

A17.17 B.C.

RAAD VIR GODSDIENSTIGE BESWAAR
BOARD FOR RELIGIOUS OBJECTION

BESWAARMAKER:

M S MANLEY

OBJECTOR:

GEHOU TE:

OUDTSHOORN

HELD AT:

DATUM:

29 MAART 1984

DATE:

VOORSITTER:

REGTER M T STEYN

CHAIRMAN:

TEENWOORDIG:

DR D J C VAN WYK

PRESENT:

EERW V W HARRES

KAPELAAN J M DAINES

KOLONEL H C BOSMAN

EERW R N NAUDÈ

SEKRETARIS:

MNR D S FOURIE

SECRETARY:

KONTRAKTEURS : LUBBE OPNAMES

CONTRACTORS : LUBBE RECORDINGS

SECRETARY: Reverend R I Naude is co-opted as a member of the Baptist Church. The applicant is 74373101BG, Recruit MARK STEVENS MANLEY. The application is already in possession of the Honourable Board.

MARK STEVENS MANLEY (OBJECTOR)

CHAIRMAN: Mr Manley, you may remain seated or if you wish to stand you may do so. You are at liberty to do either. It is important for the Board to be satisfied that you are at ease and that you are placed in a position to be to the best of your ability able to state your case clearly and concisely. You will have noticed that you are alone before us and the reasons therefore are twofold, first that according to the terms of the act you are not allowed to have legal representation. In terms of the Act you have to have your application in writing, signed by yourself, and in terms of the Act you then have to state your own case in your own words. -- Right.

Because that is the position, we have decided as a Board not to appoint anybody to question you on behalf of the Board or to call or to question any of the witnesses you may wish to call or to decide on which evidence the Board will want to hear in(20 further instruction in helping to decide in your matter. We have therefore decided that in this matter it will be communication personally man to man between the applicant and the Board. -- Right.

It will then be between you and the Board. There will be questions put to you to clarify certain matters where you have possibly, I do not say you will, expressed yourself vaguely or left a matter unclear. There may be also questions put to you to establish certain facts you have not mentioned. So please see that not as an inquisition. -- Right. (30

Which this is not. It is not designed to be and we
1/5: will/...

will take care to see that it is not an inquisition. It is a matter in which we are at pains to decide as to the acceptability of what you have to say. It is an open hearted exchange between yourself and ourselves and you are at liberty to take your time. Now we have before us your application as amplified. In view of the fact that we have a co-opted member it is necessary to explain that to you. -- Yes.

In terms of the Act the Board is constituted of six permanent members, myself as Chairman, three theologians, civil theologians, one army chaplain and an officer of the Defence Force. (10) But the Act also stipulates that if the denomination to which a particular applicant belongs is not represented on the Board then the Board must be constituted by having a member of that particular denomination co-opted to be a member of it in their adjudication of the particular application. In this particular case you being a member of the Baptist Church we have asked the Reverend Naude of Port Elizabeth whether he would be willing to serve as co-opted member, which he kindly consented to do. We express our appreciation to him for having done so. It has necessitated quite a measure of personal inconvenience (20) for the Reverend Naude having to come all that way and having to sit and to return. We also have a quorum, one of our permanent members cannot be here today, the Reverend Haines who is Dean of the Faculty of Theology at the University of Pretoria as that university is engaged in its graduation ceremonies for the whole week. As you will realise, he as the head of a particular faculty his presence is throughout required in Pretoria and he can unfortunately not be with us, but we are as constituted now, constituted in terms of the Act and we have a sufficient quorum to adjudicate on your matter. We will not place you under (30) oath. We will give you the opportunity of stating your case.

In view of the fact that the Reverend Naude has not had the benefit of reading your application...(intervention).

REV NAUDE: I have read it now.

CHAIRMAN: He has now read it, so I do not know whether you want to go through the whole of it, your own application. It is at liberty, it is for you to decide how to do it. If you wish to read it out into the record and wish to amplify it as you go along, not being bound by the strict terms thereof, you are at liberty to do so. I will now allow you to state your case. -- Right, ^{MANLEY} thank you very much. I do not know how familiar you are with the statement I have made. I think the best would be for me to actually go through it.

Do so. -- And if there are any points that lack in clarity or you want further amplification thereof, you will actually ask me as I go through it.

CHAIR Whilst you are doing so, just keep a weather eye on the young lady sitting there at the recorder. -- Yes.

She has to see that the proceedings are properly and orderly recorded. -- Right.

And she has requested to me ask all gentlemen who are going to be heard to speak pertinently into the microphone. I think that you are well situated and she does not seem to be signalling you in any way. -- No.

To improve your position. So just carry on then. -- Right so if at any stage, I think it would be best if I just get interrupted for anything.

And if you want to amplify. -- Yes.

What has been stated already, you are at liberty to do so. -- Right. We will start at paragraph 2, the first is formality:

"My objection to military service in a non-combatant

capacity is based on the following:....

