Chapter Sixteen

On Trial

State versus Abram Fischer and Thirteen Others

The change from being a 90-day detainee under solitary confinement to an awaiting trial prisoner was bewildering and the transition unexpectedly confusing. In "solitary" I was unable to communicate with family, fellow-detainees or legal counsel, write letters or *talk!* As an awaiting trial prisoner I could "enjoy" all these facilities but the effects of solitary detention lingered. Fear of further interrogation and solitary confinement left me wary of everything connected with the police and prisons and the prolonged imposition of silence was contrasted by an endless need to talk.

I remained in solitary confinement from the first week in July 1964 until the third week in August, approximately 54 days after my arrest on 3 July. After being charged with membership of the South African Communist Party and furthering the aims of Communism, I was held with the other male detainees at the old Fort in Johannesburg.[1] Our cells in the men's section of the prison were constructed of steel, painted a dark gray, with lighter metal inner gates twisted in the shape of chicken wire. At night the "cages" were closed by a heavier metal outer door, but although the ambiance was chaotic, noisy and disorganized, it was a complete antidote to the silence we had experienced under solitary confinement. A part of the section still stands in the grounds of the Constitutional Court in Johannesburg, where the Fort once stood, probably viewed today by visitors as a quaint relic of the old regime. As we were technically the "property" of the prisons department, we were also subject to its regulations. The significance of this was that the special branch had less control over us, although we were not beyond their reach. They still considered us to be "political prisoners" despite there being no such category of offender in the prison regulations. Under the instructions of the special branch the prison authorities kept us apart from the common law offenders (as far as this was a possible in the chaos of the jail) and supervision was stricter. Anomalously, a cocky official named Brigadier Aucamp held the position of liaison officer between the special branch and the Prisons Department, the man acting as if his authority was greater than the commanding officer of the prison.[2]

The list of defendants for the trial finally took shape as the analysts in the security police sifted the evidence that they had extracted from 90-day detainees and from

information provided by informers and spies. The prize detainee was Bram Fischer, whose membership of the SACP had been well known to the special branch for at least a year before his arrest. Unlike the rest of us, the police initially treated him with extraordinary diffidence. They detained him three times and released him each time. On the first occasion (the day after my arrest) the special branch went looking for him, extending their search beyond Johannesburg to communist veterans Ray and Jack Simons who had a holiday house in Onrus along the garden route in the Cape Province. They just missed him there, but caught up with him in the little town of George on the next day (4 July) when once again they arrested him and promptly released him. On the third occasion they lay in wait for him when he arrived home on 8 July and raided the family house in Beaumont Street, Johannesburg. After extensive searches at his home and his lawyers' chambers, they kept him for three days under the 90-Day Detention Law, perfunctorily interrogated him on two occasions for an hour at a time and then released him! On 23 September, more than two months later and four weeks after Beyleveld (at the time a detainee) had divulged almost everything he knew of the SACP to his interrogators, they re-arrested him. The evidence they now had on him went well beyond his membership of a party cell and was damning. In addition they had two witnesses against him. This was what they were waiting for.

The eminence of the Fischer family (members of the Afrikaner aristocracy) may have made the special branch wary of summarily arresting him as they had everyone else in the movement they identified as threatening. His family's distinction went back more than a century. His grandfather, Abram, was an elected member of the old Orange Free State Volksraad before the South African War, and thereafter he was premier of the Orange River Colony. Bram's father, Percy, was judge president of the Orange Free State provincial division of the Supreme Court, and Bram himself was highly respected by his peers at the bar. Moreover he was an Afrikaner more eminent than any in government. Plainly, his Afrikaner heritage embarrassed them and their discomfort was increased by his attitude towards fleeing the country. (They knew from the informer who infiltrated his cell in the SACP that he was passionately opposed to exile, unless the person wishing to flee the country was a potentially damaging state witness.) Intimidation had not affected him as he had been subjected to police surveillance for years. It was a well-worn tactic of the special branch to arrest and release their victims, believing they would lead them to others. But the frequent rounds of his arrest and release did nothing to disparage him politically, not even the security branch ploy of distributing cheese and crackers "with the compliments of Bram", (making it plain that they were sent to his fellow detainees at Marshall Square). He was charged with the rest of us under the Suppression of Communism Act, but immediately applied for bail.

In this instance, his eminence and heritage helped him. “I am an Afrikaner,” he told the court during his application for bail. “My home is South Africa. I will not leave South Africa … because my political beliefs conflict with those of the government.[3] His counsel, Harold Hanson, referred to his distinguished family and impeccable standing at the bar, pointing out that only two days before his arrest he had been given a temporary passport to enable him to appear in a copyright case for a large pharmaceutical concern before the Privy Council in London. He had previously argued the matter in the Federal High Court in Salisbury, Rhodesia, but the matter had now gone on appeal. The magistrate (Van Greunen) responded unpredictably. It was clear to him that the interests of the state would not be damaged by his appearance before the Privy Council, because the ministers of Justice and the Interior respectively had already granted him a passport to leave the country. It would be “rather churlish”, he thought, for any court to prevent him from complying with his Privy Council brief. He was “a son of our soil and an advocate of standing in the country”. He was granted bail, although the prosecution objected to the application on the grounds that he was a member of the SACP’s Central Committee and if allowed bail would leave the country, as had many other communists before him. The hearing was remanded to 16 November to enable Bram to return from London in time to stand trial.[4]

Bram was revered in the SACP. He seemed to take personal responsibility for the arrest and conviction of the leadership, many of them on Robben Island or in exile. Numbers of people who had left the country (among them Hilda Bernstein and Ruth First) had guiltily met him at Beaumont Street or somewhere in secret before leaving, to tell him that they no longer had the forbearance to remain in South Africa. He heard them, but his mind was elsewhere and they left without his blessing, feeling that they had let *him* down. When I told him in the prison yard that I would probably leave the country after completing my sentence, he showed no anger, but I do not think that his grim experience in prison had changed his attitude towards exile. His was a rare mixture of compassion and commitment to the cause. His outward appearance of calm and care for others above his own concerns was as genuine as his mission to rebuild the Party. The measure I got of him in jail, when the tension and responsibility for leading the movement had passed, was of a man who would not allow grief and personal pain to interfere with the fight for social justice. If he spoke of his place in the struggle, his narrative would have been in the third person rather than the first; there were social forces that he felt one neither could nor should resist, and while personal matters were a distraction, the struggle for Socialism was the primary one.

