THE CLOISTERED

THE CLOISTERED VIRTUE

Freedom of Speech and the Administration of Justice in the Western World

BAREND VAN NIEKERK

I cannot praise a fugitive and cloistered virtue, unexercised and unbreathed, that never sallies out and sees her adversary, but slinks out of the race, where the immortal garland is to be run for, not without dust and heat.

John Milton, *Areopagitica*

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BAREND VAN NIEKERK

To the children of Africa,
Kristine Naëtt and Marijke Annette

FOREWORD

In 1981, shortly after completing the manuscript of *The Cloistered Virtue*, Barend van Niekerk died at the age of 42. He left a wife, Traute, and two small daughters, Kristine and Marijke. An inveterate traveler, he died of a heart attack on a visit to Lake Titicaca in Bolivia, some 12,500 feet above sea level, where he had gone despite medical warnings that his high blood pressure would not permit travel to high altitudes. Thus South Africa lost its most active and controversial civil rights campaigner, whose interventions had raised the temperature of debate in almost every civil rights issue for over a decade. In a country in which human rights violations are many and activists are few, Barend van Niekerk succeeded in stimulating public debate on so wide a range of subjects as the country's archaic Sunday observance laws, capital punishment, race discrimination in law enforcement, police torture, censorship, press freedom, and the role of the judge, lawyer, and academic in an unjust society. He wrote prolifically and spoke courageously in a manner that was often considered neither politic nor polite by his own staid profession. Many disagreed strongly with his writings, his speeches, and his actions. But no one could ignore him. He was a vital, vibrant force who demanded a response. On occasion the South African government responded in a heavy-handed manner, but all its attempts to silence him failed. The present study bears eloquent testimony to this failure.

Barend van Niekerk was born into the White Tribe of Africa – the Afrikaners, whose political mouthpiece, the National Party, has governed South Africa since 1948, with its policy of apartheid or separate development, as it is now euphemistically called. He attended an Afrikaans school and university and devoted himself energetically to the cause of Afrikaner nationalism throughout his high school and undergraduate days. Indeed, when I first met Barend as a fellow student at the University of Stellenbosch in the 1950s, his zealous support for the National Party exceeded that of his peers. For not only was he active in the work of the National Party youth movement, but he proudly advertised this allegiance by flying a party flag on his motor scooter. Characteristically, political change came to him not through reflection but through action. Incensed by student rudeness at a meeting addressed by the liberal Anglican archbishop of Cape Town, the Right Reverend Joost de Blank, he publicly disavowed the National Party demonstrators and apologized for their insulting behavior. That night he made his choice. He was not to conform again.

After graduating from the University of Stellenbosch, Barend van Niekerk studied abroad in Germany, France, and Italy. His studies were not limited to law, but spread into the fields of politics, philosophy, history, language, and literature. He traveled widely in Europe and Africa and became proficient in German, French, Spanish, and Italian. In 1965, a doctorate in history was conferred on him by the University of Strasbourg for a dissertation on

Pan-Africanism, with special reference to the roles of W. E. B. du Bois and Kwame Nkrumah. He developed an interest in the poetry of Léopold Senghor, the president of Senegal, and in 1970 he published *The African Image (Negritude) in the Work of Léopold Sedar Senghor*. Later, he became a good friend of President Senghor and visited him in Senegal on many occasions.

The effect of foreign travel on Afrikaner attitudes is an oft-debated topic in South Africa. Certainly it had a radical impact on Barend van Niekerk. The young man who returned to South Africa in 1966 was no longer the committed, narrow Afrikaner of his student days. In January of 1968, in an article in *New Nation,* he described himself as a "detribalized Afrikaner," who had rejected the hallmarks of nationalist Afrikanerdom, particularly as reflected in its racist policies, but who nevertheless remained bound to Afrikanerdom in a community of destiny and by ties of sentiment and history.

On his return to South Africa, Van Niekerk applied for a post in the law faculty of the University of Fort Hare, a university for blacks rigidly controlled by the Nationalist government, but, despite his impressive academic qualifications, he was not successful. In the interview that preceded this decision he was questioned about his religious affiliations and church attendance and his response that he had applied for a post in law and not theology was not lightly dismissed by the selection committee. He was more successful in his application to the University of Zululand, another government-controlled university for blacks, but after a year's sojourn there he was appointed to a senior lectureship in law in mid-1967 at the University of the Witwatersrand.

