

- (2) *By allowal subject to direction to specified civil work.* In this event no provision for contribution of excess earnings to any public fund is made. In New Zealand all appellants whose appeals are allowed are subject to direction and to the contribution of excess earnings.
- (3) *By dismissal subject to non-combatant service,* as in the case of New Zealand.
- (4) *By outright dismissal,* as in New Zealand.

An appellant aggrieved by the decision of the Local Tribunal has a right of appeal to a Special Appellate Tribunal consisting of a Chairman and four other members. The Chairman and any two members may sit on any particular case and can amend or reverse the decision of the Local Tribunal. By the end of 1943 there had been in Britain a total of 57,329 appeals on grounds of conscientious objection. A total of 17,657 appellants who considered themselves aggrieved by the decision of the Local Tribunal appealed to the Appellate Tribunal, which varied the decision of the Local Tribunal in 8,909 cases. By the same date, 54 per cent. of appeals heard by Local Tribunals or by the Appellate Tribunal had been allowed, as compared with the 20 per cent. of appeals allowed by New Zealand general Armed Forces Appeal Boards. Twenty-five per cent. of appeals were dismissed subject to non-combatant service, as against 40 per cent. in New Zealand, while 21 per cent. of appeals were dismissed outright, compared with 40 per cent. in New Zealand. In the cases of persistence in refusal to serve notwithstanding the outright dismissal of an appeal, "a sentence of imprisonment of three months or more is regarded as substantial" according to a communication dated 15th March, 1944, received from the British Ministry of Labour and National Service. Unlike the New Zealand objector, who is committed to detention on the expiry of his prison sentence, the conscientious objector in Britain is free to resume his ordinary civilian life on completion of his prison sentence and without any restrictions on his earnings.

In Australia a person appealing against military service on the ground of conscientious objection has his appeal heard before a Court of summary jurisdiction—*e.g.*, a Magistrate's Court. If he is aggrieved by the decision of that Court he has the right of appeal to a higher Court. Thus Australia, like Great Britain, provides a right of appeal which New Zealand does not. An appellant who persists in his refusal to serve notwithstanding the dismissal of his appeal is sentenced to a term of imprisonment, generally three months, after which he is subject to man-power direction by the civil authorities. As in the case of New Zealand, he is required to forfeit all earnings in excess of a private's pay.

Comparison of the procedures in force in the three countries makes it clear that in Britain and Australia the legal machinery provided makes improbable a wrong decision in the case of the genuine objector. In any event, regardless of the nature of the decision, the determined objector (and the genuine objector is most often a determined man) can avoid service without greater penalty than a short prison sentence and, in the case of Australia, forfeiture of excess earnings. In New Zealand not only does the legal procedure not adequately provide against the possibility of wrong decision, but it sentences persistent objectors—genuine and bogus alike—to indefinite detention.

After the most serious consideration of all these circumstances, the Government decision to establish the two Revision Authorities referred to at the beginning of this Section of the report was reached.

Even the establishment of these authorities will not liberalize the treatment of conscientious objectors to the extent that the British and Australian procedures have done. Specifically, the Revision Authorities have not been given the power of the Appellate Tribunal in Great Britain to amend or reverse the decisions of the Armed Forces Appeal Board. They may not change the status of a defaulter to that of a conscientious objector whose appeal has on reconsideration been allowed. Their function is limited to endeavouring to ascertain whether any of the inmates of detention camps were, because of the variation in Appeal Board decisions and the absence of an appellate authority, committed to indefinite detention notwithstanding their now demonstrable sincerity of conviction. In such cases the power of the Revision Authority is confined to permitting the man to be released from detention on parole, under strict man-power control, and subject to forfeiture of all remuneration in excess of the pay of a private in the Army. The Revision Authorities have no power to lighten the severity in treatment of defaulters who do not clearly come within this class.