

now refer to the content of the application itself.

This application contains many purely religious statements. It contains all the necessary statements which an applicant has to make in order to be qualified as a religious objector. The applicant has stated repeatedly that it is against his religious convictions to participate in any armed force. He makes all the necessary statements necessary to classify him as a universal religious objector.

At the same time it contains as many if not more political statements. It not only contains political statements, but it (10) also contains facts enumerating and setting out religious activities on the part of the applicant in the past as well as political activities, i.e. activities of the applicant in connection with political organizations.

I am not going to enumerate all of these, but suffice it to say that in APPENDIX C he has set out under the heading 'Church Attendance' the history since 1975 to 1986 of his church attendance. In doing this, he uses phrases such as that he 'attended services on an occasional basis'; 'attended a certain other church when transport was available during vacation pe= (20) riods'. Another church (The Christ Church, Addington) he 'attended in 1984 during busy periods only when he managed to attend the church on a fortnightly basis'. At the church at Howick he attended 'when able to do so'. He participated in Residence Bible Study from 1980 to 1985 'when able to'. He attended house church meetings on Wednesday evenings 'when able to'. This created the impression that he was not a regular church attendant. During the course of the application when asked about this, Mr Edwards became quite vehement in suggesting that attendance of a church institution or particular (30) church/...

church does not necessarily signify that a person is either a good Christian or not. I agree with this, but on the other hand if a person is a regular attendant it is a pointer in his favour in deciding whether he takes his religion seriously if he professes to be a member of a particular denomination. The contrary of course is not necessarily true; but it needs investigation.

In contra distinction to these church activities, it also transpired from the application that he participated in many political activities. (10

In this regard I refer to APPENDIX C under the heading "University of Natal: 1980 - 1986". I quote from paragraph 5 which reads as follows :-

"I was elected to the Durban's Student Representative Council in August 1980 and took on the Student Diary portfolio. I resigned from the SRC in 1981 due to academic pressure. Nevertheless, I continued to participate in Student Government after my resignation. I produced the 1981, 1982, 1983 and 1985 Student Diaries. The 1983 Diary was banned for possession in July 1983. This ruling was subsequently changed to banning for distribution. (20  
The reason given was :-

'The publication publicizes the freedom charter which is one of the basic documents of the banned African Nationalist Congress.'

The full text of the freedom charter was printed in the 1985 Student Diary without controversy."

Also on page 3 of that same appendix, in paragraph 9 he says, he :-

"Attended the launch of the United Democratic Front in Mitchell's Plain in Cape Town in 1983. Although I was (3  
not/...

not an official delegate I nevertheless participated in drawing up the UDF's resolution on militarization, in particular the fourth 'resolves' clause, (item 9.1). Subsequently I participated in The Million Signatures Campaign, both at the Natal launch of the campaign and also in collecting signatures on campus and in residence. The launch of the UDF was a landmark in my life. It gave me renewed hope for the future and it led me to the realization that I could not possibly leave and live in exile. Thus I decided not to evade National Service." (10

Paragraph 11 :-

"I assisted the Natal Indian Congress and the United Committee of Concern in their 'Don't Vote' campaign in 1984. This included media advice and printing pamphlets and posters in the campaign leading to the elections. This often meant printing after hours on the SRC press."

Paragraph 12 :-

"I assisted in the establishment of the Conscription Action Group on campus, and I have also assisted the 'End Conscription Campaign' by printing pamphlets and stickers, in particular :-

- 'Has the Army Invaded Your Life?' (pamphlet, April 1985.)
- 'Stop the Draft.' (sticker, April 1985.)
- ECC Declaration sticker,
- 'War Games' (pamphlet, May 1985.)"

Then he says :-

"I have also endorsed and I support the ECC declaration, item 12,1."

(See page 4 of APPENDIX C.)

I am quoting these passages because it illustrates that political activities or participation in political activities played a very big role in the life of the applicant. It appears that this is the main reason why it took him six years plus to complete a four year course in spite of the fact that he was a bursary holder and was studying at the university with a bursary from the mines. This last mentioned fact is in my view a circumstance which required from the applicant perhaps a more serious outlook towards his studies and a more responsible attitude in completing his course in as short a time as possible. (10

It was because of these difficulties in the application, and I repeat that there are also at the same time many statements in the application which are purely religious and which are the type of statements which could qualify him as a religious objector, that a formal hearing was required. In other words it was because of this apparent contradiction that the Board decided to ask Mr Edwards to attend a sitting of the Board so as to come and elucidate the matter so as to enable the Board to try and determine what his true position is. (

I have used the phrase 'apparent contradiction', because (20 although I have said before that political objection and religious objection can exist together, nevertheless it seems strange that a person who professes to be a universal pacifist in the third category would want to participate in political activities in a country such as ours where such participation could precipitate and involve him in violent activity.

