

physical violence by the police such as he described were committed on him at any time and on any day prior to the alleged pointing out. I think it is clearly desirable that I should say as little as possible on this point. (5

Mr. Thirion claims, however, that the confession was not made freely and voluntarily; firstly, because of the pressure in themselves of the provisions of Section 17 of the General Law Amendment Act No.37 of 1963, the first three sub-sections of which are as follows: (10

- '(1) Notwithstanding anything to the contrary in any law contained, any commissioned officer as defined in Section 1 of the Police Act, 1958 (Act No.7 of 1958), may from time to time without warrant arrest or cause to be arrested any person whom he suspects upon reasonable grounds of having committed or intending or having intended to commit any offence under the Suppression of Communism Act, 1950 (Act No.44 of 1950), or under the last-mentioned Act as applied by the Unlawful Organisations Act, 1960 (Act No.34 of 1960), or the offence of sabotage, or who in his opinion is in possession of any information relating to the commission of any such offence or the intention to commit any such offence, and detain such person or cause him to be detained in custody for interrogation in connection with the commission of, or intention to commit such offence, at any place he may think fit, until such person has in the opinion of the Commissioner of the South African Police replied satisfactorily to all questions at the said interrogation, but no such person (15 (20 (25 (30

shall/.....

business to decide which group would be selected for that target? ---- It differed. I will give instances, like the first attacks where petrol bombs were used. The Regional Command gave the instructions if it was in connection with a certain thing or incident like the Mandela case, for instance. The Regional Command in those instances selected the targets and also decided on which group should do which job. Like in the case of the three pylons. On the other cases, many of them, the various groups selected their own targets. They then make a report to Ronny Kasrils that 'we have found a certain target'. Ronny then reports to the Regional Command; the Regional Command then discusses these targets and they tell Ronny Kasrils to carry on with the work. The group then that selected a certain target carries on with the work. (5 (10 (15

MR. GURWITZ: Apart from the Mandela incident that you've mentioned, was there any other occasion upon which the Regional Command selected targets? ---- It was those pylons - New Germany, Sarnia and Kudamore quarries and then again in 1961 at the Bantu Administration offices, Bantu Commissioner's office and the Coloured Affairs Department. (20

And in relation to what event did those three acts of sabotage refer? ---- (The Court intervenes)

MILNE, J.P.: Which three?

MR. GURWITZ: The Bantu Affairs, the Coloured Affairs - the three that you've just mentioned? ---- (The Court intervenes)

MILNE, J.P.: Just let me have those three again please? (30

----- Bantu Administration offices at Ordinance Road in Durban.

That is the Corporation offices? ----- Yes. Bantu Commissioner's office in Stanger Street.

That is the Government one? ----- Yes. (5) Coloured Affairs Department.

Where is that? ----- I think it is in Masonic Grove.

That is a Government Department? ----- I think it is a Government Department. (10)

Do you say that attacks were decided upon by the Regional Command in respect of these three different offices? ----- Yes.

MR. GURWITZ: And in respect of what incident or event were those three acts of sabotage decided upon? ----- (15) All the centres, right through the Republic decided to have these attacks on that day, on the 16th December, at 9 o'clock - 9 o'clock in the evening. Although we did it on the 15th it had been decided that it should be done on the 16th. (20)

Were there any other acts of sabotage which fall into the same category as this December 15th series and Mandela's series? ----- (The Court intervenes).

MILNE, J.P.: In which the Regional Command themselves selected the targets? ----- Then it is the three pylons. (25) The Mandela case was the petrol bombs and the signal wires. In connection with the pylons, the High Command gave us a choking off. They asked us what we were waiting for; we had everything, including detonators. Why were we waiting? That was the attack (30)

on the pylons and the stealing of the dynamite.

MR. GURWITZ: Any other such series of sabotage? ----  
Those are all I can remember at the moment.

And in those cases was Ronny Kasrils given instructions? ---- Yes. (5)

And he arranged which group was to carry out which act of sabotage? ---- Yes.

And then it was his duty to report to the Regional Command whether the acts of sabotage had been carried out? ---- Yes. (10)

Now in certain circumstances it was even impossible to report the result of an act of sabotage? ---- Yes, because at the time when these explosions go off, the group is no longer there.

So can we take it then that it was Kasrils' duty to get the group to do the job and then it was his duty merely to report upon the fact that instructions had been carried out? ---- Yes. Apart from what we read in the papers. (15)

And I take it, the Regional Command wasn't interested in which - in the personnel comprising the group who had committed the act of sabotage? ---- It was very important for the Regional Command to know who carried out the sabotage. (20)

Was it important for it to know which group had carried it out or was it important for it to know which members of the group had carried it out? ---- Which was the most important, was which group and who the leader of the group was; not the name of every member of the group. (25)

But Ronny Kasrils was in charge of the leaders of each group? ---- Yes.

And he was the special officer who was the connecting link between the groups and the Regional Command? ---- Yes. (5

And that was with the object of having security? ---- Yes.

Then I suggest to you that when he reported, he merely reported that the group had carried out the instructions? ---- No, that was not so. If any member was recruited for any group, the person recruiting the member had to give a full report of his qualifications to Ronny Kasrils and Ronny Kasrils had to convey that report to the Regional Command before he would be accepted. (10 (15

So do you suggest now that the Regional Command was aware of every member of the organisation? ---- Although it did not know them by sight, they knew their names and their characters.

Did the Regional Command know their names and their characters? ---- Yes. (20

So there was no real point in having a special officer who was a contact between the groups and the Regional Command if the Regional Command knew every member by name and character? ---- The Regional Command was in charge of all these groups and it was for the Regional Command to approve of every person recruited, as to what his character was. Those were all duties connected with Ronny Kasrils. (25

Were they carried out by Ronny Kasrils or (30

Were you, I think you have told the Court, at one time the assistant technical officer and subsequently the technical officer of the organisation? ---- Yes.

Did you have a committee? ---- Yes, I had a technical committee. (5)

And how often did this technical committee meet? ---- We used to meet, but not regularly like the Regional Command for instance.

How often did this technical committee meet? ---- They only used to meet if some new chemicals had been obtained or some new weapons had been obtained which had to be discussed. (10)

Where did they used to meet? ---- At Lakhani Chambers; then we used to meet at Lodson House, and at the corner of Bank Road and Booth Road. (15)

/ Did this organisation of the 'Mk.' operate on the cell system? ---- (Interpreter: I am afraid I do not know what 'cell system' is. Unless I know I can't explain what it is.) /

MILNE, J.P.: Is there a Zulu word for the English word 'cell'? (20)

INTERPRETER: A cell where a person is locked up?

MILNE, J.P.: Not a cell where a person is locked up but a cell such as a .... Perhaps Mr. Gurwitz would attempt to .... (The Interpreter intervenes). (25)

INTERPRETER: The witness knows what a 'cell system' is.

MR. GURWITZ: Did the organisation operate on the cell system? ---- Yes.

As I understand it, the cell system is that you know only the members of your cell? ---- Yes. (30)

And/.....

And there is only one member of the cell who knows the higher up or the organisation which is above the cell? ---- Yes.

And I think the idea is that if a member of a cell is arrested he can only divulge the names of the (5 members of his own cell and nobody else? ----Yes.

Except the leader of the cell, he would know the members of his cell, plus the one above him? ---- Yes.

And wasn't the same form of security employed (10 in the 'Mk.'? ---- Yes, that was the system on which we were supposed to work.

And did you work on that system? ---- Yes, but it was found that people living together, found out who the others were and they knew one another. Those are (15 troubles that we had, that we always discussed at the Regional Command meetings.

That's problems of security? ---- Yes.

And weren't you even instructed that you mustn't assume that another person is a member of the (20 organisation merely because you thought so or you had evidence to think that he was a member? ---- That is so.

The fact that you stressed, that the less you knew about people being members of the organisation, the better it was for security purposes? ---- Yes. (25

And Ronny Kasrils was the contact between the lower organisations and the Regional Command? ---- Yes.

Would it be correct to say that you first of all had a Group, then you had a Platoon? ---- Yes.

And Ronny Kasrils was in charge of the (30

Platoons? ---- Yes. All of them.

And he was the contact between the Platoons and the Regional Command? ---- Yes.

And I put it to you that the Regional Command was interested in having its decisions carried out? ---- (5  
Yes.

And Ronny Kasrils was the man responsible for that? ---- Yes.

So if the Regional Command decided upon a target, Ronny Kasrils was given the instructions? ---- (10  
The Regional Command made the decision of the attacks on certain targets.

And that decision was then passed on to Ronny Kasrils? ---- Yes.

Then it was his duty to see that the correct (15  
or the most commended group was employed in carrying out that decision? ---- That is where I would like to explain. The various groups selected the various targets and then they reported them to Ronny Kasrils. Ronny Kasrils in turn makes the report to the Regional (20  
Command; then after the discussions on the various targets and how they are situated, then Ronny Kasrils is told about those which the Regional Command approve of.

And then would he be told to get on with (25  
the job of carrying out the targets approved of? ----  
(The Court intervenes).

MILNE, J.P.: I think Counsel is asking you this - I am not quite sure: Did the Regional Command decide which group should do the act or was that Ronny Kasrils' (30



Regional Command.

What ?--- The attack on his friend.

I said was the attack on the Induna's friend, an attack by the "M.K." ?--- Yes.

MR.GURWITZ: What was the reason for that attack ?--- (5  
Because the Induna at the time was fighting against the Union.  
And his friend was supporting him, and it was decided that if  
his friend is frightened he would also get a fright.

In what way would an attack, in those circumstances,  
have anything to do with the obtaining of freedom for the (10  
non-European races ?--- M'Lord, all the members of S.A.C.T.U.  
were fighting the same battle as the A.N.C. An enemy of  
S.A.C.T.U. was an enemy of A.N.C.

Is that how you explain it ?--- Yes.

Who decided to - I beg your pardon - This is (15  
what I mean when I asked you the question as to who decided  
the attack and the reasons for any attack when sabotage was  
employed ?--- (Court intervenes)

MILNE: J.P. I couldn't hear the last part of your sentence

MR.GURWITZ: When sabotage was employed. (20

MILNE: J.P. Who decided what ?.

MR.GURWITZ: The attack and the reasons for the attack when  
sabotage was employed ?--- M'Lord, there may be a misunder-  
standing. (Interpreter: The witness understands that this is  
still in connection with the Induna, the question in (25  
general on sabotage acts.)

Yes, in general ?---

MILNE: J.P. General.

MR.GURWITZ: General ?--- Ronny Kasrils used to report to the  
Regional Command that a certain group had seen/<sup>a</sup>certain (30  
target/.....

target. The Regional Command then discusses this target, how it is connected to the independence of the A.N.C. If the Regional Command find that that has any connection with the struggle that was there, it would be approved.

/ You've told the Court just now that the attack on (5 the Induna's friend was an attack by the "M.K" ?--- Yes.

You said that the reason for it was because the Induna was opposing the Hospital Worker's Union, and the friend supported the Induna ?--- Yes.

And/.....

And it was decided to frighten the friend? ----

Yes.

By the use of a pipe bomb? ---- Yes.

And it wasn't a personal attack upon the Induna's friend at all, it was part of the policy of the A.N.C. as you've described it? ---- Yes. (5

And thereafter an attack was made on the Induna himself by use of a pipe bomb? ---- Yes.

Was it intended to frighten him as well? ---- The attack on the Induna was not a decision of the Regional Command. (10

Was it an attack with the same object or not? ---- No. I have explained to this Court on Friday; this person that placed the bomb deceived me by saying that the bomb did not explode; that he wanted another one. (15 It appears then that the second one he wanted to go and place at the Induna's place. That is why I say that it was no longer connected with the organisation.

But if he had told you that he wanted to frighten the Induna as well, what would have been the position then? ---- Then it would have been expected of me to make a report first to the Regional Command. (20

What I am trying to get from you is, was the attack on the Induna a political attack or was it a personal grudge? ---- As far as I can see, it was a personal grudge between himself and the Induna. (25

You have told the Court about the first meetings you've had with four of you present and this Regional Command was started? ---- Yes.

Did you have further meetings after that? ----(30

Yes/.....

Yes, the other meeting after this European had arrived who had come to teach us how to make weapons.

Was the Regional Command enlarged at all? ----  
There was one extra European, not counting this European that had come down from Johannesburg; it was Brian (5  
Chaitow who was present but not as a member; a member of the Regional Command.

Did the members that you have given us, did they continue to be members right up to the time when you were arrested? ---- No. (10

What changes were there? ---- During the middle of 1962 Eric Mtshali was one of the group that was sent away to be taught the ways and means of fighting. Then in 1963 his place was taken up by Solomon Mbandjwa. During 1963 Solomon was taken into (15  
custody together with Curnick Ndhlovu. After some time Billy Nair was taken into custody. It was decided by the Regional Command before these people were arrested that David Ndawonde and Stephen Mtshali would be standbys; in case anyone of these members of the Regional (20  
Command were arrested, they would take their places in the Regional Command. A third person who also was a standby, was Ebrahim Ismail. I will then say that by the time I was taken into custody the Regional Command consisted of the following: myself, Ronny (25  
Kasrils, David Ndawonde, Stephen Mtshali and Ebrahim.

Are those the only changes that occurred in the composition of the Regional Command from the time it was - from the time of its inception to the time of your arrest? ---- Yes, as I have mentioned. (30

- ' shall be so detained for more than ninety days on any particular occasion when he is so arrested
- '(2) No person shall, except with the consent of the Minister of Justice or a commissioned officer as aforesaid, have access to any person detained under sub-section (1); provided that not less than once during each week such person shall be visited in private by the Magistrate or an additional or assistant Magistrate of the district in which he is detained. (5) (10)
- '(3) No Court shall have jurisdiction to order the release from custody of any person so detained, but the said Minister may at any time direct that any such person be released from custody.' (15)

These provisions have fairly widely become known with the 90-Day Detention Clause. (15)

The contention is that the only alternative open to the accused if he did not make a satisfactory statement was that he would be detained in solitary confinement for 90 days. I think it must be taken that he was quite aware that no one, except with the consent of the Minister of Justice or a commissioned officer of police, would be allowed to have access to any person detained under these provisions, apart from the weekly visits of the Magistrate. Added to this, Mr. Thirion said, was the fact that detective-sergeant Nayagar told the accused on the 18th July that he would be detained for 90 days, before the accused was in fact detained under the 90-Day Provisions, as the authority for his detention under those provisions was obtained fairly late in the (20) (25) (30)

afternoon of the 19th July, and only after the accused made the confession before the Magistrate. This factor Mr. Thirion claimed, coupled with long and persistent interrogation on the 18th, including four hours before 8 o'clock in the morning and four hours at least (5 after five in the afternoon by Sergeant Nayagar, operated to impair the accused's freedom of volition. Mr. Thirion relied on admissions made by police witnesses that they believed that the accused on the 18th was falsely denying complicity in sabotage operations, and (10 that they were trying to obtain from him a confession of such complicity. He also relied on the accused's evidence, unsatisfactory as though his testimony was, that he was fearful for himself as well as for his family about being detained for 90 days. Mr. Thirion claimed (15 that while the 90-Day provisions provided lawful machinery or a tool for obtaining the desired information-- in this connection he referred to Sacks versus Rossouw N.O. of which a summary appears in 1964 (1) S.A. on page 290, it did not in any way derogate from the provisions (20 of Section 244 of the Criminal Code regarding what has to be proved to render confessions admissible. Although the sentence was used in a different context by the learned judge, what Mr. Thirion claimed is I think fairly neatly summed up in a sentence of the judgment of (25 SCHREINER, J.A. in R. versus Tebetha, 1959 (2) S.A. at page 345(D), namely: 'Parliament facilitated investigation, but not compulsion to self-crimination'.

