

Chapter Fourteen

The Grand Coup: Rivonia

The Rivonia Trial set the political scene and provided the sub text for at least two other trials in 1964. In one of these (*State versus Abram Fischer and Thirteen Others*) I was one of the fourteen accused.¹ By mid-1963 MK recruits were being trained abroad and arrangements were well in advance for a new style of underground activity. The core of leaders still in the country were in hiding, fast learning to become “professional revolutionaries”. They often met and lived in the safe haven purchased by the SACP for the protection of its leading individuals. This was the small-holding at Rivonia, known as Liliesleaf Farm. The location was relatively isolated in a wooded hollow ten miles north of Johannesburg, far from the road and out of sight of curious neighbours. It had a spacious modern main building and a number of outbuildings, one of which often housed Mandela and other ANC members. Unfortunately, the hope that it would be a safe haven was short-lived. The venue was raided when the police entered the premises in a laundry van and the senior leadership of the movement surprised and arrested without resistance. On that day, Walter Sisulu, Govan Mbeki, Ahmed Kathrada, Rusty Bernstein, Raymond Mhlaba and Bob Hepple had come to Rivonia to discuss the document on Operation Mayibuye, the proposal for guerrilla warfare. They were all seated in one of the outhouses when the police arrived. Denis Goldberg (a young civil engineer, involved in the acquisition of munitions for MK) had recently purchased a Kombi for the High Command and that afternoon transported Govan Mbeki, Walter Sisulu and Ahmed Kathrada to the meeting. He was waiting in the main building for the meeting to end when the raid occurred and he was also apprehended.² Bob Hepple’s account of the raid is evocative of the moment:

We all had small items of business which took ten minutes to complete ... Govan had brought with him a copy of Operation Mayibuye – a document I had never had a chance to read – and it was resting on Rusty’s lap because he wanted to renew his objections ... It was about 3.15 p.m., when a van was heard coming down the drive. Govan went to the window. He said: “It’s a dry-cleaning van. I’ve never seen it before.” Rusty then went to the window and exclaimed “My God, I saw the van outside the police station on the way here!” ... Someone yelled out “Go and see what that van wants ...” The next moment I heard the

dogs barking. Rusty shouted “It’s the cops, they’re heading here.” Govan had collected up the Operation Mayibuye document and some other papers and I saw him putting them in the chimney of the small stove in the room. The back window was open and I helped Govan, Walter and Kathy jump out of it ... The door burst open. D/Sgt Kennedy, whom I had cross-examined in an earlier trial that year, rushed in: “Stay where you are. You’re all under arrest ...”³

Cars were allowed to enter the farm but not leave it. In the early evening on the same day, Arthur Goldreich (co-author of “Operation Mayibuye” and the ostensible “tenant” of the property) unsuspectingly returned to the farm with his wife, Hazel. They too were arrested. A search of the premises revealed a number of documents including a copy of the proposal for Operation Mayibuye. Later, James Kantor a Johannesburg solicitor, practising together with his brother-in-law Harold Wolpe, was also arrested. The funds for the purchase of Liliesleaf Farm had been transacted through Kantor’s legal office. His firm had acted for the nominal buyer of the farm, although Kantor apparently knew nothing of the political purposes for which the premises were bought. The arrangements for the purchase of the farm were Harold’s responsibility. On hearing of the raid at Rivonia, Wolpe quickly went into hiding and prepared to leave for Botswana (then Bechuanaland) in the same week as the arrests. He was unfortunately captured near the border and placed under 90-day detention with Goldreich, who was being held in a cheerless cell at the Marshall Square police station. Two more arrests were made as a result of information probably gleaned through the torture of 90-day detainees. These were Andrew Mlangeni (trained in China and recently returned) and Elias Motsoaledi (similarly trained abroad), both of them members of the Johannesburg Regional Command of MK. They, together with Nelson Mandela (already serving a sentence) were taken to join the others, bringing the total of the accused to thirteen. Wolpe and Arthur Goldreich daringly escaped from the Marshall Square prison before the court case began.⁴ This reduced the number of accused to eleven.

The Rivonia Trial was one of a number of court battles that took place between 1963 and 1965. The various trials reflected the parallel struggles taking place at the same time: one of them concerned with peaceful protest and the others with armed struggle, but the lines were not always clear-cut. The two aspects of the struggle were seen to be complementary, but predictably there was a disproportionate shift of focus towards the military.

I knew of the formation of Umkhonto we Sizwe, but nothing of the details of its organization. Therefore my surprise when I noticed the newspaper placards celebrating the news of a police raid on an ANC estate in Rivonia and the capture of the movement’s leadership. It was 12 July 1963, the day after the arrests. We were on the journey home from a family trip to Isipingo, in Natal. When we reached Johannesburg we confirmed the

arrests but only obtained details of the allegations against the accused months later, when the leaders were released from solitary confinement and indicted. For the first time I learnt of the composition of the High Command, the structures of MK and what seemed a comprehensively detailed plan for guerrilla warfare, although it was said to be a draft, yet to be formally adopted by the internal leadership of the ANC – and its rationale properly explained.

The allegations were *alleged*, so we had to be careful about what we believed. Gradually, the true facts of the period are emerging. The autobiographies of Nelson Mandela, Rusty Bernstein, Jimmy Kantor and the memoirs of Ahmed Kathrada, Denis Goldberg and Bob Hepple are instructive, but insufficient to satisfy the post-liberation generations with a legitimate “need to know”. The riveting accounts of the trial by Joel Joffe and George Bizos are inspiring, but despite these and the anecdotal descriptions by some of the actors, the script has still to be completed.

Nelson Mandela, Sisulu and Kathrada were veteran trialists, often detained. Together with Bernstein and Govan Mbeki they were the senior leaders of the liberation movement. Raymond Mhlaba, Elias Motsoaledi and Andrew Mlangeni, more recent activists, were not unknown to the security police either. Denis Goldberg had already had a brush with the law in a minor political offence. James Kantor was totally innocent and not a member of the ANC, SACP or MK. Bob Hepple, though still young in his career as a barrister had been in the movement for about ten years before his arrest, and had over the years defended many of the movement’s activists in the courts. Except for a short skirmish with the law in a student protest, this was his first experience as a defendant rather than as a lawyer. They were charged under the Sabotage Act which, like treason could be a capital offence, a point emphasized by the senior public prosecutor, Dr Percy Yutar, who said:

Although the State has charged the accused of sabotage this is nevertheless a case of High Treason par excellence. It is a classic case of the intended overthrow of the government by force and violence with military and other assistance from other countries.⁵

There was, in fact, a compelling reason for the choice of the Sabotage Act; a charge under this act would not need a preparatory examination, requiring every overt act to be confirmed by two witnesses.⁶ The Sabotage Act had shifted the onus of proving one’s innocence to the defendant, thereby undermining the cardinal assumption that an accused person was innocent until the state had proved him or her to be guilty. This shift in the law had already had a negative effect on the conduct of the prosecution who (the defence

team noted) seemed to think that providing precise details of the charges against each accused was superfluous.⁷

The initial indictment left little to the imagination.⁸ It charged the defendants with complicity in over 200 hundred acts of sabotage aimed at facilitating violent revolution, armed invasion and a conspiracy to overthrow the government. As in the Treason Trial, the assumption was that the state would be reduced to chaos or communism once discriminatory laws were repealed. Legally the indictment was imprecise and could not stand as it was phrased. Bram Fischer, as defence leader, was scathing about its shoddiness. “The state,” he said, “had decided that the accused were guilty. It had further decided that since they were guilty a defence would be a waste of time”.⁹ To the dismay of the prosecution, the judge, Quartus de Wet, accepted his argument and set aside the indictment. A new one entitled *The State versus Nelson Mandela and Others* followed.

