CHALLENGE OF CONSCIENCE

By the same author:

CONSCRIPTION CONFLICT

NEWS CHRONICLE

THE FIRST TRIBUNAL SINCE 1919

THE TRIBUNALS—INFORMAL AND FORMAL

PLANET NEWS

ONE OF THE FIRST WOMEN'S TRIBUNALS

CHALLENGE OF CONSCIENCE

The story of the Conscientious Objectors of 1939-1949

By

DENIS HAYES

Foreword by

FENNER BROCKWAY

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FOREWORD

by

FENNER BROCKWAY

WHEN in the summer of 1939 four or five of us, pacifists, socialists, anti-conscriptionists, met to consider what action should be taken to assist Conscientious Objectors, no one dreamed that compulsory military training and service would still be the law of this land ten years later, and that the organization which we then took the preliminary steps to establish would prove to be necessary not only in the war towards which we were moving, but in the peace which would follow.

The Central Board for Conscientious Objectors did not immediately take shape. We had to meet a new situation, organizationally different from that of the 1914 war. Then, except for the Society of Friends and the Fellowship of Reconciliation, both religious in basis, there was no organization for Conscientious Objectors; the first step was to form the No-Conscription Fellowship, composed of those subject to the conscription laws who had decided to resist. But on the eve of the Second World War we had nearly a score of organizations founded on the principle that military service is wrong. Nearly every religious denomination had its pacifist association, and the wide response to Dick Sheppard's appeal for the personal renunciation of war had resulted in the formation of the Peace Pledge Union, which included pacifists of all shades of opinion. The need was not an organization *of* Conscientious Objectors but an organization *for* Conscientious Objectors, a co-ordinating body which would link the existing bodies and provide the specialized service which those of their members who came within the scope of the conscription laws would require.

The Central Board was therefore, in its early stages, composed of representatives of existing national organizations. At its first meeting the broad-minded decision was taken to include organizations, and service to Conscientious Objectors, irrespective of their acceptance of basic pacifism. It was recognized that an individual might be conscientious in his refusal to participate in a particular war even if he did not reject the method of violence entirely: some international socialists, for example, who felt it wrong to kill their

fellow-workers, or Indian Nationalists who were not prepared to fight for a Government which denied their country democracy. These Objectors were a small minority and there were some misgivings about the decision at the inaugural meeting, but, once taken, it was wholeheartedly accepted. If I may be excused a personal reference, the fact that I was elected chairman of the Board, although not a pacifist, is an illustration of the spirit of tolerance among its members.

The Board began as a centralized authority, representing national executives, but it did not long remain that. Almost spontaneously, similarly representative committees sprang into existence throughout the country. The first assistance required by Conscientious Objectors was personal advice, and that could only be given in the localities—advice on technical procedure, how to register, how to prepare for a Tribunal hearing and so on, and, often more important, to help the Objector to become clear in his own mind as to the implications of his objection—could he conscientiously accept service in the Non-Combatant Corps, was he prepared to perform alternative service such as land work or hospital service, did his objection mean that he must refuse all duties under the Act? From the start, the Board took the view that decisions on these difficult issues must be made by the Objector himself, and this view was scrupulously applied by those who gave advice throughout the country on its behalf. We knew that an Objector would only stand the test of Tribunal hearings and, it might be, of imprisonment if he were sincerely reflecting his own innermost convictions; our purpose was not to create objection but to clarify it.

Before long the Board had several hundred local advisory committees or advisers; they were not able to reach every individual Objector, but a high proportion of those who went to the Tribunals had the advantage of this preliminary advice and guidance. In many cases the local committees were manned by Conscientious Objectors of the First World War and their experience proved of the greatest value.

The Board now had a body as well as a head, but there was no democratic link between them. The next step was to associate the local advisory committees in Regional Boards and to invite representation from them on the Central Board. Thus the membership of the Central Board became dual in character—partly from the national executives of affiliated organizations, partly from the Regional Boards representing the immense activity carried on from

northern-most Scotland to distant Cornwall. This proved a happy arrangement, combining centralized efficiency with dynamic democracy.

The pages of this book will indicate the extensive and complicated work which the Central Board and its regional and local organizations had to do. We represented Conscientious Objectors whenever legislation came before Parliament and continuously in negotiation with Government Departments. An "Exemptions Group" of members of the House of Commons and of the House of Lords was formed and, as the lengthening series of measures of wartime compulsion was introduced, our own legal advisers, voluntary in their service, together with our practical experts had the duty of scanning every clause and tabling amendments for the consideration of our Parliamentary friends. Before the subsequent Regulations were published, representatives of the Board would meet Ministers or Departmental Officials and make suggestions and comments. Repeatedly, the officers of the Board had to submit individual cases of injustice and hardship to Ministers and Departments and, if necessary, to meet the Exemptions Group or individual M.P.s to get the matter raised in Parliament. It is doubtful whether any organization has ever had to undertake more Parliamentary or Departmental work than the Central Board during the later years of the war. It was difficult work representing an unpopular minority during the tensions of war, but I believe Ministers and Departmental Officials recognized that it was done with reasonableness, responsibility and competence. Certainly in the great majority of instances we recognized a desire to understand and to be just on the part of the authorities.

When legislation was passed and Regulations issued, the need arose to explain them to our advisers and to the Conscientious Objectors themselves. Military conscription of men, then of women, fire-watching, industrial direction—what a maze the Regulations made! Probably there were officers of the separate Departments who understood their own Regulations, but it is doubtful if there was anyone in Britain outside the staff of the Central Board who understood them all. We had to supplement our monthly news bulletin by the publication of a series of broadsheets outlining the Regulations in simple language. These broadsheets, which were entirely factual, were in most cases O.K.d by the Departments concerned before publication and gained a considerable reputation for their accuracy and clarity. A number

of organizations which had no sympathy with C.O.s ordered supplies for the information of their members.*

The first ordeal which a C.O. had to face was the Local Tribunal. As the organization of the Board's work was finally developed, the Regional Boards had reporters present at these Tribunals, and particulars of each case were forwarded to the Central Board. Thus came the first entry in the records file, with name, address, ground of objection and decision; in due course, if an appeal were made against the decision, the findings of the Appellate Tribunal (at which the Central Board had its own reporter) would be entered, and later, perhaps, the date of arrest, the court sentence for refusing medical examination or the court-martial sentence for refusing military orders, the prison in which the sentence was being served, the result of the second appearance before the Appellate Tribunal, and, in some cases, a series of subsequent trials and sentences, and, finally, discharge. The Board thus had at its finger tips the record of thousands of C.O.s, useful not only for historical purposes, as this book reveals, but important whenever special action had to be taken on a particular case. This record-keeping involved much labour, but it was the basis of the encyclopaedic accuracy for which the Board gained a reputation.

These legislative, administrative, and informative services were the bricks and mortar of the work of the Board. Its heart was human sympathy and help for the individual C.O. and his or her family. Most of the staff, always few in numbers, despite their manifold activities, were themselves C.O.s, disappearing at one time or another into prison, and this meant complete identification with the problems and difficulties which other Conscientious Objectors encountered. Individual contact was largely maintained through the local committees and advisers, but letters and personal visits to the Central Board office on special problems were numberless, and many C.O.s will not forget the help and the guidance they received at decisive moments in their lives.

Nor were the material needs of the families of C.O.s forgotten. Emphatically they were not forgotten; we collected much more than was needed! Families had to be maintained whilst C.O.s were in prison, and in all the regions the advisory committees raised funds for this purpose. There was an arrangement whereby a poorer region could apply to another for help if necessary and we

* The Board also periodically published the *C.O.s Hansard*, which contained every Parliamentary reference to C.O.s.

had a national maintenance fund in reserve; but in fact every region raised more than enough and the central fund was not called upon to contribute at all. We were careful in the use of these funds not to give any material incentive to C.O.s. In very many cases, probably the majority, the families of the men and women in prison declined any help; when help was accepted, they readily endorsed our principle that it should not be on a scale higher than the allowances paid by the Forces.

We also established an employment agency, licensed under the London County Council, to assist C.O.s who, because of prejudice, found it difficult to obtain work on their discharge from prison or who wanted work which had a special character of community service. We now have a training scheme which enables C.O.s to pursue studies from which they would otherwise have been debarred because of their stand. But we acknowledge appreciatively that neither prejudice nor disabilities have placed Conscientious Objectors at a disadvantage as a general rule. Both the public and the Government have been tolerant, and in most cases State facilities for training have been available to C.O.s as well as to Ex-Servicemen.

Such has been the work of the Central Board; but if I left my description here I should fail to express its real spirit. Conscientious Objectors are often regarded as fanatics, and fanatics are difficult people to get on with. Yet, without any qualification, I can say that in forty years' experience of innumerable councils and committees I have never known such a harmonious body as the Central Board for Conscientious Objectors. We have been pacifists and non-pacifists, we have had members of every religious denomination from Catholics to Quakers and we have had agnostics, we have had "absolutists" who believe that any compulsory service in wartime is wrong and we have had members of the Non-Combatant Corps, we have had those who refused fire-watching and we have had a captain in the Fire Service, we have had Socialists and we have had Individualists—and yet in ten years we have scarcely had one dispute or contentious word.

The explanation is in the fact that our basic principle has been tolerance and respect for the convictions of others. We have stood not for a particular form of conscience but for liberty of conscience itself; not for any set of convictions, but for the right to live according to one's convictions. Thus championship of men in the Non-Combatant Corps has been as whole-hearted as of "absolutists" in prison, and of the men in A.R.P. service as of the resister to

fire-watching. Toleration and respect for personality have been more than a theory; they have been the working principles of the Board and in them we have found the secret of co-operative endeavour.

And how are we to sum up the work we have done, the contribution made by the sixty thousand C.O.s during the Second World War?

Sometimes disappointment has been expressed that they did not appear to make so great an impression upon the public mind as the C.O.s of the First World War; but this is an unhistoric judgment. The C.O.s of the First World War impressed the public because they were pioneers and because many of them had to face severe persecution. Their steadfastness gained the fuller recognition of the rights of conscience accorded in the Second World War. When Conscientious Objectors of this generation sometimes regret that they have not had to face the same ordeals as their predecessors because persecution would have aroused public attention to their cause, they are in effect desiring to deny to the 1914-18 C.O.s the fruits of their stand. The place which these men gained for conscientious objection in the legislation of Britain is an historic landmark in the struggle for freedom. It was not for the second generation to make the same contribution, but to make a new contribution carrying forward the struggle to a further stage.

It is true that on the whole Conscientious Objectors had an easier course in the Second World War than in the First, although, as Denis Hayes' story shows, there were individual cases of long-sustained persecution. Both legislation and administration were less harsh; legislation attempted to avoid the repeated sentences—the "cat and mouse" treatment—which formed the worst feature of the experience of C.O.s from 1916 to 1919, and the members of the Tribunals were generally more fair-minded. There were exceptions, particularly in the case of Local Tribunals, but if I may judge from my own experience in the two wars there was no comparison. It was common in the First World War for Conscientious Objectors to meet abuse at the Tribunals; when this happened in the Second World War it was so unusual, except at one or two Tribunals, that attention was immediately fastened on it.

The duties of Tribunal members are difficult and, indeed, superhuman; who can be infallible in the judgment of the conscience of another? But this I think it fair to say: I represented C.O.s at fifty-four Tribunal hearings; in forty-nine cases they were given acceptable exemptions, and in the remaining cases I would have given the decision which the Tribunals reached. This was not because

the five men were insincere, but because they were ill at ease and did not give the impression of sincerity. That is the drawback of the Tribunal system: if the applicant cannot express his inner convictions easily, if his attitude is one of "defence" or obstinacy or self-assertiveness, an entirely wrong impression is given. All five of these men, I may add, proved their sincerity by their subsequent actions, convincing finally the Tribunals which had at first decided against them. But I cannot honestly blame the Tribunal members for their original attitude.

Now this fairer attitude on the part of the Tribunals cannot be explained only on the ground that the lesson of the futility of persecution in the First World War had been learned. That war was twenty-odd years ago and memories of it could not have been decisive in determining the psychology of Tribunal members—they were human, as their reaction to the changing fortunes of war between 1940 and 1945 showed. The attitude of the Tribunals is also to be explained by a greater respect for pacifism and conscientious objection in the Second World War than in the First. The growth of pacifism in the churches, the lives and the campaigning of George Lansbury, Dick Sheppard and others, had made their impression. The reaction of the Government, the Tribunals and public opinion to conscientious objection in the recent war was not only a tribute to the stand of the C.O.s in the First World War. It was also a tribute to the influence of pacifists in the inter-war years, particularly in the later years. It was a tribute to the present generation of Conscientious Objectors.

There was one notable victory for liberty gained by the Conscientious Objectors of the Second World War. After some hesitation, the Appellate Tribunals, the highest authority, accepted non-pacifist political objections as conscientious objections. On one occasion I represented an Indian Nationalist who stated unequivocally that he would fight in defence of a free India. He was granted exemption. On another occasion I represented a Socialist who said he would defend a Socialist State by arms. He was granted exemption. The test made by these Tribunals was not the *ground* of the objection but the *depth* of the objection. If an applicant convinced them that he held his convictions so rootedly that they represented to him an issue of right or wrong in his own conduct, they exempted him despite the fact that in another war he might take up arms.*

* Non-pacifist objection was not recognized as conscientious objection in the First World War.

The implications of these decisions are immense. They mean literally that it is recognized that the final judgment on participation in any war should be made not by the State but by the individual. This is a revolutionary invasion of the sphere of the State. It is a revolutionary acceptance of the right of the individual within the most totalitarian form which a State can assume, the State mobilized for war. In practice the use of this right may not become extensive ; but the precedent has been set and its effect on the relationship of the State to the individual will persist.

The significance of this is the greater because we are living in a period when generally speaking the power of the State is growing. The extension of State control over economic life is now accepted not only in countries within the Russian sphere of influence, but in Britain, the greater part of Western Europe, and much of the world outside the U.S.A. This widened sphere of the State may be deadly to personal liberty unless the rights of the individual are protected and asserted. Every acknowledgment of respect for personality is now important, and foremost in such acknowledgments is the wide interpretation which has been placed in Britain upon conscientious objection, and the rights of Conscientious Objectors, in relation to war.

When we see the struggle of the Conscientious Objector as part of the wider struggle to retain the liberties of the individual from the encroachment of the State, still another significance becomes attached to it, a significance of peculiar interest to us because it is related to the issue of peace and war.

The world is threatened with war because of the opposing systems of America and Russia. America rejects State planning and acclaims personal liberty. Russia acclaims State planning and rejects personal liberty. These two systems may live side by side for a time without war, but the world can be made safe for peace only when they are harmonized.

Most progressive people in Britain accept part of the American system and part of the Russian system. We accept Russia's belief in the necessity for planning and America's belief in the necessity for personal liberty. Is not this the key to an ultimately harmonized world—a synthesis of the American and Russian systems, America's personal liberty *plus* Russia's planning?

If this is so, everything which is done in Britain to safeguard personal liberty whilst our country advances in State planning becomes of profound importance for peace. The Conscientious Objector is building better than he knows.

AUTHOR'S PREFACE

ANYONE could have written a book of the Conscientious Objectors of the Second World War, for the abundance of material is positively embarrassing; the task has been one of selection. Apart from this, the main difficulties have been, first, that of achieving quality, and secondly, of striking a balance between interest and usefulness. It would not be hard to draw a series of pen-pictures that would grip the reader from start to finish, but these would be of little value to the young man who in years to come may want to know just what did happen to those opinionated old men who chatter so incessantly of Fulham Town Hall, of The Castle, Lancaster, of Nancy Browne and George Elphick. On the other hand, who in 1950 wants to read a catalogue of reference as dull as the ditchwater that some readers got to know so well?

Inevitably this work must suffer by comparison with the late John W. Graham's classic, *Conscription and Conscience*, which I deliberately left alone in preparing this book so that any individuality it had might not suffer too, though I often thought how grand it would be to have a long lunch with the late Principal of Dalton Hall at which we could discuss our problems, if need be, until tea-time.

To some extent I have drawn upon articles contributed to the *C.B.C.O. Bulletin*, my principal source, and I am most grateful to the Editor and publishers of the *Law Journal* for permission to adapt an article, "The National Service Acts and a Partial Objection to War", contributed by me on March 31st, 1945; to the Editor and publishers of *The Solicitor* and *Reconciliation* for leave to use material that had appeared in their columns; and to the Northern Friends Peace Board for permission to use parts of my pamphlet, *The Ranks of Conscience*. In addition, I am indebted to Officials of the Ministry of Labour and National Service and of the Home Office, the Directorate of Personal Services at the War Office, *The Ministry of Labour Gazette*, *Peace News* and *Mass-Observation* for useful information; to my late colleague, A. Joseph Brayshaw, for the account of Dingle Vale in Chapter 7 and for much other assistance, including permission to draw on certain of his manuscripts;

to Douglas Rogers for material on C.O.s on the land; to A. A. Milne and Methuen & Co., Ltd., for permission to reprint "The Objector" from *Punch* of June 5th, 1940; to Bernard Shaw for permission to include the text of a postcard and a letter about Raymond Farrell; to Dr. Alan C. Don, Dean of Westminster, for permission to quote from the writings of the late Archbishop Lord Lang; and to Mrs. William Temple for permission to quote from her husband's letters.

Others who have helped in varying ways are: Victor Reinganum who has generously designed the dust cover; the officers and staff of the Central Board for Conscientious Objectors, particuarly Fenner Brockway, the Chairman, Stephen J. Thorne, Dr. Alex. Wood, Doris and Bernard Nicholls, Robert S. W. Pollard, Nancy Browne, Jack Carruthers, Graham Wiggs, Albert E. Tomlinson, Ralph Watson, John Horton and Dorothy Fookes. Also Vera Brittain, Charles F. Carter, René Franoux, Leslie Smith, Harry Dice, Duncan Christie, John Hogan, Fredk. Mitchell, Henry Carter, G. Hylton Bartram, Gertrude Large, Phyllis R. Whitehouse, Hubert W. Peet, Eric R. Sly, Hugh W. Maw, Max Thomas, Alan Gibson, J. E. Jones, Ithel Davies, C. Hardinge Pritchard, Brian G. Brockis, Ronald Davies, Walter Webster, Guy A. Aldred, Sydney White, W. H. Marwick, A. Tegla Davies, Jack Eglon, Leonard B. Pitt of Headley Brothers, the late Cecil H. Wilson, T. Edmund Harvey, the late Dr. Alfred Salter, T. Rendall Davies, Len White, Tom Stephens, Stuart Morris, Clifford Macquire, Corder Catchpool, John Barclay, Mark F. J. Shirley, Walter Padley, Maurice Sawyers and others too numerous to mention.

In conclusion, I record very warm thanks to Patrick Owen, Winifred Porcas and Anneliese Koerber who have typed the manuscript with great success, to Principal G. A. Sutherland who has been through it with a fine-tooth comb, and to my wife, Audrey B. Hayes, who always said that one day the book would be finished.

D.H.

East Molesey,
Surrey.
August, 1949.

CHAPTER I

CONSCRIPTION RETURNS

IT all began with conscription. And conscription began with the menace of German aggression. German aggression began with the rise of the Nazi Party. The Nazi Party began with the hopelessness of post-war Germany and a variety of other causes. And so you can go on, tracing back indefinitely the line from effect to cause. Any narrative of historical events that fails to take causes into account is of little value. But in this book I am concerned primarily with the men and women who claimed a conscientious objection to compulsory service connected with war, how they maintained a stand for peace in a society organized for victory, how they were treated by the authorities and the public. The immediate cause of conscientious objection was the compulsion of service and for present purposes I propose to leave it at that.* It all began with conscription.

Conscription itself did not come overnight. On April 1st, 1936, Stanley Baldwin, then Prime Minister, was asked to gave a guarantee that a conscription measure would not be introduced so long as peace prevailed. He replied: "Yes, Sir, so far as the present Government are concerned." After Neville Chamberlain had become Premier, he was asked on February 17th, 1938, whether this assurance applied equally to the new administration, to which he replied categorically: "Yes, Sir." And at the Munich crisis the pledge was renewed. But as events marched daily nearer to catastrophe, conscription had become very much a matter of practical politics and it was only in line with the general pattern of events that when the Territorial Force was being doubled in the spring of 1939 the Prime Minister should say more warily, on March 29th, that this was "evidence of the Government's opinion that we have not by any means yet exhausted what can be done by voluntary service, and we shall demonstrate the possibilities of voluntary services to meet all our needs". The door to conscription was ajar.

On April 26th, a little over four months before the outbreak of war, the Government announced its intention to introduce a scheme

* The historical background to the introduction of compulsory service both in 1916 and 1939 is the subject of the present writer's *Conscription Conflict*.

for six months' compulsory military training for youths between 20 and 21. In doing so it had several objects in mind. First, British acceptance of compulsion in the days when the world was tumbling headlong into chaos was intended to call halt to Hitler, to convince him that Britain meant business. Next, our allies, most of whom had recruited compulsorily for generations, were to be convinced of our good faith. (What more convincing proof could there be than a determination that able-bodied men should be drafted willy-nilly into the British Forces?) Again, it was expedient that one particular class of youths should be singled out for conscription and that others should not be affected. For the opposition that might be expected to a thoroughgoing system of conscription in time of peace was not called out by this moderate scheme, the avowed object of which was not so much to compel youths to fight as to ensure a minimum of training. Undoubtedly it was the thin end of the wedge, but the sound of further alarums on the Continent and the continued stridency of the dictators helped to mitigate the opposition of a critical House. The tone of the Government was regretful, conciliatory. While harsh necessity demanded such an untraditional expedient as peacetime conscription for Britain, the world must see the evident reasonableness of the conditions proposed.

The announcement was received with great satisfaction in Conservative circles but the ill-fated Chamberlain was unable to persuade the Labour Party, then in Opposition, to accept the measure. When a motion calling for the approval of compulsion was put to the House on April 27th, 1939, by the tragic irony of history it fell to Clement Attlee to move what was in effect a counter-motion, regretting, in the name of the Labour Opposition, "that His Majesty's Government, in breach of their pledges, should abandon the voluntary principle which has not failed to provide the man-power needed for defence", the Opposition being of opinion "that the measure proposed is ill-conceived, and, so far from adding materially to the effective defence of the country, will promote division and discourage the national effort".

In some quarters feeling was heated, for the very basis of the motion flew in the face of Labour tradition and the earlier pledges alike. The people, claimed Attlee, in reliance on official assurances had thrown themselves into the organization of voluntary service. If Britain had a Government that really understood how to appeal to the deep moral instincts of the people, it would see that the voluntary efforts of a free people were far more effective than any regimentation

by dictatorships. But even the Labour Party spokesmen contrived to give the impression that they would not in all circumstances oppose conscription and if conditions were right and the proposals were put forward in the right way only the threat of industrial conscription that was latent in all military compulsion would stand in the way, and even that could be met by adequate assurances. There were, of course, exceptions—George Lansbury, John McGovern and a few others—but the Opposition as a whole entered the lists as if the fight were already lost.

Indeed, it largely was. The principle of conscription was accepted by 376 votes to 145 and the way was cleared for detailed consideration of the Military Training Bill (1939), under which male British subjects ordinarily resident in Great Britain were to be registered for military training while between the ages of twenty and twenty-one. Exceptions included men already serving in the Armed Forces, lunatics, mental defectives and men registered as blind. On registration men became liable to be served with notices to submit to medical examination after which they could be called up for training for a continuous period of six months under the control of the Service Departments. Subject to stringent conditions, the right to be reinstated in his civil work at the end of this period was to be given to each militiaman, who was to be under liability to be called on for service in the United Kingdom at any time within four years of his original notice to commence training. When passed, the Bill was to remain in force for three years, subject to a proviso whereby, on Addresses from both Houses, an Order in Council might extend its duration for a year at a time. Conversely, if the necessity for the Act ceased to exist, it could be determined by Order in Council as and when desired.

Generous provision was to be made for Conscientious Objectors. Such men were to register not in the Military Training Register but in a special register to be known as the Register of Conscientious Objectors, the grounds of registration being that a man objected:

(a) to being registered in the military training register;
(b) to undergoing military training; or
(c) to performing combatant duties.

A C.O. provisionally registered in this way was to apply to a Local Tribunal to be set up to deal exclusively with cases of conscientious objection and to consist of a chairman and four other members appointed by the Minister of Labour, of whom not less than one should be appointed following trade union consultation. The

chairman of each Tribunal was to be a County Court Judge or, in Scotland, a sheriff or sheriff-substitute. By this Tribunal men could be placed on the Register of Conscientious Objectors "unconditionally" (equivalent to complete exemption), or "conditionally" for an equivalent period of civil work under civilian control (similar to the alternative service of twenty years before), or could be removed from the Register of C.O.s and placed on the Military Training Register for non-combatant duties in the Army. If rejected by the Tribunal, men's names were to be similarly removed from the register and placed on the Military Training Register without qualification. In certain circumstances an appeal was to be possible, either by the C.O. concerned or the Ministry of Labour, to an Appellate Tribunal each division of which was to consist of a chairman and two other members, one of whom was to be appointed after trade union consultation. In this case, however, the chairman need not have legal qualifications.

Yet the considerations behind this acceptance of conscience are more important than the details. At the Second Reading of the Bill on May 4th, 1939, the Prime Minister made a revealing statement (he had been a member of the Birmingham Tribunal in 1916-18):

> There is one class of exemption which is of particular importance and which is the subject of special treatment. I mean that of the Conscientious Objectors, who are provided for in Clause 3. I believe it will be generally agreed that we have dealt with this particular class of exemptions in a broad-minded manner. They constitute a class which must necessarily always present great difficulties. We all recognize that there are people who have perfectly genuine and very deep-seated scruples on the subject of military service, and even if we do not agree with those scruples at any rate we can respect them if they are honestly held.
>
> But there is a great variation in the way in which people are affected by scruples of this kind. There is the most extreme case, where a man feels it his duty to do nothing even to aid or comfort those engaged in military operations, though it may well be that those military operations have been forced upon us by the aggression of some other country. Probably that is the smallest of all classes of Conscientious Objectors. But it often happens that those who hold the most extreme opinions hold them with the greatest tenacity. We learned something about this in the Great War, and I think we found that it was both a useless and an exasperating waste of time and effort to attempt to force such people to act in a manner which was contrary to their principles. . . .
>
> Special care will have to be taken in choosing those who are

> to sit upon these Tribunals. We can lay down the general line on which we want the Tribunals to proceed, but it is impossible to do more than that in a general way. . . . I want to make it clear here that in the view of the Government, where scruples are conscientiously held we desire that they should be respected and that there should be no persecution of those who hold them. All we have to do is to see that they are not abused. . . .

Why revealing? Because here from an unimpeachable source were some of the principles which the Government followed over the years of war. Conscience was to be respected apart from questions of policy. British traditions of liberty were to hold good at least for this clause of the new compulsion. But the Conscientious Objector was to be respected only if genuine; and to the Government the measure of a man's conscience was to be the Tribunal system with all its inconsistencies. Right at the outset the Government had grasped, too, the fact that there were almost as many degrees of conscience as there were Objectors, and the question of exemption would in many cases be a nice one. So not only was great care to be taken to secure fair and impartial Tribunals, but the Tribunals were to be given complete discretion as to the civil work to be specified for those conditionally registered; so that the system was to be even more flexible than the four categories—three of exemption and one of rejection—seemed to indicate. Also, the Government had resisted any temptation to endeavour by segregating C.O.s from the community to fit the consciences of a large section of the movement to one yard-rule.

"There is the most extreme case, where a man feels it his duty to do nothing even to aid or comfort those engaged in military operations." Here, in a few words, was the case of the absolutist, refusing indirect help to the war effort, declining any duties as a condition of exemption from the forced service in the Armed Forces to which he objected so strongly. The fifteen hundred absolutists who had seen it through in the First World War had not suffered in vain; the Government had learnt its lesson. Persecution of the extreme Conscientious Objector had then been tried by the nation, legally and socially, and had failed. However unreal his views might appear to the ardent war supporter, the truly convinced extremist would remain true to his ideals whatever the cost. So a real and workable provision for unconditional exemption was to be included.

What were the real reasons for this understanding attitude? Chamberlain had summed them up. Not only was penalization

wrong, not only was it useless, but it was " an exasperating waste of time and effort ". Persecution and severity " did not pay " ; they were unproductive and administratively unwise. So a policy of sweet reasonableness was decided upon ; in addition to being morally right, it was economical and " good business ". In a broadcast early in the war Lord Beveridge said :

> Admission of the right of conscientious objection to serve in war is the extreme case of British freedom. Nor have I any doubt that it makes Britain stronger in war rather than weaker. The apparent loss of man-power in the persons who are exempted is no loss at all ; resentful conscripts are sources of weakness.

This utilitarian side of the recognition of conscience was again in evidence when the story of Britain's mobilization for war came to be written. Prepared for the Ministry of Labour and National Service by the Ministry of Information, *Man-Power*,* an attractively produced booklet, was first published early in 1944 and in the section dealing with Conscientious Objectors appeared the following passage, almost as illuminating as Chamberlain's statement of five years before :

> There is a form of exemption that has puzzled or amused many of our foreign friends : conscientious objection. They cannot understand why a man should be allowed to escape military service during time of war merely because he pleads that his convictions tell him such service is wrong. They see this as yet another example of British illogicality. But though it may be illogical, it is not really unreasonable. We hold that a man whose deepest feelings are outraged by combatant military service should not be pressed into such service. Not only will he suffer, but also—a point frequently overlooked—the Service will suffer. Nobody wants to attack an enemy strong-point in the company of fellow soldiers who are rootedly opposed to fighting. If a man honestly believes that the use of lethal weapons under any circumstances is wrong, then it is unfair both to him, and to the men who would have to soldier with him, to drag him into the Forces. . . . Nor is there any reason why a man who has satisfied the authorities that he is a genuine conscientious objector should be stigmatized in any way. All that is necessary is that we should make sure that this privilege is not abused by mere dodgers. Therefore, it is probably a good thing that a man should be called upon to

* H.M. Stationery Office.

display a certain amount of moral courage in making his appeal for exemption on the grounds of conscience.

Picture Post had not been far wrong when, on August 12th, 1939, it said of the Government's attitude to C.O.s: "It recognizes that you can take a horse to the water but not make him drink. At the same time, every attempt is made to induce thirst in the horse." For *Mass-Observation* in early 1940* reckoned that for every registered C.O. there were two "latent" objectors whose "private doubt" was largely concealed by social pressure.

In its own sphere the Military Training Bill was as much the beginning of a revolution as the storming of the Bastille, and a great many points were raised on the Second Reading. T. Edmund Harvey, Mrs. Hardie, Mrs. Adamson and John McGovern all referred to earlier ill-treatment of C.O.s in efforts to avoid a recurrence of the abuses of twenty years back. George Lansbury was successful in obtaining a statement from the Prime Minister that once a Tribunal had registered a man as a C.O. his exemption could not be upset by orders or suggestions from the Minister of Labour, the military or any other body, an assurance which avoided any chance of the interference that had been such a fertile source of dispute in 1916-1918.

In Committee, later in the same week, James Maxton secured further assurance, this time from the Minister of Labour, the Liberal Ernest Brown, that the other members of the Tribunals, as well as the Chairman, would in no sense be military persons, and further pressure at a later stage resulted in the insertion in the Schedule to the Bill of a provision that in appointing members of Tribunals the Minister should "have regard to the necessity of selecting impartial persons". Further discussion as to whether an applicant should in any circumstances require permission to appeal to the Appellate Tribunal resulted in a free right of appeal for applicant and Ministry alike, but an Amendment by Tom Williams, the present Minister of Agriculture, to secure for C.O.s the same right of reinstatement as a militiaman was rejected by the Minister of Labour as being against public opinion, though the Government was willing to set an example to employers by reinstating Civil Service C.O.s who undertook alternative service.

But for the C.O. the most important development was an attempt to prevent the "cat and mouse" scandal of the First World

* See *US5*; March 2nd, 1940.

War, when some 655 C.O.s had been court-martialled twice, 521 three times, 319 four times, 50 as many as five times and an heroic 3 six times. Under the new system there was still no way for a C.O., who rejected by the Tribunals yet held firm to his objection, to escape the vicious circle of court-martial and imprisonment; for the Military Training Bill contained no provision for any review of a man's claim to conscience. So, during the Committee Stage, Fred Messer moved a new clause to safeguard the position of C.O.s in the Army who were court-martialled for offences committed on conscientious grounds. After the Amendment had been seconded by Reginald Sorensen, the Attorney-General criticized the way in which the clause was likely to work and advised the House not to accept it. It was at this stage that Arthur Creech Jones, the present Colonial Secretary, rose to give a personal testimony which, with that of George Benson which followed, greatly moved the House and drew from Hore-Belisha, then Secretary of State for War, a promise to meet this real threat.

> "I went before a court-martial," Creech Jones told the House, "and, being an absolute Objector, I was sentenced to a period of six months' imprisonment with hard labour. I served my period of six months' hard labour and was then taken back to my regiment, given a military order, court-martialled afresh and sentenced to one year's hard labour. That sentence I also served. I was again taken back to my regiment, given another military order, refused to obey, was court-martialled again and had to go for two years' hard labour. I served the two years' hard labour and went back to my regiment four months after the war was over. I still refused to obey military orders and was sentenced to another period of two years' hard labour. In point of fact I actually served periods amounting to about three years and six months. All the time the 'cat and mouse' rule operated as far as I was concerned. It was recognized all through this course that I was a perfectly genuine person. Nevertheless, I had been caught up in the military machine and the 'cat and mouse' arrangement began to operate."

The Minister was as good as his word and, at the Committee Stage in the House of Lords, Lord Addison moved a new provision whereby a person undergoing six (later reduced to three) months or more imprisonment imposed by court-martial for an offence claimed to be committed on grounds of conscience could then apply to have his case reconsidered by the Appellate Tribunal, which should have

power to recommend his discharge; upon receiving a recommendation of this kind from the Tribunal the Service Authorities were to arrange for the man's discharge. So Parliament avoided a stalemate which might easily have changed the course of the treatment of conscientious objection in the years that followed.

The only other feature of importance in the Upper House was a statesmanlike speech by the Archbishop of Canterbury, Dr. Lang, who, though no pacifist, had been an intimate friend of Dick Sheppard and had a good understanding of the pacifist position. This was his plea for the new generation of Conscientious Objectors:

> From my experience I have little doubt—I hope I may prove to be wrong—that the number of young men who have these conscientious objections, and who will endeavour to sustain them, will be far greater than in the case of the last war. There is a great multitude of young men of all classes—I emphasize that, and not least those who come from our public schools and universities—who have been moved partly by the appeals of the Peace Pledge Union, partly by the immense influence which was exercised upon the young men by my late lamented friend Canon Dick Sheppard and others, and most of all by the thought of the differences between the sufferings which will be inflicted by any modern war, far greater than those which have marked previous wars, or even the last war, and which will be inflicted upon masses of innocent men, women and children.
>
> I believe that the number of individuals who are deeply impressed with considerations such as these is very large. I need not say that I do not agree with the position of the complete pacifist, but I respect his conscience. I am sure Parliament and the country will try and respect that conscience. At a time when we are claiming, as against some other countries, that freedom of conscience must everywhere be honoured, it obviously is our duty to show that we fully respect it.