The University of the Witwatersrand, the largest English-language university in South Africa, prides itself on its commitment to the liberal and humanist academic tradition. Situated in the city of Johannesburg, it gives the academic easy access to the media and to the main platforms of legal and political debate. It was the ideal environment for the detribalized Van Niekerk.

During his early years at the University of the Witwatersrand, Van Niekerk pursued the life of an ambitious young academic: he lectured in a wide range of subjects and started to write prolifically. His writings provided abundant evidence of his knowledge and understanding of foreign legal systems, but they ruffled few feathers. Even his first foray into legal controversy, an article ridiculing South Africa's primitive Sunday observance laws (which are deeply rooted in the Calvinist theology that provides the spiritual force for Afrikaner nationalism) was soon forgotten. His espousal of the cause of abolition, which was to bring him into national prominence, was not to be so easily forgotten.

Despite the fact that the death penalty still figures prominently as a punishment in South Africa, there is little support for the abolitionist cause. Van Niekerk set out to remedy this situation almost single-handed in the late 1960s as the execution rate mounted to exceed the hundred mark each year. He formed the Society of the Abolition of Capital Punishment and began to campaign passionately. In 1970, he was prosecuted for contempt of court for an article on the death penalty. This prosecution, so central to an understanding of

Van Niekerk's crusade for freedom of expression in the administration of justice, is, however, one that can be understood only in the context of that time.

The South African Supreme Court, comprising several provincial divisions and an Appellate Division, is modeled on English lines. The judges pride themselves on their independence, and in the early 1950s this independence was amply demonstrated when the Appellate Division refused to approve a legislative scheme aimed at disenfranchising colored voters and insisted on strict compliance with the separate but equal doctrine in the field of public amenities at a time when the government had set about implementing a policy of "separate but unequal." In response, the government set about reconstituting the Supreme Court, and more particularly the Appellate Division. The nature of this division was radically transformed by its enlargement from five to eleven judges and important changes were also made in the membership of the provincial divisions. These changes did not go unnoticed in legal quarters, but little public attention was given to them. Consequently, it did not surprise the public to find the new Supreme Court basking in the reputation established by its predecessor. Nor did it appear incongruous that the same government that had vigorously assailed the Appellate Division in the 1950s should now join in singing the praises of the independent judiciary. In 1968, the same government that had openly criticized the Appellate Division and enlarged its membership in the 1950s declared in a publication for foreign consumption that "South Africa is proud of its judges" who "exercise their functions independently of the Executive" [*South Africa and the Rule of Law* (Department of Foreign Affairs, Pretoria) 20].

By the mid-1960s, when the Supreme Court was called upon to hear a number of cases arising out of the political subversion of that period, it had grown accustomed to its reputation for independence. Its performance in the 1950s had won the hearts of liberals and its new composition, coupled with its policy of restraint in matters affecting the state, had won favor with the government. Therefore, it was totally unprepared for criticism directed at its interpretation of the security laws; and it was particularly offended to find itself – a court with a reputation for independent action hitherto criticized mainly by the government – now being questioned by liberal critics on the grounds of "executive-mindedness."

In 1964 and 1965, the Appellate Division delivered a number of pro-government decisions that gave the court's blessing to the system of detention without trial introduced in 1963 to deal with persons suspected of political offenses. These decisions were vigorously condemned by Professors Tony Mathews and Ronald Albino of the University of Natal. In an article published in the leading South African legal periodical, the *South African Law Journal*, they declared:

> We have to face the fact that some South Africans may have lost faith in the courts. The line of cases discussed in this article does not present

> a picture of judges fired by ideas of individual liberty or personal sanctity. There is no assertion that the judges are partial or that they lack integrity. What does seem to have been lacking in the cases analysed above is an imaginative grasp of the implications of solitary confinement and of Western ideals of individual freedom. [(1966)83 *South African Law Journal* 16 at 37]

This criticism was not allowed to go unanswered. In April 1967, Chief Justice Steyn expressed regret at the "intemperate, derogatory language" of the court's critics, who had by implication accused the court of "something in the nature of a dereliction of duty, due to an inadequate concern for basic rights and liberties." He then pleaded for a neutral approach to the judicial function and added that "it would be an evil day for the administration of justice if our courts should deviate from the well recognized tradition of giving politics as wide a berth as their work permits."