This one was just as damning, alleging a conspiracy to commit sabotage and guerrilla warfare along with armed invasion and violent revolution. It charged the accused with acting in concert for the purpose of recruiting persons for instruction and training outside South Africa and for manufacturing and using explosives to commit acts of violence and preparing for guerrilla warfare.¹⁰ From the start the eleven defendants had no doubt that they’d be found guilty. For them “the trial was simply a continuation of the struggle by other means”. They were confronted with a mass of evidence that guerrilla warfare, violence and more sabotage was planned; that a transmitter had been installed; finance had been acquired for the manufacture of hand-grenades, time-bombs and explosives and individuals had been sent for training in sabotage. It was clear that guerrilla warfare had at least been discussed and some preparations for it made. This last, was the core of the prosecution’s case for the imposition of the death penalty, by all accounts, a serious possibility.¹¹ Their conviction was a forgone conclusion. Although all of them pleaded “not guilty”, they did not deny their participation in military action or their association with MK and the ANC; they would speak in support of their ideals and use the opportunity of the trial to put their case to the world and show that it was the government and not they that should be in the dock.¹²

The proceedings were for the most part too tense to be boring. Bob Hepple was called as a surprise first witness for the state. But the prosecution had erred in thinking that in the final analysis, he would give evidence against the accused.¹³ His story is instructive for what it reveals of his own thinking and the effects of arrest and torture on apartheid’s victims. Almost everyone I met in prison had similar experiences under solitary confinement and all of them refused to become state witnesses. It is a mystery why some succumb to the sly assurances of the security police while others walk away from their insidious advice and refuse to give evidence for the state. I have cited Hepple’s experience at length in an attempt to understand this anomaly.¹⁴ He almost succumbed but

drew back at the eleventh hour. His recollection of his own ordeal in prison is not well known (nor is his high ranking position in the SACP leadership and his relationship with Nelson Mandela) and by including some aspects of his account in this memoir, more light might be provided on the controversy his conduct provoked.

Hepple was not a member of the High Command or of MK and had never seen himself as “cut out” for military activity: “What strengths I had to contribute,” he wrote in his memoir, “were as a lawyer, writer, speaker, lecturer and union activist, but certainly not a revolutionary soldier.”¹⁵ He sat on the highest committees of the South African Congress of Trade Unions (SACTU), including its Management Committee where the members were predominantly banned; was a member of the SACP secretariat; and was present at what seems to have been an augmented meeting of members of the High Command and SACP secretariat when the arrests occurred on 11 July 1963. Following his release from the trial he wrote his memoir, “Rivonia: The Story of Accused No. 11”.

He was a little under thirty at the time of his arrest, comfortable within himself, committed and professional in manner. I knew him for at least 10 years before the events at Rivonia and we have remained good friends. His parents were close to the movement, but not members of the ANC or SACP and his father, Alex Hepple, a veteran socialist and leader of the Labour Party in parliament. In April 1960, after Sharpeville, he was asked by Bram Fischer to join Michael Harmel and Moses Kotane “who were all that was left of the political leadership – the other leaders were in detention under the State of Emergency regulations or had fled”.¹⁶ At the end of the emergency around September 1960, Bram and Joe Slovo asked him to join the SACP secretariat, a body “which serviced the central leadership”. At the same time he carried on a legal practice at Chambers. His personal and political life had become quite blurred; a constant stream of high-profile “named” persons visiting him regularly at Chambers and at his home – using him as a conduit to the underground leadership. Among them, Ruth First, Joe Slovo and Bram Fischer, were frequent visitors.

Like many of the other defendants he knew he was over-stretched, but “there seemed to be no alternative”. He attended two or three meetings a week with underground leaders at various street locations, undertook “contact” work, handled large sums of money and attended secret meetings including one in his home, at which Mandela was present. He became one of Nelson’s support team while he worked “underground” and also made all the arrangements for his secret mission abroad. “I developed a bond with him”, Hepple wrote, “reaffirmed when he asked me to act as his legal adviser during his trial in November 1962”.¹⁷ He had become a lifeline for the underground leaders, in particular the secretariat who met with him on the day of his arrest: “Walter, Govan, Mhlaba and Kathy were outlaws”, he wrote, “Rusty was under twelve-hour house arrest and I was the only one at freedom”.¹⁸ All six of them attended the meeting on 11 July knowing that the

place was no longer a safe haven. They had agreed to meet there again on 11 July – “for the last time” and “just for a few hours”. That was the day of the raid.

All of them were arrested, taken to the Johannesburg Fort and ultimately to Pretoria Local Prison, where they were placed under 90-day detention. Their confinement in single cells without anything to read or anyone to talk to, or having any idea of what to expect during the imminent interrogation sessions, was all part of a systematic process to undermine and deplete their self confidence and their capacity to cope with the threats and taunts of their interrogators. The whites were accommodated separately from the Africans. Hepple and Goldberg were both confined to single cells at the Pretoria Local Prison where Rusty had been held all along. All of them were held in solitary confinement but allowed to do their ablutions together in the morning for 30 minutes and afterwards take their exercise in the prison yard, provided they did not talk to one another. (I was soon to discover for myself that the fear of being locked up for disobeying the “no talking” prohibition was strong – this was so even later when I was out of solitary confinement and already sentenced.) As talking is the single most important thing a person in solitary detention needs to do, detainees find ingenious ways to communicate with each other. For me, the most fascinating parts of the biographies of political prisoners held under these conditions is the creative character of their attempts to overcome the worst effect of solitary confinement, in itself a cruel form of torture. In the final instance solitary confinement is a private affair and each individual approaches the debilitating end-point that the process is designed to reach in his or her own time.

The combined effects of solitary confinement on a detainee’s judgment differs from person to person and theoretically, the longer the time in solitary confinement, the better for the interrogator. Some detainees withstand its effects better than others. Nightmares, hallucinations, obsessions, agitation, sleeplessness and sometimes, incessant sleep are the symptoms. After three weeks in solitary detention, Hepple was afflicted by all of these: “As the days and nights slowly passed”, he wrote in his memoir, “I became increasingly confused and created my own world in which reality and fantasy were hard to separate”.¹⁹ It was in this state of mind that his interrogation began, leading to outcomes that he had not intended. His account of his experience in solitary confinement is not exceptional (Rusty Bernstein, was similarly confused) but Hepple’s ordeal during his interrogation is instructive for the insight it offers on how detainees react differently to sensual deprivation, physical abuse and the incriminating evidence thrown at them by the special branch.

Like most of the other detainees, Hepple was at first unaware of the intimidating documents seized by the police and the extent of the evidence they had against him. When told by his interrogators that they had a copy of the “Operation Mayibuye” document (and much other incriminating evidence besides) he worried even more. As a lawyer he knew

that whether or not he had read the document “or agreed to it”, he could be easily linked to the conspiracy. He knew a great deal and was troubled by the thought that he might break down if tortured; that sooner or later someone would “crack” and that his situation might be even more serious than he had initially thought. Van Wyk and Dirker, his initial interrogators, “guaranteed” that he would be given an indemnity from prosecution if he told them what was being discussed at the meeting on 11 July and why he was there. They added casually that they would call him as a state witness. He was alert enough to detect the menacing implications of that “aside” and told them that he would never agree to that; he remained silent until he was eventually returned to his cell.