The Archbishop remembered, too, the "cat and mouse" treatment that had so moved the House of Commons, and saw the responsibility of the Tribunals to avoid its recurrence. He continued:

> I had a certain amount of experience of what was suffered in the North of England particularly, and the treatment of Conscientious Objectors is not one of those memories of the last war to which we can look back with very great satisfaction. In many cases, these young men were treated with great harshness, at least with inconsiderateness. I earnestly hope we

shall never see any more of what was then popularly called the "cat and mouse" arrangement, and that in every way fuller consideration will be given to these genuine convictions. . . .

Everything will depend on the administration of the Tribunals. It is said they are to be composed of impartial persons, and I hope they will be something more, I hope they will be persons who will be able to estimate—if I may use an ugly term—the psychological personality of those who come before them. I heartily endorse what the noble Marquess has said when he hoped their treatment will not be merely legalistic. . . . It would be a great mistake if the Tribunals once again were to manufacture martyrs up and down the country. Their bias should rather be to respect, not suspect, the genuineness of the convictions of those who come before them.

And so on May 26th, exactly a month after the first announcement of the return of conscription, the Bill became law as the Military Training Act, 1939. The large number of points raised on its provisions had been an indication of the people's concern, and it was with great interest, not unmixed with apprehension, that Britain looked forward to its administration in practice.

Certainly the Ministry of Labour was not unprepared for its new duties. By careful organization in advance it was able to arrange and hold a complete registration of youths born between October 2nd, 1917, and October 1st, 1919, only eight days after the Royal Assent had been given. This must have been an administrative record, for as many as 240,757 men were registered at Employment Exchanges during Saturday, June 3rd, as the first step under an entirely new system. Of these 4,392—about 1·8 per cent. of the whole number—registered as C.O.s and applied to have their cases referred to the Local Tribunals. Nor was this an inconsiderable total, as it could then be argued that the youths called up would have to do nothing so repugnant as fire a rifle or use a bayonet against their fellow-men; for, however critical the situation, this was peace and only a short period of training was required. On the other hand, there was then no strong feeling against Conscientious Objectors: Objector and public alike took a more detached view of the threats of Germany when levelled in other directions. By June 8th those who had registered in the Military Training Register began to receive notices to submit to medical examination and the first conscripts were called up on July 1st, 1939.

In the meantime the shadow of war had deepened until at the end

of August the sound of German troops on the march once more reverberated through Europe. This time it was Poland, and the forces of Soviet Russia were mobilizing in the rear of the Polish Army. As the clash of war became louder feverish diplomatic activity went on in the Chancellories of Europe. On the invasion of Poland, Britain's guarantee had automatically come into force, but even at this, the fifty-ninth minute of the eleventh hour, attempts were made to secure a Five-Power Conference if Germany were willing to stay her hand.

Parliament saw it was war. On September 1st eighteen emergency Bills, prepared in draft for just such an eventuality, received the Royal Assent, and on the following day the Government set its hand to mobilizing the man-power of the nation. The Minister of Labour, Ernest Brown, a leading figure in the Baptist Union, forthwith moved for leave to bring in a National Service (Armed Forces) Bill to empower the Government to call up men between 18 and 40 for service in the Armed Forces at home or abroad during the war emergency. Call-up was to be by proclamation of age groups as required by national demand, but in most other respects the detailed provisions of the Military Training Act were to be continued. The principle of conscription had been debated in the previous spring, and no Member felt the time ripe to start a new chapter in the conscription controversy.

The House was tense, restive and doubly apprehensive—apprehensive that Britain should not hesitate in the fulfilment of her pledges yet at the same time deeply worried as to the results of the struggle on which the nation was about to embark. The future was inscrutable. When the House divided on that fateful Saturday, 340 Members voted for the Bill. Opposed were seven members and two tellers: George Buchanan, T. Edmund Harvey, A. Creech Jones, James Maxton, Dr. Alfred Salter, Alexander Sloan, Cecil H. Wilson, Campbell Stephen and John McGovern.

September 3rd, 1939, is a date few will forget. A morning of extreme tension with the fate of the world in the balance saw the expiry of our ultimatum to Germany. War had come. For years statesmen had said that a major war would spell the end of civilization: now Britain—and the world—were to find out. Yet the anxiety of waiting was over and the people knew the worst. That Sunday morning there was a calmness and quiet determination which even the wail of the air-raid sirens failed to dispel. At noon the House of Commons met to receive an announcement by the Prime

Minister. Many members—George Lansbury among them—came straight to the House from the superficial gaiety of the air-raid shelters.

> " I am in a position to inform the house ", said Chamberlain, " that, according to arrangements made between the British and French Governments, the French Ambassador in Berlin is at this moment making a similar demarche, accompanied also by a definite time limit. The House has already been made aware of our plans. As I said the other day, we are ready.
>
> " This is a sad day for all of us, and to none is it sadder than to me. Everything that I have worked for, everything that I have hoped for, everything that I have believed in during my public life, has crashed into ruins. There is only one thing left for me to do ; that is, to devote what strength and powers I have to forwarding the victory of the cause for which we have to sacrifice so much."

Within an hour the House had moved to the Committee Stage of the new National Service (Armed Forces) Bill and at half-past two the same afternoon the Bill was passed by the Commons. Shortly after four the Royal Assent had been given. For a second time, in its sober determination to end the Nazi menace for ever, Britain had become a conscript nation.

Instead of an onslaught with all the weapons of carnage that science had perfected, there came a lull while each side made feverish attempts to prepare. In the months that followed the three Armed Forces were co-ordinated as one unit ; expansion was silent but sure, while an army of industrial workers was organized to provide a smooth flow of the guns, tanks, aircraft, uniforms and camps that the Services demanded. While the machine was being put into gear the intake of conscripts was limited and registration days were infrequent. Indeed, the first registration of the war was not held until October 21st, 1939, when 230,009 men registered, of whom 5,073 (or 2·2 per cent. of the total) claimed the right of conscience, this being higher than any percentage before or since. In some quarters strong objection was taken to the practice of some peace organizations, such as the Peace Pledge Union, of handing to men registering leaflets drawing their attention to the conscience clause in the Act. Further registrations on December 9th, 1939, and February 17th, 1940, produced 5,490 and 5,638 C.O.s respectively (2·1 per cent and 2 per cent. of the totals) and though the registration of March 9th, 1940, saw a further 5,803 C.O.s, the percentage had already fallen to 1·6 and the Tribunals, which had been inundated with work, were gradually

catching up with the arrears; by mid-1940 the end of the early lull and adversities on the Continent had further reduced the proportion to ·57 per cent. Men in their early thirties were now being registered at great speed, for on the four Saturdays of July registrations were held at which the phenomenal total of 1,383,940 men attended,* of whom only 7,511 were Conscientious Objectors. Even so, by the end of July, 1940, 51,419 men had registered provisionally as C.O.s.

The machine was now working smoothly and in the autumn and winter of 1940 greater attention was paid to the home front, to production bottle-necks and the regulation of labour supply. To organize Britain for total war industrial conscription had to follow military†; authority became dominant and liberty a luxury of peacetime. But soon another element was to bring about a radical change in the position.

* Detailed statistics are given in Appendix C.

† See Chapter 17.

CHAPTER 2

THE WIDENING NET

IT was in the spring of 1941 that the blitz conditions of total war turned public attention in another direction, for the needs of Civil Defence had become more urgent even than those of the Forces. Although some 4,000 firemen had been returned from the Army; although men who registered for military service on January 11th and 18th had been given a choice of Civil Defence; although Herbert Morrison had made a personal appeal to those in the London Region to join the Auxiliary Fire Service, the men had not been forthcoming. Compulsion was decided upon, and on March 26th, 1941, the Second Reading of a new National Service Bill was moved by the Minister of Labour, Ernest Bevin, the trade union leader who had replaced Brown in the drive for maximum effort. Under this Bill all men liable to be called up for the Armed Forces and all *conditionally* registered Conscientious Objectors, were to be liable to compulsory call-up for Civil Defence, the argument running something like this: under the Defence Regulations any person, Conscientious Objector or not, could be directed to any form of civil work at the discretion of the Ministry of Labour; Civil Defence was civil work under civilian control; the Government could not accept any form of conscientious objection to civil work, and it was therefore only proper that conditionally registered C.O.s, despite their conditions, should be included in the Bill. There was, however, no attempt to include C.O.s *unconditionally* registered by the Tribunals, even though the logic of the Government's argument would have applied equally to them.

Important changes in the existing law were also to be made.* Under the earlier procedure the names of C.O.s registered for non-combatant duties had been removed from the Register of C.O.s, but under the new Bill the practice was to be modified: in future they were to be recorded in the Register of C.O.s instead of in the Military Service Register, the names of all persons already registered for non-combatant duties being also transferred from the one Register to the other. In addition, the machinery allowing C.O.s to give up the whole or part of their exemption was to be simplified.

* Considered in Chapters 10, 13 and 16.

At the Committee Stage the provision allowing C.O.s to be called up for Civil Defence despite their Tribunal conditions came in for severe criticism. James Maxton, with McGovern's active support, moved an Amendment to delete this provision, claiming it unfair that the work of the Tribunals, which had dealt with so many thousands of individual cases, should be interfered with so radically. T. Edmund Harvey made the point that, though Civil Defence was entirely different from military service, there was no doubt that to some it was so closely associated with such service as to involve conscientious objection ; if the Bill went through in its present form men already giving good service to the country in other ways would come under process of law. Surely, he pleaded, it was in the national interest that men who were doing useful work, work which had been assigned to them by the Tribunals because of its importance and value, should be allowed to continue without being subject to the compulsory enrolment contemplated by the Bill.

The Minister, however, refused to give way, though he gave this assurance which helped to meet the objections of some members :

> Now I come to the second category. These are people who have had conditional exemption but have been placed in work analogous to this. They are what I would regard as administratively essential. I shall not move any man on essential work. For instance, agriculture is wholly reserved. I shall not move anybody from agriculture, and administratively I should not be such an idiot as to take one of these men away and create trouble elsewhere. Allow me to use my common sense. Anyone who takes a Conscientious Objector away from essential work and creates trouble for himself somewhere else is not a very wise administrator. In connection with the Friends Ambulance Unit, nursing and hospital services, it is not my intention to disturb something which is working all right. But the power must be there. In law every citizen must be on equal terms so far as civilian work is concerned, and with that assurance I think the Committee might reject this Amendment.

Further efforts proved unavailing. The Minister was adamant, and despite the eloquence of Lord Faringdon in the House of Lords, the Bill, substantially unaltered, became law on April 10th as the National Service Act, 1941.

So conscription went on in ever-increasing circles like the ripples on a pond, until by the winter of 1941 the Services and industry between them had used up all the main sources of man-power and

the Government felt compelled to search for new possibilities. Already men of forty-one had been registered and, at the other end of the scale, the registration of youths between 18½ and 19 had also taken place. The needs of war had taken so many of the seven million men who had registered that only a thorough comb-out of non-essential workers remained.

The eyes of the Government turned naturally to the fair sex. Hitherto women had been interviewed and freely "directed" to civilian work of all kinds,* but there had been no conscription for the Women's Services, though indirect pressure had been brought to bear in an endeavour to secure volunteers. Feminist organizations had long been pressing for equality with men, but the nation as a whole felt a strong reluctance to apply this new compulsion to its womenfolk. One type of opinion, in particular, could not be ignored—the views of the men in the Forces, especially overseas, who expected their wives to be adequately looked after while themselves facing the discomforts of active service or the dangers of the front line.

The result was a compromise. When, therefore, on December 2nd, 1941, the Prime Minister, then Winston Churchill, brought forward a Motion that "the obligation for National Service should be extended to include the resources of woman-power and manpower still available", he went on to announce the Government's intention to compel for the Women's Services not all women but *only single women between the ages of twenty and thirty*. Other changes in the system gave the screw a further turn towards total compulsion. The maximum age-limit for the conscription of men was to be increased from 41 to 51 and the lower age-limit of 18 was to be put into force. Hitherto, men had been "reserved" from the call-up under a Schedule of Reserved Occupations whereby men in a long list of trades were exempt if over specified ages. Henceforth this would gradually be changed to a system of individual deferment based on individual circumstances. Conscription was to be applied to the Home Guard, and boys and girls between the ages of 16 and 18 were to be registered with a view to their becoming members of some youth organization in their spare time.

Three of these innovations deserve consideration in greater detail. First, the conscription of women. Shortly before the National Service (No. 2) Bill was introduced on December 4th, 1941, a rumour spread like wildfire that though women were to be conscripted for the uniformed services there was to be no conscience clause. Political

* See Chapter 17.

pressure was brought to bear without delay but when the text of the Bill became available it was found that the single women affected were to have exactly the same rights as men. The forces for which women were to be compulsorily enrolled were the Women's Royal Naval Service, the Auxiliary Territorial Service, the Women's Auxiliary Air Force and the Civil Defence Forces, but no woman was to be enrolled who was either married or had a child of her own under fourteen living with her. Women were to be allowed to "opt" for one of the Women's Services or for Civil Defence or for work in industry, but there was no guarantee that they would be posted in accordance with their preference. In addition, the Minister of Labour assured Parliament that women conscripted into the Services would not be required to use lethal weapons unless they volunteered to do so.

Only the call of urgent necessity prevented Members of both Houses from giving voice to their distaste for the proposals, which went further than the Axis dictators had ever gone. But Rhys J. Davies and Mrs. Hardie, white-haired sister-in-law of Keir Hardie, courageously moved an Amendment to confine the Acts to men, but Members supporting the war smothered their reluctance in the national interest and, despite fundamental sympathy for the Amendment, confined their efforts to devising the most effective safeguards possible. So December 18th, 1941, when the National Service (No. 2) Bill became law with only minor changes, saw the world's outstanding example of the difficulty facing a democracy at total war. Not many years before women volunteers of the Italian Army had been viewed almost with abhorrence as "Amazons", but so gradually had the British public become habituated to military demands that it acquiesced without difficulty in the conscription of its womenfolk.

Shortly after the passing of the Act a Royal Proclamation was issued making single women between 19 and 31 liable to compulsory call-up. Administratively, though, only the 1918-1923 age-groups were actually dealt with for military service—and this not by new registrations (most of the women in these groups had already registered under the Registration for Employment Order*) but at the later stage of interview. If a woman then claimed to be a Conscientious Objector the interviewing officer would offer her the alternative of comparatively innocuous civil work (such as work in agriculture or horticulture or as a ward-maid in a hospital), and it was only if

* See Chapter 17.

she declined these that her case was formally dealt with under the National Service Acts and referred to a Local Tribunal for decision. These factors combined to rob the official statistics of women C.O.s of the great value they would otherwise have had.

Now for the second point. Like the Women's Services, the Home Guard, for which compulsion was now to be applied, was of recent origin. Its beginning was not without dramatic effect: on May 14th, 1940, Anthony Eden on behalf of the Government had broadcast an appeal to civilians to enrol in a part-time branch of the Army, to be known as the Local Defence Volunteers, to defend their own district against the imminent threat of invasion by the enemy. So great was the response that the police were quite unable to cope with the crowds besieging the Police Stations of Britain.* Nevertheless, despite the initial rush to enrol, the organization (as so often the way with third lines of defence composed of older men, medical rejects and men already working long hours on national work) experienced severe growing pains. As the rather cumbrous title failed to fire public imagination the alternative name of the Home Guard was introduced on July 31st, 1940.

Yet the tendency to ridicule the Home Guard for lack of smartness, for class distinction and for irregularity of attendance, coupled with the shortage of arms and Lord Croft's suggestion to arm the Force with pikes, did not help to secure recruits, and in 1941 the Government considered extending the National Service Acts to cover part-time service in the Home Guard. But in order to maintain the elastic organization of the Force, it was ultimately decided to use the Defence Regulations to "direct" men to the Home Guard rather than follow the more elaborate procedure of the conscription Acts. Accordingly, a provision was included in the National Service (No. 2) Bill declaring that the liability of a person to national service included liability to part-time service in the Armed Forces, the exact extent falling to be determined by Defence Regulations.

The culmination of this move came on January 22nd, 1942, when an Order in Council† empowered the Minister of Labour to direct any male British subject in Great Britain to enrol in the Home Guard, and for that purpose to present himself at a specified time and place. Failure to comply was to be punishable on summary conviction by a maximum of three months' imprisonment or a fine not exceeding

* The new force was governed by the Defence (Local Defence Volunteers) Regulations, 1940 (S.R. & O., 1940, No. 748) issued on May 17th, 1940.

† S.R. & O., 1942, No. 91.

£100 or both. In addition, absence from Home Guard duty without reasonable excuse was to be a civil offence, punishable on summary conviction by not more than a month's imprisonment or by a fine not exceeding £10 or both, this penalty being the same as that applicable to Civil Defence workers for similar offences. No medical examination was to be necessary unless a person selected for enrolment claimed to be unfit.

From this Order, applied at first only to certain regions but extended on March 27th, 1942, to the whole country, there were important exemptions. Though only part-time duty could be required of Home Guards except when "mustered" for resisting invasion, the Home Guard was a fully combatant military force, and no direction to enrol was to be given to a man (such as a minister of religion) who was exempt under the National Service Acts *or who was for the time being registered in any way as a Conscientious Objector*. That is to say, if a man were registered without conditions, or were conditionally registered whatever the conditions, or were registered for non-combatant duties, he could not be "directed" to the Home Guard. Similarly, if he were only provisionally registered, because, for instance, he was in a reserved occupation and had not yet been called before a Tribunal, he could not be "directed" to the Home Guard while he remained in some way on the Register of Conscientious Objectors. Even if a man were not on the C.O. Register, he could not be called for the Home Guard while he had an appeal pending or before the twenty-one days allowed for an appeal had elapsed. This meant that only those C.O.s who had been *refused any exemption* by the Tribunals were liable, and on this basis fifty-eight prosecutions of C.O.s took place. How some of the older men appeared before Tribunals on an objection to Home Guard service is told in Chapter 4.

The third development was the compulsory registration of boys and girls, which with its limited compulsion presented a real problem to C.O.s: for it had the dual motive of providing military or near-military training for those who would be compelled into the Forces on reaching eighteen and at the same time of stemming the increase in juvenile delinquency that had been a marked feature of the war years. Those most opposed to the first were among the strongest supporters of the second. A new Defence Regulation 58AD* empowered the Minister of Labour to require young people between 16 and 18 to register "with a view to affording to boys and girls the

* S.R. & O., 1941, No. 2052.

fullest opportunity of preparing themselves to take their part in national service. . . ." Under this Regulation the Minister issued the Registration of Boys and Girls Order, 1941,* under which a registration of boys of 17 was held on January 31st, 1942; boys of 16 followed on February 28th, girls of 17 on March 28th, and girls of 16 on April 25th.

Boys and girls still at school were included in the scheme, and were to be encouraged there to undertake some form of service; but the main object was to reach those who had left school. Registration was for the most part at Labour Exchanges, but in some cases at the Juvenile Bureaux of Local Education Authorities. In addition to their name, age and address, boys and girls were asked for details of their work and whether they were members of any youth organization or junior Service unit. The records were afterwards passed to the Local Education Authority which sorted them out and invited those young people who did not belong to any organization to attend an interview "with the object of bringing to their attention ways in which they can serve the country at this time, and of encouraging them to join some appropriate body for that purpose".

It was laid down that the interview, which was entirely voluntary, was to be informal and friendly. "While . . . young persons should be left free to express their preference for the type of training and organization in which they may volunteer to enrol, every encouragement should, in the present war emergency, be given to fit boys, not already associated with some organization and not otherwise suitably occupied, to undertake some form of pre-Service training."† The next sentence of the Circular from which this quotation is taken added that the minimum entrance age for the Home Guard was to be lowered to 16, and then continued: "For boys of 17-18, the most appropriate body of this kind in which to enrol is clearly the Home Guard." Yet the object of the interview was "not to apply methods of compulsion to the recruitment of the youth organizations . . . but rather to give advice and encouragement to young people to play their part".

Though only the registration was compulsory, the peace movement as a whole saw in this scheme, sponsored though it was by the highly respected Board of Education, a recruiting effort that completely vitiated its educational value. Many authorities gave complete freedom of choice without pressing the claims of one

* S.R. & O., 1941, No. 2146.

† Board of Education Circular 1577, December 20th, 1941.

organization over another, and of course it was attractive to have a chance to double the size of one's youth club or educational settlement, but few pacifists failed to realize both the implications of the scheme for those of tender years and the latent threat of compulsion should the voluntary method fail with the boys and girls as it had with their fathers.

Thus were man-power, woman-power and child-power offered to the god of "unconditional surrender", until by the summer of 1942 few sources remained. But there were two possibilities: first, to call up men in this country who were not British subjects, and secondly, as far as practicable, to call up British subjects living abroad. The Government had decided in the previous autumn to call up the subjects of Allied nations living in this country (many being refugees from Nazi oppression) but protracted negotiations with the various Governments in exile inevitably spelt delay. And though on August 6th, 1942, the Allied Powers (War Service) Act came into being, it was not until March 11th following that an Order* was issued bringing its provisions into force by applying them to subjects of Belgium, the Czechoslovakian Republic, Greece, the Netherlands, Poland and Yugoslavia. The Allied Governments whose headquarters were on British soil had already endeavoured to call up those of their nationals subject to their jurisdiction, but in Britain there were several limitations on the penalties they could impose on exiles who failed to respond. Without delay most Governments posted such men as deserters, but were powerless to do more—save to threaten the extremities of the law if and when they were restored to power in their own countries; but even this could be a serious matter for exiles with foreign passports and permission to remain in Britain only for a limited period.

The new legislation (obviously drafted with some care) did not increase the powers of the Allied Governments but provided that men of the nationalities prescribed who were in Britain on April 1st, 1943, and who had not joined the forces of their nationality within two months from that date, should (unless exempted from military service by their Governments) become liable to the provisions of the British National Service Acts. If they entered Britain after April 1st, 1943, they became similarly liable two months after entering the country.

A foreign C.O. could therefore take advantage of any right of conscientious objection that the law of his nation allowed, though all

* S.R. & O. 1943, No. 381.

but two of the Powers in question had no provision for conscience. The exceptions were the Netherlands, which had recognized conscientious objection since 1923 though there was no provision for unconditional exemption, and Norway, which by a Decree of September 13th, 1940, allowed men claiming conscience to apply to a Conscription Board within a week of receiving their calling-up papers. An allied national, however, might well choose to default under the law of his nationality and come under the British procedure: for if he were not a member of the Armed Forces of his nationality by May 31st he then became subject to the National Service Acts in the same way as if he had been a British subject. This included the right to register provisionally as a Conscientious Objector and apply to the British Tribunals in the ordinary way. As this was anything but popular with some of the Allied Governments, a good deal of time and thought was spent by the Central Board and others in efforts to avoid the penalization of such men when they were repatriated after the war.

Side by side with this move came another Act to meet the reverse position by making possible the calling up of British subjects in foreign countries to our Armed Forces. The National Service (Foreign Countries) Act, 1942, which like the other Act became law on August 6th of that year, provided that Orders in Council might apply to British subjects, men and women, in any country specified in the Order the conscription imposed in this country by the National Service Acts. So far as local limitations allowed, citizens overseas were to have all the rights of the National Service Acts. Whilst it was impossible to reproduce the full procedure of the Acts, independent Tribunals (including Tribunals for C.O.s) were to be established whose members were not to be in the service of the Crown either in a military or civilian capacity.

When Members of the House of Commons moved that Britons abroad who refused to comply with their call-up under this Act should be deprived of their nationality and be liable to forfeit to the Crown all their assets in this country, T. Edmund Harvey, in a dignified protest, recalled Lord Hugh Cecil's famous speech in 1917 against the disfranchisement of C.O.s, which he described as the noblest speech he had ever heard in the House. Referring to the devoted service of C.O.s in the Friends Ambulance Unit and elsewhere—men who would under no circumstances enter the Armed Forces—he said: "Surely the House will never wish to deprive of their citizenship men like these who have shown by their lives, and have

sometimes been able to show by their death, the depth of meaning they attach to the duty of citizenship." In fact, the Act was applied only to British citizens in Egypt, a step carried out by an Order* issued on the very day of the Royal Assent. No information of any C.O.s in Egypt taking advantage of its provisions ever came to the notice of the Central Board.

At much the same time a final step in mobilizing youths for the Army was taking place. Up to the end of 1942 men between 18 and 46 had been liable for call-up but no one had been required to register until he attained 18. Registration, medical examination and other formalities usually took up several months, and in the aggregate were thought to result in a wastage of "man-power". In December, 1942, therefore, a new National Service Bill was introduced in the House of Commons to facilitate the calling up of youths as soon as they attained 18 by providing that such preparatory matters could be carried out when they had reached 17 years and 8 months. This caused Cecil H. Wilson, aged as he was, to exclaim: "I do not understand why we are continually referring to man-power! We are dealing to-day with *boy-power*, and we might as well realize it. You are going to let boys appear before Tribunals, before men who do not know what conscience is and who ridicule the idea of these boys having consciences. No guarantee is given that such men are going to behave better in the future than they have done in the past." Following a suggestion by T. Edmund Harvey, the Ministry of Labour agreed that the right to register as a Conscientious Objector or to apply for postponement on hardship grounds should be maintained up to a lad's eighteenth birthday even though more than two days had elapsed since his medical examination. On December 17th the Bill became law as the National Service Act, 1942.

But the final attrition was yet to come. In the summer of 1943 all available woman-power was switched to aircraft production, conscription for the Women's Services being suspended, while on the men's side a deficiency of miners threatened to jeopardize the war effort. An "option" to men to enter coal-mining was tried, but proved quite insufficient to maintain the 720,000 men and youths whom the Cabinet decided were needed in the industry, and on December 2nd, 1943, the Minister of Labour announced one of the least popular of all the conscription measures of the war—the ballot for the mines. Announcing the scheme, Bevin stated that his object had been to devise a method that would be recognized as fair and

* S.R. & O., 1942, No. 1565.

would not place upon Ministry of Labour officials the duty of selecting according to merit or suitability. He therefore proposed to resort to "the most impartial method of all, that of the ballot". A draw would be made from time to time of one or more of the figures from 0 to 9 and those men liable for military service whose national service registration numbers happened to end with the figure so drawn would be called not for the Forces but, subject to physical fitness, for the mines. No doubt the scheme showed a fine impartiality. But it was not necessarily just. A judge may have no leaning towards either of the parties whose cause he is trying, but that does not make him a good judge, and if the remarks of Magistrates called to deal with recalcitrant ballotees (many of whom were anxious to enter the Forces but professed a rooted objection to work underground) are any indication, public opinion was far from unanimous as to the effects of what a great Prime Minister, Sir Henry Campbell-Bannerman, in somewhat similar circumstances once called "conscription tempered by the roulette-board".

Many Conservative M.P.s would have liked to see Conscientious Objectors as a class called up for mine work (and a few C.O.s were so called) but the suggestion was usually met by I.L.P. Members claiming, crudely yet pointedly, that the Members making the suggestion should themselves be directed to the mines! The real fact, of course, was that the Government was anxious not to disturb the comparative harmony of the pits by introducing divisive elements, and few Members were under any delusion as to the amount of trouble a few Conscientious Objectors could cause if they really put their minds to it.

In short, Britain's grim determination to win had led the land of liberty to a degree of compulsion unsurpassed by friend or foe. As Mr. Justice Hilbery said*: "This country had given up all its liberties and handed them over, body and soul, for the time being to the executive." But for a nation to regain its freedom is all too often a difficult and laborious process. Still, there was a conscience clause, and there were Tribunals. What were the C.O.s like? How did the Tribunals work? These are the questions that now arise.

* *Evening News*, February 2nd, 1943.

CHAPTER 3

THE C.O.s AND THE TRIBUNALS

THERE was no such thing as a typical Conscientious Objector. That is the plain answer to anyone who would understand the phenomenon. C.O.s were of entirely divergent types, ranging from the Plymouth Brethren and the Jehovah's witnesses who took little part in the affairs of the world to the extreme Socialists and anti-parliamentary Communists whose endeavours were of this world and for this world; from the philosophical anarchists to the Roman Catholics, with most denominations and movements (except perhaps the Oxford Group) finding a place between these two extremes. They were neither saints nor sinners, but ordinary likeable men and women such as you meet in any bus queue or on any railway platform; such failings as they had arose from weakness and lack of confidence rather than from vice. In short, an honest, decent crowd of fellows.

Yet in each case there was some distinctive element, some feature of their social background that had caused them to take a different road from the rest. Sometimes it was family upbringing: the children of pacifist homes were usually, though not always, Conscientious Objectors. Sometimes it was the teaching of school or Church or party, where a respected teacher had imparted the germ of Christian or social pacifism. Sometimes, too, it was the undying experience of earlier war; or the reading of war books such as *All Quiet on the Western Front* which gave a vicarious experience of the horrors of 1914-18, or peace books such as *Cry Havoc* where individual pacifists sought to explain and persuade.

Clearly the basis of a man's objection was related to its origin. People talked glibly of the religious, humanitarian and political approaches, but it was never as simple as that. Others talked of a moral objection as if this were a separate category instead of a common factor in most applications. Perhaps it would be easiest to start from a concrete analysis. All the cases—3,353 in all—dealt with by the South-Western Local Tribunal at Bristol, over a period of two years, were analysed as follows:

SOUTH-WESTERN LOCAL TRIBUNAL—ANALYSIS OF APPLICANTS

MARCH 12TH, 1940-MARCH 20TH, 1942

	Category	*Number of Applicants*
1.	*Religious:*	
	Methodists	662
	Church of England	531
	Brethren	439
	Friends	302
	Baptists	187
	Christadelphians	166
	Jehovah's witnesses	155
	Congregationalists	143
	Roman Catholics	64
	Elim Four Square Gospel	42
	Seventh Day Adventists	37
	Assemblies of God	32
	Churches of Christ	28
	Salvation Army	26
	Christian Scientists	23
	Gospel Hall	22
	Pentecostal	21
	Jews	18
	Presbyterians	12
	Buddhists and Hindus	12
	Spiritualists	9
	Unitarians	9
	Other denominations (various)	128
2.	*General:*	
	Members of Communities (some religious)	61
	Humanitarian and moral	54
	Rational	20
	Ethical	17
	Unclassified (neither religious nor political)	57
3.	*Political:*	
	Socialist	51
	Communist	11
	National Socialist	8
	Others	6
	Total	3,353

This analysis should be taken as indicative only of general trends, for it covers only C.O.s from the area served by the Bristol Tribunal, that is, the counties of Gloucester, Wilts, Somerset, Devon and Cornwall, and the possibility of local variations becomes serious.

For instance, there was a well-known preponderance of Methodists and dearth of Presbyterians in that area, though this did not invalidate the general conclusion that the proportion of C.O.s among the former was high and among the latter low. Friends would have been more numerous in the Midland Region centred in Birmingham, while the presence of the Bruderhof at Ashton Keynes, Wilts, resulted in a somewhat fortuitous increase in the so-called "communiteers". In addition, the analysis was confined to men. But what of the main classification?

I have grouped the applicants, as best I could, into three main categories—religious, general and political. Was there really such a preponderance of religious objectors? I don't believe there was, any more than the compiler of the table; for if a man were asked his religious denomination (as each was at Bristol), it was natural to give the family faith to which he owed at least nominal allegiance, even though the basis of his objection were not specifically Christian: this was particularly the case with Church of England applicants (perhaps a corollary to the Anglican acceptance of responsibility for all men and women in the parish). A fairly representative Tribunal statement from a religious C.O. is the following:

> I have had the good fortune to be brought up in a Christian home, and to receive a sound Christian education both at the hands of my parents and of teachers at school. Since I was about fifteen years of age I have been a regular churchgoer. For several years I was a Sunday School teacher, and to-day I am an altar server at the Church which I attend. During my university years I was exercised by the problem of the Christian attitude to war and some years ago I came to the conviction that Christianity and war were, for me, incompatible and that I must take the pacifist position.
>
> The grounds on which I base my Christian pacifism may be briefly given as follows. I believe in the Fatherhood of God and the Brotherhood of Man. I hold that all men are brethren and I cannot take part in war against my brethren in God. I would add that God is a God of love and that He has revealed to mankind in His Son, Jesus Christ, our Lord, His way and His method of overcoming evil. This method is the method of love, best exemplified by our Saviour on His Cross. I am convinced that the Cross is the central point in the Christian faith, and that it shows forth the triumph of Love over the power of evil. Since I am accepting Christ as my Master I must adopt His methods, and I am convinced that the coming of the day when Christ shall

reign supreme in the world can only be achieved by the method of that sacrificing and redemptive Love which our Lord Himself showed forth in His Life, His Death and His Resurrection. Since I hold that the method of warfare is contrary to this method, I make my objection on these grounds.

I should like to add that I have tried to implement my beliefs by allotting a considerable amount of my spare time to the service of the Fellowship of Reconciliation of which I have been a member for some six years.

A good proportion of the applicants labelled "religious" might properly have been included as "general" objectors, typified by what one might call "the Peace Pledge Union C.O." Not that the P.P.U. was without its devoutly religious C.O.s; not that there were in it no fervent political C.O.s; but that the typical P.P.U. Objector was broadly humanitarian, broadly moral, broadly ethical. Though he might not go to church, his philosophy of life, consciously or otherwise, was often grounded on Christian pacifist thought and belief. To him had come an idealism that was as much a matter of faith as the creed of the religious. Consider, for example, the Tribunal statement that follows—mentioning in the first paragraph the early experience of war, the moral and rational conviction in the second, then the long record of service, and finally the religious objection raised only at the end. The applicant was John Barclay, a devoted officer of the Peace Pledge Union.

I have been a convinced pacifist since 1920. Previous to this I had served in the Army for 3½ years (1916-1919), seventeen months of which were spent on active service in France and Belgium. I took part in the Battles for Pilkem Ridge (Passchendaele), Cambrai and St. Quentin (March retreat, 1918), being promoted to the rank of Captain in 1918. Subsequently I was poisoned by mustard gas and demobilized early in 1919.

These experiences convinced me (a) that no matter for what causes war is wrong, and (b) that war defeats its own object which is to establish peaceful relationships between peoples, leading to a peaceful society. I was persuaded that violence opposed by violence always sows the seeds of future violence. It was this truth that led me to become a pacifist.