Both the government and the judges were concerned about this criticism of the courts, and there were signs that a prosecution of Professor Mathews on a charge of contempt of court was seriously contemplated. The judges and the government were now clearly on the lookout for academic lawyers who went too far in their questioning of the judicial role in an apartheid society.

In 1969, Barend van Niekerk published an article in the *South African Law Journal* under the title ". . . Hanged by the Neck until You Are Dead" [(1969)86 *SALJ* 457, (1970)87 *SALJ* 60], advocating the abolition of the death penalty. In it he discussed a questionnaire he had circulated among the judiciary and advocates soliciting their views on capital punishment. One of the questions posed in the questionnaire was, "Do you consider, for whatever reason, that a Non-European tried on a capital charge stands a better chance of being sentenced to death than a European?" This was followed by the question, "If your answer (to the previous question) is 'yes' or 'only for certain crimes', do you think that the differentiation shown to the different races as regards the death penalty is conscious and deliberate?" In his article, Van Niekerk reproduced these questions and the replies of advocates, and commented, "Whatever conclusion one may draw from the results of these two questions, the fact which emerges undeniably is that a considerable number of replying advocates, almost 50 per cent in fact, believe that justice as regards capital punishment is meted out on a differential basis to the different races, and that 41 per cent who so believe are also of the opinion that such differentiation is 'conscious and deliberate'."

For these comments Van Niekerk was charged, apparently on the complaint of the judge president of the Transvaal, Mr. Justice P. M. Cillié, with contempt of court, on the ground that his statement was calculated to bring the judiciary into contempt, to violate their dignity and respect, and to cast suspicion on the administration of justice. He was acquitted by Judge Claassen as he was found not to have had the necessary intention to commit the crime, but the judge took the opportunity to rebuke Van Niekerk. More disturbing still, he found that the

statements published could, standing on their own, be viewed as being contempt of court, as

> a reasonable person reading the article in question would understand that advocates are persons who have an intimate knowledge of the way justice is meted out and their opinions are entitled to great respect and if the reader accepted the views set out he could possibly hold the judges and the administration of justice in low esteem. . . . If the interpretation suggested be correct then the judges could no longer be treated with due respect for they could no longer be universally thought of as being impartial. [*S* v. *Van Niekerk* 1970(3) SA 655(T)]

The prosecution failed to silence Van Niekerk. On the contrary, he became more outspoken on matters affecting the administration of justice in general, and the abolitionist cause in particular. He was now a national figure whose pronouncements on issues of justice were featured regularly in the popular press. He was also much in demand as a public speaker as his oratory, a blend of compassion, hyperbole, and sardonic humor, could be entertaining and yet moving.

In 1970, Van Niekerk was appointed to the chair of public law in the University of Natal, Durban, a position he was to hold until his death, June 21, 1981. Controversy surrounded his appointment, and, indeed, his tenure of the post as a result of his prosecution and his high profile in public debate. Moreover, he was soon to become embroiled in another prosecution that was further to alienate him from the legal establishment.

In November 1971, at the height of a public outcry following the death of Ahmed Timol while a detainee under Section 6 of the Terrorism Act, a protest meeting was held in the Durban City Hall attended by several thousand people. At this meeting Professor van Niekerk delivered a scathing attack on Section 6 of the Terrorism Act, which authorized the police to detain a person suspected of participation in terrorist activities indefinitely, in solitary confinement, for the purpose of interrogation. Inter alia, he declared:

> [The] very purpose of the detention clause of the Terrorism Act is to procure evidence by way of torture. It is an accepted fact in any civilized land but ours that solitary confinement over a long period, even if unaccompanied by any of its possible frills, is torture *per se*. In one of the landmark decisions in American law (that of *Miranda* v *Arizona*) incommunicado interrogation was itself regarded as third degree.

He then went on to criticize lawyers and judges for their failure to condemn this statute.

> The Terrorism Act . . . is a negation of what any true lawyer would call justice. And yet our lawyers, the guardians of our nation's legal

> heritage, have done so very little to mitigate its crudities. What then, you ask, can our lawyers do? In the very first place our lawyers, all our lawyers from judges downward, can make their voices *heard* about an institution which they must surely know to be an abdication of decency and justice. No doubt, they will tell you, it is not their function to criticize the law, but to apply it. This is the very understandable retort of our judges to the demand sometimes made upon them to have their influential voices heard when the rule of law is trampled into the dust. But we must surely ask these lawyers, when will a point *ever* be reached when their protests would become justified? Will they still make this facile excuse for abject inactivity if it is decreed that public flogging be introduced for traffic offences, . . . burning at the stake for immorality and decapitation for the use of abusive language? Surely we have reached the stage that we are no longer merely dealing with a nicety of jurisprudence but with the essential quality and survival of justice itself! Surely also lawyers should realize that by remaining silent at the helm of their clinking cash registers they are not only perpetuating these palpable injustices but they are indeed also lending them the aura of respectability. Above all, they should realize that by remaining silent in the face of what they know to be inherently unjust, cruel and primitive, they are indeed sullying themselves and the reputation of their profession.