Actually I think here is a mistake made as to the typing, isn't it? It is your objection to military service in a combatant capacity. -- That is right.

The "non-" should go out. -- That is right.

You do not object to military service, you object to service in a combatant capacity? -- That is correct.

"As a Christian I have asked Jesus Christ to take full control of my life and to fill me with the Holy Spirit so that my life may be guided by Him and be according to His will and plan for me." (10

That is part of the Baptist doctrine, believing in salvation and so on. That is what I adhere to and believe in the dynamic work of Christ and God in my life on a day to day basis so that I can live my life dynamically and individually according to His will.

"An essential part of my Christian life is the application of my Christianity in all areas of my life and therefore I have a Christian ethical base from which I act. It is my conscience guided by the Holy Spirit which enables me to conduct my everyday life and to make long term decisions(20 as a Christian.

My decision to be a non-combatant has not been a simple one and has developed over the past number of years.

The essence of my decision to be non-combatant evolves around two issues; the morality of violence (especially killing) which as a Christian, I cannot involve myself in, and my duty as a South African citizen to serve my country in the manner it requires of me. My final decision to be a non-combatant is a result of reconciling these two issues in order to satisfy my conscience. (30

As a Christian I am called to obedience to Jesus Christ and

then to follow His example (1 Peter chapter 1 verse 2 and chapter 2 verse 21). For Jesus Christ the greatest two commandments were; Love the Lord your God with all your heart, soul and mind, and to love your neighbour as yourself. The very centre of the Christian way of life is the way of love and any study of this theme in the New Testament will reveal the almost overwhelming implications of this ethic for the Christian lifestyle."

It is very evident in passages such as Matthew 5, Luke 6 and so on. (10

"Being a Christian means complete renewal and in such violence turns to love (Ephesians 4 verses 22 to 24). My growth as a Christian has led to a deepening of my understanding of love to a point where I cannot accept violence as a normal part of my life. This does not mean I have rejected the use of force in totality. Following the example I believe Christ gave in John 2 verse 13 - 17."

That is where he cleared the Temple.

"I do not renounce all forms of coercive behaviour. However I do renounce homicide, especially that kind found (20 in war. I therefore cannot submit to combatant training because of my renunciation of all actions which are designed to enable people to kill or mutilate each other. I believe I am called to a life of sacrificial love as Christ lived. The ramifications of this are involvement in healing, forgiveness, new life, love and as such I believe, incompatible with such violence."

REV HARRES: Mr Manley, could I ask you concerning your statements in this paragraph and I ask them simply because it seems - and I am sure you will have been aware of this thinking the (30 thing through - it involves a certain problem. On one hand you 1/11° say/...

say you reject homicide. -- Right.

I think so do most people. On the other hand you do not renounce all forms of co-ersive behaviour. -- Right.

What happens if you are put in a situation where co-ersive behaviour escalates to that point where homicide follows? -- Is that a necessary...is that a necessary conclusion of such a situation developing?

Not necessary. -- Do we have to meet a situation where homicide is the only alternative? I believe Christ actually gave us examples where he could have annihilated the whole (10 earth, but He chose to as a result be self-sacraficial and go the path of the suffering servant and I believe that is the example that He has asked us to abide by.

Yes, I would like to make myself clear. I am not arguing your convictions. I am just trying to expose what for me - and I am sure for you - is an area of difficulty. -- Right.

So as to enable you to see the thing perhaps against a slightly wider background. That is all I am concerned with. -- Right.

All I am saying is that conceivably there are situations (20 that could arise where you will be led, most unwillingly, to homicide. What is your attitude in a situation like that? -- I believe that it could still be avoided. The co-ersive behaviour I speak about, you are going to get anti-social elements within any society because I believe in the fallen nature of man and so such activity has to be curtailed for the safeguarding of the society. For example if I walk out into the street, as Francis Schaefer puts it perhaps, and a thug is beating up a little girl, what is my reaction then? Do I say I love you, I love you to the thug? No I do not. I stop him because of (30 my love for the girl as well, but I do not necessarily have to
1/12° kill/...

kill him. I do not believe that as a Christian I should kill him, because that is a total, absolute solution perhaps, but a very un...undesireable solution.

Let me try just once more. You might be in a position where it is either your killing him or his killing the girl, that is conceivable, isn't it? -- It might be remotely conceivable, but I do not think so. I would rather put myself in a position that would ... yes, swop my place for example with the girl, get myself between that thug and that girl and in that way I believe, through the example of Christ and he has shown us (10 quite explicitly that that is a viable solution to such a situation.

CHAIRMAN: In other words, if I may just carry further what the reverend Harres of the Methodist denomination has put to you, do I understand you correct that you renounce homicide, that there may be a time that you are called upon to coerse, for example to coerse a thug to desist from the murderous assault on the little girl? -- Yes.

Do I understand you correctly that you envisage that such coersion may lead to death, but then it would have been un-... (20 intentional? -- Definitely I believe ..(intervenes).

