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SOME STUDY AIDS
ON
CONSCIENTIOUS OBJECTION AND WAR

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CONTENTS

<u>INTRODUCTION</u>	2
<u>LECTURE ONE: WHAT IS CONSCIENTIOUS OBJECTION?</u>	3
a. What do conscientious objectors refuse to do?	3
b. Why are some people conscientious objectors?	3
c. Are all conscientious objectors pacifists?	3
d. Are conscientious noncombatants inconsistent?	6
e. Do conscientious noncombatants shirk the burdens and duties of citizenship?	7
<u>LECTURE TWO: CONSCIENTIOUS OBJECTION IN SOUTH AFRICA</u>	11
a. The first parliamentary debate on conscientious objection	11
b. Two policy statements on section 67(3) of the Defence Act	15
c. The conscientious noncombatant's position	16
d. A debate on conscientious nonmilitarism	17
e. Two versions of section 126A of the Defence Act	22
f. A question about section 121(c) of the Defence Act	27
<u>LECTURE THREE: PACIFISM AND THE THEORY OF A JUST WAR</u>	31
a. Which wars are just?	31
b. What is violence?	34
c. Does the end justify the means?	35
<u>LECTURE FOUR: OBEDIENCE TO AUTHORITY AND CONSCIENTIOUS DISOBEDIENCE</u>	39
a. The basic experiment	39
b. The learner's schedule of protests	39
<u>LECTURE FIVE: CONSCIENTIOUS OBJECTION AND THE CHRISTIAN FAITH</u>	42
a. Does Christ's teaching support or undermine conscientious objection?	42
b. Does Christ's example support or undermine conscientious objection?	43
c. Does Romans 13 forbid a Christian to disobey his government?	45
<u>A POSTSCRIPT: DEUTERONOMY, THE LAWS OF WAR AND EXEMPTION FROM MILITARY SERVICE</u>	48
WHAT IS VIOLENCE?	50

INTRODUCTIONCONSCIENTIOUS OBJECTION AND WAR

The issue of conscientious objection has large and complex implications for all men. The current situation in South Africa gives this problem a specific relevance. The questions raised by this situation and its connection to a wider framework will be discussed in this series of lectures.

LECTURE ONE: WHAT IS CONSCIENTIOUS OBJECTION?

One way to understand what conscientious objection is, is to explore some questions which it raises. For example, what is the difference between a conscientious nonconscriptivist, a conscientious nonmilitarist, and a conscientious noncombatant? Are conscientious noncombatants inconsistent? And do they shirk the burdens and duties of citizenship? Are all conscientious objectors pacifists?

LECTURE TWO: CONSCIENTIOUS OBJECTION IN SOUTH AFRICA

Section 67(3) of the Defence Act deals with conscientious objection. This section of the Act has generated a great deal of controversy. The lecture will sketch the history of this controversy and try to answer two questions: What kind of conscientious objection does South African law allow? And should South African law on conscientious objection be amended?

LECTURE THREE: PACIFISM AND THE THEORY OF A JUST WAR

Everyone has a duty to do what he can to make situations more just. Consequently, the more apparent it is that the war in which he has to participate is just, the less convincing is a conscientious objector's refusal to do so. This argument is valid; but do we know when a war is just? And why are some people pacifists?

LECTURE FOUR: OBEDIENCE TO AUTHORITY AND CONSCIENTIOUS DISOBEDIENCE

Conscientious objectors assume that we are able to refuse to obey laws and commands which run counter to our deepest moral beliefs. The horrifying experiments designed by Professor Stanley Milgram question this assumption by demonstrating how people react when they are ordered to give other people severe electric shocks.

LECTURE FIVE: CONSCIENTIOUS OBJECTION AND THE CHRISTIAN FAITH

War raises difficult questions for Christians. This lecture explores two of them. Does Christ's teaching and example support or undermine conscientious objection? And does Romans 13 forbid a Christian to disobey his government?

LECTURE ONEWHAT IS CONSCIENTIOUS OBJECTION?A. WHAT DO CONSCIENTIOUS OBJECTORS REFUSE TO DO?

- (1) Some conscientious objectors refuse to be conscripted for national service. They are CONSCIENTIOUS NONCONSCRIPTIVISTS.
- (2) Some conscientious objectors refuse to be conscripted for military forms of national service. They are CONSCIENTIOUS NONMILITARISTS.
- (3) Some conscientious objectors refuse to do their military service in a combat capacity. They are CONSCIENTIOUS NONCOMBATANTS.

Diagrams 1 and 2 on pages 9 and 10 have been designed to underline the difference between these three kinds of conscientious objection.

B. WHY ARE SOME PEOPLE CONSCIENTIOUS OBJECTORS?

This question does not have a straightforward answer because there are so many reasons. For example, John Howard Yoder has listed 25 different reasons for being a conscientious objector in his book Nevertheless: the varieties and shortcomings of religious pacifism (Herald Press, 1971). More specifically, here are the labels which Yoder has attached to the different brands of conscientious objection that he has discussed:

Christian cosmopolitanism, the honest study of cases, absolute principle, programmatic political alternatives, nonviolent social change, prophetic protest, proclamation, utopian purism, the virtuous minority, the categorical imperative, absolute conscience, redemptive personalism, cultic obedience, cultural isolation, consistent nonconformity, nonresistance, the eschatological warriors, anarchic pacifism, the pacifism of self-negation, the very long view, redemptive suffering, the imitation of Christ, the pacifism of self-discipline, situational pacifism, the pacifism of the messianic community.

C. ARE ALL CONSCIENTIOUS OBJECTORS PACIFISTS?

If a pacifist is someone who has renounced all coercive actions, then some conscientious objectors are not pacifists. For example, most conscientious noncombatants have not renounced all coercive actions: they have renounced the use of weapons and therefore they refuse to do their military training and service in a combat capacity. In fact, some of them are not prepared to train or to serve in a military unit that is not recognised as a noncombat unit by the Geneva Conventions on War.

