

16/2/1961

MR. FLEWMAN: My lords, there are two accused 1
absent this morning, the accused Tyiki and the accused
Lollen. I am given to understand that the bus left a
little early and that that may account for their absence
but I have no other information at the moment, my lords.

RUMPF J: Yes; we will proceed in their 5
absence.

MR. V.D. WALT: My lords, I want now to deal
with the evidence against accused Faried Adams, that is
accused No.1. A written argument has been prepared, my
lords, and I beg leave to hand copies to the Court. 10

Section 'A' sets out the overt act alleged
against this accused and paragraph (d) deals with his
membership of organisations, and it is submitted that
he was an executive member of the Committee of the Trans-
vaal Indian Youth Congress in 1955, and I refer your lord- 15
ships to a letter written by the accused and the signature
was admitted in Court by the Defence, and this letter
reads as follows: "Sirs, this is to inform you I shall
be refraining from attending any meetings of the Executive
Committee of the Transvaal Indian Youth Congress or any 20
of its subsidiary bodies until such time as the Youth
Congress decides to revoke its present policy of probing
into matters which are personal and which have no bearing
on the Youth Congress whatsoever. I am forced to take such
decision because I feel that this policy is most undemo- 25
cratic and against all the principles laid down in the
great Freedom Charter, and I cannot abide by such a policy.
Kindly inform the various sub-committees on which I have
been serving of this decision. Matters which I have been

handling on behalf of the Youth Congress will be transferred 1
in due course. Yours faithfully, F. Adams."

Then, my lords, I also quote further references
to the record, the evidence of Cachalia who was a member
of the Transvaal Indian Congress and took part in its acti-
vities; he worked at times full time for the Indian Con- 5
gress and according to Lollen he used to work in the office
of the Transvaal Indian Congress at 37 West Street, Johan-
nesburg, and did typing for the Transvaal Indian Congress.
He was actually in charge of the office and he signed
letters on behalf of the S.A.Coloured Peoples Organisation 10
and he was asked to do so.

And then Mandela stated that accused No. 1 was
a member of the Transvaal Indian Youth Congress; he did
the administrative work and attended to the correspondence.

Then paragraph (c), my lords: I deal with 15
various searches conducted at the office of the Transvaal
Indian Congress, the Transvaal Indian Youth Congress and
also at the house where accused No.1 lived, and that is
set out on page 3. I only draw attention to paragraph 4
my lords, at the bottom of the page, "On the 13th January 20
1955, D/Sgt. Strachan conducted a search at the offices
of the Transvaal Indian Congress and the Transvaal Indian Youth
Congress at 37 West Street, Johannesburg, and took exhibit
SA.97(a)". I'll refer again to this document, my lords,
when I deal with the authorship. 25

BEKKER J: What is this document?

MR. V.D. WALT: It's an unopened envelope,
my lords; that's how it was found and it contains a cer-
tain card, and it will be later dealt with, my lords.

MR. v.d.WALT

D/Sgt. Strachan pointed out, my lords, that
accused No.1 and accused 3, Kathrada, and another person
Joseph were present when he found Exhibit FA.97(a).

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Then page 4, my lords, paragraph 5, I deal with
the documents which were found in possession of accused No.1
and I set them out. Firstly there is A.N.C. documents,
and that has been dealt with.

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BEKKER J: FA.77 - was that found in the office
or on his person or at his home?

MR. v.d. WALT: At his house, my lords, at 30B,
18th Street, Vrededorp, and accused was present and he
pointed out the documents and claimed them as his property.
In connection with the Indian Congresses, my lords, firstly
there is a document FA.18 - a report of the biennial con-
ference of the South African Indian Congress held on the
9th to 11th July, 1954, at Durban, and it is submitted
that this document was fully dealt with under A.83 when
the Indian Congresses were discussed

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FA.78 -- a New Youth, November 1954, my lords;
a bulletin of the Transvaal Indian Youth Congress. In
this bulletin appears an article - Kathrada's message by
A.M.Kathrada. In this message -- I set out the contents,
my lords - it is stated that he had been working for 9
years as a full time official in the liberatory movement.
He stated that he had been ordered by the Minister to
resign from the organisation.

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Then I quote from the exhibit and I set that
fully out, my lords; I'll refer again to this article when
I deal with Kathrada.

RUMPF J: Well, if there is anything you want

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to point out here do it. 1

MR. v.d. WALT: Yes, my lords. Firstly, on page 5, about the middle of the page "I wish to assure you that I will be at your disposal to serve you in any manner you wish; as in the past, so at present and in the future. No sacrifice will be too great in the struggle to achieve freedom in our lifetime." Then he makes a certain appeal and on top of page 6, line 3, he says "You must always remember that the cause of freedom is just and invincible. There is no such thing as defeat. Remember that no struggle in any part of the World was won in the drawing rooms and conference tables. Much less can we expect White South Africa to hand to us in a silver plate what they are prepared to go to all lengths to preserve." In other words, my lords, here again is an expression, or a view that 5 10 15

RUMPF J: We realise what it means, what you intend to say.

MR. v.d. WALT: As your lordship pleases. Then secondly, my lords, also in the same bulletin appears an article "We salute the People", and I quote this article in full. Firstly he refers to the celebrations on the 1st October, and the 7th November 20

RUMPF J: This was also found at his house,

MR. v.d. WALT: Yes, my lord. Then at the bottom of the page he says "Of what significance are these two dates to us and to peoples of the world who live outside these countries? Why do we in South Africa so many thousands of miles away from Russia and China, observe these dates? The answers are quite simple. When the people of Russia struck the blow for power on the 7th 25 30

November, 1917, and when the peoples government was formed
 in China on the 1st October, 1949, these two events un-
 leashed tremendous repercussions on the lives and thoughts
 of people in every corner of the world. In the case of the
 Soviet Union, for the first time after hundreds of years
 capitalist, feudal and imperialist exploitation, the ordi-
 nary working people, together with the working peasantry
 wrested power and set up a genuine peoples' rule. In the
 case of China, after many years of bitter struggle against
 European colonial oppression, six hundred million non-
 white people drove the oppressors from their country and
 set up their own peoples' democratic government. Of both
 these events, oppressed people all over the world have
 reason to be proud and joyous. Besides instilling a new
 confidence in the masses of peoples in their strength and
 power, the 1st October and the 7th November hold out an
 eternal ray of hope. If ordinary people like us in Russia
 and China could do it, why can't we, and, we have further
 reason to be happy on these anniversaries."

