

people have to fight the war mongering people, because the warmongering people use military methods, on the theory that the peace loving bloc therefore has a right to make war against the warmongering bloc.

Professory Murray, going further, in the Communist 5 view taken on the basis of what you have just spoken of, and furthermore in an application of that view, is specific acknowledgement given to certain contemporary policies, in the Communist doctrine? --- Communist doctrine, on the basis of its standpoints that the proletariat - that the 10 rule of the proletariat promotes peace and that the imperialist capitalist side is decadent and must be destroyed, adopt certain specific attitudes in theory in relation to certain specific conditions.

What specific attitudes? What specific attitudes 15 does the Communist theory now adopt, the Communist doctrine in relation to this basic proposition you have put? --- It interprets certain actions by the warmongering camp as attacks on the peace loving camp, and the proletarian policy, and it assists resistance to the activities of the 20 warmongering camp on that point. It does that in relation to colonial and oppressed people, and semi-colonial people. It does that in relation to any attempt that is made by the warmongering camp which it regards as promoting war, in any particular aspect of the warmongering camp's 25 international policy.

Could you be more specific on this point and explain what are these specific policies which are so accepted in Communist doctrine as being - following from its basic position? --- I have mentioned the case of the 30 so-called activity by the imperialist warmongering camp in the colonies and amongst semi-colonial people, where the

proletarian camp, the peace loving camp, resists and assists
 resistance of the oppressed peoples against the actions of
 the warmongering camp. A further example is the theory that
 the war mongering camp is promoting the production of
 armaments and that therefore the peace loving camp must 5
 resist on the principles of its theory any manufacture of
 armaments. An example would be the national struggle of
 certain colonial or oppressed peoples, where the peace loving
 camp consistently supports the movement to national
 independence of the so-called oppressed or semi-colonial 10
 people, to establish their own particular forms of govern-
 ment, independent forms of government. An example would be
 the cases where - on this doctrine, the warmongering camp
 is regarded as creating military blocs in various parts of
 the world, and the peace loving camp, then on its theory, 15
 regards it as its duty to oppose and criticise and make
 propaganda against the formation of such military blocs.

Will you proceed on the lines you have been replying
 to my question and further explain to what extent the doctrine
 acknowledges certain actions or policies which they accept, 20
 in terms of the doctrine, as being in conformity or other-
 wise to Communist theory? --- The Communist theory teaches
 that the capitalist development has reached that stage
 when the time for colonialism has passed and therefore the
 colonial peoples should be normally developed into 25
 independence and therefore Communists support the movement
 of those people, ultimately to develop their own specific
 forms of independent states.

You referred to the opposition of the Communist
 bloc in terms of its basic doctrine, to military blocs being 30
 formed by the imperialist bloc, all that being accepted in
 Communist theory and in terms of Communist doctrine? ---En

terms of Communist doctrine.

Now are there specific actions which are acknowledged and accepted in the view of Communist theory as falling in that category of military actions and military blocs being formed which deserve opposition from the Communist bloc? --- 5
The South East Asia Treaty Organisation would be one example where they expressed theory....

BY MR. WELSCH :

My Lord, if I may interrupt once again. The witness really is trying to get in a statement of fact of what 10
Communist policy is towards the South East Asia Treaty Organisation.

BY MR. JUSTICE BEKKER :

Mr. Welsch, would he not be entitled to say this :
I have now outlined the theory. Could he not be asked, in 15
your opinion, has that theory been put into practice?

BY MR. WELSCH :

No, My Lord. My Lord, the question whether a theory has been put into practice is a question of fact, pure and simple. 20

BY MR. JUSTICE BEKKER :

It is an opinion expressed by this witness. He doesn't say it is a fact, it is his opinion as an expert that that theory has been put into practice in Korea for instance. 25

BY MR. WELSCH :

My Lord, before he can express an opinion, the facts must be proved. The facts must be proved as to what is happening in Korea, or what did happen in Korea.