- (1) An extract from Donald Swann's autobiography, The Space Between the Bars, Hodder and Stoughton, 1968, p 96:

In a tribunal statement I told them: "Christ would never sanction war, and I wish to try and follow him." What would you do if someone raped your sister, they said? I would not go and kill his relatives, I said. But later I worried that I had not answered the question. Would I kick the raper? I think I would, so this seemed violence again, this time from me. Later I thought through this one: it is one thing to kick or to stun a raper, yet another to go on and kill him. Yet another to kill his relatives. Yes, my answer was logical.

(2) Two extracts from Robert Ardrey's African Genesis, Fontana, 1967, pp 30 and 226:

Man has emerged from the anthropoid background for one reason only: because he was a killer. Long ago, perhaps many millions of years ago, a line of killer apes branched off from the non-aggressive primate background. For reasons of environmental necessity, the line adopted the predatory way. We learned to stand erect in the first place as a necessity of the hunting life. Our hands freed for the mauling and the hauling, we had no further use for a snout; and so it retreated. And lacking fighting teeth or claws, we took recourse by necessity to the weapon....And if all human history from that date has turned on the development of superior weapons, then it is for a very sound reason. It is for genetic necessity. We design and compete with our weapons as birds build distinctive nests.

Man takes deeper delight in his weapons than in his women. He will pledge a treasury to the one; a pittance to the other. From handaxe to hydrogen bomb his best efforts have been spent on the weapon's perfection. Nor have the failures of nations or the descents of civilizations ever slowed the weapon in its even advance. It is the hallmark of human culture. Mayas and Egyptians may have left behind their pyramids, the Greeks their temples, the Americans their skyscrapers, the Magdalenians their cave paintings, the Romans their forums, the Easter Islanders their monoliths, the Winnebago Indians, temporarily, their birch-bark canoes. All have left weapons.

(3) An extract from Bob Dixon's Catching Them Young: political ideas in children's fiction, Pluto Press, 1977, pp 48-49:

Details of the grislier aspects of war, however - the blood and guts, the torn limbs, burning bodies and torture and rape - are not shown. Perhaps it would be better if they were. In comics, war is often presented as a game in which nobody gets seriously hurt, rather as in 'Captain Hurricane', though this attitude was made even more explicit in a strip running in recent times in Tiger: 'Charlie Champ, the World War Two soldier...fought his battles with sports equipment.' In the issue of 7 July 1973, he deals with a crowd of German soldiers by knocking them out with tennis balls 'served' from his racquet. It takes just five tennis balls to put

the 'jerries' out of action. This attitude to war is one way of avoiding the reality and it's one undoubtedly adopted by practising servicemen quite often. A major I knew talked about booby-trapping in just this spirit - if you were clever at the game and tricked your opponent you won. On the other hand, war is presented in comics as affording opportunities for glory and heroism. This is by far the commoner of the two approaches, it increases with the age group of the readers and it's the only approach in the war-picture, booklet type comic. In this kind of story, the focus is often on a single combatant who is presented as afraid or as having lost his nerve at the beginning and who, in the course of action and often through devotion to a friend, shows that really he has outstanding courage. This is a common theme in both United States and British publications.

The name-calling, already noted, is important in reducing the enemy to sub-human status. Killing another human being is one thing but killing a 'dirty yellow rat' (the 'yellow' is the racist bit) or, as in a 'Pocket Western' booklet, 'red skunks' and 'varmints' is somewhat different and must be a whole lot easier. This is a process we can observe in any war and lack of imagination and political ignorance can assist it.

Since there are people who believe that what children read has no effect on them, it's as well to recall that some research has been carried out in some of the areas we've been considering. An article, 'What do children learn from war comics?' by Nicholas Johnson was published in New Society on 7 July 1966. Having noted strong agreement amongst sixty primary schoolchildren concerning their national preferences, he went on:

How is it that primary schoolchildren have come to agree about the relative merits of various countries? Who tells them that England, Australia, America and France are to be liked, while Russia, Japan, China, Germany and India are to be disliked? The answer must lie largely in what parents, teachers and other adults tell the children, and, of course, this source is a difficult one to investigate. When we turn to the mass media, however, it becomes possible to analyse the content of the material presented, and to evaluate the effect of the media by comparing children exposed to it with those who are not.

The whole article is very instructive, but the results of testing and analysis, and the conclusion, must suffice here:

Comparison...between children who read Boys' or War comics (27 children) and the others (33 children) is very striking. The pattern of differences is exactly as we would predict when comparing people more or less concerned with the antagonisms of the second world war. Notice that the enemy nations, Germany, Japan and Italy, are liked less by the child-

ren who read War or Boys' comics while the allies, America, Australia and France, are liked more. Russia, India and China, which do not appear in the comics as involved in the war, show the smaller differences in preference between the two groups of children.

D. ARE CONSCIENTIOUS NONCOMBATANTS INCONSISTENT?

Guy Franklin Hershberger has argued that conscientious non-combatants are inconsistent:

It is true that many assignments in the army do not involve personal killing. But it is also true that actually there is no such thing as noncombatant army service. 'Combatant' means fighting, and 'noncombatant' means not fighting. An army has only one purpose, and that is to fight. Therefore everyone in the army is a fighter. If it is wrong to fight, it is wrong to belong to a fighting organization. If it is wrong to kill, it is wrong to belong to a killing organization. No one who really believes that war is wrong can be true to his faith and accept so-called noncombatant army service.