You may coerse and the man may be in a situation, something may happen which may cause him to die, but you never had the intent to kill him? -- ... (intervenes)

Where you get yourself in the same position where a child runs in before your car and you ... -- Yes, no obviously the intention is all inportant.

Yes. -- Because things do happen by accident and there I believe that it is taken out of your hands and actually put in the hands of God perhaps. (30

So you do not exclude death supervening, but then to be
1/12°

true/...

true to your own religious convictions it must be death that was not intended or aimed at by you? -- Yes, definitely.

For example him turning around to flee from you and running in front of a bus or falling down a cliff. -- Yes, you see there ... (intervenes).

Or a manhole. -- Yes, there I would not be responsible for it.

It would be an unforeseen... (intervenes). -- Sure.

Consequence. -- That is right.

Or something which you engaged in with a much lesser (10
intent than death. -- Sure.

Thank you, do carry on.

PADRÈ DAINES: I wonder if you could just elaborate a little bit on what you mean when you say "this does not mean that I have rejected the use of force in totallity", could you just elaborate for us, put us in the picture there? -- I think it ties up very closely with what you have been saying already. Force will have to be used, let us use the same example of the thug and the little girl, force would have to be used to stop that person if reason did not operate, if he was beyond (20
reason. That is where I believe where force can, must take over unfortunately.

It is just this "force in totallity", where would you draw the line in the use of force? I am still concerned about this escalation of force. -- All right. I believe the line comes before homicide. That is ultimately what I reject quite emphatically. Yes, that is it. Is that all right?

CHAIRMAN: Please carry on. -- All right.

"To quote the words of Jesus: 'You have heard that it was said "Love your neightout and hate your enemy: but I (30
tell you; Love your enemies and pray for those who
1/14° persecute/...

persecute you that you may be sons of your father in heaven". (That is from Matthew 5)

As a South African citizen, committed to the future of this country, I pay taxes and make other less direct contributions to the Defence Force and its strength. I acknowledge that I have a duty and an obligation to serve in my country's defence force thereby sharing the burdens, duties and obligations of being a citizen. However, because of my position as a christian and my commitment to the ethic of love, my willingness to serve can only go so far as (10 not to include in this service anything which prepares me for or enables me to kill or seriously injure someone.

I do not think we need to go to the next paragraphs.

The next paragraph refers to the books of Revelation et cetera that you base your faith on? -- Yes, that was according to Act 34 that we required some ...

Yes. -- Obviously these are not everything that has ever influenced me. These are some, like I have indicated, inter alia they have helped crystalise thoughts and so on.

They are some works that have assisted you in formulating⁽²⁰ your convictions? -- That is right. Page 3.

"I am a Baptist. Historically the Baptist Church has always taken a position which respects individual freedom of conscience, particularly where it concerns matters which are neither explicitly commended or forbidden in the Word of God. This position was reiterated in the 1979 Baptist Union statement on conscientious objection."

I think a large part of this is based on the Romans 14 passage where it speaks about various Christians having different minor beliefs. And attached are two affidavits in compliance with⁽³⁰ the Defence Amendment Act and I do not know if you would like to

go through the affidavit? Basically I think they are just demonstrations to indicate that I am sincere in my belief and my stand.

These are the demonstrations of your, they are in corroboration with your statements that you have made. -- Basically.

Then we also have the certificate by Padrè Bothma. -- That is right.

The Chaplain, that you are in fact a confirmed member of the Baptist Church. -- Right.

In the Hatfield congregation. -- That is right. (10

A full member of the church. We come back to this teasing question which does tease one because very often one does find that one has not thought out a particular situation to its ultimate, sometimes even agonising, conclusion. We come back to what Reverend Harres asked you, a notional position may be where you find yourself not even as a soldier, but as a man, an ordinary citizen, confronted with a situation where there is a murderous assault by somebody upon a defenceless person, like either a very aged lady or a young girl, let us confine ourselves to the latter because that has been the example that (20 has been used. I understood you to say, you said that you would then rather than kill the thug or the assailant interpose yourself between his victim, the child, and himself with the intention of saving her. -- Right.

From his attacker. Do I understand you to mean that you would then interpose yourself so as to resist his attack, by counterforce against him, not merely impose yourself as a surrogate victim to be killed instead of the girl? -- If that was the case, then it becomes very clinical. There you would have to have something like an agreement where the thug would say (30 either I kill you or I kill the girl and then I have the

assurance that he is not going to kill her after he has killed me.

So what you do is, you interpose yourself to protect her.
-- That is right.

By warding him off from her body, from her person? Do you envisage that in that interposition you would be using counter-force on him, without the ultimate intention of killing him for example? -- Oh yes, quite possibly yes.

To that extent you will use force, but you are against this force leading, what you are ultimately and most profoundly (10 against, if I understand you correctly, is the intentional killing of a human being? -- That is right.

Now I know there is a further aspect which I would like to have cleared up. You say that these convictions of yours took a while formulating, but you have entertained them already for a considerable period of time, is that correct? -- That is right.

