

# CIVIL



# RIGHTS



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News Letter

It's really censorship now (Cape Times, 15/8/74)

When Dr Mulder's predecessor, Senator Jan de Klerk, introduced a Bill to control publications, he replied to criticisms by saying that it was not censorship. He said:

"This system is no system and can be no system of censorship. It cannot be so and it must not be so because one of the principles is that any person who has anything to do with a publication and who feels aggrieved by a decision that what he has been doing is undesirable can take his case to the highest court in the country. With censorship there is no question of being able to have recourse to the highest court in the land ..."

Dr Mulder appears to have taken this to heart. In spite of forceful representations from sections of the public, including the General Council of the Bar, he has now placed on our statute book an Act which removes the right of appeal to the courts.

The key to the new system, said Dr Mulder at a press conference (Cape Times, 13/8/74), was that "the people should control their own censorship in a framework of Christianity". He didn't say whether he regarded this as more "Christian"/the court than/

In practice, the "control" of our censorship amounts to the right of the public to nominate members to the "panels" of 80 to 100 people all over the country. Rather remote control, even if our nominees are appointed.

The "panels" are to make recommendations in writing to the Directorate (appointed by the Minister), and the State President is to appoint an "appeal board" (two people with at least ten years' legal experience, and four others) to consider appeals against the directorate's decisions. The committees are to be full-time (and no wonder, as they apparently have to review all films and publications: a complaint from a member of the public is no longer necessary to initiate such a review).

The Minister has said that the Appeal Board will be "acting like a court". Mr Gerald Gordon, Q.C. (both a lawyer and an author) has, however, pointed out that although an appellant will have the right to appear before the Board, he cannot submit evi-



dence unless the Board allows him to, and the proceedings are not open to the public - restrictions, says Mr Gordon, which prevent the Board from being "like a court".

Even more serious, says Mr Gordon, is the fact that the chairman of the board, appointed by the State President for five years, will "dominate it and determine its whole direction ... his views and values will dominate the cultural scene and he will be the dictator of our literary and artistic standards ..."

There are other points which were justifiably criticised by the Opposition, but without result. For instance, the fact that, though most of the material criticised is in English, the members of the panels (not to mention the Director of Publications and the Appeal Board) are likely to be Afrikaans-speaking; the Minister's refusal to publish the names of appointees in the Government Gazette for public information; and his rejection of an amendment moved by Mr Japie Basson providing for "due observance of the individual's freedom of conscience and of religion". The Deputy Minister's conviction that "tolerance is implicit in the Christian viewpoint" might perhaps be regarded, charitably, as naive...

We cannot but agree with Mr Michael Mitchell, M.P. (Argus, 14/8/74) that "the Minister is upset because judges in the past did not think the way he would have liked them to think. The boards to be established will think the way he wants them to think."

#### The Mayor and District Six (Cape Times, 23/8/74)

We wholeheartedly support the Mayor's appeal to influential people in Cape Town (and elsewhere) to "make their voices heard publicly" on the question of the proposed all-White renewal plan for District Six.

"District Six", said the Mayor, is not an issue which should be legislated from Pretoria. It is an issue that is geographically and emotionally very much Cape Town's concern."

Senator Eric Winchester has appealed to the Government to appoint a multi-racial Group Areas board to deal with zoning problems. Had this been done before, he said, the "shameful act" of District Six would never have been committed. He pointed out that when the District was declared a White group area it held 43000 Coloured people, 1500 Indians and only 424 Whites.

The Cape Town City Council has since, as a motion of exigency called on the Minister of Community Development to await the report on the future of the Coloured people from the Theron Commis



before allowing further redevelopment of District Six.

This is an instance of the encroachment by the higher authorities on municipal autonomy, which, said the Mayor recently, has "left few areas" untouched by "the tentacles of higher authority!"

### Freedom of conscience

The League has never taken up an attitude either for or against military service, but has always maintained that the matter was one of individual conscience. The Bill recently introduced into Parliament by the Minister of Defence makes it an offence, punishable with ten years' imprisonment and/or a fine of R10000, even to suggest to anyone that they consider such conscientious objection. The Bill has been referred to a Select Committee, and the League has submitted a memorandum to the committee urging that individual freedom of conscience should be allowed, and that people should be permitted to enter, instead, some other form of national service.

It is significant that the leaders of various Churches including the Archbishop of Cape Town and the Catholic Bishops have declared that, if such a Bill becomes law, they will feel in duty bound to disobey it if people come to them for advice - in fact, to tell such people that they must search their own consciences (Cape Times, 5/9/74 et passim). Even a Dutch Reformed theologian, Professor Jac Muller of Stellenbosch, has urged that the wording of the Bill might infringe the right of the churches to "unprejudiced and objective preaching on any subject", and, though regarding it as a duty to defend one's country, dislikes the idea of state interference with the prerogatives of the Church. We would go further than Professor Muller and oppose any interference with the freedom of conscience of the individual either to give or to receive advice, particularly on an issue of conscience.

We commend a resolution passed in Durban by the Connexional Christian Citizen Department of the Methodist Church (Cape Times, 9/9/74) which is worth careful consideration by all:

\* This Methodist Department (1) recognizes that Christian opinion has always been divided on the question of how Christians ought to respond to the call to bear arms in times of war or national crisis, and that this division still exists.

(2) Affirms that the position of the conscientious objector has a legitimate place within the Christian tradition and that the right to discuss, question or advocate this position must be regarded as an integral part of the religious liberty fundamental



to the health of our society.

(3) Acknowledges that the South African Government has made provision for certain categories of conscientious objection, either through (a) the option of "non-combatant" duties or (b) in the case of refusal to wear military uniform at all, a single prison sentence.

(4) Seeks a reconsideration of the latter position (b) suggesting that there are more creative and useful ways whereby such conscientious objectors might serve their country.

(5) Points out that conscientious objection is not always based on purely pacifist convictions, but has sometimes arisen through the peculiar circumstances of a specific conflict, leading a person to refuse service because of his inability to share or accept the relative "rightness" of the cause of which he is called to fight, and that the present conflict on our borders provides no exception for some.

(6) Earnestly requests that Clause 121 of the Defence Further Amendment Bill be so amended as to have regard for the exercise of such rights as are expressed in paragraphs one to five above.

#### Milk for the Ciskei children

One of our members, Dr Mary Wheeldon, Secretary of the Quaker Service Fund, has written to the Cape Times (Sept.7) urging people in the Peninsula to give regular donations to the Ciskei milk fund for malnourished children whose guardians "are desperate and destitute due to desertion". Dr Trudi Thomas has run for five years a scheme providing weekly milk to over 3000 of such children. A committee has been set up in Fish Hoek asking people to give R2-R4 monthly for three years. Donations may be sent to Mrs Spengler, 9 Montrose Ave, Clovelly. The scheme is administered by the Quaker Service Fund (W.O. 2316). Such a scheme needs no commendation from us.

#### Judges and the Rule of Law (Cape Times, 19/8/74)

Mr Justice Rumpff said recently that however much the Government might be criticised for infringing the rule of law, it was unfair and unwarranted to blame judges of the Supreme Court of South Africa for failing to apply the principles of the rule of law as far as they could. The principle was that the will of the legislature must be given effect to, but if "the voice of the law-maker is not made known in clear terms and is reasonably capable of more than one meaning, it will be construed to give it that meaning which least interferes with the liberty of the individual." MOYA