When he left for London two months before the start of the trial, his mind was probably weighed down with the effects of personal tragedy over the death of his wife Molly, and the legal niceties of the case before the Privy Council. The confrontation that

he anticipated with the SACP exiles in London over his return to South Africa must also have weighed heavily on him. If the Privy Council cases was the official reason for his application for a passport to leave the country, his major concern was clearly to discuss his personal mission to reconstruct the "underground" at first hand with the leadership in London. For this he would need money, logistical support and their approval. It is inconceivable that his discussions with the exiles would have been confined to whether or not he should skip bail or stay with them in London. He was adamant that he would return. This was not because he had "given the court his word" as some comrades suggested, but that the course of action he intended to take was of a higher order of integrity than any pledge he might have made to an apartheid court. His thinking was political rather than personal and was expressed later in his letter to the court, when he wrote: "I have left the trial because I want to demonstrate that no-one should submit meekly to our barbaric laws." What he was proving was that if he was a "son of our soil", it was not only the prestige of his family that made him so, but that he had sufficient integrity to defy an immoral authority that was driving the country towards civil war, race hatred and ruin.

The SACP leadership – Slovo, Harmel and Dadoo among others – by all accounts implored him not to return,[5] but either he convinced them that his action was the right one (as Steven Clingman, Bram's biographer avers) or he wore them down by his stubborn insistence on building the underground at home rather than abroad. As money and logistical resources were initially forthcoming for his project, it seems that they decided to support whatever decision he might make. Sentiments attributed to some of the London exiles to the effect that he had "a quaint sense of ethics for a Marxist" were, I think, mistaken.

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The trial had been set down to begin on 16 November 1964 at the Regional Court in Johannesburg. To the surprise of many (including the government, the court, the special branch and many of his comrades) Bram returned in time to take up his position as accused No. 1 in what became known as the "Fischer Trial". Formally it was referred to as *The State vs Abram Fischer and Thirteen Others*. The hearing was to be in the magistrate's court only a stone's throw from the Johannesburg public library, the City Hall and the old post office, among the most identifiable landmarks in the city. Most of the accused "knew" the court and its precincts more or less intimately from previous charges. The magistrate, Mr S.C. Alan, an English-speaking official was relatively tolerant, but wary of communists. His reputation, to the best of our knowledge, was not overtly political. The senior prosecutor, Liebenberg, had appeared in the Treason Trial nine years previously and remained as uninspiring and bored-looking as ever. He seemed

far less enthusiastic about these proceedings than his two special branch "advisers" who sat on either side of him.

Counsel for the defence included Advocates Vernon Berrange, Denis Kuny and Ismail Mahommed (the latter was judge president during Nelson Mandela's presidency). Advocate Harold Hanson appeared for Bram while Joel Joffe, a pale and seemingly diffident young man appeared as our instructing attorney. Although he had acted in this capacity in the Rivonia Trial, I had never previously met him. Berrange and Hanson were veterans at the bar and Kuny and Mahommed relatively junior at the time. We trusted them with our lives and will always remember them for the passion with which they defended us. Any impression that Joel Joffe was diffident, however, was wholly misleading. He was tenacious, feared by the prosecution (who found his thoroughness daunting) and loved by all of us. Most of the accused in the Fischer Trial had been activists for a long time. They were listed in order of their alleged SACP responsibilities and included Abram Fischer, Ivan Frederick Schermbrucher and Eli Weinberg (all members of the Central Committee). Esther Barsel, Norman Levy, Lewis Baker and Jean Strachan (Middleton) were all members of the Area Committee. Ann Nicholson, Constantinos Gazidis, Paul Henry Trewhela, Sylvia Brereton Neame, Florence Duncan, Mollie Irene Doyle (all members of Jean Middleton's cell) and Hymie Barsel (Esther's husband), who was the only other defendant besides Bram Fischer to be granted bail.

Curiously, the time-scale referred to in the charge sheet was just over a year, from May 1963 until July 1964. These dates roughly reflected the occasion of the first cell meeting attended by Gerard Ludi (who infiltrated the SACP cell in which Bram Fischer was coincidently located) and the day preceding the majority of arrests. The short time-scale probably accounted for the special branch's indifference to anything I told them that did not refer to the recent past. The brevity of the period, however, did not make the charges any less formidable. There were three counts, all of them rather repetitious, but each carrying a maximum sentence of three years The first of these alleged that during the period mentioned, we had – in contravention of Sections 11 and 12 of the Suppression of Communism Act of 1950 – continued to be office bearers and members of the CPSA or the SACP – they saw the one unlawful organization as a continuation of the other.

Count two alleged in the most formidable of legalese that we had acted "in concert with divers[e] other persons in furtherance of a common purpose" to carry out the activities of the Party. The "common purpose" referred to "the replacement of the present state of the South African Republic by a Dictatorship of the Working Class".[6] Other activities included recruiting members, painting slogans, receiving banned literature and circulating party documents, such as, the cautionary paper entitled "Time for Reassessment" referred to in the previous chapter. This last was considered by the court to be a manual for the training of cadres in underground activity.[7] Another charge in this

long list was very specific: the "making of an arrangement with the occupants of a house in … Cyrildene, Johannesburg, for the purpose of holding an Area Committee meeting on 16 June 1964." The parochialism of the latter charge contrasted sharply with the generality of the overall theme of count three. This alleged that we had all acted in "common purpose" to further the objects of communism by carrying out acts designed to "establish a despotic system of government based on the Dictatorship of the Proletariat".[8]

At the time, we would have been glad to have gone to jail for starting a revolution rather than attending a meeting or painting. In a normal society nothing that we had done would have been considered illegal; the acts referred to were forms of peaceful protest, unexceptional in any democracy. The allegations stopped short of any charges of violence.

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The state's case against all the accused in the trial rested in varying degrees upon the evidence of Ludi and Beyleveld. Little of their personal lives is known beyond their relatively brief political involvement in the movement. Beyleveld was born in 1916 in the Orange Free State, in the small farming town of Rouxville in the former Northern Orange Free State. He gave no information about his parents or whether he had any siblings, although the surname Beyleveld is still common in Rouxville.[9] His education was minimal and was confined to "farm schools" at Goedemoed (near his birthplace) and in Windhoek, South West Africa, as it was then called. He became a farmer in 1934 at the age of eighteen and joined the South African army five years later.[10] He was very much a loner; a troubled person who had found recognition and respect in Congress, the trade unions and the SACP, to which he devoted all his energies. He may not have had access to higher education but his lack of learning did not seem to bother him and in the space of barely a decade rose in the ranks of the liberation movement to become the president of the Congress of Democrats; secretary of the Textile Workers' Union; the first president of the South African Congress of Trade Unions (SACTU) and was active in the District, Area and Central Committees of the SACP.

During his evidence one of the accused sent me a note asking whether he would have done as well if he had been better educated. I wondered.