I think I should say that I do not regard the fact that Sergeant Nayagar told the accused that he would be (30

detained for 90 days prior to the actual authority being forthcoming for his detention for 90 days, as in itself constituting a factor tending to negative the accused's freedom of volition. The authority was forthcoming the next day and I do not perceive how it can make any (5 difference when it comes to considering the effect upon the accused's will. It was his belief that he was subject to the 90-day provisions plus the interrogation that is said to have affected his will. I think it is right to say that on the 18th July he believed he was (10 going to be detained for 90 days in solitary confinement unless he made a satisfactory statement. To contemplate being detained for 90 days in solitary confinement, without being able to see one's relatives or friends, is in its nature a grievous thing. And it is perhaps even (15 more so if the person who contemplates his detention has a family dependent upon him.

Does the fact that the procedure was authorised by Parliament make it necessary to say that as long as there was no violence or other unlawful in- (20 ducement, any statement made by a person under 90-day detention was made freely and voluntarily, especially when regard is had to the consideration which I think is manifest here, that the police would not regard a statement by him as satisfactory unless it included an (25 admission of his own complicity? I think that there is much to be said for Mr. Thirion's submission that the mere authorisation of this machinery by Parliament for obtaining the desired information cannot be treated as rendering the making of a statement free and voluntary

when it is made in order to avoid the 90-Day detention.

Having regard to all the evidence, I find myself not persuaded that it was not a fear of further detention that induced the accused to make the confession. But I wish to make it clear that having heard (5 the accused, I am unable to find or to think that he decided to implicate himself falsely as a device to secure his release from the 90-day detention and exemption from further interrogation. I have no doubt that he was not speaking the truth when he said that he (10 made a confession in terms which were dictated to him by the police.

It remains to consider whether or not I am required to hold the evidence of the pointing out to be admissible by virtue of Section 245(2) of the (15 Criminal Code. Section 245 is as follows:

'245. Admissibility of facts discovered by means of inadmissible confession -(1) Evidence may be admitted of any fact otherwise admissible in evidence, notwithstanding that such fact has (20 been discovered and come to the knowledge of the witness who gives evidence respecting it only in consequence of information given by the person under trial in any confession or evidence which by law is not admissible in evidence against him on such trial, and notwithstanding (25 that the fact has been discovered and come to the knowledge of the witness against the wish or will of the accused.

'(2) It shall be lawful to admit evidence that anything was pointed out by the person under trial or that any fact or thing was discovered in consequence of information given by such (30

person/.....



'person, notwithstanding that such pointing out or information forms part of a confession or statement which by law is not admissible in evidence against him on such trial.'

Mr. Rees, in reliance on what was said by the (5 majority of the Court in R. versus Tebetha, 1959(2) S.A. 336 A.D., at page 346, claimed that effect must be given to the clear words of sub-section (2) and accordingly that whatever might be the ground for holding the confession to be admissible, the relative pointing out would still (10 be admissible. He was obliged to admit that if this submission is correct, it would require the Court to let in evidence as to a pointing out, even though the relative confession was obtained as a result of acts of gross cruelty inflicted upon the person making it. His (15 argument is: Samhando's case, 1943 A.D. 608, decided that evidence of a pointing out by an accused of deceased's blood-stained clothing in a murder case is admissible, even though the pointing out followed upon considerable physical violence done to the accused in consequence of (20 which (though he did not, as the headnote suggests, confess to murder) in consequence of which he admitted killing the deceased. The evidence as to the pointing out was held to be admissible under the applicable law of evidence in the absence of any provisions of our (25 law excluding it.

In Duetsimi's case, 1950, (3), S.A., 674, A.D., it was held that evidence of the pointing out of a shop by the accused which formed part of an inadmissible confession, was itself inadmissible. This (30 was decided on the very simple ground - see page 679 -

that/.....

that it formed part of an inadmissible confession. Section 245(2) says in terms, that such a pointing out is admissible, even though it does form part of an inadmissible confession. I think it is as clear as can be that if that provision had been in force when Duetsimi's case was decided, it would not and could not have been decided in the way that it was decided. (5)

So, Mr. Rees argues, what Section 245(2) did from the time it was first enacted by Section 42 of Act 29 of 1955, was to confirm Samhando's case and to extend (10 its operation to cases where the pointing out is, indeed, part of an inadmissible confession. I think this argument is supported by a reference to the words 'part of a confession or statement which by law is not admissible in evidence.' I underline the word 'statement'. That (15 word, it appears to me must be regarded as having been used to mean something which does not amount to a confession. That is conceded by Mr. Thirion. But in what circumstances would a statement by an accused, not amounting to a confession, be inadmissible by law? (20 As far as I can see, it would be inadmissible only where it was not shown to have been made freely and voluntarily by the accused, when in his sound and sober senses and without his having been unduly influenced to make it. It seems to follow then that even if it (25 is quite clear that a statement, not amounting to a confession, was obtained by a policeman as a result of acts of physical violence committed upon the accused, such as to render the statement itself inadmissible, the evidence as to the pointing out forming part of the (30

statement/.....

statement, would nevertheless be admissible. It has to be borne in mind of course that where a statement contains admissions not amounting to a confession, it is no ground in law for excluding it that it has been made to a policeman and has not been reduced to writing (5) before a Magistrate.

Mr. Thirion claimed that if it had been the intention of the Legislature to let in - by sub-section (2) to let in evidence of the pointing out where that formed part of a confession which was inadmissible because it was obtained by violence, the Legislature would have added words similar to the last few words of sub-section (1) which speaks of facts coming to the knowledge of the witness - 'against the wish or will of the accused'. Mr. Thirion suggests that the Legislature, had it intended section 245(2) to mean what Mr. Rees claims it means, (16) would have added some words like these: 'And notwithstanding that the pointing out was made against the wish and will of the accused.' I think, however, that the words at the end of Section 245(1) refer, as they refer (20) in terms, to the actual discovery of the fact sought to be led in evidence, not to the confession containing the information which led to the discovery. A confession may be made to a policeman that the accused had stolen a large sum of money but the accused might well decline to (25) say where he had hidden it because he wished to lay his hands upon it after undergoing his punishment for stealing it. But if the policeman to whom he has made the confession, as a result of information contained in it, finds the sum of money, evidence that it was so (30)

found is admissible notwithstanding that the discovery was made against his wish or will.

It seems to me that although the words are capable of having a meaning sufficient to indicate that the evidence would be admissible, even though the confession were obtained against the wish or will of the accused, that is not what the words were intended to mean. The confession itself, even though made voluntarily would be inadmissible because it was made to a policeman, unless it were reduced to writing before a Magistrate. (5) (10)

Mr. Thirion further contended in reliance upon Steyn, 'Uitleg van Wette, Third Edition, on pages 96 to 98, that the provisions of Section 245(2) should be construed as not amending the Common Law more than necessary, and he has referred to cases which say that such amendments are not to be implied. He has urged that words should be read into sub-section (2) because of the strong inclination of our Law, both our Common Law and our Statutory Law, to insist on the element of voluntariness. The difficulty, however, is to say what words should be regarded as implied. It would not be right, for example, to say that there should be added to the sub-section by implication these words: 'because it is not reduced to writing in the presence of a Magistrate in terms of Section 244'; because Section 244 deals only with confessions as such and not with statements falling short of a confession, whereas, as I have pointed out, Section 245(2) deals with both. Here it seems to me to be clear beyond any (15) (20) (25) (30)

manner or dispute that Section 245(2) as first enacted by Section 42 of Act 29 of 1955, was intended to alter the existing Law as laid down in Duetsimi's case. What I think cannot be overlooked is that in Samhando's case reliance was had upon a pointing out resulting from the (5 use of violence. Although that violence was used, in consequence of which the accused admitted killing the deceased, his conviction for the murder of the deceased was upheld. What was decided in Samhando's case is part of our law and it seems to me that the intention in (10 enacting Section 42 of Act 29 of 1955 and then Section 245(2) of the Criminal Code was to make admissible evidence of a pointing out forming part of a confession as such, notwithstanding that it was obtained in a fashion similar to the fashion in which the pointing out (15 was obtained in Samhando's case.

I rule, therefore, that the proposed evidence as to the pointing out is admissible in terms of Section 245(2) of the Code. The weight to be attached to any such admission is an altogether different matter and it is, indeed, a matter for the full trial Court. (21

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THE COURT ADJOURNS UNTIL 10 O'CLOCK ON THE 24th JANUARY, 1964.  
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24th JANUARY, 1964:

(Assessors in Court.)

MTOLO

Court resumes.

( MR. WILSON NOT PRESENT. )

WITNESS MTOLO (Still under oath.)

MR. REES: (Cont.) Bruno you told the Court about. (5

the dynamite blasting and the preparations on the first occasion that concerned Sarnia, New Germany and Montclair, do you remember? ---Yes M'Lord.

Now how, or what transport, if any, was used on behalf of or for the persons taking part? ---There (10 was a motorcar that I think was borrowed from a garage.

Do you know what type of motorcar it was? --- As far as I can remember it was an Opel.

This is on Counts 7, 8 and 9 M'Lord. Do you know who was to obtain this motor? --- Ronny M'Lord. (15

Can you tell the Court what MK stands for.....

MILNE, J.P: We have had a lot of evidence about that Mr. Rees.

MR. REES: As Your Lordship pleases. M'Lord I would also just like him to identify some of the photographs (20 that has been put in.

MILNE, J.P: Is there any dispute about the photographs?

MR. THIRION. -- No 'M'Lord.

MR. GURWITZ: - No M'Lord.

MR. REES: As Your Lordship pleases. (25

CROSS-EXAMINED BY MR. GURWITZ:

Bruno you are no stranger to these proceedings are you - to Court proceedings? --- I think I have the knowledge.

You have given evidence in a Court of law on (30 a number of occasions? -- Yes.

And/.....

And only last month you gave evidence at what is being called the Rivonia trial? ---Yes.

And in general the evidence which you gave at the Rivonia trial is the evidence which you have given in this Court here? -- Yes. (5

And the acts of sabotage of which you have spoken at Rivonia are the acts of sabotage to which you have spoken here?

MILNE, J.P: Did he speak of any acts of sabotage at Rivonia? (10

MR. GURWITZ: At the Rivonia trial I mean.? -- That is so.

Did you make a statement to the police in regard to the evidence that you have given in this Court? ---Yes M'Lord.

And did you give a separate statement to the police in regard to the evidence that you gave in Johannesburg, or was it the same statement? ---It is the same statement that I made to the police. (15

What I am asking is not whether he made the same statement to the police but whether he made in fact two separate statements; one to the police who were in charge of the case here, and one to the police who were in charge of the case at Rivonia? --- I only made one statement to the police. (20

And to which policeman did you make the statement? ---I do not know his name. (25

Have you not seen him in the precincts of this Court? -- I have not seen him here.

And did you make the statement in Durban, or in Johannesburg or in Pretoria? ---I made the statement here (30

in/....

MTOLO

in Durban and finished it off in Johannesburg.

And was it made before the same police officer, or was it made to different police officers?---In actual fact I started the statement in Johannesburg and finished it off in Durban, and the same officer that started the statement in Johannesburg finished my statement off in Durban. (5)

MILNE, J.P: Who continued with your statement in Johannesburg - who continued with your statement; who was the officer before whom your statement was continued in Johannesburg ? -- M'Lord, the officer started my statement in Johannesburg and he continued with the statement in Durban. (10)

Where did you start making your statement?

-- In Johannesburg. (15)

Did you then continue making a statement to the same officer in Durban? ---Yes, after my arrival in Durban the same officer came to me and we continued with my statement.

Did you then complete it in Durban? --Yes. (20)

MR. GURWITZ: When did you start making the statement in Johannesburg? --- It was between two and three weeks after I had been taken into custody. (25)

When were you taken into custody? --- On the 3rd of August, 1963. (25)

And when did you complete your statement in Durban? -- As I have said, I started the statement between two and three weeks after my arrest and the statement took a long time.

MILNE, J.P: Can you remember how long you remained in Johannesburg? Were you arrested in Johannesburg? -- I (30)

was/.....



was arrested in Durban.

115 And when did you go to Johannesburg? ---Within two or three weeks after my arrest I went to Johannesburg.

And soon after that you began with your statement?

--- Yes.

How long were you in Johannesburg before you came back to Durban? ---I think I completed two weeks there. (5

MR. GURWITZ: And how long were you in Durban when your statement was being taken?

MILNE, J.P: After you returned from Johannesburg to Durban, how long did you remain in Durban? --- A long time M'Lord. It must be some months because I went up to Johannesburg now at the commencement of this case. (10

D'd you not return to Johannesburg until you gave evidence, or was called to Johannesburg to give evidence in the Rivonia trial? --- Yes M'Lord. (15

MR. GURWITZ: Now what was the reason for the long time it took you to make the statement? ---I will say that at the commencement the police did not quite believe, or were not satisfied with what I was saying. NB

Is not the position this that as the police found out certain information, they would come to you and ask you about it and this would be incorporated in your statement? --- As far as the statement is concerned I don't think that that was the case. (20

When you started giving your statement, did you give the police everything you knew about the acts of sabotage to which you have spoken in this Court? --- I told them everything as far as I could remember. (25

Right from the start? -- Yes.