BY MR. JUSTICE BEKKER :

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He is not stating a fact. He says, "in my opinion", applying my independent science, my knowledge, I express as

as an opinion, that this has been put into practice there.

BY MR. WELSCH :

But My Lord, with respect, a witness can only express an opinion upon proved facts.

BY MR. JUSTICE BEKKER :

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No. What about a doctor? A doctor is entitled to look at hearsay matters, he can consult with his colleagues, and he goes into the witness box and he says - 'In my opinion this would be a correct dosage' for a particular disease.

BY MR. WELSCH :

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My Lord, that is on a somewhat different footing.

BY MR. JUSTICE BEKKER :

Isn't the footing the same here, where the witness says, this is my opinion as to theory. I express my independent opinion, applying my knowledge and my science, that 15 that theory is being put into practice there or here.

BY MR. WELSCH :

My Lord, a close analogy would be, with respect, a case where evidence is led as to the factual condition of the patient, and then the doctor expresses the view as to 20 what is wrong with that patient and perhaps a view as to how long the patient is likely to live. Now in such a case, My Lord, the doctor's opinion evidence can't be led unless the factual evidence is before the Court. Now My Lord, the position in regard to these international incidents is 25 exactly the same, that this witness cannot express an opinion as to what happened in Korea or anywhere else in the world, until it is proved as a fact what did happen there.

BY MR. JUSTICE BEKKER :

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As long as he applies his own independent thought to a position, his own process of reasoning and he doesn't

state it as a fact, he states it as his opinion...

BY MR. WELSCH :

But My Lord, if I may bring Your Lordship back to the real question which we are dealing with here.

BY MR. JUSTICE RUMPF :

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That is slightly different, your objection that you raised, is on another point, before my Brother Bekker put his difficulties. Are you going on with that now?

BY MR. WELSCH :

My Lord, I want to deal with it on a somewhat more 10 general basis. I think what my learned friend is really trying to establish here, is that Communist governments and particular the government of the Soviet Union took a part, played a part in regard to certain international incidents in the past. Now, My Lord, whether - to take a 15 hypothetical example - whether the Government of the Soviet Union supported the North Koreans during the Korean war, is in my submission a question of fact plain and simple, just as, My Lord, it is a question of fact whether a particular organisation like the World Federation of Trade Unions is a 20 Communist sponsored or Communist supported organisation.

BY MR. JUSTICE RUMPF :

But if it is a fact which could or could not be accepted in Communist philosophy, doctrine?

BY MR. WELSCH :

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Well, My Lord, with respect

BY MR. JUSTICE RUMPF :

Communism is also a system of government. We are not hearing an expert on philosophy.

BY MR. WELSCH :

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Well, My Lord, this witness has been professing to give expert evidence as to what Communists believe. In my

my submission, My Lord, he cannot give evidence as to what Communists have done, unless he was there and saw it being done, or unless....

BY MR. JUSTICE RUMPF :

But what philosophy could you possibly prove? If 5
the expounders of the philosophy accept certain facts and base their philosophy upon such facts, how can ...

BY MR. WELSCH :

My Lord, if this witness says that it is a tenet of Communist doctrine that something happened in Korea, then 10
My Lord, I would have nothing more to say.

BY MR. JUSTICE RUMPF :

Not only a tenet, that applies perhaps to the philosophical aspect. But we are dealing with the system of government, and if that government admits - or if 15
expounders of the system of that government admit that the government had done certain things, why shouldn't he say so?

BY MR. WELSCH :

My Lord, it is not for this witness to state what certain - what third parties admit, because it is hearsay, 20
My Lord. We are dealing here with questions of fact and what this witness says third parties believe or admit in regard to questions of fact, is hearsay.

BY MR. JUSTICE RUMPF :

And how is he then entitled to give evidence about 25
what the expounders of philosophy accept and do?