Then it points out that Russia and China almost
 championed the cause of the oppressed peoples in the Colonies
 and that they stood for peace and that they have a genuine
 friend in South Africa - the oppressed people - in the
 Soviet Union.

That takes me to page 9, my lords, (iii) . . .

BEKKER J: What was this, an Editorial, or was it
 an article written by anybody?

MR v.d. WALT: It's not indicated in the bulletin,
 my lords, just an article "We salute the People". It's
 clearly not in my submission an editorial.

Then, my lords, (iii) also contains articles 1
 "Trade Unionism" and "Youth Shall Win". This last men-
 tioned article, my lords, was written by Ruth First who
 reported on her visit to China and expressed the view that
 the youth of South Africa should study the experiences of
 other countries in the liberatory movement. 5

FA.86, page 10, my lords, is a roneoed docu-
 ment addressed to the Annual General Meeting of the Transvaal
 Indian Youth Congress, dated 17th June, 1956. It does not
 indicate who the author was but from the contents it appears 10
 to be an address to that particular meeting. "In this
 speech the Fascist actions of the Nationalist Government
 are condemned. It states that the 'forces of freedom
 peace and progress' have taken significant strides in Africa
 and Asia. In Malaya, and Indo China the Imperialist powers
 have suffered setbacks, and in Kenya the people continue 15
 to fight a bitter struggle. The parliamentary opposition
 has become impotent and South Africa stands condemned as a
 fully fledged Fascist State. In this speech the campaign
 against Bantu Education is dealt with and Freedom Charter
 is also discussed. The United Party stands for the rule 20
 of the minority over the majority and the Liberal Party
 refuses to co-operate with the organisations because it is
 scared out of its wits at the mere thought of being labelled
 Communists. The youth has to play an important role in
 the liberatory movement." 25

FA. 102 is mentioned, my lords - there is
 nothing significant about that, and the same with FA.103
 and FA. 106. Then there was also found a document FA.22
 - "The Threatened People" and it is indicated that it was 30
 issued by the South African Congress of Democrats.

I'd like to refer to a few passages in this document. It's clearly an indication that the organisation - the South African Congress of Democrats embarked on an extra-parliamentary struggle, and it states at page 11: "We can ignore the tide of events everywhere in the world where the underprivileged and backward are advancing towards the acquisition of universally recognised human rights. We can await the prospect of South Africa having to shoot out the issue as in Kenya. The day is past when a thinking South Africa could believe that white supremacy would endure forever or even last another fifty years, long enough for our own lifetime. The issues have now presented themselves for our decision. Can a limited democracy survive.?"

Then a further quotation, "The Defence of Democracy must be conducted outside Parliament. Despite this patent fact, the opposition has become more and more faltering in its efforts to counter Nationalist legislation. It has remained with its eyes fixed on Parliament alone as the only possible arena in which the political change can be brought about. It has ignored the great potential forces of progress and democracy that could be mobilised outside Parliament from among the voters, and the disfranchised, all determined to halt the Nationalist assault on their rights."

Then the other paragraphs your lordships also know - the extra-parliamentary struggle. I next turn to page 14, my lords, where there is really nothing I wish to refer to specially.

Then on page 15, paragraph (D), Activities of the Accused. (a) He and one D. Thloome gave instructions

for the printing of seven issues of Liberation, - Exhibit
 G.1150. I give the issues, my lords, and the dates of the
 issues; then (b) Authorship: Firstly I refer to B. 7 -
 that is a bulletin 'New Youth' of September, 1955, and when
 the Indian Congresses were dealt with the submission was
 made that these issues of 'New Youth' were the official
 publication of the Transvaal Indian Youth Congress. There
 appears an article "Can they Live" by Farried Adams, and
 I state Capt. Buitendag said the name of accused is Farried
 Adams - that is accused No.1, and the publication was found
 in the office of the Transvaal Indian Congress and the
 Transvaal Indian Youth Congress, and it's previously been
 submitted that accused No.1 was a member of these organisa-
 tions, and in my submission section 263 bis (b) applies.
 And this article reads as follows.

RUMPF J: It refers to America and the World
 Peace Council. . .

MR v.d.WALT: Yes, my lord, and that is about all,
 that is about all of significance in this article. The
 two factors mentioned by his lordship the Presiding Judge
 I submit are the two significant factors emerging from
 this document.

Then page 18, 2: B.63 - Press Statement issued
 by the South African Indian Congress and accused signed
 this for the Joint Secretaries of the Congress and the
 signature of accused No.1 was admitted by the Defence,
 and I give the contents of this; it's a Press statement;
 it's a text of a cable to Mao Tse-Tung, India and expresses
 congratulations, or rather it says "On behalf of the South
 African Indian Congress we greet the heroic people of your

great country on the occasion of the 5th anniversary of
the establishment of the Peoples' Republic of China and
we sincerely wish your country still greater achievements
in the cause of peace and progress of mankind." 1

KENNEDY J: Yes, it's quite clear.

MR v.d. WALT: Yes; then B.244, that's No. 3 - 5
is also a letter signed in my submission by Adams and
this again expresses admiration for the Soviet Union and
states that the Soviet Union was with them in their fight
for peace, progress and friendship, and it is all against
Colonial domination and racialist brutality. 10

Page 21, my lords, merely to indicate the activi-
ties of this accused is a certificate signed by accused
No.1 and I state the reasons for that. His name appears
on this certificate and Lollen stated that accused No. 1
signed letters on behalf of the South African Coloured 15
Peoples organisation

BEKKER J: Is there anything sinister in this
SL.17?

MR. v.d. WALT: Nothing, my lords, it's merely 20
a certificate shewing he was authorised to collect funds,
money.