It has been argued that service in the medical corps of the army is consistent for a conscientious objector, because this service is designed to save life. This is very poor reasoning, however. If a member of a band of bank robbers were assigned the job of carrying the first-aid kit, while others did the shooting and lifting, the first-aid man would be considered guilty before the law with the entire band. It is membership in the organization that counts, not so much the particular task to which one is assigned. The medical corps of the army is part of a killing organization as much as is the infantry or any other part of the army. It might be added that the higher officers in the army are also noncombatant in the sense that they seldom do any personal killing, yet one would not excuse them of responsibility for the killing under their command. (War, Peace and Non-resistance, 3rd edition, Herald Press, 1968, pp 315-316).

Hershberger's argument fails to come to grips with the facts that are contained in the following quotations:

(1) Under centralized direction whole populations tend to be involved in preparation and support for modern wars. Entire economies may be mobilized, and the distinction between military and civilian increasingly breaks down. (H. Seifert, "Peace and War", pp 247-249 in John Macquarrie's A Dictionary of Christian Ethics, SCM Press, 1967).

(2) The Defence Force cannot be seen as a separate entity. Some see strategy only as the means of fighting and winning a war. But in a mature state the fundamental concept of conflict entails far more than war. It means the formulation of national objectives in which all the country's resources

are mustered and managed on a co-ordinated level to ensure survival. This entails a united and collective effort which includes diplomacy, politics, economics, industry, local authorities, the military. (General Magnus Malan, Sunday Times, 13 February 1977).

(3) In the army we speak of the anti-revolutionary struggle as the 80-20 struggle - which means that it is 80 per cent socio-economic and only 20 per cent military. If we lose the socio-economic struggle, then we need not even bother to fight the military one. (General G.J.J. Boshoff, Progress, June 1976).

(4) In its efforts to find a solution for the conscientious objector problem the Department of War in the summer of 1918 devised....service in 'reconstruction hospitals', under the reconstruction branch of the medical corps, and devoted to the aid of sick and wounded soldiers who....would not be returned to the field of battle. This service was still under the army, however, requiring the wearing of the military uniform, and was therefore military service. For this reasonit was agreed that reconstruction hospital service would be acceptable only if it could be performed under civilian direction and without the wearing of a military uniform.

If nonresistant farmers should refuse to continue the production of food they would actually contribute to a civilian food shortage. Furthermore, food is not war material; its only purpose is to sustain human life. Therefore, if a portion of the food grown by a nonresistant farmer later is used by persons who engage in warfare, the responsibility is with them and not with the farmer. (Guy F. Hershberger, War, Peace and Nonresistance, 3rd edition, Herald Press, 1968, pp 116-119 and 317).

E. DO CONSCIENTIOUS NONCOMBATANTS SHIRK THE BURDENS AND DUTIES OF CITIZENSHIP?

Conscientious noncombatants can employ a quotation and a reminder to argue that they do not shirk the burdens and duties of citizenship.

(1) Conscientious noncombatants can quote what the Minister of Defence, the Hon. P.W. Botha, M.P., said on 24 May 1972 to argue that it is wrong to equate military service and service in a combat unit or in a combat capacity:

We have introduced a system of national service; it is not only military service; it is more than military service. National service, as we are implementing it in this country today, with all the activities related to it, is much more than just military service....A national serviceman can do his service in a hospital; he can do it in the administration of the Department; he can do it as a medical orderly; he can do it as a person who is being train-

CONSCIENTIOUS OBJECTORS

CONSCIENTIOUS NONCONSCRIPTIVISTS

people who refuse to be conscripted for national service

CONSCIENTIOUS NONMILITARISTS

people who refuse to be conscripted for military forms of national service

people who refuse to do nonmilitary forms of national service that are controlled by a government department

people who refuse to do nonmilitary forms of national service that are controlled by the department of defence

people who are prepared to be conscripted for national service

people who are prepared to be conscripted for military forms of national service

CONSCIENTIOUS NONCOMBATANTS

people who refuse to do their military service in a combat capacity

people who do not refuse to do their military service in a combat capacity

people who refuse to do their military service in a unit that is not recognised as a noncombat unit by the Geneva Conventions on War

people who are prepared to do their military service in any noncombat capacity or in any noncombat unit

DIAGRAM 1

What is Conscientious Objection?