I am fully conscious of the immense difficulties such a belief must give rise to, especially in wartime. It is—and I think must be—a personal belief which can have little hope of offering an alternative policy to those who still believe in violent measures as a means of leading to ultimate peace.

It is, however, an essential part of our democratic faith that the convictions of the minority must be safeguarded, so long as they are held sincerely and are openly expressed.

As I am claiming complete exemption under the Act, I beg to submit the following facts as some proof that my convictions are sincerely held:

1920—I joined the No More War Movement (since merged with the Peace Pledge Union). During that year whilst temporarily unemployed I studied the published documents relating to the history of the war at the War Museum.

1921-1924—I took an active part in the social and political work then largely undertaken by pacifists, e.g. Clifford Allen—later Lord Allen—Fenner Brockway (Prison Reform), and with the very large number working for housing reforms.

1925-1926—In this year and for many months later I assisted Lord Ponsonby in his nation-wide Peace Campaign.

1936—After being employed by the London Co-operative Society for 12 years (1924-1936) I voluntarily resigned my position to work for Canon H. R. L. (Dick) Sheppard, then founding the Peace Pledge Union. In October I was appointed by Dr. Sheppard as the National Organizer of the P.P.U. and have continued in this appointment until the end of last year. I resigned over matters of internal policy in August but was retained on the paid staff until December last. I am still a member of the National Council and of the Central Executive Committee.

Besides my work for the P.P.U., I have for many years been an active member of the National Peace Council (Council and Executive member), Council for Civil Liberties, Union of Democratic Control and War Resisters' International, and a member of the Fellowship of Reconciliation.

For twenty years I was a member of the Finchley Unitarian Church whose minister, the Rev. Basil Martin, M.A., was a lifelong pacifist. I am a Christian pacifist and believe that only when we have renounced war and are prepared to face the consequences of such an act shall we be spiritually equipped to face the dangers and difficulties of peace-making. Until others are persuaded to accept this faith those of us who are pacifists must witness to this truth as we see it. We can do no other.

The number of political C.O.s in the South-West was a good deal smaller than might have been expected. Undoubtedly the area had the fire of revivalism rather than the ideal of socialism in our time, but, as we shall see in considering the C.O. movement, world circumstances had greatly reduced the dynamic of political objection. The number of political C.O.s was, however, artificially reduced by

another factor. The acceptance of political objection as "conscientious" within the meaning of the Acts was by no means invariable—indeed, a straight claim of political objection was often the surest way to be denied exemption—so that socialists who could frame their objection equally well on humanitarian or political grounds often chose the former: and if C.O.s who took the other choice commended themselves to the Tribunal they might actually be invited to say that their claim was in fact ethical or humanitarian.

Many purely political C.O.s were not completely pacifist, their treatment by the Tribunals being described in Chapter 5. Here, for instance, is part of the interrogation of Walter Padley, I.L.P. organizer for London and the Southern Counties, by the Appellate Tribunal at London on November 21st, 1940. Note this C.O.'s insistence on historical background and his apparent shyness of the straight question as to how to deal with aggression:

Lord Fleming (Chairman of the Tribunal): "Do you object to any war?"

Padley: "No, my position is this. It is my conviction that the use of force is justified only if on balance it will save human life and prevent human suffering. That broad principle, based on the principle of humanity as a whole, is my guiding principle. I cannot say I would oppose all wars. Some may prevent human suffering. If the capitalist economic system continues we shall witness more and more sordid claims for raw materials, and I believe a socialist system would eradicate that evil and that the I.L.P. would use force if it was essential to the better system. . . ."

F.: "In what kind of war are you prepared to take part? Are not Italy and Germany trying to impose their ideas on other nations by a force which would not be adopted by the majority of the citizens in those countries? When you speak of a majority I am assuming that the Government is established by the majority. Are not Germany and Italy trying to set up minorities?"

P.: "I do not believe that the people of Italy and Germany are guilty so far as this war is concerned. I believe it has a long historical background and that the Governments of all Great Powers are responsible because Hitler could not bring such mass support to his ideas without the support of other great Powers. . . ."

F.: "What is the alternative to resisting Nazi aggression by force? What do you think will happen in this country to the socialist and trade union movements if Hitler succeeds in dominating this country as he has Europe?"

P.: "I would not support a victory for Hitler or for British Imperialists. I think if Britain won she would impose another

Versailles Treaty. I see the drift towards totalitarianism in Britain to-day."

F.: "What alternative method do you see to resist Nazi aggression other than by force? Assuming the Nazi Government dominated this country as they have others, what is going to be your position?"

P.: "I believe Hitlerism in Germany can only be destroyed by the German people themselves. All that we can do is to take an international line and repudiate the policies which produced Versailles and thus encourage the German people to revolt against the Hitler regime."

F.: "That may be true, but you still have not answered my question. What is the alternative to acceptance of Nazi aggression?"

P.: "I am ready to admit that the Hitler conquest of Britain would be the complete destruction of the free labour movement."

F.: "If you were in Germany you would not be able to sit at a table like this which gives you the right to state your conscience."

P.: "No. Nor if I were in any of the European Allies of Britain. Certainly not in France. Nor in Poland, nor in Greece."

F.: "The point is you have it here. It is all the more precious if you make out that it exists nowhere else in the world."

P.: "Jawaharlal Nehru is in gaol for making an anti-war speech—therefore it seems to me that is not liberty of conscience—and for a speech for which James Maxton is not imprisoned here. I do not see the only outcome of this war as being either a British victory or a German victory. I believe that the world cannot offer any hope for humanity unless another solution is reached, and that is the common feeling of the people of all countries."

Padley, who was registered for non-combatant duties in spite of his unconditionalist stand, later came to prominence as a writer on economic and political problems. Contesting Acton as an I.L.P. candidate in December, 1943, he made no secret of his C.O. position; for the last two days the loudspeaker cars of his principal opponent howled against the "conchie candidate" but apparently to little effect, for Padley polled 28 per cent. of the votes (2,336 votes as against the winning candidate's 5,014 in a four-cornered fight) which he felt quite a reasonable total.

But the C.O.s have held the stage long enough and it is high time to turn the spotlight on to the Tribunals themselves. It was

on July 27th, 1939, that the first Tribunal sitting for twenty years took place, at Birmingham under the chairmanship of Judge E. H. Longson, the other members being Professor J. G. Smith, Vice-Principal of Birmingham University; G. Trevelyan Lee, a former Town Clerk of Derby; Councillor E. Purser, a former Labour Lord Mayor of Birmingham; and A. H. Gibbard, General Secretary of the National Society of Brass and Metal Mechanics. The Tribunal, then operating under the early Military Training Act, was polite and reasonable and there were few questions designed to counfound applicants, though even then the age-old questioning about saving life in a non-combatant section of the Army was beginning to recur. For instance, one C.O., E. W. F. Harries, stated that he was a Christian, and could therefore have no connection with military service, but would sustain or save life provided it was not connected with the military. "In the meantime I inevitably become a member of the war machine," he added.

Judge Longson: "Yes, that is true, but I am not going to argue."

A member of the Tribunal (to witness): "Why is he not willing to help save life in the R.A.M.C. in the case of victims who would not be rendered such by any action of his?"

Harries: "I am automatically assisting the war machine, and that is what I am opposed to. The next war will be against the civilian population, and therefore the greatest need will be at home."

Tribunal member: "Does the applicant understand the R.A.M.C. is a non-combatant service, not responsible for any casualties? He will only be there to save life."

Nearly all the C.O.s were accompanied by ministers or friends whose testimony received full consideration. Six Christadelphian applicants were represented by John Carter, editor of the Christadelphian magazine, as a personal friend, but no lawyers appeared. That day twenty cases were dealt with, of whom only one, a C.O. with medical disability, was unconditionally registered. Two failed to appear and had their cases adjourned; two were registered for non-combatant duties "such as the R.A.M.C.", and the remaining fifteen were registered for alternative civil work, varying from their present occupation to six months in an agricultural work camp specially allocated to C.O.s under the Ministry of Labour. The Tribunal seemed to have little understanding of the unconditionalist case: certainly no recognition of its validity was reflected in their

"The Tribunal has decided to grant you total exemption, subject to your giving an undertaking to secure immediate employment as a full-time gladiator."

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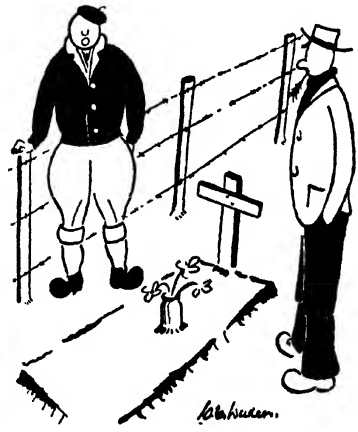
POCKET CARTOON

"I understand he's registering as a conscientious objector."

DAILY EXPRESS



"He was *on* the land until the Lords passed their amendment."

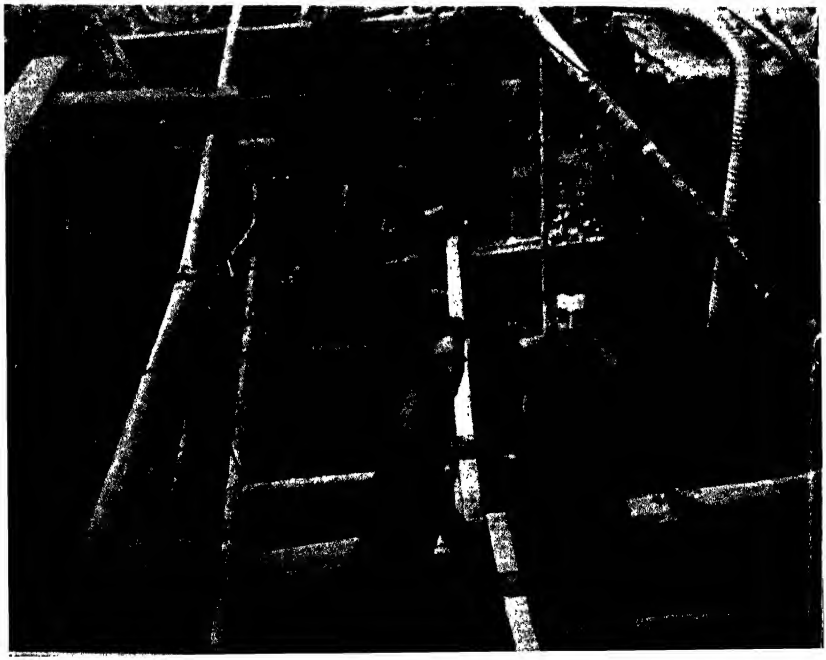
PEACE NEWS

KEYSTONE

CONTRAST IN THE ARMY

FROM DINGLE VALE TO COURT-MARTIAL.

DIGGING FOR BOMBS WITH THE N.C.C.



decisions. But then neither had any C.O. been found insincere and been removed from the Register of C.O.s for full army training.

The next Tribunals to be held were the South-Western at Bristol and the South Wales at Cardiff, both of which first sat on August 9th, while others followed in the next few weeks. In the first three days at Bristol 26 out of 86 applicants were registered without conditions, the proceedings being marked by scrupulous fairness, but at Cardiff a Tribunal somewhat similar to that at Birmingham gave complete exemption to only one of the twenty-six applicants heard in two days, and tended to press alternative service on all comers. The disparity in despatch of business can be seen from the number of cases taken. From the outset arrangements were made under which applicants who so desired could conduct their cases in the Welsh language before a suitably constituted Local Tribunal.

Sometimes grave objection was taken to the practice of holding " mock " or " trial " Tribunals, when friends of a C.O. expecting to be called before a Tribunal would rehearse beforehand, submitting the C.O. to an examination often more searching than the reality. There was no great element of disrespect in this, and Tribunals had themselves largely to blame for its occurrence. Before the Tribunals had begun, C.O.s were counselled to be completely spontaneous in their answers, but the coming of catch questions and doubtful logic caused a section of the movement—particularly among members of the Fellowship of Conscientious Objectors—to turn to more careful preparation, so that each C.O. should be able to avoid the pitfalls into which the uninitiated might easily fall. Fellowship meetings, too, sought to help C.O.s to clarify their minds on the implications of their stand. In the autumn and winter of 1939, for instance, Dr. C. E. M. Joad and others held regular discussion meetings at Dick Sheppard House, London, for that very purpose, taking care to avoid the danger of the tutored conscience, similar meetings being held in innumerable other centres throughout the country.

With the outbreak of war came the first real attempt to press C.O.s into non-combatant military duties. At the Edinburgh Local Tribunal, which began on September 6th, the matter was so obvious that an observer wrote :

> The Tribunal, after the first four cases, was obviously aiming at placing every applicant in the Army for non-combatant duties. Every question was directed to that end. So much was this the case that one applicant who said immediately that he would accept non-combatant duties was thanked by the Chairman for

saving the Tribunal "quite a lot of trouble". . . ! The result was to convince me that the Tribunal was quite unfair.

It was not long before this pressure to accept non-combatant duties evolved into a notorious dilemma. It usually started by the Chairman asking: "Would you help a wounded man?" If the applicant answered "Yes," the Chairman would continue: "Then you can have no objection to going into the R.A.M.C. You will be registered for non-combatant duties." But if the applicant, fearing he could not argue himself out of that, said "No," the Chairman promptly rejoined: "Then you are quite inhuman. You can't be a genuine Christian (or humanitarian or socialist); your name will be removed from the Register of Conscientious Objectors and you will become liable for combatant military service." The evening newspapers would then blazon the fact "OBJECTOR WOULD LEAVE WOUNDED MAN", much to the discredit of the movement as a whole.

The most complete answer, of course, was to reply "Yes" to the first question and go on to explain that this did not mean a willingness to do non-combatant duties because, first, there was no guarantee that the C.O. would be called up for the Medical Corps; because even that Corps was part—a very necessary part—of the Army and its members were soldiers subject to military discipline and bound to obey the orders of their superior officers; and because even if the immediate duties of the R.A.M.C. could be regarded as unobjectionable it was merely subsidiary to the main purpose of the Armed Forces which was to defeat the enemy by the methods of war, a process that the applicant was resolved to oppose, come what may.

Yet the ordeal of appearing before the five mature and experienced men of the Tribunal, each supporting the others with leading questions along the well-worn path to non-combatant duties, was often too much for the applicant. The best that some could do was to say, "But then I'd be in uniform!" which led the Tribunal to exclaim: "We've never heard such nonsense about 'wearing uniform'—surely everyone has to be clothed! It's the quality of what you do that counts, not what you wear. What does it matter if you wear khaki?" Of course, it was not the uniform itself that mattered, but the things it symbolized. All too frequently, however, the Tribunals deliberately chose to misunderstand. In course of time many Tribunals developed a strong antipathy to the phrase "military machine" when used by C.O.s to describe the Armed Forces, combatant or otherwise. If the applicant, goaded by catch

"routines" and misunderstandings of this kind, finally lost his temper and told the Tribunal some heartfelt truths, he had "shown that his pacifism was but a pose" and he could not be a genuine Conscientious Objector. The Tribunal looked on that as another victory for their interrogation and tackled the next man with renewed enthusiasm.

It must be conceded that some C.O.s put up a pretty poor show, even with the anxiety of the circumstances taken into account. For not all Tribunals indulged in catch questions such as the hoary old chestnut: "If your mother were attacked by a German, what would you do?", or, at a time of total war, the more subtle, "Don't you think your present work is helping the war effort?" Questions in fairly wide use were: "Do you realize that thousands of better Christians than you are fighting this war as a holy crusade?" "Your Church has approved the war; what right have you at your age to question its wisdom?" "How can you set yourself against all these other people?" "You have a fine conceit of yourself, haven't you?" "Why would you help the sick and wounded individually but object to being organized to help them?"

Religious objectors in particular were sometimes asked: "When did you last go to Church?" "When did you last read the Bible?" "Do you know that the Commandment 'Thou shalt not kill' refers to private murder and has nothing to do with war, as God was leading the Israelites to war when it was given?" "Why do you object to killing if you believe in the Resurrection?" "Do you regard all soldiers as murderers?" "Couldn't you keep yourself as unspotted from the world in the Army as in the upholstery trade?"

On the other hand, the humanitarian objector was often asked: "What sacrifices have you made for your principles?" "Why haven't you taken a course in first-aid?" "What would you do if Hitler landed in England to-day?" By the time he had got out of these the Tribunal would ask: "Aren't you forgetting your neighbour in 'loving your enemies'?" "Would you use an air-raid shelter?" "Then how can you object to A.R.P. duties?" "Would you work on a farm to help produce food for the civilian population?" "If you object to taking life are you a vegetarian?" "Don't the black-out regulations offend your conscience?" "Don't you want to shorten the war by bringing it to a speedy conclusion?" "If you had your own job as a condition of exemption, would your conscience make you leave it?"

It was curious how the atmosphere of the Tribunals varied

between extremes of formality and informality. In some cases the Tribunals were held in court-rooms, as for instance at the High Court of Session in Edinburgh and at some of the County Courts where the Tribunal Chairmen were accustomed to preside. In such cases great efforts were often made to impress applicants with the judicial character of the proceedings: the Tribunals were referred to as "courts" and some attempt was made to introduce the leading features of court procedure. Applicants easily became ill at ease as they were questioned from the raised Bench while standing in the well of the court or in a witness box reminiscent of the dock; for C.O.s invariably felt at a disadvantage when questioned by men on a physically (as well as possibly an intellectually) higher level. In one area at least there was earnest discussion as to whether the Chairman should wear his County Court robes while presiding at Tribunal hearings.

At the other end of the scale, however, great efforts were made to put applicants at their ease, and as many C.O.s felt that their whole future might turn on the decision of the day this understanding attitude was widely appreciated. The Appellate Tribunals, in particular, were usually held in a room of ordinary size with the Tribunal members seated at one table and the applicant, perhaps with his representative, seated at another facing them. The Clerk to the Tribunal and the Ministry of Labour representative, when present, would sit at separate tables at the side of the room, and while the formal type of Tribunal, intentionally or otherwise, somehow gave C.O.s the impression that they were "on trial", the latter seemed to make a greater effort to understand the basis and extent of objection, though this was seldom inconsistent with a searching examination. One objection to an informal atmosphere, however, was that the proceedings were largely inaudible to the public.

Before the hearing each member of the Tribunal would be handed a typed copy of the applicant's statement and, in the case of Appellate Tribunals of the findings of the Local Tribunal with notes of any further evidence obtained at the hearing (usually extremely brief and often misleading). In some cases the Chairman or Clerk of the Tribunal would read out the applicant's statement or grounds of appeal, but this was not invariably the case. The C.O. might then be asked if he wished to add anything to what he had written, after which the Tribunal interrogation would begin, its length and nature varying from case to case. As the questioning ended the C.O. was asked if he had any witnesses, often the signal for a minister or friend

to give an estimate of the C.O.'s character with evidence of his background, any offices held or service done. Testimony was seldom required on oath, and there was a wide discretion as to the type of evidence allowed, letters and press cuttings being admitted freely. Some C.O. writers produced their books and articles, and artists their paintings, drawings or cartoons.

Tribunal decisions were nearly always announced orally. Sometimes this followed a whispered consultation among the members ("Oh, I think he's genuine all right!" could occasionally be heard). Sometimes all the day's decisions were reserved and announced the following morning. Sometimes the Tribunal would retire for discussion after every case, or every three or four cases, and announce its decisions on returning.

The actual decisions, too, varied a great deal, the variation being only partially corrected on appeal. Up to May 4th, 1940, when the seventeen Local Tribunals had reached the peak of their work, 14,084 C.O.s had been dealt with, some of the wider differences being shown in this extract from the table of results.

Local Tribunal	*Unconditional Registration*	*Conditional Registration*	*Non-combatant Military Service*	*Rejected*	*Totals*
London	38 (2%)	775 (31%)	1,107 (45%)	552 (22%)	2,472
South Wales	84 (8%)	477 (43%)	349 (31%)	196 (18%)	1,106
North Wales	65 (9%)	522 (74%)	75 (11%)	44 (6%)	706
South-West Scotland	193 (25%)	145 (19%)	114 (15%)	310 (41%)	762

In plain words, C.O.s registered unconditionally varied from 2 to 25 per cent.; those given conditions from 19 to 74 per cent.; those given non-combatant duties from 11 to 45 per cent; and those refused exemption from 6 to 41 per cent. How unlikely was the disparity to be that of conscience!

The work specified for "conditions" differed almost as much. Some Tribunals made frequent use of the condition of "present occupation", while others made a point of putting men to other work as a rough and ready means of preserving equality of sacrifice. In the early stages some men were registered for "work of national importance to be specified later": work on the land was always a

favourite, Civil Defence (A.R.P. and N.F.S.) being a close runner-up. Hospital work became frequent as man-power needs changed. Gradually the practice grew of giving alternative conditions, so that a C.O. who expressed a general willingness to do civil work might well find himself with an "omnibus" condition on these lines: "Full-time work in agriculture or forestry under or approved by a public authority or full-time duties in Civil Defence or full-time work in a hospital as a stoker or porter." Other conditions given included "full-time civil hospital or ambulance work"—acceptable, for example, to the Friends Ambulance Unit which strongly deprecated conditions that C.O.s should enter the F.A.U. In the later stages of the war, "coal-mining underground (if fit), or (if unfit) full-time work on the land under or approved by a County War Agricultural Executive Committee" became common when a C.O. expressed willingness to mine coal, though few Tribunals foisted coal-mining upon an unwilling applicant.

All the time liberal elements in public opinion had been seeking to improve the Tribunals, by removing the admitted defects and infusing a greater spirit of impartiality. The effect of these will now be seen.

CHAPTER 4

THE TRIBUNALS AND THE C.O.s

EVER since the Tribunals had been established a running fire of Questions had been kept up in Parliament. Some had been directed at the faults of individual Tribunals, the disparity in statistics over the various areas, and apparently erroneous decisions. The Tribunals presided over by Judge Richardson at Newcastle and Judge Stewart at Leeds had their full share of publicity. Others, from the Conservative Benches, were designed to show up the inconsistency of the Objector and the insidious effect of his propaganda on the war effort. But what was really needed was a chance to discuss the position as a whole, an opportunity taken on February 22nd, 1940, when the time came to consider a supplementary vote for the Ministry of Labour and National Service. The discussion of conscience was initiated by the Rt. Hon. F. W. Pethick-Lawrence (now Lord Pethick-Lawrence), who as a Conscientious Objector of the First World War had been given an unacceptable decision by his own Local Tribunal, so that there was no doubt as to his understanding the position. Wisely Pethick-Lawrence based his criticism not on particular cases but on the spirit in which some of the Tribunals carried out their duties: that they were faced with no easy task he fully recognized.

> "I think that, speaking generally and broadly," he said, "we must be grateful to these people who are prepared to serve on these Tribunals and perform an exceedingly difficult and exceedingly unpleasant task. I have not got up to attack the Tribunals as a whole, or to condemn either their procedure, their conduct or their judgment. I have risen in order to point the attention of the Committee and of the Minister to the fact that the proceedings in some of these Tribunals are undignified, unseemly, and not really in accord with the wishes of the House of Commons. It is not very easy either to prove or to refute that charge, because it is a matter of atmosphere. . . .
>
> "What I am told about particular Tribunals that I shall mention is that, instead of the judicial atmosphere which ought to prevail in a Tribunal, there is a carping, bullying, brutal attitude taken up in them which is not the one which commends itself to people who wish to see judicial decisions reached."

But Pethick-Lawrence had no difficulty in sensing the strain to which Tribunal members were subject.

> "The applicant has to face the members of the Tribunal," he continued, "and they themselves have to do the cross-examining. I think that that puts them somewhat in a difficulty, because they are both cross-examining the applicant and arriving at their verdict in the end; and, although some may succeed in maintaining judicial impartiality while doing so, the information which reaches me is that some do not. I will give two illustrations.
>
> "Three names were called out at the Newcastle Tribunal. The names of Donald, Cameron and Douglas were called out, and at once the Chairman, Judge Richardson, remarked: 'Good fighting names. I think the holders of some of these names would turn in their coffins if they could hear what some of these people are saying.' That is a very improper remark for the Chairman of a Tribunal to make. The House of Commons has decided that it is not a crime, that it is not even contemptible, to be a Conscientious Objector if the person is genuine. Yet these insulting remarks are poured out by the Chairman as soon as the names of these applicants are announced. In the West London court, Sir Edmund Phipps called out, in the midst of the proceedings: 'These miserable creatures'; and later, when they were speaking, he said, 'What tosh!' Surely these are not judicial remarks."

And he expressed the strain on the applicants just as effectively when he said:

> I do not mind saying that, although I first came into this House in the year 1923—and I have been here nearly ever since—it is only in the last year or two that I have risen to my feet without having a certain sense of nervousness in addressing this Assembly. Here you have young men who have this sort of secret in their hearts. They think in some way that they have got something a little different from other people. They have never really been brought fact to face with hard-headed men who are to cross-question them, and instead of their questioners trying to arrive at what is really in their minds by a little quiet talk, they are rushed at, and, in many cases, deliberately confused. That is not the way to arrive at the truth. . . .

To any readers seeking a cross-section of opinion on the Conscientious Objector I warmly commend *Hansard* for February 22nd, 1940. Lady Astor's tolerance of Christian objectors, for instance, was more than matched by her contempt for the political C.O. The

fire of John McGovern was subdued as he told how men could often feel better than they could express. "I claim", he said, "that Tribunals are entitled to take into consideration that attitude and not harry, or pass observations of a contemptuous kind on the person before them, and make him feel that he is propagating views which are alien either to the Tribunal or to the nation." Colonel Burton, Sydney Silverman, Victor Raikes, the late David Adams, George Tomlinson (now Minister of Education), Chuter Ede (the present Home Secretary), Ernest Bevin and Creech Jones each made their individual contributions to a discussion that showed a real desire to remove at least some of the more blatant defects of the Tribunal system.

Most Objectors felt no difficulty of conscience in registering and applying to their Local Tribunals, but others felt unable to do any act which could be regarded as co-operating in the working of conscription. Indeed, one of the strangest stories of the early war period arose from the Ministry's difficulty in dealing with obviously genuine C.O.s who refused to register or appear before a Tribunal, for in an attempt to avoid the prosecution that would undoubtedly have followed the Ministry laid itself open to strong criticism from the more Conservative side of public opinion.

It happened like this. Reginald J. Porcas, a young Norbury pacifist, refused to register and wrote to the Minister saying that he was determined to resist conscription to the limits of his strength as he could not admit either the moral right or competence of any Tribunal to pass judgment on his conscience. After a good deal of correspondence Porcas was invited to go to the Ministry's headquarters for an interview with a "high official" who turned out to be G. H. Ince (later Sir Godfrey Ince, Director-General of Man-Power). Subsequently Porcas and another man, Horace Mayo of Manor Park, were registered as C.O.s *by the Ministry of Labour* and their cases were referred to the Local Tribunal. They did not appear and, as was inevitable, their names were placed on the Military Service Register forthwith. And there they would normally have stayed. But these C.O.s must have carried conviction at Montagu House, as it was learnt that the Ministry itself had decided to appeal on three grounds:

> (*a*) that in the Minister's opinion there are reasonable grounds for thinking that Mr. —— is a Conscientious Objector; (*b*) that the Local Tribunal should have dealt with the case on the evidence before them notwithstanding the absence of Mr. ——; and

(*c*) that on the evidence Mr. —— ought, without conditions, to be registered in the Register of Conscientious Objectors.

When the two appeals came to be heard, the Appellate Tribunal, after much questioning of the Ministry of Labour representative by Sir Leonard Costello, decided to adjourn for further consideration, but at the second hearing both C.O.s were registered without conditions, despite the fact that they had not applied to or appeared before any Tribunal, Local or Appellate. The Minister did not find it easy to justify his intervention when, in the House of Commons on July 25th, 1940, Colonel Burton, Ernest Thurtle (a son-in-law of George Lansbury), Major-General Sir Alfred Knox and E. A. Radford took part in a lively discussion ; and the experiment was never repeated. Henceforth if a C.O. was not prepared to apply to a Local Tribunal his case would be heard in his absence and he must take the consequences.

Time had a wearing effect upon the Tribunals. The Ministry of Labour had gone to great trouble to secure members who were, on the whole, as satisfactory as could be expected of those willing to serve, and the majority embarked upon their task with a firm resolve to be scrupulously fair and impartial. Judge Burgis, for example, opening the first session of the North-Western Local Tribunal at Manchester, was at pains to announce that he and his colleagues entered upon their duties with sympathy and diffidence because they realized that matters of conscience were sacred. "I hope", he said, "that those who come before us will not resent our questioning. . . . We have to plumb the depths of an applicant's convictions, and to see that conscience is not made a cloak." In their task the Tribunals were helped by the absence of the "military representative" who had so often reduced to absurdity the proceedings of the Tribunals of thirty years before. The Ministry of Labour representative, when present, rarely intervened and when he did so it was usually to correct misstatements of fact.

But few Tribunal members were improved by their experience. Basically, perhaps, it was the impossibility of judging another man's conscience that made the difficulties of their task seem overwhelming, but, apart from this, the strain of hearing a never-ending procession of Objectors put forward views with which they were in fundamental disagreement needs no emphasis. As the military position grew worse so did the Tribunals deteriorate, yet when the situation improved the Tribunals kept to the comparatively low level to which they had sunk.

In the inter-war years the Tribunal abuses of the First World War had become legendary. Complaints of unjudicial behaviour had been widespread and there were few C.O.s of the First War who could not tell tales of the local Tribunals that amazed and shocked those of the Second. So serious had the position become that in 1916 the Local Government Board had sent a Circular to all Tribunals pointing out that "whatever may be the views of the members of the Tribunals, they must interpret the Act in an impartial and tolerant spirit. Differences of conviction must not bias judgment." Again, on May 23rd, 1916, Hayes Fisher, on behalf of the Local Government Board, had declared in Parliament that "members of Tribunals, whatever their personal opinions, should refrain from any action which might possibly appear to throw doubt on their impartiality". By the early summer of 1940 the same charges of intolerance and partiality, albeit on a less serious scale, could be levelled at many of the Tribunals, particularly the Local Tribunals. This was evident in two ways: first, in their conduct, and secondly, in their decisions.

On the first point, for instance, Charles Graves, attacking C.O.s in the *Daily Mail* as early as October 26th, 1939, had told how he sought out a member of the London Local Tribunal, Sir James Baillie, who had told him "that in his opinion many of the Conscientious Objectors really mean that they are afraid of being killed themselves when they say that they don't want to kill other people". To a C.O. who claimed that the nations would be better off by passive resistance than by fighting, Judge Stewart said*: "I am not prepared to sit here and be talked to by an infant of twenty on these sort of lines indefinitely. It is unadulterated tripe and nonsense. You are not fit to be allowed to be loose talking that sort of stuff." And at about the same time, Alderman Aveling, a member of the North-Western Local Tribunal, told Southport Chamber of Commerce: "If you had to sit and listen to what we had to listen to, and had not a sense of humour, you would be worried to death and think we, as a country, were going to the devil." Indications such as these could be multiplied by the dozen.

Now the bark of many Tribunals was worse than their bite. But the "bark" was of great importance because the public impression of C.O.s was based as much upon newspaper reports of Tribunal hearings as on any other single factor. The general public seemed to imagine that, in a question that was admittedly enveloped in prejudice, the dicta of Judges presiding over Tribunals amounted

* April 11th, 1940.

to judicial summaries of proved facts and constituted the one reliable guide to a true understanding of " these Conchies ". It was inevitable, perhaps, that in time of war the attitude of the press should be hostile, and that most reports should select the eccentric cases and generally show C.O.s in a poor light. This tendency was fairly constant, however : it was the material that the Tribunals gave to the press that showed increasing hostility. Examples of bitter, sarcastic remarks and sneering, derogatory " judgments " appeared, wholly at variance with the spirit that animated the Circular of the First War and the earlier intentions of the Tribunals in the Second. Unfortunately, the much larger number of cases before Local Tribunals received wider publicity than the appeals heard by the more judicial Appellate Tribunals.

At the same time the decisions themselves became harder, though here the deterioration was less noticeable than in the general conduct of the Tribunals. Largely owing to the military emergency in the period of 1940 covered by the fall of France, the evacuation of Dunkirk and the Battle of Britain, nearly every Tribunal reduced its scales of exemption. As will be seen in Chapter 16, the number of C.O.s unconditionally registered suffered a sudden decline, the figures for " unconditional " having remained substantially at their new level ever since. This tendency affected not only the Local but the Appellate Tribunals ; the latter showed a marked reluctance to grant unconditional registration even to C.O.s applying from prison after refusing medical examination. In this type of case, too, there was a wide disparity between the various divisions of the Appellate Tribunal, details being given in Chapter 11. The Tribunals which had started with such high professions had sunk, not, it is true, to the scandal of 1916, but nevertheless to a mediocrity that inspired no one.

Yet a striking feature of the war was the proportion of our younger artists, composers and musicians who took the stand of conscience and applied to the Tribunals even when faced with the full intensity of war propaganda ; though naturally the numbers were small, the effect was great. To the spirit of an artist three factors served to bring this about. First, the artist was aghast at the complete destructiveness of modern war ; he saw the work of mediaeval craftsmen (who had laboured in much the same way as himself) wiped out at the fall of the bomb-rack : seeing beauty and goodness transformed to desolation and hate, his whole being was revolted at the savagery not merely of the Nazis and the Fascists but of the war as a whole.

For him war itself was the spoiler, the enemy to be fought. Secondly, in art there is a spiritual element that rejoices in the constructive, seeking to share in the advancement of the aesthetic ; and what more natural than that this sense of construction should be contrasted with the forces of destruction? What more natural than a refusal to take part in the holocaust? And thirdly, hand in hand with the innate pacifism of art went the artist's sense of vocation to continue his life-work. Just as the fundamentalist religious Objector must not turn aside from his service of God to the service of man, so the musician and the actor held to his work with an iron grip that would not let go. It was not a consciously selfish attitude, for these men and women were convinced that their real contribution to world betterment lay through their art and in no other way. That others were being taken from the direct path to serve in other fields was immaterial: they were responsible for their own actions and their consciences impelled them in one direction alone.