5: It is submitted that accused signed a notice
of a meeting for the World Youth Day on behalf of the
three organisations set out dated 19th October, 1954, and
it merely informs them that Miss Ruth First would speak 25
and that she had recently returned from a meeting of the
World Federation of Democratic Youth in Peking.

6: Accused signed letter C.422 on behalf of the
S.A.Coloured Peoples Organisation to the S.A.Congress of
Democrats. His signature was admitted, and it advised that 30

a meeting would be held by the S.A.Coloured Congress of Democrats and requested a fraternal speaker.

Then, my lords, there is the document FA.91 which is a letter by Faried to "Dear Comrade Mirjam dated the 23rd November 1954; this was actually found in the house where he lived and the letter bears his address and his Christian name appears at the end of the letter; it was found in his possession and for those reasons I submit that your lordships will find that he was the author of the letter. And I would like to read this letter. He expresses himself in favour of the Communist Party and he attacks on page 23 America and speaks of the Freedom Charter and states that "Advance" was the mouthpiece of the forces fighting against white domination and that "New Age" had taken its place, and on page 24 it deals with the Congress of the People and Volunteers and also the Freedom Charter and at the bottom of the page it deals with the Western Areas Campaign, and then

RUMFF J: Where does it deal with the Western Areas?

MR v.d. WALT: At the bottom of the page, my lord, at the bottom of page 24 - about six lines from the bottom - "Another aspect in our struggle at the moment is the Government to remove 58,000 from their established homes." Then page 25, he refers to certain international matters such as the United Nation Organisations and there again he makes an attack on the attitude of America, and lastly he welcomes the decision of the World Federation of Youth to hold the next World Festival in Warsaw, and he deals with that.

MR v.d. WALT

BEKKER J: Is this a copy of a letter, or is it the original? L

MR v.d. WALT: It's the original, my lords.

BEKKER J: Why do you say that?

MR v.d. WALT: It's a manuscript document, my lords. I unfortunately do not have the exhibit here, I'll get it for your lordships. 5

Then page 27, paragraph 8, I come back to document 97 A; this is a document that was found in the office of the Transvaal Indian Congress and the Transvaal Indian Youth Congress by D/Sgt. Strachan in January, 1955. It was an unopened envelope addressed and the address appeared on it Miss Miriam Taumanen in Finland. And inside the envelope was a card and I quote: "Wishing you the greetings of the season, and a happy new year in which the Congress of the People leads us closer to our liberation - from Faried." And on the opposite side of this card is written "For a free world, free from exploitation and misery, forward to world Communism - Faried." 10
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And it is my submission that taking into account that accused No.1 was the author of F.A.91 and also that this document was found in the place where accused No.1 usually worked, your lordships will find that accused No.1 was the author of this particular card. 20

BEKKER J: Is it typed or . . .

MR v.d. WALT: No, my lords, it is also written, - manuscript, in ink. 25

Then C. MEETINGS - (a) The accused attended the following meetings and spoke at some of them, and firstly I set out all the meetings - it's really a schedule of the 30

MR v.d. WALT

meetings up to page 30; then at the bottom of page 30 1
 there appears sub-paragraph (b) and that deals with the
 nature of the speeches made at the meetings mentioned above.
 May I just revert at this stage, my lords, to F.A.91 - I'm
 sorry, it is not a manuscript document, it appears to be an
 original; it's a typed document, and typed in at the bottom 5
 is yours, Comrade Faried.

BEKKER J: Typed?

MR. v.d. WALT: Yes, my lord.

KENNEDY J: Was this found in an envelope?

MR v.d. WALT: No, my lord, the next one was. 10

RUMPF J: Well, it's a document which is typed
 in but it is not signed by the accused - the signature is
 typed - the name Faried is typed in ?

MR v.d. WALT: That is so. I deal with the
 nature of the speeches; the first meeting is the one of 15
 the 11th July, 1954, A.N.C. Sophiatown; witnesses are
 D/Sgts. van Pappendorp and Native D/S.Gxumisa and my summary
 appears at page 31 where it is stated that the accused was
 present and W.Sisulu spoke and appealed to the audience to
 join in the fight for liberation and to join the A.N.C. 20
 (c) Other speakers also appealed to the people to become
 volunteers, and (d) Mr. Nokwe also spoke and pointed out
 that the people of Tunis, Indo-China and Kenya were fighting
 for their liberation. In Indo China the French were de-
 feated. 25

25th July, 1954, was a Congress of the People
 meeting at Johannesburg; shorthand writer Coetzee and it
 is submitted that at this meeting accused Kathrada explained
 the duties of the Freedom volunteers and the significance of

the Congress of the People in the Liberatory Movement was also dealt with, and the next is the Congress of the People meeting at Kliptown; I'll deal with this one at a later stage when the overt acts against the accused are considered.

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On the 7th August, 1955, a meeting of the FSAW Johannesburg, shorthand writer Coetzee, and at this meeting the speakers stated that the Federation of South African Women supported the World Congress of Mothers and the struggle for peace. The Federation had delegates at the World Peace Council and the World Congress of Mothers. Speakers also dealt with the campaigns against Passes and the Bantu Education Act.

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18th September, 1955, a Freedom Charter Committee Johannesburg; this one will also be considered when I deal with the overt acts against the accused.

Then the one of the 6th November, 1955, a meeting of South African Society for Peace and Friendship with the Soviet Union, Johannesburg, shorthand writer Coetzee and Sharp; firstly there was a speaker D.C. Thompson and in summary he lauded the great achievements of the Soviet Union, and its influence on peace movements in the world.

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Then P. Beylveld spoke and stated that the Soviet Union was held out in South Africa as a monster which was out to conquer the world and to enslave the people. He went on to point out that the statements in South Africa were not true about Russia and he mentioned some of the wonderful achievements of Russia. Russia made a great contribution to world peace and supported and encouraged the world peace movements.

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A.E. Patel also spoke and lauded the achievements of Russia and condemned Colonialism.

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MR. v.d. WALT

Then H. Mokgothe spoke; I give an extract of
his speech which merely indicates that he also lauded
Russia and held it up as an example, and on page 33 he
stated in Russia there was no exploitation of man by man,
and that the propaganda in South Africa was false about
Russia. 1
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Meeting No. 7, my lords, - speakers protested
against the closing of the Soviet Consulate in South
Africa.

