

A28-10-33

SECOND REPORT ON THE BOARD FOR RELIGIOUS OBJECTION

September, 1984

This report should be read with the report written in August, 1984, which serves as a basic introduction to the Board. This report was written after the September hearings of the Board. It is quite lengthy, but, when taken with the August report, gives a fairly complete picture of the Board.

GENERAL OBSERVATIONS AND LEARNINGS

1. Nine people appeared before the B in September: 3 Jehovah's Witnesses, 4 Roman Catholics, 1 presbyterian, 1 United Congregational Church. All were accepted as COs. No representatives from the latter three denominations sat on the B - the law has been changed so that that is now possible.
2. Three of the applicants had clear political elements in their applications, but all three were accepted because they were able to satisfy the B that their applications were based on religious convictions and that they would not serve in any armed force.
3. One of the Jehovah's Witnesses was a 43 year old medical doctor from Bethlehem, O.F.S. who objected to a call-up for a 6 day camp connected with the "dad's army" rural commandos. The principle established by his case for alternative service for such individuals is either $1\frac{1}{2}$ times the length of each camp, or 18 days - whichever is longer. There is no continuous period of service for these objectors.
4. So far no-one has been given notice as to what type of alternative service they must do.
5. Contrary to earlier impressions, one can only apply to the B once one has been called up i.e. called up to a specific camp at a particular time. There is no use applying to the B before that, or seeking to place one's objection on record with them for future reference - they will send back any such application.
6. The two people applying for category (i) (i.e. noncombatancy) were both in the military already, near the beginning of their training. Both were adamantly opposed to any combatant or direct support for combatants role. However, although the B recommends to the military that these people be placed in noncombatant posts, there is no guarantee that they will not be placed in noncombatant posts which are still too close to combatancy for the applicants' liking. In other words, category (i) is inadequate in providing explicit, watertight, noncombatant status.
7. Noone has been classified in category (ii) yet. This is basically a non-combatant type category, except the objector does not wear a military uniform, and does $1\frac{1}{2}$ times the length of each call-up. So far, non-combatants coming before the B have not felt strongly enough about the uniform issue to be willing to accept the penalty of extra time in the military. If category (i) applicants could be formally assigned to category (ii) type jobs, while wearing the uniform and doing the "normal" length of service, it would resolve the problem raised in the point above.
8. Many of those who apply for cat(i) are soldiers already, and are not well versed in the law and know little of the BRO procedures and expectations. (see section H).
9. The presence of church ministers, supportive family members and friends is very helpful to the applicant. There is an important place too for an experienced person to be present for the whole hearing to monitor the proceedings, and to be a support and resource person for the applicants (see section H).
10. In the case of one of the Catholic applicants, a real problem of religious language and different religious experience emerged. The applicant couched his case in broad terms, drawing support from moral, philosophical and political realms as well as the religious realm. He did not quote specific Bible verses. He also mentioned certain ambiguities and doubts

as they functioned in his faith. This is all very sensible for those familiar with this style of Catholic theology and ethics, but seemed quite unfamiliar to the B. The fact is that the B is thoroughly Protestant in its make up and outlook. In the middle of the impasse between the applicant and the B, an adjournment was called. During this time it was decided to call on one of the applicant's supporters who was also a brother in a religious order to give evidence on the nature of Catholic theology and to verify that the applicant was squarely situated within it. This worked very well, and succeeded in clarifying to the B the applicant's position.

