education is free. I don't think any of the others are yet free.

But that is the object, is it?---That was the point of this plan. The Communist Party of the Soviet Party at that time produced a plan for the building of Communism, which they hoped to achieve..I can't remember when it is now, 1970 or 1980 and by that time they hope to have all these other things free as well, as part of their Communist society.

Now Mr. Bernstein I turn to a slightly more personal subject - this letter which you wrote, you wrote openly and handed to the prison authorities to transmit?-- That is correct.

To your sister and her husband?---That is correct.

My learned friend has read only criticism which you make?--Yes.

But in fact, if the letter is read as a whole, you give your reasons, including those which you gave this morning, for thinking that certain witnesses had not told the truth?--- I think I refer, if I remember sir, I have not seen the letter since I wrote it, but if I remember I think I referred to specific witnesses in making those allegations.

You referred to the two who were at Lobatsi.---

That is right.

You referred to the taxi driver and his minute description of a whole days travelling, in which he hears one sentence and one sentence only.---That is correct.

And so on - you set it out?--Yes, as far as I can recall.

Your statements are substantiated as far as you can substantiate them?--Well I think they are fair conclusions, sir, other people might not agree.

Mr. Bernstein, I want to ask you something else. You were a 90 day detainee?--Yes I was.

Were you asked to make a statement?--I was asked to give information, sir.

Were you offered any rewards? were any threats made? I would like you to give this fully, for if it applies to you one assumes it might well apply to others. ---Well my lord, so far as threats are concerned, I was told repeatedly, in interrogation sessions by the police, that if I didnot give the information they required satisfactorily I would be detained indefinitely for 90 days and 90 days and another 90 days. One of the interrogating officers in fact told me he had got 23 years to go in the service, so he can afford to wait longer than I can. That sort of threat was made repeatedly. Towards the end of my detention continued reference was made to the fact that very serious matters, charges, were going to be brought against me in which the death sentence was very, very likely to be brought on, and this question was harped on repeatedly, sir. Suggestions were made, not directly, but slightly obliquely that perhaps I could name my price for

giving information, if I felt that interested me. I was told about people who got considerable sums of money for giving information.

What sort of sums?---The sum of R6000 was mentioned about one person who gave a very, very important piece of information. So to that extent, inducements and threats were held out to me.

And is that why you called it torture?--No sir. What I called torture is the actual conditions under which we were kept for 90 days. One has to go through it, to spend 90 days without talking to a solitary human being at all to be locked in a tiny room, grey walls, only able to see a piece of light through a very high window, and spend 23 hours a day contemplating those walls, because you are not allowed to read or write, and you have got no work to do and nothing to occupy yourself at all. These conditions, coupled with the interrogation sessions, in my view amounted to a form of mental torture which is very, very severe indeed.

Mr. Bernstein, can you say whether it has affected your memory or not?--I can only speak about the symptoms I observed in myself, and I don't know if I have got a complete record of them. I developed an extremely severe handshake after about 60 days, a tremble in my hands, which lasted for some weeks after the end of my detention. I found at the end of my detention, sir, that I was utterly unable to concentrate. If I sat down to write a letter, I could write two sentences, and then I would have to get up and walk around for 5 or 10 minutes before I could write a third. Extreme anxiety, my lord, about absolutely ridiculous things which a normal person would not feel the least anxiety about at all, I found making me extremely

anxious and reducing me to a state of nerves under certain conditions. These things I observed.

Incidentally, Mr. Bernstein, when the interrogators were not issuing open veiled threats, was the interrogation a relief from the loneliness?---Yes sir, I think it was a great relief to have somebody to talk to. I am not a person, as ~~has~~ there has been evidence in this box here sit, that I am not a person who likes talking to policeman, and I found it a relief.

What does one do to occupy oneself Mr. Bernstein?
---Well sir, I suppose everybody..

BY THE COURT: (to Mr. Fischer)

What is the relevance of this Mr. Fischer?
You are now trying to get evidence in at the back door which I excluded from the front door? ---Well, this is personal experience, my lord.