people whose national service has been deferred

people who have been conscripted

people who have been exempted from national service

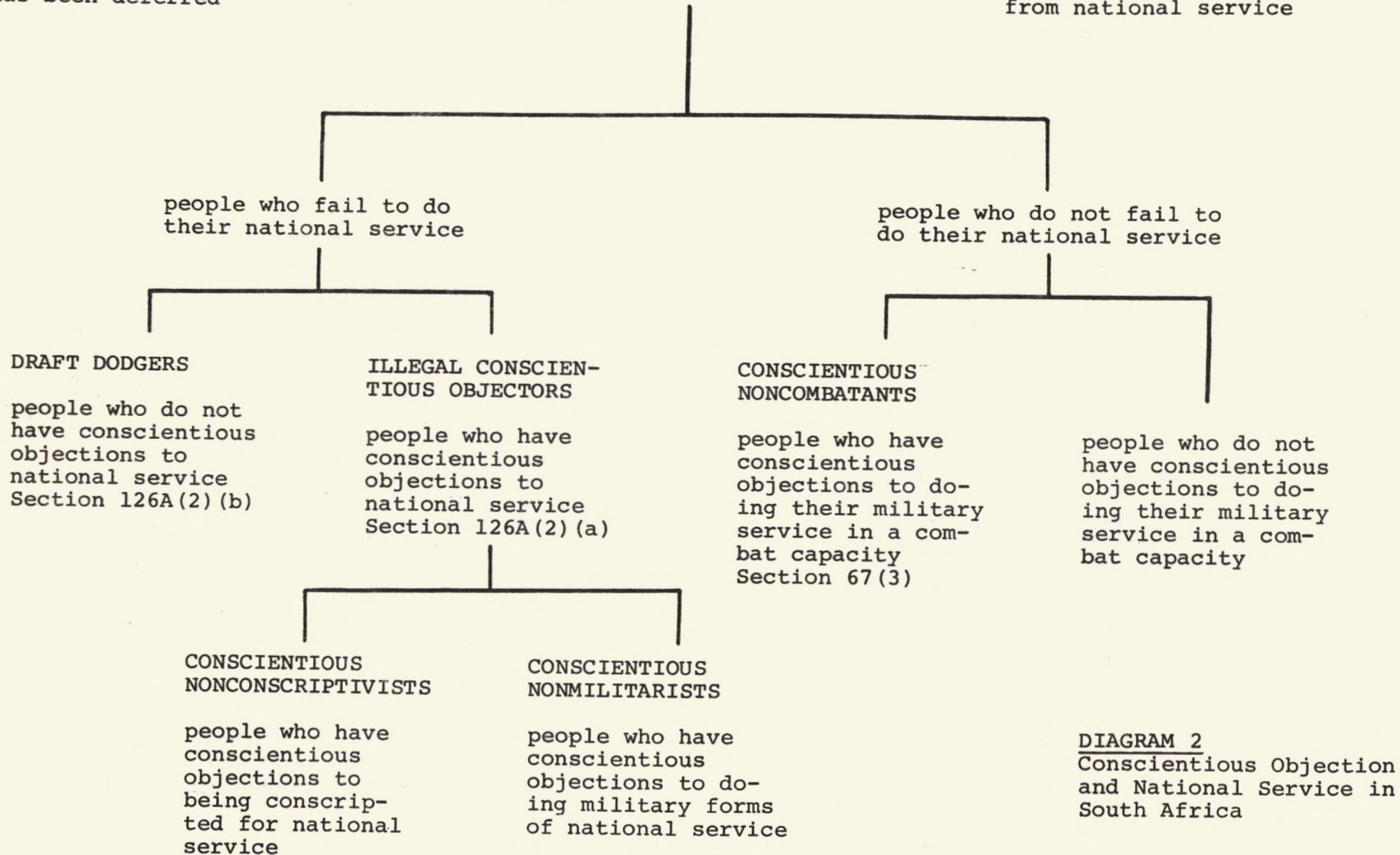


DIAGRAM 2
Conscientious Objection and National Service in South Africa

LECTURE TWOCONSCIENTIOUS OBJECTION IN SOUTH AFRICAA. THE FIRST PARLIAMENTARY DEBATE ON CONSCIENTIOUS OBJECTION

Hansard, 25 April 1912, Columns 2209-2213.

Commandant J.J. Alberts (Standerton) moved, as an amendment to section 58(6), to omit sub-section (d) which declares that someone may be exempted from the ballot for national service because of his bona fide religious beliefs. Paragraph (d) would lead to an increase in the number of those religious persons who professed a dislike to the bearing of arms. A man must carry arms in time of need, and the paragraph was impracticable.

Mr. F.R. Cronje (Winburg) supported the amendment, for why should they exempt persons who had "conscientious objections"? What were bona fide religious principles? Exemptions of that sort would only lead to difficulty.

Commandant J.A. Joubert (Wakkerstroom) said paragraph (d) ought to be deleted.

The Prime Minister hoped the amendment would be withdrawn. There existed in South Africa a religious sect with about 120 members, men, women and children, who were opposed to war. That religion also existed in America and Australia, whose members also had to be exempted. They were called Quakers. The religion of the people of South Africa taught them it was an honour to defend their country. He did not want to send unwilling people to fight, as they were useless.

Mr. J.A. Venter (Wodehouse) supported the views of the Minister, and added that they must respect everyone's religion. He would support the clause as printed.

Mr. H.P. Serfontein (Kroonstad) said that if the paragraph were not deleted, they would soon have an army of people with religious objections. For the defence of the country every man must give a hand. He supported the amendment.

Mr. C.F.W. Struben (Newlands) referred to a petition which he had been asked to present to the House by a certain sect. He told the members of that sect that as things were in the world the best way to prevent war was to be prepared for it, but that it was not fair to ask him to put a case where citizens would be exempted from service. The only international police was the force of their own country. He pointed out that in clause 82 the Select Committee had put in a sub-

section dealing with those of religious sects who had conscientious scruples against being combatants. He thought they had gone as far as they could to meet these people. He thought they all looked forward to the time when there would be no war. As things were they were only able to maintain what they called just principles by the power to enforce these principles by force when necessary. He hoped to see our forces trained to be ready to protect this country, but only used in just wars.

Mr. D.H.W. Wessels (Bechuanaland) said they were bound to respect people's principles. Seventh Day Adventists and others were opposed to war, and would never agree to take part in it. Those people were few in number, and they should be left in peace. The amendment should not be accepted.

Mr. J.A. Nesor (Potchefstroom) also opposed the amendment, as the exemption only applied to a handful of people. Those people were strong in their belief, as were the forefathers of the voortrekkers. Those people would not help in war, and would therefore be useless. During the war the Quakers had done much good by supplying food. They were allowed to do good, but not to make war. The amendment should therefore not be accepted, as its acceptance would only weaken the Bill.

Mr. P. Duncan (Fordsburg) hoped that the amendment would not be pressed, and that the House would accept the advice of the Prime Minister. There was no doubt that a section of the people, a small section, held the belief that war was a crime, and that they should not take part in it. The history of the people who formed the majority of the white inhabitants of the country ought to restrain them from committing the wrong of forcing these people. The fact that what these people believed appeared to us to be unreasonable ought not to weigh in our minds, because all religious persecutions had been justified. The fact that they were in a minority made it all the more easy for the House to grant exemption. He thought that the Board would be quite able to discriminate between those who had a genuine conscientious objection and the others.