11. A major learning from the above case is that it is very helpful to understand the mindset of the B. The challenge is to express oneself from within one's own tradition, and yet use language and concepts familiar enough to the B so that they will not feel estranged. It is also very helpful to have an expert witness who can explain unfamiliar concepts to the B.
12. From the B's point of view, one of the reasons they wish a theologian of the applicant's denomination to sit on the B, is to help clarify to the B any areas unclear to them. This is a reasonable point of view, but this function can be fulfilled just as well by an expert witness called by the applicant.
13. It is very important that the religious convictions forming the basis of the applicant's application are explicitly spelled out.
14. The B seems to like a case which is clear cut. They reduce any case before them to the basic dualism of either/or, especially that of being either religious or political. Another dualism they operate from is that of either feelings or principles e.g. "Is your response to this question based on feelings or principles?". It is good if applicants present a case which is not so simple as either/or - one which intertwines the religious and the political. However, no matter how complex the argument is, the B will reduce it to this basic dualism, and will accept the applicant as a CO on the simplest of grounds - that he is a "religious" CO. This reductionism is well illustrated in this quotation from Steyn: "If we are satisfied with the genuineness of the applicant's religious convictions, the political convictions and opinions of the applicant becomes irrelevant the Board's jurisdiction is determined by statute, and that statute makes provision for religious convictions only. So that is what we are looking for". (from McGregor's case.)
15. The applicant needs to realise that when he applies to the B, he implicitly accepts the jurisdiction and frame of reference of the B, and needs to conform to these in order to be accepted. If an applicant really wants to push the B on their narrowness, he needs to be prepared for his application to be turned down (a serious risk, considering the consequences). This is so because when the B is really pushed, they are likely to, rather than give up their dualism, come down on the side of "political", and so rule against the application. (So far this has not happened to anyone.) But the push needs to be made at some stage, so that we can know what the limit is which tips the scale from "religious" to "political". And maybe such a push will contribute to the ultimate breakdown of this dualism.
16. At any stage before a final decision is made by the B, the applicant may withdraw his application and request permission to resubmit it (or a rewritten one) at a later date.
17. If possible, the applicant should go to the hearings one day ahead of his own hearing, and sit through a few cases, to get a feel for what goes on.
18. It is permissible to tape record the hearings - they are open to the public and the record is public.

B. TRENDS IN THE THEOLOGY OF BOARD MEMBERS

1. As is mentioned above, they all have a tendency to reduce ethics to either/or dualisms.
2. They like Bible references to back up religious-type statements.
3. They are very Protestant, mainly Calvinist Protestant.
4. The most significant trend is that none of them are pacifist - all of them hold to some version of the "just use of violence and war." This has a very marked effect on the way they function in the hearings. The religious pacifist position is actually very threatening to them because it radically challenges their faith, their ethics, and their relationships with the military. Thus, when they test the applicants position, it appears to be as much to vindicate their own position of Just Violence, as to test the credibility of the applicant. In every single case, the main line of questioning from B members is concerned with whether the applicant would not, under certain circumstances, accept that violence is necessary, and that they may even use it themselves. Usually this is done by means of "What would you do if ...?" type of questions. They persist with this line of questioning until the applicant either agrees with or submits to this point of view. Of all the cases observed by the author of this report, in only one (that of Maclean, in September) did the applicant steadfastly refuse to accept their point of view. It was in this case that the B's theology became most evident. The hearing turned into a harangueing of the applicant in an apparent attempt to convert him to B members point of view. They just would not accept his theological position (but they had to pass him as a CO). The following quotations reveal the B's point of view:

Steyn: "Can't you see the necessity of killing him (someone holding a group of people hostage) because he is threatening the fabric of society."

Daines: (Anglican Chaplain, Voortrekkerhoogte): "Christians are not allowed to use violence to spread the gospel. Nor are they allowed to use violence to defend themselves from being persecuted for the sake of the gospel. Christians may use violence to defend themselves from "ordinary" attacks, and to defend others so attacked for the Christian it is a right and a duty to use violence to protect self and defend the weak."

Harris (Methodist minister, Benoni): "Sometimes a Christian can use violence to maim and injure in order to prevent a crime from taking place. In the hostage situation, it is mandatory for the Christian to use violence."

"Certain organisations, such as prisons, need violence in order to maintain order ...here violence is rightly used!"

C. STEYN

So far, when seen from within the parameters the B is constrained by, Steyn has proved to be reasonable and fair. This is just as well, because he is obviously the most influential person on the B.

In general, his attitude on the B is friendly, and he does not come across aggressively in his questioning. However, he does have some quirks which are helpful to know about ahead of time.