Soon after his interrogation he was visited in his cell by Lieutenant Swanepoel, who was a senior member of the special branch and had the reputation among detainees of being a violent psychopath.²⁰ Swanepoel’s request to Hepple for a statement may have sounded bland but the man’s burly frame, his demeanour and sadistic reputation suggested only menace. Significantly, Hepple turned him away, only for him to return after he had suffered a further short period of solitary confinement. On that occasion Swanepoel pressed his advantage, gauging the deepening effects of solitary confinement on Hepple and promised him immediate release if he gave the security police a “reasonable” explanation of why he had been at Rivonia. “By then [Friday 2 August 1963]”, Hepple writes, “my judgment was seriously impaired, fantasy and reality were difficult to separate [a]nd I was emotionally and physically exhausted.”²¹ He mulled over the offer during the weekend and gave Swanepoel his answer on the following Monday, 5 August.

During the weekend, as often happens, the security in the prison is more relaxed because the relief warders are friendlier to the prisoners than the regular gatekeepers. Communication with other detainees was easier. Notes passed between Bob and Rusty Bernstein and later they were able to talk to each other. According to Hepple, Bernstein told him that if he “could get out quickly he should grab the opportunity!” For one thing, he could clear out the hiding place in Mountain View, which they believed the police had not yet discovered; secondly, he could “pass vital messages to Bram and others who were still not detained”; and thirdly, an innocent statement made now might somehow help him in his defence at any subsequent trial. Bob trusted Rusty who had known him since a young boy. He “would not have made that statement at that stage, without Rusty’s agreement”, he said in his memoir.²² Denis Goldberg, with whom Bob also briefly talked, warned him “that it could be dangerous”. For Hepple, consensus from the only people available to him to consult was important. He knew he was breaking a cardinal rule that one simply did not make any statement to the police, but he thought the circumstances in his case were extraordinary. Normally a methodical and lucid thinker, he

overlooked the possibility that Denis and Rusty were probably also in an impaired state of mind and may not have been thinking clearly. Rusty confides in his autobiography:

I am close to breakdown but I dare not give way to tears. Not for fear of losing face with some macho warders and Security men, but because I know that once I let go there will be no way by which I will be able to redeem whatever is left of my life.²³

This was relatively early in his detention, but his state of mind did not improve until the trial began. He also did not discern that Bob has reached his nadir. Quite the contrary, he notes of Hepple: "I know that anyone can crack under the stress of solitary confinement", "but he has shown no sign that he has done so."²⁴ As it happened, the path that Bob chose (with or without the cautious confirmation of his fellow accused) was personally and politically disastrous.

Swanepoel reappeared on 5 August and Hepple made a statement to the effect that he had been a member of COD; that he had previously acted professionally for Walter Sisulu who happened to have sent him a message to see him on 11 July to discuss the plight of 90-day detainees. On arriving at Rivonia on that day, he was surprised to find the others there and had been there for only a short time when the police raided. The statement was received with derision. The security police seemed to know more than he had given them. Their next tactic was to simulate anger and make him stand once more in a single spot. They threatened to arrest his wife and parents and shouted taunts that "he would hang like the others ...". They said they knew from informants that he had visited the farm at Rivonia "many times"; that he had been in an underground cell; that individuals in that cell had made statements to the police.

Uncertain as to whether "Security" did in fact have that evidence, Hepple did what most of us did under the same circumstances and stood by his initial statement. Later he was returned to his cell in an exhausted state. But the interrogation did not end there. It continued hour after hour for the next three days until he verged on collapse. Swanepoel became menacing and toyed with a revolver he'd deliberately placed on the desk next to him "Would you like this or the rope?" he asked, showing him a bullet.²⁵ He was well known for these antics. In a similar incident he had pushed a pistol to the forehead of Mac Maharaj, one of the regional MK leaders at the time, and without further ado put him up against the wall, saying: "You talk!" When Mac remained silent, he pulled the trigger. Fortunately, the gun was unloaded.²⁶

Swanepoel, however, was intimidating without his having to try. On the fourth day of Hepple's ordeal and 28 days into solitary confinement Bob made a statement admitting that he had been recruited into a banned organization by Joe Slovo; that he had delivered

mail to Rivonia at Slovo's request (Slovo was already abroad) and that he had met Govan and Walter at the farm. Confirming what they already knew, he admitted that he had once driven Kathrada to the Rivonia site. In making this statement, Hepple believed that he had not seriously incriminated anyone still in the country and that he had given away only the information that he knew the police already had. Bernstein confirms that Bob's statement was unlikely to cause further harm to the accused, but was worried about the personal consequences of his testifying. Giving evidence for the state, he wrote, "would be seen as an act of cowardice and betrayal which will be remembered, and will haunt him".²⁷ Hepple was aware of this.²⁸ Two weeks later, still in solitary confinement, he realised that he had "made a serious error of judgment". He had incriminated himself while he was "unable to think straight" and had compromised himself completely. His admissions were enough, he thought, to link him to the common purpose of the other detainees and he "could be hanged now for Operation Mayibuye, a plan which he had not been a party to, and which he thought was "crazy". Worst of all, he now felt that his having made a statement would be used to demoralize others and he began to feel ashamed.²⁹

His misgivings were well-founded. A few weeks later, he was taken to see Yutar, the state prosecutor, who told him that he had decided to prosecute him, adding that he could expect to be sentenced to death along with all the others! Yutar's advice to him, under the circumstances, was to compose his own statement and give evidence for the state. Hepple said nothing. One way out of this impasse, he thought, was for him to agree to give evidence in return for conditional release and to escape before events reached that stage! Believing that this was a workable plan he wrote out a statement similar to the previous one he had given, and waited. Yutar's response to this was ambiguous. He saw Hepple twice more, first saying that "five or six leading persons were making statements" and that he wanted to see what they had said about him before he took any further decision. On the second occasion, Yutar told him he had decided to use him as a state witness. Bob replied that he was still undecided about this. For the moment the matter was left there.

Back in the prison and now awaiting trial, he could consult with others and spoke to Rusty, Nelson and Bram. They told Bob that his decision would have to be a "personal one". Finally he asked Mandela what his attitude would be if he persuaded Yutar to release him conditionally and then escape. "That would be excellent!" replied Mandela.³⁰ Goldberg recollects:

Bob Hepple was in an invidious position because he had told us that he was considering whether to be a state witness, yet he was with us during our opening consultation ... He withdrew from the consultation. I don't remember thinking very deeply just then about him giving evidence, but still hoped that he would not do so.³¹

When the trial resumed after an adjournment, the prosecution revamped its initial indictment and the judge asked Hepple whether he had anything to say on this matter. At this point Yutar jumped up and announced that all charges against him had been withdrawn and that he would later be called as a state witness. On the understanding that this would be the case, the state released Hepple from custody. From there, events moved quickly. Bob immediately contacted Bram through an intermediary and discussed his position. They met again after Fischer had briefed the other defendants. They felt there were a few options open to Hepple: he could give evidence as a friendly witness when cross-examined; he could enter the witness box and refuse to testify – or he could flee the country. Ultimately it was decided that escape was the only viable alternative. Eight days later (on 25 November 1963) Hepple was taken to the Bechuanaland border and into exile. It is difficult to foresee what might have happened had he stood trial. He may have given evidence in his own defence and been acquitted as was Bernstein. Or he may not have been as fortunate and spent the next 25 years of his life in prison. (Bernstein was probably as involved in Umkhonto as all of his co-accused though, like Hepple, not a member of MK. Yet he convinced the judge that he was innocent of the “conspiracy”.) Hepple may not have been as lucky. The evidence against Ahmed Kathrada and Raymond Mhlaba was as slender as the case against Hepple, yet they each received life sentences.