For how long before you received your call-up notice were these convictions already firmly formulated and settled in your mind? For what period of time about? -- I would say at (20 least two years.

Three years? -- Two.

Two years? -- Yes, where they would be firmly formulated.

Now, there is something which I would very much like you to enlighten us on. I see according to the original application to made to be classified, that that is dated 8 February 1984. -- Yes.

When were you in fact called up or rather, when did you report? -- I reported on 13 January.

Were you called-up directly to the Infantry School? -- (30 Yes, there was a bit of a complication with, my original call-up 1/19° was/...

was to Phalaborwa for July. But I am a learned teacher with Transvaal Education Department and the school that I have a post with preferred it that I went in January and so in late November I was informed that I would be coming to Infantry School in January.

Are you a qualified teacher? -- That is right.

But you have not started to teach yet, commenced to teach yet? -- No, not as such.

When did you qualify, the end of last year? -- The end of last year. (10)

How did it come that you waited until you were in the unit? -- Before I applied?

Yes. -- I was led to believe by a number of sources that if I applied as, the original indication was within thirty days of my call-up, that I was led to believe that my call-up would be deferred for six months to the July intake because the first sitting of the Board was on 12 or 13 January and so the procedure then was to defer until July and I did not want to cause any administrative or further problems with the Education Department. Furthermore, from my understanding of the Act it (20) seemed that it was quite permissible to apply once a person was already a national service man. That is basically my reasoning for ... and I apply immediately that I did get into the ...

In other words you deferred your application so as to obviate the deferment of your service, that would have caused a year professional life to be lost, six months now and six months at the end, after you had completed your first two years training. You would have been discharged in July. -- I think that is the reasoning of the Education Department. (30)

Is that your reasoning also? -- I would not have minded going/... 1/20°

going in in July, but they were not happy with that.

It is to accommodate them? -- Basically yes.

This is the reason why you did it. -- Yes.

PADRÈ DAINES: You are prepared to accept non-combatant service in the Defence Force? -- That is right.

According to the Act, but if you render non-combatant service you would be, in a sense, supporting those who will be doing the fighting. -- Right.

Does this not conflict in any way with your attitude to the use of violence? -- As I said in my statement, there is a (10) dichotomy between my Christian beliefs and my service to the country which are embedded in my Christian beliefs anyway. As a South African citizen, as I said here on page 2, I pay my taxes and make other less direct contributions to the Defence Force of the country and even total passifists or non-militarists do the same and I believe this is a more consistent way with my existence as a Christian and a South African to reconcile these two dichotomies.

Having taken up this stand of yours, what is your attitude to other members of the Defence Force other than national (20) service men who have accepted combatant status within the Defence Force; how do you regard them? -- I do not believe it is my duty to regard anybody in a lesser or in a greater light in terms of Christianity. I think, for example as was reiterated in the Baptist statement, that judgment basically is God's and we will leave the ultimate judgment up to him. Romans 14 actually indicates that quite specifically. It speaks about a person being prepared to eat meat and another person who only eats vegetables, but if that person comes in, and it speaks about the people that eat everything as having a greater (30) faith, so in effect my faith might not be as great as those who
1/23° can/...

can reconcile operating in a combatant situation and so that is the way I recognise that they have possibly within their own terms and their own relationship with God, they can be legitimate. But for me, my beliefs and my relationship with God conflicts with that.

Another two questions and these are, I suppose, of a technical nature really. I notice in the books which you give us in addition to the Bible we have a book by A F HOLMES then one by MARGARET NASH - whom I know is an Anglican - one on peace by PEDERSON and I have no idea what that author's religion⁽¹⁰⁾ is and then "The Politics of Jesus" by YADER who is a Menonite, do you know to which church these other two belong and following on from that, it is interesting if they are not Baptists that you are using all sorts of other people. Could you just give us something on that? -- Oh, I do not believe that the Baptists are going to be the only people that get to heaven and I do believe that there, I believe in the universal body of Christ which extends beyond church affiliation or ...

Thank you, then my final question. Could you tell us what the New Covenant Fellowship is, you have got a letter here⁽²⁰⁾ from Vernon Lund and as you have another letter saying that you are a member of Hatfield Baptist I would just like to no ... (intervenes). -- Oh, my own church is Hatfield Baptist, that is where I grew up and where I was schooled in a way you could say. That is in Pretoria. I studied at the University of Natal in Pietermaritzburg and the New Covenant Fellowship was the church I attended while in Pietermaritzburg. That is where the two come into my life.

It is not a Baptist Church? -- No, not as such, no.

CHAIRMAN: You were actually during your studies at the⁽³⁰⁾ University of Natal, you were president of the Student's
1/25° Representative/...

Council? -- That is correct.

By that time, according to the statement of Mr Robertson, your religious convictions had already become fairly firmly crystalised? -- That is right.

Who is your platoon commander, your platoon commander in the Infantry School here? -- Lieutenant Du Toit.