Mr. D.M. Brown (Three Rivers) supported the view of the last speaker. He quoted from a dodger that had been distributed in England, warning people not to emigrate to South Africa, as a form of conscription was proposed. There was no doubt that Seventh Day Adventists and Quakers had a conscientious objection. Those hon. members whose forefathers came from other countries owing to religious persecution ought to be the last to force men against their conscience. He thought that the Board would be able to guard against advantage being taken of the exemption by those who had no real conscientious objections.

Commandant C.A. van Niekerk (Boshof) feared they were opening the door to an escape from compulsory service. He believed that many persons in the Republics in 1899 would have made use of such a provision, and if need be have made themselves out to be Quakers or Seventh Day Adventists. Some persons had a very elastic conscience. The comparison with the Huguenots was not apropos. He feared they were only playing into the hands of the sects mentioned if they gave them exemption.

The Minister of Education thought that people with strong convictions might be called the salt of the earth, and felt that hon. members should do all they could to avoid doing violence to people's consciences. He, therefore, deplored the debate, and trusted it would go no further.

Sir E.H. Walton (Port Elizabeth, Central) disagreed with the Minister's remark that these people were the "salt of the earth." The country got into trouble. A certain number of men had to go and fight. A man said: "I have conscientious objections. I cannot fight, I will stay at home. I will get all the advantage of your fighting for me." Such a man was neglecting his first duty as a citizen, which was to defend his country in time of danger, and he had no right to call upon his countrymen to fight his battles. As for conscientious objections, if he was a member of a civilised community he had no right to belong to it. He should go and live by himself. He had no sympathy with the amendment.

Mr. H.S. Theron (Hoopstad) said they would all respect religious principles. A man could not give more to his country than his life, and persons who were exempted from service should be required to make a yearly payment.

Mr. C.L. Botha (Bloemfontein) said that it was common cause that it was the first duty of every citizen to defend his country. There was another principle of government which he was surprised that his hon. friend the member for Boshof forgot, because he descended from a race that had for eighty years resisted the might of Spain in order to retain liberty of conscience.

Some people thought that killing was a crime. If they said that legalised killing was as much a crime as murder was a crime under our social law, surely under those circumstances we ought to respect their religious convictions. It had surprised him to hear hon. members on the other side argue that they must suppress the religious convictions of these people.

Mr. J.A. Vosloo (Somerset) asked what were they to do on the battlefield with people when they would not fight. Somebody would be required to take care of them and feed them, and they would not fight in any case. He opposed the amend-

ment.

Commandant H.C.W. Vermaas (Lichtenburg) supported the amendment, his experience being that the best Christians were the best soldiers. The people referred to could be employed in time of war in making coffee, and such like.

Mr. M. Alexander (Cape Town, Castle) said he thought they ought to follow the lead that the Prime Minister had given on this matter. In the first place, what was the good of having men in their forces who were determined not to fight? It had been the practice in other countries, as the Prime Minister had said, to recognise this particular objection. They had an illustration of that in connection with the practice of affirming rather than taking an oath. Supposing they forced these people, they would make martyrs of them. They would all go to gaol rather than join the Citizen Force. One result would be that the Citizen Force would be rendered unpopular in the country. While agreeing that it was the duty of every man who sought the protection of this country to defend it, it had also to be remembered that, even if a man had the belief that he should not take up a rifle in defence of his own life and his own home, that was not the only duty he had to perform to the State. If he lived a peaceful life and paid his taxes he would be living the life of a good citizen. He (Mr. Alexander) thought it would be well to leave the clause as arranged by the Select Committee.

Mr. F.R. Cronje (Winburg) said that if it was the intention to exempt Quakers from service, it ought to be clearly stated in the clause.

Mr. H. de Waal (Wolmaransstad) also spoke, but his remarks could not be followed in the Gallery.

Mr. G.A. Louw (Colesberg) regretted that so much had been said in favour of the amendment. So long as they desired their religious feelings to be respected, they must respect the religious convictions of other persons. He had learned to know some of those people and to esteem them. It was not exactly a question of conscientious objection, but of religious conviction, and he trusted, therefore, that the hon. member for Standerton would withdraw his amendment.

Commandant J.J. Alberts (Standerton) said he had moved his amendment because he thought it unfair that some people should sacrifice their lives in protection of other persons who professed a religion of which he had never before heard. He could not imagine a religion which forbade its followers to make war. No doubt, in some cases, people's consciences were astonishingly elastic, and the clause might have as a result that many persons would seek a greater safety by becoming religious. However, he would withdraw his amendment.

The amendment was withdrawn, and the new clause, as printed agreed to.

B. TWO POLICY STATEMENTS ON SECTION 67(3) OF THE DEFENCE ACT

1. Section 67(3): Allotment to Citizen Force, Commandos or South African Police.

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, to a unit where such a person will be able to render service in the defence of the Republic in a non-combatant capacity.

2. A statement by the Minister of Defence, the Hon. P.W. Botha, M.P., on 28 August 1970, Hansard, column 2851

The dangerous international situation demands that every citizen performs his duty when it comes to preparedness for defence. The honour and duty to defend one's country should not be made subservient to one's religious convictions.

There are a number of religious denominations whose tenets forbid participation in war but it has been found possible to implement the Defence Act in such a manner that it does not offend their conscience. Full co-operation has been achieved with all denominations except the Jehovah's Witnesses. Leaders of their church have had discussions with the Commandant-General with a view to finding a solution to the problem. These leaders stated that their objections are confined to allotment to combatant units and to training with arms.

It is the duty of the Department of Defence to give effect to the provisions of the Defence Act and in the implementation of section 67(3) of the Act the following policy has been formulated, namely

- (a) Conscientious objectors are allotted to non-combatant units.
- (b) They are trained without weapons.

