

THE CASE AGAINST

THE DEFENCE

FURTHER AMENDMENT BILL

The Bill (Section 10)

The following section is hereby substituted for section 121 of the principal Act:

121 any person who

- a) agrees with or induces or attempts to induce any member of the S.A. Defence Force or any auxiliary service or voluntary nursing service established under this Act, to neglect or to act in conflict with his duty in that Force or service; or
- b) is a party to or aids or abets or incites to the commission of any act whereby any lawful order given to any member of that Force or service or any law or regulation with which it is the duty of any member of that force or service to comply may be evaded or infringed; or
- c)
 - i) in any manner whatsoever advises, encourages, aids, incites or instigates any other person or any category of persons in general; or
 - ii) uses any language or does any act or thing calculated to encourage, and incite instigate, suggest to or otherwise cause any other person or any category of persons or persons in general,

to refuse or fail to render any service to which such other person or a person of such category or persons in general is or are liable or may become liable in terms of this Act,

shall be guilty of an offence and liable on conviction in the case of an offence referred to in paragraph a) or b) to a fine not exceeding R1 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment, and in the case of an offence referred to in paragraph c), to a fine not exceeding R10 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment*

*The Bill has emerged from the select committee relatively unchanged. There is one major difference. It introduces the qualification "with intent" in Clause C. (Rand Daily Mail, 10/10/74.)

Moved in the Durban Parliament on 10.9.74 by Bishop Ken Hallowes (proposer) and Mrs Bunty Biggs (seconded)

That this House rejects the Defence Further Amendment Bill as it is proposed and calls upon the Government to give a sympathetic hearing to those whom conscience forbids to take up Arms.

BISHOP HALLOWES

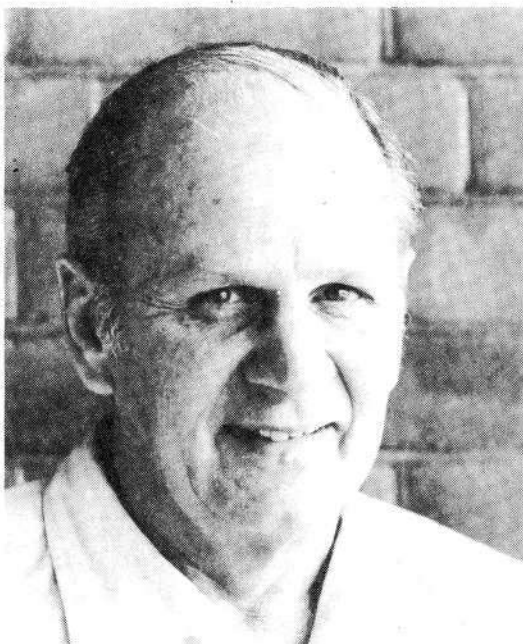
Clause 10, Section 121 (c) of the proposed Defence Further Amendment Bill, introduces into the Defence Act a new kind of crime with ferocious penalties. Whatever the intention of the clause may be, it will make serious inroads into basic civil liberties—freedom of religion, freedom of the press, freedom of speech, and the academic freedom of the University.

The present Sec. 121 relates to serving personnel, and makes it an Offence to take deliberate action "to indulge, aid, abet, incite any serving personnel to waive or infringe a lawful order."

The proposed new Section 121 (c) does not relate only to serving personnel and is an attempt to shut down discussion on Conscientious Objection and moral argument.

With whom does it interfere?

1. The Church in general in discussing the religious and ethical grounds of military service and the refusal to do service.
2. Church denominations or sects—Quakers, Jehovah's Witnesses, etc.—who are opposed to military service for religious reasons and will no longer be able to proselytise their faith.
3. Individual spiritual leaders or any pacifists, who will no longer be free to express their views.



Bishop K. Hallowes

Jill Orpen

4. Individual citizens, groups, parties, who will not be free to discuss the whole question of compulsory military service—(many people believe there is a strong case for a volunteer army.)
5. The Press who will not be able to publish articles, letters, speeches, reports, even from overseas, on the whole question of violence, military service, or wars of liberation.
6. Publishers who will not be able to publish or import books (e.g. by Emily Hobhouse) dealing with these matters.
7. Universities who will not be able to include in their course any subject or reading matter or discussion which might be "calculated to in any way cause . . ."
8. Films, gramophone records, tape recordings, folk songs which could influence people against institutionalised violence or military service and which would be banned.