Finally, Van Niekerk turned his attention to the judiciary and asked:

> In the face of the grotesqueness of the situation as regards the application of the Terrorism Act, has not the time come for them to stand up more dynamically in the defence of the hallowed principles of the rule of law in the Western sense? . . . Cannot our judiciary . . . in effect kill one aspect of the usefulness of the Terrorism Act for our authorities? They can do so by denying, on account of the built-in intimidatory effect of unsupervised solitary confinement, practically all creditworthiness to evidence procured under those detention provisions. It is a grave solution I am asking them to take, but the situation is also a very grave one.

For some time prior to the protest meeting in the Durban City Hall, a criminal prosecution (*S* v. *Hassim and Others*) under the Terrorism Act had been in progress in Pietermaritzburg. The accused and most state witnesses in this case had previously been held for lengthy periods under the Terrorism Act, and it was alleged by defense counsel that several state witnesses had been physically ill treated by the police while in detention. Considerable publicity had been given to these proceedings and to the allegations of police brutality, and Van

Niekerk was clearly aware of the proceedings although he did not mention them in his speech.

In December 1971, Professor van Niekerk was indicted before Judge Fannin in the Durban and Coast Local Division on charges of contempt of court and attempting to defeat or obstruct the course of justice as a result of his speech. On the first count the state alleged that Van Niekerk had committed contempt of court, first, by insulting or scandalizing the court, and second, by making comments "with intent . . . to prejudice and influence the judgment in the case of *S* v. *Hassim and Others.* " (The comments referred to here were those calling upon the judiciary to "kill" the usefulness of the Terrorism Act by denying "practically" all evidence procured under its detention provision.) On the second count the prosecution averred that he had attempted to defeat or obstruct the course of justice

> by calling upon the Judges of the Supreme Court of the Republic of South Africa and other judicial officers not to admit or attach any credence to evidence given or statements made by persons detained in accordance with the provisions of the Terrorism Act, during judicial proceedings before them, thus seeking improperly to influence the said judges and judicial officers in their judgements and the administration of justice by them in accordance with the law and customs of the Republic of South Africa.

Judge Fannin acquitted Van Niekerk of the charge of scandalizing the court on the first count, but found him guilty of publishing comments that had a tendency to prejudice or interfere with the proceedings in the *Hassim* case, despite the fact that he nowhere referred to this case in his address. The judge acquitted him on the second count on the ground that the state had failed to prove that he had the necessary intention to interfere with or obstruct the course of justice in any judicial proceedings which might then or in the future be pending. Professor van Niekerk was sentenced to a fine of 100 rands, with an alternative of one month's imprisonment, in respect of his conviction on the first count. The trial court gave leave to appeal against this conviction and, on the application of the attorney-general for Natal, reserved a question of law on whether the speech "[did] not in law, constitute the crime of attempting to defeat or obstruct the course of justice."

The Appellate Division, like Judge Fannin, held that Van Niekerk's speech did not constitute the species of contempt known as "scandalizing the court," but found that it did have a tendency to interfere with the proceedings in the *Hassim* case and therefore dismissed his appeal. Furthermore, it found in favor of the state on the point of law reserved and convicted Van Niekerk of attempting to defeat or obstruct the course of justice [see *S* v. *Van Niekerk* 1972(3) SA 711(A)].

The judgment of the Appellate Division had a traumatic effect on Van Niekerk. The court's decision, which reflected a clear determination to be rid of the turbulent Van Niekerk, imposed severe restraints on the right to criticize the administration of justice, and Van Niekerk rightly believed that the press and the legal fraternity did not treat it with sufficient concern. He saw it as his task to alert the media and the legal profession to the curb that had been placed on free speech by the Appellate Division and from this time he devoted much of his energy to speaking and writing on this subject. The cause of abolition was not forgotten, but relegated to second place.

