

MINUTES OF MEETING

held at

RONDEBOSCH TOWN HALL, CAPE TOWN

on WEDNESDAY, AUGUST 22, 1984 at 10h00

PRESENT: Mr Justice Steyn, Messrs D. Noakes, E.W. Allen, L.E. Bricknell,  
K.O. Morley, E.W. Pudney, A.H. Paynter.

Mr Justice Steyn outlined in detail the present legislation (Section 72 of the Defence Act, as amended by Act No. 34 of 1983) concerning:

1. non-combatant and other conditional service (Section 72D)
2. procedure of Board at hearing of applications
3. difficulties experienced by applicants in presenting their cases.

He also outlined the previous provision for conscience in the Defence Act, its deficiencies and anomalies, and the advantages of the new provisions in the Act promulgated on January 1, 1984.

Points of specific importance referred to:

the expression "in any armed force" (Section 72D(1)(a)) means that the person must have universality of convictions regarding non-combatant service or other forms of limited military or alternative service. The provisions of the Act are only available to persons whose convictions would be applicable in regard of military service in any country where he might live. Persons whose convictions are limited to service in the SADF cannot have their conscience recognised.

the Act's specific provision for "religious convictions" (Section 72D(1)(a)) means that such convictions must have their source in a Supreme Being or in what comes from Him - hence the need in the persons' application (Section 72B(2)(d)) to state the books of revelation; that is, that something has been disclosed to him which has caused or resulted in his having convictions.

The questions/....

(The questions and answers, which are minuted below, are not verbatim but these are presented in this form for convenience).

Judge Steyn: In what category will your young men request to be classified?

D.N.: They are prepared to render service in a uniform but not in a combatant capacity, they would ask to be classified under category 1.

Judge Steyn: What would be the case if one of your young men said that his convictions were such that he could not do military service and wished to apply to be classified under category 3?

D.N.: We recognise the principle that the conscience of an individual must be respected, recognition of individual conscience, but also we go by divine principles set out in the Holy Scriptures in regard to such matters.

Judge Steyn: Would you assist a person to make application for service under category 3?

D.N.: We are believers in the Lord Jesus Christ. We believe that He died for us, that He is at present a living Man in heaven and that He is about to return and take up His rights down here. In relation to military service we go by what the Lord Jesus said before Pilate "my kingdom is not of this world", if it were, my servants would fight (John 18 v 36). It was right for a man like David to fight, God helped him in his wars. But a change came about when Christ came. He did no violence. He even said to Peter to put his sword into its sheath. But we also go by what the apostle Paul says in Romans 13 that we are to be subject to the authorities that are above him. Thus we believe we ought to assist the government in whatever way we are able provided it is not against our conscience, and in view of Romans 13 we could not agree with anyone refusing to do military service on conscientious grounds.

Judge Steyn: Some denominations will assist them with an application under any category even though they do not see eye to eye with the person regarding his convictions, other denominations/....

denominations defellowship any person that applies for a category of military service different from what they insist on. What does your denomination do?

D.N.: It is necessary to clarify our position first to answer the question.

We do not take sectarian ground and disclaim being called or recognised as a denomination. If we are given a name for identification purposes, we would submit to that. We follow the teachings of the apostle Paul in 2 Timothy 2 v 19-22: ("Yet the firm foundation of God stands, having this seal, The Lord knows those that are his; and, Let every one who names the name of the Lord withdraw from iniquity. But in a great house there are not only gold and silver vessels, but also wooden and earthen; and some to honour, and some to dishonour. If therefore one shall have purified himself from these, in separating himself from them, he shall be a vessel to honour, sanctified, serviceable to the Master, prepared for every good work. But youthful lusts flee, and pursue righteousness, faith, love, peace, with those that call upon the Lord out of a pure heart."). So while we are individuals yet we walk together according to this scripture but not as a denomination.

One thing we believe in is the infallibility of the Bible. So how we would assist a person who says he has a conviction to apply for service under category 3 is to draw his attention to what the scriptures say about that, like Romans 13, and attempt to enlighten his conscience. However we could not continue to walk together with a person who refuses to be governed by the truth set out in that scripture.

Judge Steyn: But what if the person (say it is Mr Pudney) says "But my interpretation of Romans 13 is different to yours. This is how I understand it". What do you do then?

D.N.: We believe that a person normally receives the Holy Spirit when he has believed and it is the Holy Spirit who gives the meaning of the scriptures.

Judge Steyn: So they are like a signpost, pointing out to the person that they have strayed from the path - the path is over there!

D.N.: Yes. The scripture "how can two walk together unless they be agreed?" applies.

Judge Steyn/.....

Judge Steyn then set out the need for a person's application to be submitted in the form required by the Act and to contain the necessary substance and detail to enable the Board to grant the category of service applied for. (The detailed directions he provided are set out in a separate memo). He iterated the importance of the person's written application to the Board setting out his convictions fully and in an articulate manner. The witnesses' affidavits must likewise provide the necessary details concerning the applicant to adequately support his application before the Board. If the applicant's request is adequately set out and witnessed to in the written documents before the Board, it is probable no personal hearing will be required, but the Board will grant the application after discussing it "in committee". 89% of the applications handled by the Board to date have been granted without a personal hearing being necessary. However, it is likely that the Board will request one or two of your young men to attend a hearing so that the convictions that they have, which have not previously been presented to the Board as a whole, can be set before them by the person himself and the Board will no doubt call one or two witnesses to appear to set out the general position of your group, its convictions and the tenets of your faith so that the Board itself has first-hand knowledge of these when handling applications of other of your young men. (The Board's next sittings are set down for September 24-26, October 22-23, November 5-8, December 3-7 and February 11-21).