BY MR. WELSCH :

Because, My Lord, he has got standard books. It doesn't matter whether the statements^{which} are made in those books are true. And that, My Lord, after all is the hall- 30
mark of hearsay, when you lead evidence as to what someone who was not in the witness box said, with a view to proving

its truth, then My Lord, that is hearsay. But, if the only purpose of the evidence is to show that the statement was made, and that after all is the kind of evidence which is given about the classical works on Communism.

BY MR. JUSTICE RUMPF :

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Assuming the question is put to him 'Is there certain Communist literature, can you name the literature, accepted as sources of Communism, in which Korea is dealt with, and the policy of Communism in regard to the position of Korea'?

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BY MR. WELSCH :

My Lord, with respect, a doctrine doesn't have a policy. A government may have a policy, and that really is the truth of this debate, My Lord, that it is only a government that had a policy, and a policy is a question of fact. A policy means what did the government do, and what did it say.

BY MR. JUSTICE RUMPF :

But we are dealing with a political doctrine. That has a policy.

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BY MR. WELSCH :

My Lord, a political doctrine may have a policy, but My Lord, a political doctrine does not normally have as one of the tenets of its faith or its belief that something happened in the past. It can happen, My Lord, it can happen, as I submitted to Your Lordship yesterday about Christianity. Christians believe that certain acts happened, that certain events happened many years ago. But, My Lord, it has not been suggested that it is part of the Communist doctrine that the Korean war happened in 1950 or whenever it was. My Lord, this again, as I submitted yesterday, is simply an attempt to get in evidence

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of facts under the guise of doctrine, because My Lord, it can't possibly be a part of Communist doctrine, and this witness doesn't really say that it is a part of Communist doctrine that the Korean war happened or that the Russians supported one side or the other.

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BY MR. JUSTICE RUMPF :

It is part of the Communist doctrine so far as we have listened to that, and subject to cross-examination, that there was an October Revolution.

BY MR. WELSCH :

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My Lord, with respect, what Communist doctrine says - it lays down certain beliefs about the meaning and significance of the October Revolution. But My Lord...

BY MR. JUSTICE RUMPF :

It accepts that.

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BY MR. WELSCH :

My Lord, everybody accepts the fact that the October Revolution happened, but that isn't a peculiar tenet of Communism.

BY MR. JUSTICE RUMPF :

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Are we entitled to accept that without any reference to an historical work ?

BY MR. WELSCH :

My Lord, that may be a different question, but...

BY MR. JUSTICE RUMPF :

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Is - It is not a different question, because you are confusing the issues.

BY MR. WELSCH :

My Lord, what I am saying is the question whether the October Revolution happened is a question of fact.

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Communists have no peculiar view as to whether or not that Revolution did happen. And similarly, My Lord, I am submitting

that Communists have no peculiar view or dogma or doctrine or belief as to whether or not the Korean war happened,

BY MR. JUSTICE RUMPF :

Throughout Communist literature - well, I won't say throughout, but at a number of places that have been 5 referred to us, there has been a reference to the Revolution, the Revolution in Russia. It is a pivot, it is a source of inspiration, according to these works. Now, assume that the witness wants to deal with Communist theory, must he say 'Well, I can't say anything about the Revolu- 10 tion, I am sorry, I don't know what to say. Communists think this is a wonderful thing, it was a wonderful thing, they make it the pivot, the kernel of their doctrine, they base a lot on it, they say it is a manifestation of what their doctrine is, yet I am not entitled to refer to it, 15 because it is a matter of fact whether it was or was not there'. Now some book must be handed in to prove that. If facts are part of any doctrine...

BY MR. WELSCH :

My Lord, facts may be part of a doctrine, but I 20 repeat, My Lords, that this witness has not said, and he cannot say, My Lord, that it is part of the Communist belief that the Korean war happened.

BY MR. JUSTICE RUMPF :

Do you say that he can't say it is part of the 25 Communist belief that the Korean war took place? He can't say that? And why can't he say that if that is part of the Communist doctrine?

BY MR. WELSCH :

Well, My Lord, if he says it is part of the 30 Communist doctrine, then I hope that he will produce classical works on Communism.....