Ample opportunity was granted to Mr Edwards to erase the difficulties of the Board, but after having listened to him for many hours on two separate days the following are some of the impressions which all the members of the Board have gained and (30 which/...

which have remained with all members of the Board.

1. The applicant gives the impression of sincerity, earnestness and maturity in his stance on certain issues. On examination however, his sincerity must be called in question. This is because on at least one very important issue, that of the placard which he carried outside The Natal Command Headquarters, he deliberately tried to mislead the Board and to create a false impression that would be favourable to him. On another occasion he reinterpreted a statement which he had made, with a view to making it more acceptable to the Board, but he ended up in contradiction to the plain meaning of his religion statement. In this regard he said that he identified himself with and signed the 'End Conscription Campaign Declaration' (that is the piece on page 4 of APPENDIX C to which I have referred to before). He said that this represented the grounds that was common to all 'End Conscription Campaign' members including himself, but when he was challenged on this he disassociated himself from the premises on which the declaration was in fact based and claimed to be in support only of the broad direction in which the ECC moved. That he did for the moral reason that people should not be conscripted. This is a basis which is very different from the basis adopted in the declaration itself.
2. Under examination during the course of his appearance before the Board, he shifted his ground whenever he seemed to think that the line of questioning might show him in a bad light. This created the impression of one who is prepared to change his principles to suit himself. The general impression which was gained by the members of the Board, was

that/...

that of a person who could not be trusted. I refer in this regard especially to page 3 of APPENDIX B, paragraph 26. It must be kept in mind that Section 72B of the Defence Act to which I have referred previously, requires from an applicant 'to state the Books of Revelation and the Articles of Faith upon which the religious convictions of the applicant are based'. Apropos obviously to that requirement of the Act, a question is posed in ANNEXURE B on page 3 (number 26) as follows :-

'On what Books of Revelation do you base your convictions?'

In answering this question, the applicant lists, amongst others, the following documents :-

1. The Holy Bible.
2. The book 'Total War in South Africa Militarization and the Apartheid State', published by NUSAS.
3. 'Let my People Go', by Albert Lethuli.
4. 'Naught for Your Comfort', by Trevor Huddleston.
5. 'Apartheid is a Heresy', edited by Charles Villavicencio and John de Gruchy. (20
6. 'The Church Struggle in South Africa', by John de Gruchy
7. And lastly and this is the one which I want to emphasize, 'The Kairos Document'.

Much has been said lately of 'The Kairos Document' and the members of this Board have also had opportunity to read this document and to form an opinion as to its contents. When confronted with this aspect as to what basis or why the applicant professes to be a true universal religious pacifist when he states in paragraph 26 of ANNEXURE B that (30  
he/...

he bases his convictions amongst others on 'The Kairos Document', he became completely evasive. The fact is that 'The Kairos Document' is a document which does not profess to propagate pacifism in any way. In fact it is a document which is in full support of what is commonly referred to as 'liberation theology'. The stance taken in 'The Kairos Document' is clearly to the effect that the normal Christian approach of the churches of reconciliation and peace, is a weak ineffective if not unchristian approach and that the true modern Christian approach should be that Christ did not make peace with Satan and never became reconciled with the forces of evil nor should Christ's church on earth do so. That the present government and the government forces are forces of evil and unjust in nature and that therefore the people i.e. all Christians, should take up the struggle against these forces of evil in a similar manner and destroy such forces. This is liberation theology. Mr Edwards eventually actually stated that he merely listed 'The Kairos document' as a document which he had read and that he did not in any way wish to create the impression that he listed that as a book or a stance on which he bases his present convictions. Well quite frankly his statements in this regard was palpably false.

3. A further aspect which I want to list amongst the impressions which were left with members of the Board, is in respect of the important question of whether his application is based on politics or religion. I have mentioned before and I want to reiterate that at the end of the day (or all the days on which his application was heard), the overall impression which was created by the documents and by the manner/...

manner in which the applicant presented his application, was one which gave rise to serious doubt about his religious basis. A large part of these documents as I have mentioned before are political in nature. There are even letters to cabinet ministers and members of parliament. There is the aforementioned United Democratic Front Resolution on Militarization. There is the Declaration of the 'End Conscription Campaign' together with lengthy political sections which I have referred to before. It is significant that in one portion of his application (APPENDIX A) (10) the applicant states :

"Anyone who tries to say that the pacifist's position is not a political one, does not understand the first thing about war."