Beyleveld sat on the Congress Allaince's national Consultative Committee where he displayed an impressive grip on Congress policy and a marked sensitivity towards the consultative character of the alliance partners.[11] I worked with him in the Congress of Democrats and in the SACP, staying with him and other expatriates in Swaziland during the state of emergency in 1960. He was attractive to women and had a number of extra-marital relationships. His wife Stella drove herself hard in an office-service facility she owned and in which he worked after he was banned. He came to the movement in 1943 or

1944, where he met Jack Hodgson, Rusty Bernstein, Brian Bunting and Cecil Williams. All of them were communists and founding members of the Springbok Legion. It was probably during the political lectures that they gave to the troops that Beyleveld was drawn towards the Left.[12] He had few friends as far as I am aware and seemed a dour, unsmiling presence at meetings and socially.

Despite this I would never have thought he would look us in the eye and betray us with the evident composure he displayed in the witness box. The explanation he gave for testifying as a state witness was spurious. In a message he sent to Bram Fischer before the beginning of the trial, he maintained that he was saving us all from more serious charges in a higher court, where we could face 10 years in jail.[13] Bram regarded this as self-serving and in a note smuggled into the prison told him not to testify at all. "Ten years was preferable to that", he wrote. But Beyleveld would have none of it.

In his evidence to the court the meaning of his message to Bram became clearer. He said nothing of the intimate relationship of the SACP to MK, and so avoided charges under the "Sabotage Act". Technically the congress organizations and the SACP were separate (the Rivonia Trial had already established that) and it was in Beyleveld's interest to stay with that "technicality" for fear of being seen as part of the overall conspiracy to overthrow the state by means of sabotage, for which the minimum sentence was 10 years. It was a case of "enlightened" self-interest in which his own personal liberty was more important to him than the liberty of all the others. As it turned out, he was the only witness against all the accused except those in the cell Ludi had infiltrated. Without his testimony we might have had a chance of acquittal. I doubt whether he had any feelings of personal loyalty to Bram as a fellow comrade and Afrikaner or to any of the defendants. He said as much in answer to our lawyer Vernon Berrange's questions under cross examination:

> If you could have saved even one name because the police didn't know about it, would you have done so? … *No.*
>
> Loyal party member? … *I gave the facts as I knew them.*
>
> You have said that over and over again to me. I am asking you a simple question. If you could have saved one person, loyal party comrade that you are, because the police didn't know about him, would you have tried to save him? ... *No.*
>
> Why not? ... *Because I realized when I made a statement that the only way I can do it is factually.*
>
> But if the police hadn't mentioned a certain incident, or a certain meeting, or a certain name … would you not have tried to at least save that person and that incident from the wreck? ... *No.*

In the witness box he looked unruffled and no more troubled than he normally seemed. He said he had made a statement voluntarily after two interviews with the security police when he was asked to reveal all he knew of the SACP's structures, but refused. Apparently he had been standing for three hours, but insisted to the court that he was neither tortured nor intimidated. On 20 August, the third occasion on which he saw his interrogators, he decided to make a complete statement about his activities in the SACP and to name his comrades. This he said, was "after a *discussion* which lasted six or seven hours",[14] in which he gained the impression from what he had been told that the police knew everything, and that the structures of the movement had been destroyed: "I recognized the situation that the party and its existence had been defeated," he said.[15]

In his evidence he described the SACP's organizational structure in detail, starting with the basic unit of the party cell. Above this were the Area, District and Central Committees and a Secretariat (referred to as the "Centre") whose members were chosen from the Central Committee. Up to this point, the party's structure had never before been publicly disclosed. No-one previously had been accused of membership of the SACP and the authorities did not actually acknowledge that it was an entirely different organization from the former CPSA.[16] Beyleveld testified that Fischer, Schermbrucher and Weinberg were members of the Central Committee and went on to state how long they had been members of this committee and how many meetings they had attended. At the same time he identified the "secret" places where they met.

With great attention to detail he referred to the meeting of the Area Committee on 16 June 1964, which the prosecution relied on for my conviction as well as that of Jean Middleton, Esther Barsel and Lewis Baker. After describing the dismal discussion we had there, Beyeleveld confirmed that we were members of that committee and prompted by the prosecutor, added our party code names – Bentley, Clara, Smithy and Sandy – in that order.[17] He gave a full account of the SACP unit that Ludi had infiltrated, amply corroborating the electronic recordings of the cell's proceedings and then named all the members of the cell. The significance of his evidence was that it corroborated the testimony of Ludi and all but guaranteed a jail sentence for each cell member. (Bram Fischer had seen from the outset that Beyleveld was the crucial "second witness" that the crown needed to secure our conviction.)

The only defence open to the remaining accused was to deny the truth of Beyleveld's testimony. Our lawyers were quick to advise us that the evidence of a truthful witness was the most difficult to disprove, but as there seemed to be no other recourse but to change our pleas to "guilty", we decided to challenge Beyleveld's evidence. It was, after all, his word against ours. However, the task of disproving Beyleveld's testimony was harder than we anticipated and the possibility of convincing the magistrate equally difficult. All this was compounded by the simple truth that we were all very bad liars. If

any of us had the wit, self-confidence and composure that Rusty Bernstein had displayed during his evidence at the Rivonia Trial, we might not have had to punch above our weight. Desperation, however, was a powerful incentive and Eli, Ivan, Esther, Lewis and I decided to enter the ring and testify that we were not members of the SACP and never had been; that if our political sympathies were similar, they reflected a mutual concern over the government's policies on human rights and race. Although we admitted the meetings had taken place, we would insist that the matters discussed there were entirely different from anything the witness had described.

Ivan and Eli testified along these lines with varying shades of emphasis on the depth of their involvement, each of them sounding less and less credible as their evidence proceeded. Ivan said he'd held the post of manager of the *Guardian* newspaper and subsequently *New Age* and *Spark.* For this he received a small salary. During his time there he had seen repeated police raids and the regular banning of the new titles under which the paper was published, but was nevertheless prepared to make the personal sacrifices this entailed because he believed in the principles for which the paper stood – which may also have coincided with the party's positions. He appeared angry and in the witness box, aggrieved over what he believed to be his wrongful arrest. He had smuggled a note out of the prison complaining about his 90-day experiences in which he berated the special branch for its treatment of him. (In the witness box, he omitted the uncomplimentary parts of this note, which only added to the magistrate's scepticism about his evidence.)[18]

His impression on the court did not improve as he explained that he'd socialized and also worked with communists on a number of bodies such as the Amnesty International Committee and the Society for Friendship with the Soviet Union, but was never a communist and had never been asked to join the party. He claimed that Beyleveld was lying when he referred to him as a member of the Central Committee. He was not a party member, although he endorsed "a substantial portion" of communist doctrine and approved aspects of the Communist Party's programme. (Mercifully he was not asked which portions of communist doctrine he did not accept.) The magistrate eyed him intently and occasionally intervened, but gave no indication of whether or not he accepted his evidence.