And your instructor, your immediate ... ? -- Corporal Albertyn.

Actually in terms of the Act then, having applied you are still rendering service at the moment as you are obliged to do,⁽¹⁰⁾ you are still undergoing training? -- That is right. That is correct.

Are you in the company at that Infantry School which is reserved for teachers? -- That is right.

There is a special training reserved for the teachers inter alia to prepare them to become cadet officers, is that correct? -- That does happen, yes. But essentially I think the training is primarily designed for platoon commanders.

Junior leaders yes. -- Yes.

DR VAN WYK: Mr Manley, may I ask you, is this statement (20 from your own hand? -- Oh yes, most definitely.

Will you try to explain to the Board something about your personal conviction about the responsibility to defend our country against say terrorism from the side of Swapo or a communist invasion? Just try to tell us something about that. -- Right. In terms of what I believe Christianity has given to us and the doctrines that have come down to us we are called to be one could say moral citizens to the point where it does not conflict specifically with the law of God or what God has indicated and ..yes this ties up with passages like Romans 13 (30 so on and so I do believe it is also tied up with what I said 1/28° earlier/...

earlier about what I believe to be coersive behavior to protect the society and the well-being of that society and that based on what we have within our society as given by God. Now that would mean the preservation of the society which can operate which we know it to be operating at the moment for example and to prevent such things which are contrary to the nature of God such as murder, stealing, that kind of thing. So when things like that are threatening I do believe that it is the duty of the State of the powers that be that are controlling that, that community to ensure the safeguarding of that community in (10 those terms, to protect them from things like that and that is where I believe that the coersive behavior comes into it, where such anti-social behavior should be curtailed.

NO FURTHER QUESTION

CASE FOR APPLICANT

MR MANLEY'S RIGHTS ARE FULLY EXPLAINED TO HIM WITH REGARD TO CROSS-EXAMINATION

GABRIËL EDUARD DU TOIT - v.o.e.

VOORSITTER: Klaarblyklik is u 'n luitenant in die Suid-Afrikaanse Weermag? -- Dit is reg. (20

Is u verbonde aan die Infanterie-skool? -- Dit is reg.

In watter hoedanigheid, hier in Oudtshoorn? -- As peleton-bevelvoerder by B-kompanjie.

U is dan ook 'n lid van die Suid-Afrikaanse Infanterie? -- Dit is reg.

Ken u die beswaarmaker, die aansoekdoener, mnr Manley? -- Ja, hy was van die begin van die jaar af wat hy ingeklaar het, was hy onder my bevel gewees in die peleton.

Word die instruksie daar by die Infanterie-skool so gereël dat daar peletonne is? Elke peleton het 'n sekere hoeveelheid van die nasionale dienspligtiges wat opleiding by die

Infanterie-skool moet kry, in die peleton? -- Dit is reg.

Is dit vir beheer- en instruksie-doeleindes? -- Ja, dit is vir beheer en instruksie.

Kan u onthou wanneer het mnr Manley in u peleton lid geword? -- Dit was - ek is nou nie seker van die datum nie.

Was dit in Januarie? -- Dit was in Januarie, begin Januarie want almal ...(tussenbei)

Begin Januarie meen voor of na die vyftiende van die maand? -- Dit was voor die vyftiende.

Voor die vyftiende? -- Dit is reg. (10)

U is bewus daarvan dat mnr Manley aansoek gedoen het om geklassifiseer te word as 'n godsdienstbeswaarmaker. -- Dit is reg.

Onder klassifikasie A(1), met ander woorde hy bly in die Weermag, maar nie in 'n vegtende hoedanigheid, dienslewerend. Wanneer het u bewus geword van die feit dat mnr Manley oorweeg om aansoek te doen om aldus geklassifiseer te word? -- In die begin is ons nie so seer betrek gewees by die inname nie, ons was net soort van beheerpersoneel gewees. Hulle was eers tydelik opgedeel in groepe en tydens die opdeling toe hy met 'n wapen uitgereik moes word het hy geweier om die wapen te vat. (20)

In daardie stadium was ek nie direk in bevel van hom gewees as peletonbevelvoerder nie. Eers daarna, na die indeling gekom het was hy onder my ingedeel, in my peleton.

Het hy toe reeds geweier om die wapen te vat? -- Hy het toe reeds geweier om die wapen te vat.

Wanneer was hy ingedeel by u? -- Dit was 'n week na hulle ingeklaar het, is die indeling gedoen.

So miskien by die middel van Januarie? -- Dit is reg.

Het hy toe reeds geweier? -- Wel, van die begin af het hy geweier, maar ...(tussenbei). (30)

Het hy vir u 'n rede gegee? -- Hy het gesê as godsdienstige redes/...

redes wat hy nie 'n wapen opneem nie.