The elements of pacifism and vocation did not invariably co-exist. Such pacifist artists as were content to gain experience and widen their outlook by other service in an emergency accepted alternative service with such grace as they could muster. But the pacifist with a calling was led to the unconditionalist stand. Should "unconditional" be given him? The Appellate Tribunal, with some width of vision, decided in the affirmative, for one admitted ground for complete exemption was that the C.O. was devoting his energies so fully to the national advantage that compulsion was unnecessary.*

Par excellence, this was the man of talent, and under this head Benjamin Britten, composer of the opera *Peter Grimes* and destined to become one of the greatest of modern musicians, and Clifford Curzon the pianist, were completely exempted from Army service. When the latter appeared before the Appellate Tribunal on June 26th, 1941, Dr. William Walton, the composer, gave evidence on his behalf. "Are you a music critic?" asked a member of the Tribunal! Victor Pasmore, court-martialled in the Army and sentenced to four months imprisonment, was unconditionally registered at Edinburgh on September 30th, 1942. Pasmore, described as "one of half a dozen men in England whose art is important for the future", produced a letter from Augustus John describing his work and character in high terms. Ironically, at the very time Pasmore was in prison, some of his work was included in a London exhibition entitled "Artists of Fame and Promise".

* See also Chapter 16.

On the other hand, Clifford Evans, a stage and screen actor who had taken the title role in the film *Penn of Pennsylvania*, was given non-combatant duties and served in the N.C.C. Peter Pears, the tenor, and Colin Horsley, the New Zealand pianist, were left with registration conditions, but each was later permitted to carry out specific work in music. Michael Tippett who, one critic claimed, was writing as good music as anyone in the world to-day, was registered to do " full-time work in A.R.P., in the N.F.S. or on the land ". He refused to comply: Dr. Vaughan Williams pleaded with the Magistrates on his behalf but the composer of *A Child of Our Time* was sent to Wormwood Scrubs for three months. William Wordsworth, a descendant of the poet and a composer of great promise, went on to the land.

Cases such as these raised in a pronounced degree the old conflict between the claims of society and the rights of the individual. If complete exemption were in the national interest must it be refused because incidentally it would give preference to an individual? And what was the real " national interest "? The clash was amusingly seen in the case of a young dancer, Raymond Farrell, whom the Local Tribunal at Edinburgh registered conditionally on his continuing his present occupation as a ballet-dancer. How opinion in Presbyterian Scotland jibbed at this! The outcry was taken up in the press; even the Ministry of Labour felt it must take the case to the " Appellate ". To fit in with Farrell's professional engagements the appeal was heard in London on July 7th, 1942. Robert S. W. Pollard, joint legal adviser to the Central Board (for Farrell), handed in a characteristic post-card from Bernard Shaw to the Tribunal:

DEAR SIRS,

There can be no doubt that the decision of the Local Tribunal in the case of Mr. Farrell was perfectly sensible and correct. By far the best service he can do is to dance through the war. Skilled dancers are very scarce and their recreative value for tired soldiers enormous.

Possibly there are people who know nothing about dancing or any other fine art who imagine that Mr. Farrell would be more usefully employed peeling potatoes or blacking shoes; but I can hardly believe that they are to be found in the Ministry of Labour. If they are they should be sacked at once, and the Local Tribunal's wise decision emphatically upheld.

Faithfully,

G. BERNARD SHAW.

Farrell himself did not object to land-work as a matter of conscience but felt his best service lay in art. In a covering note to the solicitor, Bernard Shaw had given this shrewd advice:

> I have no *locus standi* in Raymond Farrell's case; and my interference might affect the Tribunal prejudicially.
>
> The point to urge is that whereas an actor can serve through a war and achieve the highest distinction in his profession afterwards (for instance, Sir Cedric Hardwicke), a ballet dancer is disabled completely by it as he can maintain his skill only by daily practice and arduous exercise until he is too old for it.
>
> Ballet, with its colour and music and crowds of attractively dressed girls, is by far the best relaxation for soldiers on leave. Male dancers are scarce and indispensable.

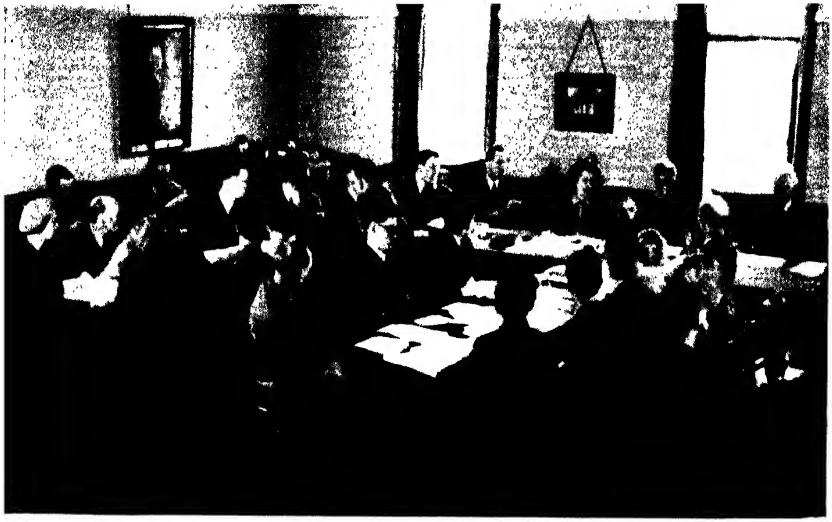
Robert Pollard took his advice and won: the Ministry's appeal was dismissed and Farrell was allowed to continue with his art.

Many artists from the Army have known the highlights of experience, but it may well be that those who refused to go got nearer to the heart of the people, and this, if they understood it aright, should give their work an added depth and warmth.

When the much-publicized National Service (No. 2) Act came into force on December 18th, 1941, 46,510 cases of men had been dealt with locally, and the Appellate Tribunals had heard 13,059 appeals. Speculation was rife as to how far the conscription of single women would increase the work of the Tribunals. Would there be relatively more C.O.s among women than among men? The Tribunal members, most of whom had never relished their task, began to feel it quite unpleasant, for not only were women on the whole less able to express themselves than men but they were also more emotional and more easily upset by Tribunal questioning; in addition, they shared the men's reticence to having their inner feelings discussed and criticized in public. Women, too, showed a tendency to put forward other grounds besides conscience: difficulties at home, physical unsuitability and other circumstances were sometimes included in one glorious objection to service.

To help the Tribunals in their new duties an Order in Council* was issued on January 22nd, 1942, providing that Local Tribunals should consist of a Chairman and six other members, two of whom should be women. At least one man and one woman were to be appointed after trade union consultation. Of the six members of the Tribunal only four (in addition to the Chairman) were to be

* S.R. & O., 1942, No. 93.



THE BOARD IN SESSION

AT A C.B.C.O. MEETING

SOME OF THE OFFICERS

were summoned. When the sitting was resumed the rest of the cases were taken and Constance Bolam was registered conditionally on doing land, canteen or hospital work, which she was of course unwilling to do. It was clear that this Chairman felt strongly on the subject of women C.O.s. Indeed on September 21st he told Hexham Rotary Club that the young women were more poisonous than the young men—they were more self-assertive; and that the greater proportion were not genuine C.O.s at all and were nothing more or less than deserters.

Curious cases were not lacking. When Miss Alice Holmes, a young Bradford hairdresser, said she objected to taking life the following surprising dialogue took place between her and Professor D. McCandlish, a member of the Tribunal:

Professor: "Do you object to taking any form of life?"
Applicant: "Yes."
Professor: "Cannot you take insect life?"
Applicant: "No."
Professor: "And you a hairdresser!"

A young dressmaker of Bradford, Miss Olive Laming, said she objected to the Women's Land Army because she believed it was part of the Forces and she did not believe in wearing trousers. Jean Porteous, daughter of Ethel Mannin, was removed from the Register by her Local Tribunal.

Very few of the women were registered unconditionally, the main decisions being "removed from the Register" and "conditionally registered". A few were ordered to be registered for non-combatant military duties, their position being long in doubt, for the Women's Services were essentially combatant, even though the handling of lethal weapons was left to volunteers. As the War Office did not feel justified in setting up a non-combatant section in any of the Women's Services, women registered for non-combatant duties were not called to the Services but in practice were "directed" to suitable civil work, such as hospital or land work, or to full-time Civil Defence duties.

By the end of the war only 1,072 women had appeared before the Local Tribunals, of whom as many as 427 had appealed. But these figures, as explained in Chapter 2, bore little relation to the actual number of women—even single women—C.O.s, for it was only when a transfer to civil work had been refused that cases were referred to the Tribunals. Often women experienced great difficulty in

persuading the Employment Exchanges to register them provisionally as C.O.s under the National Service Acts. Those whose cases were submitted to Tribunals were usually the unconditionalists or those who hoped to get either a condition of particular work or a choice of work that the Ministry of Labour officials were unwilling to give.

The No. 2 Act of 1941 had been responsible not only for bringing women before the Tribunals, but also indirectly some of the C.O.s of the First War, who were called to serve in the Home Guard. For the upper age-limit of 51 for the Home Guard was fairly strictly enforced when recruits were needed, and some of the older men who had not been required to register for full-time Army service found themselves faced with a particulars form asking for a number of personal details and inquiring if there were any circumstances which would make it impossible for them to do part-time duty in the Home Guard. If a man then claimed conscience, the Minister of Labour proceeded to register him provisionally as a Conscientious Objector under the Order in Council of January 22nd, 1942,* and forthwith referred his case to a Local Tribunal. If he were rejected by the Local and Appellate Tribunals he became liable to call-up to the Home Guard; otherwise he became exempt from Home Guard service and any condition of registration imposed was suspended until he became liable for full-time service in the Armed Forces. Liability for non-combatant duties was similarly postponed.

Many of those who faced Tribunals in this way had a long history of pacifism behind them. In August, 1942, cases referred to the East Anglian Tribunal included those of Howard A. Diamond, Assistant Treasurer of the London Missionary Society, Gerald Littleboy, headmaster of the Friends School at Saffron Walden, and W. H. Harris of Cambridge, all C.O.s of the last war and all allowed by the Tribunal to continue with their present work, a fairly common "condition" in such cases. Ithel Davies, a Swansea barrister who had spent three years in prison in the First War and been beaten up more than once, was registered unconditionally by the South Wales Local Tribunal on November 30th, 1942; he had claimed that the Second World War, like the First, was a sordid game in pursuit of sordid objectives, which provoked the Chairman of the Tribunal to describe his views as "rubbish" and "potted nonsense". James Guard of Chatham went one better by producing to the London Local Tribunal at Fulham on October 1st, 1942, his certificate of conditional exemption

* See Chapter 2.

by the Ilford Tribunal of 1916, but this did not prevent the Tribunal from making him liable for combatant military service.

In these cases, as in others, Tribunals varied, some treating applicants with greater consideration in the belief that "conditions" imposed might never be enforced while others felt that service in the Home Guard, despite its combatant character, was a matter of small importance to which objection could not be taken without incurring the charge of crankiness. Perhaps, too, the Tribunals also thought, subconsciously at least, that the applicants were older and ought to know better.

Thus, in broad outline, the Tribunals did their work, but one particular aspect of their treatment of C.O.s deserves a Chapter to itself. That is the Tribunals' reluctance to recognize a "partial" objection to war.

CHAPTER 5

THE NON-PACIFIST OBJECTORS

MOST of the applicants to the Tribunals were pacifist, that is to say, they objected to war in general rather than to the Second World War in particular. But not all C.O.s were of this kind, for some limited their conscientious objection to the war against the Axis nations without binding themselves to reject other hypothetical conflicts, while others objected to conscription but not to free military service; yet others, more numerous, had a general objection to warfare but could envisage exceptional cases in which they would feel impelled to take part. How far were the claims of non-pacifist Objectors recognized?

The claims of such partial Objectors were the subject of fluctuating decisions by the Tribunals, the position being complicated by the fact that the recognition of one type of non-pacifist objection did not necessarily involve the recognition of other types. Unfortunately no figures as to the numbers of non-pacifist Objectors are available, but broadly speaking there were four main classes: the religious, the libertarian, the nationalist and the political.

Tribunal recognition depended upon the interpretation of the three bases of claim set out in the principal Act, by which objection was made (a) to being registered in the Military Service Register, or (b) to performing military service, or (c) to performing combatant duties. Category (c) was intended to provide for the C.O. who, though unwilling to perform combatant service, yet felt able to undertake non-combatant duties in the Army. But the interpretation of categories (a) and (b) was not so easy. Authoritative opinions were remarkably few, but it is interesting to note that an anonymous Tribunal member stated in March, 1940,* that:

> If the objection is under (b), i.e. to coming under military control at all, whether in the combatant or non-combatant forces, the Tribunal may direct that he shall be registered in the Register of Conscientious Objectors *conditionally*, the condition being that until the end of the present emergency he must undertake work specified by the Tribunal of a civil character under civil

* Supplement to the *Christian News-Letter*; March 27th, 1940.

control, and if directed by the Minister, undergo training to fit him for such work. Objection (a) is more difficult to interpret, but it applies to those extreme cases in which the applicant conscientiously objects even to undertaking civilian work on the grounds that such work would directly or indirectly assist the war effort, or that it would be inconsistent with his conscience to accept an order made by the Tribunal under an Act directed to military ends. In such cases the Tribunal is empowered to order that the applicant be placed on the Register of Conscientious Objectors without condition.

This interpretation (though it may have emanated from the Central Board in its early days) seemed erroneous, for there was no necessary connection between the unconditional and conditional registration provided for by the Act and the categories (a) and (b).

The more natural purpose of the two categories was to provide in (b) for C.O.s who accepted the pacifist position and who accordingly rejected all military service of any kind then or thereafter, and in (a) for those whose objection, for one reason or another, though springing from conscience, was to a greater or less degree non-pacifist, or "partial". There was corroboration for this view. Under section 2 (4) (a) of the principal Act the Ministry of Labour was to record personal details of applicants "in a register kept for the purpose of this Act (hereinafter referred to as 'the Military Service Register')". Now the main purpose of the Act, as stated in the long title, was "to make provision for securing and controlling the enlistment of men for service in the Armed Forces of the Crown" and by sections 4 (1) and 5 (6) (b) the service required—whether military or alternative—was limited to the present emergency. In other words, that Act and those which followed, were intended to cover military man-power needs *for the present war and no further.* So registration in the Military Service Register was fundamentally machinery of that war and for that war and, taking the argument a step further, there seemed no reason to doubt that a conscientious objection to being registered in the Military Service Register (category (a)) might properly be proved by a deep-seated moral objection similarly limited to the present war.

This principle was applied with least difficulty to the non-pacifist religious Objector, though the position was not nearly as satisfactory as it might have been. C.O.s of this kind were largely the religious fundamentalists, whose faith of neutrality forbade them to take part in the wars of this world, but to whom it would be dire sin to disobey

a command of their God to take part in a war for Him against the things of this world on the Second Coming. Such, for instance, in broad terms, was the attitude of the International Bible Students' Association (Jehovah's witnesses) whose numbers were greater than was generally known. Theological reservations are not uncommon in other departments of life, and, whilst the Tribunals showed great lack of uniformity in their treatment of such cases, the basis of their objection as coming within the provisions of the Acts was slowly established. But the burden of proving individual sincerity was no light one. And even the improvement that took place left a lot to be desired. Individual applicants might be—and were—disbelieved, but religious C.O.s of this kind were refused registration by some Tribunals in larger numbers than could readily be explained by individual disbelief. On the other hand, the three Divisions of the London Appellate Tribunal, in particular, regularly registered International Bible Students as Conscientious Objectors on being satisfied as to their individual *bona fides*. Strangely enough, none of the cyclostyled Precedents issued by the Appellate Tribunal dealt with this particular problem.

It was the libertarian C.O. who raised the non-pacifist issue in its acutest form, for his objection was purely to conscription and not even to military service in the present war, provided it were free. At the beginning of the war it was thought that many would register as C.O.s on this ground, and one advisory bureau at least included in a list of questions designed to elicit the background of an applicant's objection the question : " Do you object to military service in general, or merely to being conscripted? " But in the event the number was very small, and the tendency of voluntarists to abandon their principles on being impressed with the necessities of the struggle—a striking feature of the First War—was just as evident in the Second.

Most of those who applied to the Tribunals on purely libertarian grounds in the earlier days of the war were refused exemption, but the fact that the Acts were sufficiently wide to cover a libertarian conscience was established early in 1941, when B. A. G. Perrins of Bristol, *a volunteer member of the Home Guard,* was found to have a conscientious objection to conscription and was conditionally registered by the South-Western Local Tribunal as having shown a valid objection to being registered in the Military Service Register under category (a). Against this decision the Ministry of Labour itself appealed, but on April 3rd, 1941, the First Division of the London Appellate Tribunal, presided over by Sir Gilbert Jackson, upheld the

decision of the Local Tribunal, expressly recognizing a libertarian conscience despite the Ministry's plea that conscientious objection within the meaning of the Act was an objection to military service and not to conscription.

This decision was followed by the Third Division of the London Appellate Tribunal on August 28th, 1941, when Percy H. Hill, a London solicitor, taking the unconditional stand, put forward a moral objection to conscription for any purpose, though having no objection to military service as such. He was conditionally registered, the decision of the Local Tribunal refusing any exemption being reversed, and it is interesting to note that on maintaining his absolutist stand, Percy Hill later served six months in Wormwood Scrubs for refusing to comply with the conditions imposed.

Another Home Guard case was considered by the First Division of the same Tribunal on September 16th, 1941. The applicant, J. Edmundson, objected to registration in the Military Service Register because no particular purpose for the conscription was specified, and he was not prepared to be conscripted for the oppression of others. The London Local Tribunal ordered his name to be removed from the register, and made him liable for combatant service, but he was conditionally registered on appeal. A fortnight later the process was continued almost to absurdity when on October 1st, 1941, Charles H. E. Hill, a lawyer well known to C.O.s for his strenuous efforts on their behalf, and a brother of Percy Hill, appealed to the same Division against removal from the Register, because, though himself a Home Guard, he could not admit the right of the State to compel military service of its members; he was registered conditionally on continuing his present occupation and *remaining a member of the Home Guard*, though in the light of the combatant military character of Home Guard duties, the latter part of the condition was clearly illegal as being neither "work of a civil character" nor "under civilian control".

So much for the stand for freedom pure and simple. More difficulty arose in connection with applicants who refused to fight for the British Government, but would take up arms, for instance, for a purely Welsh, Scottish, Irish or Indian National Army. The case of a Welsh Nationalist was the subject of a Precedent circularized by the Welsh Division of the Appellate Tribunal in December, 1940 (Serial Number 2). Here the objection arose from the allegation "that England had no right to compel youths of the Welsh nation to join the English army", and the applicant maintained "that the

Welsh moral and national principles should have the same right under the Act as Northern Ireland". The Local Tribunal ordered the applicant's name to be removed from the Register of Conscientious Objectors and, when he appealed to the Appellate Tribunal, the following ruling was given:

> The appellant in this case states that he is a Welsh Nationalist and he bases his claim to be registered as a Conscientious Objector entirely on this ground. The Appeal Tribunal have given careful consideration of this important point, and have come to the conclusion that this is not a conscientious objection (a) to being registered in the Military Service Registrar, or (b) to performing military service, or (c) to performing combatant duties within the meaning of the National Service (Armed Forces) Act, 1939. The Appeal Tribunal consider that the decision of the Local Tribunal was correct and that the appeal should be dismissed.

Though no further Precedent was circulated on the nationalist case, this decision ceased to be binding in view of various decisions of other Divisions of the Appellate Tribunal. On April 16th, 1942, the Second London Division, presided over by Sir Michael McDonnell, heard the case of one Private Leslie A. Monaghan who appeared under the somewhat different terms of section 13 of the principal Act, following the severe court-martial sentence of three years penal servitude. Section 13, which will be remembered as the so-called "cat and mouse" section,* provided for a C.O. in the Forces, who was undergoing a sentence either of penal servitude or of three months or more civil imprisonment imposed by court-martial, having his case reviewed by the Appellate Tribunal if he claimed that his offence was committed "by reason of his conscientiously objecting to performing military service" or "to obeying any order in respect of which the offence was committed", and the Tribunal, if so satisfied, could recommend his discharge from the Forces. At his appeal Monaghan was represented by Gerald Gardiner, now a K.C., who later became an Honorary Legal Adviser to the Central Board, who alleged that his client's previous application had been dismissed because his views, though sincere, were more national than conscientious. Discussion ensued between Counsel and members of the Tribunal as to whether a nationalist objection could be a matter of conscience. It seemed doubtful if any effective case could be made under the first limb of the clause, for the applicant did not object to performing military service at all times and under all circumstances;

* See Chapter 7.

so Counsel submitted that under the second limb the applicant would prove that he had a conscientious objection *to obeying the order under which he was sentenced*—which must be a particular order about a particular war. The Tribunal accepted this submission and directed that Monaghan be registered as a C.O. conditionally upon undertaking civil work specified.

Three months later, an Italian, V. H. Caesari, appeared before the First Division of the London Appellate Tribunal on July 9th, 1942, claiming a conscientious objection to fighting in the particular war then in progress because it would mean he would be fighting against Italians, among whom were many of his own relations; he would have felt no objection to fighting against Germany alone in the earlier days of the war. Caesari's application to the Local Tribunal had been rejected, but, on appeal, the Chairman, Sir Gilbert Jackson, said that the Tribunal had had several cases of Italians before, and had already held that conscientious objection such as that of Caesari was a conscientious objection to which the Tribunal could give effect. Accordingly, the appellant was registered conditionally on doing civil work. This case is important in that it recognized an extension of nationalist grounds from section 13 (as in the Monaghan case) to the general section of the Armed Forces Act of 1939.

A rather similar case, decided by the Scottish Appellate Tribunal, was reported in 1943. An account of the argument, in the unfamiliar terminology of Scots law, ran as follows*:

> The agent for the appellant submitted that s. 5 (1) (b) and (c) covered objections to war as such, and that, therefore, s. 5 (1) (a) must mean something additional, and that the case in question was covered by that paragraph. He contended further that since "the present emergency" was in terms referred to in s. 5 (6) (b), it was clear that objections to this war were competent. It was, however, clear from the decision given in the immediately preceding case that the appellant in the second case would be registered conditionally on performing agricultural or forestry work, which he had stated in his application he was prepared to do. After the agent for the appellant had submitted his argument as outlined above, the Court decided that it was not necessary to answer the argument in terms, and without giving any reasons registered the appellant as a Conscientious Objector on the conditions stated.

Other cases could be quoted. For example, a case of Indian nationalism being recognized as a valid basis of objection was that of Suresh

* *Scots Law Times*; July 17th, 1943.

Vaidya, who was conditionally registered by the Third London Division of the Appellate Tribunal on May 12th, 1944, though the case was more closely analogous to the Monaghan case than the others already quoted, in that the application was made under section 13 of the Act following court-martial.

These cases, decided by different Divisions of the Appellate Tribunal with full knowledge of the issues involved, show conclusively that despite the earlier precedent grounds of nationalism, if held sufficiently deeply and sincerely, were recognised as a valid basis of conscientious objection under the Acts. That the Appellate Tribunal Precedent on Welsh Nationalism had been superseded by later decisions was shown in the case of Thomas John Williams, a 19-year-old Welsh Nationalist C.O. from Burry Port, Carmarthen, who was conditionally registered by the Second London Division of the Appellate Tribunal on January 14th, 1947. When Thomas's representative, Wynne Samuel, a well-known figure in the Welsh Nationalist movement, sought to prove that Welsh Nationalism had been accepted by English Tribunals as coming within the Act, the Chairman, Sir Michael McDonnell, cut him short saying that such grounds were admitted by the Tribunal and that all the applicant need do was to prove the sincerity of his individual objection. Thus the wheel would have turned full circle, had not the Welsh Tribunals alone stuck to their guns and consistently refused to accept Welsh Nationalism as sufficient ground for objection. This uncompromising attitude owed much to Hopkin Morris, now K.C., M.P., the "legal" member of the Welsh Appellate Tribunal who repeatedly and stoutly defended that Tribunal's interpretation of the Act.

The position of the political C.O. was not unlike that of the nationalist, and one of the greatest struggles of the war arose from the refusal of some Tribunals to recognise as a Conscientious Objector the man who refused military service on political grounds. It might be that he refused to fight for an Imperialist Government or for the ruling classes, or that, though his objection was wide, he would feel impelled to take arms on behalf of the workers if the "boss class" should obstruct by force reforms carried by constitutional means. Somewhat bitter conflict started with the rejection of applicants by the Local Tribunals, though there was anything but uniformity of treatment between the various Tribunals. On November 9th, 1939, Reginald Sorensen put to the then Minister of Labour a pointed Question as to the discrimination of Tribunals between men who based their claims on religious, ethical and political grounds; and the

Minister's stone-walling reply was followed by this "Supplementary" from Campbell Stephen:

> "Can the Minister say that he agrees that this House, in giving the right to conscientious objection, meant to do so on all these grounds?"
>
> "That is still the idea," replied Ernest Brown.

Here, then, was an official admission, inadmissible as evidence perhaps, that the intention of Parliament had been to include political objectors in the terms of the Act. Nevertheless, the Minister never tired of repeating (as, for instance, in reply to William Gallacher on December 5th, 1939) that the duty of deciding whether objections were or were not "conscientious" rested not upon the Government but on the Local Tribunals, subject to appeal to the Appellate Tribunal.

On the first day on which the Appellate Tribunal sat, December 6th, 1939, the question of the political objector arose. The C.O. concerned was George T. Plume, a member of the I.L.P., and he was represented by Fenner Brockway, Chairman of the Central Board, who had himself served sentences of six months, twelve months and two years as a political objector in the First World War. Plume had so impressed the London Local Tribunal that he had been registered as a C.O. conditionally on remaining in his present employment only to find himself confronted with an appeal by the Ministry of Labour. Opening the appeal, the Ministry's representative emphasised the importance of the case and the evident desire of Local Tribunals for the guidance of the Appellate Tribunal in applications of this kind.

> "There is, of course," he continued, "nothing in the Act which limits conscientious objections to objections which are based solely on religious grounds, because, if that were so, an Agnostic who objected on ethical or humanitarian grounds most sincerely would be unable to obtain registration as a Conscientious Objector, however deep his views. There is, however, this type of objection which is before you at the moment, and this is really a test case. The main distinction is not, in my submission, between the grounds on which a conscientious objection is based, whether religious, ethical or political, as much as to the matter to which the applicant objects.
>
> "The type of Objector described as religious, ethical or humanitarian, objects to performing combatant duties or military service, or to being registered in the Military Service Register

absolutely—absolutely being the important word—whereas the type described as political, which is the expression I have applied to this case, objects, not to these things in themselves, but objects to them in the particular circumstances of (for example) the present war.

"Now an objection to fighting only in the present war may be a sincere objection, but, in my submission, it is not a conscientious objection within the meaning of the Act. On the other hand, the fact that an applicant objects on political grounds to the present war does not necessarily mean that he is not a Conscientious Objector. He might have a conscientious objection to fighting in any war, even one conducted by a Government of which he approves. I think there can be no doubt, from the evidence which emerges from the proceedings before the Local Tribunal, that this applicant does not approve of the Government which is waging the present war. The Local Tribunal which heard this case appears to have taken the view that a political objection, if held with sufficient intensity, might amount to a conscientious objection within the meaning of the Act. In my submission, this view is incorrect.

"The distinction between conscientious objections and other objections is, I suggest, not one of degree, but of kind. A comprehensive definition of the term is probably impossible to frame, but, in my submission, no man whose conscience will allow him to perform combatant duties or military service, or to be registered in the Military Service Register, provided he is allowed to choose his own enemy, can be said to have established the ground on which his application is made to the Tribunal.

"Reading through the evidence, in my submission the conclusion to be reached is that this applicant would be perfectly prepared to engage in a class war, and, if necessary, to shed blood; if that be the case, in my submission the proper decision of the Tribunal should be that he be ordered to be registered in the Military Service Register."

Later, the Chairman, the Right Hon. H. A. L. Fisher, the historian, put the position in this way:

The legal point, as you will realize, Mr. Plume, is that under the terms of the Act protection is given to the honest conscentious pacifist, that is to say, to the man who feels that war is a thing of evil in itself, and objects to combatant service in the war. That was the intention of the Statute.

The intention of the Statute was not to protect every form of conscientious objection; it was not intended to protect the Fascist who has an objection to fighting for the Government; it

was not intended to protect the Welsh or Scottish Nationalists, who may have a conscientious objection to fighting for Britain; it was not intended to protect the Free Trader who may have a conscientious objection to fighting; and it was not intended to protect a Socialist who may have a conscientious objection to fighting for a Capitalist State.

That is without reference to your earnestness or integrity, which was admitted by the Local Tribunal. I think, on reading your evidence, you may like to tell us, if you can honestly tell us, that you are a pacifist. . . .

When the time came for Plume's side of the case to be put before the Tribunal, Fenner Brockway made this submission:

"I admit that it is an extraordinarily difficult thing to judge what conscience is. I suppose it is a combination of intellectual and moral conviction which is held so deeply that the individual holding it will not recognize any authority which attempts to impose on him a different course from the course which expresses those convictions. I have been trying to think out in my own mind what it is that determines that attitude, and I think in the last resort it is a matter of where one's inner loyalty lies—the determining factor as to what one would do. . . .

"The point I was putting is this—that just as there may be that loyalty to God which may make a man a complete pacifist, just as there may be that loyalty to a nation, George has a loyalty which he feels to the working-class of every country, and that loyalty is a thing which determines his inner convictions, just as much as a religion or a sense of national loyalty. . . .

"Nowhere in the whole Act does it say that it is only the man who has pacifist convictions, or religious convictions, or ethical convictions; nowhere in the whole Act does it rule out the man whose conscientiousness may be equally sincere but who is entirely a political objector.

"Perhaps I may ask you to turn to the section of the [Military Training] Act dealing with Conscientious Objectors, where it says in section 3 (2): 'Any person may apply to be registered in the Register of Conscientious Objectors on the ground that he conscientiously objects (a) to being registered in the Military Training Register.' Now there is not the least doubt in my submission that George Plume conscientiously objects to being registered in the Military Register. Nothing in that clause says that he must object under all circumstances to all war. All that it says is that he must conscientiously object to being registered in the Military Register.

"Therefore," he concluded, "I submit to you that it is not a matter of the nature of the conscientiousness, because there is no sentence in the whole Act which defines or indicates that. It is a question as to the depth and sincerity of his view in conscientiously objecting to being on the Military Training Register."

On the following day the Chairman announced that the Ministry's appeal had been upheld: Plume's name would be removed from the Register of Conscientious Objectors and he would be made liable for combatant military service. (It may not be without interest to add that though Plume was prosecuted and fined £2 on May 30th, 1940, for refusing medical examination, it was some years before he was taken under escort to an Army unit where he refused to serve and was sentenced by court-martial to two years imprisonment. This permitted a further application to the Appellate Tribunal and on August 21st, 1945, the Northern England Division, sitting at York, recommended Plume's discharge from the Army and registered him as a C.O. conditionally on remaining in his present occupation. Plume had then pleaded as a pacifist.)

In spite of the Plume decision some Local Tribunals continued to recognize political objection, and the Appellate Tribunal itself was very reluctant to lay down any hard and fast rule as to what types of objection did and did not come within the Act. Shortly after that Tribunal had been reconstituted under the Chairmanship of Lord Fleming, Miss Dorothy Knight Dix, representing a political objector refused exemption by the North Wales Local Tribunal, asked for a general ruling for the guidance of the Local Tribunals, but the Ministry of Labour representative warned that, in view of the difficulty of defining conscience, that would be a dangerous thing to do. Sir Arthur Pugh, a member of the Tribunal, supported this, saying that there might be two appellants who, on paper, had written what appeared to be very much the same sort of matter that would not readily be distinguishable, though on examination and scrutiny, honesty and sincerity might appear in one and not in the other.

So the see-saw went up and down. On July 5th a political Objector who had been refused exemption by the South Wales Tribunal was unconditionally registered on appeal, while on July 23rd, a London man with a similar objection was left liable for the combatant military service for which he had been registered by the Local Tribunal. In the latter case the Chairman said:

. . . . We have had cases where we have decided that the political aspect was also a conscientious one, but you emphasize

your objection to class. You are ready for war and would defend war if they are wars you want, and I think that is where you failed to convince the Local Tribunal that your case is one that does come within the meaning of the Act.

Curiously enough the very situation envisaged by Sir Arthur Pugh came to pass on August 30th when, on two appeals by the Ministry of Labour from South Wales, I. Williams was left unconditionally registered as a C.O. and David L. Rogers, who had served two years in the Republican Army in Spain and said that "he had killed in the past and would kill again if he was satisfied that the cause was good," was removed from the C.O. Register without qualification. Williams, obviously of high character though no pacifist, was pressed by Sir Arthur Pugh to say that while his objections were political he had a background of moral principle, and by Sir Cyril Norwood to admit that ethics and politics shaded into each other, to which he felt no difficulty in agreeing; while Rogers (about whose exemption a critical question had been asked in the House of Commons on April 18th, 1940) was put into the position of saying that he would willingly fight if he could choose his own quarrel.

The least unsuccessful way of reconciling the decisions as a whole was to see if the political scruples were held sufficiently deeply to become moral and ethical convictions. But one thing was clear, even in those early days: a man need not be a pacifist to be registered as a Conscientious Objector. The categories were indeed wider than the anonymous Tribunal member, previously mentioned, considered. To him only the pacifist-socialist ought to be recogized:

> The greatest difficulty of the Tribunal lies with the political objectors. It is often found that their objections are really not to war in general, but to *this* war. Thus a Communist will refuse to take part in what he describes as a "Capitalist" or "Imperialist" war, though he would be ready to fight in a "class war", while a Fascist will have no objection to war in general, but could not take part in a war in which Great Britain, instead of maintaining an "autarchic" isolation, is concerning herself with the affairs of continental Europe.
>
> Such objections a Tribunal cannot admit, but the members of this Tribunal have decided after long consideration that it is possible that political objection should be held with such intensity of conviction as to constitute a conscientious objection, and have in a very few instances acted upon it. A socialist, for instance, who rested his claim on the solidarity of the interests

of the working classes, but also declared that he would never take part in class-warfare, was held to have a political objection which was in fact moral.

In the later days of the Tribunals, political objection was fairly readily admitted, a number of non-pacifist I.L.P. members, for instance, being given conditional and unconditional exemption. It seemed as if, once the shadow of Dunkirk, the threat of German invasion and the turning point in the war had passed, the Tribunals felt less difficulty in exempting the comparatively small number of men who still pleaded a political conscience, despite Hitler's attack upon the U.S.S.R., the horrors of the concentration camps and the German treatment of " slave labour " from occupied Europe. In 1939 and 1940 the possibility of a large number of men, with no record or even profession of pacifism, taking an anti-war stand from political grounds must, unconsciously or otherwise, have weighed with most Tribunal members.

Perhaps the various categories can be summed up thus. Under the National Service Acts there was no bar to the recognition of a non-pacifist conscientious objection. The Tribunals gradually accepted a partial objection as coming within the Acts if it could be said that the objection was so deeply held that it became a matter of inner conviction as to right and wrong and not merely an opinion. Non-pacifist Objectors frequently found the burden of proof a heavy one, even in the later stages of the war, and there remained in the public mind, however irrationally, a feeling that the conscience clause was designed for men and women who refused to take part in any war and not for those who wanted " to pick and choose their wars for themselves ". And, highly regrettable though this was, the opinion was not always confined to non-pacifists but could sometimes be discerned in the right-wing of the C.O. movement itself.