Judge Steyn then requested that a memorandum be prepared setting out our convictions and tenets of faith, and that this be forwarded to him as soon as possible and that the meeting with him on September 18 in Port Elizabeth be set aside to give opportunity for this to be presented to him and any aspect of it discussed. The memorandum would also provide the other Board members (and new members in the future) with a document they can refer to at any time to apprise themselves of the background of the applicant whose application is being handled, and will dispense with the need to call a witness to reiterate these principles and convictions. Continuity will therefore be maintained despite changes which will occur in membership of the Board from time to time. The present Board constituted in terms of Section 72A comprises a NGK minister, a HK minister, a Methodist minister (appointed in terms of subsection 2(b)) and an Anglican chaplain (appointed in terms of subsection 2(c)). (It was not mentioned who the other member was, another member of the SADF, appointed in terms of subsection 2(c)). The ministers and the chaplain were selected on the basis of proportional representation of the denominations of those doing military service at present.

Judge Steyn/....

Judge Steyn then went over the need in terms of the 1983 Act for a theologian of the applicant's denomination to be co-opted to the Board (if none of the permanent members are of his denomination) for the Board to be properly constituted to handle his application. He mentioned how certain denominations refuse to allow their ministers to sit on the Board because their convictions in certain regards (e.g. a moral conviction over against a religious conviction) were not recognised nor provided for by the Act. Consequently if they were co-opted they would be obliged to refuse an application in terms of the Act although they themselves support the grounds of the applicant's convictions. Amending legislation was passed earlier this year which permits the Board to sit without such additional member if the invited person refuses to be co-opted to the Board.

Judge Steyn mentioned that in the process of their work since the Board was appointed, representations by various persons had brought to light that the present legislation (Section 72) is still not sufficiently broad in what it provides for by way of conditions or limitations under which persons are prepared to render military service (e.g. types of community service, location during community service, recognition of moral convictions not based on religious convictions). He believes that these various requests/convictions regarding military service should be assessed by the Minister of Manpower and the Minister of Defence, and be accommodated where possible through changes to the legislation. He has accordingly apprised the Ministers of these representations and advised them to keep their doors open to additional requests concerning conditions of service and to have open minds about extending the existing provisions to include appropriate additions.

Our position regarding the servicemen requiring time off and being stationed so they can attend the Lord's Supper each Lord's Day was referred to in this regard and Judge Steyn requested that this be fully set out in the memorandum and be discussed at the September 18 meeting. He also said that whereas he would in the course of his duties apprise the Minister of such requests, this would not preclude our requesting an interview with the Minister of Defence himself, and it is possible that he might recommend to the Minister that he grant us such an interview.

Judge Steyn/....

Judge Steyn asked how many of our young men were involved in military service at present and in which places in South Africa do we live. He was told that there were at present about 30 men either doing two years' national service or periodic camps thereafter and that there are persons in fellowship with us in the following places:

Cape Town  
 Jansenville  
 Johannesburg  
 Port Elizabeth  
 Uitenhage

He said that it was necessary to know this so that the young men's postings can be arranged at camps accessible to such places.

Judge Steyn: I need to know what your attitude is to being co-opted to serve on the Board when one of your young men's applications is scheduled for investigation.

D.N.: But is it not possible for you to recognise our conscience as individuals as provided for in the Act and seeing our young men do not belong to a denomination the need to co-opt another member does not arise?

Judge Steyn: In terms of the Act I must ensure that the Board is properly constituted when it sits to consider an application. If the Board is not constituted in terms of the Act, any application granted by it is null and void. Whereas you may not agree with the interpretation given to the requisite condition (Section 72A(2)(d)), someone may contend that from their viewpoint your young men belong to a denomination and therefore the requirements of the section ought to be fulfilled. If an application was granted without fulfilling the requirements of the section, this decision can be overthrown and the young man lose the protection of the law for the time being. To avoid this possibility, I propose to invite one of your number to sit on the Board when necessary. What would your reaction be?

D.N.: I myself must also go by the words of the Act; to accept an invitation in terms of the particular section would mean that I accept the ground of belonging to a denomination and being a theologian of that/....

of that denomination, neither of which are true. I must therefore refuse the request. If however you requested me to sit on the Board not on the grounds set out in the section but on your request, then I would have to reconsider my position and see whether my conscience prevented me doing what the government has requested.

Judge Steyn: But I could not do that in terms of the Act to co-opt an outsider to the Board. Again it would be not properly constituted. There is no problem or disadvantage so far as you are concerned that one of your group will not sit on the Board, but it seems necessary to fulfil the provision each time any of your applications will be considered at a session. You merely need to decline each time.

Judge Steyn concluded the meeting saying that he was available to be contacted at any time about any matter needing his attention or needing to be discussed. He can be contacted at his office in Bloemfontein, or if unavailable there, through his secretary Major Fourie (Phone 051-76095/7 Address: Private Bag X20521 Bloemfontein 9300.

As approved by Mr Justice M. T. Steyn on September 18, 1984.