And if you had done that I suggest to you that (30

it couldn't have taken you more than the time it has taken you to give evidence in this Court, to relate everything that had happened? ---M'Lord as I have said, I don't think that the police believed in some cases what I have said, but after I said a certain thing another policeman used to come (5 and ask me the same thing.

And were your replies incorporated in your statement? --- I am referring now M'Lord before they commenced the statement.

I am referring to the statement and the statement (10 only.

MILNE, J.p: What Counsel is saying is this, that you have given your evidence here and it took a certain amount of time; I think less than two days. Now he is asking you why it was it took so much longer to make a statement to the police? ---M'Lord, the questions I was asked in this Court is not a quarter of what I was asked by the police. In my statement I was asked about different Associations that I had joined. (15

MR. GURWITZ: Well the statement that you gave to the police, that is in the form of question and answer or did you relate what you knew about everything? (20

MILNE, J.P: Did you ever see how your statement was recorded? ---after the statement was finished the policeman read it over to me. (25

When they read it over to you, did they read it out in the form of a question - what do you know about such and such and then an answer, or did they just record what you said?--- It was just my statement; I can't remember that any questions were recorded, and my statement was (30

read/.....

read over to me and I was asked whether that was my statement.

MR. GURWITZ: Now before you commenced making a statement to the police, the statement that was read over to you, and to which you have just now referred, were you interrogated by the police? --- Yes. (5)

And were you interrogated on numerous occasions before you made your statement? ---To make the matter clear, I was arrested on the 3rd of August, on a Saturday. After I was taken to the police station the police asked me many questions. I refused to answer. During that night I started thinking and I thought that many of these people that had been arrested must have made statements to the police, because the things that I was asked by the police I realised and I knew that I had done certain acts together with some other persons M'Lord. I then decided that the next day when they fetched me I will tell them the truth; the truth that I was aware of. (10)

MR. GURWITZ: Well now let me just pause a second while I go over that part of your answer. Are you now telling the Court that the reason you decided to tell the police the truth was because you felt that your accomplices in these various acts of sabotage had made a clean breast of it to the police and would therefore involve you? --- That is one reason, and I will say that even before I was arrested I was not at all happy about what I had done anymore. (15) (20) (25)

I want to deal with what passed through your mind on the day of the arrest and caused you to make a complete statement, or shall I say, confess the truth to the police? --- I will give several reasons M'Lord. (30)

I am/.....

I am now referring to the night when you had thought about it and decided that you would tell the truth the following day? -- M'Lord I was thinking that night about several things that made me unhappy even before I was arrested, and I came to the conclusion that all the other people that I was with have also made statements to the police M'Lord. I then also decided to tell the police everything that I know M'Lord. (5)

Is that what passed through your mind that night, the night of your arrest? Shall I say the night following your arrest? (10)

MILNE, J.P.: You were arrested on the Saturday? -- Yes.

When did you decide that you would tell the police all that you knew? --- On the Saturday night.

MR. GURWITZ:

And would it be correct in saying that what you are now saying to the Court is that you realised from the questions which the police put to you, that your associates had told the police what had taken place? -- Yes. (15)

And if they had done that they would necessarily have involved you in all the acts of sabotage to which they could give evidence? ---Yes M'Lord, my name had been mentioned. (20)

And because of that you decided that you might as well tell the police the whole truth? ---M'Lord that completed many other reasons that made me decide to do so even before I was arrested, (25)

Well I ask you again: What operated on your mind that Saturday night - tell us the other reasons? --- The first reason, I am a married man; I have two children M'Lord, five years and three years. As we were carrying (30)

on/.....

*CP Rivonia*  
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on the work of this association I was asked by the association to give up my work; I was told by members of the Regional Command that I should leave my work where I was employed at the hospital and come and work full-time for this association. I made arrangements to leave my work. When I arrived there no arrangements had been made for me to be employed full-time at a salary so that I could maintain my children. The second reason - at the time when I had been frightened and the police were looking for me I had a room for which I was paying £1.10.0 a month. I could not even go to the offices to work with the Trade Union where I was getting some funds for maintaining my children. (5)

MILNE, J.P.: When did you become a full-time member of the "Mkonto we Sizwe"? --- It was the middle of 1962. (15)

How did you manage to live without a salary?

---It was decided that I would work with the African Municipal Union.

In a paid capacity? --- M'Lord the - this Union wasn't in funds either; it varied, some months I'd get £2, £3, £4 and up to £5 a month, whatever I got. (20)

How could you keep your wife and children on £2 a month? --- That is why I say that that is one of my reasons.

I am not speaking about your reasons for speaking, I am asking you how you managed to keep your wife and children and yourself when you only got £2 in one month? ---Even up to today I am not in a position to say how they live. (25)

When you were a free man, from the middle of November 1962, until the 3rd of August, 1963, how did you/.... (30)

you keep your family? --- M'Lord I can only say that I took a small portion of whatever amount I received, anything from £2 to £5 and handed it to my wife and she used to get help by getting whatever she could from other people. M'Lord this Union where I was working was just a cover so that I could be registered as working there but my fulltime work would be for this Association. (5)

Did you get no funds from the "Mkonto we Sizwe" to help you to live? --- If I remember correctly I think they gave me £5 on two occasions. (10)

For yourself? --- Yes.

Now you say one of the reasons that operated in your mind on the night of your arrest, on the 3rd of August, was the recollection of the fact that you had been getting very little money for all the time that you were a fulltime servant of the organisation, "Mkonto we sizwe"? -- Yes. (15)

MR. GURWITZ: Now..... (Court intervenes)

MILNE, J.P: Any other reasons? -- I realised that all these other people that we have said we are fighting for we are deceiving them. (20)

Deceiving whom? --- These people that we said were were fighting for like the A.N.C.

In what way were you deceiving them? -- At the beginning of 1963 I realised that we were deceiving the A.N.C. (25)

In what way did you consider you were deceiving them? --- We were a wing to assist the A.N.C., and the A.N.C. were not aware of the fact that we were Communists M'Lord. We members of the "Mkonto we Sizwe" were Communists. (30)

You/.....

You say you realised from the beginning of 1963 that you were deceiving the A.N.C.?--- I realised that I was being used as a tool to deceive the A.N.C. by the Communists.

||| S

Were you yourself not a Communist? --- Yes, I was a Communist, I was a member of the Communist Party. (5)

So what does it matter that you were deceiving the A.N.C.? --- We were told to assist the A.N.C. in their objects, and at the beginning of 1963 when the leaders of the A.N.C. did not agree with us , we got directives from the head office of the Communist Party that we should join the various A.N.C. groups. (10)

What was the dispute between the Communists and the A.N.C. at the beginning of 1963? -- It was in connection with the A.N.C. and the "Mkonto we sizwe". They did not seem to agree with the "Mkonto we sizwe". (15)

I don't understand your saying that at about the beginning of 1963 that you realised you were deceiving the A.N.C. You have just said now that the A.N.C. and you were not running together as companions? -- Because at the beginning we were told that we were a wing of the A.N.C. and it was the executive of the A.N.C. that had created this wing. (20)

Yes, well now that Impression that you had vanished at the beginning of 1963? ---Yes. (25)

Well now you were not arrested until August 1963?-- Yes.

What do you mean when you say that on the Saturday night of your arrest, you realised you had been deceiving the A.N.C. - this is one of your reasons for deciding to speak?--- It was on the Saturday night when/.... (30)

when I was lying down thinking that we had been deceiving the A.N.O.; that they deceived me and my children went hungry, and taking all this collectively M'Lord, I realised that I am now arrested - that the police were not aware of all the facts; they just knew that here is a person that had been giving us some trouble, and I decided it is no use giving the police any further trouble, it is for them to decide what they are going to do to me, so I decided to speak the truth,  
MR. GURWITZ:

Are those all the reasons you have given to the Court today? -- Those are the most important ones, (5) (10)

Well can you think of any other reasons - important or not? -- Those are the ones I remember, MB

And are those the only ones that you can tell us about in Court today? -- Yes, (15)

You cannot remember any other reasons?  
 -- I don't remember any others.

Now is your memory today better than it was when you gave evidence at the Rivonia trial? -- M'Lord I can't say whether it is better or not. (20)

Would it be correct to say the same; it hasn't improved since you gave evidence at the Rivonia trial?  
 --- As far as I can think it is the same,

Now before you became a full-time employee of Mkonto, as you told the Court, roundabout the middle of 1962, where were you employed? --- I was working at the Hospital - McCords Hospital, (25)

And did you leave that employment to take up full-time employment with the organisation? --- Yes.  
MILNE, J.P.: What was your position at McCords? -- I was (30)



a boiler attendant.

What were your wages? ---£18.15.0 a month including food and Quarters and uniforms.

You mean plus food and quarters and uniforms?

--- Yes.

(5

MR. GURWITZ: And you gave up this very lucrative employment to become the Secretary of the Municipal Workers Union, I think you said? ---I have already said that the Municipal Workers Union was just a cover; my actual employment was to be a full-time employee of the "Mkonto we sizwe".

(10

Now, let me put it to you this way, so that there can be no mistake about it: You left this lucrative employment at McCords Hospital to become a full-time organiser or full-time employee of M.K. under the guise of the Secretary of the Municipal Workers Union; is that the correct position? ---Yes.

(15

And there can be no mistake about that? ---

No.

I have here a transcript of your cross-examination at the Rivonia trial? ---Yes.

(20

And this is what is recorded as having been asked and this is what is recorded as having been given as your answer.

MR. REES: I would like to know whether that is a certified copy and whether it is part of the official Court record?

(25

MILNE, J.P: Well the witness can admit or deny whether this is what he said; I can't assume that it is a fabricated copy. The witness hasn't answered the question yet. It is not admitted - you are not

(30

admitting/.....

admitting that it is a correct copy; the witness hasn't answered the question yet.

MR. REES: As Your Lordship pleases.

MR. GURWITZ: You see the part of the cross-examination refers to your position as Secretary of the Municipal (5  
Workers Union? You were asked what you received and your answer was "I was given small amounts, but a salary has not been fixed".?-- Yes.

And then you were asked this question: "Approximately how much per month did the Union pay you"? Your answer was (10  
"sometimes £3, sometimes £6, sometimes £5". Do you remember saying that? -- It is possible that I said it, because I said that there was no fixed amount; I only received whichever money was available.

I am not quarrelling at the moment with the (15  
amounts; I am just trying to lead up to the point - to the evidence I am going to put to you now. The next question is "I see, and you left McCords Hospital for the purpose of taking up this appointment". Do you remember having been asked that? --(Court intervenes.) (20

MILNE, J.P.: Just one moment please, Are you expecting the witness to remember whether he was then asked that question?

MR. GURWITZ: Well.....

MILNE, J.P.: Can't you put the question and the answer (25  
together.

MR. GURWITZ: Let me put it to you this way first:

MILNE, J.P.: What Counsel says he has in his hands is a transcript of what was recorded there?-- Yes.

MR. GURWITZ: Now I realise of course that you cannot (30  
remember every question that you were asked at the

Rivonia/....

Rivonia trial? ---Yes.

Now if you had been asked this question: "Did you leave your employment at McCords Hospital for the purpose of taking up the position as Secretary of the Municipal Workers Union," what would have been your reply? ---I would have said that that was what I left it for because that is under what employment I was registered. (5

Well now this is your answer: "Then you left McCords Hospital for the purpose of taking this employment", and your answer is no.? -- Was I asked whether I left it to take up employment with the M.K. or the African Municipal Workers Union. (10

I put the question to you before I read out what you were alleged to have been asked and replied and you gave an answer, and I put the same question to you as it is recorded here and the answer there is no? I will put the next question to you as well so that you can see? -- I cannot understand what Counsel is asking me. (15 (20

The next question was: "You did take up this appointment as soon as you left McCords", and your answer is "I did yes, but that is not my reason; my reason for leaving McCords was not for the purpose of becoming Secretary of this organisation." (25

MILNE, J.P.: What else? .

MR. GURWITZ: Then he was asked: "You were a member of this Union then for about 18 months, is that correct; since June, 1962, to be more or less correct until May, 1963.

?---M'Lord when those questions were asked they were (30

asked/....

asked - asking me questions in connection with the African Municipal Workers Union M'Lord. They asked me whether I left my employment to take up employment with this Association. I said no.

MILNE, J.P: You mean the Union,?--- Union I mean. I (5)  
said no. I wasn't asked further. The question wasn't taken further whether I was going to work for the "Mkonto we sizwe".

MR. GURWITZ: Well I am going to suggest to you that never in your evidence at the Rivonia trial did you ever suggest that you were working full-time for the "Mkonto we sizwe"? ---Counsel can see for himself that those questions are not complete. (10)  
5

What I am putting to you is that nowhere in your evidence, whether in chief, or in cross-examination, (15) did you suggest.....(Court intervenes.)

MILNE, J.P: Have you got the evidence-in-chief? --  
MR. GURWITZ:  
Yes M'Lord.....did you suggest that you were working for the organisation full-time? --- It depends on the form of questioning. I can't be asked a certain question and I answer it in a different way M'Lord. (20)

Alright. Now you say that you left McCord Hospital of your own accord? -- Yes.

I am going to suggest to you that you were dismissed from McCords Hospital? ---M'Lord the Superintendent of McCords Hospital in bidding me farewell said that if I had any trouble where I was going to I should come back. (25)

MILNE, J.P: Were you dismissed or did you leave of your own accord? -- I left on my own. (30)

MR. GURWITZ/....

MR. GURWITZ: Do you also remember being asked your reasons for making - shall I say for confessing to the police within 24 hours of your arrest - at the Rivonia trial? ---Yes.

And did you give the same - did you give the same reasons there as you have given in Court here? --- M'Lord I mentioned some of the reasons, I don't know whether they were in the same sequence.

I am not concerned about the same sequence, I am concerned about the same reasons? -- I would say they are.

M'Lord, bear with me for a moment. Were you yourself a member of A.N.C.? ---Yes.

And at the same time you were also a member of the Communist Party? --- I think I joined the Communist Party in 1961.

MILNE, J.P: Were you still then a member of the A.N.C.?-- The A.N.C. had been banned in 1960.

MR. GURWITZ: And when was the Communist Party banned? ---I think the Communist Party was banned in 1950.

Yes, and you became a member of the Communist Party in 1960....

MILNE, J.P: 1961? --- Yes.

Not 1960? --- 1961. As far as I can remember it was 1961.

MR. GURWITZ: And did you say you were or were not a member of the A.N.C.?

MILNE, J.P: At the time that you joined the Communist Party, were you still a member of the A.N.C. although it was banned? ---I can't say that I was a member paying subscriptions/....

subscriptions, but I did all the work concerning A.N.C.