This policy decision observes both the letter and the spirit of the law and should have removed any reasonable objection to military service and training.

3. A statement by the Minister of Defence, the Hon. P.W. Botha, M.P., on 29 October 1974, Hansard, columns 6847-6848.

The existing Defence Act states very clearly that if a church entertains a certain religious belief which calls upon its members to abstain from violence on the grounds of honest

theological considerations, those people can be given a choice of work in the Defence Force. Let me spell this out very clearly again. Such a person can make his choice known to his commanding officer. He can tell his commanding officer that his church does not allow him to serve in a combatant capacity and for that reason he is requesting to serve as a non-combatant. The commanding officer can then assign him to non-combatant duty in the unit. There is nothing in the Act which prohibits that. This is already the customary procedure. In fact, an individual does not even have to tell his commanding officer that he is bound by his church's theological tenets. If he says that he truly has conscientious objections to serving in a combatant capacity, his commanding officer can assign him to a non-combatant post. Every unit has enough posts of that kind to which a person can be assigned. It is, therefore, already the customary procedure, apart from the provisions referring to the doctrines of various churches, to assign individuals, who come forward with real conscientious objections, to non-combatant posts. He need not necessarily be placed in the Surgeon-General's division and neither does he necessarily have to serve in an administrative capacity at Head Office. His unit commander can use him in that unit in a non-combatant capacity. There is nothing in the Act to prevent that. In fact, that is the policy being adopted at present.

Mr. W.V. Raw, M.P.: Do they receive training without weapons?

When I say "in a non-combatant capacity" I mean without weapons. That has always been the usual procedure in the Defence Force, and people have always been satisfied with that.

C. THE CONSCIENTIOUS NONCOMBATANT'S POSITION

1. A speech by Brigadier H.J. Bronkhorst, M.P., on 1 March 1972, Hansard, column 2242.

I should like to express one thought about those who are not prepared to undergo their national service. The majority of them refuse on religious grounds. We have the utmost respect for religious considerations, but...those people must realize their duty to their fatherland to the same degree as all our other people and they must not merely look to other people to honour their obligations. If they have religious objections to national service, they cannot say they are unable to undergo training at a fire-station or a hospital. One could perhaps make a concession by saying that he does not have to wear a uniform, but we cannot allow a person to receive better and more favourable treatment, merely because he has objections on religious grounds, than a man who is prepared to defend his country and to do his duty...if he is given the choice of doing his national service in another capacity, and he still refuses, he can expect no sympathy at all from the public.

2. A statement by the Minister of Defence, the Hon. P.W. Botha, M.P., on 24 May 1972, Hansard, columns 7969-7970.

Facilities already exist for people with conscientious and religious objections. See how reasonable we are....such a person can go and serve in a hospital, where he can go and help to relieve human suffering.

Mr. W.V. Raw, M.P.: Military hospitals?

Yes, but one finds human suffering there as well. There are not only soldiers there, but soldiers' dependants as well. He can help to relieve human suffering there as well. He can also be trained in fire-fighting....If a boy tells us that he has conscientious objections to doing something else and that he wants to be trained in fire-fighting, he can do so. This possibility already exists.

3. A speech by Dr. J.J. Vilonel, M.P., on 7 May 1976, Hansard, columns 6243-6247.

It would be ridiculous to argue about which division of the Defence Force is really the most important. The fact is that they are all important and that they are all essential. One important and essential division of the Defence Force is the Medical Corps. Not only does this corps play a vital role with regard to the health and physical preparedness of our men, but also with regard to the services it provides to the dependants, its welfare work and its role in regard to the wounded in wartime.

A service of this kind creates a high morale and it builds up the confidence of a people and its soldiers. A wounded man receives immediate emergency treatment on the spot.... The wounded man is then taken to a waiting helicopter by ambulance without delay and receives further treatment in the field hospital if necessary. He is then conveyed further by helicopter and within four to eight hours those wounded men are already in a military hospital where their next of kin can be with them. This is what builds up morale and confidence.

There is another point I want to mention briefly, namely the shortage of medical orderlies. We simply do not get sufficient medical orderlies from among the national servicemen.

D. A DEBATE ON CONSCIENTIOUS NONMILITARISM

1. Section 16(2): Composition and organization of the Citizen Force.

....the Citizen Force shall as far as may be expedient be

organized in such armed services, arms, corps, formations and units as may be determined by the Minister or as may be prescribed, but nothing in this or any other section of this Act shall be deemed to preclude the training of any member of that Force in any depot or establishment which is not a unit of that Force or the attachment of any such member to any other portion of the South African Defence Force for training or service or the attachment, on such conditions as may be prescribed, of any such member who belongs to any category of professionally qualified members whose services are not required in their mustering in that Force, to a Government Department, other Government service or other authority which the Minister may approve for the purpose....

2. An explanation of section 16(2) by the Minister of Defence, the Hon. P.W. Botha, M.P., on 29 February 1972, Hansard, columns 2134-2135.

The Defence Force cannot use all the professionally qualified citizens who may become available annually for national service for an uninterrupted period in their professions. Since their services in their respective professions will be required in time of emergency or war, they must undergo basic military training and gain professional experience in matters relating to the defence of the Republic. They may gain their professional experience with various other organizations in a Government context. Their services with such organizations will, at the same time, contribute towards overcoming the manpower shortage there and in this way facilitate the performance of tasks related to defence. The number of persons who will be involved here will be minimal - it may increase later in certain categories - because this only applies to professions for which a category exists in the South African Defence Force and in which there is a surplus of national servicemen available. Furthermore, such a member may be used only in his profession outside the Defence Force and then only in a Government context or in institutions directly related to the Defence Force.