The trial was as lengthy and as nerve-wracking for the accused as it was interspersed with intricate legal argument and new jurisprudence. The examples below have been chosen with a view to the mind-set which the accused brought to the trial following the trauma of solitary confinement, interrogation and 90-day detention. They have also been selected for the depth of vision and clarity of the liberation project as shown in the evidence of Nelson Mandela, Walter Sisulu and Govan Mbeki; for the strength of conviction and integrity in the face of overwhelmingly incriminating evidence (e.g. Goldberg) and most significantly, for the refusal of the defendants to be intimidated by the court, the charges and the sentence that might follow (e.g. Kathrada, Mlangeni and Mhlaba). Last but not least, I have selected the evidence of Rusty Bernstein for his gifted capacity to deal with the insidious inferences of the prosecution and walk away from the court as a free man at the trial’s end. To a greater or lesser extent these personal qualities were present in all the accused. Together their testimonies illumine the principles behind their actions and the movement’s thinking.

Betrayal: State Witness Mtololo

While Hepple’s case provoked comment among the accused it was not disastrous. On the other hand, outright betrayal was something with which the defendants in every political

trial invariably had to contend. Rusty Bernstein had written “[b]reakdown would be forgivable; testifying against his comrades would not”.³² He had Hepple in mind, but he could also have been referring to Bruno Mtolo, the state’s prize witness. Mtolo had no compunction in betraying his colleagues and showed no visible signs of the effects of solitary confinement or security police pressure during detention. Before he took the stand the public galleries were cleared and the media were ordered by the court to refer to him as Mr X. The prosecution’s reason for this was that they feared for his safety, but the request for the court’s clearance was consistent with the senior prosecutor’s flair for theatre. The appearance of Mtolo was to be one of the trial’s dramatic moments and Bob Hepple’s another. In Hepple’s case, Yutar told the court that he “had been threatened by the accused or their supporters and fled the country”. The defendants knew otherwise and enjoyed the prosecutor’s discomfort at Hepple’s disappearance. Mtolo’s evidence, however, was bitter in its assessment of the movements’ leaders and was damaging to the defence. He was as much a renegade as a common law criminal, a recidivist, who unbeknown to the ANC had been prosecuted for attempted murder and theft and had served time in jail. Joel Joffe, who advised the defence team had much to do with unearthing his past.

It was obvious however that the Mr X in the witness box was not Bruno Mtolo the overly daring and confident person the liberation movement had once trusted. Ronnie Kasrils knew him best from their time together in the MK structures in Durban. “It was Bruno and a few others who collapsed”, he wrote in his autobiography:

The SB boasted that Bruno started talking the day after his detention. They said they knew how to deal with a criminal ... It was obvious why [he] had displayed such skill breaking into the dynamite magazine. We had all too easily accepted his credentials, without really knowing him.³³

Mtolo was well placed to finger practically everyone in the dock because he was active in many anti-apartheid organizations, including SACTU, in which he was a union organizer; MK, where he was by 1963 a leader of the Durban Regional Command; and the ANC. He was also a member of the Communist Party and active in the Natal region in the service of all four organizations. This made his cross-examination difficult for the defence team, who on instructions from the defendants did not want him to reveal any more information about activists than he had already done. Over the three days of his testimony Mtolo confessed to being a saboteur, in which capacity he blew up pylons and other government property on the instruction of MK’s Durban Regional Command. He also claimed to have committed acts of sabotage on the homes of informers and to have planted bombs where peoples’ lives were placed at risk. As Mandela noted in his statement, “[s]ome of the things so far told to the court are true and some are untrue”, but

reference to Umkhonto attacks that deliberately endangered peoples' lives was contrary to ANC policy and was not true.³⁴

As Mtolo's task was partly to incriminate as many people as possible, he named MK activists even if he had only known them peripherally. At the top of his hit list were Sisulu, (Govan) Mbeki, Kathrada and Bernstein whom he said he'd met at Rivonia. Others he named were Kasrils, Hodgson, Strachan, Joe Slovo, Modise, Mlangeni and Motsoaledi (except for the last two names, they were all named separately as co-conspirators). Equally important was his obvious instruction to link Mandela to the conspiracy and to confirm the prosecution's allegations of foreign assistance and preparations for guerrilla warfare. This he did by describing Mandela's meeting with the Durban Regional Command in August 1962, on the eve of Mandela's arrest. He described Mandela's account of his visit to countries in Africa and referred to his meetings with African leaders, as well as his military training (which included guerrilla warfare) and promises of foreign financial assistance.

Although Mandela felt strongly that Mtolo should be cross-examined on instances where he was lying and slandering leaders of the movement, it was pertinent for the lawyers only to challenge his version of events, when in some instances they knew them to be untrue. Equally important, they did not wish to provide names that would compromise the accused on other trials or activists still in the field. Apart from the constraints on the evidence on which Mtolo could be cross-examined, 90% of his testimony was thought to be substantially true. The critical concerns were in the remaining 10%.³⁵

This is invariably a problem when erstwhile comrades renege on their colleagues. We faced this predicament with Pieter Beyleveld, a state witness in the Fischer Trial whose evidence, with a single crucial exception, could not be controverted.³⁶ Mtolo's evidence was left largely intact by the defence team. It fell to Nelson Mandela in his statement from the dock to correct the erroneous statements Mtolo had made about the ANC's policy on violence and it was left to defence advocate Vernon Berrange to destroy the slanderous statements that this witness had made to disparage the movement's leaders.

Mandela: An Epic Address

From the tenor of Mandela's address to the court when he rose to make his statement from the dock, there was no question in his mind, that ultimately history would exonerate him. There was some resonance in his statement with Fidel Castro's court testimony after his partisans' attack on the Moncada Barracks in March 1953, a decade before the Rivonia Trial. "History will absolve me", Castro had told the court and then proceeded to speak of his treatment under detention, the context of his actions, and the motives of his compatriots. Mandela's testimony was also lengthy. In his case, only five hours and

equally wide-ranging. It was an epic address, describing his youth, his ideals and the intellectual influences upon him, as well as the poverty and inequality that led him to identify with the ANC and (ultimately) become an “outlaw in the land of [his] birth” for the views he held. The thrust of his address was similar to the rationale for the ANC’s policy-shift to include armed struggle in its overall strategy for liberation. But it was more than an explanation of past policies. His statement was an opportunity to accept collective (and sometimes personal) responsibility for his actions, and to correct what he believed to be the erroneous statements of witnesses or of the prosecution. It was not exclusively a testimony in his own defence; nor was it intended to deny the charges against any of the defendants, but an opportunity as one of the movement’s leaders, to explain the logic of his actions and why the leadership had adopted the policies they did.

This went hand in hand with his understanding of the obligations of leadership and, I expect, like the notes he took of the books he read, helped him to clarify his own thinking. He dwelt at length with the different aims of the SACP, Umkhonto and the ANC; he defined their respective roles in the struggle and their relationship with each other; openly took responsibility for his part in the formation of Umkhonto; and clarified the reasons for his visit to Addis Ababa. He made no secret of his inspiring visits to the newly independent countries on the African continent or of the audiences afforded him by Julius Nyerere, Leopold Senghor and Sekou Toure, the “philosopher kings” of Africa. The tour made an ineffaceable impression on him, notable from the details he recorded in his diaries that were exhibits in the trial. Later he explained that his diaries were merely summaries of his impressions abroad and the notebooks a record of his reading in politics, economics and the modalities of armed struggle. The writings of Clausewitz and Mao interested him but the extensive notes he made on them were not blueprints for war. Similarly his reading of Che Guevara was pertinent to the choices one might make “in the long time before sabotage [as a strategy of struggle] is exhausted” but not “proof” of a conspiracy to overthrow the state by means of guerrilla warfare.