Eli Weinberg followed but found it more difficult to separate himself from the SACP and disavow his communist principles. He admitted to his membership of the former Party from 1933 to 1950 and said he was not a member of the SACP in view of his need to concentrate on his photographic business and support his family. Yet he still held to his communist principles and read the publications of the SACP. He had previously been a trade unionist and still supported the work of the South African Congress of Trade Unions (SACTU). He regarded himself as an activist in that organization, despite raids,

prosecutions and detentions. He denied that the meetings he was alleged to have attended were those of the Central Committee. This was a fabrication of Beyleveld's.

He might have fared better if he had a more plausible story and had not run into some difficulty in explaining his possession of a key belonging to one of the "safe" houses in which (according to Beyleveld's testimony) a number of CC meetings had been held. Evidence of the key had been provided by the owner of the "safe" house, an old Party sympathiser, who had been called as a witness for the prosecution. Eli refuted the notion that he had used the venue for a Central Committee meeting; he said he had acquired the key because he was banned from attending meetings and wished to discuss an important memorandum with an official of SACTU before the document was sent to the Chamber of Mines. Pressed by the prosecution to disclose the name of the individual he had met, he identified an African female as "Emily".[19]

This led to some ambiguous comment from the prosecution and also from the magistrate, leading Eli to respond with indignation that there was nothing improper about the meeting. His whole demeanour changed. He was barely five feet tall and drew himself up to the full height of the witness stand to tell the court with quaint eloquence that he knew how to conduct himself! He then waited for the court to respond. The prosecutor knew better and let the matter rest there. Unfortunately Eli's confidence as a witness waned as the cross-examination proceeded, something the magistrate was quick to observe. Apart from this he noted at the end of the trial that Weinberg was taking too many risks for a person who was *not* a party member. He believed the meeting with Emily (and other meetings) had been invented in order to explain his possession of the key. In his opinion, the meetings in question were for no other purpose than for meetings of the Central Committee. In his summary at the end of the trial, the magistrate remarked without a hint of embarrassment that "it was strange conduct on the part of a white man to meet a Bantu female in a flat for the purpose suggested". On Appeal, the judge in the Supreme Court referred to this remark as "rightful comment" on the part of the magistrate.[20]

Despite this shameless bias of the court, Weinberg's fate was sealed by the conflict of his evidence with Beyleveld's testimony, his deflated demeanour half way through his cross-examination and his spurious evidence. Neither the magistrate nor the judge on appeal found it believable that Ivan or Eli would expose themselves to the risks of arrest, banning and detention if they were not also members of the Communist Party.

Esther Barsel was more composed when she entered the witness box. She looked sincere, confident and serenely blended fact with fiction to set the scene for the meeting of 16 June.[21] Defence counsel, Ishmael Mahommed, described her performance as "regal". On this we all concurred. She said we were all like-minded people and the discussion at the meeting had been wide-ranging, encompassing the raising of finances for

the defence of the accused in political trials and the education and welfare of their dependants.

When it came to my turn give evidence, I expected to be questioned on my activities of the past 20 years. But the only point of importance to the court was whether I was a member of the SACP during the limited timeframe of the charge sheet and whether I was politically active on 16 June 1964. Asked whether I knew "communists", I said that I had as many non-communist friends as communist ones. I was sympathetic to the struggle against the government's racial policies and was keen to assist in the efforts of former colleagues in the Congress of Democrats to address the educational needs of the dependants of political detainees. It was for this reason that the meeting of 16 June had taken place.

I denied that it was a meeting of the Area Committee and corroborated Esther's evidence in insisting that it was a gathering held soon after the Rivonia Trial to consider the plight of political detainees and their dependants. We had each been invited for our special expertise: Lew for his legal knowledge – he had appeared in many political trials and was well placed to solicit the support of other lawyers; Jean and I for our educational experience as teachers; and Esther for her fund-raising and organizational skills. Beyleveld chaired the meeting. As he was prohibited from attending gatherings, we met at a "safe" venue, which Esther had arranged.

Liebenberg left no stone unturned in demolishing my evidence over the three days of my testimony. His questions were sarcastic and discursive, adding approximately 300 pages to an already overblown court record. He dwelt at length on my relationship with the SACP – the risks I was prepared to take even though I was not a member of the party; my views on Communism; and my interaction with Joe Slovo, Ruth First and the "communists" with whom I worked in the Congress of Democrats. He insisted that the COD was a "front" for the SACP; that it "galloped" along with the other congresses and dictated policy to the ANC in accordance with its communist objectives. "All was a camouflage" to conceal the real activity of the communists behind the scenes. His questions ranged from the particular to the general without regard to the coherence of his cross-examination or my disposition, as in the following exchanges:[22]

> Didn't you try to emulate Joe Slovo ... *In what way?*
>
> To revive the activity of the Wits [university] campus …*No Sir, I played no part in that.*
>
> Now, your brother Leon Levy was as active as you were, wasn't he? ... *I would say so, yes.*
>
> Yes, and he used to walk around with Lenin['s] *What is to be Done*? ... *I have never seen him walking around with it.*

Is it just incidental that you moved around in Communist circles? ... *I didn't say that I moved in the Communist circles at all.*

… [T]he Congress of Democrats galloped along with the other organizations? ... *I wouldn't say that it galloped along with them. It had a common programme with them.*

These were the people who possessed a theory, who possessed a definite objective, who knew how to formulate plans and schemes. ... *The Congress of Democrats never had a theory, it never had a philosophy behind it. It was committed to the Freedom Charter, which was an open democracy with fundamental basic human rights. That was the total extent of its aims. It never was a party that subscribed to any theory or philosophy.*

But its members had the philosophy? … *[I]ts members have many philosophies … there is no sole philosophy, which one might say is the aim of the Congress of Democrats other than what is contained in the Freedom Charter …*

You see, the Congress of Democrats had a very opportunistic policy. It merely stated a broad objective of full democracy? ... *I wouldn't say that was an opportunistic policy. It was a policy based on the United Nation's Declaration of Human Rights, which had its roots in the Declaration of Man and the Declaration of Independence. It was, I would say, an aim of fundamental freedom common all over the world.*

Yes, and that I suggest to you was just a camouflage Mr Levy? ... *Camouflage for what?*

Oh, to conceal the real activity of the Communists behind the scenes …

Having diverted the focus of his cross-examination to the wider political argument, he suddenly switched to the statement I had made during 90-day detention, hoping to insinuate it into the court record and to demonstrate the disparity of my present testimony with the statement I made under interrogation. In doing this, he had unintentionally opened a can of worms.[23]

That brings me to another point. Did you say to the police that you had gone to a meeting at Stanley's place? Yes or no? ... *[A]nything … I might have said to the police … was made under 90-day detention and very severe conditions of interrogation. I stood on my feet for over a hundred hours in three sessions and any statement that I made to the police would have been forced out of me after hours and hours of standing and tremendous fatigue. I do not want to comment on anything the police might have said in this direction.*

> Yes, I expected you to come with that cock and bull story. ... *I deny your Worship that that is a cock and bull story. I think … that that is a very cruel way of describing the treatment that I received at the hands of the Special Branch under 90-day detention.*
>
> You haven't answered my question yet ... *I answered your remark.*
>
> Did you say to the police that you had gone to the house of Stanley?
>
> Mr Berrange objects: … [A]nything that this witness is alleged to have said to the police, must be established by my learned friend as having been made freely and voluntarily … and unless that pre-requisite has been met, my learned friend is not entitled to refer to any statement made by the witness to the police and the witness has already indicated that any statement that he made was not made [voluntarily].