I want to also quote in this regard two passages of APPENDIX B which are important in illustrating this impression which the members of the Board were left with at the end of the hearing. APPENDIX B on page 2 thereof, paragraph 9 contains the question :

"Is your motivation political?". (20)

The answer is as follows :

"War is by definition political. It is declared by politicians for political motives to achieve political ends. Thus any opposition to war is also political since it is opposing a political act."

A little bit further down :

"I find the distinction between religious objectors and other objectors of conscience an unfair, uncaring, arrogant and artificial one. It is a glaring indictment of a government that declares itself to be 'in humble submission to Almighty God'." (30)

The/...



The other passage is paragraph 15 on the same page which reads as follows. The question is :

"You seem to have strong objections to the political system in South Africa; make it clear in your own words: what are the real grounds for your application - religious or political?"

The answer is :

"This is a question based on a fundamental misunderstanding of the relationship between politics and religion. My politics is guided by my religion - not the other way round. (10) The grounds for my application are my opposition to militarism as a result of my obedience to God. I realize that my application to the Board is a political act, but the motivation for my action is my obedience to Almighty God."

This appears to the members of the Board to be an attempt on the part of the applicant to confuse the concept of political objection with the concept of religious objection. Certainly religion cannot be separated completely from politics and it is wrong to suggest that if one is religious, you should not dabble in politics at all. I have dealt (2) with this herein before, but anybody who says that there cannot be a difference or that there is no difference between the concept of a religious objection and the concept of a purely political objection, apparently does not understand the requirements of the Act and places himself in jeopardy in the sense that the Board may not be able to grant his application.

4. The next aspect which I want to mention which left an impression with the members of the Board, is that when appearing before the Board the applicant spent an overwhelming portion of his time speaking about his political interests/...

interest and activities. It was only when specially invited to do so, that he spoke of his religious convictions and then only briefly. The testimony of the Reverend N Jukes, which attempted to paint a picture of a deeply committed active Christian, served only to emphasize how little of this was evident in the applicant's own words especially in his presentation before the Board.

5. A final question which the Board had to deal with and where the Board had difficulty with applicant's case at the end of the day, was the question whether the applicant's objection, if any, is a universal one. It is of course always difficult in a sense, to speculate on a universal basis; in other words what one's attitude would be if placed in a different situation, but that is what the Act requires of an applicant in order to succeed in his application. The applicant must convince the Board on a balance of probabilities that his objection is not directed merely at the situation in which he finds himself, but also that his objection would be against participation in any armed force anywhere in the world. The impression left with all the members of the Board, having listened for a lengthy period to the applicant and having gained an impression of his personality and the sort of person he is and judging by his activities in the past, is that it may very well be that had the position been different - had he been called to serve in the army of a different government or a different group at the helm in South Africa with different political views - he may well not have objected. In other words that if he lived in a different part in the world where the government agreed with his political views, he may well not



have objected to military service. In this regard I want to shortly refer to an aspect of his application which is significant. It will be noticed on perusal of his whole application, but more especially APPENDIX A, that he deals at length with his religious viewpoints but also deals with obedience to the authorities. In the course of this appendix he deals with the motivations of war and even includes a very lengthy discussion of the justification of nuclear war and the nuclear arms race. Obviously, he condemns this on a universal basis, and it is significant that he deals with this matter across so many columns that in all it would amount to a full page or more. On the other and in contra-distinction to this, when specifically dealing with the important question whether he is a universal or selective pacifist, he makes a simple statement contained in five lines and only one sentence reading as follows :

"I am definitely a universal pacifist. I cannot support the notion of a just war and I would consequently refuse to participate in any army anywhere in the world that is engaging in any form of military activity for any reason." Even more significant is the fact that immediately after making this bald statement, he starts discussing the so called use by the "present authorities" of the "rationalizations of a just war to promote and defend the Republic", when at the same time they "seem unable to accept that others with similar principles can arrive at a different conclusion without the justifiability of the war we are conscripted for". He then deals with the just war theory and the motivations on the part of the authority of self preservation/...

preservation and self interest 'irrespective of the hardships suffered or disruption that this inflicts on the lives of others".

There are many more aspects in the application with which I can deal in detail, but I finally just want to mention the amazing "logic" of this applicant in trying to distinguish between the concepts of "force" and "violence" within the context of the situation in which he finds himself. I can understand that the two concepts are different - that is force and violence - but it is clear that this applicant applies these two concepts (10 indiscriminately as long as it suits his own purposes. In paragraph 27 of APPENDIX B he is asked to define force and violence and he replies as follows :

"Violence is the use of force incorrectly; it is used not to stop the crime, but to stop or kill the person involved in committing the crime. Violence includes killing and injuring people. It also includes structural violence through the denial of human dignity or the preservation of justice."