Ons weet dat die Wet verg dat hy sy aansoek om geklassifiseer te word as 'n beswaarmaker indien nadat hy reeds met die opleiding begin het, dan word hy verplig deur die Wet om voort te gaan met sy opleiding. Hy sê hy is tans nog besig met die opleiding, soos van hom geverg ten spyte van die feit dat hy die aansoek gedoen het om geklassifiseer te word. Is hy nog by ... (tussenbei). -- Hy is nog in die peleton en hy gaan voort met opleiding.

Kan u 'n aanmerking maak oor sy gedrag, sy houding in die (10) tyd wat hy by u was, die laaste paar weke? Seker twee maande omtrent, net bietjie meer as twee maande? -- Dit is reg.

Ja? -- Hy was, as skutter in die peleton was hy, voorbeeldige gedrag gehad. Al wanneer hy nie deel was van die peleton nie, as die res van die lede van die peleton wapens dra het hy net nie 'n wapen gedra nie. Verder het hy alle opleiding saam deurgegaan, selfs met wapenopleiding het hy gesit by instruksie sonder dat hy 'n wapen gehanteer het in die instruksie. Hy het 'n wapen by hom wat hy dan in sy kas gehou het tydens die, omdat dit deel was van sy uitreik. (20)

Hoe sal u sy algemene gedrag dan klassifiseer? -- As baie goed en streng militêr korrek.

Weet u wie het hom bygestaan met die oorspronklike indien van hierdie aansoek wat geteken is deur die bevelvoerder, kolonel Serfontein? -- Majoor Smite, die kompanjie-bevelvoerder.

Ek sien dit is gedateer 8 Februarie, is u bewus daarvan dat dit toe was wanneer daar formeel aansoek gedoen was? -- Daar was van die begin af was daar weiering gewees en deur seker kanale, padrè Bothma het met hulle gesels en ook die kompanjie-bevelvoerder het met hulle gesels en ook die kompanjie-bevelvoerder het met hulle gesels en toe daarna is verklarings ingedien (30)

hulle...(tussenbei).

Weet u daarvan, hy het aan ons genoem dat daar aan hom genoem was deur verskillende instansies dat as hy sy aansoek sou rig voordat hy aangemeld het vir diens, sy diens dan uitgestel sou gewees het om te begin eers hier in die middel van die jaar; weet u daarvan? -- Nee.

Hoe lank is u al in die hoedanigheid besig by die Infanterie-skool? -- Ek is van laasjaar af besig met opleiding en van 2 Januarie af is ek by die kompanjie ingedeel as peletonbevoerder.

Dit is 'n taamlike intieme verhouding tussen u en die peleton? -- Dit is reg.

Is deel van u taak om te help met nie net die toesighouding oor die personeel nie, maar ook tot 'n mate te help met die evaluering van elkeen van die lede van die peleton? -- Dit is reg.

Sy algemene karakter, van Manley, hoe sou u dit beskryf? -- Baie goeie karakter en hy is 'n goeie voorbeeld as mens vir die res van die peleton.

Sou u meen hy is eg met sy beswaar of meen u daar is verskuilder ander motiewe daaragter; volgens u eie mening wat (20 u nou gesien het van hom in die tyd wat u op hierdie wyse met hom saamgedoen het? -- Ek sou sê hy is eg.

Hy is eg? -- Dit is reg.

CROSS-EXAMINATION BY MR MANLEY: I think most things have been covered. Yes, just to reiterate, you do believe that I am sincere in what I am doing? -- That is right.

That is fine, thank you.

GEEN VERDERE VRAE

PIERRE JEAN ALBERTYN - v.o.e.

VOORSITTER: Mnr Albertyn, u is 'n korporaal in die Suid-Afrikaanse Weermag? -- Dit is reg.

Waar is u gestasioneer? -- Op Oudtshoorn, Infanterie-skool.

Vir hoe lank is u reeds daar? -- Ek het verlede jaar my opleiding gedoen en vanjaar opleiding gee.

In watter hoedanigheid is u werksaam by die Infanterie-skool? -- As instrukteur by 'n peleton.

Wie is die peleton-bevelvoerder? -- Luitenant Du Toit.

Wat nou net getuig het? -- Dit is reg.

Watter vorm van instruksie bied u aan, gee u? -- Alle tipe instruksie word deur ons gegee, behalwe daar is sekere fases wat die peleton-bevelvoerders gee. (10

U en hy gee die instruksie aan die lede van die peleton? -- Dit is reg.

Ken u vir mnr Manley? -- Ja.

Is hy 'n lid van u peleton? -- Dit is reg.

Kan u onthou wanneer hy lid geword het van u peleton? -- Ja van die begin af, soos luitenant Du Toit gesê het, omtrent 'n week nadat die inname was is hulle ingedeel in die peleton.

Wat sou die datum gewees het, het u 'n idee by benadering? -- Omtrent middel Januarie.

Is u van toe af, van middel Januarie tot vandag sy instrukteur soos u genoem het? -- Nee, ek is omtrent vyf weke terug by hom ingedeel. (20

Oo u het vyf weke terug maar, wat die laaste vyf weke is? -- Die laaste vyf weke.