At this stage the magistrate intervened to say that he would allow the question if it were reformulated – and actually rephrased the question for him: "Did you make a statement to the police which conflicts with the statement that you are making now?" The prosecutor, however, decided to put the question less directly and was completely distracted in the process.

> Now My Levy, you gave His Worship such an innocent explanation of the meeting you attended on the 16th June. ... *It was the truth, sir.*
>
> Why couldn't you give that innocent explanation to the police? ... *Your Worship, when I was taken from solitary confinement after 27 days to COMPOL Buildings in Pretoria, where interrogation took place, I said to the nine interrogating policemen that I was not aware of the charge that was being laid against me. I did not know whether anything I said would be incriminating. If I was properly charged and brought to Court I would answer all questions put to me by His Worship.*

The prosecutor was becoming increasingly rattled and did what he clearly intended to avoid – entering into a dispute with me over my comments on the security police's methods of interrogation.

> You say you gave the same explanation to them that you are giving now? … *I stood at COMPOL Buildings for 42 hours on the first occasion in one spot. I made an explanation to the Special Branch, explaining the nature of the meeting. They would not accept it. I came on another occasion, I made the same statement. They said: "We want more." I said I have no more to tell you. They asked me what else I had to say about myself. I told them about my activities in*

the Congress of Democrats from the date of my joining that organization until its dissolution in 1962 … I was brought to COMPOL Buildings on a third occasion and a whole lot of facts were thrown at me. I was made to stand and the police told me a whole lot of things. They told me that I would stand there and stand there unless I was prepared to make a statement. Your Worship, under these circumstances I simply wrote down what the police told me.

Why couldn't you sit down? ... *Your Worship, a chair was placed behind me on the first occasion to tempt me to sit down, and it was indicated that if I did sit down I would be physically assaulted. It was not possible to sit down. A chalk circle was made for me, I was asked to stand in that chalk circle and if I as much as moved my feet, I was told to [keep standing] in that circle. When I wanted to go to the cloakroom [meaning the toilet] I dragged my feet … escorted by a policeman. I was told not to wash my face in case I should regain my strength – and be less tired. I was brought back to the interrogating room and further interrogation took place. Under these circumstances I made the statement …*

Yes, you have also instituted civil action against the police. ... *I understand sir that my attorneys have …*

Yes, you are now doing your best, your very best to try and bolster up your story. ... *I am doing nothing of the sort sir. I am merely indicating to you the nature of the interrogation and the circumstances under which the statement you are referring to, was made.*

The whole lot of you got together and you fabricated a case against the police?

Liebenberg's perseverance was beginning to weigh on me and I became increasingly blunt in my replies to him, adding as much as I could to corroborate what I had said about special branch treatment, telling him that the district surgeon had seen me at COMPOL Buildings and done nothing to stop them from continuing their "treatment". I had also seen the visiting magistrate two or three days after one interrogation session and complained about the standing torture, but he simply wrote it down in a very full minute book (page number 83D) and did nothing about it.

The end to this part of the cross-examination came quickly, as Liebenberg dug his heals in and refused to accept my evidence:

I still don't see why you couldn't have sat down and refused to get up? ... *It was perfectly clear that if I had sat down I would have been bullied and I would have been assaulted. I did not want to do that for health reasons or for any other reason.*

> Then you preferred to become exhausted? ... *It is not that I preferred to become exhausted at all, sir. That was one of the phrases put to me by the Special Branch; that "This is murder. You are doing this to yourself. Why don't you tell us what we want to know and then you can sit down and you will be less tired."*
>
> I have been standing in this Court now for how many days, Mr Levy … *Try standing, sir, in one position for 42 hours. Try standing in one position after solitary confinement, after that for another 32 hours.*
>
> I would have sat down and you could have sat down too ... *Perhaps, sir, I was foolish not to get a boot in my face, but I decided against it.*

If I thought the prosecutor had failed to confuse or surprise me, he could at least embarrass me. This he did, egged on by the special branch investigating officer who was keen to demonstrate the humanity of his men in the special branch. So Liebenberg referred to the cake they had "clubbed together" to buy for me on my 35th birthday. He made the most of the situation to make me squirm in the witness box, while casting the security police in a favourable light. The exchange between us was frosty:[24]

> Yes. And the police clubbed together and bought you some cakes … and you had a nice celebration with them? ... *That was a very humiliating experience. I had been standing for hours and hours on end … I said to them: "Well, tomorrow is my birthday are you going to make me stand again?" On that day they brought the cake, they all stood round the room. Their motive may have been a good one but I fail to see or appreciate that they felt any regard at all, I was humiliated by it; I didn't reject the cake, I could not say anything, I didn't make any speech in thanking them for the cake. I also felt that it was possibly an attempt on their part to make other people say all sorts of things about me, by taking the cake that they bought for me and passing it round to other people who were interrogated at COMPOL Building and saying things that possibly I had not said. I was very embarrassed, very humiliated by this.*
>
> Mr Levy, I was told that you rather over-indulged? ... *In the cake?*
>
> Yes? ... *I did have a piece of cake I may have had two pieces of cake. I do not know that I over-indulged, if I did, I wouldn't deny it.*
>
> Yes, to come back to this meeting of the 16th June …

And so it went on. He wouldn't give up! Finally, I left the witness-stand to join the other defendants in the dock. It was the most galling three days of my life.

Lewis Baker's evidence was in marked contrast in style and tone from mine. Displaying all the confidence gained from years spent in the courtroom, he quietly

corroborated my evidence of the meeting of 16 June and convincingly insisted on his innocence. Unfortunately he had to deal with past activities about which it was difficult for him to be silent. He had been a well-known member of the CPSA until it was dissolved in 1950. He casually explained that he was a communist and continued to be one, but did not join the SACP as the demands of party work would interfere with his "one-man" legal practice. He might not have been quite so forthcoming about his Marxist past but for an incident with an employee and fellow comrade, one Simelane, who had been forced to make a statement under the 90-Day Detention Law regarding lectures Lew had given to him and another comrade, in 1962. The lectures were in history and communist theory. Initially, Simelane who had been brought to court against his will by the prosecution, bravely refused to testify, but agreed only when asked by our lawyers to do so.