And then the Congress of the People Anniversary,
my lords; I dealt with this meeting yesterday and I give
certain extracts of speeches, firstly of L. Masina and
say merely that he indicates that in the past freedom
fighters gave their blood for freedom, but that they
would carry on. 10

Then on page 34, my lords, the speech of
Lilian Ngoyi and in my submission this is an expression
of solidarity with the people suffering under Imperialists
rule in Kenya, and also the speech of Sebande where
he stated that 'We have spoken in many languages and
never gained any fruit". In my submission, my lords,
this indicates that he to a certain extent ruled out any
further negotiations with the Government. 15
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RUMPF J: Well, let's just analyse it.
Why do you say he rules out any negotiation?

MR. v.d. WALT: My lords, I'll have to refer
to his speech; he says- "For a long time we have spoken
in many languages. . . . " 25

RUMPF J: You needn't read the whole thing,
we've got it in front of us. Just give us your submission.

MR. v.d. WALT: Yes, my lords. He says they 30

tried all means in the past - deputations, protests - - 1
 and that they now have to talk in another language which
 the Government would understand. Merely because he said
 they had tried all means, my lords.

Then there is a speaker from the Eastern Cape 5
 and my submission here is that this speaker made a state-
 ment preparing the people to make the supreme sacrifice.

And on the 7th November, 1956, again a meeting
 of the South African Society for Peace and Friendship . . .

BEKKER J: Accused 1 you say was present at the 10
 meeting; in what capacity? Was he representing any body
 or was he there in person?

MR. v.d. WALT: There is no evidence to that
 effect at all, my lord.

BEKKER J: Was he amongst the audience? Or was 15
 he on the platform?

MR. v.d. WALT: The evidence is merely that he
 was present, my lords.

BEKKER J: Yes.

MR. v.d. WALT: Meeting No.9; there again the 20
 accused No.1 was present, my lords, and it is submitted that
 the speakers lauded the achievements of Russia, and also
 stated that Russia was the champion of the people in the
 under privileged and colonial countries.

Then page 35, my lords, I deal with the overt 25
 acts laid against this particular accused and firstly I
 deal with the meeting of the 3rd June, 1956, A.N.C. Moroka,
 and the witnesses were Coetzee, Masilela and Mokoena.
 (1) The witness Coetzee stated

BEKKER J: A shorthand writer or not?

MR. v.d. WALT: Yes, my lord, he is a shorthand writer. He stated that accused No.1 spoke; he identified him here in Court and according to him . . .

RUMPF J: Well, at the bottom of the page he says that they will have to fight and die to achieve the Freedom Charter.

MR. v.d. WALT: That is correct, my lords. And in the beginning there is some attack on Imperialists and he also refers to the Pass and Bantu Education.

Then at page 36, my lords, (b) witness Masilela: he was at the meeting and he stated that he took notes of the name of one speaker - Faried Adams; he could not identify this speaker but the submission is contained in sub-paragraph (3) and that his version of the speech of Faried Adams agreed more or less - to a great extent, my lords - with the version given by D/Sgt. Coetzee, and Makoena merely stated that a person Freddy Adams was present. And then at this meeting there was also a speaker Dr. Selankie who spoke, and his topic was the Freedom Charter and he stated that the Freedom Charter contains the very principles for which they were fighting.

Then I also refer to a speech by Lionel Morrison at this meeting, my lords, and he was discussing the campaign against Bantu Education Act and he condemned and attacked the people who were working with the Government, that is the teachers, and he warned them - - he actually said this: "We warn those people; they must expect the rightful wrath of the people", and again, later on, my lords, he condemned the persons whom he considered to be traitors - the police who took down notes at the meeting - and he said "Don't they know that they are signing their own death warrants"?

And in the last paragraph he said that the Freedom Charter would hit a blow at Parliament in South Africa, at Fascist South Africa and Parliament, and our submission is that the evidence proves this as an overt act, my lords. 1

BEKKER J: What is the overt act? What do you say it is? 5

MR. v.d. WALT: That is the portion referred to by his lordship, the presiding Judge, and our submission is that he was actually here supporting or trying to put into effect 4(b) (i) - that is the Freedom Charter and also 4(b) (iii) - advocating unconstitutional and illegal action including violence. 10

BEKKER J: And for that you rely on what in his speech?

MR. v.d. WALT: My lords, I rely on his whole speech to interpret this particular section which was quoted, that his whole speech deals with the Freedom Charter and he expressed the view - how he saw the Freedom Charter, and 15

RUMPF J: Did he express the view, how the Freedom Charter was to be attained? 20

MR.v.d. WALT: Yes, my lord.

BEKKER J: Where did he deal with that?

MR.v.d. WALT: "We will have to fight for it and we will have to die for it".

RUMPF J: It's a matter of inference. 25

MR.v.d.WALT: That's a matter of inference, my lords, yes.

Then meeting of the 18th September, 1955, my lords; the first submission is contained in sub-paragraph (a) "If the Court accepts the submission of the Crown in paragraph 1(f) above, then the Crown does not rely on this 30

meeting as an overt act, because the same witness, D/SGt. 1
 Coetzee, testified to both meetings. The Crown, however,
 submits that the Court will take this meeting into account
 when it considers the knowledge and the hostile intent of
 accused No.1. And then, for that purpose, my lords, I
 refer to several speeches with which I have dealt yester- 5
 day. That is the speech of Hutchinson set out at page
 38, the speech of Lilian Ngoyi at page 39; the speech
 of N. Sejake -- I didn't set out that speech, my lords.
 It has been referred to on many occasions. And the speech
 of R. Resha - that's also set out. Then I indicate that 10
 accused Lollen gave evidence and stated that he attended
 the meeting where he was the chairman and he admitted
 that Sejake spoke.

BEKKER J: What role did accused 1 play at
 this meeting? He attended the meeting? 15

MR. v.d.WALT: He only attended this meet-
 ing, my lords.