MR. GURWITZ: Look, either you were a member of the A.N.C. or you weren't a member of the A.N.C.

MILNE, J.P: I remember of an organisation where you don't pay subscriptions Mr. Gurwitz . He says he was doing the work for them, what more do you want from him. (5

MR. GURWITZ: M'Lord, I want to know, did you join the A.N.C. or didn't you join the A.N.C.?

MILNE, J.P: When did you join the A.N.C. ? --- We got directives from the District Committee of the Communist Party to join the A.N.C. (10

But when did you join the A.N.C.? ---I think in 1963.

MR. GURWITZ: So you joined the A.N.C. after you became a member of the Communist Party? ---I first joined the A.N.C. in 1957, then it was banned, It was banned in 1960. (15

MILNE, J.P: Did you continue to be a member right up to the time that it was banned? ---M'Lord from 1960 when it was banned, up to 1963, I paid no subscriptions to the A.N.C. but I was doing their work. (20

Did you ever resign from the A.N.C.? --- No.

Were you ever expelled from the A.N.C.? ---No M'Lord.

MR. GURWITZ: Did you tell the Court just now that you never paid subscriptions to the A.N.C. (25

MILNE, J.P: Between 1960 and 1963.

MR. GURWITZ: Between 1960 and 1963, did you ever pay subscriptions to the A.N.C.? --- No.

Did you pay subscriptions at any time to the A.N.C. ? ---Before it was banned I did pay subscriptions. (30

And /....

And did you take any part in the activities of the A.N.C. after it was banned? --- Yes.

So although it was banned you continued to be a member of the A.N.C. ? -- I will say so M'Lord.

Now you told the Court that you yourself had (5 been deceived in regard to your activities with "Mkonto we Sizwe". Did you not say that you yourself had been deceived.....(Court intervenes.)

MILNE, J.P. Deceived by whom?

MR. GURWITZ: By the organisation M'Lord. (10

MILNE, J.P. Which organisation? --

MR. GURWITZ: The M.K.? -- I don't remember.

Alright, I will accept it for the moment.

One of the reasons you gave for confessing was because the A.N.C. had been deceived? ---Yes. (15

And who had it been deceived by? --- The members of the Communist Party.

Of which you were a member? -- Yes.

Are you still a Communist? -- No.

When did you cease being a Communist? --- (20

M'Lord after I had thought the matter over and I realised that these people are deceiving us.

And that was at the time of your arrest?

-- After my arrest.

Did you not think about it before that these (25 people have been deceiving you? --I was fortunate to see many things in the course of 1963; things done by the Communist Party.

MILNE, J.P. In what sort of way did you regard yourself as having been deceived by the Communist Party? -- 30

M/Lord/.....

-- M'Lord, because at first they said that the M.K. was a wing of the A.N.C.

Who told you that?-- The Europeans on the Executive of the A.N.C. who first came to tell us.

Not Graham see Riv

Who first came to tell us about this organisation the M.K. (5. He said that the Executive Committee of the A.N.C. had decided this M'Lord., and in 1963 I could see that it was not so M'Lord. I could see that the M.K. was not connected with the A.N.C.

Yes, but why do you say you were deceived by the Communist Party? ---I could see in 1963 that the M.K. was controlled by the Communist Party. (10

Why should you regard yourself as having been deceived by this Communist Party because of that?--- Because I realised that I myself I was being used as a tool to deceive the A.N.C. members - the people belonging to the A.N.C. (15

But you have told me that it was the Executive Committee of the A.N.C. that told you that the "Mkonto we sizwe" was a wing of the A.N.C.? --- M'Lord, this European told us that the Executive Committee of the A.N.C. had decided that the M.K. would be a wing of the A.N.C. but this European wasnot a member of the Executive Committee. (20

Oh, was he a member of the Communist Party? ---It was in 1963 that I realised that the Communist Party and the M.K. Association were trying to control the A.N.C. (25

I understood you to say that you regarded yourself as having been deceived by the Communist Party - (30

in/....



- in what way were you deceived by the Communist Party?  
--- Because I was going to be <sup>in</sup> full-time employ of the  
M.K.

How do you say that that constituted a deception  
of you by the Communist Party --- It is the (5)  
Communist Party that has controlled the M.K.

Now you told me that you were a member of the  
Communist member ? -- Yes M'Lord.

And you told me you were a member of M.K.? --  
Yes. (10)

Well now you were asked whether you are still  
a member of the Communist Party and you said no; you  
were asked the reason why and you said because it had  
deceived you. Why had it deceived you? --- The M.K.  
is an organisation formed by the Communist Party and if (15)  
the M.K. has deceived me I have been deceived by the  
Communist Party.

(Witness stands down.)  
COURT TAKES THE SHORT ADJOURNMENT.

Court resumes. (20)

WITNESS MTOLO (Still under oath.)

MR. GURWITZ. (Cont.) Bruno, do you now say that the  
A.N.C. as such had nothing to do with "Mkonto we sizwe"?  
--- M'Lord as far as I can see the A.N.C. had nothing  
to do with the "Mkonto we sizwe". (25)

And when did you come to that realisation? ---  
1963 M'Lord.

The beginning or the end or the middle of  
1963 or when? --- I will say from the beginning of 1963  
until my arrest. (30)

and/.....

And did you do anything about that, about your knowledge that the A.N.C. had nothing to do with the M.K. (I repeat the question.) Did you do anything about the fact that you now realised that the A.N.C. had nothing to do with M.K.? ---I did not do anything personally. (5

You continued with the acts of sabotage nevertheless? ---Yes.

Now from whom did you get the information, or from what facts did you come to the realisation that the A.N.C. had nothing to do with the M.K? ---At first I got it from the directors of the Communist Party. After that I heard it from Solomon Mbandswa, and I heard from Solomon that there were members coming down from Johannesburg to start some relationship between the A.N.C. and "Mkonto we sizwe". (10  
(15)

MILNE, J.P.: Members of what? ---There was one Govin Mbheki that I knew that he was a member of the A.N.C.

You said that Solomon said that members were coming from Johannesburg to start relations between the A.N.C. and the M.K. ? -- Yes M'Lord. (20

When Solomon Mbandswa said members were coming from Johannesburg, did he indicate of what organisation they were members? --- He did not mention of which organisation they were members, but he mentioned by name Govin Mbheki and I was aware of the fact that he was a member of the A.N.C. (25

MR. GURWITZ:

And is it from what you told the Court now that you came to the realisation that the A.N.C. had nothing TO DO with M.K.? - . Yes. (30

Now/....

Now did you join the A.N.C. originally because you were convinced that what the A.N.C. stood for was right?

--Yes M'Lord.

And did you feel that the A.N.C. was expressing in acts and in words the aspirations of the black people? (5

--Yes.

And did you become a dedicated worker? ---I did everything in my power.

And did you go to all their meetings? ---Yes.

And did you do all the work that they asked you (10 to do? ---Yes.

And ultimately when you were told that the A.N.C. had felt that all forms of passive resistance cannot take the Africans anywhere, and they felt that violence was the only path that was left to them, you agreed with that? (15 --- Yes.

And you went into that wholeheartedly? -- Yes.

And you embarked upon many acts of sabotage as you have told the Court? ---Yes.

And you risked your life in doing this? --- (20 Yes.

And imprisonment? -- Yes.

Now you have told us that in 1963 you realised that it wasn't the A.N.C. that was doing all this, but the Communist Party? -- Yes. (25

And did you yourself feel personally deceived by it or not? ---I would say I was.

Did you believe that a policy of violence would result in the achievement of the objects of the A.N.C.?

--- I realised that it would be a struggle to get independence/....

dence; but the A.N.C. having given the instructions to do so I decided to carry on.

Are you now telling the Court that you would not have committed these acts of sabotage if you had known that the instructions came not from the A.N.C. but from (5 the Communist Party? ? -- Please repeat the question?

MILNE, J.P.: The question is this: Do you wish to be understood as saying that if you had known the "Mkonto we sizwe" was a Communist organisation and that the instructions for violence had not come from the A.N.C. (10 you would<sup>not</sup>/have committed the acts of sabotage? ---I would not have done it M'Lord.

MR. GURNITZ: And you realised in 1963 that A.N.C. in fact had nothing to do with the M.K? -- Yes.

And despite that you participated in acts of (15 sabotage right up to June 1963? ---Yes.

Why? --- Before I realised this I had commenced in these acts and there was no turning back.

What do you mean there was no turning back? --- M'Lord these acts of sabotage had commenced in 1961 and (20 there was no way of standing back M'Lord.

Do you mean you had to continue in 1963 what you had commenced in 1961? --- M'Lord I was still pulling with the others although I was not heart and soul in the matter anymore. There was one act that I did not convey to the others, training that I had received in Johannesburg; the making of black powder.

Now did you go into hiding soon after the arrest of Riot Mkwanazi? --- I don't know when Riot Mkwanazi was arrested.

Weil/.....

(5  
(10  
(15  
(20  
(25  
(30

NB

Well, did you go into hiding roundabout May of 1963? -- Yes, I think it was there about.

And the last act of sabotage was committed in June, 1963?--- Yes.

Did you participate in that last act of sabotage? --- Although I didn't prepare the charges I was present when the decision was taken. (5)

Did you agree with that decision? ---Yes.

And when Kasrils wanted to derail the goods train itself, did you agree with that ? --Yes. (10)

So the position is that you came out of hiding to take part in a meeting of the Regional Command? ---Yes, that is so.

To discuss further acts of sabotage? -- Yes. (15)

Now I want to read you a passage from your evidence at the Rivonia trial and tell me if you agree with it? This is what you were asked: "And what was that reason.....(Court intervenes.)"

MILNE, J.P.: Mr. Gurwitz I would suggest that you put it in the usual form, you are recorded as having said..... (20)

MR. GURWITZ: I beg your Lordship's pardon. You are recorded as having said this: "And what was that reason" and the answer is "Because I did not at that time feel that in literal language, my heart was not with Mkonto we sizwe anymore. (25)

MILNE, J.P.: What is the question - what was your reason for what?

MR. GURWITZ: It is for teaching - the reason that is referred to is for teaching - training saboteurs. (30)

MILNE, J.P.: Well put it to him, you can't say what was your reason, it is meaningless.

MR. GURWITZ/.....

MR. GURWITZ: You were asked. "Did you train them in the arts taught to you by the Port Elizabeth men Hodgson and Strachan?"

MILNE, J.P.: Train whom Mr. Gurwitz?

MR. GURWITZ: M'Lord it is impossible for me to give (5  
the question unless I read at least a page of it.

MILNE, J.P.: Well, don't read the page, just tell me!!

MR. GURWITZ: To manufacture weapons, blow up bridges and so on.

MILNE, J.P.: Did they train them, is all you've (10  
got. I want to understand the question please.

MR. GURWITZ: You were asked whether you trained people to manufacture weapons; to blow up bridges? --- Yes?

And your answer was that you didn't put yourself out to teach them for particular reasons? --- (15  
(No answer.)

And you were asked what was that reason? ---

And your answer was because your heart was not with "Mkonto we sizwe" anymore? -- Yes.

And you were asked why not? ---Yes. (20

And your answer was "Because as I have already said since April I was in hiding. I am a married man with two children. I was told - we were told at the time when I joined that if we found that the police was suspecting us we must report to the Regional Command." (25  
? -- Yes.

" The idea was that if you were suspected then you would be taken to safety and your wife would be looked after. They will look after her; she will remain behind. And another thing I was taken out of my fixed employment". (30

I was/.....

"I was promised that I would receive a monthly payment and since June 1962 until date of my arrest, the only moneys I was given by "Mkonto we sizwe " for the whole period was £10. Although they kept on promising me that my money would come. My money would come until eventually I never expected any money to come . Also these recruits that were arrested, they didn't care about them. Who didn't care about them? The High Command, but when they run away here from South Africa they were not arrested. Although you were taken out of your job and so many promises made to you, how do the so-called leaders of the High Command live? Then you went on to deal with.....(Court intervenes.)

MILNE, J.P: The answer to that question is not recorded. (15

MR. GURWITZ: Yes M'Lord. I am going to put to him exactly what he did say in summary. Then he went on to say "They lived very well" . So would it be correct to say that you became disillusioned.....(Court intervenes.) (20

MILNE, J.P: Counsel has now finished reading extracts from your evidence as recorded or said to be recorded, he is now putting a question directly to you. Before you answer this question that is being put directly to you, would you agree that what he has just read out - the series of questions and answers, - is what happened at the Rivonia trial - questions and answers that were put to you at the Rivonia trial? --- Yes (25

MR. GURWITZ: And would it be correct to say that you became disillusioned at the time of your arrest? ---- (30

M'Lord/.....

M'Lord would Counsel explain - disillusioned in what way?

Did you become disillusioned or didn't you become disillusioned?

MILNE, J.P. : What is the Zulu word for disillusioned?

INTERPRETER: There is no way, I would have to explain it (5  
M'Lord.

MILNE, J.P.: Did you find yourself as having taken a course that had proved disappointing? --- Yes M'Lord.

MR. GURWITZ: And that was sometime during 1963? --Yes (10  
M'Lord.

And it wasn't because of what the A.N.C. were doing but simply because the Communists were in control? ---Yes.

Now could anybody but Africans be members of the A.N.C.? --- Only Africans. (15

Were any Africans who were on the Regional Command with you - were they members of A.N.C.? ---There were Bantu, Europeans and Indians.

MILNE, J.P.: No, no, what Counsel is asking you is whether any of the Africans from the Regional Command were members (20  
of the A.N.C.? -- Yes.

MR. GURWITZ: And was some of them members of the Communist Party as well?

MILNE, J.P.: You mean, some of the members of the Regional Command? (25

MR. GURWITZ: On the Regional Command.

MILNE, J.P.: You yourself was a member of the Communist Party; were there any other members of the Communist Party in the Regional Command? --- I will say that all the members of the Regional Command were members of the Communist (30

Party/.....



Party - except Ronny but I could hear by his talking that we were in agreement with our policies.

Who was the leader of the A.N.C. at this time?

---- At what time.

At the time that these acts of sabotage were committed? ---It is a known fact that Chief Luthuli is the head of the A.N.C., but as it was then an underground movement I cannot say whether he was still a member. (5

Well he was supposed to be the head of the A.N.C. at the time it went underground? --- I am not in a position to say. (10

Wasn't Nelson Mandela the head of the A.N.C. at that time? --- At that time to my knowledge Mandela was the secretary of the Committee that was formed after a meeting that was held in Pietermaritzburg in 1961, called the National Action Council. (15

Didn't you attend a meeting at which Nelson Mandela spoke? ---....(Court intervenes.)