In all this Lew took the stand with the confidence and unassailable self-assurance of a lawyer whose conduct was beyond suspicion. He denied that the lectures were given as part of an SACP study class: they were quite independent of the party and had only taken place for three months before they were discontinued, due to pressure of work in his law firm. If Esther's performance was "regal", Lew's was flawless.[25] Judge Galgut, who heard our case on Appeal could not fault him, except to say that his fate was bound up with Esther's and neither he nor the magistrate accepted her testimony.

It would have been interesting to have seen what the outcome of the case would have been if our story had not begun to unravel. This happened when the prosecution probed Esther's explanation of how she came to have arranged this particular venue for the meeting in June. Once again it was a small matter of a key. As in the case of Weinberg, the owner of the premises was called to testify on the circumstances under which he had given Esther the key. His evidence was that she had told him that she wished to entertain her friends, whom she could not invite to her home because her husband was banned from attending social gatherings. She quite explicitly (and I thought convincingly) told the court that she had held two such meetings, the one in June and another in April that year, at which banned persons had been present.

Unfortunately Beyleveld's resistance to our evidence was intense. His liberty was more important to him than our story. He was unshakeable on the purpose for which the meeting had been called. It was our word against his – and he was adamant that the gathering was an Area Committee meeting, convened to discuss a report of the District Committee. As the former had not met for very long, he said, the meeting was aborted and little of significance was discussed before the members dispersed. "I don't think it lasted for more than an hour," he said "and most of the time we just sat and chatted".[26] If Beyleveld could not be shaken from his evidence, neither could the magistrate accept our story. He believed the whole thing had been concocted and that the secret venues had

been acquired to avoid the attention of the authorities. The meeting of 16 June he said, was a communist one.

> Considered in complete isolation, the defence version of the meeting of the 16th June ’64 is reasonably possible. As told by Accused No. 4 [Esther Barsel] it becomes to my mind unreasonable. Considered against the setting and the background as depicted in the evidence, the whole fabric of the story to my mind falls to pieces. I am left with the alternative story told by Beyleveld, which I accept.[27]

In his summing up, and in the view of the judge on Appeal and the judge president, this was confirmed. None of us was to be believed. In my case, Judge Galgut was quite explicit:

> It is inconceivable that with his background and association with communists, he would not have known that Beyleveld was an active Communist and a member of the Area Committee … Number 5 accused [meaning me] must have known of the membership of all these people, and for a man in his position to attend a secret meeting indicates, so it seems to me, that he too was a Communist.[28]

***

Ludi’s evidence was as devastating as Beyleveld’s had been. As a master of “spin” he projected the self-image he wished others to have of him, especially those in the special branch who he most intended to impress. He was contemptuous of the accused in the dock, anxious to attract the admiration of his superiors and the spectators in the gallery. His evidence was supported by tape recordings of the SACP cell he had infiltrated in May 1963 and remained in until the 3 July arrests, submitting scores of reports to his superiors. His evidence was complemented by the transcripts of Klaus Schroeder, a special branch officer, who had been installed in an apartment next to Jean Middleton’s flat, where he could see who visited her and record her private conversations by means of bugging devices placed inside her premises. (We spent a day in court listening to the transcripts of his recordings, which were voluminous, prurient, and often inadmissible as hearsay evidence.)

Ludi’s testimony ranged from reports of the discussions held at the cell meetings to details of the Marxist study classes he attended and the unit’s alert response to the party document, “Time for Reassessment”. This he had copied before returning to Jean Middleton, who (unusually) allowed him to take it away. According to Ludi, “she suggested I take [it] somewhere and read it on my own … I then immediately phoned

Seargent Kleingeld … and instructed him to make a photocopy of it". It turned up in court as "Exhibit J".[29]

He spent much of his three days in the witness box detailing a list of impressive activities of the SACP unit he had infiltrated. These included painting slogans in public places, distributing party leaflets and participating in the other illegal activities. Meanwhile his erstwhile comrades in the dock listened to him, appalled at the enthusiasm with which he anticipated their hasty dispatch to prison. His appearance as a police witness had not surprised them because it had become apparent to some of them during their interrogation under the 90-Day Detention Law that *he* was the mole that had informed on them. His evidence was damning, especially the bleak image he depicted of the Party and the incriminating evidence he gave against them and Bram Fischer, whose misfortune it was to have been a member of that cell.

Ludi was followed by Professor A.H. Murray, the state's expert witness on communism. Bram and I were the only two defendants who had heard Murray before. He reproduced the same drivel as he had in 1957 and 1960 at the Treason Trial and again in 1964 at the Rivonia Trial. He had learnt nothing new in the seven years since his first appearance and was just as arrogant. His appearance as an expert witness this time served to bloat the trial record and add more documents to the long list of court exhibits. In all his appearances, the defence counsel was obliged to cross-examine him in order to refute the worst of his inexpert opinions.[30]

He would have gone on talking for longer had the trial not taken a surprising turn a few days after his appearance. Although we had just returned from the Xmas break, the defence applied for a 10-day adjournment, which was granted. It is not entirely clear to me why our lawyers made this request but as we were in no hurry to conclude the trial (jail seemed imminent) we were happy to spend the time at the Fort, reading, writing letters to family and friends. When we were not in the cells we sat in huddles in the yard or walked up and down the narrow quad, talking about anything and everything unconnected with the idea of spending the next four or five years in prison. When the hearing resumed on the morning of Monday 25 January, we entered the dock unsure of what we might expect next from either the prosecution or the defence team. What transpired was hugely encouraging. Bram had broken his bail conditions and gone underground. His absence from the court at that moment came like a bolt from the blue to all of us and I expect to many people in and out of the courtroom. The image of Harold Hanson, Bram's high-powered counsel, tall, elegantly dressed, but looking a little bereft that morning, remains with me. He had in his hand a letter from Bram (found under his door at Chambers, he said), which he read to the court:

> *By the time this reaches you I shall be a long way from Johannesburg and shall absent myself from the remainder of the trial. But I shall be in the country to which I said I would return when I was granted bail … I have not taken this step lightly. As you will no doubt understand, I have experienced great conflict between my desire to stay with my fellow accused and, on the other hand, to try to continue the political work I believe to be essential. My decision was made only because I believe that it is the duty of every true opponent of this government to remain in this country and to oppose its monstrous policy of apartheid with every means in his power. That is what I shall do for as long as I can … If by my fight I can encourage even some people to think about, to understand and to abandon the policies they now so blindly follow, I shall not regret any punishment I may incur. I can no longer serve justice in the way I have attempted to do during the past thirty years. I can do it only in the way I have now chosen.* [31]

Ruth First used to say that Bram's prose read like a barrister's brief. This, however, must have been the monumental exception. His final paragraph, an appeal to the magistrate, was a warning – in Bram's discreet language, an *urge* upon the court – "to bear in mind that if it does have to punish any of my fellow accused, it will be punishing them for holding the ideas today that will be universally accepted tomorrow".[32] As Harold Hanson walked towards the bench to hand the letter to the magistrate, Broodryk, the special branch adviser to the prosecutor, leapt towards him and took the envelope from counsel's hand as if he were grasping at a piece of Bram.