We have been told that the Bill is to deal with the resolution of the Council of Churches deploring violence and calling on its member Churches to challenge all their members to consider the question of conscientious objection, in view of the fact that the Republic of South Africa is at present a fundamentally unjust and discriminatory society.

Are we really to believe that the Government believes that, as a result of this resolution thousands of South African youths are now going to become conscientious objectors, and refuse to join the defence force? I really cannot believe that this is the case.

Then why this hullabaloo! Why this extraordinary reaction—and I use that term in its worst sense—this reaction to an issue which has exercised the minds and consciences of people, Christian and non-Christian alike, down the ages? Why?

I personally believe that the real reason for this savage reaction is not the fear of the effects of conscientious objection, but rather anger because of a bad conscience; resentment, even a cold fury, roused by being dubbed an unjust and discriminatory Society.

If this is true it makes this Bill a cold-blooded and calculated political move to silence opposition to Government policies which many of us believe to be the direct cause of guerilla activities on our borders—to hamper any who would work for change towards a more just society in our land.

We acknowledge that a Government has the right to expect its citizens to defend the country against aggression from outside its borders, but we also hold that the Government must be sure that it is doing all in its power to purify its society from unjust and discriminatory practices. For the Republic of South Africa this would mean the removing of all oppressive legislation from our Statute Books and a radical change in attitudes generally.

Government politicians would have us believe that the guerillas are communists or communist-inspired. Some may be but many, perhaps the majority, are black South Africans, driven by oppression and discriminatory legislation to seek for ways and means of obtaining freedom—in much the same way as Boer fought Briton to seek for his freedom. Naturally the Communists are laughing, for our Government have opened for them a door into Southern Africa, and we have none but ourselves to blame. Injustice and greed have always played into their hands, despicable though their methods and history may have been. Yet, though armed with weapons supplied by communist countries, trained by them I doubt whether many of the guerilla fighters are in fact communist, or uphold communist ideals. Create a more just society and we believe that much of the need for violence would disappear; or at the very least we would have a Society which conscience would find it easier to defend.

One of the effects of this proposed legislation has already become apparent in the stand taken by the Roman Catholic Board of Bishops. It is a pity that the press has described their statement as a defiance of the Government, because in fact it was not. They were simply telling those who would establish this legislation of the predicament it put them in, and in fact of the predicament it places most Christian people in. The Bill restricts our pastoral duty, it inhibits the counselling role of ministers and others. It forbids us from encouraging our people to face moral issues and there are serious moral issues at stake.

So the Christian leaders are faced with a dilemma—we wish to obey the State, but we also wish to obey God. When the demands of the State conflict with the demands of God we have no choice but to obey God—despite what the Minister of Defence said in October 1970—namely that the 'honour and duty to defend one's country should not be made subservient to ones religious convictions'. Words which are little short of blasphemy—of putting man above God, and so denying the Sovereignty of God.

This brings me to the second part of my resolution.

We recognise the right of the State to call on its citizens to defend our country, but we do not recognise its right to demand an allegiance which overrides all the religious beliefs and scruples of the individual.

Violence and war, for Christian people, can never be other than evil.

Some believe that there can be no greater evil than war, and therefore a Christian can never take part in war or violence. This is the pacifist view; and some take it as far as to refuse to have any part in any military organisation—even to the wearing of a uniform.

Some Christians believe that there are some evils that are greater than that of war, and that we are all sinful people living in a sinful world. This means that often we have to choose between two courses of action, both of which do not satisfy the Christian ethic. At times war seems to be justified in these terms.

Both Catholic and Protestant theology allow for a Christian taking part in what it terms 'a just war'. I take this to mean that it justifies a Christian accepting war as the lesser evil; but it leaves the Christian with a real problem to face; that of deciding which is the greater evil.

For the Christian there is a **duty** to search his conscience before taking up arms, and being prepared to kill people. It is never an easy decision.

The Military Attitude in South Africa

In a statement issued in October 1970 the Minister of Defence explained the Department of Defence's attitude to Section 67(3) of the Defence Act, Conscientious Objectors are either (a) allotted to non-combatant units or (b) trained without weapons. The minister said, "This policy observes both the letter and the spirit of the law and should have removed any reasonable objection to military service and training." He added that, "the honour and duty to defend one's country should not be made subservient to one's religious convictions."