MILNE, J.P.: Mr. Gurwitz, let's get it a little more specific? (20

MR. GURWITZ: In 1962 M'Lord? ---I said at the meeting that was held in Pietermaritzburg in 1961.

MILNE, J.P.: That is when he was made Secretary of the National Action Council?-- After that it was to call - M'Lord that was the All African People's Conference . (25  
That was the meeting here in Pietermaritzburg.

What Counsel is asking you is whether in 1962 you attended a meeting which was addressed by Nelson Mandela? --- Yes M'Lord. I was present when he spoke to us, the Regional Command. (30

MR. GURWITZ/.....

MR. GURWITZ: And when he spoke to you at the Regional Command, did he speak on behalf of the A.N.C. or on behalf of any other organisation? --- At that time he was talking on behalf of "Mkonto we sizwe" M'Lord.

And did he not identify the "Mkonto we sizwe" (5 with the African National Congress? -- He did M'Lord.

And was he a member before its banning of the A.N.C. Executive? --- I cannot say.

Was Walter Sisulu a member of the A.N.C. Executive before its banning? -- I cannot say ( 10 whether he was or he was not.

Did you ever meet him when these acts of sabotage were committed? ---Yes.

Did he ever indicate to you that M.K. was not a branch of the A.N.C.? -- No 'M'Lord. (15

I suggest to you that in 1962 there were many references to the association of M.K. and A.N.C.? ---- 1962 there were no references. I am asking a question. I want to know what references?

MILNE, J.P: Well you have already told us that in (20 1962 Nelson Mandela spoke at a meeting of the Regional Command?-- Yes.

And that he at that time identified himself with the A.N.C.? -- Yes.

He also identified himself with M.K.? --- (25 Yes.

Now would you not regard that as being a linking or a reference to an association between the A.N.C. and M.K.? ---Yes.

Were there any other indications in 1962 that (30

M.K./.....

M.K. was a wing or a branch or an associate society with the A.N.C. ? -- Yes, many.

MR. GURWITZ: And I suggest to you that the -put it this way: wasn't the real trouble between the M.K. and the A.N.C. the fact that the A.N.C. were complaining that control (5 of the M.K. was going over to the hands of the Communists? --- M'Lord although I was not at the meeting, I heard that that was the main complaint M'Lord.

Now doesn't that indicate to you that M.K. was a branch of the A.N.C.? --- M'Lord, just viewing it (10 by the talking that went on you would form that opinion.

But if you delve deeper into the matter you would find that it was not so.

And wasn't Gurnick Ndhlovu once sent up - according to your evidence yourself - to the High (15 Command to settle any differences that existed? --- Yes M'Lord, it happened.

MILNE, J.P.; Settle differences between whom? --- Between the M.K. and the A.N.C.

And did you not - again I am referring to your (20 own evidence - receive instructions from the Communist Party to infiltrate into the A.N.C.? ---Yes, that is where I made my own judgment.

So that there would be no complaints that in fact M.K. was controlled by the Communist Party, not by (25 A.N.C.

MILNE, J.P.: No complaints by whom? ---

MR. GURWITZ: No complaints from the leaders of the A.N.C. that M.K. was being controlled by the Communist Party and not by the A.N.C.? ---That is what they (30

were/.....

were trying to do.

[ Now in the face of all that how can you have maintained that you ever came to the realisation that M.K. was not a branch of A.N.C. Not connected with it? --- M'Lord because this gap could not be filled between the A.N.C. and the Mkonto. We were directed to go over and join the A.N.C. to take control M'Lord. We were getting our directives from the Communist Party.

(5

MILNE, J.P.: When was that? -- 1963. That is where I formed the opinion that the A.N.C. and the M.K. did not get on.

(10

MR. GURWITZ: And when exactly was that? ---1963.

Yes, but the middle of 1963 or April or which part? ---M'Lord, it was in my mind from the beginning of 1963, until I was arrested and this all came back to my mind.

(15

MILNE, J.P.: Can you tell me what happened when you went to Johannesburg to attempt to settle the differences between M.K. and A.N.C. ? -- It is Gurnick Ndhlovu that went up to Johannesburg.

(20

I thought you said you were sent up? --- I only went up June, 1963 in connection with M.K., not to go and settle any differences.

When was it that you received instructions from the Communist Party to infiltrate into the A.N.C.? ---If I remember correctly, it was between February and March, 1963.

(25

MR. GURWITZ: Now I want to read to you again portions of the evidence which you gave at the Rivonia trial, and it was recorded, and what appears to be recorded as your answers. You were asked: "And then you became

(30

disillusioned/....

disillusioned for the reasons you have given us".

"What I would like to know and I would like you to tell His Lordship, did you become disillusioned because you no longer thought that that which the A.N.C.....

(Court intervenes.)

(5

MILNE, J.P.: Mr. Gurwitz you are going to fast again and running your words together that I cannot hear what you are saying.

MR. GURWITZ: I am sorry M'Lord. "What I would like to know and I would like you to tell His Lordship, did you become disillusioned because you no longer thought that that which the A.N.C. and the Liberation Movement was struggling for was not the right thing?"

(10

and your/.....

And your answer is recorded as this: 'I will say this, that I thought all the time that what the A.N.C. was working for was good and I still say so now. That is was good and is good, but what made me feel disillusioned was the action of the leaders.' Then (5 the question goes on: 'Go on; the action that you have told us about.' And the answer: 'Yes, that is correct.' Question: 'Because of the actions you've told us about?' And your answer is: 'Yes.' But otherwise you felt and you still feel that everything that (10 the A.N.C. was working for and the Liberation Movement was working for, was good. To use your expression: 'And you still feel that way.'? ---- That is so.

And because you became disillusioned with the leaders, you were prepared within 24 hours of your (15 arrest to go and make a statement to expose the whole of this movement which you believed to be for the benefit of the black man? ---- Yes.

And your answer is: 'If I talk about the A.N.C. it must be known that I talk about the A.N.C. (20 and not this thing about the Communists.' And then you were asked: 'What about this thing about the "Spear"?' And your answer was: 'The "Spear" is connected with the Communists.' Then this is what you say, and we will deal with that in due course. Did you agree with what (25 the 'Spear' was doing? Your answer was: 'I agreed with it when it was doing it for the A.N.C.' ---- Yes.

Now according to your evidence today - I am not reading now - according to your evidence today it never did anything for the A.N.C.? ---- The evidence I (30

gave/.....

gave today is exactly the same as I gave there. I don't know where Counsel sees the difference.

So do you agree with what I have read out as having been recorded as having been said by you? ---- Yes.

This extract goes on: 'So you say you became disillusioned with the "Spear" when it was doing it for the Communists?' ---- Yes.

Your answer was: 'Yes, M'Lord, and the way in which they were deceiving the people.' ---- Yes.

'How were they deceiving the people?' 'Because the majority of the members of the A.N.C. are not aware of the fact that the leaders are Communists.' ---- Yes.

'Now do you mind telling this Court what difference it made to you whether the leaders were Communists or whether they were members of the Liberal Party, or whether they were members of any sort of party, as long as what they were doing was something which you agreed to and thought was good?' 'The deception was the thing I ....' That is all that was said. And you were asked 'What deceiving?' 'Because they were holding the people under the impression that they are members of the A.N.C. whereas in fact the leaders are members of the Communists.'

'You still had not answered my question. What difference does it make to you whether the leaders were Communists or whether they belong to any political party as long as they were doing for the A.N.C. something which you believed to be very good?' 'Because they are not doing it for the A.N.C.; they are doing it for

themselves/.....

themselves.' Then you were asked: 'Were you a member of the Communist Party?' Your answer is: 'Yes.' 'Did you agree with what they were doing?' Your answer is: 'Yes'. 'Did you know what they were doing?' Your answer is: 'Yes.' 'They were doing the very things you are now objecting to?' And your answer is: 'Yes.' 'And you went along with them wholeheartedly?' And your answer is 'Yes.' Then you were asked 'Why?' And your answer is 'As I have already said, I was in agreement with it.' And then you said 'I was a member of the Communist Party, but what we were doing at the time was all being done for the A.N.C.' And then you were asked 'That is my whole point' and you go on to say 'But then afterwards in recent times, particularly from the beginning of 1963 up to now, it has been quite clear that what is being done is not done for the A.N.C. It is being done for the Communist Party.'

Now, do you agree with what I have read out?

---- Yes.

Would you agree with me if I suggest that never in that evidence do you make the allegation that 'Mk.' was not a branch of A.N.C. and that's why you objected to it? ---- If Counsel would go through my statement there - my evidence, he will find that I said that 'Mk.' was a wing of the Communist Party. In what Counsel read just now.

I will leave it at that. I suggest to you that the real and the only reason why you decided to make a confession within 12 hours of your arrest - within 24 hours of your arrest, was simply to save your own



skin? ---- I admit it was to save myself but Counsel will be surprised, it took the police a long time to persuade me to become a State witness.

I suggest to you that you made your confession in order to become a State witness? ---- I made a statement to the police with no intentions of becoming a State witness. I had decided to tell the police everything that was in my heart that was worrying me before I was placed before a Court of Law to answer any case. (5)

And that you decided within 24 hours of your arrest? ---- Yes. (10)

Was it clear to you from the questions which the police put to you that the police seem to know all about your activities? ---- Yes.

Even before you confessed? ---- Yes. (15)

Did you make a statement before a Magistrate?

---- I refused.

You refused to make a statement? ---- I refused to go to a Magistrate.

But you made a statement to the police? ---- Yes. (20)

Were you aware that a statement to the police which amounted to a confession, could not be used against you at your criminal trial? ---- The police informed me. NB

And I suggest to you that the reason you refused to make a statement to the Magistrate - a confession before a Magistrate, was because you didn't know whether you were going to be used as a State witness or not? ---- No. (25)

And that you were only too eager to be (30)

accepted as a State witness? ---- If I had any desire of becoming a State witness, why did I refuse to go to a Magistrate?

That is what I want to know from you. Why did you refuse to make a statement to the Magistrate? ---- I did not see any reason for going to a Magistrate because I had told the police the truth, and there was proof of all the places that I pointed out to them. (5

So that when you gave a statement to the police, you were not telling them anything that they did not already know? ---- I cannot say whether they knew everything. (10

They may not have known the details but they knew most of your activities? ---- I think so.

And I suggest to you since you asked me that question, that the reason you did not make a statement to the Magistrate was because you knew that if you made a confession it could be used against you? ---- I never studied Law, I don't know the Law. (15

MILNE, J.P.: Did you know that if you made a statement before a Magistrate it could be used in evidence against you? ---- (The Court adds). (20

Or should I say, it could be used in evidence if you were tried? ---- I had no knowledge of that. (21

MR. GURWITZ: And you say the only reason why you refused to make the statement to the Magistrate was simply because you had already told the police everything? ---- Yes. (25

And you saw no reason for it? ---- No, because everything I told the police, there was proof for (30

it.

Were you asked to make a statement before a Magistrate? --- The police asked me whether I had any wish to make a statement before a Magistrate. I asked them whether there was any need for it. I said to them if there was anything they did not believe I would take them to the places and point them out to them. (5

So did they tell you there was no reason to make a statement to the Magistrate or was that your own idea? --- They never pursued the matter any further. (10

So it would not be correct to describe what you have now told the Court as a refusal to make a confession or a statement to a Magistrate? --- As my point of view, I'd say I did refuse because I thought to myself 'Where does the Magistrate come into this matter? I have already told them the truth.' (15

Have you ever been convicted for any crime? --- Yes.

What crime had you been convicted of? --- To offload some goods from a train when I was still a youth. (20

MILNE, J.P.: How old are you now? --- Thirty-four.

MR. GURWITZ: And when did this conviction take place? --- I think it was 1950.

What was your sentence? --- In all, it came to six and a half years. (25

How long did you serve? --- I think under four years because I got a remission. There were two charges and it was 4 years and 2 years to run concurrently. (30

Would/.....

Would it be correct to describe the crime with which you were charged as theft? ---- Yes.

And was that your first offence? ---- I would say from childhood I was very naughty; it wasn't my first offence. (5

Was that the first offence of which you had been convicted? ---- This followed on a previous case for which I was sentenced to four months'. (5

And what was the conviction for which - what was the crime for which you were sentenced to four months'? ---- Theft. (11

And was that your first conviction? ---- Yes.

And when did that conviction take place? ---- A very long time ago. I do not remember the year.

Are those the only two convictions that you know of? ---- When I was sentenced to six years' there were several counts. I was sentenced to different terms of imprisonment which made up the total of six years. (15

MILNE, J.P.: You said six and a half years? ---- Six and a half years. (20

Had you been convicted since you were sentenced to six and a half years? ---- No.

MR. GURWITZ: Have you ever been to a Reformatory? ---- No.

You have told the Court that in your youth you were very naughty, is that correct? ---- The way I look at it, I would say I was naughty but I was never sent to a Reformatory. (25

What did you mean to convey by that? ---- Because of these sentences that I had against me of (30

theft/.....

theft and fighting.

And fighting? ---- I was never convicted for fighting but I did fight.

Have you ever tried to break into a house at Vereeniging and were you shot in the attempt? ---- I don't even know where Vereeniging is. (5

Were you ever in the habit of carrying a fire-arm with you? ---- I was looking after a revolver of Joseph Nduli; he went overseas for training. I was looking after this fire-arm for him. (10

Did you carry it about with you? ---- Sometimes, yes.

Did you not at any time have two fire-arms in your possession? ---- I only had one revolver, not two. Not even fire-arms. (15

And that is the one you referred to? ---- Yes. Do you remember a charge of sabotage in connection with something that took place at the McCord Hospital? ---- Yes.

Do you remember that there was a charge of sabotage laid against an African? ---- As far as I remember, it was for attempted murder. (20

All right, attempted murder. And did you give evidence in that case? ---- Yes.

It was at the Preparatory Examination? ---- I cannot say whether it was a Preparatory Examination or not. (25

You gave your evidence on oath? ---- Yes. Was the evidence that you gave on that occasion the truth or not? ---- I will say it was the truth/..... (30

truth according to the questions that were put to me by the police.

When you gave evidence at that trial, were you not asked to speak the truth, the whole truth and nothing but the truth? ---- Yes.

(5

And did you tell the Court the truth, the whole truth and nothing but the truth? ---- M'Lord I made a full statement of the truth to the police of all the questions they asked me, but as far as the Court is concerned and as far as I know, I did not tell them the whole truth.