BY MR. JUSTICE RUMPF :

He needn't produce any works for his opinion, unless he wants to, or unless he is asked to do so in cross-examination.

BY MR. WELSCH :

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On that point I would like to refer Your Lordship to the case of Rex versus Jacobs, which was decided in the Transvaal Provincial Division in 1940. 1940, T.P.D. page 142. That My Lord, is the case where the Defendant had been charged with driving under the influence of liquor, and His Lordship Mr. Justice Ramsbottom at page 146, laid it down, My Lord, that it is not sufficient for an expert witness merely to state an opinion, but that he must give the reason for his opinion. Now My Lord, what he says is this. He says : "In cases of this sort, it is of the greatest importance that the value of the opinion should be capable of being tested, and unless the expert witness states the grounds upon which he bases his opinion, it is not possible to test its correctness so as to form a proper judgment on it." My Lord, that principle has been accepted, it was accepted by the Appellate Division in a handwriting case, the case of Rex versus Morela, 1947, Volume 3, South African Law Reports, page 147, where again it was laid down that it is not sufficient for a handwriting expert merely to give an opinion. He must draw attention to the points of similarity, and similarly, My Lord, if this witness does say that it is part, and a peculiar part of Communist belief that a war happened in Korea, my submission is that he should, in his evidence in chief, cite the authorities, the Communist classics upon which he relies.

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BY MR. JUSTICE RUMPF :

I don't think that case supports you at all. What

is meant by that, by the decision in that case is obviously
 that if a witness of this type were to^{be} presented it with
 a document and he would give evidence and say, is this a
 Communist document, or a document within Communist
 philosophy, then obviously that is not a good enough 5
 answer. He must explain why, and refer to the particulars
 on which he relies.

BY MR. WELSCH :

With respect, My Lord, there is no distinction
 at all between the case which Your Lordship has put and 10
 the mere ipsi dixit of the witness, if he does say it, which
 he hasn't yet said, that it is a part of Communist doctrine
 that certain international events happened in the last
 ten years.

BY MR. JUSTICE RUMPF : 15

He is not setting out now - he is not dealing with
 a particular fact which he says is Communist words or
 writing. He is not dealing with a patient, and says that
 patient or that man was under the influence of liquor, I am
 a medical expert. That is all. That is not the case here. 20
 He deals, when he deals with this particular aspect of the
 case, he deals with the doctrine of Communism, and he has
 said he has studied literature, he has given his qualifi-
 cations and he says, that is the reason why I say
 Communism is this or that. If you are correct, then for 25
 every statement in regard to the nature of Communism he
 must rely on authorities.

BY MR. WELSCH :

He has in fact relied upon authorities.

BY MR. JUSTICE RUMPF : 30

That is another matter, but I am on the question
 of whether he need do so.

BY MR. WELSCH :

My Lord, in my submission there is nondifference at all in principle between the questions which were debated yesterday, which was whether this witness could give evidence as to whether Communist theory accepts a certain organisation as being a Communist organisation, a question of fact, My Lord, and similarly if the question arises whether.... 5

BY MR. JUSTICE RUMPF :

That wasn't the point yesterday. The point yesterday was that the Crown alleged in its particulars objectively, not that in terms of Communism, but objectively, the W.F.T.U. is a Communist sponsored organisation. It didn't allege that it is within the doctrine of Communism that the W.F.T.U. is regarded as such. If that had been the case, then obviously, if he had such authority, he could have referred to authority and that would have met your difficulty. That was an allegation by the Crown. This is not an objective fact. The Crown does not want the witness to say, did in fact Russia assist in the war in Korea. 15 20

BY MR. WELSCH :

Then, My Lord, with respect I don't understand what the Crown does want the witness to say. How does it matter, My Lord, whether a certain body of people hold the belief about a certain historical fact, a recent historical fact? 25

BY MR. JUSTICE RUMPF :

Does it matter whether it is recent or old? As to their belief?

BY MR. WELSCH :

No, My Lord, it doesn't. 30

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