Liebenberg's response was more articulate, but no less angry. He described Fischer's flight as "the desperate act of a desperate man and the action of a coward". In the dock we could not conceal our glee. We did not consider his action cowardly, it was precisely what we had expected of him. If Bram had not left the trial in January after Ludi's evidence was completed, he would most likely have had to reconsider his plea of "not guilty". This, the members of his cell were advised to do in February 1965, although it was evident from the statements they subsequently made from the dock that they offered no apologies for what they had done. They still adhered to the principles of human rights and equality and freely admitted that they were members of the SACP and believed that the answer to the country's problems lay in the ending of the apartheid system and the development of a socialist South Africa. They were proud of the philosophy and ethics for which they were being sent to jail.

As the trial drew to an end, we all speculated on the outcome. I had no doubt from the start that we would all go to jail. Back in the Fort, before sentence was passed, Lewis Baker and Ivan Schernbrucher still felt optimistic that the court would not convict the members of the Area and Central Committees on the strength of one witness. I had no

such faith in the legal process. Significantly, the magistrate at the trial went to extreme lengths to ensure that Beyleveld's evidence was not accepted uncritically. To all intents and purposes he treated him as an accomplice on all counts and laid much emphasis on his credibility.[33] In the judge's view at the subsequent Appeal Court hearing, he was not merely a witness with a possible motive to tell lies about an innocent accused, but was well equipped because of his inside knowledge "to convince the unwary that his lies are the truth". Although this applied to all accomplices who gave evidence against their fellow accused, it was particularly pertinent in Beyleveld's case. He was conversant with all aspects of the SACP, the court noted, and had a special desire to win his liberty – knowing that he could be detained under a 1963 Act for a long time.[34] But in the final analysis they chose to believe him. Sarcastically, the judge reflected on the easy manner in which "a man so dedicated to the part" could capitulate so readily under special branch pressure. He concluded that Beyleveld had "fingered innocent people" to cover up for others in the leadership.[35] These observations notwithstanding, they found him "a truthful witness" despite their awareness that he was prepared to betray his friends for his liberty and might (if necessary) perjure himself to win that liberty.

The verdict was a foregone conclusion. Of the 14 persons originally charged, 12 were found guilty and only Hymie Barsel discharged. Bram, in the words of the court, had "absconded" during the trial, while three quarters of the way through the proceedings, Jean Middleton, Ann Nicholson, Flo Duncan, Paul Trewhela and Costa Gazidis had changed their pleas to "guilty". All of us were found guilty of membership of the SACP (count 1) and carrying out its aims and objectives (count 3). The allegations in count 2 were "split" between the other two counts: it followed that if we were members of the SACP and attended the meetings of its committees we were members of the SACP and had furthered the objects of communism. That effectively took care of count 2.

In the week before sentence was passed, the court had adjourned and we were left to ourselves at the Fort to attend to the minutiae of domestic matters and the larger concerns of family and children. These had gradually receded from our reach to become the responsibility of others as the trial edged towards closure. In my case it was Philippa, who with meagre resources would have to shoulder the responsibility of maintaining the family and preserving the home. Pre-occupied with these matters I walked up and down the busy exercise yard, awkwardly avoiding the inmates' laundry, a patchwork of shorts, shirts, jeans and underwear laid out to dry before their owners appeared in court. They too were apprehensive over the length of the prison sentences awaiting them. They mumbled words and jumbled numbers that I did not understand: "two to four, five to eight, nine to fifteen, GBH and the *merrie*. These I discovered were references in prison jargon to the statutory length of time they were likely to serve in jail, the latter numbers depending on whether there were aggravating circumstances such as violence and grievous bodily harm

(GBH). In certain circumstances an accused would be sentenced to strokes with a light cane on the buttocks, while lying straddled across the *merrie* (the wooden structure built in the shape of a horse).

Not all were contemplating their potential sentences. A syndicate of prisoners, "in for fraud", who often joined us in our walks in the yard, cursed the court for its bias or the inadequacy of the magistrate. They were a group of white-collar fraudsters "shocked and disgusted" at the "corruption of the law", speaking as if the latter was something they regularly respected and adhered to. One of the inmates, less given to matters of jurisprudence than the others in the yard, joined us as we walked in a line along the concrete quad, our heads down like all the others. He had clearly decided that it was time for us to think of the more practical matters that were to confront us and regaled us with details of what the prison protocol was likely to be once sentence was passed. He spoke with an air of authority, if not some experience. According to him we'd be brought back to the Fort and then placed in leg-irons on entering the prison van and taken to Pretoria. There were other jails, but he had no doubt we'd be taken to Pretoria. As he warmed to the subject, one of the inmates overhearing his unending narrative grabbed him by the arm and told him to shut his mouth and not tell things like that to people like us. As it turned out, he prepared us quite well for what followed on the day that sentence was passed.

When that day arrived and we left the Fort for the court, the trial was in its seventh month. The courtroom was already crowded when we walked up the stairs from the well of the court to take our seats in the dock for the last time. Although it was primarily a trial of "whites", the support of Africans never let up, despite the length of the case and the boring technical arguments over the law. Philippa came to court regularly and was already in the spectators' gallery when I arrived. If she thought that I was likely to receive a long prison sentence, she had said nothing during her visits to the Fort. In the courtroom that morning she smiled bravely and made a supportive nod as she looked in my direction.

The magistrate dealt decisively with the evidence of all the accused and soon left the court. All but one of the accused (Hymie Barsel) was found guilty of "the crimes of being members of the Communist Party" and carrying out acts to further the objects of communism. Pleas in mitigation of sentence made no impact on him: he had made up his mind. Ivan and Eli on the Central Committee received five years imprisonment; Esther, Lew and I, on the Area Committee, three years each. Ann, Mollie, Sylvia and Paul each were sentenced two years and Costa one year, all of them for their membership and activities in the same party unit.[36] As the magistrate hastily left the bench, Eli led the accused in the customary singing; fists raised high and each one of us defiant in the certainty that far from this being the end of the road, it was a new turn in the struggle. The belief that we would in the end succeed in bringing the regime down was without doubt in our minds. It was this confidence in the future, this assuring sense of certainty that had

made arrest, detention, torture and the weariness of a long trial endurable. And now it would be the spur to overcoming the destructive effects of imprisonment.