The conditions of service of those who are to be allocated to other State Departments or institutions will, as the clause provides, be prescribed by regulation. The regulations have not been formulated yet, but it is being envisaged to deal with them more or less as follows. I am not saying that this will be the specific pattern, but it will be the approximate pattern. After completion of their basic military training of six weeks and after selection by the South African Defence Force for its own professional needs, they are allocated to a particular institution for the remainder of their compulsory service and their further military training is postponed. After the prescribed service has been completed outside the Defence Force, exemption from further national service is granted and the national servicemen involved are placed on the Citizen Force Reserve. As soon as a national serviceman commences his service in the Public Service, he becomes a civilian Public Servant to whom the Public Service Act and regulations are

applicable. (This is a condition laid down by the Public Service Commission and I do not think we can avoid this.) With others, he will be an ordinary civilian employee. His new employer will be responsible for his administration, remuneration and discipline.

3. An amendment to section 16(2) proposed by Mr. W.V. Raw, M.P., on 1 March 1972 and 24 May 1972, Hansard, columns 2233, 2234 and 7964.

We are making provision in section 16(2) for certain professional groups to be posted to Government services. I suggest that the solution to the problem of your conscientious objector, the person who for reasons of conscience does not want to serve, would be to offer him double the length of time which the Citizen Force man does but allow him to serve in a civilian Government service, such as a hospital, a fire station or some similar service. Then if he is sincere in his belief he will be prepared to make the additional sacrifice that will be called for. If he refuses, then nobody can have any sympathy for him.

I do not believe that we can have an exemption system to exempt people completely from national service, but I believe that national service could include service in an essential service of State, not necessarily within the army itself. That would still be a national service; it would still require sacrifice and be of value to the country. And it would ensure, under the proposal I have made, that people did not use this provision simply as an excuse or as an avenue to escape doing their duty to their country, because they would then be called upon, if they make use of this section of the Act, to make a greater sacrifice in time than those who served the normal way.

We know, and the hon. the Minister knows, that there are those who, because of their sincerely held religious beliefs, are opposed to serving in the military services. It seems to us such a simple thing; by removing two words in this provision, namely the words "professionally qualified", it would be within the power of the Department - not mandatory or compulsory, but permissive only - to use this provision to attach people as is done now, for instance, in the case of fire stations. National servicemen today are attached to a fire station to do a large portion of their service.

I therefore wish to move as an amendment - in line 18, to omit "professionally qualified".

4. Some extracts from the debate on the amendment, 24 May 1972, Hansard, columns 7964-7980.

(a) The Minister of Defence, the Hon. P.W. Botha, M.P., Mr. W.V. Raw, M.P. and Mr. W.T. Webber, M.P.

The Minister of Defence: I regret that I am unable to accept the amendment....facilities already exist for people with conscientious and religious objections. See how reasonable we are....such a person can go and serve in a hospital, where he can go and help to relieve human suffering.

Mr. W.V. Raw, M.P.: Military hospitals?

The Minister of Defence: Yes, but one finds human suffering there as well. There are not only soldiers there, but soldiers' dependants as well. He can help to relieve human suffering there as well. He can also be trained in fire-fighting.

We have introduced a system of national service; it is not only military service; it is more than military service. National service, as we are implementing it in this country today, with all the activities related to it, is much more than just military service. But apart from that, even if it were only military service, we have made it compulsory for young people to serve. Now hon. members want me to open a door by which I should strike at the root of the tree and create an opportunity for the undermining of the principle of national service.

Mr. W.T. Webber, M.P.: May I put a question? May I ask the hon. the Minister to make it clear whether the Government accepts the possible genuineness of conscientious objectors?

The Minister of Defence: Of course I do, and we make provision for them. There are existing provisions in the Act. Let me repeat, he can do his service in a hospital; he can do it in the administration of the Department.

Mr. W.T. Webber, M.P.: Under military control?

The Minister of Defence: Yes, but in a non-combatant capacity. He can do it as a clerk in the administration; he can do it as a medical orderly; he can do it as a person who is being trained to perform fire-fighting services. There are various services they can perform. We do not have trouble with these people. There is no trouble between the Defence Force and conscientious objectors.

(b) Dr. G. de V. Morrison, M.P. and Mr. W.T. Webber, M.P.

Dr. G. de V. Morrison, M.P.: If we were to adopt this amendment we would be acknowledging the principle that people with conscientious objections may do their national service outside a Defence Force context. Sir, to this side of the House it is a principle that national service should be performed within a military context, not necessarily in a combatant capacity, but certainly within a military context.

I think it is time that we cleared up this whole matter. As far as I am concerned, and I think also as far as the majority of hon. members on this side are concerned, this question of national service outside a military context, as it is being advocated here, is a smoke-screen. To me there is no difference whatsoever between a man who performs hospital service in the military hospital at Voortrekkerhoogte and a man who performs hospital service in the H.F. Verwoerd hospital in Pretoria; there just is no difference whatsoever.

But there is a further principle which applies here. The Defence Force is not the body which wages war; it is the State which wages war. In other words, these people are hiding behind a smoke-screen by wanting to allege that war is waged by an arm of the State, by the Defence Force, and this is not so. When war is declared - and the hon. the Prime Minister said here earlier this afternoon that we are in fact in a state of war - it is not declared by the Defence Force; it is declared by the State of South Africa.

If the argument of hon. members on that side in this connection were to be accepted, they could argue that national servicemen can also refuse to serve in any State department which has anything to do with the struggle in which we are engaged, and we refuse to acknowledge that principle because that principle has no foundation. The principle which this side of the House upholds is that it is the duty of every citizen of this country to do his share in defending this country, no matter in what capacity.

When for religious reasons a man has conscientious objections to doing military service, he is placed by the Defence Force in a category where he can perform that service in a non-combatant capacity. We need not give the Defence Force that authorization in legislation; it is an administrative arrangement. We refuse to accept that a man can do national service outside a Defence Force context. The Opposition must realize that this is the basic point of view of this side of the House and that it is no use arguing about it.