(10

Wasn't that instance an attempt to commit sabotage? ---As far as I know it was an attempted murder, an attempt was made on the life of a person.

MILNE, J.P: Who is the person? -- Willard Mtembu,

(15

Who is he? ---- He was an Induna at McCords Hospital.

MR. GURWITZ: And the instrument used was a pipe bomb? -- Yes.

And did you manufacture that pipe bomb? --Yes. (20  
Did you tell the Court that at the trial? ---

No.

Would it be correct then to say that at this Court trial you did not tell the Court the whole truth.

MILNE, J.P: Is he obliged to answer any questions about that time? (25

MR. GURWITZ: M'Lord I won't ask him that.

(Witness stands down.)

COURT TAKES THE LONG ADJOURNMENT.

(30

WITNESS MTOLO (Still under oath.)

MR. GURWITZ: (Cont.)

Now Mtololo in this attempted murder charge, were you at one time arrested because of suspicion that you were involved in this offence? --- I can't say that I was arrested but the police had called me to ask me certain questions. (5)

Weren't you questioned in the presence of Colonel Klopper ? --- I don't know the names of police officers. (10)

Now were you questioned about your complicity in this offence? --- They asked me about meetings that were called by Joseph Nduli.

That was the accused in this attempted murder charge? -- Yes. (15)

And you actually gave evidence for the State in that trial? ---I don't know whether I was a State witness; they asked me to make a statement to say what Joseph Nduli had said at a meeting.

And you were called to give evidence at the trial in connection with an attempted murder? --- I was given a summons to go to Court. (20)

And would it be correct to say that at this trial you did not tell the Court the whole truth? --- All the questions I was asked in connection with the meetings was the truth, but I did not tell them all the truth that I knew. (25)

Now there were actually two incidents weren't there, at the McCords Hospital?

MILNE, J.P.: You mean two charges of attempted murder? (30)

MR. GURWITZ/.....

MR. GURWITZ: No M'Lord, two instances involving bombs - two incidents involving bombs. ? ---To my knowledge yes there were two incidents, but the police never questioned me about the others.

One was a pipe bomb used on the Induna and another pipe bomb used on the friend of the Induna? --- To my knowledge yes. (5)

And I suggest to you that they were both acts of personal grudges which you had against these two people? -- No, it is not so, if the Court wishes me to describe what happened I shall do so. (10)

Do you say they were acts connected with "Mkonto we Sizwe"? --- Yes, the first one directed to the friend of the Induna.

And the second one? ---Joseph Mduli did what he wanted to do. (15)

And you assisted him in that? -- I ask permission from the Court to explain how it happened.

Will you answer the questions first, and then you can explain: Did you assist in this attempt on the life of the friend of the Induna? (20)

MILNE, J.P.: Just one minute Mr. Gurwitz, he said the first one was directed to the friend of the Induna.

MR. GURWITZ: I beg My Lord's pardon. Did you assist in the attempt on the life of the Induna? --- I will say that I did not assist with this incident concerning the Induna although I made the bomb. (25)

Did you know what the bomb was being used for? ---Mduli told me that the first bomb did not work.

MILNE, J.P.: You mean the bomb that was directed against the/..... (30)



the Induna? --- The bomb that was directed towards the friend of the Induna.

Nduli told you that bomb did not work? -- Yes.

Yes, and so? --- But in fact the bomb had worked but he told me that only to get me to make another (5 bomb which he then used or directed towards the Induna.

Had you no idea that it was his intention to use it on the Induna? ---No. *See*

MR. GURWITZ: So the position is that you made bomb and then when Nduli told you that it had failed you made him (10 another bomb? -- Yes.

And there was a distinct period of time between the making of the first bomb and the making of the second bomb ? -- Yes.

Now how do you square this with the evidence (15 which you gave in this Court and which is recorded at page 1752, you were asked at line 20: "Do you know anything about Exhibit 18.A.? M'Lord whether this is the same one I can't say."

MILNE, J.P.: Let's just have a look at Exhibit 18.A. Let's (20 not do it in the air.

MR. GURWITZ: It is the pipe bomb M'Lord.

MILNE, J.P.: Yes, I know. While we are waiting for this exhibit to be brought into Court, can you tell me when it was that the first of the petrol bombs was made (25 which was directed against the friend of the Induna at McCords?

MR. GURWITZ: M'Lord, they were pipe bombs, Your Lordship said petrol.

MILNE, J.P.: Did I say petrol - it was a slip of the tongue (30

- pipe

/.....

pipe bombs? -- At the beginning of 1963 M'Lord, January.  
MR. GURWITZ:

Now let me read you the evidence that you have given concerning Exhibit 18.A.

MILNE, J.P: This is the evidence you have given in this (5  
case. Now you have in your hand Exhibit 18.A. ?-- Yes.

MR. GURWITZ: Your answer was "M'Lord whether this is the  
same one I can't say, but at one time I had told Babenia  
to bring me two because I wanted to use them at some other  
place"? -- Yes. (10

"Did he ever do that" - your answer was "Yes"  
"What did he bring you? He brought me the parts when  
assembled would form two complete pipe bombs like Exhibit  
18.A. And what did you want to do with them? We were  
going to use it on a person who was a friend of the Induna (15  
at McCords. That doesn't form part of the charge sheet  
M'Lord. The other one - where was that to be used?  
The next one was used on the Induna personally." Now  
do you say that evidence is consistent with your replies  
this afternoon? -- I would say it does M'Lord. M'Lord (20  
I only said in my evidence that he brought me two pipe  
bombs, but I did not say that he brought them on two  
separate occasions. That is where I did not explain M'Lord.

MILNE, J.P: What you did say was he brought you the parts  
which when assembled made two pipe bombs similar to 18.A. (25  
? ---Yes. I only said that he brought me parts when  
assembled would make two complete pipe bombs, but I did  
not go on to explain that he brought me the parts when  
assembled would make one complete bomb on two separate  
occasions. (30

MR. GURWITZ: But you also said in evidence that you told  
Babenia/.....

Babenia "to bring me two because I wanted to use them at some other place"? ---That is where I did not explain that it happened on two separate occasions. He did not hand them to me at one time.

Now you also told the Court here that at one (5 stage the High Command became reckless as to whether injury was caused to people or not in carrying out acts of sabotage - the Regional Command. Did you agree with that policy? -- I will say it goes to say that I did support it because I did not at any time raise any objec- (10 tion against it M'Lord.

( So would it be correct to describe you as first of all a person who has no respect for other people's property? -- There are many ways in which a person may not respect the property of other persons, will Counsel (15 please describe what he means?

I am not concerned with the ways in which you are not a respecter of other people's property, I am only concerned with the description of you as a person who does not respect, or who did not respect other people's (20 property? -- Probably Counsel sees that in me but I don't know what he means. )

MILNE, J.P: He means that you were damaging other people's property? --- I see yes.

MR. GURWITZ: And you have been convicted of stealing (25 other people's property? -- Yes.

And there has been at least one occasion when you have hid the truth from the Court.

MILNE, J.P: I am not quite satisfied that that is a proper question. (Discussion ensues.) (30

MR. GURWITZ/.....

MR. GURWITZ: I won't pursue that matter further.

Would it be correct to describe you as a person who would be prepared to inflict injury and death on innocent people in carrying out your political aims? -- Yes.

And would it be correct to describe you as (5  
a person who is ready to betray people who have worked  
with him in those political aims. Is it correct to  
describe you as being prepared to betray people who worked  
with you in those political aims?--- I was arrested long  
after the others, and when I was arrested they had men- (10  
tioned my name already.

Now are you a person who would deliberately  
change his evidence if you found that the evidence which  
you had given on the previous occasion was proved to you  
not to be the truth? ---No. I don't know what Counsel (15  
is referring to because all the evidence I have given  
in this case is the truth.

Are you prepared to change your evidence as  
the circumstances demand it?--- No.

Now I am suggesting to you that the evidence (20  
which you have given in this Court about the first acts  
of sabotage has been changed from the evidence which you  
gave at the Rivonia trial? -- I may not have used the  
exact words that I used at the other place but I intended  
to convey the same. (25

Before reading back your passages, I want to  
suggest to you that at the Rivonia trial you told the  
Court that the first act of sabotage were as a protest  
against Mandela's conviction and sentence?-- As far as  
I can remember that is so. (30

In this Court you gave evidence that it was in  
connection/....

connection with his arrest, not in connection with his conviction and sentence? --- If I did not explain at which stage, it was in connection with the arrest of Mandela and with the going to Court of Mandela.

Now I want to read to you the evidence which is recorded at the Rivonia trial in connection with this Mandela incident. (Page 87). Before doing so I want to put it to you that the acts of sabotage relating to the Mandela's incident, were the first acts of sabotage which the organisation committed? --- Yes, except in 1961. (15

Now those acts of sabotage were the blowing up of the pylons at Sarnia, Montclair and New Germany?

MR. REES: M'Lord that was not the evidence.

MR. GURWITZ: I beg Your Lordship's pardon. I beg your pardon; these acts took place on the 14th of October 1962.? -- Yes, as far as I remember. (15

Now this is what you say about Mandela's incident? "Now do you know when Mandela's trial took place? I don't remember the month. You don't remember the month? Did the Regional Committee meet during the course of his trial? ---Your answer is "Yes the Regional Command was sitting as usual, but there was probably a special sitting, but there was a special meeting, after we had received the information that judgment was given but not yet sentence. Will you detail carefully what the Regional Command decided to do. According to the paper he was convicted but he was not yet sentenced; he was going to be sentenced on that coming Friday according to the paper. We then decided to show the Government that we were protesting against (20

this/..... (25

this finding. We decided to commit further sabotage acts and he was sentenced on the Friday and on Sunday night following that we committed acts of sabotage. Yes, that is just the Sunday after the Friday."

Now you went on to explain at page 88 why you committed (5 these acts on the Sunday and not on the Friday.

You were asked: "Now you had already told me that Mandela was sentenced on the Friday, and you decided to what until when", and your answer was "The Sunday immediately following that Friday." "Why did you wait those few (10 days? Because we knew that the police then knew that there was a sabotage divisional branch, and that seeing Mandela was sentenced on the Friday, something might happen, therefore the police would be on their guard through the night. That is why we decided to do it on (15 the Sunday." Now did you say all that on - at the Rivonia trial? -- Yes M'Lord.

Now I put it to you that in cross-examination at the Rivonia trial, it was made clear to you that Mandela was sentenced only in November, 1962.?-- Yes . (20

And this is what you said in regard to that: (My learned friend is looking for the passage.)

In your evidence here, this is what is recorded as having been said by you at page 1746 : "We will deal with the number of attacks that has some- (25 thing to do with Mandela's arrest;" your answer is yes. ? -- Yes.

"Was anything decided about the period when they were to take place? It was decided to have these attacks, I am not sure whether it was the (30 day/.....

day he went to Court or when he came back from Court.

Who? Nelson Mandela. Was he released on bail? Answer:

Because these attacks were in connection with the arrest of Mandela to show our disapproval. I don't know

whether it was the day he went to Court or when he came back that the attacks had to take place." (5)

MILNE, J.P.: When was he convicted Mr. Gurwitz?

MR. GURWITZ: In November.

MILNE, J.P.: And when was he sentenced?

MR. GURWITZ: As well as the sentence. (10)

MILNE, J.P.: When did the trial begin .)

MR. GURWITZ: I think it commenced the 17th of October - 15th of October, I beg Your Lordship's pardon.

{ Now what I am putting to you is this. The point is not that these attacks were supposed to be in (15 connection with Mandela's affair, but what I am putting to you is that at Rivonia you were quite certain that the attacks were in connection with the conviction and sentence, and because it was made clear to you at Rivonia that the attack could not have been in connection (20 with his sentence and conviction, you now say in Court here it was in connection with his arrest, and it is because of that that I suggest to you that you are ready to change your evidence as it suits you? ---I am a human being, I haven't got a machine in my head. When I was (25 giving evidence I thought it was during the time of the conviction of Mandela. After all this questioning I realised that there was a possibility that I may be wrong, although at the time I was convinced that I was speaking the truth, that it was at the time he was convicted. (30

M/Lord/.....

M'Lord, as I have said, I am a human being, I am not a machine. I must think M'Lord, if other people contradict me I must think.)

But when you gave evidence at the Rivonia trial you were very certain in your mind that these acts were (5 in connection with his conviction? -- That is what I have said that when I gave this evidence I was sure that I was speaking the truth, but under cross-examination by Counsel M'Lord, I realised that there may be a possibility that I may be wrong when they told me that that was not so and (10 that was not the date. Then I started thinking that it is possible that it may be the day that he went to Court. Even today I still think which may be the right date.

MILNE, J.P.: You say you still think - you still ask yourself which is the right date; you are not quite sure yet? (15 ---That is so. But what I am sure about is that it was in connection with Mandela.

MR. GURWITZ: You see when you gave evidence you mentioned on a number of occasions that you were certain these events took place because of Mandela's arrest and conviction? (20 --- It is true, it was in connection with Mandela, either his arrest or his conviction.

You see you gave us a reason why it was not on the Friday and why it took place on the Sunday and I am suggesting to you that that couldn't be the reason (25 because he was only brought to trial on the day after these acts of sabotage had been committed? --- Does Counsel wish to convey that these acts were not committed because of Mandela.?

MILNE, J.P.: Yes, I think so, but I think his principal (30 object/....



object is to show that you're an untrustworthy witness. ?-- I may mix up the dates, but in my own mind when I gave evidence I was satisfied that it was at the time when he was to be sentenced.

Was he in fact convicted on a Friday as far as you can remember ? ---When I gave my evidence I was satisfied in my own mind that he was convicted on a Friday. ( 5

And sentenced on what day? I understood you to say that he was found guilty on one day and he was to be sentenced on the Friday ? -- I was under the impression at that time that he was sentenced on the Friday. (10

Were you under the impression that he was found guilty on a previous day? -- Yes. (15

Can you remember what day of the week that was or would it be guessing? ---I don't know on what day he was found guilty, I was under the impression that he was sentenced, sentenced on the Friday.

MR. GURWITZ: You see when it was pointed out to you that his trial commenced on the 15th of October and he was convicted on the 7th of November, you were asked whether you could be mistaken, and your answer was at page 62: "As far as that part is concerned I cannot see how I can make a mistake. And if you found that you have made a mistake what will you say of that? I will be very surprised. ; Would you say that your evidence was a figment of your imagination? (20

No I will be surprised because what I said in my statement in regard to that I am sure it is correct. (25

You are sure of that as you are of the evidence you

have/.....

have given. Yes. " Are these extracts which I have read out to you correct?-- Yes.