Is u bewus van die feit dat hy aansoek gedoen het om geklassifiseer te word as 'n godsdienbeswaarder wat in 'n nie-vegtende hoedanigheid, 'n mens kan sê as 'n godsdienbeswaarder met wie se godsdienstige oortuiging dit in styd is om in 'n vegtende hoedanigheid diens te lewer? -- Ja.

Word hy onderrig in wapens? -- Nee, hy woon die lesings by, maar hy neem nie deel aan die onderrig nie. (30

Het hy vir u self gesê wat sy rede is daarvoor? -- Ja.

Wat het hy gesê? -- Hy het godsdienstredes.

Gosdienstige redes? -- Dit is reg.

Wat is u opsomming van sy karakter? -- Wel, hy het 'n goeie leierskap-eienskappe wat ek van hom kon agter kom. Byvoorbeeld wanneer ons gaan vir LO dan sal hy die sang voorneem en die peleton lei.

Sal u sê hy is 'n man van goeie karakter? -- Ja.

Afgesien van leierskap-elemente? -- Ja.

Hoe gedra hy homself in die peleton? -- Onberispelik. (10

Hy lewer nog diens op die oomblik, hy word nog onderrig? -- Dit is reg.

Behalwe vir die tyd wat hy nie in wapens onderrig word nie of deelneem daaraan nie, hoe reageer hy op die onderrig andersins? -- Flink optrede.

Is daar enige rede by u om te twyfel aan die goedertrou van mnr Manley ten aansien van sy standpunt dat dit strydig is met sy godsdienstige oortuigings om in 'n vegtende hoedanigheid diens te lewer? -- Nee, ek dink dit is eg.

Glo u dit is eg. (20

CROSS-EXAMINATION BY MR MANLEY: no questions.

GEEN VERDERE VRAE

CHAIRMAN: Is there anything you wish to place before the Board?

MR MANLEY (OBJECTOR): No, I do not think so, except I would like to thank you for the opportunity of being able to present my case to you in such a fashion.

THE BOARD ADJOURNS FOR TEA - ON RESUMPTION:

J U D G M E N T

CHAIRMAN: The application that we are now called upon to consider is that of Mark Stevens Manley, a member of the South African Defence Force and of the Infantry School at Oudtshoorn; his Defence Force number being 74373101 BG. The applicant is a member of the Baptist Church and he has applied in terms of the recently amended Defence Act to be classified as a religious objector in terms of Section 72 D (1)(a)(i) of the amended Act, asking to be classified as a religious objector with whose religious convictions it is in conflict to render service in (10 a combatant capacity in any armed forced.

He himself presented his case personally to us, based on the written application which he is enjoined to submit to the Board and amplified by him orally during the course of his submission.

No further witnesses were called by him in support of his application, but there are attached as annexures to his written application, affidavits by the Reverend Vernon Brian Lund, a full time pastor of the New Covenant Fellowship, Pietermaritzburg, of the church, and of a friend of his by name of K C (20 Robertson, who studied with the applicant whilst he studied at the University of Natal, where he happened also to be the president of the Student Representative Council, together with a certificate by Padrè A A Bothma to the effect that he has personally confirmed with the Hatfield Baptist Church that the applicant is a full member of the church.

Because of the fact that the applicant stated both in his written application and as amplified in his oral submission, that for the past few years already his religious convictions had been settled in the direction which led to his application (30 1/49° and/...

and the fact that he applied to be so classified on 8 February whilst already absorbed in the Infantry School at the beginning of January, we felt it meet to hear further evidence and as we are empowered to do we called as witnesses and heard the evidence of the platoon leader of the applicant, namely Lieutenant Du Toit and of his immediate instructor in his platoon, Corporal Albertyn.

Before dealing with the facts peculiar to this application it is meet, as I mentioned at the commencement of this session, and in delivering the verdict of the Board, to start off with (10 what can be called a general background judgment wherein various matters are dealt with, which will then also form the background and the basis upon which subsequent applications are to be adjudicated and which in those applications which have already been granted by this Board in the absence of the applicant, (which we are also empowered to do), also formed the basis of the Board's decision. I will then proceed first of all with the "general part" of the verdict and after that, applying the principals therein annunciated and adopting the approach therein stated, will then deal with the facts pertinent to Mr Manley (20 himself as applicant.

As introduction then it can be said that by virtue of the duty imposed upon it by Sections 72A and B of the amended Defence Act to consider applications in terms of Section 72B of that Act for classification as religious objectors, the Board is in essence enjoined to determine the state of mind of each such applicant. This entails a finding as to his credibility, both as to the factual existence in his mind of his religious convictions and as to the content thereof, which will usually also, and almost inevitably, involve a finding as to such applicant's⁽³⁰

bona fides in making his application, and therefore, also as to his reasons for doing so.