Then meeting No.3, the Congress of the
 People, Kliptown, and it is submitted that the evidence
 shows that accused No.1 attended the meeting. 20

BEKKER J: Where you prove the accused was
 present at the meeting - not on the platform - he may not
 have been on the platform - he may have been in the audience,
 a member of the audience, and things are said -- let us for
 argument's sake say violence is advocated, if he is merely 25
 in the audience and does not say a thing, why do you say
 he must be regarded as having associated himself with what
 was said?

MR.v.d. Walt: My lords . . .

BEKKER J: What duty is there on him to get 30

MR. v.d. WALT

up as a member of the audience and say "Look here, that is nonsense"?

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MR. V.D. WALT: My lords, perhaps I cannot make a submission that he should get up there and then; he should at least thereafter, when he has to afford himself of the opportunity

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BEKKER J: If he is there in his personal capacity, say as a spectator.

MR. v.d. WALT: Then, my lords, I cannot submit that there is a definite duty on him to do so immediately.

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BEKKER J: At any time.

MR.v.d.WALT: But I would make this submission, my lords, if he is satisfied that the speaker was there in a representative capacity.

BEKKER J: I asked you - - that's a different matter - - where the Crown has shewn that a person is merely present at a meeting and let's assume he is a member of the audience, what then?

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MR. v.d.WALT: Then, my lords, I submit there is no duty on him to say anything, but the submission, with respect, my lords, is should he then remain in a Movement or remain a leading member of Congress, afterwards? Should he not then take steps to disassociate himself in some way or other.

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KENNEDY J: What meeting was this?

MR.v.d.WALT: I'm dealing still with the Congress of the People at Kliptown, my lord.

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KENNEDY J: Yes, but the second meeting. The Freedom Charter Committee meeting.

RUMPF J: What sort of meeting was this?

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MR. v.d. WALT: This was a meeting, my lords, 1
arranged by the Freedom Charter Committee.

RUMPF J: Was it a public meeting?

MR. v.d.WALT: It was a public meeting, yes, my
lords.

Then page 40, paragraph 4, my lords, it is submitted 5
as the first overt act alleged against accused No.1, that
this is proved beyond reasonable doubt.

It is also submitted that the hostile intent of
the accused Adams and his adherence to the conspiracy.....

RUMPF J: Just a minute, Mr. v.d. Walt. Are 10
you still on the same point?

MR. v.d. WALT: No, my lord, I'm now dealing with
the first overt act and the conspiracy.

RUMPF J: The first?

MR. v.d. WALT: Yes, my lord - conspiracy. Will 15
you just repeat that - - you are dealing with the first
overt act - the conspiracy?

MR. v.d. WALT: Yes, my lord, sub-paragraph 4,
on page 40.

RUMPF J: In connection with what are you re- 20
ferring us to that?

MR. v.d. WALT: Because I make the submission,
my lords, that your lordships should find that this overt
act has been proved against the accused.

RUMPF J: Have you finished the meetings? 25

MR.v.d. WALT: Yes, my lord, I've dealt with the
meetings.

RUMPF J: What about this meeting of the 25th
and 26th June? That's the Congress of the People.

MR. v.d. WALT: Yes, that's the Congress of the 30

People meeting, my lords. I indicated that the various witnesses indicated that accused No.1 was present at this meeting, my lords, and that Capt. Viviers actually searched the accused Adams at the meeting and took certain documents from him. 1

RUMPF J: Yes. 5

MR. v.d. WALT: Then sub-paragraph 4, my lords, it's submitted that the first overt act alleged against the accused, the conspiracy, is proved beyond reasonable doubt.

It is also submitted that the hostile intent of the accused Adams and his adherence to the conspiracy should be inferred from his activities, and then I give a summary of the activities of the accused, and this is based on what I have previously 10

BEKKER J: Well, could you just point out - - you say he was a member of the conspiracy; what do you rely on to prove knowledge of this accused as to the unconstitutional extra-parliamentary steps to be taken including the use of force, as alleged in the Indictment, on the part of the African National Congress? 15

MR. v.d. WALT: Firstly there is his speech on the 3rd June, 1956, referred to under the Overt Acts at page 35, where he stated that the Freedom Charter - - or he stated this: "We have to fight for it and we'll have to die for it". Then the only other factor I can mention, my lords, is that he attended the meeting of the Congress of the People Anniversary where Leslie Masina spoke and pointed out that the Freedom fighters had died in the past for freedom, and also the Freedom Charter Committee meeting where Sejake spoke about the clash with the armed forces, and that is about all in connection with violence, my lords. 20 25 30

But the submission is that that must still be taken into account against the other factors, that he also condemned the South African State and the Imperialists and that he had knowledge - that he was aware of the campaigns in this country waged - conducted by the African National Congress

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BEKKER J: When you say that, do you say that because of the fact that there was a campaign on foot, or do you say he was aware of the campaign and the method?

MR.v.d.WALT: No, my lord, there is nothing - - I cannot go so far as to say that he was aware of the method as well in the campaign, but your lordships will bear in mind the general evidence that he was the clerk working at times full time in the offices of the Indian Congress, that he was in charge of the correspondence, that he had

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BEKKER J: Well, allowing for that, I suppose you must show knowledge on his part of those matters which entitled you to say he was a member of this conspiracy to overthrow the State by violence or to make active preparation therefor.

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MR.v.d. WALT: That is so, my lord.

BEKKER J: You've got to prove knowledge before he's a conspirator.

MR. v.d. WALT: Yes, my lord.

BEKKER J: Now you've mentioned the items on which you rely; is there anything else?

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MR. v.d. WALT: No, my lords, there is nothing else. It's a summary which contains all the submissions that the Crown can make and I cannot take it any further.

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MR. v.d. WALT

MR. DE VOS

That is from page 40

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BEKKER J: Let's have a look at it.

MR. v.d. Walt: My lords, that is all I can submit on the evidence against this accused and there will be a further argument by my learned leader Mr. de Vos on this matter.

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MR. DE VOS: May it please your lordships, I have prepared on the question of Communism, as far as this accused is concerned, heads of argument which I beg leave to hand to the Court.

My lords, I submit that these are further factors which may be taken into account as far as this particular accused is concerned. I have in the submissions attached to the data in connection with this accused, I have tried to summarise the case against the accused as far as Communism is concerned, and as far as these submissions can be of course, supported and justified by the facts contained in the latter part of the Heads of Argument.