Not everyone felt as we did, especially those on the outside who realistically saw what devastating effects our absence would have on our families, especially on the children. It was this thought that struck me as the magistrate pronounced sentence – the long absence from the children. The babble I had heard in the exercise yard was still with me, the numbers buzzing in my head: "two to four, five to eight, nine to fifteen". Simon would be five when I returned, Deborah barely nine and Tim fifteen. Sentence had been passed on all of us, the families too. Philippa was left to pick up the pieces. She shared the sense of certainty that the favourable outcome of the struggle was "inevitable", but in the interim the extended (political) family would have to fill the void created by our separation. It was with these thoughts in mind that I climbed into the prison van for the journey back to the Fort and then the uncomfortable trip to Pretoria in precisely the manner described by the hapless inmate who spoke from the heart, having obviously experienced the shuffle and the clank that everyone familiar with leg-irons knew so well.

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On Appeal

The magistrate's verdict went on appeal to the Supreme Court and that court's judgment was delivered after we had already been at the Pretoria Local Prison for four months. The trial court record ran to 3 500 pages exclusive of exhibits, some of them lengthy. Only Ivan, Eli, Lew, Esther, Molly Doyle [Anderson] and I were thought to have had sufficient grounds on which to appeal. The verdict in the trial court was upheld. Judge O. Galgut, who heard the appeal, noted that "the magistrate was seen to be fully justified in finding [that] the merits of Beyleveld as a witness were beyond question". He was unable to say the same about the accused, whose "demerits" were similarly "beyond question". In approving the judgment Mr Justice Quartus de Wet, judge president of the Supreme Court in the Transvaal Division – the same man who had sentenced Mandela and all but two of his fellow accused in the Rivonia Trial – confirmed Judge Galgut's findings and said that the magistrate "had not erred on any point of law or failed to consider any factor which might have favoured the accused". Becoming even more indulgent, he added:

> Bearing in mind that the trial court … had an opportunity of assessing the credibility of the witnesses, I find it impossible to come to the conclusion that the magistrate was wrong. In fact, on a reading of the relevant evidence, I find myself in agreement with the magistrate.[37]

Chapter 16

1 Bram Fischer was granted bail, as was Hymie Barsel later.

2 See James Kantor *A Healthy Grave* (Hamish Hamilton, London, 1967) for his comments on this official.

3 Steven Clingman, *Bram Fischer, Afrikaner Revolutionary* (David Philip, Cape Town, 1998), p. 338.

4 When it came to Eli Weinberg, who applied for bail at the same time as Fischer, his application was refused. His counsel (Vernon Berrange) argued that he was a professional photographer and the only family breadwinner. But as Weinberg did not have the credentials of Fischer, the magistrate did not find his application as compelling. Weinberg promptly joined us in the Awaiting Trial section of the Fort.

5 Clingman, *Bram Fischer*, p. 345.

6 See Annexure B, Case G375/64, *State vs Fischer and Thirteen Others, Further Particulars to Count 2*, para b.

7 See Annexure B, Case G375/64, *State vs Fischer and Thirteen Others, Further Particulars, to Count 2*, para 16.

8 See Annexure B, Case G375/64, *State vs Fischer and Thirteen Others, Further Particulars, to Count 3*, paras a, b and c.

9 UCT, Manuscript and Archives Library, *State vs Abram Fischer and Thirteen Others*, BC ZA 87/42, 1964 (hereafter referred to as Transcript Fischer Trial, 1964), p. 74.

10 Transcript Fischer Trial, 1964, p. 74.

11 Beyleveld was the official COD representative on the National Consultative Committee (NCC) and I was the Committee's secretary. Later Ben Turok became the secretary and Beyleveld continued as the COD representative.

12 Transcript Fischer Trial, 1964, p. 75.

13 See *Judgment in the Supreme Court of South Africa, by Judge O. Galgut, Delivered 31 August 1965*, p. 11. The judge noted that Beyleveld knew that he could be detained for a long time under Section 17 of Act 37 of 1963.

14 Transcript Fischer Trial, 1964, pp. 102–103. For a succinct summary of Beyleveld's evidence against Schermbrucher, Weinberg, Barsel, Levy, Baker and Doyle, see *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965* (my emphasis).

15 Transcript Fischer Trial, 1964, p. 142.

16 This was apparent from the charge sheet.

17 Transcript Fischer Trial, 1964, p. 2436.

18 Transcript Fischer Trial, 1964, pp 2176–7, 2012, 2174 and 3511. See *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*, p. 15.

19 Transcript Fischer Trial, 1964, pp. 2325–2327.

20 See *Judgment in the Supreme Court of South Africa by Judge O. Galgut,Delivered, 31 August1965*, p. 17.

21 For evidence of Esther Barsel, see Transcript Fischer Trial, 1964, pp. 2385 ff.

22 Transcript Fischer Trial, 1964, p. 2678–2681, 2684 and 2686.

23 Transcript Fischer Trial, 1964, pp. 2724–2765.

24 Transcript Fischer Trial, 1964, pp. 2837–2838.

25 See *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*, p. 25.

26 Transcript Fischer Trial, 1964, p. 162.

27 Transcript Fischer Trial, 1964, p. 3528 (my emphasis). For the magistrate's general remarks on accused Nos 4, 5, 6, see pp. 3526–7.

28 *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*.

29 Transcript Fischer Trial, 1964, pp. 371 and 372.

30 "Irrelevant" was the opinion of the defence council as well as the magistrate. See Transcript Fischer Trial, 1964, p. 3492.

31 Extract from Fischer's letter to the court, cited in Bizos, *Odyssey to Freedom*, p. 299.

32 Cited in Bizos, *Odyssey to Freedom*, p. 300 (my emphasis).

33 *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*, p. 10.

34 On the treatment of evidence by an accomplice, see *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*, pp. 10–13. The legislation under which Beyleveld could have been held for up to ten years, was Section 17 of Act 37 of 1963.

35 *Judgment in the Supreme Court of South Africa by Judge O. Galgut, Delivered 31 August 1965*, p. 11.

36 See Transcript Fischer Trial, 1964, pp. 3491–3530 and 3539.

37 Quartus de Wet, judge president of the Supreme Court of South Africa, Transvaal Provincial Division, affirming the judgment of O. Galgut in the Supreme Court of South Africa, 31 August 1965.