Mr. W.T. Webber, M.P.: Surely, sir, the hon. member for Cradock...has completely missed the point...What we are dealing with here is an amendment to allow the Defence Department to do precisely what the hon. member for Cradock

says the Government will not allow it to do....The very purpose of section 16(2) is to allow the Defence Department to take certain national servicemen and to allow them to do their national service in a sphere other than the military.The effect of the amendment which is now before the Committee is that the Defence Force may provide for the attachment, on such conditions as may be prescribed, of any such member (that is to say, a member of the Defence Force) who belongs to any category of professionally qualified members whose services are not required in their mustering in that force, to a Government department. Sir, I submit that **it is inherent in this** that when they are attached to that Government department, they are relieved of the control of the Department of Defence....The whole effect of this is that the national serviceman thus transformed is removed from military control; he is no longer under military control. He then falls under the control of that particular department....

The principle has now been accepted that national service need not necessarily be under military control. That principle has been accepted because of this amendment that stands on the Order Paper today, and all that we on this side of the House are asking is that it should be extended beyond the limited number of servicemen to whom it will apply, and that is those who are professionally qualified. We are asking that that principle - we all accept the principle that they must do some form of national service - should be extended to those who are genuine objectors.

5. The vote on the amendment proposed by Mr. W.V. Raw, M.P.

Question put: that the words "professionally qualified" in line 18, stand part of Section 16(2). Upon which the Committee divided:

AYES - 85
NOES - 40

Question affirmed and amendment negatived.

E. TWO VERSIONS OF SECTION 126A OF THE DEFENCE ACT

1. The 1972 version of section 126A

(a) Section 126A: Refusal of service in the Citizen Force or Commandos.

- (1) Any person liable to render service in terms of section 22 or 44 and who
- (a) when called up, refuses to report for such service; or
 - (b) having reported for service, refuses to render military service or to undergo military training, shall be guilty of an offence and liable on conviction to be sentenced to detention for a period

of not more than fifteen months and not less than twelve months: Provided that a person who is serving or has served not less than twelve months' detention for a contravention of this section may not again be charged with such a contravention.

(2) Notwithstanding anything to the contrary contained in any other law or the provisions of section 104(5)(b)(vi) of this Act, courts martial shall have jurisdiction to impose the sentence provided for in subsection (1).

(b) An explanation of section 126A by the Minister of Defence, the Hon. P.W. Botha, M.P., on 29 February 1972, Hansard, column 2142.

Lately there has been an increase in the number of persons who bluntly refuse to report for service or to undergo military training. Every concession provided by law, such as allotment to non-combatant units and training without weapons, is regarded as unacceptable, with the result that conscientious objectors are time and again charged and punished for their persistent refusal throughout their period of service. The charges are invariably for the same offence, which is undesirable and results in adverse criticism by the Press and the public on the argument that it will be technically possible to prosecute and punish a recalcitrant member until he reaches the age of 65. To counteract this criticism, the amendment proposes to prescribe to the courts to impose a single punishment of detention which coincides with the maximum service commitment of the offender.

2. The 1978 version of section 126A

(a) Section 126A: Neglect of duty in the Citizen Force or Commandos.

- (1) Any person liable to render service in terms of section 22 or 44 who without good reason
- (a) when called up, fails to report for such service; or
 - (b) having reported for service, fails to render military service or to undergo military training, shall be guilty of an offence.
- (2) Any person charged with a contravention of subsection (1)
- (a) who at his trial proves that he bona fide belongs and adheres to a recognised religious denomination by the tenets whereof its members may not participate in war, shall upon conviction be liable
 - (i) if he failed to report for service of twelve months or longer or, having reported for service, failed to render military service or to undergo military training, to be sentenced to detention for a period of THIRTY-SIX MONTHS;

- or
- (ii) if he failed to report for service of less than twelve months or, having reported for service, failed to render military service or to undergo military training, to be sentenced to detention for a period of EIGHTEEN MONTHS:

Provided that a person who is serving or has served detention referred to in this paragraph, may not again be charged with a contravention of this subsection.

- (b) shall in any other case be liable on conviction to a fine not exceeding TWO THOUSAND RAND or to imprisonment for a period not exceeding TWO YEARS or to both such fine and such imprisonment.
- (3) Notwithstanding anything to the contrary contained in any law, courts martial shall have jurisdiction to impose the sentences provided for in subsection (2) (a).
- (4) If in any prosecution for a contravention of subsection (1) it is proved that the accused failed to report for the service referred to therein, or having reported for service, failed to render military service or to undergo military training, it shall be presumed, unless the contrary is proved, that his said failure was without good reason.
- (b) A comment on section 126A by Mr. H.H. Schwarz, M.P., on 28 March 1978, Hansard, columns 3290-3291.

We look at this section and take the view that as the period of service has been extended it seems as if one does need amendments in order to make sure that people do not take advantage of a situation in which it may be better to seek to refuse to serve in the armed forces than to serve. In other words, it certainly appears to us that it would be illogical that a situation should be allowed where a person who can prove that he belongs to a recognised religious denomination the tenets of which forbids him to participate in war, would be better off in regard to the service which he has to render than the ordinary person who is prepared to do his duty and recognise the authority of the State. We can therefore see the necessity for an amendment to deal with this.

We have, however, some reservations about the period that is being imposed, because we fear that detention for such a long period of time may have an adverse effect on the persons in detention. I have been assured that the type of detention is such that this will not be the case, that it is, in fact, not the type of detention of 30 or more years ago. However, be that as it may. We feel that the length of the period that people are required to be in detention may in the circumstances be too long....The hon. the Minister may also

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