Yet some would have denied even the existence of a movement. How far were they right?

CHAPTER 6

A C.O. MOVEMENT?

Your Conscience is "against" the war?
So let it be. But what's it "for"?
The Peace which the Gestapo brings:
The triumph of all evil things:
Compassion, Honour, Mercy, Truth,
As practised by the Hitler Youth:
Instruction formally designed
To prostitute the infant mind,
To wean from Pastor and from Priest
Potential for a super-Beast.
Your Conscience is against the war. . . .
Are these the things it's praying for?

Your Conscience thinks that War should cease;
But finds no fault with German peace,
Accepting with a careless nod
The kingdom of its anti-God.
It minds not who seduces whom
If, safe within its narrow room,
It still can hug itself and say
"We took no part in war to-day";
It will not mind who lost, who won,
So long as *you* have fired no gun.

Thus does your Conscience firmly stand
Smug in its faith, complacent, bland,
And say to Heaven "Observe me, Lord,
Your follower who drew no sword.
Then let me, from all evil freed,
For all the guilty intercede;
The wicked ones who fought to save
Your world of Beauty from the grave;
The falsely-led who overthrew
The blatant gods the heathen knew;
The ignorant who, unafraid,
Died in that ultimate Crusade.

For when I saw the Devil plain
I said benignly 'Let him reign',
And watched, religiously aloof,
The world beneath his cloven hoof.
And weaker men were led to fight
For what they misconceived as Right,
But I, O Lord, was not as they;
I knew your will and turned away."

SO wrote A. A. Milne, unworthily misrepresenting in the first few months of war the very views which six short years before had made *Peace With Honour* one of the finest expositions of the pacifist case. "In the next war I shall be a Conscientious Objector. . . . No law of God or Man can ever persuade me that it will be my duty, five years hence, to kill any of those boys. . . . Nor any other boy in any part of the world." So wrote Beverley Nichols—only it was seven years before and not five, and the peace movement had to get along without the author of *Cry Havoc*. C. E. M. Joad, Maude Royden and Bertrand Russell also bowed to the storm in the belief that the atrocities of Nazi Germany could be met only by war against the German people. With these leaders of thought went many of the younger generation, men and women of such moral and intellectual calibre as would be welcomed into the ranks of any movement. As in 1914 some had been converted overnight by the declaration of war, others had maintained their faith until the imminence of invasion.

Despite these defalcations the main body of pacifists held firm. In a leaflet published by the P.P.U. the Bishop of Birmingham, Sir Arthur Eddington, Dame Sybil Thorndike and Lord Ponsonby emphasized that it was "still the same". And others, such as Laurence Housman, Charles Raven, Donald Soper and Rhys Davies, each in his own sphere, were immovable in their stand for principle. In a review I once suggested that Vera Brittain was unlikely to follow the creator of Christopher Robin and in a note of thanks she made the interesting suggestion that she was unlikely to do so because her pacifism was rooted in first-hand experience of war. This seemed to be a point of general application: men who had been C.O.s in the First War and men who had grown up between the wars might recant but, generally speaking, the ex-soldier who had come to renounce war maintained his renunciation to the end.

Between the wars there were pacifists and near-pacifists, from the

absolutely convinced to the men and women with a superficial smattering of peace opinion founded on a natural reluctance to make war. "I'm a ninety-nine per cent pacifist", many deeply sincere people would say. But it was the one per cent that counted when war came. As a rule only the "one hundred per cent" registered as Conscientious Objectors when their turn came. Whatever ethical and philosophical dangers there may be in taking a pledge of any sort, Dick Sheppard's Peace Pledge did yeoman service in bringing people to the point of deciding whether they were "all-out pacifists" or lovers of peace who in the ultimate would take part in war. "I renounce war and will not support or sanction another" put everyone to the fence. There was no excuse: if young Kenneth, a P.P.U. member, thought the national situation so critical that he must join even in the beastly business of war, he knew perfectly well that a change of heart was involved, for, perhaps years before, he had been forced to envisage just that very situation in his mind's eye—he had then decided "no"; he was about to decide "yes".

But if near-pacifists could not be relied upon, the body of convinced pacifists was sound at heart. Individuals came and went but some sixty thousand men and women were at least sufficiently set in their own convictions to take the initial step of registering as Conscientious Objectors and having their cases referred to the Local Tribunals. Sixty thousand men and women. A small number compared with those registering for the Forces, but sufficient to prove a power in the land if their efforts were co-ordinated into one channel —if these individuals became a C.O. movement.

Was there such a movement? Such a question provided ample scope for discussion in the years of war. That there was a pacifist movement was undoubted; that there were individual C.O.s outside the pacifist movement was equally clear. But was there any distinctive feature of the C.O., any common factor, that would justify the epithet for the collection of individuals concerned?

On the one hand, no personal association need be in the contemplation of men and women on their becoming Conscientious Objectors, as there would have been had they joined a political party or pacifist fellowship. They became Conscientious Objectors by the act of applying to a Government official to be registered as such, and their relation was to a piece of legal machinery rather than to one another. Some C.O.s expressly dissociated themselves from those who had taken a similar step, while others felt their registration a completely individual matter of no concern to others—they expected

the same privacy as they themselves extended. It was difficult, too, to find a common basis. Men registered as Conscientious Objectors because they were Christian pacifists, socialists or internationalists; they owed primary loyalty to Christ, pacifism, socialism or internationalism. In time of crisis they associated with other C.O.s, in time of calm they went their separate ways. All this might be true. But, on the other hand, the fact remained that a mutual bond, however tenuous at times, did develop between those who took the stand of conscience, whatever their basis. To say that there was a pacifist movement but no C.O. movement is to my mind an insult to a fine body of non-pacifist Objectors. For the men and women of the C.O. movement were united, through conscience, in their opposition to compulsory military service for the prosecution of the war then in progress.

Implicit in this formula is the temporary character of the bond, for with the ending of the emergency, with their discharge from the Non-Combatant Corps or Tribunal conditions, even the legal tie was broken; the men and women, whilst retaining their convictions, ceased to be C.O.s. And to maintain that there is an "ex-C.O. movement" is, perhaps, asking a lot of human nature, however vivid the experience of the past.

Most readers will know something of the sufferings of the C.O.s of 1916-18. How out of 16,100 known Objectors at least 5,793 were court-martialled, of this number 655 being court-martialled twice, 521 three times, 319 four times, 50 five times and three as many as six times. In all 843 served over two years in prison. But eloquent as these figures are, they tell only part of the story. They take no account of the white heat of public prejudice against C.O.s, of the thirty-four men taken to France and sentenced to death, of those left naked in their cells because they refused to put on the King's uniform; of men paraded in gangs through the streets to the accompaniment of hisses and jeers from the onlookers, of the C.O.s stoned and injured by the public. To declare oneself a Conscientious Objector and join this persecuted minority meant something in those days. To take the initial step in the First World War required a willingness to risk all that was, mercifully, unnecessary in the Second, when the old spirit of militarism had given way to a reluctant belief in the necessity of war.

In the years after 1939 C.O.s did suffer. Many lost their jobs; some went to prison for their beliefs. Others were victimised by society in a subtle way which, though intangible, left no doubts as

to its reality. But, granting this, the burden was comparatively light. While about 30 per cent of the C.O.s went to prison in the First War, with three times as many in number only about 3 per cent were imprisoned in the Second.

The corollary seems to be that in the Second World War it took less resolution for a man to declare himself a C.O.—for the same imminent danger of persecution did not exist. In London especially is was not impossible for a C.O. to live in a house, flat or room for years without his neighbours getting curious as to his opinions, though in the country prejudice against the C.O. was much greater and deeper conviction was needed.

The history of most reformist movements shows its members becoming less convinced with increased numbers and the passage of time ; the leaven can be seen at work through the centuries. The early Christians faced death in the arena with stout hearts. Their zeal in persuading others to join their ranks and their intolerance of other faiths brought in their trail both danger and persecution. But by the fourth century when the Emperor himself embraced the Christian faith and Christianity became the official religion of the State, not all the crusading zeal of the martyrs had been passed down to the five million professing Christians of the day. Something similar happened to the socialist movement. The socialist pioneers were consumed with the fires of liberty, equality and fraternity, seeing in the movement a remedy for the oppression and injustice of the existing social system. Wildly enthusiastic meetings in the market squares of Britain concluded with hymns to the coming of the new commonwealth. Today the socialist movement has won a place of great importance in world society ; but in so doing it has tended to become more of a propertied organization and less of a crusade.

In both movements the faith had become wider but depth of conviction had been reduced in the process. So it was with the Conscientious Objectors. Up to December 31st, 1946, 17,006 men were given non-combatant duties by the Local Tribunals and 17,942 were removed from the Register altogether. When amended by appeal decisions the result was a total of 28,933 men made liable for military service, combatant or non-combatant. From this number may be deducted (say) 500 for C.O.s enlisted directly into the R.A.M.C., 6,399 the recruit intake to the Non-Combatant Corps, 107 for transfers to the N.C.C. from other arms,* approximately 1,250

* See Chapter 9.

allowed to undertake Civil Defence* and, later, coal-mining as an alternative to military service, (say) 1,000 for those allowed to remain at their work without being called to medical examination, and a further 2,000 for medical rejects, leaving a balance of 17,677. How many of these C.O.s maintained their claim to the length of prosecution?

The Central Board's figures up to the same date showed 2,731 C.O.s prosecuted for refusing medical examination† excluding those who agreed to be examined when summoned to court. To this can be added 100 (a generous estimate) for men prosecuted under the principal Act of 1939 and not re-prosecuted under later Acts. In addition, 635 men who had previously registered as C.O.s at the beginning were court-martialled in the Army‡ making the total 3,466, which with a further addition of one-sixth to cover cases not known to the Board, makes 4,043. We are therefore left with this sum:

Men liable for military service not covered by Civil Defence, N.C.C. etc. (approximately)	17,677
Men maintaining their objection to the length of prosecution or court-martial (approximately)	4,043
Approximate number of men unaccounted for	13,634

Obviously some of them dodged the column. But just as obviously a large proportion went into the Forces and accepted service there. I am not one of those who say that such men were lost to the movement. The way of influence from inside has had notable successes in many spheres and there is every reason to believe that the views of some of these former C.O.s had a deep effect upon the soldiers among whom their duties lay. The number, too, included men with a grievance, who had registered as C.O.s with the sole object of using the Tribunals to air their dissatisfaction, and hardship cases where men with personal difficulties unconnected with conscience set in motion the wrong machinery. Nevertheless, insufficient depth of conviction lay at the root of the matter. Why otherwise should as many as 7,504 fail to appeal against decisions of the Local Tribunals removing them from the Register?

* See Chapter 13.
† See Chapters 10-12.
‡ See Chapters 7 and 8.

The same phenomenon can be seen from another aspect. This concerns the men who accepted from the Tribunal a less degree of exemption than they had claimed to be necessary, particularly the absolutists who claimed that it would be against their consciences to undertake any civil work imposed as a condition of exemption from military service.* A large proportion of the latter were registered conditionally by the Tribunals and were faced with the clear choice of compliance or prison. Most complied.

Many causes contributed to this: I know a well-known pacifist in the Methodist ministry who advised C.O.s not to make any nonsense about refusing Tribunal decisions—they had submitted their cases to a judicial body and must accept its judgment. Advocates of such a course would have been on much stronger ground had not a claim of moral conviction—the operation of the categorical imperative—been invoked before the Tribunals. This was, of course, a general argument, though it was applied to unconditionalists more frequently than to others. C.O.s in general were counselled to ask for the least degree of exemption that would satisfy their consciences: for example, it might be much more comfortable for a C.O. to enjoy the freedom of unconditional registration than to labour long hours in the fields, but if he felt no objection *of conscience* to land or other civil work, he was advised to say so and not to humbug himself and the Tribunal by rationalizing himself into an unconditionalist. But unconsciously or subconsciously some did so. And in this they were confirmed by the Tribunal practice of giving applicants one degree of exemption less than they asked for. So the man who offered to work in a hospital was all too frequently given non-combatant duties (perhaps with the piously-expressed hope that he would be called for medical duties in the R.A.M.C.). Similarly, the absolutist was to be tempted by wide categories of Tribunal conditions. The spirit of bargaining soon spread and some C.O.s developed a defensive mechanism which served only to perpetuate this unfortunate habit of the Tribunals.

Greater freedom of choice had also taken its toll. Whatever the theory in the First War, all too often in practice the choice was simple: army or prison. Those who chose the latter were bound together by common danger with a moral certainty in their stand against military service. In the Second War the more generous provision for C.O.s reduced the possibility of opposition to military service becoming a burning issue; individuals were intended to

* See Chapter 16.

find their niche in the system. In its turn this, however excellent in itself, was to prevent any united witness, a tendency which, as we have seen, the skill of many Tribunals exploited to the full. Coupled with complexity of choice this led to uncertainty of attitude and some lack of confidence as a result.

Many other conditions operated to reduce the ranks of the absolutists and otherwise change the stand of many C.O.s. One potent factor was the incessant stream of propaganda directed against the men and women of Britain, who were exhorted to join the Home Guard, to do nursing, to support "Salute the Soldier" Weeks, to invest in Savings Certificates; to spend less, to use less fuel, and so on through the resources of Press and Radio. And all the time they were living on monotonous rations, working long hours, trying to get through a spate of work with but a fraction of their pre-war helpers. At night they had Civil Defence, fire-watching and similar duties, with visits from German planes and flying bombs to avoid any suggestion of monotony. The result was that C.O.s felt themselves mentally weary and so assailed by outside opinion and circumstances that they had to hold tight to the faith that was in them lest the flame be extinguished. In a few cases it *was* extinguished and in many more it burned so low as to cause C.O.s to modify their chosen stand.

The very totality of the war effort exercised not only this mental pressure but also economic pressure. In a nation whose whole activities were being directed to one end, it was natural that "the odd man out", the man whose object was peace and not war, should meet difficulty. Like the lost sheep of the flock he tended to wander further and further from his familiar scenes, gradually losing confidence and feeling more alone as time went on. It was not so much that employers refused to employ him (though many firms did so); not so much that there was open victimisation and prejudice (though there were both); not so much that the law prevented him from taking a particular job (though it often did); the fundamental factor was to be found in the C.O.'s relation to war society, in one sense, in his very conscientiousness, for only a small proportion of the jobs available could be undertaken by men of his convictions.

Arising from this was the length of time during which the C.O. had to hold to his views. Conscription had been imposed in May, 1939, and men conditionally registered in the early groups were not released from their Tribunals conditions until March, 1946, at the earliest. A lot of water can flow under the bridge in six or seven

years; over such a period many young men of honest minds would modify their views in the calmness of peace. How much more natural in the days of war, in the tenseness and the half-truths of world struggle!

Again, some C.O.s either accepted service, or later asked to have their names removed from the Register, because world circumstances has so changed that the basis of their objection had been cut from under their feet. In 1939 and 1940, for example, Communists and near-Communists registered as C.O.s on purely political grounds, strenuously disclaiming at the same time any tendency to pacifism. The German attack upon the Soviet Union quickly dispelled their scruples. Others, fortified perhaps by trade union blessing and inspired by Labour's entry into the Government, felt that the war had become, after all, a workers' struggle, and acted accordingly.

Another difficulty was a purely social one. Though both prison and violence were rare exceptions, there was still a gap between the C.O. and the rest of society. And an atmosphere of thinly-veiled hostility, of social snubs, of disappointments at work and of refusal to help a C.O. in a common endeavour could, over a long period, be quite as wearing to individual decision. Family ties were broken: "the father shall be divided against the son, and the son against the father; the mother against the daughter, and the daughter against the mother." Some C.O.s had to leave their homes of twenty-odd years through conscientious objection, while others compromised for the sake of their loved ones at home. And the passage of years meant an increase in social responsibility. The single man of 1939 became the married man of 1943. If he married a pacifist, his difficulties became hers and hers his. If his wife were not pacifist, the mental strain became extreme. And the married man of 1943 became the father of 1945.

So much for the problem of conscience. In general, the C.O.s of the Second World War were less political and more religious in outlook than those of the generation before. From the first onslaught in 1914 the Independent Labour Party, youthful and of growing influence, had opposed the war by every means in its power, its members being united in a practical peace programme. In the ranks of these political Objectors, and others like them, were men of the greatest resource and enthusiasm bent on opposing a war in which the workers of all nations were bound to lose. Politics meant action, and the virtually united voice of the I.L.P. could not be ignored. But the rising tide of nationalism after the war and the inflow of

Russian concepts were followed in quick succession by the Japanese attack on China and the wars in Abyssinia and Spain. To most political "realists" force seemed the only weapon to affect the dictators and would-be dictators of the world. And it needed only the atrocities of the men of Nuremberg to complete the tale. Love of peace gave way to hatred of fascism and the element of political conscientious objection as the sole or fundamental ground for refusing to fight was reduced almost to vanishing point.

The religious and moral element, however, had developed with the years. Though the Society of Friends had flown the flag of Christian pacifism in the First War it had done so virtually alone. Yet by 1939 the example of the pioneer C.O.s and the living faith of Dick Sheppard, George Lansbury, Arthur Ponsonby and many others, coupled with a stumbling search for a more Christian life, had helped to create a vital movement opposed to all wars whatever their nature. And while the stalwarts of the I.L.P. had been content to dissociate themselves from one particular war without too great spiritual examination as to hypothetical wars of the future, this new band of men and women claimed to have outlawed war as an institution on the basis of religious or moral principles. When war was declared in September, 1939, in addition to the Society of Friends, the exclusively Christian Fellowship of Reconciliation had 9,813 members, and there were small but flourishing pacifist fellowships in all the Christian Churches—from the Roman Catholic PAX (very small but with some influence) to the Anglican Pacifist Fellowship (1,592 members) and the Methodist Peace Fellowship (3,545 members). Though not distinctively Christian, the Peace Pledge Union with 112,905 signatories united all those prepared to take a moral stand against all war by signing Dick Sheppard's Peace Pledge renouncing war and refusing to support or sanction another. Of the seventeen constituent organizations of the Central Board, twelve were religious in character, two could be classed as broadly humanitarian and three were political.

What effect had this change on the C.O.s themselves? First, the superb confidence of the earlier generation with its crusading vigour had given way to an altogether quieter and less evangelical type. In one sense the C.O. was less sure of himself, for many of those who had faced up to the evils of Nazism had ceased to believe their stand could solve the immediate problems of the world: for they might well be led not to a world of justice and plenty but to the Cross. None doubted the ultimate reality of his position but long-

term objection had little appeal to the man and woman in the air-raid shelter who asked so insistently: "Well, what *would* you do with Hitler?" The movement, founded on diversity, partly failed to find the unity that binds conflicting elements.

Sometimes there was more talk than action: not all saw their faith in social terms. Of those who did some resolutely declined any action that might "split the Church" or "split the Party", while a small minority were so concerned to keep their consciences unsmirched that they tended to become introvert and unable to take decisive action for the personal struggle within.

Perhaps it was natural that, in these circumstances, the struggle should shift from opposing conscription to maintaining the right to individual objection. Such is implied in the very title of this book as against the classic *Conscription and Conscience* of Principal Graham. For one of the first concerns of the men of 1916 had been to oppose this "badge of the slave" in the interest of the ninety men in every hundred compelled against their will to military duties they felt instinctively to be wrong. Though this slant persisted in the Second World War, its importance had diminished along with the non-pacifist objection to conscription. The new provisions for conscience were more adequate and at the same time more widely used. The C.O. was no longer either a rebel or an outcast. Time had quelled his turbulence and led him to an accepted though often unpopular place in the society of his day. A measure of tolerance had been won—and accepted.

Is this a gloomy picture? Perhaps. Let us be our own chief critics. Yet, disappointing as our record was in some respects, several factors are heartening. The first is this. Individual integrity was never higher: in times of tension the C.O. behaved with a dignity and restraint that won the respect of many a militarist. Indeed, it won more than respect. Individual example frequently led to a determination to examine afresh the basis of the C.O.'s stand: could it be that after all, in the face of the nation's all but unanimous verdict, he was right and society was wrong? This was precisely the state of mind that the political evangelists had tried to foster, and sometimes the actions of the new generation succeeded where words had failed.

Moreover, C.O.s of the Second War had thought deeply on the ultimate implications of their war-resistance, and this thought had been both individual—a searching of the mind after truth, and collective—the discussion and mutual criticism of the group, branch

and meeting. From these emerged a new insight into the causes of war, a conviction that war rather than conscription was the prime evil, and a diagnosis of the maladies of society.

With the C.O.'s virtual integration into society came an attempt, groping and unsystematic no doubt, to find a positive way out. If revolt gave way to co-operation, it also brought a quiet but unmistakable moral leadership in moves that may virtually affect the future of society. I am thinking of the pioneer work of Pacifist Service Units among problem families; of C.O. experiments in community; of the education in living which the Friends Ambulance Unit was able to carry out by practical example among India's poorest, and of the work of rehabilitation of Friends Relief Service and International Voluntary Service for Peace on the Continent of Europe. I think, too, of the vital part of C.O.s in bringing legal help within the reach of all, rich or poor, and such examples could easily be multiplied. While many men and women were content with palliatives, C.O.s, because of their faith in the sanctity of personality, were moved to dig to the roots and apply the technique of identification with the world's unfortunates by which some of our greatest reformers, failures in their day, have been vindicated by the future and have attained lasting fame.

Next, though the detached service system of conditional registration tore down the fellowship of common danger that had so inspired the gaoled C.O.s of the First War, it meant that C.O.s could be found in the most unlikely places and posts. A Conscientious Objector accompanied Sir Stafford Cripps as his personal secretary when he was British Ambassador to the U.S.S.R. Sir Stafford Cripps' son was also a C.O. One of the most eminent Junior Counsel at the Bar gave up an income of many thousands a year to serve in the Friends Ambulance Unit. A group of the Peace Pledge Union met regularly at the home of a member of the House of Lords. Several Members of Parliament would have taken the stand of conscientious objection had their age-groups been called for service. Men and women, well known for their pacifism, were allowed to lecture to the troops and to prisoners of war with full freedom of speech. Examples such as these could be drawn from most spheres of life, the result being an honest permeation of society from within rather than a frontal attack from without.

Most important of all, each man and woman, faced with a greater freedom of choice than the pioneers had ever known, followed his own individual convictions. Whatever may be said of the peace

movement in the Second War, the charge of dragooning conscience cannot be laid at its door. In an article entitled *One Principle,* Fenner Brockway reiterated the right of individual choice.* "What a man does," he wrote, "will reflect his inner self. All we as the Central Board can do is to help him, so far as we can, to be true to the right as he sees it. That respect for personality must be the guiding principle of all our work." The lesson was well-learnt and each followed the right as he saw it. Therein lies the salvation of the movement. No party policy, no programme of action, no fidelity to creed or dogma, can suffice if that be absent. Such a position is in contrast to that of the trade union movement where the risk of strike-breaking has brought about an industrial discipline that takes only occasional count of individual conviction. For the dissentient in action becomes the blackleg: the minority must toe the chosen line of the majority or take the consequences. An industrial system of majority rule, of branch instructions and card-votes, is fraught with dangers that need never beset Conscientious Objectors.

The C.O.'s chosen way has brought no spectacular successes. But "easy come, easy go" runs the proverb, and certainly lasting success comes only the hard way. The C.O. movement, with all its faults, has chosen the harder path, seeking not to impose its will on others but to call forth an inner response to its life and example; and that response will manifest itself in action, social, political, religious or international. Michael Tippett, after serving a prison sentence for his conscientious objection, said: "Much more has been accomplished by our witness this time than we know, or perhaps than we deserve." With this thought C.O.s went forward in a world outwardly unchanged. It was when conditions were neither easy nor difficult but just monotonous, when the work seemed without result, that our spirits were most tested.

* *C.B.C.O. Bulletin*; March, 1942.

CHAPTER 7

IN THE HANDS OF THE ARMY

IT was on March 12th, 1940, that the first court-martial took place. Despite the fact that C.O.s had little to expect from the "Appellate" few who intended to hold fast to their principles had failed to appeal against an unfavourable decision from the Local Tribunal, and a bottleneck between local and appeal decisions meant that for many the time of tribulation was postponed for some months, months of waiting in uncertainty.

The older generation with their memories of the past and the younger C.O.s with their apprehensions of the future were stirred by this beginning of a new epoch, inevitable yet hard to believe as an actual occurrence of 1940. Still, the experience of Kenneth Makin, a Redcar Christadelphian, opened in ordinary fashion by his complete rejection by the Tribunal at Newcastle-on-Tyne and the dismissal of his appeal. After Makin, who was twenty-two years of age, had submitted to medical examination because he was assured it was under civilian authority, he was posted to the R.A.M.C. and sent notice to report at Dalkeith, with a travelling warrant and subsistence allowance. These he returned with the remark: "I do not need the one and I have not earned the other."

At 10.45 at night on Tuesday, February 20th, 1940, just as he was getting into bed, Makin was visited by a police officer, told to put on his clothes and taken away under arrest. On the following day, brought before the Magistrates at Redcar, Makin was remanded in custody to await a military escort. But nothing was known of this until a week later: for the court had been specially summoned and, though secrecy was strongly denied, no announcement whatever had been made that a court was to sit, and neither press nor public were present at the proceedings. Perhaps a disturbance was feared. On the Friday, however, this C.O. had been escorted to his unit to spend the night in the guardroom.

To Makin day came slowly in these unfamiliar surroundings. In the course of a brief homily his Commanding Officer said he was now "one of the boys" and there must be no more nonsense. Makin was told to sign on. He refused. The rest of the day was

spent with the Chaplain, the Sergeant-Major and a Corporal, all of whom tried to make the young Christadelphian see the error of his ways. Though Makin kept his end up against all comers, a letter he wrote showed unmistakable signs of strain. Court-martial followed; Makin was awarded sixty days military detention, a sentence which did not allow him a further Tribunal, for this could only occur if his sentence were of penal servitude or three months or more of civil imprisonment (*detention* did not count at all), and he was taken to Barlinnie Prison, Glasgow, where he was forcibly stripped in his cell and told to put on uniform. Three times the uniform was forced on him, a mode of treatment that, given feelings of ill-will, can admit of great cruelty through twisting a man's arms and kicking where but a slight blow may mean injury. Certainly the two sergeants concerned used violence on Makin, screwing his hair, catching him by the neck and at times nearly choking him. But this did not stop Makin from taking off the uniform as soon as he could. For four March days he was left in his underwear, for three days put on two meals of bread and water a day in solitary confinement. After nine days he was returned to his unit at Dalkeith. What a cheer went up when the soldiers saw his pale figure still in his old suit, one "civilian" among the khaki hundreds of the camp! Sympathetic bets had been made that he would not accept uniform. However, the strain had begun to tell, and this C.O., strong-willed but physically frail, had to be taken to hospital with nervous trouble, violent pains and a chill that threatened to turn to pneumonia.

It was then that Makin (whose sentence had meanwhile been commuted to fourteen days) was interviewed by John McGovern, then I.L.P. Member for Shettleston, who, appalled at the whole story, returned to Parliament resolved to secure maximum publicity for this treatment. On April 16th the Secretary of State for War denied many of his allegations. Nevertheless, the House as a whole accepted the substance of McGovern's charges and Members of such diverse views as Creech Jones, Major-General Sir Alfred Knox, Herbert Morrison and James Maxton warmly supported his demand for official intervention. Morrison, in particular, said: "Is it not clear that the Tribunal and the Appellate Tribunal may have made a mistake in their decisions, and can the Right Hon. Gentleman not cause the case to be re-heard?"

When a further court-martial followed it was found that a new sentence of three months in a civil prison permitted a Tribunal

hearing. At 6.45 a.m. on June 27th, Makin was told he was to appear before the Tribunal at 10.30 that morning; so under escort but still in civilian clothes, he appeared before the Scottish Appellate Tribunal at Edinburgh, without any opportunity to be represented, and was recommended for discharge from the Army with civil work in agriculture to follow. In this way Kenneth Makin achieved the double distinction of being not only the first C.O. to be arrested but the first to have a "review Tribunal" after court-martial under section 13 of the principal Act.

Curious to relate, this Redcar C.O. was not the first to have a Tribunal after court-martial. Men who had volunteered for the Army or been called up without ever registering as C.O.s had developed a "conscience" in the earliest days and, though small in number, had provided a difficult problem. Difficult because many soldiers, revolted by military experience, were on the verge of refusing duty and the treatment of the few would have a direct influence on those holding back. (An Army officer once admitted to my family that as Acting Adjutant he had numerous applications from soldiers for transfer or discharge on near-conscientious grounds and it was part of his job to talk them out of it or fob them off with delaying excuses).

One thing was certain. To these "soldier C.O.s", as they were called, no Tribunal was possible. Even though a soldier were sentenced by court-martial to three months or more of civil imprisonment and were otherwise eligible, section 13* did not apply, as he had failed to register as a Conscientious Objector before being called to the Colours; there was no hope in that direction. Would discharge or transfer to another arm be allowed? This the Authorities felt to be dangerous ground, so that when in January, 1940, Cecil Wilson, the Quaker Member for Attercliffe, took up the case with the War Office, the Under-Secretary of State turned down the suggestion, though his decision had been reached "not without some reluctance but as the only decision that could be reached in the interests of the Army as a whole".

The matter could not be allowed to remain there. In the afternoon of Tuesday, January 23rd, the new Secretary of State for War, Oliver Stanley, received a deputation of sympathetic M.P.s, led by Dr. Alfred Salter, in his room at the House of Commons to discuss this and kindred problems. During the interview the Members urged that soldier C.O.s should be allowed to apply to the Appellate

* See Appendix A.

Tribunal and the Minister, who seemed anxious to be helpful, promised to consider the suggestion and inform Dr. Salter directly a decision had been reached. It seemed undesirable to bring in a special Bill to meet this comparatively minor point, and the ingenuity of the Minister's advisers led to the setting up of what came to be known as the "Advisory Tribunal". The basis of this concession, which for once seems to have taken the Central Board by surprise, was fully explained in this letter dated May 6th, 1940, from the Secretary of State for War to Dr. Salter:

> You will recollect that when I received the deputation which you introduced in the early part of this year with regard to the position of Conscientious Objectors in the Army, I mentioned in the letter which followed, dated 9th February, that arrangements were under consideration to deal with soldiers who did not register as Conscientious Objectors and have since committed disciplinary offences by reason of conscientious objection.
>
> These arrangements have now been completed, and it has been decided that a soldier who did not register as a Conscientious Objector, and who is undergoing a sentence of penal servitude or of imprisonment for a term of three months, or more, imposed by court-martial in respect of an offence committed by him while in Great Britain, if he claims that the offence was committed by reason of his conscientiously objecting to performing military service or to obeying an order in respect of which the offence was committed may, if he makes application, have his case considered by an Advisory Tribunal. This Tribunal will be the Appellate Tribunal which administers section 13 of the National Service (Armed Forces) Act, sitting in an advisory capacity to advise the Secretary of State for War in the exercise of his powers of discharge from the Army. The Advisory Tribunal may also recommend, if they think it appropriate, that the man brought before them should be transferred to non-combatant duties in the Army.
>
> Section 13 of the National Service (Armed Forces) Act, 1939, does not apply to soldiers in the circumstances described above, and the granting of the facilities to which I have referred is an ex gratia concession.

Though this letter followed closely the terms of section 13, the new arrangement was completely administrative and had no basis in law. Nor did the War Office bind itself to accept the Tribunal's advice, though no difficulty ever arose in that connection. The

main result of this administrative character was that the Advisory Tribunal had no power to register a soldier as a Conscientious Objector, whether unconditionally, conditionally or for non-combatant duties, though on the last point a distinction arose in that the Advisory Tribunal was empowered to advise "transfer" to non-combatant duties while the Appellate Tribunal had to go through the formality of recommending a man's discharge and registering him as a C.O. for non-combatant duties only, leaving him to be called up afresh to an appropriate unit. The Tribunals themselves were to raise another distinction: decisions under section 13 were for the most part publicly announced, but no results of "advisory" applications were divulged even to the applicant or his representative. The Tribunals communicated their advice to the War Office and it was for the military, in the light of the Tribunal's recommendations, to make known its intentions to the soldier himself.

The first recorded sitting of one of these Advisory Tribunals took place at Edinburgh on June 14th, 1940 (a fortnight before Makin's appearance), when the Scottish Appellate Tribunal considered the case of one Joseph Allen who had become a Conscientious Objector after joining the Army and had served a sentence for refusing an order of the military. Allen appeared before the Tribunal asking to be transferred to non-combatant duties and at the close of the case the Chairman, with true northern caution, declared that the decision of the Tribunal would be announced after consultation with the War Office. It was on July 2nd that the London Appellate Tribunal first sat in an advisory capacity, to consider whether Rifleman Norval Wade, of Southall, should be discharged from the King's Royal Rifle Corps. Being ignorant of the procedure for C.O.s, Wade had registered in the Military Register with the Militiamen in June, 1939, three months before the outbreak of war, and after being called up had been sentenced to 84 days detention. Then followed a second court-martial—and 96 days imprisonment—which allowed Wade to appear before the Advisory Tribunal, whose members approached their new duty with some circumspection. After a thorough examination of the applicant Sir Arthur Pugh, a trade union member of the Tribunal, asked the Ministry of Labour's representative:

> "Has it not been conceived that this man might be throwing up the ball to men in the Army by constantly taking an objection and then using this Tribunal to get a hearing? I am not

suggesting they will follow. What is your opinion, Mr. Henderson?"

Mr. Henderson (for the Ministry) : "I suppose if that really became the case you as a Tribunal could withdraw your willingness to act as an Advisory Tribunal."

The Chairman : "In a case where we were satisfied that objections did not exist at all at the time when a man became a member of the Forces we would give advice to suit the circumstances of the case as we saw it. Unless the military authorities bring these cases before us we cannot deal with them. It is for them to say who they will bring before us."

In other words the Tribunal saw the danger of a landslide that had been so obvious an objection to discharge or transfer. But in fact the time when a soldier first attained a "conscience" mattered little if his objection were sincerely held. Wade was recommended for transfer to non-combatant duties, an unworthy decision which did not cover his objection to all army service. As a consequence this C.O. had to go through the whole process again before being finally recommended for discharge and civil work. Thereafter a steady trickle of soldier C.O.s appeared before the Advisory Tribunals.