- he likes the original application (written statement etc.) to be as complete as possible;
- he likes dates and details. For instance, if the applicant says he changed from one school to the other in his Std. 9 year, Steyn will ask him why. He will also ask what month the move was made, and the year, if it has not already been mentioned;
- he likes information to be presented chronologically - many of his questions are in order to establish the chronological sequence of events;

- he is interested in the process of decision making the applicant goes through e.g. how he came to his views, what changed from when he was in the army before, how did he go about finding out more about his point of view when he first became aware of it etc. ;
- he is very impressed by service work and actions which back up the convictions of the applicant;
- he asks a lot of questions, but the timing of asking them can put the applicant off his stride. He has a very disconcerting habit of butting in with a question when the applicant is speaking (usually it is a clarification type of question);
- he will keep asking the same question (maybe in different words) until he has an answer he is satisfied with;
- his questions often follow a particular train of thought which may be at a tangent from what the applicant has just been saying;
- often he will hijack other B members' questions, and then follow his own line of questioning on the subject raised by the member;
- frequently he repeats an answer from the applicant in his own words. Usually he is accurate in this, but sometimes he adds interpretation too;
- he frequently makes character assessment comments e.g. "the applicant is someone who thinks deeply but finds it difficult to express himself in words"
- he makes a long summary of the case before telling the applicant what the B's decision is. He couches it in such a way that it is hard to tell which way the decision will go;
- he, especially, is bound by dualistic thinking. He really does believe it is possible to separate religious and political, and tell which is the chief motivation in an application. The following quotation reveals this: "Where there are genuine religious and political convictions, they can nevertheless be separated, to contrast the religious with the merely political ." (McGregor's case). This next quotation is very interesting because it reveals how Steyn makes this separation, and reveals how important actions are to him: "We have to see whether we can separate the religious and the political. The way to do that is to refer to the applicant's way of life prior to the application and see whether from the facts established thereby the applicant moved in religious or political fields or both."

D. PROCEDURE AT THE HEARING

1. Members of the public no longer stand up when the B enters the room.
2. If time in the session is running out, the A is not asked to read his statement into the record.

E. PRESENTATION OF CASE

1. When the applicant is not asked to read his statement, the applicant can either accept this state of affairs, or could insist on reading his statement anyway, or could request the opportunity to make some introductory comments (keep it short, stress the religious and universal nature of the application).
2. If at the end of the applicant's presentation, and their questions, they ask "Have you any more to say?", rather say nothing, or else only repeat the religious and universal nature of the application.
3. When making the initial presentation, or answering any questions, leave no loopholes to allow Steyn to butt in i.e. give all the necessary information.
4. Organise papers well so as not to get flustered when wanting to look up information while answering a question.
5. The applicant can submit documentation to the B during his hearing as well as before.
6. Take time to collect thoughts before answering.
7. Ask for questions to be explained more fully.
8. Choose not to answer questions if they seem irrelevant or vindictive.

9. It is quite permissible to request an adjournment of the proceedings at any stage. This adjournment can be used just as a break, or to seek advice from others on how to proceed etc. Calling for an adjournment will be very sensible if the questions and interruptions are becoming too stressful.
10. The simplest and most convincing answer is that given from personal experience.
11. Do not mention the SADF only as an army one would not fight intentionally universalise one's argument by using other examples too.
12. Although it is prudent for the applicant to raise the matter of alternative service in his presentation, it is not wise to be too specific about it. The B has no jurisdiction whatsoever over alternative service, so it is not worth risking controversy over this matter, e.g. by mentioning specific tasks he would not be prepared to do. That is a matter to negotiate with the Department of Manpower. In particular, it is not wise for the applicant to be critical of the Civic Action Program of the SADF or Civil Defence, unless he can thoroughly support his criticism. This is because Steyn likes both of these programs, and will be defensive about them.

F. WITNESSES

Witnesses are a very good way of (a) getting a point across, and (b) taking the heat off the applicant. The applicant and the witness should be clear before they start what it is they want to communicate, and how.

1. The applicant should ask the witness one question at a time only.
2. The witness should answer that question only.

It would be helpful for the applicant to talk with a lawyer beforehand, and learn from her or him the best way of conducting the interview with the witness.

G. MORE QUESTIONS ASKED BY THE BOARD

Steyn usually asks the most questions. He usually asks information and process type questions, and picks up on whatever the other B members are asking.