The third of Van Niekerk's trials, like the first, arose out of his concern over the racial factor in the system of capital punishment. This time, however, it took the form of a civil action for defamation (libel). The case arose out of a comment by Van Niekerk, in which he condemned the decision of the Executive Council (cabinet) to reprieve a white killer but not his black colleague, who had been convicted of the same crime. According to Van Niekerk, in an interview published in the Johannesburg *Sunday Times*, the execution of the black man in this case

> must fill all South Africans with shame. Two persons of different races commit the same crime and are sentenced to the same punishment by a court of law: yet they are treated differently by the Executive on the plea of mercy. One would have expected the Government to save the life of Makinitha [the black man], to avoid the obvious inference of discrimination; that they did not do so speaks volumes for their lack of concern for justice and the reputation of our law.

These remarks resulted in defamation proceedings being instituted against Van Niekerk and the *Sunday Times* by the minister of justice, Mr. P. C. Pelser, acting in a personal capacity. On behalf of the two defendants, it was argued that this article was not defamatory as it would be understood by the reasonable reader as a legitimate exercise of the subject's right to criticize the executive and its policies. The Appellate Division, however, in an appeal on a preliminary question of law, rejected this contention and held that the words were defamatory as they imputed racial discrimination and a lack of concern for justice in the exercise of the discretion to reprieve persons sentenced to death. Moreover, although the Executive Council itself could not sue, it was open to the minister of justice, as the minister in charge of the administration of justice, to sue in his personal capacity.

This decision, like the earlier Van Niekerk cases, had serious implications for freedom of expression in South Africa, as in effect it meant that critics of the government might now be exposed to defamation proceedings at the instance of ministers acting in their personal capacities. Unfortunately the Appellate Division chose not to see it in this light and failed to refer to the leading American decision on this subject, *New York Times* v. *Sullivan* 376 U.S.

254(1964), despite the fact that this authority featured prominently in the argument of counsel for the defendants [see *South African Associated Newspapers Ltd and Van Niekerk* v. *Estate Pelser* 1975(4) SA 797(A)].

Van Niekerk was deeply troubled by this action as he feared that he might be ruined by a large award against him and by the costs of the proceedings. Before the conclusion of the proceedings, however, Mr. Pelser died with the result that no award was made, and the *Sunday Times* agreed to bear the full burden of the costs of the proceedings.

The three Van Niekerk cases were undoubtedly the inspiration for the present comparative study. Van Niekerk was outraged that he, a member of the Afrikaner elite and a professor of law, should be persecuted by the government and ostracized by the legal establishment. Moreover, he was distressed that many of his colleagues in the law failed to support him publicly or to appreciate the enormity of the restrictions on freedom of speech expounded in the Van Niekerk cases. On the other hand, his direct pronouncements on social justice, so unlike the polite murmurs of the liberal establishment, won him new friends and admirers in the black community, who saw in Van Niekerk a campaigner prepared to "tell it as it is" and to face the consequences.

Gradually, Van Niekerk's anger gave way to reflection on the forces in Western societies that wittingly or unwittingly conspire to protect the judiciary from robust criticism. He came to realize that law, convention, legal mythology, taboos, and professional codes of conduct together ensured that the administration of justice remained a "cloistered virtue," even in societies that enjoy a greater measure of free speech than South Africa. This new understanding obsessed him and the last years of his life were devoted mainly to the study of the subject. Although he became more understanding of the nature of the judicial function, Van Niekerk did not let up in his campaigning of the cause of justice. He continued to publish regularly in legal periodicals, to make pronouncements in the popular press, and to address meetings. And, running like a golden thread through all these writings, speeches, and utterances on the subject of the injustices in South African society, was the clear message that freedom of speech is a democratic value that should not be allowed to fall into disuse – even, or particularly, where the courts and judges are concerned.

Van Niekerk clearly believed that his crusade for freedom of speech in matters affecting the administration of justice had met with little success in his native land. Indeed, readers of the present work will have little difficulty in identifying this mood of despondency. But here Van Niekerk was too pessimistic, for there is no doubt that he did succeed in expanding the bounds of free speech. The judiciary gained nothing from the contempt of court prosecutions. On the contrary, they lost much public support as they were seen to be petty minded in their readiness to invoke the criminal sanction to protect their own reputation. Furthermore the prosecutions failed to curb academic criticism of judicial decisions in the areas of race and security as writers, including Van Niekerk, simply became more artful in the formulation of their

criticism. Some judges came to appreciate that robust and frank comments on their decisions from academic quarters were perhaps justified and constructively intended. Indeed, Van Niekerk came to be respected by a number of judges and could proudly boast that "some of my best friends are judges." There is no question that today there are more lawyers in South Africa prepared to speak out against injustice in the courts; and subjects that were taboo ten years ago – such as race and sentencing, the torture of detainees, and the appointment of judges – are debated more openly.