Convictions of Conscientious Objectors in South Africa.

In May 1971 there were 68 young men in military detention barracks for refusing to serve in the armed forces, either in a combatant or non-combatant capacity. Some had been sentenced 3 times for refusing to report for service; and up to 10 times for refusing to obey military commands—they had, in effect been imprisoned for more than three years. Sixty-three of these youths served periods of solitary confinement during 1971.

In April this year, there were 65 young men in detention barracks for the same "offence". Answering a question in Parliament in March, the Minister of Defence revealed that 62 of these detainees had been sentenced to periods of solitary confinement since the beginning of the year.

The majority of young people of 16, 17 and 18 years of age, which is the age when they have to make the decisions, are not going to think twice about joining the forces.

The few who have consciences about violence and war are under such social pressure that it is only the very few who are prepared even to declare themselves. When they are put into so-called non-combatant units they may still be required to train with a rifle, and take part in training to use a bayonet. Much depends on the understanding nature of the Officer commanding and Officers and N.C.O's under him.

What purpose is served in jailing men who refuse to join the forces? Those who refuse on religious grounds are not going to be deterred by this treatment.

What purpose is served in forcing a young man to carry a rifle on the borders if he is going to be found wandering around with no bullets in his rifle?

Let us first begin setting our own Society in order, let us by every means make rapid strides towards radical and peaceful change in our society, so that the violence and war to which our social, economic and political policies are leading us may be avoided.

BUNTY BIGGS

I was a C.O. in Britain in the last war. When I was conscripted into the armed forces I went before a civilian Tribunal; civilian, because the authorities recognised that this would ensure a more objective and impartial hearing than a military Tribunal. I was given exemption from any kind of military service on the grounds of my religious convictions; I stayed on in my job with the Ministry of Health and Local Authority.

This is not the time to argue the validity of the Conscientious Objector's position; but it is appropriate to state that it has been held faithfully and consistently over the last 300 years by the Religious Society of Friends (Quakers), and in more recent times by an increasing number of others on grounds of religion or humanitarianism.

In 1661 the Quakers addressed King Charles the Second thus:

"We utterly deny all outward wars and strife and fightings with outward weapons, for any end or under any pretence whatsoever. And this is our testimony to the whole world. The spirit of Christ by which we are guided is not changeable, so as once to command us from a thing as evil and again to move unto it; and we do certainly know and testify to the world, that the spirit of Christ which leads us into all truth, will never move us to fight and war against any man with outward weapons."

The above Quaker witness against participation in war, has meant for the great majority, a refusal to enter the armed forces whether in a combatant or non-combatant capacity.

Similar statements of conviction were made on the occasion of the wars in 1744; 1804 (Napoleonic); 1854 (Crimean); 1900 (S. African), and during the first and second world wars.

Many thousands were imprisoned for refusing to be conscripted and it was only in the last war in Great Britain and in other countries subsequently, that the position of the Conscientious Objector was accepted and provision made for exemption from all forms of military service.

This attitude to war and military service is not dependent on a particular political situation or the government in power, it is "an organic outgrowth of our belief as Christians which cannot be abandoned without mutilating our whole faith".

Our peace testimony is much more than our special attitude to world affairs; it expresses our vision of the whole Christian way of life; it is our way of living in the world, of looking at this world and of changing this world.

Must we now be silent under threat of dire punishment?

I therefore ask this house to pass the motion under my name, and to reject the Defence Further Amendment Bill as it now stands, and to call upon the Government to respect the consciences of those who find they cannot, for conscience sake, take up arms.

The pacifist places great emphasis on **the need to remove the causes of war**; man's greed, selfishness; disease; poverty; injustice, unfair discrimination, misuse of power.

I am convinced that we can only ensure peace and prosperity in South Africa if we are willing to remove the causes of bitterness and friction: despair, misery, frustration, injustice and violence.

We are challenged by Christ to examine our consciences in relation to our man-made institutions and the defence of them. For me this is an obligation, and it is no crime for the Church to remind us that we should be so challenged. Each one of us must arrive at our own destination, and quite clearly must be free to do this.

Refusal to do military service is not a decision that can be arrived at lightly or frivolously; indeed to talk about "inciting" or "instigating" anyone to take such action shows lack of understanding of what the C.O. position involves.