Whilst an investigation concerning a person's state of mind is a difficult task, it is by no means impossible, as is demonstrated by the fact that such investigations are successfully undertaken by our Courts of law on every court-day of the week without resorting to inquisitorial methods. It is clear however that in order to be truly effective such an investigation should be conducted fairly and patiently with a perceptive understanding of human sensibilities, especially in the field of religious belief. The state of mind here in issue is that pertaining to the religious convictions of the applicant regarding service in "any armed force".

As to the relevant religious convictions it is pertinent to note first of all the determining statutory measure, and thereanent it can be said that the nature and amit of the religious convictions relevant to the Board's investigations are set out in Section 72 D(1)(a) which provides as follows:

"72D(1) A Board referred to in Section 72A which has considered an application in terms of Section 72B may: (20

- a) Grant such application and classify the applicant -
 - i) as a religious objector with whose religious convictions it is in conflict to render service in a combatant capacity in any armed force;
 - ii) As a religious objector with whose religious convictions it is in conflict to render service in a combatant capacity in any armed force, to perform any maintenance task of a combatant nature therein and to be clothed in a military uniform; or
 - iii) As a religious objector with whose religious (30 convictions/...

convictions it is in conflict to render any military service or to undergo any military training or to perform any task in or in connection with any armed force."

These provisions state clearly the nature of the religious convictions relevant to applications of this sort. It is quite clear from the terms of this Sub-section that the personal belief of each applicant is the determining factor both as to the question whether he is to be classified as a religious objector within the meaning of the Defence Act and, if so (10 classified, as to the category in which to classify him. This cardinal consideration is demonstrated not only by the wording of the Sub-section, but also by the striking difference effected by the amendment of the Defence Act to the import of Section 67(3) of that Act. In its previous, unamended, form, Section 76(3) read as follows:

"The registering officer shall as far as may be practicable allot any person who, to his knowledge bona fide belongs and adheres to a recognised religious denomination by the tenets whereof its members may not participate in war, (20 to a unit where such person will be able to render service in a non-combatant capacity."

In its present, amended, form that Sub-section now provides that:

"The registering officer shall allot any person who has been classified into a category of religious objectors referred to in Section 72 D (1)(a)(i) or (ii) to a unit where such person shall render service in the manner provided for in Section 72 E (i) or (ii) in respect of the appropriate category of religious objectors."

Prior to this amendment it was the registering officer who in (30
1/58° effect/...

effect considered applications to be classified as religious objectors and he did so by way of objective standards, to wit:

1. the applicant's adherence
2. to a recognised religious denomination;
3. by the tenets whereof its members may not participate in war.

The tenets of the particular 'recognised' religious denomination were of the essence of the matter and the objector's private and subjective religious convictions were not relevant except insofar as they coincided or were in conflict with the (10 tenets of his church. Thus, if they were materially at variance with those tenets he could not be said to "adhere" to them and his application would then fail because he fell short of the objective standard whereby his assertions had then to be measured. And if he was not a member of such a denomination and therefore did not "belong" to it and as envisaged by the Act, or was a member of a denomination not recognised by the authorities, he would likewise fail and not be allotted to non-combatant service.

Now, subject to the amendment of Section 67(3) and the (20 introduction of the new Section 72, an applicant for classification as a religious objector is no longer required either to belong to a 'recognised' or any other religious denomination or to 'adhere' to the tenets of the particular denomination of which he happens in fact to be a member, the metwand now being, as aforementioned, the personal religious convictions of the applicant. The fact that the applicant is required by Section 72 D (2)(d) to state in his application the books of revelation and the articles of faith, (the Afrikaans equivalent being "Die Openbarings- en Belydenisgeskrifte"), upon which his (30 1/59° religious/...

religious convictions are based, does not detract from that principle because such books are those upon which HIS, the applicant's, religious convictions are based, the measure consequently remaining in essence his own convictions. By parity of reasoning, material variation or conflict with the religious convictions of an applicant and the tenets of the religious denomination to which he belongs no longer constitute insurmountable hurdles to the granting of his application.

In conclusion, it is clear that the term "religious convictions" (The Afrikaans equivalent being "Godsdienstige oortuigings") as used in Section 72 D (1) presupposes a belief in Supreme Being or Beings of a Divine nature whose precepts are to be obeyed, and actual service of, and obedience to such Being or Beings in accordance with the tenets of the particular faith adhered to by the particular applicant and/or with the dictates of the personal convictions of such applicant.

One must now consider the ambit of the religious convictions envisaged by the Act. The use in Sections 72 D (1)(a)(i), (ii) and (iii) of the words:

"...in any armed force" (20

clearly indicates that the objection to military service must be of a universal nature, that is not limited, for example, to the South African Defence Force. The categories provided for by subsections (1)(a)(i) and (ii) of Section 72 D relate to qualified or limited military service in any armed force, and religious objectors classified for service in one or other of these two categories are in terms of Sections 72 E (1) or (2) to render such service, and are to be allotted to such service, in the South African Defence Force by the registering officer in terms of the amended Section 67(3) of the Act. (30

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