And do you now admit the possibility of a mistake? --- M'Lord, yes because after that I have given this matter a lot of thought, whether I did not possibly (5 make a mistake,

And after giving it a lot of thought, what do you think was the real position? ---M'Lord, that it was directed towards Mandela as a protest, but one thing that I don't remember whether it was when he was arrested or (10 when he went to Court or when he was sentenced. Even today I am not sure.

Well it couldn't be in connection with his arrest because he was arrested in August? ---M'Lord I don't know that he was arrested in August, I am just (15 guessing it. When he arrived in Durban it was between July and August, and about a week after we had come together he was arrested.

Yes, he was arrested at Howick? -- Yes.

You see if the acts of sabotage were in connection (20 (arrest ?) with this trial then Friday had no significance at all? --- I see that.

/ And yet you told the Court that the reason it wasn't committed on the Friday and committed on the Sunday was because of what the police might do? --- That is what (25 was in my mind; it was possible that I was mixing matters up M'Lord.

But what is more important is that it would appear from that part of the evidence that you were prepared to change your evidence as it suits you? --- (30

M'Lord/.....

-- M'Lord as I have said to the Court I am only a human being; after I had given this matter a lot of thought I realised that I may be wrong.

MILNE, J.P: Mr. Gurwitz, what is your information about the date of sentence of Mandela? If you'd rather not disclose it? (5

MR. GURWITZ: No M'Lord, I can disclose it. My impression is that he was convicted and sentenced on the same day.

MILNE, J.P: You don't know which day?

MR. GURWITZ: He was certainly convicted on the 7th of November. (10

MILNE, J.P: What was Mandela convicted of? --- He was convicted of incitement and to be in certain areas without permission, and that he had left the Republic without permission. (15

Is it an offence to leave the Republic without permission? -- Yes, he went out of the Republic to the African States.

Was he at the time a person who had been restricted by some Ministerial order? -- On a previous occasion. (20

Was he still subject to that order when he left the Republic? ---He had finished his five years.

MR. GURWITZ: I see that it was put to the witness that in fact Mandela was convicted and sentenced on the same day at the Rivonia trial. (25

MILNE, J.P: At the Rivonia trial, but you haven't got the information.

MR. GURWITZ: No M'Lord.

MILNE, J.P: Yes, well the witness says he is still not sure; he realises that these questions, I take it, (30

wouldn't/.....

wouldn't be put to him unless there was some information.

MR. GURWITZ: Now I want to put to you another aspect. It will be suggested that you changed your evidence to meet the situation. Now when you were giving evidence in connection with No. 6 accused, (5 George Naicker, you will remember that you told the Court that the dynamite etc. which had been stolen was left in his garage? -- Yes.

And that some of it was taken away to Shallcross?-- Yes.

And some was hidden at the Bluff?-- Yes. (10

And that some remained at George Naicker's garage. Is that correct? -- M'Lord as far as I can remember I said we took some dynamite to Shallcross; some remained in the garage and after that Ronny took that dynamite to the Bluff. (15

MILNE, J.P.: Which dynamite? -- That was left in the garage.

You mean no dynamite was left in the garage? --- I can only say that when we took some dynamite to Shallcross some was left in the garage of George Naicker; (20 whether any was left in the garage after Ronny took the remainder to the Bluff I cannot say.

MR. GURWITZ: I have a diary of 1962, the 7th of November 1962 is a Wednesday .

MILNE, J.P.: You say the conviction was on the 7th? (25

MR. GURWITZ: The conviction was on the 7th.

MILNE, J.P.: You are not quite sure of the date of the sentence?

MR. GURWITZ: Yes M'Lord, I don't know whether he was sentenced on the same day or not. (30

Now/.....

Now what you have told the Court here is that some dynamite was left in the garage of George Naicker?

---- Yes.

And at a later stage that dynamite was taken to the Bluff?-- According to a report received from Ronny. (5

So as far as you're concerned, you are certain that there was some dynamite left at George Naicker's garage? -- Yes, when Billy Nair and took this dynamite to Shallcross there was dynamite left. (10

And in fact when you were asked by His Lordship whether it wasn't possible that some of the dynamite used in the acts of sabotage could not have come from some other place, other than Naicker's garage, you replied that it couldn't be so because there was a roll of cordtex at Naicker's garage which was 500 feet in length? -- Counsel is confusing me there M'Lord. This question asked by His Lordship was asked soon after we had prepared the charges for these three places; New Germany, Sarnia and Kudamore Quarries, whether there was any left. Counsel is now combining this question with the hiding of the dynamite. (15 (20

Let me make it clear, what I am suggesting to you is that according to your evidence here....(Court intervenes.) (25

MILNE, J.P.: Mr. Gurwitz I wonder if you could assist me by telling me where on the record I put this question.

MR. GURWITZ: Yes M'Lord, my Learned Friend, Mr. Thirion is looking for it. At page 1729, at the foot of it, line 18, at page 1728, Your Lordship put to him: "What about (30

this/.....

place at Shallcross," and it is from there onwards that Your Lordship refers to it.

MILNE, J.P.: This had to do with Count 19 had it?

MR. GURWITZ: Yes.

MILNE, J.P.: Now there was apparently some questioning of you earlier this week here about the explosion on the railway line at Karridene, do you understand? -- Yes. (5

And there was some evidence about that? -- Yes.

Now it is recorded that you said that you took from Ronny a piece of safety fuse and a detonator? -- Yes. (10

Which you prepared and handed to him? ---

Yes.

Then you said: "He fetched the dynamite himself because he knew where it was kept"? -- Yes.

Then I asked this question, according to the record, you were asked: "Who fetched the cordtex? Was any cordtex used as far as you know?" and then the answer was interrupted about what somebody said, and then Counsel for the State asked: "Where was the only place where he could have got it?" and then your answer was: "George Naicker's was the only place". (15

Then it is recorded that I asked: "What about this place at Shallcross? and that you answered: "He couldn't go and dig for Cordtex if there were reels of cordtex that had not been used at George Naicker"."? -- Yes. (20

Then a question from me: " How do you know that they hadn't all been used? "and your answer " I knew because we left it there when we made preparations for the first attack". ? -- Yes. (25

Then there were a series of questions asking (30

how/....

how you could be certain there was still some cordtex  
 in George Naicker's garage, and then at page 1729,  
 line 19, it appears that I put this question: "Isn't  
 it possible (you referred to a reel and-a-half of  
 cordtex the last time you were in the garage), (5  
 and I asked apparently...: "Isn't it possible that that  
 reel and-a-half had been used up inbetween", and your  
 answer was "No, there is a long piece of cordtex around  
 a reel and it was impossible to finish it on those  
 places that I have mentioned. As far as I can remember (10  
 there is 500 ft. of cordtex around a reel"? -- Yes.)

Mr. Gurwitz: Now so that there is no doubt in your  
 mind that some of the dynamite , cordtex etc. was  
 left in George Naicker's garage.....(Mr. Rees intervenes.)

MR. REES: With respect M<sup>r</sup>Lord, I submit that cordtex (15  
 and dynamite are not the same things.

MILNE, J.P.: I think that is correct Mr. Gurwitz?

MR. GURWITZ: Yes M<sup>r</sup>Lord. M<sup>r</sup>Lord I didn't mean to suggest  
 they were.....Is it correct that dynamite was left  
 in the garage of George Naicker?-- I said in my statement (20  
 that we fetched some dynamite and cordtex from Shallcross  
 M<sup>r</sup>Lord, and we took it to the garage of George Naicker,  
 and after we had used some of it on these three attacks  
 there was a little bit of dynamite left which was used  
 at Cliffdale, Solomon and I. After that I said there (25  
 was a reel and-a-half left M<sup>r</sup>Lord. I didn't say it  
 was left after we went to hide the dynamite. I said  
 it was there after we had attacked these three places.

Now let me get it clear, if I am not correct  
 please correct me. You stole the dynamite from Marian- (30  
 hill? -- Yes.

You/.....

You brought it to George Naicker's garage? --  
Yes.

Now how long after that was some of the dynamite removed from George Naicker's garage? ---About the end of April M'Lord, as far as I can remember. (5

How soon after you had stolen it from Marianhill? --- I think it was sometime because it was not until I came back from Johannesburg.

Was it a week, two weeks, three weeks after the theft? ---I can't remember. (10

And then some of dynamite was taken from George Naicker's garage and hidden at Shallcross by you and Billy Nair? --- Yes.

And you left some dynamite at George Naicker's garage? --- Yes. (15

Now thereafter - you don't know the date, and you don't know of your own knowledge, Ronny Kasrils removed some dynamite and hid it at the Bluff? --- I don't remember which day it was.

But you have heard that he took the dynamite away? --- Yes. (20

Now do you know whether he left any dynamite at George Naicker's place? --- That is where I am not sure because Joe Modisa took some of this dynamite to Johannesburg. (25

You don't know where he got it from? --- I wasn't present when he took it.

Now the point I am getting at Mtololo, is that you are certain that some dynamite remained in George Naicker's garage? --- Yes, I still say so, some of the dynamite/..... (30



dynamite that we had fetched again at Shallcross, brought it back to the garage, used the dynamite on the three attacks on those three points, then some dynamite was left in George Naicker's garage.

MILNE, J.P.: By the three points do you mean three pylons?-- (5  
Yes, Sarnia, New Germany and Kudamore Quarries.

And it was after some of the dynamite that you had got from Shallcross had been used for those three jobs? -- Yes.

And after performing those jobs there was still (10  
some left over which you say you used at Cliffdale? --Yes.

Now after you had used some at Cliffdale,  
was there anymore left in George Naicker's garage? ---  
Not dynamite, only cordtex, safety fuse, and detonators.

MR. GURWITZ: Now this is what is recorded as having been (15  
said by you at page 63, at your cross-examination at  
Rivonia. You are giving evidence-in-chief: "we reached  
the stage where, when you left Durban for Johannesburg,  
you left these cartons containing explosives (a word  
is left out) in the garage of Naicker. On your return (20  
from Johannesburg you told His Lordship that tins were  
bought in which to store the dynamite. Yes. Now  
were the cartons in fact removed from the garage. Your  
answer is yes. And where were they stored? Some were  
hidden in Shallcross in a bush, and the other was hidden (25  
away at the Bluff on the beach. And how many tools did  
you use altogether? -- I couldn't say how many because  
some of them were taken by Joe Modisa to Johannesburg.  
Well, we will come to Joe Modisa presently. So I  
don't know how many tins there were. You don't know (30

how/.....

how many tins. And were the explosives placed in tins and sealed as you had been taught. Yes, when Billy and I came there they were already put away. When we arrived back they were already closed up and sealed. We then took some and put them on the ground. " (5

Then you mention the two places Shallcross and the Bluff - the answer is yes. "Are those the only two places?

(this is the answer which I am referring to:) "If I remember correctly, I am not certain about this, but I think some of them remained in the garage, and they were taken by George Naicker". Now what I am suggesting to

you is that at the Rivonia trial you were not certain whether some remained in the garage, some of the explosives remained in the garage? -- As I have said this happened a very long time ago, it is impossible for a person to mention everything in detail. (15

Yes, but the point is that you gave evidence at the Rivonia trial in December of last year? --- As I am being questioned here in detail things come back to my mind. (20

Were you not questioned by the Prosecutor at Rivonia in detail? --- In some instances, yes. As I am being questioned in detail about George Naicker's garage, I remember it now clearly.

Alright. Now Mtololo, you are, shall I say, quite conversant with the English language? -- To a certain extent, not very much. (25

What is your standard of education? --- I did not complete J.C.

And when you were giving your statements to the/..... (30

the police - your statement to the police, did you do so in English or did you employ an interpreter?--- I was speaking English.

And would it be correct to say that throughout your examination by the police and the statement which (5 you gave to the police, everything was conducted in English? -- Yes.

Would it be correct to say that you are fairly well up in political - in your political education? --- I don't know the extent of my knowledge, but I will say (10 that I have a certain amount of knowledge.

You have read some very technical books on politics? -- Yes.

In vfact at the Rivonia trial you were ques-  
tioned about your knowledge in regard to dialectual (15 materialism . Do you remember that?

MILNE, J.P.: There is a book I believe called Dialectic Materialism?

MR. GURWITZ: I am indebted to My Lord.

MILNE, J.P.: Were you questioned about a book called (20 Dialectic Materialism, or a book having a name like that? --- Yes.

MR. GURWITZ: And did you understand that book if you had read it? ---I have a certain knowledge although I can't say that I have a full and complete knowledge. (25

And you know all about the Addis Ababa Conference?-- When did that take place, which year?

MILNE, J.P.: Do you mean that you know about one Conference but not all? Do you know about any Addis Ababa Conference? -- Yes. (30

Which/.....

MR. GURWITZ: Which Addis Ababa Conference do you know about? --- The one we had been told about by Nelson Mmandela in 1962.

And you also know about the Freedom Charter?

--- Yes.

(5

And I suggest to you that few of any of the questions which I have put to you have occasioned you any difficulty in understanding them? -- Some of them, yes

The majority?-- M'Lord, I wasn't listening to Counsel all the time, I was listening to the interpreter. (10

MILNE, J.P.: I think I might mention Mr. Gurwitz that while this witness was giving his evidence-in-chief, I noticed that a considerable number of the expressions he used when speaking in Zulu were in English. I made a note of them at the time just for my own information - that the following amongst many other words were used by him in English.- Inch, half-inch, capsule, detonator, powder, bicycle tube, potassium permanganate, potassium chlorate, aluminium, dynamite, pipe bombs, technical Committee. (15 (20

MR. GURWITZ: Now Mtollo what<sup>do</sup>/you feel today about the use of violence to achieve the aims of the A.N.C.? ---M'Lord I can't say because as I am standing here today giving evidence I am giving the outside world no thought at all. (25

But you were able to answer that question when it was put to you at Rivonia? --- How did I answer it?

I am looking for the passage, I will give it to you in a second. Can you tell the Court why you are no longer a Communist? --- M'Lord because as I have said since 1963 I don't agree with communistic ideas. (30

With/.....

With things that are done by the Communists.

Could you give us an instance of what you object to or disagree with? --- As I have mentioned this morning, the M.K. To say that it was a wing of the A.N.C. and they were actually controlled by the Communist (5 Party.

Anything else? --- Promises that they made that they never carried out, to cause my children hunger and starvation.

Personal promises you mean? --- Yes M'Lord. (10

Now I want to deal with the Organisation of "Mkonto we Sizwe". Now can you remember when were you first approached in connection with an organisation that was to undertake sabotage? --- At the end of 1961.