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I read the submissions first of all, my lords. I submit first of all that it must be taken into account that he was an active member of the conspiracy in particular- as member of TIC, as an office bearer of TIYC and as an administrative clerk to the Indian Congresses.

20

Then submission No.2 - He expressed in my submission explicit praise for the Communist Party and supported the world communist revolutionary movement, while he must have known from the excellent library in his own possession what communism meant, including the doctrine of violence. I take this a point further, my lords, when I deal with those documents.

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My lords, I also submit that he by implication accepted and lauded the use of violence in the struggle for liberation and propagated the anti-Imperialist anti-Colonial attitude, inter alia, on Vietnam and Korea. 1

Also that he gave active support to the WFDY and the WPC. 5

Fifthly, that he expressed strong support for Advance and New Age.

6: He adopted a partisan attitude in favour of Russia and China, defended the Soviet diplomatic mission in the Union, attacked the war policy of the U.S.A., Nato and Seato. 10

7. He knew the Communist trend of the policies of the Congress Movement and supported those policies, well knowing what they meant, and then I refer to certain documents in his possession on that point. 15

I submit then, my lords, in the light of these factors, that the accused adopted the Communist attitude towards the present State and adopted and propagated Communist tactics and (c) aimed at the establishment of a Communist State, quite apart from the question of violence for the moment - - and (d) That he was so closely linked with Communism as mentioned above that he must have accepted the Communist doctrine of violent revolution. 20

My lords, following up these submissions I first of all refer to the letter by the accused to Dear Comrade Miriam which has been referred to by Mr. v.d. Walt, FA.91, and I submit that this shows high praise for the Communist Party and it indicates allegiance to the Party. It says: "I must congratulate you on being....." 25

RUMFFF J: Assume that on this letter he is a 30

self confessed Communist. Can you take it any further? 1

MR. DE VOS: As your lordship pleases; and he has
has in his possession, my lords, a very full and very im-
pressive library of Communist books. I refer to that on
page 2, my lords, in connection with the card to Miriam
where he reinforces his attitude towards World Communism. 5
He says: "Forward to World Communism, free world, free
from exploitation and misery".

Now in that connection, my lords, I refer here
to the library in his possession which is referred to on
the Schedule in the hands of the Court, pages 1, 6, 11, 12, 10
14, 15 and 16, and it is a most impressive Communist
Library, my lords, comprising no less than 11 Communist
Classics, and these books include - - I give just a few
names here, without any further descriptive information,
which is contained in the Schedule - - inter alia, these 15
books are "The History of the Communist Party"; that is
on page 3 of my Heads of Argument. FA.10, my lords.
FA.12, my lords, "Notes on ten Years of Civil War" - Chen
Po Tah. My lords, it's remarkable how many of these titles
deal explicitly with the idea of revolution and war, in 20
terms of the Communist classical writers. FA.19, "V.I.
Lenin", Two Tactics of Social Democracy in the Democratic
Revolution.

RUMPEFF J: Yes, well, you've set out the books.

MR. DE VOS: And the others too, my lords. 25

From that my submission is that in the light of his own
self declared interest and attitude towards Communism plus
the very full information in his own possession - classical
information on Communism - - it must be inferred that he had
a knowledge of what he spoke about when he said "Forward to 30

World Communism".

1

KENNEDY J: Well, what do you say that infers?

MR. DE VOS: That entails, my lords, basically and includes knowledge of the doctrine of revolution, of violent revolution in Communism. My lords, just to indicate - -

I have no direct proof of course that he read any of these

5

books - - I mean not direct in the sense that we know he said so, but to indicate that sort of thing that was said in these books on page 1 I in the last paragraph mention one part of an extract from the History of the Communist Party of the Soviet Union. There are other parts too,

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my lords; this is merely typical really of the sort of thing one finds in those books. Many of these passages have been read into the record. I merely took one - one can almost say at random - for the effect of all are the same. Here there is stated the following: "History of

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the Party teaches us that only a Party of the new type, a Marxist-Leninist Party, a Party of Social Revolution, a Party capable of preparing the proletariat for decisive battles against the Bourgeoisie, and of organising the victory of the proletariat revolution can be such a party".

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My lords, that is really in the ordinary line of classical Communist literature and it is reinforced by the other books on the same subject and same trend also in his possession.

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KENNEDY J: Is your argument this, that because he has used certain terms and because he is in possession of a number of the classics dealing with Communism, and because he wrote this letter (a) that he is a self confessed Communist, and (b) that he had read and knew and agreed with

30

MR. DE VOS

the contents of the Classics? 1

MR. DE VOS: Certainly as far as the basic fundamental portion of that is concerned, yes, my lord. He must have known the basic elements of Communism, and revolution my lords, is not something that's hidden away in the Communist classics; it's not a dark secret, it's blazoned 5
forth in the Communist Classics. It's part of and it is implicit in all the Communist classical writers of which he has quite a number of books in his possession.

BEKKER J: Assuming he knew the theory of revolution, assuming he knew that, would that in itself suffice 10
or must you show that he intended bringing - putting that into practice?

MR. DE VOS: First of all, my lords, as far as his mental attitude is concerned, I make use - - as far 15
as his hostile intent is concerned I use those two documents in his possession where he does not merely say "I know something about Communism", or he does not merely use the word "Communism"; he says: "Forward to World Communism", and he says - if I may quote that part, just 20
the effective part again - - he says: "For a free world, free from exploitation and misery, forward to World Communism". That must be read also in conjunction with what he says about the Communist Party. He says, "I must congratulate you on your being accepted as a member of the 25
Communist Party".

RUMPF J: Mr. de Vos, in terms of your Indictment, is the Crown case proved - if you prove that the accused knew the theory of violent revolution in terms of Communist dogma? Or must you go further and prove that he knew it and that he intended putting that to practice? 30

MR. DE VOS: Yes, I must go that step further, 1
my lords.

RUMPF J: Now assuming the accused knew this dogma,
what do you rely on to prove that he wanted to put that into
practice?