I believe that it is most unlikely that there will be any considerable number of young men who at the age of 17 or 19, have reached the stage in their thinking about such matters that they are able and willing to adopt the C.O. position—after all it is not an attitude that is exactly popular or readily accepted by society!

The government must be well aware of this fact.

It has been stated that there is no intention of penalising the genuine C.O. and that adequate provision is made for him in the Defence Act, and this will not be amended. Let us now turn to this provision.

Subsection (3) of Section 97 as amended, Defence Act 1967: "a person who BONA FIDE belongs and adheres to a recognised religious denomination **by the tenets whereof its members may not participate in war**, may be granted exemption from serving in any combat capacity; but shall, if called upon to do so, serve in a non-combatant capacity".

Thus we have the strange situation whereby an attempt has been made to meet part of the objection to military service, by exemption from combatant duties; and yet the propagation of the Quaker peace testimony may in future be regarded as inciting young men to commit a crime, i.e. refuse military service.

The wording of this clause excludes all those young men who are not members of a "peace" church, and this means almost the entire Christian congregation that is the Catholic and

Protestant churches, for they do not **require** pacifism of their members.

This is most unsatisfactory. We do not believe for one moment that it is only the Quakers who are genuine in their witness against war.

If the suggested amendments now being considered are approved, then it will be a crime for any church except Quakers and Jehovah Witnesses to advocate conscientious objection within the framework of the existing provisions, for this subsection (3) does not cover the Christian church. Therefore the C.O. cannot make use of it, his conscientious stand will presumably therefore be disregarded, and he will be committing a crime if he holds to his convictions. If he is committing a crime, then presumably anyone who encourages this attitude will be committing a crime as envisaged in these amendments.

So I refute the suggestion that the present Defence Act adequately safeguards both the Objector and the Church in their serious intent of upholding freedom of conscience.

Indeed I ask the question why is the clause subsection (3) of 97, being retained, if discussion on the whole matter is to be treated as if it were a criminal offence? One does not become a C.O. as a result of thinking in a vacuum! Much heart-searching discussion and reading is necessary before the full implications can be understood and accepted. It is now going to be a crime to advise and discuss with young men, even one's own children, the meaning of reconciliation and violence in our human situation. These amendments will make this unlawful, there will be penalties for distributing peace literature, there can be no free speech or open debate.

Are we really so afraid to discuss such matters?

It seems as though the Church, ministers and laymen, are being told first to tailor their faith to the demands of the state and then make the commands of God fit in. This is what happened in Nazi Germany, where large sections, fortunately not the whole, of the Christian Church succumbed to Hitler's pressure, and preached his kind of God.

Heaven forbid that this should happen in South Africa.

It has taken many centuries for the Christian democratic societies to recognise and accept that if there comes a point when the demands of the state conflict with a man's deeply held religious convictions, man must be allowed to give his first allegiance to God. If this were not so, then we literally could not call our souls our own.

For the majority this conflict of allegiance does not occur when a man, or woman, is conscripted into military service, and I fully accept that a person can have as strong a conviction that they should fight for their country as I am convinced that I cannot be part of the military effort.



Mrs Bunty Biggs

Jill Orpen

What I ask is that the latter position, that of the C.O. be accorded the same respect as the former, the soldier.

Now it may be reasonably asked how an objection to military service on grounds of conscience can be established. I do not minimise the difficulties; but they have been overcome elsewhere, and I cannot believe it is beyond the powers or abilities of this House to effect the necessary machinery, both to establish the validity of the grounds of objection, and to decide on suitable alternative service and the conditions thereof.

We are constantly being warned of violence, the present reality of it on our borders and the future possibility of it within; and yet the philosophy and practice of non-violence is now being looked on askance, and the very people who truly believe that the use of violence in effecting change and settling disputes is contrary to the will of God are likely to be the first ones to suffer the savage penalties.

I call on this House to reject clause 121 (c) of the Defence Further Amendment Bill and instead to appoint a group of its members to make an impartial study of this whole matter to which all relevant bodies can make representation; and further ask this House to unequivocally reaffirm its belief that there must be freedom of expression; publication and dissemination of ideas on this whole question; for without this the Christian Church cannot be true to its calling and mission, neither can the spirit of man freely seek to find answers to the challenging and complex problems which societies all too often try to solve by means of violence. □

The Motion put before the Durban Parliament was defeated.