On the other hand in question number 10 in the same appendix, (2 the following question is posed :

"Do you leave a door open for the possibility that the oppressed may be justified in resorting to violence?"

And he answers it as follows :

"The oppressed are entitled to replace authorities that disobey God with one who obeys God, but this does not require violence. It may require a certain amount of force particularly if the authorities are unrepentant, but that force is not military force. This force would be in the form of arresting disobedient authorities or physically restraining/...

restraining them from performing their duties."

I do not want to labour the point, but it is quite clear that arresting authorities who are "unrepentant" or using force to restrain them, because of their "disobedience" and to "physically restrain them from performing their duties", is to the applicant merely the legitimate use of force, in spite of the fact that anybody can see that it would require such a tremendous lot of force and would precipitate such tremendous conflagration, that it is unbelievable that anybody can describe it as anything but violence. Using force to restrain a government from performing its duties would require arresting the members of the government, the members of the administration of that government, and the members loyal to the government such as the members of the Police Force and the Defence Force. In fact and in simple words, it would amount to revolution. I am not aware and nor is any member of this Board aware of any way in which a revolution can take place by arresting a government and its supporters by force without calling that or without expecting that that would result in violence of an extensive nature.

In the result and having said all this the Board now has to decide whether this applicant has in any way convinced the Board on a balance of probabilities that he is a religious objector. It must be remembered that the applicant himself has the onus to convince the Board. When addressing the Board he referred to the fact that he at one stage fasted; that was in September/October 1985. During the course of his application he mentioned in one of his appendices that he became a pacifist at the end of 1982/beginning of 1983. This statement is belied by the fact that in the same application he tells us that it was only in October of 1985, i.e. when he fasted, and at the end of his fast/...

fast, that he arrived at the conclusion that his position as a universal pacifist was consistent with his religion.

The impression which he created with the Board was that he had not really given this whole thing of being a religious objector any deep thought until approximately August/September of last year when he must have received his call-up papers and when he realized that he could not get any further deferment of his military duties and that he would now have to either perform such duties in 1986 or make some other plan. He has referred to the possibility of leaving the country, but he then decided (10) to investigate the possibility of being a religious objector. It is significant that it was only then, i.e. in September 1985, that he drafted APPENDIX A to which I have referred often before in this judgment. He drafted APPENDIX A with the help of a Bible concordance. Hence no wonder that when one reads APPENDIX A, it does not speak and does not come across as revelations coming from the draftsman's heart. It comes across as a rather learned and involved exposition of basic Christian doctrine and political philosophy.

It also transpires that having once created or drafted this (20) appendix he must have been very proud of it, because he started handing it out. He sent it to many people, amongst others to all the Members of the houses of Parliament asking for their comment and more importantly, asking for their comment with a view to convincing them that the objector status should not be confined to religious persons, people with religious convictions, but also those who do not wish to object on the basis of religious convictions, but on any other conviction. In the middle of preparing to come with this application to this Board, he sent a copy of the basis of his application to Members of (30) Parliament/...

Parliament under cover of a letter which has the following sentence on its first page :

"I am writing to you for your assistance; I would earnestly request that you and your party consider amending the Defence Act in order to accommodate others who do not have any religious convictions."

During the course of hearing his application he was asked the reason for this. It seemed strange that a person who wants to convince the Board that he himself is a true religious objector would whilst in the process of preparing his case to this Board, (10 0 start a campaign to enlarge the basis for objection to include non-religious objectors. The thought arose with some members of the Board whether this was not perhaps a manifestation of the true difficulty of the applicant. In other words whether it was not perhaps his conscience speaking from within, i.e. whether it was not perhaps a belated effort to get out of the difficulty of presenting a false case or whether it was not perhaps an effort to be able to apply for non-participation in Defence Force activities on a basis other than that of religious objection. He strongly denied this, but he could not give any (20 20 acceptable explanation for this somewhat strange action on his part.

Having considered all these aspects the Board members concluded unanimously that whilst it is not impossible that Mr Edwards in fact has a bona fide religious objection to executing his military duties in terms of the Defence Act and whilst it is even possible that such objection may be held on a universal basis, not one of the members of the Board are convinced on a balance of probabilities that this is in fact so. Indeed the probabilities strongly point in the opposite direction. The (30 30 probabilities strongly indicate that at heart he probably is a political/...

political objector and not a religious objector and that in any event his objection is not a universal one, i.e. that it is merely directed at participation in the South African Defence Force.

I am sorry to have to say this, but the applicant has created the impression with this Board and all the members of the Board that he is not being sincere and that he is in fact dishonest. In the result the application is refused.

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