“Violence” [meaning the armed struggle] and its *inevitability* was a recurring theme from the start of his statement. He reinforced this issue as he went along, insisting that there was “no other path than the one the movement had chosen ... Violence by the African people had become inevitable” – not for its own sake but because the people had been driven to it “by government policies”.³⁷ The resort to violence was a gradual process. Only when political protest was legislated against and protest met by force “was violence answered with violence”. If uncontrolled violence was to be avoided, responsible leadership, capable of “canaliz[ing] and control[ing] the feelings of the people”, was essential or there would be intense racial bitterness. The relentless repression since 1950 had shown “that without violence there would be no way open to the African people to succeed in their struggle ...” He told the court: “I felt morally obliged to do what I did.”

As violence was inevitable, it was “unrealistic and wrong” to preach non-violent struggle when peaceful protest was met by government force. The dilemma with which the movement was faced, was in his view, “*either to accept a permanent state of inferiority, or to defy the government*” (my emphasis). As he saw it, there was no question that the fight should be continued, “anything else would have been abject surrender”, the problem was how to continue the fight. There was a feeling among the people that the ANC’s aim of achieving a non-racial state by non-violence “had achieved nothing” and people were losing confidence in the efficacy of peaceful protest. After 50 years of non-violent protest “there was more repressive legislation and fewer and fewer rights”. Already, in June 1961, when leaders of the movement considered embarking on acts of sabotage, “disturbing ideas of terrorism” were developing. “Small groups had arisen in the urban areas and were spontaneously making plans for violent forms of political struggle.”

In his reference to the formation of Umkhonto, he said, “the avoidance of civil war” had been dominant in the movement’s assessment. The immediate reaction of the state at the time was to quell peaceful protest with violence. Although MK was formed as a response to state violence, its establishment was not an entirely reactive rejoinder to government force, but “to bring government and its supporters to their senses before ... matters reach the desperate state of civil war”. Civil war was a last resort, but plans needed to be flexible if it became inevitable. Since 1957 the government had been responsible for successive acts of state violence against women, peasants, and urban protesters in various parts of the country. The counter revolution was feeding the revolution, showing, as he put it, “that a government which uses force to maintain its rule, teaches the oppressed to use force to oppose it”. This had its disadvantages. A worrying factor for the movement was that the local responses to the imposition of the Bantu Authorities Act and other aspects of government repression had for various reasons taken the form of civil strife – “not of struggle against the government” – as Mandela phrased it, “but of civil strife among themselves”. As this would inevitably lead to loss of life and bitterness, responsible leadership was needed to redirect this inward expression of rage towards anger against the regime. When it came to a choice of forms of struggle, the obvious path for the ANC was one that did not involve loss of life and minimized the possibility of disharmony.

The policy sought was consequently one that would help to inspire the people and “provide an outlet for those ... who were urging the adoption of more violent methods”. For this reason, the decision was taken to adopt sabotage and exhaust its potential as a strategy for achieving change, before considering any other form of violence. “[I]f it bore fruit democratic government could become a reality.” The policy envisaged attacks on the country’s economy, linked with acts of sabotage against government buildings and symbols of apartheid. Other forms of armed struggle included guerrilla warfare, terrorism

and open revolution. Of these, “if force was necessary to defend ourselves against force”, guerrilla warfare, a long-term undertaking, “held out the prospects best for us and [posed] the least risk of life to both sides.” The ANC had not yet adopted Operation Mayibuye, the document in which the outline of the preparations for guerrilla warfare had been explicitly set out. This document had been drafted with little left to the imagination of anyone who might wish to add to its detail. However, military training would continue and provision made for the possibility of guerrilla warfare as a contingency plan *for the future*. In the meanwhile, in view of the length of time it would take to establish a guerrilla army, plans would go ahead “to build up a sufficient nucleus of trained soldiers to start a guerrilla campaign and whatever happened, the training would be of value”. The phrasing of this section of his statement was necessarily cautious because it trod on ground that could easily evoke considerations of the death sentence in the mind of Justice Quartus de Wet, at least insofar as the members of the national High Command were concerned.

Clarification of the relations between the ANC, the Communist Party and MK was seen as equally important to explain the difference between cooperation and cooptation. Identification of any of the organizations with the objects of Communism, when linked with sabotage, could be the kiss of death. But it was convenient for the state to treat the issues of sabotage, Communism and African nationalism quite interchangeably. Mandela endeavoured to correct this and went to some lengths to explain that the ANC, Umkhonto and the Communist Party were not the same as alleged by the state and that the High Command of Umkhonto, the SACP and ANC were politically, historically and ideologically quite discrete, although it was true that they cooperated and shared the common goal of removing white supremacy. This was “not proof of a complete community of interests”. There were many examples in the world of cooperation between governments of diverse interests: “Nobody but Hitler would have dared to suggest that such cooperation turned Churchill or Roosevelt into communists or communist tools”. Clarification of this was seen to be as necessary for the understanding of the court as it was for the movement and its followers.

In Mandela’s view, ideologically the ANC was for nationalism, meaning “freedom and fulfilment for the African people in their own land” as exemplified by the Freedom Charter, “the most important political document ever adopted by the ANC”. As he understood it, the Communist Party stood for a state based on the principles of Marxism. For the SACP “the Freedom Charter would be a short term solution for the problems of white supremacy”. The Party emphasised class distinctions “whilst the ANC sought to harmonize them”. Both insights were perceptive as were his remarks on the role of communists in anti-colonial struggles. He believed that in the fight by colonial countries for freedom, “the short-term objects of communists would always correspond with the

long term objects of freedom movements". This was borne out historically by communists elsewhere in Africa and Asia, and the same pattern of cooperation between communists and non-communists typified the Party's relationship with the liberation movement in South Africa. Joint campaigns and cross-membership characterized this cooperation. "It is perhaps difficult," he told the court, "for white South Africans, with an ingrained prejudice against communism, to understand why experienced African politicians so readily accept communists as their friends." But for him it was a self-evident truth that:

for many decades communists were the only political group in South Africa who were prepared to treat Africans as human beings, as their equals; who were prepared to eat with us, talk with us, live with us, and work with us ... the only political group which was prepared to work with the Africans for ... a stake in society.

Interestingly, his co-accused, Raymond Mhlaba, expressed a similar view in his personal memoir:

I found Whites, Coloureds, Indians and Africans sitting together discussing problems facing the country. What struck me was to see a white person discussing issues openly with an African as an equal ... I then thought to myself that this was perhaps the true brotherhood and sisterhood that was preached but not practised by many Christians.³⁸

Mandela's positive embrace of his communist comrades could not have helped his case legally and probably worried those who sought communist influences in his political and intellectual evolution. For Mandela it was a matter of principle that he acknowledged the role of the Party in the struggle. Possibly there was some special pleading in his statement but that is to be expected in a legal defence. It was, for all that, a complex exposition of what had brought him and his co-accused to the dock: it was a statement brave in its acceptance of responsibility for his part in establishing Umkhonto, blunt in his account of his visit to African leaders to request money and aid for MK, and principled in its defence of the movement's embrace of armed struggle. Above all it was unforgettable for his passionate assertion that the ANC's struggle was no less than a fight of the African people for the right to live. It was, in his words, "... an ideal which I hope to live for and achieve. But if needs be it is an ideal for which I am prepared to die."³⁹ Here were intimations of Mandela the man transcending the image of Nelson the lawyer and Madiba the political leader, inspiring others by his unquestioning certainty that South Africa would be free, however high the personal price. Today, his address would have been

referred to as “presidential”, were it not that he was still a long way from Tuinhuis;⁴⁰ fighting for his life, as well as the lives of his co-accused.