Meanwhile other C.O.s had been arrested. Victor Duker, a Wimbledon Post Office sorter, who had been arrested at his home on March 8th (sixteen days after Makin) was handed over to the military at Tooting Police Station without any appearance before the Magistrates. This was quite irregular except where a man voluntarily surrendered as an absentee; Cecil Wilson took up the matter with the Home Secretary, the police officers concerned expressed regret and instruction were issued by the police to ensure that in future the correct procedure should be followed. Duker later agreed to serve. Arrested on March 25th, Leonard Cook, a Hull Methodist, was taken to an R.A.M.C. unit at Norwich, where he, too, accepted service. On April 26th, William Holness, a Jehovah's witness of Redcar, was taken into custody, while John Mitchell of Diggle, Dobcross, a village near Oldham, and Daniel Wright followed two and three days afterwards. All three resisted service and met varying fates. Holness, after being confined to barracks for seven days, was given 14 days detention, and it was only after a further 28 days detention that he was given the "qualifying" sentence of four months in a civil prison, after which he was discharged from the Army at the recommendation of the Appellate Tribunal.

Mitchell, who later became an architect and, being something of an artist, was responsible for witty illustrations of the C.O.'s lot in the Army, was sentenced by court-martial to 93 days detention; after this his demand for a "qualifying" sentence led his second court-martial to "send him down" for 18 (later reduced to 12) months hard labour to avoid any doubt in the matter. His application to the Appellate Tribunal was successful and John Mitchell was registered for social relief work, full-time A.R.P. or work on the land. The third case, that of "Fusilier" Daniel Wright took a somewhat similar course. After serving 14 days detention, Wright was court-martialled again and sent to prison for nine (reduced to six) months with hard labour. His Tribunal appeal was dismissed, but Wright was a sick man. A few days later he had to be taken to hospital, and after three months this C.O. had to be discharged from the Army on medical grounds.

Apart from the substantial difference that a review Tribunal existed, it was 1916 in repeat. All too frequently courts-martial were giving "disqualifying" sentences—sentences of detention that failed to allow a further Tribunal or, much less often, sentences of imprisonment less than the requisite three months. And even C.O.s given a prison sentence had to serve their sentences in military detention barracks where their non-co-operation led to further court-martial or to ill-treatment amounting at times to brutality. In the First War essentially the same problems had been solved by the issue on May 28th, 1916, of the famous Army Order X, which read as follows:

OFFENCES AGAINST DISCIPLINE

(1) With reference to paragraph 583 (XI) of the King's Regulations, where an offence against discipline has been committed and the accused soldier represents that the offence was the result of conscientious objection to Military Service, imprisonment and not detention should be awarded.

(2) A soldier who is sentenced to imprisonment for an offence against discipline, which was represented by the soldier at his trial to have been the result of conscientious objection to Military Service, will be committed to the nearest public civil prison, as if his offence was included in paragraph 607 (1) of the King's Regulations. The provision of sub-paragraph 4 of that paragraph shall not apply to a soldier so sentenced to imprisonment. . . .

This last point was settled with the least difficulty. Though

detention was, technically at least, the lesser punishment, it sounds strange to modern ears that sentences of civil imprisonment should ever be served in military detention barracks. So great had been the influx under war conditions that the accommodation of H.M. Prisons was sorely taxed: conditions were lamentable and the Forces' overflow had to be held in the "D.B.s". The peculiar position of C.O.s compared with other sentenced soldiers had been pressed upon the War Minister at the meeting on January 23rd and in later correspondence, with the result that in the middle of 1940 an arrangement was made by which those men who had been removed from the Register and sent into the Army to serve in combatant units should be committed to civil prisons when sentenced to imprisonment. At first this did not cover non-combatants or "soldier C.O.s" but when in September, 1940, prison hospitality became easier to extend, all were transferred to prison so that, then at least, sentences of imprisonment meant what they said.

The problem of inadequate sentences could not be solved so easily. The grave moral objections to the deliberate withholding of Tribunal rights had also been put forward, when it was disclosed that the War Office had issued full instructions in a letter dated December 19th, 1939, drawing attention to the fact that a sentence "suitable to the gravity, circumstances and deliberate nature of an offence of disobedience of orders, should be given, bearing in mind that a sentence of three months or more [imprisonment] will ensure that the soldier gets a further opportunity of stating his case before the Appellate Tribunal". This, however, was not sufficient, for courts-martial did not despair of persuading offenders to "settle down" through a spell of detention, and though the provisions of section 13 were brought to the notice of all Presidents of Courts-martial in cases where conscience was alleged, the problem remained.

Courts-martial were judicial bodies and the Army Council had no power to issue orders as to the sentences to be imposed, and the extended discussions between M.P.s and the War Office tended to resolve into arguments as to whether stronger advice would be possible. Nor could detention be changed to imprisonment ("A sentence of detention, being lower in the scale of punishments than imprisonment, cannot be commuted to one of imprisonment" —King's Regulations 681 (j)). On the other hand, the M.P.s argued, detention had been stopped in 1916 and what could be done then could be done now. At length, on July 5th, 1940, Richard Law, Under-Secretary of State for War, sent Cecil Wilson the

following extract from an Army Council letter issued to all Com mands on May 30th which it was hoped would have a similar effect to the former Army Order X:

> I am to say that two cases have recently been brought to the notice of the Council where sentences of 91 days *detention* have been awarded for a second offence against military discipline, which the soldier claimed to have committed on the grounds of conscientious objection.
>
> I am to point out that a sentence of *detention* in cases of this nature does not entitle a soldier to exercise his right to appeal to the Appellate Tribunal under section 13 of the National Services (Armed Forces) Act, 1939, or make him eligible to appeal to the Advisory Tribunal. Such appeals can be made only when the sentence is one of penal servitude or of imprisonment for a term of three months or more.
>
> I am, therefore, to suggest that you will consider the advisability of bringing this point to the notice of Presidents of Courts-martial assembled for the purpose of trying cases of this nature.

Where sentences were sufficient to allow of Tribunal review, shortness of sentence, combined with the delay in bringing men before the review Tribunal, meant that there was usually little, if any, left to serve after the Tribunal's decision had been made known, so that where applications were successful, the question of remitting the balance of sentence hardly arose. But as prison terms began to lengthen the issue became of more than academic interest. As early as May 24th, 1939, the question of remission had been raised in the House of Lords on the provision of the Military Training Bill analogous to the later section 13. The clause as then drafted provided that, on being satisfied of a C.O.'s sincerity, the Tribunal could recommend to the Service Departments that he be discharged from the Army as soon as might be after serving the sentence imposed. In the broad belief that when once sincerity were recognized it was inequitable to hold a C.O. in prison, Lord Addison had then moved "an Amendment to the Amendment", but had withdrawn this on receiving an assurance that the clause was without prejudice to the power of the War Office to remit sentences under the Army Act.

This did not bind the War Office in any way to exercise its powers of remission. Nevertheless, at the end of 1940 this concession was attained in a somewhat strange way. Jack Boyd-Brent, a young

journalist, had been rejected by the Local and Appellate Tribunals and posted to the Irish Guards at Caterham, Surrey, where he was sentenced to three months imprisonment, which for some obscure reason was commuted to detention, with 28 days remitted. As his original sentence had been a " qualifying " one, Boyd-Brent proceeded to put the legal cat among the pigeons (or cat among the legal pigeons) by forthwith applying to the Tribunal. However, the sentence was ended before any decision could be reached and Boyd-Brent, court-martialled again, found himself sentenced to four (reduced to three) months civil imprisonment—a term that admitted no doubt so far as a Tribunal hearing was concerned. And the Tribunal, the only body which could decide on the validity of his first claim, lightly side-stepped the issue on December 12th by giving a judgment of Solomon in these words:

> The Appellate Tribunal has proceeded on the appellant's application made in relation to his present period of imprisonment and have not decided whether his application made during his period of detention is within the terms of the Act. The Appellate Tribunal finds that the offence was committed by reason of his conscientiously objecting to performing military duties, and recommends his discharge from service in the Armed Forces of the Crown. In the circumstances they recommend that the remainder of the sentence which he is now undergoing be remitted. The appellant should then be registered in Class B, the condition being that he undertakes full-time A.R.P. work, full-time ambulance service under civilian control, or land-work.

Even Boyd-Brent echoed surprise at his unexpected release in a letter to Stuart Morris who had been pressing the War Office to free this C.O. by Christmas.

> In actual fact (he wrote) I was more or less thrown out of Wandsworth on Friday afternoon (Dec. 27th), returned to Caterham and—after a last night in the Guard Room—was out of the gate, complete with my discharge papers, by mid-day Saturday. I am now staying for a while with my mother and brother and generally being extremely lazy.
>
> The whole business was odd, haphazard and extremely hurried. I was called out from exercise and told to get my kit. Within half-an-hour I was outside the gate none the wiser as to the why and wherefore. I asked what was happening, but all they would say was that I was a " special release ". Nothing

else! Neither had I any instructions. They said they didn't care a damn where I went or what I did. It was fortunate I had some money of my own, as otherwise they would have turned me out without even so much as a railway ticket.

The Tribunal's recommendation seemed to envisage remission of sentence as a concession appropriate only to Boyd-Brent, but further pressure on the War Office resulted in the freeing of John Mitchell (mentioned before) from the balance of his twelve-months sentence some eight weeks after his Tribunal success. Thenceforth remission was granted in both Appellate and Advisory cases two or three weeks after a successful Tribunal appearance.

Not all C.O.s were as fortunate as Boyd-Brent and Mitchell. Some were rejected. But if the whole business of court-martial and sentence must begin again, would another review Tribunal be possible? Or were the provisions of section 13 exhausted by an unsuccessful application? The C.O.s concerned proceeded to find out by experience, reflecting, no doubt somewhat grimly, that if the military subjected them to "cat and mouse" they in turn would have to "cat and mouse" the Tribunals! For both Appellate and Advisory cases the point was neatly settled at Manchester on successive days. Represented by John McGovern, Samuel G. Tomlinson, previously rejected by the Scottish "Appellate", was conditionally registered by the North of England Appellate Tribunal on April 8th, 1941; while on the following day James Wickens of West London, who had not registered as a C.O. before being called up, was recommended for discharge by the same Tribunal sitting in an advisory capacity, even though a previous Advisory Tribunal had only recognised his sincerity to the extent of non-combatant duties.

These were incidental points settled over a period of many months during which the atmosphere had deteriorated with the military situation, and the public, which at first had looked upon C.O.s in the Army as cranks whom it was unnecessary to take seriously, began to see in them dangerous revolutionaries and traitors to the national cause. Even the early discharges under section 13 had raised angry Conservative Questions in the House on July 9th, 1940, while cases of ill-treatment began to occur with greater frequency. Philip Boyle, for instance, was alleged to have been assaulted in his "room" at Maryhill Barracks, Glasgow, and forcibly dressed in uniform, which led the Glasgow Trades Council to enter a vigorous protest to the War Minister. The allegations were denied. It became only a matter of time before cases of active brutality were reported.

Suddenly, in October, 1940, attention became riveted on the N.C.C. Unit at Dingle Vale School, Liverpool, where grave irregularities were alleged. On "Dingle Vale" Joe Brayshaw did a tremendous job of work on the Board's behalf and I cannot do better than refer readers to the Annex at the close of this Chapter, where his own version of this strange business appears.

Gradually the arrests were gaining momentum and more cases of forcible dressing were coming to light. Five C.O.s were charged with the serious offence of mutiny though the allegation was later dropped. Three C.O.s serving 28 days detention hunger-struck when placed on bread and water for continuing to refuse uniform.

In those days prison was no light ordeal through the possibility of air-raids. *Cell doors were kept locked while a raid was on* and a prisoner might be caught like a rat in a trap, so that the period after the siren's wail was hardly conducive to inner peace. The physical risk, too, was by no means negligible. For the Board's record cards of two C.O.s came to an abrupt end with the cryptic words: "3/4.5.41. Killed by enemy action in Walton Goal." One was Desmond Bray, keen worker for Birmingham P.P.U., who was serving six months as his second sentence, and the other Kenneth Coney, a young fellow from Coulsdon, Surrey, who had been at Dingle Vale and was serving his third sentence. These men were victims of a direct hit on the prison buildings, other C.O.s being unhurt.

The end of March, 1941, showed that 135 C.O.s had served court-martial sentences of imprisonment or detention of whom 18 had first taken their stand while in the Army. Twenty-three of the 135 later accepted service. At the same date only 60 review hearings had taken place before the Tribunal, but it is difficult to say how far this small number was due to "non-qualifying" sentences and how far to Tribunal delays. As many as 46 of the applicants had been recommended for discharge and civil work, while 3 were to be discharged and then called up for non-combatant duties. Eleven were rejected and none was registered unconditionally.

There were also unfortunate happenings at a Training Centre of the Pioneer Corps at Ilfracombe, one of Devon's most popular holiday resorts. In April, 1941, Nancy Browne, Secretary of the Central Board, received a letter headed "Private D. Waters, 97004538" telling her how he and others had been manhandled by a Sergeant Maloney. Such complaints could hardly be ignored and the Sergeant found himself facing court-martial on thirteen charges of ill-treating and striking four Conscientious Objectors, members of the Non-Combatant

Corps. Here are extracts from the local Press* reporting the trial, which lasted nearly seven hours:

Pte. R. T. Wade stated that on April 17th Maloney made him face the wall and hold his arms shoulder-high for twenty minutes, being under constant supervision during that period. Subsequently, in the company of a lance-corporal, he was struck by Maloney with clenched fists on the head and body. Next morning he was subjected for ten minutes to the arm-stretching ill-treatment after he had refused to put on uniform, and Maloney also struck him on the head and body.

Cross-examined Wade said that subsequently he put on the uniform. . . .

Pte. D. W. Waters said that, on Maloney's orders, he had to hold his arms shoulder-high for twenty minutes. Subsequently Maloney remarked to him, "I will show you I can be unpleasant," and struck him in the face with his open hand, also punching him in the stomach. The following morning Maloney again made him hold his arms shoulder-high for ten minutes. . . .

Pte. A. Morris spoke of being made to hold out his arms for twenty minutes and being struck on the jaw and other parts of the body by Maloney, who threw him to the ground. Next day, after refusing to put on khaki, he was struck across the mouth by Maloney, who also ordered him to hold out his arms. Maloney told the guard to watch him whilst he did so, and to use the handle of a pick-axe if necessary. . . .

Pte. N. R. Murray said that on April 17th accused struck him on the back of the head, following this with the remark, "You are a Conscientious Objector and eating the food that comes from overseas." Maloney then knocked him down twice and kicked him after he had risen to his feet. After he had warned Maloney that he would complain to his mother and father, witness received several more kicks, and his hips were painful for several days. Maloney also made him face the wall and stretch out his arms for some time.

Sergeant J. F. Comber stated that on April 18th, when he was commander of the guard, Maloney paid a visit to the detention room. Morris refused to put on uniform and Maloney struck him several times in the face and kicked him.

Cross-examined, witness said he did not report the matter because he did not know what power Maloney had over the prisoners.

Pte. Body, a member of the guard, told the court that Maloney ordered him to watch Morris whilst the latter stood near the wall

* *Ilfracombe Chronicle*; May 16th, 1941.

with his arms outstretched. Morris later refused to put on uniform, and Maloney struck him in the face with his open hand.

Witness said he turned away after the blows were struck, and, asked in cross-examination why he did so, replied: "It was not the sort of thing I liked to see happen."

Pte. R. H. Butt, another member of the guard, said he heard Maloney warn the prisoners that if they did not put on their uniforms he would do it for them. Maloney and Morris went into a room, and he heard the sound of blows. Morris also stood against a wall with his arms outstretched. . . .

But medical evidence had failed to show any great physical damage and the Sergeant put his good character in issue. Also, his defending officer submitted that there was great conflict of evidence with many discrepancies of time.

The result? This was given to Rhys Davies in Parliament on May 20th. *The Sergeant concerned was acquitted on all charges.* But, pressed by Rhys Davies, War Office investigations proceeded, with the result that the Minister wrote on July 31st, saying:

> Although the exercise of facing the wall and extending the arms was found by the court-martial not to amount to "ill-treatment", it is unrecognized and therefore irregular. The Unit commander is being so informed, and a suitable opportunity will be taken in the near future to make it quite clear to all concerned that irregular punishments are not to be resorted to in cases of offences against military discipline.

It is impossible to say what went on behind the scenes. But this was by no means the only item of interest from Ilfracombe.

ANNEX

THE STRANGE OCCURRENCES AT DINGLE VALE

by A. Joseph Brayshaw

THE only organized savagery directed expressly at C.O.s during the war took place at two army training centres—Dingle Vale Schools and the Old College—at Liverpool, during September and October, 1940. Such protests followed, in Press and Parliament, and such a mass of evidence was accumulated, that the War Office set up a Court of Inquiry. Its findings led to the court-martial of an officer

and five N.C.O.s, the War Office prosecuting—though without much zeal. But I am anticipating the story.

The No. 12 Training Centre of the Auxiliary Military Pioneer Corps was stationed at these two places in Liverpool. Some of the men who had been ordered by the Tribunals to do non-combatant duties in the Army and who had passed their medical examination, often under threat or cajolery, were called up to the Non-Combatant Corps at Dingle Vale Schools. When they did not go they were arrested and taken there under escort. Once there, they were at the mercy of the sergeants; complaints to officers were ignored, and during a period of violence lasting several weeks they either accepted non-combatant service, like the majority, or they suffered extreme punishments. Every man's hand seemed against them. They were half-starved, beaten, kicked. Their heads were shaved that they might be known and recognised as legitimate targets. They were cast into dark cells, and wakened at intervals in the night to do menial tasks or drill on the parade-ground. They were cut off from the outside world, to which messages had to be smuggled secretly.

The authorities seemed determined to prevent C.O.s claiming a court-martial for disobeying orders. A court-martial might have ensured them the legal right to a review Tribunal, and led to their release from the Army. Instead they must be *made* to soldier. So threat and terror were employed against them. Pathetic letters secretly sent out of the camp to parents, fiancées and Clergy were sent on to the Central Board. Peter Thornton, a C.O. who had been employed in the Magistrate's Clerk's office in Leeds, wrote about Albert Foster, a C.O. from Newcastle: "He refused to work and was brutally assaulted in our presence and taken back to solitary confinement. We asked to see an officer but none was produced so we could not register any complaint. The sergeant who assaulted him . . . is an ex-boxer." Four days later Bernarr Gibbs of Cardiff wrote: "About midnight I was aroused and taken out in my underclothing, with bare feet, and marched round the yard, being beaten and kicked as I went along. I was taken back to the Guard Room, my palliasse and blankets were taken away, and I was left to sleep with one blanket on the cold stone floor. I was again roused at 2 a.m. and 4 a.m., marched round with others and then left until 6 a.m. the following morning. I was taken to a 'solitary' cell in darkness where I was given bread and water and one blanket."

On the previous day Leslie Worth of Leeds had been beaten

more than once, had a bucket of water thrown over him, and had marched back to the guard room "receiving a blow on the head at almost every step I took". He was then taken out to drill with a party of men armed with rifles, butted in the back and front with the rifles, kicked on the legs and struck on the face. That afternoon he was put in a small cell with a tiled floor and no light save from a tiny grating near the ceiling. He was given one blanket for covering, with a bread and water diet, and was roused during that night at midnight, 2 a.m. and 4 a.m. These are but three of many similar stories.

At Liverpool Old College there was a miniature rifle range, and the shed where the range stood was the scene of systematic violence. On September 26th, 1940, five C.O.s including Richard Gregory of Huddersfield, Albert Campling of Gorleston, William Jordan of Eastbourne and Fred London of Colchester, were taken there. As Fred London wrote: "There were about ten sergeants and N.C.O.s and they kept us running and marching, mostly running, round and round the hut for about an hour and a quarter. They also put some sandbags there, and as we ran we had to jump over them. All the time they were kicking us as we ran, and kicking our ankles if we could not lift our feet up high enough. Campling collapsed and said he would give in, but they dipped his head in a bucket of water and he was pushed back into the line. At the end of the hour and a quarter they gave us about ten minutes break. Then back we went again and had another spell of half an hour, during which time Gregory collapsed and was similarly treated. At the end of that time, with the exception of Gregory, we all said we would give in."

Of the same occasion William Jordan wrote: "I felt rather weak that morning, and was soon stumbling over the sandbags, unable to continue, whereupon I was punched in the face and neck and kicked until I was laid out almost unconscious. A bucket-full of water thrown over me revived me so that the process could be repeated . . . and I was taken back to the cellar. A little later Major Flateau visited me and was, I believe, a little surprised at my condition." Two regimental policemen took Richard Gregory back again. He wrote: "When they got me back into the hut they started telling me about the tortures they were going to give us if we did not give in. Then I gave in and they took me back to the C.S.M.'s room, and asked me what I wanted to be in. I said the Pay Corps. . . ."

Similar brutality, but worse, was meted out to a larger group of C.O.s on October 9th. That morning eleven of them refused to

go out on parade. They were Owen Waters of Norwich, William Jordan, James Harvey of Gloucester, Albert Campling, Albert Foster, Fred London, Richard Gregory, Leslie Worth, Alwyn Walker and Eric Tipper of Sheffield, and John Radford of South-East London. They were hustled to the parade-ground by as many N.C.O.s. Then Captain F. K. Wright, Second-in-Command at the Old College, came along and gave them an order, which they twice refused to obey. Thereupon he told the N.C.O.s to take them into the rifle range. When they were there he said: "Well, if you mutiny, I can mutiny too." He ordered the N.C.O.s to make the men double round the room, and the sergeants formed an inner ring, around which they kicked and threw the C.O.s.

"At first we moved slowly," wrote John Radford, "but we were punched and slapped, kicked in the ankle and other places. Bill Jordan had two beautiful black eyes, noses were bleeding, chaps went down here and there, they were hoisted to their feet and kicked off again, bad cases were treated with a bucket of water. Towards the end there were five or six of us down at once. It was a terrific milling. I have never seen anything like it before and never want to again. We were mostly finished off with a blow below the belt which winded us; then we were held up by the neck and the officer yelled at us: 'Will you give in?' One by one we gave in."

"The Captain all the time was giving encouragement," wrote Leslie worth; "we could not stick this longer than half an hour, when we gave in. By this time, there was a pool of blood from Foster's nose, Jordan had two black eyes and all of us were very sore all over. We were all made to promise to be soldiers, and the Captain then said that he bore us no malice and, as far as he was concerned, now that we had been punished nothing further would be done. In the evening we were taken before the Major and the evidence about refusing to obey orders was given. No mention was made of the beating up, but we were told that we should be charged in the morning with mutiny and insubordination. We were taken to the guard room. The next morning we are taken before the Major again, formally charged and remanded for the C.O., Colonel Harry Greenwood, V.C. We were told that the penalty for mutiny was death."

But the news leaked out quickly, and the military authorities dared not invite investigation by prosecuting these C.O.s for mutiny. Two days later twenty-six of the C.O.s—all who had suffered or witnessed brutalities—were sent to Barry Dock, in South Wales,

where those under arrest were released and all were transferred to another company of the Non-Combatant Corps.

Within a week, on October 17th, T. Edmund Harvey and other M.P.s were asking Questions in the House of Commons. Sir Edward Grigg (then Under-Secretary of State for War, now Lord Altrincham) promised urgent inquiries, saying: "I need hardly add that it is the desire of the Army to treat Conscientious Objectors with scrupulous fairness in whatever unit they may have been called upon to serve." Five days later Glenvil Hall (now Financial Secretary to the Treasury) and Reginald Sorensen asked further Questions in the House, when Sir Edward Grigg announced that a Court of Inquiry was being set up, of which Major F. E. Pritchard, K.C., Deputy Judge Advocate, Western Command, would be a member.

That Inquiry heard evidence from some of the C.O.s who had been maltreated, including those who had been so hastily sent to Barry; but it did not seek out all the available evidence. During the next three months Questions were pressed in Parliament by six members—Glenvil Hall, Sorensen, George Strauss (now Minister of Supply), Major Milner (now Deputy Speaker), Edmund Harvey and John McGovern. At last, on January 28th, 1941, Captain (now Lord) Margesson, the Secretary of State for War, announced that the report of the Inquiry had been received *exactly two months earlier*, and that after careful consideration instructions had been issued to court-martial one officer and six N.C.O.s against whom allegations had been made. The Minister refused to publish the report. The only other indication of its contents that he gave was in this parliamentary passage of February 25th, 1942:

> *Mr. McGovern* asked the Secretary of State for War his reason for failing to have the commanding officer of a training centre, of which he has been informed, court-martialled for brutality on Conscientious Objectors, as he was aware of, and responsible for, such brutal treatment?
>
> *Captain Margesson:* The proceedings of the Court of Inquiry did not disclose any facts on which such a charge could be made against the commanding officer.

A week later, on March 5th, I sat in the gallery of the House of Lords to hear Lord Faringdon raise the whole subject. He is a young man, who later served in the N.F.S., and it took no small courage to raise so unpopular a subject in the icy atmosphere of their

Lordships' House. He quoted extensively from the letters of the maltreated C.O.s, despite the sneers of the Joint Parliamentary Secretary for War, the late Lord Croft. He put his case persuasively, disavowing any spirit of criticism of the War Office, and was well supported by the late Lord Arnold. In reply, Lord Croft said that the report of the Inquiry had not found that any Conscientious Objectors who had committed offences had been refused court-martial and instead threatened with coercion. "If," he continued, "there were any facts to prove that any of the offences, the subject of charges, were condoned by superior officers, such facts will no doubt be brought forward by the accused in their defence by way of a plea in bar of trial. No such facts have so far come to light." I wondered at the time about those words "no doubt".

On March 24th, there opened, at Liverpool, a General Court-Martial that was to continue for ten days. I sat through it all, taking down the evidence, much of it verbatim. It made 142 pages of close typescript, from which I have been refreshing my memory. The Court consisted of seven officers under the presidency of Col. B. T. R. Ford, D.S.O. The Judge Advocate, who sums up and instructs the Court on points of law, was C. L. Stirling, then Deputy Judge Advocate General, who has since served as Judge Advocate at a number of war crimes trials, including that of Field-Marshal Kesselring in Italy. The accused were Captain F. K. Wright, Company Sergeant Major Cooper, and Sergeants Alexander, McPhail, Norris and Cullen, and the charges were practically confined to the treatment meted out to the C.O.s in the rifle range on September 26th and October 9th, 1940. Since the accused were tried individually in turn, it follows that substantially the same ground had to be covered in each case. This was to have important consequences.

The prosecution was led by Major Anthony Marlowe, of the Judge Advocate General's Department, and he was assisted by Captain Gerald Thesiger, whose father was a County Court Judge. Major Marlowe, who later became Conservative M.P. for Brighton, only conducted the case against Captain Wright, who was defended by E. G. Hemmerde, K.C., who died in May, 1948: he had been Recorder of Liverpool since 1909, despite a colourful and unpopular career and somewhat acrimonious relations with Liverpool Corporation. His Junior was Miss Eileen MacDonald, this being the first time in history that a woman barrister had participated in a court-martial.

The prosecution of Captain Wright was gentlemanly and moderate: and on his behalf Hemmerde was savage and funny by turns. But after the first day Hemmerde's other briefs compelled him to ask for an adjournment of the officer's case, and in this he served his client ill, as will presently be seen.

On the next day the Court started to try C.S.M. Cooper, and on succeeding days the other sergeants. They all swore a complete denial of the charges, and were cleverly defended by a fierce little barrister, Lieut. E. W. Fargher, as Defending Officer. He appealed to every known prejudice against C.O.s, sneering and reviling them, and was quite unscrupulous in unfounded attacks upon the C.O. witnesses who had been brought there under *subpoena* by the War Office. He constantly suggested that they, and not the War Office, were bringing the prosecution. "Why did you not bring this and that evidence?" he would ask them, as if the conduct of the case rested with them. The Manual of Military Law expressly lays down that counsel may not suggest things that they do not attempt to prove. Yet Lieut. Fargher got nation-wide headlines in the newspapers by his statement that, on one occasion, "blood might have been shed, because during the *fracas* one of the Conscientious Objectors drew a bayonet belonging to a sergeant and it was only by God's blessing that another N.C.O. wrenched the bayonet from his hand". There was no word of truth in this, nor was any attempt ever made to prove it. But it was days later that Lieut. Fargher's own witnesses disproved the suggestion, and by then the stratagem had served its turn. It had ceased to be news and the falsity of the accusation was never reported in the newspapers.

What made things worse was that the War Office prosecutor made hardly any attempt to rebut the calumnies heaped on his C.O. witnesses. He never so much as suggested that no C.O. would have drawn a bayonet, nor put the defence to proof of such stories. It seemed a matter of indifference to him that the credit of his witnesses was being skilfully and unjustly undermined. Moreover, the prosecution was so maladroit that, as one case succeeded another, evidence for the prosecution kept cropping up that would have been most material to one of the earlier cases—had it been called. It was not until the ninth day of the trial, for instance, that a witness was produced who saw full buckets of water carried to the rifle-range, and empty buckets brought away. Meanwhile, all the evidence of duckings and water-throwing had been disbelieved for lack of this very evidence.

That the trials were a pathetic travesty of justice was in no way the fault of the Court itself. It judged fairly on the evidence presented to it, which was admirably summed up by the Judge Advocate, who strove hard to eradicate all prejudice. The C.O. witnesses were not impressive, being torn between the desire to secure justice and to show forgiveness. It was surprising that the Court found any charges proved after a C.O., who had certainly suffered two black eyes in the rifle-range, was asked: "Are you prepared to swear that, with your own eyes, you saw anyone hit anyone else?" and replied, "No, Sir."

First, C.S.M. Cooper and Sergeant Alexander were acquitted on all counts; then Sergeant Norris was found guilty of one assault and was later sentenced to a severe reprimand; after that Sergeant McPhail, a boxer, was found guilty of two assaults and was later sentenced to be reduced to the rank of corporal; then Sergeant Cullen, another boxer, was acquitted (though found guilty of other charges not concerning C.O.s); and finally, when Captain Wright's case was ultimately resumed, he was found guilty of permitting assault and failing to report misconduct, and was sentenced to be reprimanded. Yet as the issues were retried in each case the essential truth of the C.O.s' evidence was confirmed, and the N.C.O.s' evidence broke down on small points and ceased to carry conviction. Thus three of the succeeding four cases, including that of the officer, ended in a conviction of some sort.

The dilemma of the C.O. witnesses—torn between justice and charity—caused some dramatic incidents. Several stressed that it was only under compulsion that they came to give evidence. But two went further. Frank Chadwick, when called as a witness, handed a note to the President of the Court. The Judge Advocate read it aloud: "Sir, I regret I must refuse to give evidence against Ex-Provost-Sergeant Cullen . . . I have already forgiven him and cannot reconcile the giving of evidence, which might appear vindictive, against him." Now I had personal knowledge that this was entirely sincere; and I remember with emotion the poignancy of what followed:

The Judge Advocate (to the President): "In the case of a person subject to military law, if you, Sir, give an order to Chadwick to give evidence, he must obey as a soldier."

President: "I order you to give evidence."

Chadwick: "I refuse."

President: "I'll give you two minutes, and if you don't obey I'll have you put under arrest."

The Judge Advocate then read section 28 of the Army Act, dealing with penalties.

It was a very long two minutes that passed in silence.

Chadwick: "I still refuse to give evidence."

Judge Advocate: "There cannot be any question of conscience; he is refusing to do his duty as a citizen."

The matter was shelved, another witness was heard, and the Court adjourned for a quarter of an hour to give the Prosecuting and Defending Officers an opportunity to persuade Frank Chadwick to give evidence. He was then recalled before the Court.

President: "Private Chadwick, I place you under arrest under section 28 of the Army Act, for refusing to give evidence."

Frank Chadwick was marched away and later court-martialled on this and two other charges. He was sentenced to a total of two years imprisonment, later commuted to twelve months, during which time the Appellate Tribunal registered him as a C.O. conditionally on doing land work.

The following day Lieut. Fargher lost no time in claiming that Chadwick had refused to give evidence because his story could not withstand examination. "Cullen would have liked Chadwick to give evidence," he said. "It would have proved a complete conspiracy."

This last suggestion referred to an action taken by Albert Foster. Though he had suffered at Sergeant Cullen's hands, yet when he heard that Cullen's wife was in difficulties he either sent or offered her some money. When this came to the ears of Lieut. Fargher he regarded it as an attempt to interfere with, or subborn, a witness. Accordingly, he had applied to the Court *in camera* early in the trials, with the result that Albert Foster was surprised to find himself in close arrest and solitary confinement. Of course the charge was baseless, and within a week Albert Foster was released. But the Court had been given the impression, from Foster's gesture of humanity, that these C.O.s had been plotting to corrupt justice.

I do not know that I should have the forgiving Christianity to do it, but if ever men turned the other cheek it was these two young men, who sought to help their persecutor, and who were so shamefully used for doing so. I never expect to see greater moral courage

than that of Frank Chadwick, sitting silent before a deeply hostile and suspicious Court, and bearing punishment because he would not bear malice.

No one who sat through those ten days of trials could possibly doubt that there had been systematic brutality to coerce Conscientious Objectors from their stand, though it was true that the evidence as presented did not sustain most of the detailed charges against the individuals accused. Still, the convictions showed the world that at any rate something irregular had been happening, and the slight penalties imposed relieved the anxiety of many of the C.O.s who had reluctantly given evidence. Above all, the Inquiry and courts-martial were sufficient to ensure that throughout four further years of war no planned coercion was attempted in the Army.

CHAPTER 8

"CAT AND MOUSE"

DESPITE the action of the War Office, courts-martial were proving obdurate. At June 30th, 1941, the Board's records showed that out of 216 courts-martial of C.O.s in the Army, as many as 101 (46·7 per cent.) of the sentences did not qualify them for new Tribunal hearings. Most of these C.O.s had been awarded varying lengths of military detention, but a few had received sentences of imprisonment too short to permit of Tribunal appearance; there were, for instance, three cases of 84 days imprisonment and even one of 90 days, when 91-93 days would have sufficed—deliberate "cat and mouse" by the Courts. In another case 18 months imprisonment was commuted to 18 months detention. Gradually this withholding of Tribunal rights became localized at the Training Centre at Ilfracombe where Sergeant Maloney had been acquitted "without a stain on his character". Indeed, the courts-martial at the Osborne Hotel became a feature of Army life in the district. Here in tabular form is some of the Court's handiwork for April 15th and June 9th, 1941:

RECORD OF COURTS-MARTIAL AT ILFRACOMBE

Name	*Trial*	*Sentence*
Norman Murray	(1) 15.4.41	56 days detention.
	(2) 9.6.41	84 " "
Ashley Morris	(1) 15.4.41	56 " "
	(2) 9.6.41	72 " "
R. T. Wade	(1) 15.4.41	56 " "
	(2) 9.6.41	72 " "
D. W. Waters	(1) 15.4.41	56 " "
	(2) 9.6.41	84 " "
P. Weber	9.6.41	56 " "
L. Mather	9.6.41	28 " "
T. McIlreavy	9.6.41	56 " "
P. Davies	9.6.41	56 " "
I. Morison*	9.6.41	56 " "

* Morison had previously been sentenced to one year's imprisonment, commuted to five months, at Scarborough on November 6th, 1940; while he served this, the Tribunal had registered him for non-combatant duties to which he also objected.