MR. DE VOS: My lords, first of all the passages 5
I read now on these extracts from these two letters, the
card and the letter, in my submission confirms that he not
merely knew but that he propagated - - he was in favour of it -
-- the attitude he displays there is not merely an attitude
of saying 'Well, I know about World Communism'; he says 10
'Forward to World Communism', indicating that he knows it
means freedom from exploitation, and he is a member, and a
prominent member too, a very active member of an organisa-
tion which is trying to eliminate exploitation in the Union,
and he follows a certain direction - - so it's quite obvious, 15
my lords, in my submission to your lordships that he was not
merely referring in an objective, neutral sense to Commu-
nism, but that he was accepting the Communist ideal, and the
only further question is could he have understood what he
was referring to, and I submit that in the light of what 20
he had in his possession he must have understood; he must
have known. A man could not have so many books in that
particular line - be active

BEKKE J: I'm on the basis - assuming he knew what
you say he must have known, the question is, what do you 25
rely on to prove that he intended putting into practice the
theory of violent revolution in terms of the Communist
dogma. Now you said this statement "Forward to World
Communism" is one; what else?

MR. DE VOS: His statement in favour of the Communism 30

MR. DE VOS

Party, lauding membership of the Communist Party as a great and honourable thing is No. 2, my lords. 1

BEKKER J: Yes.

MR. DE VOS: Then, my lords, one will not find -- I must immediately clear the decks as far as that is concerned -- I cannot find in the Union that it will stand on a platform -- that he stood on a platform and said "Now in the Union I propagate the violent revolution of Communism"; when it comes to activities as it were, public activities, as far as this accused is concerned, in the Union, my lords, then I rely on all his activities which I have summarised here, to show that he has been following a line which is completely consonant with his mental attitude; his knowledge and his favourable attitude towards Communism, and from his point of view as a Communist one could not -- as a person in favour of world communism, as he himself says -- one could not have expected him to do more than he in fact did, if I may put it on that basis, in promoting and implementing the Communist line in the Union, and that is what in fact all his activities in my submission amount to. 5 10 15

RUMPF J: Mr de Vos, I already asked you some time ago, on the question of a Communist Party elsewhere; your submission was then that if a member of the Communist Party, knowing the theory in a country is a member and seeks to put into effect fully the principles of Communism, then he is guilty of High Treason. That was your submission. 20 25

MR. DE VOS: Yes, my lord.

RUMPF J: That is the very point that my brother Bekker is on. You may have in him a member of the Communist Party, who knows the dogma of the Communist Party, also the principles in regard to violence, but the Party 30

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may there be proceeding on a constitutional line; the Party may say, and any member of it may say, "We know that it's part of Communism, that eventually there will have to be a revolution, but that depends on circumstances; it depends on the opposition of the ruling class, and it depends also on our particular state of mind; it may be a general principle, but now, for the time being, we are proceeding in any event on constitutional lines; we have no revolution in mind at all. On the contrary, we are fighting for seats in Parliament." Now in that case, there could not be any question of High Treason, could there?

MR. DE VOS: My lords, not if the person concerned actually - - if the person concerned was not in fact preparing the way for a violent overthrow.

RUMPF J: Well, that is the question here. The question here is what is the difference between a member of a Communist Party in that position and the accused here? What is your argument; why should this man be regarded as having stepped off the constitutional path into the path of conspiracy to commit High Treason? That is the question. Deal with that. It is no good referring us to a slogan "Forward to World Communism". That may be the slogan of any Communist anywhere, even on the constitutional path.

MR. DE VOS: My lords, supposing - I'm for the moment speaking not particularly only on this case - - but supposing one has factual evidence of the direction a Liberatory Movement has taken in the Union, and that particular Movement is not merely setting forth on a constitutional battle - - and my submission, my lords, is

MR. DE VOS

that that quite clearly was not a question of fighting a constitutional battle 5

RUMPF J: I don't think you need concern yourself at all with the question of the knowledge of Communism of Mr. Adams for the purpose of this argument. On the argument we are putting to you: assume that he is a self confessed Communist and that he knows the doctrine of Communism, don't refer us then in answer to anything about Communism. How has he set out on the path of revolution? 10

MR. DE VOS: I cannot take the factual part of the evidence farther than Mr. v.d. Walt has taken it, my lords. 15

RUMPF J: Well, that is your answer then.

MR. DE VOS: Yes, my lord. The factual part - but if I may put it on that basis - - the factual part of what Mr. v.d. Walt said, as submitted to the Court. . . 20

RUMPF J: My argument is only that he is a Communist and that inferentially I say he knew the principles of Communism; in regard to the conspiracy the other argument must be referred to. I say that he joined the conspiracy, that he was a member of the Congress alliance, he was a member of the Transvaal Indian Congress etc., etc., and what he did, in terms of the other argument, was a step on the path of revolution. Is that your answer? 25

MR. DE VOS: Yes, my lords, and that this argument on Communism reinforces, if I may say so, his hostile intent because it sheds further light on his mental attitude. 30

RUMPF J: That's on hostile intent.

MR. DE VOS: Yes, that's on hostile intent, my lord; and furthermore, my lords, that he had in his 35

possession certain documents about the policy of his organisations which clearly indicate that he knew that Communist line adopted by his organisation's policy. I refer for instance . . . 1

BEKKER J: Yes, well, do you specify these documents. 5

MR. DE VOS: I specify these documents.

BEKKER J: Where are they?

MR. DE VOS: Page 8, my lord. Documents which have been referred to in argument on the Indian Congress policy as far as Communism is concerned - unless your lordships wishes I do not intend repeating them here. 10
 FA.18, Indian Congress document No.4, "South Africans Way Forward", A.N.C. document No.21, which was also adopted by the Indian Congresses and for that reason was also referred to in the argument on the Indian Congresses. 15
 FA.78, my lords, New Youth, November 1954, which has been dealt with very fully before, both in my report on the Indian Congress documents and by Mr. v.d. Walt this morning again - certain parts of it, and he also had in his possession 'The Threatened People', FA.22; that is a SACOD document, my lords, which is really on the question of SACOD policy as far as Communism is concerned. And A.37 which has also been referred to by Mr. v.d. Walt and was also an A.N.C. document referred to in the argument on Communism. 20 25

Then, my lords, he also attended, as your lordships have heard, meetings - Freedom Charter Committee Meetings as well as the Congress of the People meeting where I have dealt with the speeches of Turok in the case of the COP meeting, and Nair who was a member of the 30

MR. DE VOS

Indian Congress, too, in the case of the COP meeting, and 1
where . . .