Sisulu: Strategy and Tactics

Unlike Mandela, who did not give formal evidence but made a statement from the dock, Sisulu took the stand in the witness box for cross-examination. He elaborated on the relations between MK and the ANC and its status as a discrete organization within the liberation movement: it was as much a testimony in his own defence as of the ANC’s unremitting resistance to apartheid over the previous 50 years, an oral history by one of the struggle’s most strategic thinkers. (I had known him for years and corresponded with him while he was on Robben Island.) His testimony was wide-ranging and confirmed much of what Mandela had said, covering the refusal of the ANC to submit to the government’s banning; the need for the responsible leadership of a struggle that had transcended peaceful protest; the co-operative linkages between the SACP and the ANC – and finally on the formation of MK and its policy of avoiding personal injury or loss of life. On this he was questioned at some length by Quartus de Wet:

Judge: If you are going to start bombing buildings, is it possible to avoid that type of accident? Can you ever be sure that you have avoided killing or injuring people?

Sisulu: My Lord, an accident is an accident. But the intention in fact is the intention ...

Judge: Your argument is that as long as you have not got the intention to kill people, it does not matter if you kill people. Is that your argument?

Sisulu: No, Sir. I am saying that the precautions are taken in order to avoid such a thing. I am not saying it can’t happen. But I am saying that precautions are taken that it should not happen.⁴¹

The judge left it there, although the line of questioning was thought to be ominous by counsel. They nonetheless felt that Sisulu had done well under the “double barrage” of questioning from judge and prosecutor and that he had argued with eloquence throughout the five hours of his cross-examination. What was evident about his performance was his integrity and his sense of certainty of the correctness of his cause. Asked by Bram Fischer if he would have acted differently, he replied: “I can’t see how I could have done otherwise. “Because even if I myself did not play the role I did, others would have done what I have done instead.”⁴²

During the course of his cross-examination by the prosecution, Yutar disingenuously made reference to traitors. When asked whether he considered Mtolo a traitor to the

cause, he replied in the affirmative. Pressed to say that he regarded Hepple as a traitor (in the same way as he had Mtolo) Sisulu said he did not know what Hepple had said but if the prosecution's version of the facts was correct, then he was a traitor. Sisulu later wrote to Hepple:

I sincerely regret the publicity given to my evidence by the press on this matter ... It certainly did not reflect my views about you. Apart from the fact that the statement was taken out of its context ... I was forced to answer the question put to me by Dr Yutar ... I said you were not in the same position as [witness] X. What I wanted to convey was that the information by the police [regarding your statement] would have to be checked ... I am not the sort of man that easily falls for the branding of a colleague. I certainly would not just rely on the police statement without checking and satisfying myself about the true facts of the matter.⁴³

No Moral Guilt

For the remaining accused who gave evidence or made statements from the dock, Sisulu and Mandela's testimonies were a hard act to follow. When Ahmed Kathrada took the witness stand there were moments of deep seriousness and also some lighter ones. Kathrada denied membership of MK, but acknowledged that he knew of its existence. He did not disclose the full extent of his involvement in MK to his counsel, Ishmael Mahommed, or to the court. As he noted in his *Memoirs*, "I rationalized that since I owed no allegiance to my enemy, I could tailor my evidence to my best advantage."⁴⁴ He was a defiant witness, who responded to the prosecutor's aggressive sarcasm in kind, making "it hard for Yutar to keep his temper", especially when he refused to answer questions that incriminated others.⁴⁵ This was bold because the state's evidence of his participation in MK was slender.

He was 34-years-old at the time of the trial and I had known him for almost 20 years before then, first in the YCL and then in Congress and in the CPSA. Our age and birthdays are close together and we still jocularly refer to each other (my twin included) as "triplets". The case against him was weak, as despite some of the evidence, the prosecution failed to prove that he had taken part in acts of sabotage, prepared for guerrilla warfare or any of the other allegations they made against him. However he was at Liliesleaf Farm on 11 July – in disguise – in the same room as Mandela, Sisulu, Bernstein, Mbeki, Hepple and Mhlaba, and the prosecution concluded he was a member of the High Command. Ultimately he suffered the same fate as all the other accused who

were convicted. His sentence of life imprisonment was another deep reminder that the halcyon days before MK were gone forever.

His co-accused, Govan Mbeki, was next in the witness box. Until 1962 he had been the Eastern Cape editor of *New Age* newspaper. He was well educated, with two post-graduate degrees and was formerly a teacher. I admired and liked him and had met him on the trips I made to Port Elizabeth during the campaign against Bantu education. He and Sisulu were a study in contrasts. Walter Sisulu was slightly younger – in his late forties at the time – an activist in the movement for all his adult life, but more measured in his views. He had only a modicum of schooling, but was as intellectually vigorous and as logical in his thinking as any of his peers.

Like Sisulu in the Transvaal, Mbeki was the doyen of the movement in the Eastern Cape region, easily accessible and friendly but though no less committed, more doctrinaire and inflexible than Walter. A key figure in the movement, he was charged with contravening the Suppression of Communism Act and committing acts of sabotage. Although he had ostensibly entered the movement only in the 1950s, he soon rose to membership of the Central Committee of the SACP and the High Command of MK and was in the leadership of the ANC. If I were asked at the time which of the two men I thought would be president of a liberated South Africa, there was no doubt that Govan Mbeki would have been as high on my list as Walter Sisulu. With 24 witnesses against him and 13 documents implicating him, he stood little chance of acquittal. But he was undaunted by this and his exchanges with Yutar were lively and revealing of his tenacity:

Yutar: Well, Mbeki, I will put it to you in very brief form. Four charges against you, and you have replied ... “yes” to all of them. Can you tell his lordship why you have pleaded not guilty to all four counts?

Mbeki: Yes. I did not plead guilty to the four counts for the simple reason first that I should come and explain from here under oath some of the reasons that led me to join MK. And secondly for the simple reason that to plead guilty would to my mind indicate a sense of moral guilt attached to my actions.

Yutar pressed his point further, left aside the question of moral guilt and wanted to know whether Mbeki still pleaded not guilty “after admitting” that he was on the national High Command, had committed sabotage, furthered the aims of Communism and solicited money abroad to advance these claims.

Mbeki: I am not pleading guilty!

Yutar: No you don't. You don't even admit you are legally guilty?

Mbeki: I have explained my position.⁴⁶

In his refusal to suggest that he was in any way morally guilty, he expressed the sentiments of all his co-accused. By not denying their involvement in the ANC, SACP or the alleged acts of sabotage and insisting that the government should be in the dock and not them, the defendants had little doubt of the likelihood of their conviction.⁴⁷ The question was what emphasis the court would place on the level of their involvement in the alleged conspiracy and whether the sentence would be one of capital punishment or long terms of imprisonment.