A substantial volume of protest resulted, and the War Office prepared a set form of letter which they found it necessary to send to both the Archbishops of Canterbury and York and to several M.P.s who had interceded for the C.O.s. The root difficulty, it claimed, was that the introduction of a "qualifying" sentence was bound from the start to give rise to difficulties because the statute did not impose any obligation to award the minimum sentence of three months imprisonment. But the letter did state these "cat and mouse" sentences to be "inconsistent with the declared policy of the Army Council". Still, it was uphill work. Each case had to be fought on its individual merits. The advices to courts-martial on conscientious objection were consolidated and reissued in September, 1941, a step destined to help considerably.

They did not end this highly objectionable form of "cat and mouse". Instead of, as previously, usurping the functions of the Tribunal by deciding whether a C.O. were genuine or not, the Courts set themselves to determine which of the defendants were worthy to have their consciences judged by the Appellate Tribunal, a refinement of the position, despite the fact that only in the previous March the Secretary of Sate for War had written: "The Court is concerned not to retry the issue of conscience but to deal with the military offence. . . ."

So Mrs. Mary Grindley of the Women's Co-operative Guild and Joe Brayshaw of the Central Board went to Ilfracombe, and their acute observation of events at that resort laid a firm foundation for the protest that followed, for they came back armed with the following results which, in total, were even more illuminating than the treatment of individual cases:

October 29th: John Lindsay, 12 months detention. Norman Brinham, 6 months detention. B. A. Church, 93 days imprisonment *commuted on review to 28 days detention.* H. Ridgway, 93 days imprisonment.

November 5th: Stanley Whiting, 6 months detention. Walter Edwards and Albert Hoffler, each 93 days imprisonment.

November 7th: Ambrose Burton, 90 days detention. Nathaniel Wade and Edwin A. James, each 93 days imprisonment. Harold Bourne, 56 days detention. Roy Sherwood and Edwin Holwell, each 93 days imprisonment.

November 11th: Charles C. Bolton and J. Moodie, each 93 days imprisonment. John Heron and Walter Burn, each 93 days imprisonment *commuted on review to 90 days detention.* Douglas Millar, 93 days imprisonment.

November 13th: Stanley Charlesworth, James Jennings, William Grey and Harold Irving, all 93 days imprisonment *commuted on review to 93 days detention.* Eric Tipper, 93 days imprisonment.
December 3rd: B. A. Church (once more), 93 days imprisonment. J. A. Leishman, 28 days detention.

In some instances these were second or third sentences. But the commutation of sentence in this way reduced the whole business to the level of crazy comedy—for the Court itself had been quite willing to give sentences that allowed another Tribunal hearing; this right had been confirmed by the Confirming Authority but negatived by the Reviewing Authority. In these cases, though, the War Office tacitly admitted its error by allowing Advisory Tribunals. In the meantime, however, James Jennings had gone on hunger-strike and been taken to hospital, though most of the other C.O.s had to serve their sentences which in the main were infuriating rather than long.

Many C.O.s had little difficulty in Detention Barracks, but there were a few notorious exceptions, some of which came to light when the Oliver Committee was holding its Enquiry into Detention Barracks in 1943. For instance, Robert Foster, whom Nancy Browne, Secretary of the Central Board, called one of the bravest C.O.s of the war, made this statement:

> I was issued with a rifle and equipment in preparation for admission to Aldershot Military Prison and Detention Barracks to undergo six months imprisonment for refusing to obey an order. I refused to sign for and accept the rifle and equipment and a man was ordered to accompany my escort to carry them. At 2 p.m. I was received at the gates of the prison by a staff sergeant and the rifle and equipment were thrown at my feet. The staff sergeant at the gates was S/Sgt. D—— and he ordered me to pick them up. I replied, "I refuse, Staff." S/Sgt. D—— raised his voice and among other things said, "I've been sent here to cure Conscientious Objectors and I've never failed." He gave the order to two N.C.O.s who were standing by, "Double him off to the Reception Room."
>
> At the Reception Room I was ordered to empty out my pockets and hand over my braces and boot-laces. Another order was given to stand up against the wall so that my nose and toes touched it. I obeyed and was in that position when S/Sgt. D—— entered the Reception Room. He stood behind me and said: "So you won't take a rifle and equipment—I'll show you," and he gave me a blow on the back of my head with his closed fist and caused my face to be crushed against the brick wall. He had

occasion to pass me five times and each time he repeated this—both the saying and the punching. I remember falling backward and crashing the back of my head on the floor. I think I could not have lost consciousness any length of time. I made an effort to rise and an N.C.O. fetched a bucket of cold water which he threw over me—and another N.C.O. also did likewise. The contents of my kitbag were then checked. I was ordered to pick up the rifle and equipment and again I refused in the manner that I had done at the gates. I consider that my refusal was in an even, respectful tone.

The N.C.O.s present began to bully me in an attempt to get my obedience—bullying was followed by punches on my face and head, also my body, and particularly by attempts to wind me. The N.C.O.s were joined by other N.C.O.s until finally ten took part. I always replied, when ordered to take the rifle and equipment, "I refuse, Staff." Wrist, leg and arm-twisting and kicking of my body were means adopted in attempts to coerce me into consenting to take the rifle and equipment. I received one kick on the bone below the left eye which was given by S/Sgt. E—— . . . who was about sixteen stone in weight. In view of the condition of my eye the N.C.O.s must have seen the red light, or probably their time on duty was nearing an end, and, after again refusing to take the rifle and equipment, I was doubled by two N.C.O.s, each holding an arm, to the Detention Hall and placed in a cell on the third floor. Tea had been served to all other prisoners and my tea was obtained specially from the Cookhouse. The time must have been past 4 p.m.

At Reveille the next morning, June 25th, 1940, I made an application to see the Commandant to complain against the illegal treatment I had received. I was taken for Medical Inspection and the Lieutenant of the R.A.M.C. whom I saw informed his orderly and others present that he wanted to be alone with me. He knew of my previous history and expressed his disagreement with my continued objection to military service. I informed him I would like his support against the N.C.O.s who had ill-treated me. He said that he agreed with the action of the N.C.O.s and informed me that they would cover themselves by charging me for attempting to use violence against them. In this way they could justify the use of force to restrain me. I asked him to give me his support in proving that the physical damage I had received was much worse than would have been necessary to restrain me, even if I had been violent. He upheld the action of the N.C.O.s and refused to come to my aid. I was paraded before the Assistant Commandant, Major Davidson,

having been passed as medically fit for punishment. I mentioned what had happened and he made no comments but read out a charge against me *for attempted use of violence against an N.C.O.* The N.C.O. preferring the charge and two others were all present during the giving of the evidence. The second and third witnesses merely stated that they agreed with the evidence given by the first witness. It is rather important that at no time was it stated at which part of the body the blow was aimed or whether the incident occurred at the gate or in the Reception Room. Major Davidson asked me what I had to say. I denied attempting to use violence and said that throughout, while unable to agree to take the rifle and equipment, I had been respectful and avoided a defiant manner. Major Davidson said he could do nothing but take the evidence of the N.C.O.s and sentenced me to 3 days P.D.1, 3 days C.C. and 10 days P.D.2. This punishment was absurdly lenient for an offence which was considered to be clearly proved.

Another C.O., Andrew Pearse, who had himself been ill-treated at the same Detention Barracks, was to some extent able to corroborate this story. The report of the Oliver Committee included a note that the demeanour of both these men very favourably impressed the Committee, and in another connection the report recorded that in the nature of things Conscientious Objectors were fearless about expressing their feelings and therefore would not hesitate to make a complaint. Edmund Burke once said that the use of force is but temporary. It may subdue for a moment; but it does not remove the necessity of subduing again.

No one will ever tell of what went on behind the scenes, of the messages from War Office to Command Headquarters, of the memoranda to units, and all the rest; but there is no reason to doubt that the War Office had been kept almost continuously on its toes since the first sentence of detention had been passed. From the beginning of 1940 to the autumn of 1941, the great-hearted Alfred Salter and Cecil Wilson had maintained a constant flow of letters to the War Office on the general principles involved. The Central Board had plied the Government with lists of unsatisfactory cases, urging mitigating circumstances in one, especial hardship in another. Public opinion, too, so far as it could unravel the technicalities of imprisonment and detention, was solidly behind them; it was not going to stand for anything approaching "cat and mouse" tactics on any side: if C.O.s had to be prosecuted that was an unfortunate necessity of war, but it must be done cleanly and openly without the

slightest taint of enjoyment. Gradually the War Office advices began to take effect and detention became a rare bird. Though continuing as an element in the repeated prosecution of C.O.s in the Army, it was a factor of decreasing importance.

From the general to the particular. From widespread sentences of detention to single cases of repeated trial and punishment. On the military side of the struggle the stage was set for a succession of individual C.O.s, consistently rejected by the authorities but prepared to dare all for the recognition of their conscience. The first of these was a young actor, John Lindsay, a colourful personality, who had three brothers, one an Officer in the Calcutta Light Horse, another a Pilot-Officer and a third training as an air-gunner in the R.A.F. His father was a manufacturer of parts for aeroplanes and armoured vehicles. Despite all this, Lindsay felt he must be a Conscientious Objector. Turned down by the Tribunals, he was called to a Signal Training Regiment and sentenced to six months imprisonment, which allowed a Tribunal review. Meanly, the Tribunal recommended that he be discharged from the Army but called up again—this time for non-combatant duties. So Lindsay was recalled to the Forces and sentenced to 56 days detention (no Tribunal possible). He was court-martialled again and awarded twelve months detention (no Tribunal possible). But a strong protest succeeded in getting this reduced to three months; a fourth court-martial, with a sentence of 93 days imprisonment, followed and at length Lindsay was registered by the Appellate Tribunal for work on the land. Apart from various guardrooms, he had then been in Hull, Shepton Mallet and Northallerton Detention Barracks, and Walton, Strangeways, Stafford and Exeter Prisons. Nor did he fail to make good use of his experience in trying to improve the deplorable general conditions of his day. ("It is not an unusual occurrence", he once wrote, "for a soldier under sentence to swallow razor-blades or needles or even try to cut his throat in an attempt either to be taken out of the D.B. into hospital, or to be discharged from the Army on medical grounds, or to commit suicide.")

As Lindsay receded into the background of attention there came into prominence two other C.O.s of strangely contrasting types, one a Quaker attender with the physique of a tough Scot and an open-air outlook, the other a delicate Jehovah's witness from Rochdale who seemed to keep going only through strength of will. The first was R. S. Campbell, widely known as Bert Campbell, and the other Stanley Hilton.

"I believe", Campbell wrote in his Tribunal statement as early as November, 1939, "that I must live in a spirit which does no injury to the life or spirit of any man. I aspire to treat all men as brothers whom I cannot injure in any way. . . . My whole being revolts at the prospect of taking part in war. I know that if I did so I should utterly destroy these moral principles by which I live, and in so doing destroy my spiritual self." That was the spirit the Tribunals rejected: Bert was to be liable for combatant military service. From then on it was not easy. His record card at the C.B.C.O. reads prosaically enough:

> Summoned at Glasgow, 25.6.40. Adjourned 2 weeks. 9.7.40, fined £5 or 10 days. Imprisoned for failing to pay fine. Med. ex. 9.7.40 under threat. Arrested 29.8.40. Taken to 25th Training Reg., R.A., Marske, nr. Ripon. Sentenced summarily 28 days detention Barlinnie. Taken back to Marske, 26.9.40. 6.11.40, moved to Wakefield. Court-martialled—to serve 1 year imp. from 7.10.40. Scottish App. Tri. (sec. 13) 7.2.41—dismissed.

Campbell had gone down again. The pleas of the Central Board and other sympathizers failed to move the War Office and there was nothing for it but to serve the rest of the sentence (less remission of one-third for good conduct) and to try again. Bert's court-martial friend, a master at Great Ayton School, could see the force of circumstance slowly closing in. This was what he wrote of the next trial at Marske-on Sea on June 14th, 1941:

> The court-martial was long and scrupulously fair as far as the actual charge (disobedience to an order to go on parade) was concerned. The prisoner was courteously treated by the president of the court. The real difficulty lies not so much in the C.M. as in the fact that it was Campbell's second trial after losing his second appeal. This certainly gave the Court the impression that it was no longer a question of conscientious objection but purely and simply one of insubordination by an ordinary soldier.
>
> I was not therefore surprised at the sentence—*two years detention*. This places Campbell (and another man, Hilton, a Jehovah's witness with whom I could not make contact) in a very difficult position indeed and I am afraid they may both meet with very severe, if not cruel, treatment in the detention barracks.

> Finally, though I had no previous knowledge of this boy, may I say that his honesty is transparently obvious, and that a very great miscarriage of justice is being perpetrated.
>
> A. HERBERT DOBBING, for and on behalf of
> the Guisborough Monthly Meeting
> of the Society of Friends.

Bitter blow as this was, Campbell knew at least that friends all over the country would move heaven and earth to set him free. Gradually the weight of opinion caused the Military to give way and, following review by Northern Command, the sentence of two years detention was remitted as from February 4th, 1942. Campbell was returned to his unit. He disobeyed orders immediately. He was court-martialled a third time. Sentenced to two years imprisonment, he appeared before the Appellate Tribunal on April 28th. At long last the Tribunal, under the benign presidency of Sir Edward Stubbs, recognized that before them stood a genuine Conscientious Objector and proceeded to register him on wide conditions of civil work. So Campbell was discharged from the Army on May 15th, after twenty months almost continuously in detention or prison.

That may have been the end for Campbell, but Stanley Hilton, a humble woodworker and French polisher, had yet a long way to go. From being a Methodist and a P.P.U. sympathizer Hilton had become a converted Bible Student after the war began, a step hardly "likely to pay" were his motives not completely honest. His Tribunal statement was brief and to the point. It read:

> Gentlemen,—My body is in your hands, but my soul is in my own, through the power of Jesus Christ. I cherish that gift and desire to love and serve Him, for there is no man on earth who could replace it. I also respect the souls of my fellow-men and cannot take human life.

Yet, like other Jehovah's witnesses, Hilton did not rule out self-defence, though he felt that self-defence did not justify a Christian taking part in organized warfare: for "one could not be a soldier of Jesus Christ and a soldier of the Nation", and there was nothing in the Bible to justify joining the Army. Unfortunately, Hilton's conscience commended itself neither to the Local nor the Appellate Tribunal. "The Tribunal are satisfied that conscience plays no part whatever in the application," said the former. We see "no reason whatever" to alter the decision, said the latter.

On September 2nd, 1940, Hilton was arrested as an absentee from a unit of the Royal Artillery. His early sentences were very

like Campbell's—one year's imprisonment (rejected again by the Tribunal), two years detention (remitted with Campbell's), and two years imprisonment. But whilst the other C.O. was then successful before the review Tribunal, Hilton was not. They also wait who still refuse to serve. Hilton was returned to prison. The months dragged by ; another Christmas came and went until at last in June, 1943, the " two years ", with full remission for good conduct, came to an end. This Jehovah's witness had now spent two and a half years in custody, either under remand, in detention or in prison. His fourth court-martial took place at Bradford on July 26th when David Brayshaw, a Sheffield solicitor, represented him and Fenner Brockway gave evidence of character.

In correspondence with Fenner Brockway, Sir James Grigg, Secretary of State for War, had written that " detention is not awarded unless in the opinion of the Court there is some prospect, slight though it may be, that the man will make good in the Army ". If ever there was a case of a " soldier " unlikely to make good, it would seem to have been Hilton, but the Court listened to no such counsel of despair and proceeded to impose *two years detention*. So Hilton was taken to Riddrie Detention Barracks, Glasgow.

The protest was immediate: even the Press, not usually sympathetic to Objectors, saw that the case received the widest publicity. The *News Chronicle* carried a leading article commending the case to the attention of Parliament and reminding the Government of Churchill's declaration that " anything in the nature of persecution, victimization and man-hunting is odious to the British people ". Replying to a Question by Rhys Davies, Sir James Grigg said in Parliament that " the question of Gunner Hilton's sincerity is one for the appropriate Tribunals ", but he made no reference to the fact that the sentence of detention debarred Hilton from even applying to the Tribunal. Joe Brayshaw at the Central Board worked like a Trojan. Organizations and individuals throughout the country were asked to send in their protests until the War Office found it necessary to have a stock form of reply cyclostyled for importunate inquirers. Fenner Brockway had a letter published in some fifteen newspapers, and Archbishops and Bishops were interested in this strange business. A pamphlet, *The Case for Stanley Hilton*, published by the Central Board, sought to explain the complexities of the case and answer the arguments of the War Office.

But Sir James Grigg was a strong-willed man with a touch of obstinacy that made him stiffen rather than unbend in face of

criticism, and little progress seemed possible. However, on October 1st, 1943, the Central Board received an unsigned telegram of three words: "Stanley Hilton released", but when inquiries were made at the War Office no information could be obtained and it was not until October 4th that details became known. It then appeared that, in the course of a normal review, the C.O.'s sentence had been "suspended by the superior authority", that is to say, the sentence could be put into execution later if the authorities thought is desirable.

After being released from Riddrie, Hilton had been posted to a local unit where he made it clear that his attitude remained unchanged. For ten days he was leniently treated (he was allowed to attend study meetings of the local Jehovah's witnesses) and filled in his time repolishing chairs in the sergeants' mess. However, on October 11th the familiar routine of charge and remand began once more: a fifth court-martial was imminent. But now Hilton's reserves of strength were getting low; his cell was minus four window-panes (but not, of course, bars), a Scottish wind was blowing hard and Hilton found it next to impossible to keep warm; so that when he faced the court on October 26th he was suffering from influenza, had to be got out of bed for the occasion, and returned to bed immediately afterwards.

Robert Egerton, one of the Board's honorary legal advisers—quiet, restrained, immensely persuasive—put the C.O.'s case and asked for a sentence of three months imprisonment, the minimum that would allow a Tribunal to adjudge Hilton sincere or insincere. A few days later a sentence of twelve months imprisonment was promulgated and Hilton, then recovering from his illness and regaining his usual cheerfulness, was transferred to Barlinnie Prison, Glasgow, to await the long-delayed Tribunal.

On December 9th, 1943, J. Harvey Robson, a sympathetic barrister, journeyed from Newcastle to Edinburgh to represent Hilton before the Scottish Appellate Tribunal. That he had a difficult task he knew full well: for not only was this Tribunal renowned for cold logic rather than warm human feeling, but Hilton had never shone on such occasions. Moreover, he had never claimed to be a complete pacifist and was a member of one of the least popular Christian bodies in the country. On the following day he put Hilton's case to the Tribunal, pleading facts rather than words, drawing attention to the eloquence of the C.O.'s steadfastness since September, 1940. All present agreed that it was a moving address, much evidence of sincerity was given, and the decision was awaited. When the result

became known, it was learnt that Hilton had been registered as a Conscientious Objector *conditionally on undertaking work underground in coal-mining*, the most exacting form of civil work the Tribunal could specify.

So five days after his fourth Christmas in prison Hilton was released from Saughton Prison, Edinburgh. At 1 p.m. the prison door opened. This time there was no military escort waiting to take him back to his Unit and the C.O. stepped out into the street a free man after more than three years of imprisonment and detention in the Army. Though he had been registered for civil work, Hilton, as an unconditionalist, refused to comply with the condition, but the Ministry of Labour showed great sense in ignoring this breach of the law, for had proceedings been taken they would hardly have redounded to the credit of the Government. For the *Christian World* was not far wrong when, in an editorial on January 6th, 1944, it said that the military authorities had shown up very badly in their handling of the case and that the spirit of the conscience clause had quite definitely been violated.

If Hilton's case was the best known it was by no means the only case of repeated prosecution, though in most of the other cases the sentences were shorter. Hilton had been court-martialled five times, and Gerald Henderson, another Jehovah's witness, was tried the same number, his sentences being 28 days detention (no Tribunal possible), four months imprisonment (rejected by the Tribunal), six months imprisonment (the same), seven months imprisonment (the same again), and fifteen months imprisonment. There was this difference between the two cases: while Hilton had been denied Tribunal review of his objection, Henderson had little cause for complaint against the military; his difficulty arose from the Tribunals' refusal to recognize him as genuine.

It was a case of the irresistible force meeting the immovable mass, for neither side seemed prepared to give way and there was a good deal of concern at the apparent stalemate in this and kindred cases. It was always possible for the military to discharge a man "services no longer required", but the authorities felt understandable difficulty in taking this course where a man had pleaded conscience and been refused registration by the Tribunals set up for the purpose. For they must not appear to flout the Tribunals' decisions. And yet the practical problems set by these C.O.s and the effect of their open defiance on the rest of their Units must have been clearly apparent to the Army authorities. These things apart, there

remained the most fundamental question of all: could a nation have *complete* faith in the judgment of a body of mature men when it came to an appraisal of the very spirit of a man? Might they not sometimes be mistaken? And if they might, was a youth, who might indeed be genuine, to suffer detention or imprisonment without apparent limit? The struggle had got to rock bottom.

What exactly happened I cannot say. These facts, however, are incontrovertible. From the beginning of 1943 onwards some of these C.O.s were called before their officers and peremptorily told to pack their things: they were being discharged from the Army. No reasons were ever given and no announcement was ever made by the War Office but it seemed almost as if a directive had gone forth that, in the ultimate, when a C.O. had been proved to be of no use to the Army he might as well be released to do some kind of useful work in civil life, perhaps under "direction" of the Ministry of Labour. But whether or not this inference is right, and, if it is, on what terms of suffering these men became eligible for discharge, must remain locked in the breasts of the War Office.

Sir James Grigg, one of the least conventional of Cabinet Ministers, on being appointed Secretary of State for War in February, 1942, gained a certain respect with the military for his strength of purpose in standing up to other elements in the Government when War Office affairs were under discussion, and it would certainly be in keeping with his character and his tolerance of unusual views for him to have approved some scheme for releasing the three- and four-court-martial men when more "legalistic" minds would have left them to it. Some thirty C.O.s were discharged whose release could not be explained as being within any known category. Henderson himself, however, was not one of these; for at the last minute this C.O. had managed, at his fifth sentence, his fourth review hearing and his sixth Tribunal, to persuade the "Appellate" that he was sufficiently sincere to be at least conditionally registered, a striking tribute to his persistence. He had been represented by Mary Grindley as personal friend.

No account of these events would be complete without mention of Gilbert Lane of Wallington, Surrey, who earned the distinction of being the only C.O. of the Second World War to be court-martialled six times. His first five sentences were as follows:

28 days detention (no Tribunal possible).
3 months imprisonment (rejected by the Tribunal).
6 months detention (no Tribunal possible).

93 days imprisonment (rejected by the Tribunal).
18 months detention (no Tribunal possible).

The fifth and heaviest sentence seems to have been imposed in the erroneous belief that the Tribunals had held conclusively that Lane could not be genuine and that no alternative was left to the Court but to give an exemplary sentence of detention, though it is not irrelevant that the sentence was only part of a further crop of detention sentences at a particular Army Unit at Moreton-on-Lugg, Herefordshire. Great difficulty was encountered by the Central Board in its efforts to have the case favourably reviewed by the authorities, as the War Office was unwilling to make a precedent. Lane's misfortune was to have had a surfeit of detention, and it was by no means easy to know how his interests could best be served. At length, however, Lane was court-martialled a sixth time, sentenced to six months imprisonment and conditionally registered when he applied to the Tribunal. His Army discharge followed. No C.O. in the Second World War was court-martialled more than six times, so that Lane may derive what comfort he can from this record.

These, then, were a few of the leading cases among the C.O.s in the Forces. No doubt these men showed courage, but it needed equal or greater courage for C.O.s to refuse duty in the Navy (the Senior Service had its own methods of deterring C.O.s and produced no more than a handful throughout the war) and in the Royal Air Force, where established rights and concessions of the Army had frequently to be fought for all over again. We think also of Roy Woodward, little more than a boy, who even after the war was over, spent a fortnight in Detention Barracks either clad in a towel or unclad without the towel rather than put on the uniform that was left in his cell; of Harold Johnson, Leslie Monaghan, John Hill, R. A. B. Lawrence, F. Hills and H. A. Tarr, each sentenced to three years penal servitude by court-martial, and of the great majority who did their best without getting many thanks or much publicity but who managed to hold on through times of crisis. Nor do we forget the men and women who unselfishly gave their services as court-martial friends—Mary Grindley, L. Temple Jarvis, Raymond Wylde, Bernard Howell-Jones, Fred Barton and many others. No one can tell what their friendly counsel meant to those facing trial.

Above all, we think of the C.O.s taken overseas. One of these was a quiet, sensitive lad with little aptitude for words, Bernard Wellsbury, from Bilston in Staffordshire. Though Wellsbury had

originally registered as a C.O. and been refused recognition by the Tribunals, he went into the R.A.F. when called up, but was always uneasy in mind as to service. As time passed it seemed to grow more and more difficult to stand out, and it was not until he was warned for embarkation that Wellsbury took his courage in his hands and told his Commanding Officer he could carry on no longer. He went on embarkation leave and did not return, for which he was later confined to barracks for 14 days.

After this Wellsbury deserted and came to London to see Nancy Browne, Secretary of the Central Board. He was told that all he could do was to return, state his views, and take the consequences. So he returned and was remanded for court-martial. At his court-martial he asked for 3 months or more imprisonment, but his sentence was 28 days detention. The day after his release he deserted again, later going back to his camp.

Nothing further was heard of Bernard Wellsbury until midnight on February 10th, 1942, when his court-martial friend received a telephone call from him. Wellsbury endeavoured to give some sort of farewell message, but he was too distressed to speak coherently. Someone else in the room took over the 'phone and said: "He wants you to tell his mother that he won't be able to get in touch with anyone for a considerable time."

The explanation was this. On returning to camp Wellsbury had been put in a cell where he caught scabies from the blankets and he had been moved to an Isolation Hospital. At nine o'clock that night he was visited in hospital by two Service Police, ordered to dress, and told he was to be taken overseas. He replied that he was a Conscientious Objector, and asked to see the Senior Officer in charge of the Unit—only to be told there was no Officer there and it was no use making a fuss. Eventually, however, Wellsbury was allowed to make the telephone call to his court-martial friend.

Wellsbury was kept in the Warrant Officer's room for a long time. A number of Service Police were present and there were heated words, in the course of which the Warrant Officer is said to have threatened him with his revolver, saying: "I will prove by all these witnesses that I shot you in self-defence." The Officer concerned later calmed down and offered a partial apology.

In the early hours of the morning Bernard Wellsbury's kitbags were brought to him filled with tropical kit and he was told he would be shot if he made any attempt to escape. He was taken by lorry and train to a port and was put on a ship for India.

In spite of everything, Bernard Wellsbury still refused to perform any service on board ship or on arrival in India. He was offered a job in the Chaplain's office, but with some reluctance he said that he could not do even that. He was charged with disobeying an order, given five days confinement to camp, and placed under medical observation. For the next forty-odd days he was under arrest, and, as soon as he was released, started to walk out of camp. Again he was arrested, and this time given seven days confinement to camp.

Later Wellsbury disobeyed another order and was put under arrest to await trial by court-martial. It was in the height of summer, while he was awaiting court-martial, that he first heard that action was being taken in England to secure his return home. Though expecting a heavy sentence, in fact he got only thirty-five days detention. The detention was arduous, however, owing to the heavy work and the heat. He was twice taken to hospital, but on each occasion quickly recovered.

On being released, this C.O. was transferred to another camp, where he refused to salute an Officer. He was taken before the Commanding Officer, who lost his temper and, Wellsbury says, gave him twenty-four hours finally to think things over or else be ready for the firing squad.

Later that day, however, the Medical Officer ordered him to be taken to the mental ward in a Calcutta hospital for observation, and when after a month he was about to return to his camp, he was told he could pack his things ready for port; from this he knew that he was to be sent back to England. But when he got to the ship, Wellsbury was told that the Embarkation Officer was not satisfied that he was fit to travel. He was taken to the mental ward of the hospital, and later was sent under escort to another hospital, where the doctor told him: "You are as sane as I am!" He was immediately discharged and sent back to port unaccompanied.

That Wellsbury was returned at all is due in no small measure to the extremely hard work put in by Nancy Browne and Joe Brayshaw in the face of almost complete ignorance of Wellsbury's fate. Nancy Browne, in particular, never lost faith in the C.O.'s simple declaration that, come what may, having refused to serve he would never give in.

Not having committed his offence within the United Kingdom, Wellsbury was ineligible to appear again before the Appellate Tribunal (section 13 of the 1939 Act applied only to offences committed within the United Kingdom), but after much pressure an Advisory Tribunal was allowed. Robert Egerton (I think with some

enjoyment) outlined the case for Wellsbury who was recommended for discharge from the R.A.F. and advised to take up work on the land.

Another case in which a C.O. was taken overseas while under arrest occurred in the autumn of 1944. The C.O. concerned was H. Lloyd Naylor, a Hull architectural student, who after three days under close arrest at Leeds was taken, handcuffed, to a port, and locked in a hut with three other prisoners. The next morning he was placed on a landing craft by two military policemen and taken to France where he suffered very indifferent treatment before being brought back to this country following the urgent representations of the Central Board.

A distinctive feature of these cases and of one or two others was that the C.O. had been taken abroad *while under arrest after refusing service* and it was because of this that the authorities ultimately agreed to their return. For men under arrest ought never to have been taken. But there was another type of case where success was very difficult indeed—the case of the man who only became a Conscientious Objector *while serving abroad.* W. R. Wilkins was a case in point. Wilkins came from Brighton, where he worked at the Co-operative Society bakery and lived with his wife and young son. When he had to register he was in some doubt, for his father had been a Conscientious Objector in the previous war ; but although he had pacifist leanings he registered in the Military Register. However, before he was called up in June, 1943, he had stated his conscientious objection to the Superintendent of his Methodist Circuit, and at his enlistment he had a talk with his Commanding Officer, who seemed to think that the sooner he was sent overseas the better. So within six months he was drafted to Italy, and went through " that Hell called Cassino—something I shall remember for the rest of my life ", as he wrote to his wife.

He took his stand as a Conscientious Objector in Italy, and was several times in prison and under field punishment. In September, 1944, finding that his refusal to obey orders was not followed by court-martial, he escaped from the Guard Tent and was at large for about a month.

Then followed a strange incident. While an absentee, Bill Wilkins was shot with a shotgun by an Italian who said he had mistaken him for a German! Most of the pellets entered his back and arms, but three pierced a lung which was for a time collapsed. By early November he was a patient at a British Military Hospital

where he received every attention. On his discharge from hospital, however, three pellets were still lodged in the lung.

On March 5th, 1945, Wilkins was court-martialled, and he explained to the Court how he had become a Conscientious Objector. A report from the specialist who had examined him in hospital stated that he was suffering from an anxiety complex, that the specialist had reason to believe Wilkins was telling the truth and that he recommended a revised medical grading. There were three charges of desertion and one of absence. Three weeks later there was promulgated *a sentence of ten years penal servitude, reduced to five years.* On the same day Bill Wilkins wrote to his wife regretting that he had not stood by his conviction at the right time and expressing his sorrow over the trouble his wife was having to face, but added: "For myself I have the consolation of knowing and doing what is right, but which I should, as I say, have done long ago. . . ."

Despite strong pressure from the Central Board, Wilkins was refused an Advisory Tribunal, but after twelve months his sentence was supended and on a further court-martial Wilkins was sentenced to three months imprisonment, the minimum to allow him a Tribunal. What a difference between the two sentences! On applying to the Advisory Tribunal the C.O. was recommended for discharge, and was advised to take up work as a plasterer in the building trade which he told the Tribunal he was anxious to do.

A perennial subject of argument throughout the war was a problem already touched upon—that of forcible dressing. The Central Board invariably claimed this to be illegal, the proper procedure being to place the offending soldier under charge and try him for the offence of refusing to put on uniform, and in this view they were fortified by Sir James Grigg's reply to a Question by the Rev. James Barr about a young C.O. on July 28th, 1942. James Barr had asked the Secretary of State for War "(1) under what authority a soldier, who refuses to obey an order to put on uniform, is forcibly dressed; (2) whether he is aware of the forcible dressing and ill-treatment of No. 10601407 Trooper A. Russell at a camp in Scotland of which he has been informed; whether he is aware that this treatment was repeated daily; that this man's wife complained to the general officer commanding over two months ago and has since received no other information than an acknowledgment promising investigation and later her husband's torn civilian clothes; what investigations have been made; and what disciplinary action has been taken?" This was the reply:

> There is no authority for dressing a soldier forcibly. In the case of Trooper Russell, it has been pointed out to those concerned that the action taken was wrong, but I am satisfied that it was taken in good faith and do not therefore propose to take disciplinary action.

Later, however, this proposition proved impossible to maintain in its entirety, for it appeared from subsequent replies and correspondence that forcible dressing in Detention Barracks might well be legal.* For instance, on October 9th, 1945, the then Secretary of State for War, replying to allegations as to the treatment of Roy Woodward (mentioned earlier) said:

> On admission [to the Detention Barracks] his civilian clothes were taken away from him, in accordance with the rules prescribed for Military Detention Barracks and Military Prisons. These rules provide that once a soldier has been admitted to a Detention Barrack his plain clothes will be taken away at the time of the medical inspection, and he will then be dressed in uniform.

The Rules for Military Detention Barracks are not available to the public, so that the exact limits of this right to dress a man against his will cannot be verified.

Other problems of the Army C.O. abounded. But gradually they were solved. Often unspectacular, the work and the witness depended not upon brilliance but on steadiness, on perseverence and continuity rather than upon intellect. Though some of the more serious cases have been mentioned here, many of the C.O.s, particularly in the later stages, had a comparatively easy time, and there was appreciably less stringency after the end of hostilities.

By the close of 1946, the Central Board had record of 1,050 C.O.s who had been court-martialled. Of these 635 had registered as C.O.s at the outset, while 415 had first reached a conscientious objection while in the Forces. Later details are given in Appendix C, but it may make this brief account of conscience in the Army a little more complete if we end the Chapter by setting out, in total, the number of times these C.O.s were court-martialled:

Once - -	716
Twice - -	210
Three times -	106
Four times -	15
Five times -	2
Six times -	1
Total number of C.O.s	1,050

* See also Chapter 22.

None of us can judge the sum of human effort involved, even in a mere fifteen hundred and thirty courts-martial; nor can we assess the true effect.