And at that time were you employed by (15 McCords Hospital? -- Yes.

Were you taking part in any Trade Union activities? -- Yes.

What were your activities? ---I was a member of the Hospital Workers' Union. (20

Were you a Committee member? -- I was the Chairman.

And that was an unpaid position? -- I wasn't paid for it. I did it after my working hours.

And who approached you in regard to this (25 organisation.

MILNE, J.P.: Do you mean the "Mkonto we Sizwe" or this Workers' Union?

MR. GURWITZ: This Sabotage organisation? ---The first person that told me about it was Billy Nair. (30

And/.....

And did he mention any name for this organisation?

---At that time it did not have a name and he did not tell me a name.

What did he tell you about it? --- He told me that a European had arrived there from Johannesburg; (5 he said that the Executive Committee of the A.N.C. - that the A.N.C. had gone over from a movement of non-violence to violence, or non-bloodshed to bloodshed. And seeing that the A.N.C. had taken this decision there would now be formed a Committee of Violence to assist (10 the A.N.C. And a Committee would be formed for this wing, and they would be known as the Regional Command. And this would be done in all centres M'Lord; and that a European would come down to teach us how to make weapons.

Was that all? --- That was the first I heard (15 about this wing that had to commit sabotage.

And did you make any enquiries as to how it came about that a European was giving you this information about the A.N.C. ? -- I knew that at that time there was a European movement - Congress of Democrats - (20 who were supporting the A.N.C.

You knew though that no European could be a member of A.N.C.? ---Yes. But I knew that the Congress of Democrats were supporting the A.N.C. in every respect.

It was not only the Congress of Democrats who (25 were supporting the A.N.C. in every respect, but other organisations as well? -- Yes there were, but not to the extent that they were supported by the C.O.D.

The Indian Congress supported the African National Congress? -- Yes. (30

And/.....

And the Communist Party supported the A.N.C.?

-- Yes.

Now at that time did you have any doubts as to the information that you had been told? ---No M'Lord.

Now do you know who was the leader of the A.N.C. in Durban just before it was banned? ---Is that apart from Luthuli? (5)

Yes? --- Persons like Moses Mabida, Yenewa Simelanie.

And accused No. 8, did he have any part in the affairs of the A.N.C. prior to its banning? ---I knew Gurnick Ndhlovu for the first time (No. 8 accused) between 1960 and 1961, after the A.N.C. had been banned. (10)

Did you ever make any attempt to get in touch with the people that you have mentioned, who were the heads of the A.N.C. before its banning? --- At what time. (15)

Soon after this European came and told you about the sabotage organisation? --- We were told this was an underground movement and you mustn't talk about it even to your greatest friend. (20)

And who were the first members of this Committee? --- Do you mean of the sabotage?

Yes.? -- Gurnick Ndhlovu, Billy Nair, Ronny Kasrils, Eric Mtshali - and I. Brian Chaitow was there but he was not attached to the Regional Command. (25)

Would it be correct to say that there was one European - one Indian, and the rest were Africans? --- Yes.

And had you known any of the Africans connected (30

with/.....

with A.N.C. work prior to its banning? --- (Court intervenes.)

MILNE, J.P.: He said he knew people like Moses Mabida, didn't he, and Yenewa Simelanie.

MR. GURWITZ; I am saying the members on the Committee; the African members on the Committee - the Committee (5 of this SABOTAGE ORGANISATION.

MILNE, J.P.: Will you please frame your question again.

MR. GURWITZ: Did you know any of the African members of the Sabotage Committee as having taken part in A.N.C. work prior to its banning? ---- I will say that I used (10 to see Eric Mtshali at meetings. As I have said I only met Gurnick Ndhlovu between 1960 and 1961.

MILNE, J.P.: This Committee that you have been speaking of you identify as being the Regional Command? -- Yes.

MR. GURWITZ: Did you make any attempt to verify the (15 information that you had received from anybody connected with A.N.C. work? -- I have already said that this European had told us that this is a secret movement- an underground movement and you must not even mention it to your greatest friend. (20

Now this is what was put to you in regard to whether you would support violence today in achieving the aims of the A.N.C. -at the Rivonia trial ? --- Yes,

At page 26 you were asked: "You were still blowing up other people's property though, weren't you?" (25 and your answer was: "Yes, I was doing that." "And that is because you were completely satisfied with the policy of the A.N.C.....?--Would Counsel please stop. Is this what Counsel was looking up just now but what he could not find? Which is being read to me now? (30

Yes/.....



Yes? ----Because Counsel's question to me was what my feeling was today.

MILNE, J.P.: You mean it was not necessarily your feeling when you gave evidence in the Rivonia trial. Do you mean that your feeling to-day might not necessarily be the same as it was when you gave evidence at the Rivonia trial? ----M'Lord I was just trying to clear the matter up. There was a time that Counsel asked me this question - a little while ago. (5

You said that today you couldn't say what you felt about the use of violence to achieve the aims of the A.N.C. but you are giving evidence now and giving the outside world no thought at all? -- That is so. But Counsel said at the Rivonia trial you did not say that, and he said I will read it to you. (10 (15

That is right, he is now about to read what he considers to be the relevant passages.? -- Thank you M'Lord.

MR. GURWITZ: "And you were still blowing up other people's property though weren't you? Yes I was doing that. And that is because you were completely satisfied that the policy of the A.N.C. was the only policy which would enable the African people to achieve what you felt they should be able to achieve. Yes. And you still feel that today? Yes. They can only achieve this by violence? (Your answer was) "The word violence is rather....." and then you left it in the air . Then you were asked: "Yes, by acts of sabotage and that sort of thing? I would say yes. " Then you were asked specifically/..... (20 (25 (30

specifically: "Do you think if "Mkonto we Sizwe" went and blew up installations and houses and those types of things today you would still be in agreement with it". Your answer was "I would still agree with it.- If the people of South Africa would be in opposition and fight the Government , but not when other States and other countries are called in." (5  
Now in fairness I must also put to you that at page 28 of the record you did say "I feel now as I am here that it was a mistake that was made when it was decided to fight." Then you were asked: "When did you first realise that" and you said "Whilst I was detained for 90 days." Now do you agree with all the passages which I have read out to you as having been said by you at the Rivonia trial? -- Yes M'Lord. (15

(WITNESS STANDS DOWN.)

CASE REMANDED UNTIL 10 o'clock 27.1.1964.

*But  
A.A.M.  
case*

ON THE 27th JANUARY, 1964 COURT RESUMES.

APPEARANCES AS BEFORE ON RESUMPTION.

BRUNO MTOLO: (Still under oath) (Contd.)

CROSS-EXAMINED BY MR.GURWITZ:

Just before we adjourned on Friday, I was asking you about the organisation which you have referred to as a sabotage organisation ?--- Yes, M'Lord.

And if I am correct, I think it started off by a European coming down from Johannesburg and telling you and others that he had been sent by the A.N.C. ?--- Yes, M'Lord. (5)

Do you remember the name of this European ?--- I never saw the first European which came down and I never heard his name. It was only after a long time that Curnick mentioned the name - it was either Bernstead or Bernstein. (10)

So you yourself never met this European and never had any information from him first hand ?--- The only information I had was from Billy Nair and nothing from him personally.

I understood you further that the first meeting that you held was when you were present, accused no.4, accused no.8, Ronny Kasrils and I think you said Eric Mtshali ?--- Yes, that was so. There were several meetings, I am not sure which meeting Counsel is referring to. (15)

I am talking about the very first meeting, the originating meeting ?--- (Court intervenes)

MILNE: J.P. Of the Regional Command ?. (20)

MR.GURWITZ: Of the Regional Command of the organisation first M'Lord, of the sabotage organisation.

MILNE: J.P. Will you put your question in a form in which it is perfectly plain Mr.Gurwitz.

Mr.Gurwitz./...

MR. GURWITZ: I understood you to say that there was first a meeting of several people who had come together to discuss this question of sabotage ?--- Yes, there were such meetings.

I am trying to refer to the very first meeting that you had, or which you attended, at which you were told about (5 sabotage ?--- Yes, M'Lord.

Now who was present at that very first meeting ?--- M' Lord, on the first occasion, Billy informed me alone. After some time we then had a meeting where we came together. It was myself, Billy Nair, Ronny Kasrils, Eric Mtshali, (10 that is all.

And what did you discuss at that meeting ?--- Billy had called us together to inform us what this European had said and he informed us that the European/<sup>who</sup> had come to teach us, had arrived. (15

To teach you what ?--- About weapons, preparation of weapons.

( Well then I'll have to go back. Will you tell me what Billy Nair first told you before you had the meeting at which the four of you were present ?---He said that he (20 had been sent - the first European - from Johannesburg. That the National Executive Committee of the A.N.C. - that they had decided to go over from an action of non-violence to one of violence. Of one of non-bloodshed to bloodshed, and that a National High Command had been established that would be (25 over this wing. And that here a Regional Command would be formed and that we would be the Regional Command, and that we here in Durban would not be the only Regional Command, that each province would have its own Regional Command. And that the Regional Command would select its persons who would be the persons to do the sabotage. And that the duties of these (30 persons/.....

persons and the Regional Command would be to damage Government property and property belonging to persons that support the Government. And that we would assist the A.N.C. in every respect where they could not go on any further. That is all that I remember. (5

And was any name given to this wing which you have mentioned ?--- (Court intervenes)

MILNE: J.P. Any name given to what ?.

MR.GURWITZ: Any name given to this wing that you mentioned ?--  
At the beginning it had not been named. (10

You mentioned that "we" would form the Regional Command ? Who did you understand by "we" ?--- Billy Nair had told us. After this European had arrived, Billy Nair told me that I had been selected as one of the members of the Regional Command together with Ronny Kasrils, Billy, Curnick Ndhlovu, (15  
Eric Mtshali.

Did Billy Nair approach you as a member of the Communist Party or a member of the A.N.C. ?--- I can't say whether he was talking on behalf of any party or association, he was talking to me as a person. (20

Did he know that you were a member of the A.N.C. ? I beg your pardon. Let me put the question this way. Were you at that time, the time when Billy Nair first approached you about the sabotage organisation, a member of the A.N.C. ?--- As I have said, I was still a supporter of the A.N.C. although it was banned at that time. (25

When you say you were a supporter, do you mean that you agreed with its principles ?--- Yes, M'Lord.

From the time it was banned until the time when Billy Nair approached you, had you done anything in support of (30

A.N.C. work ?--- Although I did not support it with any acts, in my heart I was a supporter, of the A.N.C. I had decided if anything should happen coming from the A.N.C. I would support it.

Did you tell anybody what was in your heart ?--- (5  
May I clear up the matter M'Lord. At that time I was a member of S.A.C.T.U.

MILNE: J.P. What is S.A.C.T.U. ?--- South African Congress of Trade Unions. M'Lord, it was a known fact that every member of S.A.C.T.U. was a member of the A.N.C. and every (10  
A.N.C. member was a member of S.A.C.T.U.

MR.GURWITZ: Wasn't S.A.C.T.U. an association of Unions ?---  
Yes, M'Lord.

And what Union were you a member of ?--- I was a member of the Hospital Worker's Union, which is affiliated to S.A.C.T.U. (15

Do you mean that as such, as being a member of a Union, which was affiliated to S.A.C.T.U. you were a member of S.A.C.T.U. ?--- That is so.

And what you are trying to tell the Court is that every member of a Union, which was affiliated to S.A.C.T.U.(20 was also a member of A.N.C. ?--- I will agree to that.

Were you an active member of your Union ?--- I did everything in my power.

I am not asking you whether you did everything in your power, I am asking you whether you were an active member of your Union ?--- M'Lord, while I was employed at Mc Cord's, every (25  
afternoon when I went off duty, I went and organised at other hospitals.

Had you ever discussed with Billy Nair the question of violence in support of any policy of any of the organisations to which you belong ?--- Is that for violence of these Unions?(30

I have just asked you whether you had ever discussed with Billy Nair the question of violence ?--- (Court intervenes)

MILNE: J.P. He has already told us that he discussed with Billy Nair the question of violence. He is asking you now whether you mean whether he discussed with Billy Nair violence in connection with the Trade Unions ? (5

MR.GURWITZ: No, M'Lord, I am not asking that.

MILNE: J.P. Well tell him so then.

MR.GURWITZ: M'Lord, with respect, he has only told us what Billy Nair told him. (10

MILNE: J.P. You must make your questions clear please.

MR.GURWITZ: As M'Lord pleases. Before this talk that you had with Billy Nair about this wing, had you ever discussed with him violence to be used in support of any policy of any organisation ?--- I don't remember. I have spoken to Billy Nair on many occasions. (15

Again before this meeting - this conversation which you had with Billy Nair - had you ever advocated the use of violence ?--- M'Lord, only discussions about other countries where violence had been used. (20

MILNE: J.P. The question you were asked is whether you yourself in conversation with Billy Nair had ever advocated violence - advocated - that is to say advanced the cause of by words ?--- I don't remember M'Lord.

MR.GURWITZ: It is a subject which you are not likely to forget if you had ever advocated the use of violence ?--In an ordinary conversation a person would not remember, what you actually spoke about. (25

Did Billy Nair ask you whether you were prepared to advocate the use of violence in support of A.N.C. principles ?-- (30

Yes/.....

M'Lord, he asked us whether I would - was agreeable to be a member of this wing or organisation that they were starting.

And did you agree to it ?--- Yes.

Thereafter you told us you had a meeting with the four of you being present ?--- Yes. (5

And you have told us that the intention of sabotage was to damage property belonging to the Government ?-- Yes.

And to those who supported the Government ?--- Yes.

And what else ?--- And everything that would help the A.N.C. to go forward, to advance their objects. (10

What was the immediate object of the A.N.C. at that time ?--- As it was known that the A.N.C. was fighting for the freedom of the Bantu - of all the Black races, and they were still carrying on with it.

When you say fighting for freedom, what exactly did they want ?--- So that every person in South African would have a right like in other countries in - like all the other races in South Africa. (15

And the objects of sabotage was to get the Government to grant that freedom to the non-Europeans ?--- I will say that that was the object. (20

Who was to decide whether any act of sabotage would have the desired effect ?--- I don't know whether Counsel means whether any objects had to be attacked, who had to decide ?.

Let's take for example the attack which was made on the Induna's friend which you have told us was an attack made by the organisation ?--- (Court intervenes) (25

MILNE: J.P. Was the attack which was made on the Induna's friend, an attack by the "M.K." ?--- No, it was not made by the "M.K.". It's his friend where it was decided by the (30

Regional/....



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