The next most prolific questioner is Daines. He is usually the one who asks the "what would you do if ..." questions. He also specialises in questions regarding force and the state, and the "legitimate" use of violence.

Straus's (the alternate for Prof Heynes) main foci are the Just War (of which he is a supporter, from his perspective), and the "legitimate" use of the military.

Van Wyk wants to know if the applicant's position is political.

Bosman doesn't say much.

Harris has no line really. He hardly says anything. When he does, it is usually helpful in encouraging the applicant to clarify his point.

1. Exodus 22.1: "If a thief is caught breaking in and is struck a mortal blow, there is to be no blood vengeance for him." How do you explain this verse, where killing a person appears to be justified?
2. How do you define "force" and "violence"?
3. When does force become violence?
4. What is meant by "render to Caesar what is Caesar's"?
5. Do you mind paying taxes that go toward Defence spending?
6. Define universal pacifism.
7. Can you imagine a situation in which you would use force, or violence?
8. Why should identification with the SADF alienate you from people?
9. Why do you say "SADF" all the time in your presentation? Are you objecting to service in the SADF only?

10. Do you leave a door open for the possibility that the oppressed may be justified in resorting to violence?
11. Would you be prepared to support the right of others to use violence if they so choose?
12. 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?
13. What do you mean by "institutional violence"?
14. Your decision is a product of many influences. What about the religious influence?
15. On average, how many times do you go to church in a month? What other church meetings do you attend?
16. In the case of Cornelius the Centurion; nowhere does it say that he left the armed forces.
17. What are your conditions for a Just War? How do each of these apply in the South African situation?
18. Do you think the military force used by the South African government is justified?
19. Faced with the invading SWAPO army, what would you do if you were the government?
20. Is this belief of yours based on principle, or on an assessment of the prevailing situation which could change tomorrow?
21. On what books of revelation do you base your convictions?
22. The absence of scriptural references may indicate that your convictions are not religious; whereas repeated references to moral, political, political and philosophical convictions give the impression that your motivation is from those convictions. What is your real motivation?
23. What is the content of your convictions?
24. Can you imagine a situation where violence and war may be used to uphold peace, like in World War II?
25. How do you explain the verse where Jesus tells his disciples to see buy a sword, even if they have to sell their coats to do so?
26. Are police justified in killing people in the course of their duties?
27. Is it justifiable to kill one person in order to save the life of others?
28. Many organisations need an amount of violence in order to maintain order, e.g. prisons. Do you object to that?

H. RECOMENDATIONS

1. That an experienced person be present at each hearing, to be a support and resource person for applicants and their supporters, and a general observer of all the proceedings. Each CO Support Group could take responsibility for a hearing.
2. If the applicant's case is at all unusual, he should have witnesses ready to participate with him at the hearing.
3. Although the applicant cannot lodge an application with the B before his actual callup, he can build up a dossier with his minister/priest, lawyer or other "respected" persons. This record can then be submitted to the B in due course. The applicant can also write to the Registering Officer of the SADF, Private Bag X281, 0001 Pretoria, and the Chaplain General, Private Bag 479, 0001 Pretoria, to place on record their objections.
4. Someone in each denomination be requested to keep in touch with the B office in Bloemfontein to find out if denominational members are coming up before the B. If there are, then to arrange that a church representative be present, to support the applicant and appear as a witness if necessary. If possible, contact the applicant ahead of time and offer counselling or any other assistance.
5. Churches should educate their ministers and members as to the law on CO, and the existence and procedures of the B. Most especially, chaplains should be ready to counsel and provide support for soldiers on these matters.
6. In general, churches and CO groups should keep up dialogue with Steyn

of the term "religious convictions" under which the B operates viz. that this term "presupposes a belief in a Supreme Being or Beings of a Divine Nature". Steyn realised the anomaly, though, of turning down someone who is obviously religious and pacifist, so suggested that this technicality should be clarified in debate before the Supreme Court. He seems keen that the definition of the term be broadened to include non-theistic religious convictions. The case is now in the process of being sent to the Supreme Court. (see enclosed article)

9. For the purpose of administering alternative service, the Department of Manpower is dividing the country into regions, each with a liaison officer. These liaison officer will deal with any difficulties in placement of the applicant, or other problems which may arise during alternative service. The person in charge of this nationally is Mr L.F. Kruger, at the Department of Manpower headquarters, Private Bag X117, 0001 Pretoria, phone: 012 26 9711. Steyn is keen that the churches should participate in this liaison process, and should stay in touch with the servicee throughout his service. The person in the local office actually responsible for the placement of applicants, is the Placements Officer.