The evidence against Mlangeni and Motsoaledi made them vulnerable. Both had entered the movement in the mid-1950s and I knew them only slightly. They had undergone military training and had returned to apply the military skills they had learnt. They each made statements from the dock in order to avoid implicating other cadres under cross-examination. Their rank and file status in the movement exposed them to many activists, including the state witness, Bruno Mtolo. Motsoaledi admitted to membership of MK (he joined in 1962) and to the recruitment of individuals and their transportation abroad for military training. Andrew Mlangeni also made a number of admissions involving his membership of MK (this was as late as February 1963) and having acted as a conduit for the training of MK cadres. He was also handicapped by the fact that Mtolo was his “go-between” in communicating with other cadres. From the dock they could at least correct serious inaccuracies in the prosecution’s case against them – as much for the record, as for their own pride of purpose.

Raymond Mhlaba, who received military training in China, records that “there was no concrete evidence that I was involved in sabotage”. He was incensed that the main evidence of witnesses brought to testify against him was fabricated: “I felt angry,” he wrote, “that the state was desperately using our people to tell lies in order to indict me.”⁴⁸ He knew that he would possibly have received a lighter sentence if he had told the truth about his whereabouts; he was in China on military training when the events alleged had occurred. In his memoir, he wrote:

When ... Dr Yutar, wanted to hear my comments on what state witnesses said about me in court, I refused to respond. I intended not to divulge my secret military missions. I was prepared to rot and die in prison rather than dispute blatant lies from the apartheid state.⁴⁹

The judge underestimated his strength of character and treated his refusal to answer questions incriminating others as evasive; an attitude from which he might draw “a

negative inference”– something the judge had not said in the case of the previous defendants. Joel Joffe believed that the evidence was not strong against Mhlaba, “and that if he had made a better impression, he might have been acquitted. Bizos similarly noted that his “hesitant and faltering manner did not augur well, and we believed that our submissions for his acquittal would not be well received”.⁵⁰ It was not so much that Raymond did not have the presence of mind or facility for the right phrase that came so easily to Rusty Bernstein, but that he consciously refused to trust the court although he knew his future, if not his life, depended on it.

“Rusty” Bernstein

If the court was intolerant of Raymond Mhlaba’s evidence, it was almost deferential in its attitude towards Bernstein’s testimony. Few had his aplomb and sophistication – or were as adroit as Rusty in negotiating his way round the insinuating observations of the prosecution. He seemed to enter “enemy territory” with impunity, admitting to being a communist for the past 25 years and to being a member the Communist Party – *when it was legal*. As a veteran communist, he said he had advised, written and assisted the movement in a myriad of ways. He declined to answer the question of membership of the SACP when that body was formed in 1952/3 on grounds of incriminating others, and was threatened with being in contempt of court for refusing to do so. But neither judge nor prosecutor pressed the matter and according to Bernstein, De Wet soon realized that if he convicted him for being in contempt of court, “a few more days or weeks in jail would hardly hurt him.”

More pertinently, he sensed that De Wet was beginning to “warm” towards him, a happening he attributed to his coming from the same “white” middle-class world that the judge inhabited. I had known Rusty as long as I’d been in the movement (he was still in the uniform of the South African Army during the war when we met). We were held at the Fort and in the Treason Trial together in 1956 and 1957 and shared the same SACP cell since 1953. We also worked on the editorial board of the journal *Fighting Talk* and lived not far from one another. I respected him enormously and admired his extensive understanding of political theory and familiarity with Engels and Lenin. Somehow, I believed that if we required him to explain Einstein’s theory of relativity, he would have done so with the same clarity he unravelled Marx’s conception of the fetishism of commodities. Shortly after his acquittal, I met him at the funeral of Molly Fischer⁵¹ in Braamfontein, Johannesburg. Although he was always quite introverted, solitary confinement and a long trial with the death sentence threateningly close, weighed heavily

upon him. He seemed to be even more detached than at any other time than I had known him.

Although there was less evidence against him than any of the others in the leadership, he said in his evidence that he was often involved in MK at various levels, though was technically not a member. He denied that he had ever been a member of Umkhonto or of its High command and (seemingly unperturbed) admitted to his “having regular contact with both bodies.”⁵² Except for his presence among the seven individuals arrested at Rivonia on 11 July, there was little evidence to tie him directly to the “conspiracy”.

His story was that he had come to Rivonia on 11 July in his professional capacity to discuss architectural matters. His performance in the witness box was remarkable. Joel Joffe describes him as an ideal witness, one of the best – clear and to the point.⁵³ It was nonetheless a stressful cross-examination for Rusty. The prosecutor presented him (as he later wrote) with “one document after another” emanating from Communist Party sources although there was no suggestion that he had written them or seen them before. Fortunately, he was sufficiently “at home in [his] own game of politics” to deal with Yutar’s sarcastic innuendo and insinuations. In any case the documents had no bearing on the charges against him. It seems that he was able to retain his calm and project an air of self-assurance during the most delicate parts of his ordeal in the witness box. This he did by diverting the answers to the prosecution’s questions towards the legal moments of the liberation movement’s history – away from anything likely to exacerbate the charges against him.

Denis Goldberg

Rusty said in his autobiography that it went without saying that in the chauvinistic environment of apartheid, colour (far more than deference) was the important priority. Yet when it came to Denis Goldberg the judge showed hostility rather than deference. Denis was also from a white background, but seemed to have antagonized the court at an earlier stage of the trial by what were seen by the legal team as facetious antics. This was a great pity because Denis was (and remains) a very serious person, despite the witticisms that worried the lawyers and his “derisory expressions when a prosecution witness contradicted himself”.⁵⁴ However, like many others, he did not have Rusty’s quiet aplomb nor did he have his ability to simulate deference. More importantly, the case against him was strong. In Bizos’ opinion he was a successful witness but “the judge’s lack of interest in his evidence” was patent from the beginning.⁵⁵

He was faced with the damaging testimony of 20 witnesses: “factory owners, wholesale distributors and machinery merchants”, from whom he sought quotations for iron castings to conform to a particular specification of hand-grenade that Arthur Goldreich had personally designed, and left among his papers.⁵⁶ There were also details of a property Denis had acquired on behalf of the ANC under a pseudonym, another small-holding, not as grand as Liliesleaf Farm. This was named Travellyn at which the ANC leadership often stayed and – but for the raid on 11 July – could have been used as an armoury for MK had the arrests not occurred and the plan for Operation Mayibuye been carried out internally.⁵⁷ There were also allegations of training young people at a youth camp in guerilla warfare, which Goldberg strategically denied was the purpose of the camp’s activities.⁵⁸ Almost all the evidence was formidable and according to the lawyers, indefensible. But despite this, Denis chose to enter the witness box to explain his actions, something that does not surprise me now that I know him better.

I had met him before the trial and knew his parents, both of them stalwart communists. Later, we were part of a group of about 21 political prisoners held at the Pretoria Local Prison between 1965 and 1968. Denis had already been there for 10 months by the time we arrived. I believe it was his stoicism and inimitable humour (taken at face-value as facetiousness) that enabled him to survive the trial, separation from family, a life sentence and an initially brutal prison regime. In his stoicism and self-discipline, he was a role model for all political prisoners. In this instance being white drew greater wrath from the judge and prosecution than if he’d been a different colour.

In general the defendants’ expectations of leniency from the judge were low and their responses to questions from the prosecution sometimes belligerent. The defendants had had enough and seemed to experience the urge of the powerless to verbalize their anger for their personal hurt and the social injustices they experienced in the course of their lives. They also balked at the insulting attitude of the prosecution towards them. George Bizos’ quip about statements made “in aggravation of sentence” could quite easily have referred to some of their replies to questions during their evidence. The verdict was not unexpected although the possibility of the death sentence was always present.