Well, he has given us..---As your lordship pleases.

Are you suggesting I should not believe any of his evidence, because he has been ..at one time was confined?
--No my lord. This witness did not make a statement.

RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, I want lastly just to refer to the Exhibit D.L. which was put in. As I understand it, this expresses a good deal of your political philosophy.
--Yes sir I think it does.

You deal with..could the witness have a copy?
---(Handed to the witness).

In writing about South Africans facing the future, you were addressing White South Africa?--Yes, the whole document is addressed to White South Africans.

You start by saying that they become immured to shock?--Yes.

You give a picture of a South African who can even, shall I say, can even take Sharpeville?--Yes.

You then describe changes in Africa - I am doing this very briefly?--That is so.

And you start on..at the foot of 4 under the heading "Floodtide, 1960" to characterise the changes which have come about.--Yes.

You mention all the states, or a large number of the states who have achieved freedom without any bloodshed at all,?--Yes.

You set out the features, under the next paragraph "Looking Closer Home", the ..you characterise the features of the South African situation?--That is so.

The future of South West hanging in the balance, Bechuanaland negotiating for self-rule, and so forth.--Yes.

Then you ask what price are we prepared to pay for our right to keep out of step with what you call the floodtide of 1960?---Yes.

You count up the cost as being a state of virtual martial law, this referred, I think, to the emergency?--Yes I think so.

Then you proceed to say "The future is now."
Now Mr. Bernstein, I don't want to read much of this. Would you like just to summarise it, briefly?---You mean the rest of it from there on?

What you are standing for?---My lord, what I was trying to say from here on was that a situation is being reached in which white South Africans have got only two choices for the future, the one choice, which is the one which is being proposed and advocated by the Government, and followed out by them, is the choice of attempting to

hang on to their present positions of power, by shooting it out with the non-European people when it becomes necessary; and the other, or perhaps 2 further choices, for the white people to pack up and leave this country, or alternatively to try and reach a settlement with the non-white people on the basis of recognising their rights to equality of rights and opportunities. I then deal with Algeria, which I say is the writing on the wall for South Africans.

You have written quite a considerable amount on Algeria?--Yes sir I have, because I think it is the closest, well not the parallel, it is the best lesson which South Africans can draw from the history of Africa, and that is that there you have a not dissimilar breakdown in the population as between white and non-white, you have the same monopoly of power in the hands of the white population, who attempted to hold it by a military process which finally practically broke the back, not just of white Algeria sir, but of France, and finally failed, as I predicted in this document it must inevitably fail. I then make the point that this is the lesson which white South Africans must draw, that even if they choose to shoot it out, in the long run they are going to fail, and when they do fail, they will then have no further option. By that time there will be such bitterness in this country that white South Africans, even if they then choose to want to live here, very likely will find life as intolerable as many whites in Algeria found at the end of the Algerian war, and became refugees. And that is I think a summary of what I was trying to say.

Would you be prepared to say Mr. Bernstein, would it be fair to say that you spent many years of your life trying to prevent South Africa coming to a stage where it

had to shoot it out?--I think almost all my political life has been spent in that direction.

Mr. Bernstein, one or two other questions: it was put to you that..or you suggested that the police discredited themselves. Now I just want to know - what have you in mind?---Well my lord, I think there are many occasions on which the police behaved in a way which is no credit to a responsible body of men, entrusted with the tremendous powers that they are entrusted. I mentioned one example.

You mentioned Bultfontein?---That is right.

There have been other assaults?---There have been many other assaults on people.

And we know that the Minister made a statement quite recently about the number of police who have committed assaults and were still in the police?--That is so.

That does not mean to say that all policemen commit assaults?---No, far from it.

It does not mean to say that our police force is particularly bad?---No I don't think I said that .

It means that these things do exist?--Yes, certainly do.

Do you think the existence of the many discriminatory laws affects this position?--I think very definitely, sir. I think people who are brought up in the tradition of regarding non-whites as inferior, seem to treat them in a much rougher and less responsible fashion than if they were brought up to believe that they are not inferior.

MR. FISCHER: No further questions.