The new freedom to discuss the administration of justice in South Africa stands as a lasting monument to Barend van Niekerk. But there are other memorials. His advocacy of the abolitionist cause constitutes a lasting reminder of the barbarous nature of this punishment. And his passionate, at times sardonic, appeals to practicing and academic lawyers to concern themselves more with the broader issues affecting justice have left their mark.

Barend van Niekerk could not be typecast. Politically he espoused the values of liberalism, but no political movement in South Africa was free from the strictures of his tongue or pen. He was interested in issues and causes, not political parties or ideologies. The right of the lawyer to criticize the administration of justice in an open and robust manner became his main cause and this he pursued with energy and fervor.

In this brief biographical introduction, I have sought to give a picture of Barend van Niekerk within the setting of *The Cloistered Virtue*. In the process of concentrating on Van Niekerk the public figure I have, inevitably, neglected Barend the private man, the friend. Unlike most South Africans, whose friendships are forged by ethnic loyalties or political affiliations, Barend had friends from all racial groups and political factions. He prized these friendships dearly and he was a loyal and concerned friend to many. Surrounded by his family – his wife Traute and his daugthers Kristine and Marijke – he loved to play the role of the host, the warm Afrikaner family man, whose main task was to feed and entertain his friends. For those who knew this side of him, his early death was a double blow.

The Cloistered Virtue has its roots in the soil of an apartheid society. Its inspiration is to be found in the tribulations of the author. But in its completed form it is the work of a citizen of the world, of a scholar who discarded the boundaries of state and language in his mission to advance the free exercise of speech in the cause of justice.

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EULOGY FOR PROFESSOR BAREND VAN NIEKERK

This eulogy was delivered by Dr. Alan Paton at the funeral service held for Professor van Niekerk in Durban on July 6, 1981.

It is an honor that has been given to me today, by Traute van Niekerk, to deliver the eulogy on the occasion of the funeral of her husband Barend, our gifted, tempestuous, brave, reckless, friend and brother.

It is a cliché often used on occasions such as these to say that we shall never see his like again. But it is not a cliché today, for we shall never see his like again. Traute, like you I have a belief in a Creator, and that we are His creatures, and a part of his creation. And Barend was one of the most extraordinary creatures that this creation has ever seen. His enemies could see only his faults, but those of us who loved and honored him saw rather his virtues, and they were as extraordinary as Barend himself.

He was born, like myself, in Pietermaritzburg, the lovely city, although some 36 years later. His father was a government servant at Cedara, just outside the city. When Barend was a small boy the family moved to Cintsa, a small village near East London, and he went to the Grens school in that city. After he had matriculated he went to the intellectual Mecca of Afrikanerdom, the nursery school of prime ministers and rugby champions, the University of Stellenbosch, where he graduated in law. His academic career could not be described as anything but brilliant, but this intellectual eminence was hidden from many by his downright earthiness, and by the downright earthiness of his language. It is a striking characteristic of Afrikaners that when they pray, they pray in Afrikaans, but when they swear, they swear in English.

Barend was brought up therefore in an Afrikaner world, but by this time he was equally a master of English, I mean intellectual English, as well as the other. I do not need to tell a congregation like this that if you deify your race and your language and your culture and your history, you suffer a great mental and spiritual impoverishment. And even if you do not deify them, but if you exalt them excessively, you suffer the same impoverishment. But Barend broke out of it all, finally, decisively, irrevocably. It would never occur to me to think of him as an Afrikaner. There were no doubt foolish and bigoted people who thought that he had become English. One cannot think of a greater absurdity. It will no doubt come as a surprise to many to learn that his home language, I mean the language of his home with Traute and their two daughters, was German.

After Stellenbosch he went to Heidelberg to study international law and comparative law, and then to Bonn. He became the master of German in the same way that he was already the master of Afrikaans and English. He went to Strasbourg where he became a doctor in political science and a fluent speaker of