That the court did not invoke the death sentence may have been due to a number of factors, including international pressure on the regime by the UN Security Council. In addition, the all too pervasive understanding that a sentence of capital punishment might have a detrimental effect on investment, may also have influenced the outcome of the judgment. The independence of the judiciary, much vaunted at the time, had over the decade been severely compromised by the laws eroding due process. The compliance of judicial officers simply aided the process. Quartus De Wet spelt out in a dozen lines how he felt the judges should comply when he reminded the accused that his function was to enforce law and order and the laws of the country. Although the crime of the accused was

one of treason, he said, the state had not charged the accused in this form and the only leniency available to him was a sentence of life imprisonment.

All the accused, except Rusty Bernstein, received a life sentence. Kathrada was found guilty on two counts, the others on four. Kantor was discharged earlier. (He was widely believed by counsel to be held by the special branch as a hostage for Harold Wolpe.)

The trial marked the end of a fighting decade. Those of us who were not on trial remained to continue the legal and the armed struggles, but could hardly fill the void left by the leaders who were sent to prison or had gone into exile. We ultimately went to jail, although for many of us it was the end of an extraordinary moment in the struggle and an unexpectedly sudden coming of age.

Chapter 14

- 1 *The State vs Abram Fischer and Thirteen Others* (1964–5), and a trial involving the augmented MK Regional High Command. The latter trial was known as the Little Rivonia Trial (1964). Parallel trials of the African Resistance Movement (ARM) were held concurrently with these in the latter part of 1964.
- 2 See his autobiography, Goldberg, *The Mission*, pp. 109–112.
- 3 Hepple, “Rivonia: The Story of Accused No. 11”, Unpublished Mss, p. 10.
- 4 See AnnMarie Wolpe, *The Long Way Home* (David Philip, Cape Town, 1994), pp 147–184, for the planning and other details of the escape. Two other comrades, also under 90-day detention, escaped with them. They were Mosie Moola and Abdulhay Jassat.
- 5 Cited from the transcript by Joffe, *The Rivonia Story*, pp. 192, 193.
- 6 For a reliable account of the trial and the questionable behaviour of Yutar, see Joffe, *The Rivonia Story*, p. 193.
- 7 Cited in Joffe, *The Rivonia Story*, p. 38.
- 8 The accused had the first glimpse of it on 9 October, the day the trial started. The media received it before them.
- 9 Cited in Joel Joffe, *The Rivonia Story*, p. 38.
- 10 For the full indictment, see, Joffe, *The Rivonia Story*, appendix.
- 11 Mandela, *Long Walk to Freedom*, p. 308.
- 12 See Joffe, *The Rivonia Story*, p. 36.
- 13 Hepple, “Rivonia: The Story of Accused No.11”, unpublished Mss, p. 3. In writing the story of Bob Hepple I have drawn exclusively on this unpublished memoir.
- 14 Ruth First, *117 Days: An Account of Confinement and Interrogation under the South African 90-Day Detention Law* (Bloomsbury, London, 1988 and Penguin Books [South Africa], 2006), likewise reflects on this. See also my chapter 15 “Face-to-Face with the Special Branch”
- 15 Hepple, “Rivonia: The Story of Accused No.11”, Unpublished Mss, p. 7.
- 16 Hepple, “Rivonia: The Story of Accused No.11”, Unpublished Mss, p. 8.

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- 17 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 8.
- 18 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 9.
- 19 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 16.
- 20 See his evidence before the Truth and Reconciliation Commission (TRC).
- 21 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 18.
- 22 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 18.
- 23 Bernstein, *Memory against Forgetting*, p. 268.
- 24 Bernstein, *Memory against Forgetting*, p. 284.
- 25 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 19.
- 26 O'Malley, *Shades of Difference*, p. 123. Maharaj was a significant MK regional leader, subsequently sentenced to twelve years on Robben Island for sabotage. After liberation, he was appointed Transport minister in Mandela's 1994 government. Swanepoel's tactic on this occasion was "the wrong psychological move". Maharaj did not flinch.
- 27 Bernstein, *Memory against Forgetting*, p. 284.
- 28 Having made the statement, he was taken to the Langlaagte police station (on his 29th birthday) where he knew from talking to Denis Goldberg that security was lax and escape possible. But before he had a chance to make any such plans, the surprise escape of Goldreich and Wolpe from the Marshall Square prison led the nervous prison officials to return him summarily to Pretoria where the security was tighter.
- 29 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 21.
- 30 Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss, p. 23.
- 31 Goldberg, *The Mission*, p. 123.
- 32 Bernstein, *Memory against Forgetting*, p. 284.
- 33 Ronnie Kasrils, *Armed and Dangerous: From Undercover Struggle to Freedom* (Jonathan Ball, Johannesburg, 2004), p. 53.
- 34 <http://history place.com/speeches/Mandela.htm>, p. 8.
- 35 Joffe, *The Rivonia Story*, p. 77.
- 36 In his evidence, Beylvelde separated the SACP from Umkhonto we Sizwe, which was not the case.
- 37 <http://history place.com/speeches/Mandela.htm>, p. 2. All subsequent citations are from his statement from the dock and this source, pp. 2–14.
- 38 Mhlaba, *Reminiscing*, p. 31.
- 39 Joffe, *The Rivonia Story*, p. 133.
- 40 The president's official house and offices adjoining parliament in Cape Town.
- 41 Citation from George Bizos, *Odyssey to Freedom* (Random House, Johannesburg, 2007), pp. 251–152.
- 42 Joffe, *The Rivonia Story*, p. 136.
- 43 See correspondence between Hepple and Joel Joffe dated 12 May 1994; and letter from Sisulu to Hepple (undated) in appendices to Hepple, "Rivonia: The Story of Accused No.11", Unpublished Mss.
- 44 Kathrada, *Memoirs*, p. 174.

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- 45 Kathrada, *Memoirs*, p. 179.
- 46 Citations from Bizos: *Odyssey to Freedom*, p. 264.
- 47 Arthur Chaskalson, who assisted Bram Fischer at this stage of the trial, noted that even if the state proved certain acts of sabotage were committed, that was not the end of the matter, legally. On this see Bizos: *Odyssey to Freedom*, p. 272.
- 48 Mhlaba, *Reminiscing*, p. 126.
- 49 Mhlaba, *Reminiscing*, pp. 123, 126, 127.
- 50 Joffe, *The Rivonia Story*, p. 159; Bizos, *Odyssey to Freedom*, 2007, p. 158–159.
- 51 Molly Fischer was tragically drowned in a car accident when returning from Cape Town with Bram after the Rivonia verdict in June 1964.
- 52 Bernstein, *Memory against Forgetting*, p. 314. See Bernstein’s chapter 14, “Telling it as it was”.
- 53 Joffe, *The Rivonia Story*, p. 163. For Bernstein’s account of his evidence see Bernstein, *Memory against Forgetting*, pp. 314–318.
- 54 Bizos: *Odyssey to Freedom*, p. 265.
- 55 Bizos: *Odyssey to Freedom*, p. 266.
- 56 See Joffe, *The Rivonia Story*, p. 180.
- 57 See Goldberg, *The Mission*, p. 101.
- 58 According to Goldberg the Mamre training camp, 50 kilometres outside Cape Town, was the first MK training camp to be held in the Western Cape. See his autobiography, *The Mission*, pp. 18–19.