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Durban, November, 1984

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White Buddhist raises test case for courts

SUNDAY EXPRESS November 11, 1984

A WHITE South African Buddhist has been refused exemption from military service on grounds of religious objection.

In the first case of its kind, the Board of Religious Objection this week turned down an application by Rhodes University student David Hartman, 23, to do community service for six years instead of a compulsory two-year army stint.

Mr Hartman, who is studying for his master's degree in fine arts, specialising in photography, must now report in January for military duty at the Personnel Corps in Voortrekkerhoogte, Pretoria, as originally ordered.

But the Board of Religious Objection, based in Bloemfontein, has referred the test case — the first to be brought by a white non-Christian — to the Supreme Court for review.

It has also asked the Defence Force to refrain from prosecuting Mr Hartman until the case has been heard by the Supreme Court.

"The board was of the opinion that

he (Mr Hartman) did not believe in a divine power, which does not comply with the definition of religious conviction," a spokesman for the board said.

"The Supreme Court must decide whether the definition of religious conviction as set out by the board presupposes the existence of a supreme being," he added.

He said the board's finding meant

Mr Hartman would have to complete his military training "in the ordinary sense of the word."

Mr Hartman, who became a Buddhist in May this year, is optimistic, however, that he will not have to serve in a military capacity.

"I found the board to be very sympathetic. I understand their viewpoint and that they have a problem. But they seem sincere in their attempts to

have the matter reviewed and I'm happy with the outcome so far," the quiet-spoken student said from Grahamstown this week.

"Basing my life on Buddhist teachings, I cannot support any military organisation. I believe in unity but not in violence.

"But I do not think there is anything wrong in serving the community, as

one to be. My mother was brought up in India and always taught us to be tolerant of other disciplines.

"Another particular aspect that I have found appealing about Buddhism is the responsibility that a person has to take for his or her actions," he said.

"While still at school, I was very involved with the Christian faith. But when I started university, I became more aware of other disciplines and started practising meditation. I also became a vegetarian.

"Then, while travelling around South Africa, South West Africa and Botswana last year, I read a book on Buddhism and requested my faith," he said.

long as it is not in a military capacity. So I would be prepared to render six years' service to the community instead," he added.

Mr Hartman described himself as having once been a devout Christian, but said he had found it difficult to come to terms with the faith.

"For me it tended to be quite exclusive and not very tolerant of other disciplines, which Buddhism teaches

Hit

while

in *The Friend* (Bloemfontein)

DB

claim *29 Oct 1984*

Friend Reporter

ALLEGATIONS of maltreatment of a prisoner in the SA Defence Force detention barracks will be presented to the Chief of the Defence Force following an order made last week in Bloemfontein by the Board for Religious Objection.

PRISON

Mr W. D. Archer, who was court martialled and sentenced to 75 months in a civilian prison for refusing to participate in the Defence Force, told the Board he had been assaulted twice in DB while waiting for his case to be reviewed.

In August Mr Archer applied to the Board but was refused and the legal question was raised whether he was entitled to reapply after being "sentenced by a responsible court" and whether the Board was allowed to hear his application.

REFUSED

The Board decided Mr Archer was entitled to reapply but they refused to consider his application because the evidence he wished to present was not substantially different from his previous application.

The Board ordered that the evidence given by Mr Archer be sent to the Chief of the Defence Force, General C. L. Viljoen, so that the alleged irregularities in DB could be investigated.

DOCTOR

Another application to the Board, that of Dr Brian Wood who had previously been classified as a non-combatant religious objector, was considered and granted by a majority of the Board.

In passing judgment the Board stated that a minority believed Dr Wood's reasons for application were essentially political and "cloaked in religion".

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