RUMPF J: What are you referring to?

MR. DE VOS: My lords, this is on -- I'm sorry,
I should have mentioned this -- it was on . . .

RUMPF J: Are you referring to the Congress of 5
the People?

MR. DE VOS: Yes, my lord, Congress of the People
in June, 1965. He was present there and there the argument
as I submitted is that Turok made a certain speech which
in my submission was exclusively Communist; so also Nair, 10
I have dealt with that in connection with the Freedom
Charter; he was there and heard those speeches at that
particular meeting; he must have understood them; he
must also have understood the speech by Sejake the
Freedom Charter Committee meeting, which has also been 15
dealt with by me before from the Communist aspect. He
must have known what the Communist line was that was being
followed by his organisation, and that he was in a Libera-
tory Movement actively and professedly moving, preparing
and moving towards a Communist revolution. 20

KENNEDY J: Mr. de Vos, you don't submit, I take
it, that in all cases in modern Soviet thought violence
is an inevitable and integral part of the doctrine?

MR. DE VOS: My lords, I do submit that in terms
of Prof. Murray's evidence, as it is before the Court, 25
the inevitable use of violence is what he has testified
to

KENNEDY J: I'm talking about the Classics; I'm
talking about the evidence before us, that violence need

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not necessarily be resorted to. 1

MR. DE VOS: My lords, the evidence before your lordships on that point is merely this, that there are certain statements which have been made which qualify - and as far as the expert evidence is concerned, that is not in my submission authoritative as far as what Communism in fact really means; for that, my lords, in my submission one has to look to what Prof. Murray said and how he has interpreted the whole position - taken as a whole - from a scientific position. But as far as modern statements are concerned, there are statements made - some of which have been found in the possession of the accused for instance of Mandela - - he referred to that in his evidence ---- where 5 10

KENNEDY J: Was that the statement attributed to Kruschev. 15

MR. DE VOS: To Kruschev, yes, my lord.

KENNEDY J: Where he said violence was not of necessity part of the doctrine.

MR. DE VOS: In all cases, yes, my lords. And then he qualified what he meant by that. That was also dealt with by Prof. Murray in his evidence, my lords, and he took that into account at arriving at a certain opinion as far as Communism was concerned - of what he considered to be the correct meaning to be attached to that. 20 25

But, my lords, in my submission, if one looks at the way - the role that Communism plays in this particular conspiracy

RUMPF J: Well, that part of the policy, if it is a policy to-day, consists of the premise that if 30

MR. DE VOS

there is - - of resistance by the ruling class, then 1
violence may be necessary.

MR. DE VOS: Is necessary.

RUMPF J: Is necessary. Well, that is the
policy, is it not?

MR. DE VOS: Well, that has been stated by Krushev 5
my lords.

RUMPF J: Well, a modern Communist may adhere
to that in the West, may he not?

MR. DE VOS: He may take it at face value.

RUMPF J: Yes. 10

MR. DE VOS: I put it on that basis because in
my submission that is not a true exposition of the real
kernel of Communist doctrine.

KENNEDY J: Why?

MR. DE VOS: My lords, I rely for that on what 15
Prof. Murray said; how he interprets what Communism really
means. But I put that to him in re-examination and in
re-examination he commented on this....

RUMPF J: What did he say?

MR. DE VOS: My lords, speaking now from memory 20
he said that he did not consider that that affected the
theory of violent revolution as far as Communism is con-
cerned; the inevitable violent revolution - in the last
instance, but he did go so far - - he conceded that it
meant that as far as Krushev was concerned he said if 25
there is a gift made to us of what we want then we won't
use violence. And that seems to be commonsense, my lords.
If I give you what you want then you won't fight for it,
but I'm prepared to fight and I'm preparing now to fight
for what I want; I want it at all costs. 30

My lords, I have not now dealt with the other 1
 factual matter collated in the Heads of Argument, which
 all go to show in my submission how this particular accused
 was connected with the Communist aspect of the conspiracy.
 His activities, what he said, what he spoke - - I think I
 should draw the Court's attention to one particular docu- 5
 ment, my lords, on page 4 of which I make use. It's an
 A.M.K.17 - bottom of page 4 - a "New Youth" of February,
 1955 and it contains a certain article which has been re-
 ferred to by Mr. v.d. Walt on 21st February day of solida-
 rity, and I refer here, in my Heads of Argument, to the 10
 fact that the article appears above the name of Faried.
 Now that particular bit of information is not in the re-
 cord; it appears from the exhibit . . .

BEKKER J: Well, if it's not in the record it's
 not before us. 15

MR. DE VOS: My lord, if that is the position
 - - that is why I draw your lordships' attention to the
 fact; it seems in my submission to be a somewhat technical
 point, but if that is so. . . .

RUMPF J: How can you say it's a technical 20
 point. We have had that before. Have we not given our
 ruling on that?

MR. DE VOS: My lord

RUMPF J: We have given our ruling; you cannot
 challenge our ruling by saying it's a technical point. 25

MR. DE VOS: No, no, certainly not, my lords;
 no, if that is so I leave it at that, and then that par-
 ticular document must be eliminated as indicating something
 written by the accused. That is at the bottom of page 4,
 AMK.17 then cannot be taken further, taken on the basis as 30

22,347.

MR. DE VOS

MR. v.d. WALT

submitted by Mr. v.d. Walt, my lords. Unless your lordships 1
so wish I do not propose to deal further with the details
contained in these Heads of Argument. They go to show, as
I have said before, all the Communist affiliations in the
Union of this particular accused from various aspects.
I have given references and Mr. v.d. Walt has in many in- 5
stances dealt with the parts giving the basis of the in-
ferences, the further inferences I make on the question
of Communism as far as this particular accused is concerned.

(COURT ADJOURNED FOR 15 MINUTES)

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