I know that more than once I, for one, have left a trial humbled by an example of spiritual effort, so that I had to ask myself anew, like so many other C.O.s: "If I were called to suffer, could I bear my witness as simply and as well?" I have known members of the Court so impressed by a C.O.'s stand as to examine in their minds afresh its validity as well as its sincerity. Once, indeed, when the Court was over, I was invited to lunch with the President, who left me with these words: "Will you be seeing your client again before you go?" "Yes, for a short time, Sir," I replied. "Then tell him from me", he said earnestly, "to keep his chin up!"

CHAPTER 9

THE NON-COMBATANTS

NOW for a contrast: from the men who resisted we turn to those whose objection was limited to the killing of their fellow-men in war and other acts closely associated, but who were content to enter the Army provided their non-combatant status were fully recognized.

We have already noted the serious way in which the Tribunals sought to persuade applicants to accept non-combatant duties by holding out such duties as essential humanitarian services which no one with any spark of decency could refuse. The Tribunals, having no power to specify the unit or type of duty of any non-combatant, had to content themselves in suitable cases with adding a rider, recommending C.O.s for the Royal Army Medical Corps, to the formula of registration for non-combatant duties.

As Leslie Hore-Belisha, then Secretary of State for War, was forced to confirm when pressed in the House of Commons by T. Edmund Harvey as early as November 14th, 1939, such a recommendation was in no way binding upon the Army Council, though the authorities found it possible to post such C.O.s to the R.A.M.C. until November, 1940, when the War Office refused to take further C.O.s into that Corps except those with specialist qualifications, e.g. qualified radiologists, radiographers and masseurs. The reason given was that the Corps was full, but as a contributory factor there had also been growing tension between the Conscientious Objectors and the rest of the Corps which the popular Press was quick to increase to breaking-point by casting doubts upon the sufficiency of a Corps far too largely composed of "lily-livered conchies".

Even so, only a small proportion of the men whom the Tribunals had tempted into non-combatant duties were given a recommendation to the R.A.M.C. and the movement awaited with interest the type of "humanitarian" work to which they would be put in the Army.

At first it seemed that the War Office was not taking sufficiently seriously its duty to secure these C.O.s against combatant duties, for when, early in 1940, Cecil Wilson inquired of the War Office as to the position of non-combatants he received this statement, dated February 13th, 1940, from the Secretary of State for War:

You wrote to me on January 11th asking me which Corps in the Army are non-combatant and what duties are so described.

The only personnel provided for in Vote A of Army Estimates who are non-combatants in the sense that they cannot lawfully be ordered to use lethal weapons are the members of the Royal Army Chaplains' Department, who are all Ministers of Religion. There are certain Corps, the ordinary duties of which are generally regarded as non-combatant, namely, the R.A.M.C., the R.A.O.C., the R.A.P.C., the R.A.V.C., the A.E.C., and the A.D.C., but the officers of these Corps are commissioned and the other ranks are enlisted on terms which do not preclude the use of lethal weapons. Members of the R.A.M.C. and A.D.C. do not ordinarily bear arms.

As I have said, the ordinary duties of the above-mentioned Corps are generally regarded as non-combatant. There are also certain duties performed by practically all units, which are by their nature non-combatant, such as sanitary work, clerical work in hospitals and pay offices and so on. It is not possible to give an exhaustive list owing to the very multifarious duties which soldiers have to perform.

If you are interested in this subject in connection with the problem of the Conscientious Objector, I must observe that the meaning of " non-combatant " depends a good deal on the point of view of the person using it. For instance, most of the duties of the R.A.O.C. in connection with the storage and repair of lethal weapons are not regarded as non-combatant by many Conscientious Objectors, and for that reason Conscientious Objectors, sent into the Army for " non-combatant duties ", are not posted to that Corps. On the other hand, Conscientious Objectors who are prepared to undertake military service at all are generally willing to enter the R.A.M.C., the duties of which they regard as " humanitarian ".

In short, their attitude depends on the general character of the work they will ordinarily have to perform and not on my official ruling as to whether the work is combatant or non-combatant.

This was unsatisfactory by reason, first, of the Minister's refusal to define more closely the duties that were non-combatant, and secondly, of the importance he attached to " the ordinary duties " of the Corps without regard to their " exceptional duties ". For the fact that a C.O. would not normally be asked to do combatant duties was largely immaterial unless he had some guarantee that in no circumstances would he be called upon to bear arms : if his Unit were

to be combatant it was all the more important that his duties should be clearly and exclusively non-combatant. Little imagination was needed to visualize emergency orders in the field, possibly overseas, where normal methods of approach and review would no longer apply. (The solid foundation for this became apparent a few months later when at the time of the break-through in France Colonel Arthur Evans deliberately armed refugees in the Pioneer Corps under his command, though Regulations laid down that in no circumstances were they to be armed.)

So Cecil Wilson took Counsel's Opinion on the position, particularly in regard to the Service Departments' liability under section 5 (10) of the principal Act to

> make arrangements for securing that, where a person registered as a person liable under this Act to be called up for service, but to be employed only in non-combatant duties is called up under this Act for service, he shall, during the period for which he serves by virtue of being so called up, be employed only in such duties.

As a result Stephen Thorne, on behalf of the Central Board, wrote a naïve letter to the Minister inquiring what arrangements had been made in performance of this duty. In reply the War Office, in a letter of May 27th, 1940 (Reference: 110/Gen/5627 (A.G.3D)), stated that the use of lethal weapons by non-combatant Conscientious Objectors was not permissible and that instructions had been, or would be, given to the appropriate Commanding Officers.

Then came an important announcement: a Non-Combatant Corps had been formed for the specific purpose of receiving into the Army C.O.s who had been registered by the Tribunals for non-combatant duties. Entry into the Corps was to be confined to C.O.s of this kind and no arms were to be issued to them. The training of the Corps would be undertaken by officers and non-commissioned officers of the Auxiliary Military Pioneer Corps. Service was to be at home or abroad. As some C.O.s might, in exceptional cases, still be posted to Corps such as the R.A.M.C., R.A.P.C., and A.D.C., special instructions were to be given that such C.O.s were not to be issued with or receive any training in the use of rifles or lethal weapons of any kind. Finally, when a C.O. was sent to serve in the Army for non-combatant duties only, a special slip was to be attached to his documents indicating that by order of a statutory Tribunal he was to be employed on non-combatant duties only. For long, however, the Tribunals appeared to be ignorant of the existence of the Corps. At

all events, they never seemed to mention the N.C.C. and continued to hold out to applicants the bait of the R.A.M.C.

An official note issued by the War Office on April 24th, 1940, on the formation of the Non-Combatant Corps, the fourteen Companies of which attained a total strength of 6,766 men,* is of interest in retrospect as a valiant effort to relate the work of the Corps to the pacifism of the C.O.s, with what success readers can judge from the following passages:

> Though not prepared to take the lives of others, the men of the Non-Combatant Corps are willing to face danger and hardship, and, if need be, to risk their own lives. In the last war many displayed conspicuous bravery under fire and were regardless of their own personal safety while carrying out their chosen duties, such as stretcher-bearing and work with the Royal Army Medical Corps, in advanced areas.
>
> As in every enterprise on which large numbers of men are engaged, if the Non-Combatant Corps is to be a success, it is essential that it should build up a high standard of morale and *esprit de corps*. It will be the duty of officers, N.C.O.s and other ranks to contribute to the maintenance of a proper pride in their unit, and the smartness and discipline of the unit will be the especial care of each man in the Company. They are not armed—nor will they be asked to handle weapons of offence—but they will be doing work which—Europe now being engaged in a major war—cannot be left undone without danger and dislocation to the whole community. Both combatants and non-combatants alike must believe that war is an evil thing that must be overcome if a peace is to be achieved in which men of every race, creed and nation can live together in comradeship, and our children find a saner, safer world.
>
> The Non-Combatant Corps will be provided with officers and N.C.O.s from the A.M.P. Corps who will be attached for duty with the Non-Combatant Corps. There will necessarily be a difference of personal view on the ethics of combatant service for the country between the permanent and the attached personnel of the Corps; but this should not prevent their willing and active co-operation in making each Company a first-class unit of which all can be proud. Common ground will be found in agreeing that the war has been forced upon us by a brutal enemy and must be won as speedily as possible by all ranks pulling together; and every man who sincerely desires peace will play his part in building up in the organization of which he is a member the highest

* See the details in Appendix C.

traditions of integrity, generosity and unselfish discipline. Only so will the Corps build up a tradition which will earn for it the respect of all, and thus make a definite contribution to the achievement of permanent peace.

Officers and N.C.O.s, whatever their personal views, will ensure that there will be no discrimination or victimization of any kind. All ranks are equally serving their country according to their consciences and to the best of their ability in their own way.

At the same time, there must be no relaxation of discipline for any reason connected with conscientious objection. Officers and N.C.O.s must do their best to understand the point of view of the members of this Corps, and this can be done without in any way surrendering their own. This will enable the maintenance of that spirit of understanding and comradeship which will be as essential in this Corps as in any other.

At first limited chances of promotion existed for non-combatant C.O.s, and some Objectors in the R.A.M.C. were given non-commissioned rank, though in the N.C.C. the possibility was theoretical rather than practical. But in September, 1941, the Army Council decided that non-combatant C.O.s should not be eligible for promotion to non-commissioned rank, the reason being that an N.C.O. might have to lead any troops at hand to withstand a sudden attack by enemy paratroops. Obviously no non-combatant could be expected or required to do so. This ban was, however, without prejudice to promotion previously granted, and a system of appointing some C.O.s as "Section Leaders" with slight authority but without increase in pay was too reminiscent of the "red-band" system of British prisons to achieve much success.

Membership of the Corps was confined to men, there being no equivalent in the Women's Services: in practice women C.O.s given non-combatant duties were "directed" to some form of civil work, their liability for military service being held in abeyance.

The type of training and duties on which N.C.C. personnel were to be employed had been detailed in Army Council Instructions as follows:

NON-COMBATANT CORPS

Training

All personnel of the Non-Combatant Corps will be given training in:

(a) Foot drill, without arms.

(b) Physical training.

(c) Passive air defence.
(d) Anti-gas measures.
(e) Decontamination of rearward areas.
(f) Specialist duties as required, including cooking and clerical work.

Employment

The personnel of the Non-Combatant Corps will be employed, in addition to normal administrative duties, only on general duties appropriate to their category, including:

(a) Construction and maintenance of hospitals, barracks, camps, railways, roads and recreative grounds.
(b) Care of burial grounds.
(c) Employment at baths and laundries.
(d) Passive air defence.
(e) Quarrying, timber-cutting, filling in of trenches.
(f) General duties, not involving the handling of military material of an aggressive nature.

Most of the types of training specified were innocuous enough, but four out of six of the duties listed under "Employment" could be brought very close to combatant character without undue strain. Much depended on the purpose for which the duties were required. For instance, making roads on an anti-aircraft site, laying a railway for the supply of an arsenal and the repair of runways for bombers of Coastal Command could be brought within clause (a) without too great difficulty. Under "passive air defence" the military might justify building sandbag protection for aircraft ammunition, while supplying petrol and oil for the invasion of Africa could be held a general duty not entailing the handling of military material of an aggressive nature.

Such duties could hardly have been in contemplation when the Army Council set up the Non-Combatant Corps to solve the problem of what to do with C.O.s in the Army. Yet, on the whole, there was little practical protest from men in the Corps. Some even went so far as to build blockades, strong-points and machine-gun nests when odered to do so. Many entered verbal protests but few refused to obey. If more had refused, the Central Board would have had little difficulty in persuading the War Office that some of the duties required were contrary to the spirit of Army Council Instructions. No doubt officers and N.C.O.s delighted to provoke the C.O.s by telling them

that work, really non-combatant, was fraught with military significance; no doubt there was difficulty in ascertaining the precise purpose of the work in hand: no doubt many in the ranks of the N.C.C. were religious fundamentalists whose whole outlook dictated strict obedience to authority: but even so the refusal to refuse can be explained only in terms of extreme reluctance to risk court-martial. Throughout the emergency, of course, C.O.s given non-combatant duties by the Tribunals contrary to their claims of conscience were refusing to put on uniform and being remanded for court-martial as told in the previous Chapters, while others found they could soldier no longer and were remanded for trial. But here we are concerned with the position of men, who were willing to do non-combatant duties in principle, in relation to particular duties required of them.

There were, of course, exceptions. One section of a Non-Combatant Company engaged on demolition work in blitzed Coventry was required to clear up a factory producing aeroplane parts: they refused and all were put on charge. But the section was soon put to other work and the charges were dismissed. In 1941 No. 6 Company of the N.C.C. was put to the fire-watching of warehouses at Liverpool, being given an assurance at the outset that the goods to be guarded would be exclusively for the civil population. Twelve months later, it was discovered that some of the warehouses contained shell-cases—Michael Hewlett, one of the men to whom the premises were assigned, opening a door on the ground floor, himself saw the shell-cases and entered an immediate protest. Thereupon, he and two other C.O.s, Wynyard Browne and Alistair McManus, on conscientious grounds, refused to fire-watch these particular warehouses and were placed under charge, being subsequently remanded for court-martial.

When Michael Hewlett, the first of the C.O.s, was court-martialled on August 26th and 27th, 1942, he pleaded "Not Guilty" and was ably represented by a local solicitor. The prosecution submitted that the duties in question were "passive air defence" under paragraph (d) of the Army Council Instruction, whilst Michael Hewlett's solicitor maintained, first, that no actual order had been given, and secondly, that the duties required were outside the scope of paragraph (f) as "involving the handling of military material of an aggressive nature" and consequently unauthorized; for, if fire were to break out, he argued, Michael Hewlett would certainly have had to handle the shell-cases, full or empty. At the end of the hearing

on the second day, it was announced without any explanation that the court found Michael Hewlett "Not Guilty" and ordered him to be released immediately. The trial of the two other C.O.s was postponed indefinitely.

Shortly afterwards the Board was able to persuade the War Office to remind the Army Commanders concerned to give careful consideration to the duties required of men covered by the statutory guarantee of non-combatancy.

Again, in December, 1942, seven C.O.s in the No. 2 Company of the N.C.C., then stationed at Mansfield, Notts, refused to make roads for an ammunition dump and were forthwith remanded for court-martial. When the Board protested, the Judge Advocate General's department refused to prosecute; all the C.O.s were freed and put to other work. Eight months later a rather similar case arose where three C.O.s refused maintenance work on a railway connected with a munition dump. Though the Board heard of the matter only at the eleventh hour, the charges against these C.O.s were withdrawn on the evening before the courts-martial were to take place. The men concerned were told they would be allowed their back pay and be removed to other work.

On the whole, however, the authorities were fairly scrupulous in the allotment of duties to non-combatant C.O.s, though doubt as to the ultimate purpose of the work provided a constantly recurring fear to many. Hedging and ditching in fruit-growing areas, limestone-quarrying, work on food and petrol distribution, laying railway-lines and making roads, loading and unloading on railway sidings, cooking and forestry were among the multifarious duties of the Corps.

From the earliest days opportunity was given to C.O.s to transfer to other branches of the Army, and often considerable pressure was brought to bear. To these C.O.s, many of whom had expected to be called to medical duties, was offered transfer to the R.A.M.C., which, in practice at least, was often possible only on renouncing non-combatant status, though any such necessity was expressly denied by Anthony Eden on behalf of the Government in the House of Commons on November 12th, 1940. Lack of promotion in the N.C.C., genuine change of heart, a call to more humanitarian work and, above all, the deep frustration of the Non-Combatant Corps, all conspired to swell the total of transfers. Some 216 went into the R.A.M.C. without renouncing their status.

During the heavy air-raids of 1940 and 1941, Non-Combatant Companies were stationed in Bristol, Coventry, Cardiff, Liverpool

and other centres. In addition to their day-time duties, many undertook voluntary rescue work. Some in Bristol were presented to the King, and one or two were awarded George Medals. In January, 1941, two Companies of C.O.s came to London to help clear war-damaged sites, and one of the Companies officially helped in rescue work at Bermondsey, where they were thanked by the Mayor, himself killed in a later raid. The idea of danger seemed to act as a tonic to these men, accustomed as they were to being kept away from hostilities and given the messy, laborious jobs of the Army. The desire to justify themselves and confound their critics by a display of physical courage was not entirely absent. In the very early days of bomb-disposal the idea of employing C.O.s on this work was first suggested by some N.C.C. men to their Major and when, after some delay, the War Office permitted them to volunteer, as many as 465 C.O.s did so and were attached to units of the Royal Engineers for this exacting work. There was only one casualty.

And when C.O.s were asked to volunteer for "smoke companies" —laying smoke screens in this country to counter enemy air attacks— 607 offered and were accepted. Many were stationed in coastal areas, often in the neighbourhood of our large ports, and a rare time they had. Sometimes, however, there was apprehension lest the real purpose of their work were to screen operations for the invasion of Europe. Sir James Grigg, Secretary of State for War, however, expressly defended the non-combatant character of the work in reply to a Parliamentary Question on June 20th, 1944, and the War Office informed the Central Board that the men's fears were groundless.

Later, opportunities were given to volunteer, without loss of status, for clerking duties in the Royal Army Pay Corps among prisoners-of-war. To some of the 400 men who took up P.o.W. duties, working for the welfare of our "enemies" seemed the chance they had been seeking, even though contact with the prisoners was limited to official business. One C.O. who volunteered for this work said he would never forget the ecstatic expression on the faces of a thousand Italians as they listened to their names being called from a Repatriation Roll he had just typed: it had been a dull and laborious job, but such a happy sight was ample reward. Many P.o.W. clerks received invitations to visit Italy after the war as guests of their "enemies".

Another type of work to which 162 C.O.s transferred, again without loss of status, was that of medical orderly in the Paratroops.

Many more would have followed their example had they reached the high physical standard required. These were indeed on the Right-Wing of the Movement, for the duties, though unmistakably humanitarian, were thought in some quarters more in support of offensive operations than in opposition to war. Some of those I have met were like rugby forwards, sported military moustaches and in the khaki and cerise berets of the paratroops, looked every inch soldiers—except for lack of arms. Small wonder they were acclaimed by soldier and civilian alike as among the bravest of the war! For scores of C.O.s in the Parachute Field Ambulances were among the first to be landed from the air when France was invaded on June 6th, 1944, their casualties in killed and wounded being as heavy as any. All had been asked beforehand if they would carry revolvers—just in case of necessity; all had refused, though looking back on the event they did not believe their action had added to the risk, apart altogether from the principle of the thing. The whole thrilling story has been told elsewhere* but I cannot forbear quoting from a War Correspondent of the *Sunday Graphic* (June 25th, 1944) who told how a captured Nazi officer in a British medical dressing station told him this story:

"I was out on anti-airborne invasion manoeuvres with my company in the woods and apple orchards of the Orne valley in the early hours of D-Day when the thunder of British planes filled the air and down on to French soil tumbled hundreds of British paratroops.

"So I scattered my men where the paratroops had landed, warned them that they must be swift and ruthless, and then set off to kill my own personal Englishman."

The young Nazi's face puckered.

"And what happened when I found my first Englishman is the reason why I say you people are mad. I lifted my revolver and fired at him twice. The two shots missed. The British paratrooper dodged behind a tree and instead of firing back"—to the amazement of the Nazi—"he cried out in German, 'Tell me, Herr Officer, have you fellows any blankets I can borrow?'"

"Who are you? What is this nonsense about?" asked the German lieutenant. "I'm a Conscientious Objector," said the paratrooper calmly.

"Then," said the Nazi, "Gott in Himmel, what are you doing here?"

* For instance in *How Like a Wilderness* by Roland Gant; 1946; Victor Gollancz, Ltd.

"Oh," said the paratrooper, "our blankets dropped in the marsh, and we've got some wounded men—a couple of Germans among them—in a cottage up the road and I'm looking around for something to keep them warm. Can you help me?"

It was no use trying to explain the situation to the German. How can you explain to a German the remarkable story of six airborne divisions paratrooping C.O.s?

Some were reported "Missing—believed prisoners-of-war" and returned to this country only after months behind the German or Russian lines. In addition, some of these C.O.s, attached to the 6th Division, were dropped by parachute over the Rhine at the time of the allied assault, again not without losses; a few took part in the tragedy of Arnhem, while others served in Burma, so that in numerous ways these paratroop C.O.s contrived to fire the public imagination.

Finally, the younger and fitter men in the N.C.C. were asked to volunteer for coal-mining at a time of extreme stringency in the fuel situation. This offer received less response than the earlier offers, partly because the C.O.s left seemed to excel in clerical rather than manual duties and partly because at that late stage of the war they were for the most part content to await their demobilization without further change. Yet in the aggregate as many as 547 men went from the N.C.C. to the coal-mines.

What sort of men were these non-combatant C.O.s? They were a strangely-assorted group from all walks of life, varying from the Plymouth Brother, who refused to take life and lived in strict conformity with Biblical injunctions, and the man who had compromised for the sake of his family, to the political objector who, perhaps to his own surprise, had been granted limited recognition by the Tribunals and was bent on attacking the whole military system from the inside. Sometimes there was tension—even open differences—and a degree of mutual intolerance between the religious and political elements, with charges of subservience against one extreme and of defiance against the other. Nevertheless, men of the N.C.C., almost without exception, pay tribute to the rare feeling of comradeship which forced living at close quarters in a homogeneous unit evolved.

Certain other impressions stand out. By the peace movement as a whole non-combatant C.O.s were often regarded as being next to penniless through the inadequacy of a private's pay. No doubt many were so. But quite a high proportion were teachers, local government officers, professional men and employees of large concerns, most of whom were having their pay made up while absent on Army

service, the non-combatant proviso being disregarded for this purpose. Certainly the standard of education and talent in the Non-Combatant Corps was one of the highest in the Army ; there were few artisans and manual workers. When related to the work of the Corps this meant a wicked waste of talent and severe frustration among its personnel, which spare-time activities, such as evening classes in modern languages, orchestras, gramophone recitals and play-acting, failed to remove.

The frustration of military life led naturally to other efforts to overcome it. Official restrictions on speech and propaganda made C.O.s all the more anxious to get across to the public and to the rest of the Army the message of peace and world brotherhood for which they stood. Debates were arranged at which N.C.C. men would advocate pacifism against more orthodox military spokesmen ; thousands of anti-war periodicals and leaflets were distributed, and at least one magazine—" Bless 'Em All : the Chronicle of No. 1 Company, N.C.C."—was officially stopped following Questions in the House on February 25th, March 4th and March 11th, 1941, by irate Conservatives, stung to patriotic wrath by an article on Armistice Day.

Such activity was bound to lead to difficulties : it was the price non-combatants had to pay for making their presence and their opinions felt. Though the N.C.C. was usually on good terms with other Units, the dissatisfaction of the Pioneer Corps at having C.O.s assigned to their ranks had led to a Question in the House on June 11th, 1940, while R.A.M.C. prejudice has already been mentioned. The soldiers of the Bomb Disposal and Paratroop Units, however, seemed to have real respect for the C.O.s, bound to them as they were by ties of mutual danger. On the other hand, there were a few cases where voluntary workers refused to serve N.C.C. men in canteens, and other instances of prejudice, as, for example, in the village of Dalston, Cumberland, in the winter of 1940. On the whole, however, there was less hostility within the Army than without, though a number of examples of active ill-treatment are given in another Chapter.

The way of the N.C.C. was no easy one : theirs was the worst of both worlds. To the Army they were suspect, while many a pacifist eyebrow was raised at the mention of the N.C.C. Perhaps being less individualist than others they acknowledged the claims of society more willingly ; perhaps having admitted a measure of compromise in their personal stand they were anxious to atone by good works ;

perhaps, unlike others, they knew at first-hand something of the hollow values and the falseness of military life : certainly for myself I have found N.C.C. members some of the most likeable, generous and dependable men of the peace movement. Certainly a large proportion came, with the added experience of the years, to regret that they had ever considered the possibility of being " liable to be called up for the Armed Forces to be employed only in non-combatant duties ".

CHAPTER 10

THE GATEWAY TO THE FORCES

WHEN, less than four months before the war, conscription was re-introduced, the minds of pacifists were absorbed with thoughts of courts-martial, detention and military escorts from prison as the chief burdens likely to be faced by those of the new generation of Conscientious Objectors who were refused exemption by the Tribunals then being set up.

Few, if any, thought then that the proceedings of the military would be overshadowed by a formality of little moment in the First World War—the requirement of medical examination. For in those earlier days C.O.s were deemed to have attested and on being rejected by the Tribunals were, like other men, called from the Reserve and drafted into the Army for active service. And only when they arrived at their Units, whether voluntarily or under process of law, had they to undergo medical examination, an inspection often of a most cursory nature and reflecting little credit for conscientious discharge of duty on the medical officers concerned. If a man refused to submit to examination, he was either held down while an M.O. perfunctorily passed a stethoscope over him before pronouncing him fit for service; or else the unfortunate "soldier" was forcibly stripped and given as thorough an examination as his own struggles, his racing pulse and quickened heart allowed. Often this stripping was neither gentle nor careful; indeed, brutality was not unknown. At the other extreme, however, a "Conchie" who refused to be medically examined might be assumed to be fit for combatant service without any examination at all and be graded accordingly. All in all, the importance of the proceedings was small: for the C.O. concerned was already in the Army and it needed the clearest evidence of infirmity to secure his discharge on medical grounds.

When 1939 came, the Army wanted the fit not the unfit, men on whom it could rely rather than soldiers with physical defects or ailments that would in time of crisis reduce them from asset to liability. Only too often had the consumptive and the chronically diseased spread infection and disability among the troops. So the order of enlistment and medical examination was reversed. "No

medical examination, no call-up" was to be the rule. "The Minister", section 5 (1) of the Military Training Act, 1939, provided, "may cause to be served on any person liable to be called up for military training under this Act *who has been medically examined* . . . a written notice requiring him to present himself" for service in the Armed Forces. And similar provisions appeared in later legislation. In this way Parliament ensured that every man should be medically examined before being drafted into the Army.

Beyond this, official intention seemed anything but clear. The importance to the C.O. of the requirement of medical examination before enlistment depended on a further consideration: would recalcitrants be forcibly examined? The Government were opposed to it in principle and practice; they did not want to employ compulsion, nor did they think examination under such circumstances of any real use. The signs were useless without the symptoms. Adequate medical history, for instance, is of equal importance with physical examination, and it might well take the rack and the thumbscrew to extract details of family history from a C.O. bent on refusing to co-operate in a process the purpose of which he felt to be intrinsically evil.

But if a man must be medically examined before being drafted and yet could refuse to submit to examination, what were the authorities to do? The answer was plain—prosecute the offender for refusing to be examined. Here the Government met with a further difficulty: the only penalty provided by the Act for refusing medical examination was a fine of five pounds, or a month's imprisonment in default, and even that was a maximum. True, the law was wide enough to allow of prosecution after prosecution being launched against those who stood their ground. But as a deterrent a succession of "fivers" could hardly be called effective to check any unconscientious, unscrupulous souls intent on avoiding military service by fair means or foul. And even then British dislike of "cat and mouse" treatment, from the *Manchester Guardian* downwards, might be expected to make itself felt before anything like a formidable total of fines had been levied.

This, then, was the problem that led, in the autumn of 1940, to the curious business of indefinite detention. But before discussing this in detail it may be well at this stage to look a little more closely at the early prosecutions for medical examination. Section 3 of the National Service (Armed Forces) Act, 1939, re-enacting with modifications section 4 of the Military Training Act, provided that the

Minister might cause to be served on any person liable to be called up for service a written notice requiring him to submit to examination by a medical board at a time and place specified.

If anyone failed to comply with such a notice or certain other requirements under the section he became liable on summary conviction to the maximum fine of five pounds already mentioned. Then followed an important subsection :

> 3 (5). The court by which any person is convicted of an offence under this Act by reason of his failure to comply with the requirements of regulations made under subsection (1) of the last preceding section, with the requirements of subsection (9) of that section or with the requirements of a notice served on him or directions given to him under this section, may, without prejudice to any penalty which may be imposed on him, make such orders (including orders for his arrest and detention) as may be necessary to secure compliance with the requirements or otherwise to secure his attendance before a medical board or consultant examiner, as the case may be.

This subsection was compendious rather than lucid. The first two classes of " requirements " related to the need to register under the Acts and to notify changes of address ; the two remaining categories comprised refusal to comply both with medical notices and with directions to submit to further medical examination in which cases the court might make such orders as were necessary (a) to secure compliance or (b) to secure attendance before a medical board. It is difficult to see how alternative (b) added to the powers of alternative (a), but one legal opinion at the time was that alternative (b) might be intended to provide for an order binding over a person to attend before a medical board. In essence, therefore, when these somewhat formidable provisions were analysed, they were found to authorize such orders (including orders for arrest and detention) as might be necessary to secure compliance with a medical notice, but without prejudice to any penalty that might be imposed.

The movement was not kept long in doubt as to how the system would work. In the early months of 1940 many of the C.O.s who felt unable to accept Tribunal decisions of combatant or non-combatant military service began to receive notices to attend medical examination. Some ignored the notices ; others returned them, with the travelling warrants that usually accompanied them, to the Ministry of Labour with a note of their conscientious objection to being

examined for service that would violate their conscience. In war-time conditions postal delivery was not always as certain as it might have been and this, with the principle of constant dripping, led the Ministry to serve several notices at varying intervals on the C.O.s concerned. Frequently the third or fourth was sent by registered post, this being an unmistakable sign that a summons was not far off. Sometimes as many as eight or nine of these notices were served.

The prosecutions began towards the end of May, 1940, and at first there was little difficulty. Fines of two pounds or five pounds were often imposed and orders were made either for the C.O.s to report for medical examination or to be medically examined and to be detained for that purpose. Whatever the form of order, however, it is clear that a high proportion of the C.O.s summoned did, in fact, submit to examination. Regrettable as this was in view of their previous refusal, it cannot be properly understood outside its context : for this was the time when Belgium was suing for peace, when France was falling and this country was preparing to withstand, alone, the first threatened invasion of the British Isles since the days of Napoleon. Some felt they could no longer refuse the nation's call ; they submitted to examination and accepted military service accordingly. Strong pressure was undoubtedly brought to bear upon many of the rest. Others were moved by the glib statement of officialdom that if they refused to submit they would be held until they did. Another section, convinced that the real stand was to come at enlistment in the Army, submitted under protest, knowing that the *impasse* might be ended by their refusing to serve and ultimately securing a further Tribunal hearing after court-martial. Often these, too, accepted military service when face to face with a lone struggle against the Army and all it stood for.

Before many weeks were out, however, a more dangerous procedure had begun, the order for detention until a C.O. submitted to examination, soon to become known as " indefinite detention ". The first case of this kind was that of Charles Egersdorff, an unemployed art student and P.P.U. member. As early as December 28th, 1939, this C.O. had taken the unusual course of attending at the medical centre at the appointed time to explain his refusal to be examined. He refused to comply with two medical notices and, at Stratford Police Court on June 12th following, was fined two pounds (which he declined to pay) and was sent to Chelmsford Prison for a fortnight instead. An order was also made for him to be detained until he submitted to examination. In July, 1940, out of ninety prosecutions

for refusing to be medically examined, nine men had been ordered to be detained in custody, under remand conditions, until they voluntarily submitted to examination, and the next few weeks saw a fairly rapid increase.

Reports of one or two of the later prosecutions may give a clue to the atmosphere of the day. The first, in some detail, is from the usually accurate *Surrey Comet*:*

REFUSED MEDICAL EXAMINATION

PRISON ALTERNATIVE TO PAYMENT OF FINE

Conscientious Objector Persists

An art student who said he was living on Government scholarships refused at Kingston Borough Police Court on Wednesday to pay a fine of £5 for failing to present himself for medical examination under the National Service Act, saying he would go to prison instead. It was stated that he had been refused classification as a Conscientious Objector.

The young man was Thomas Bernard Green (21), late of 17 Redcliffe Gardens, Putney, now of 8 Newy Park East, Chester.

Mr. Ralph Bell (prosecuting for the Ministry of Labour) said Green appeared before the local Tribunal as a Conscientious Objector and the Tribunal ordered his name to be removed from the Register of Conscientious Objectors without qualification. His appeal against the decision was dismissed. When served with a notice to present himself for medical examination Green returned it with a letter stating that he was a pacifist and did not intend to join the fighting Forces. He also said that, being a Conscientious Objector, he would not voluntarily submit himself to medical examination. He was served with a notice to appear for medical examination on July 3rd, but failed to appear.

MAYOR ASTONISHED

Mr. Bell asked the Bench to make an order that Green should be detained until he had submitted to medical examination, which could be arranged immediately.

Green agreed with the evidence and said he had nothing to add. "That is my position; I consider war a bad thing and I do not intend to have anything to do with it," he said.

The Mayor (Sir Edward Scarles): "You are still of the same opinion as originally expressed?" "Yes."

The Mayor: "I can only express my astonishment. I cannot understand it."

* August 24th, 1940.

Green was fined £5 and an order was made for him to be detained for medical examination. He said he was not prepared to pay the fine and the Mayor told him that the alternative was a month's imprisonment.

Green : "I see."

Green was taken away in custody.

Later, Warrant Officer Bocking said Green definitely refused to be medically examined and also refused to pay the fine. He had 22s. in his possession and the officer asked for an order for £1 of that to be taken towards the fine.

The Clerk (Mr. S. C. T. Littlewood) advised that if Green went to prison the governor of the prison would then deduct the £1 and forward it to the court.

A few days later *The Star*,* a London evening paper, included three cases in one report :

OBJECTORS TOLD "THIS IS JUSTICE"

Three young men who had failed to submit themselves for medical examination for military service were each fined £5, and ordered to be kept in custody until examined, when they appeared before the North London magistrate (Mr. Basil Watson) to-day.

They were Ian Westwood Bradbery, of Endsleigh Gardens, Bloomsbury ; Robert Frederick French, of Grosvenor Avenue, Highbury ; and Noel Gordon Gifkins, of Milton Road, Highgate.

When the magistrate gave his decision, French exclaimed : "Do you call this justice?"

The Magistrate : "What on earth do you mean? Listen to me. You refuse to obey an order to be examined, and still refuse."

French : "Because it is against my principles."

The Magistrate : "Justice says that you can be fined for disobeying the order, and detained until you do obey it. Next case."

Gifkins said he was doing first aid work.

The magistrate said that he was glad to hear it and asked him if he was prepared to be examined—if he was he would send him to be examined straightaway without passing any real punishment.

Gifkins declined to be examined, and the magistrate fined him £5 and ordered him to be detained until he was.

Bradbery later consented to be examined and was remanded on bail, the fine remaining.

* September 4th, 1940.

Grave objection was taken to this procedure, not only as socially undesirable but as being of doubtful legality. For instance, on the wording of the subsection it was submitted in some quarters that indefinite detention might never secure the desired object and was not necessary for the purpose of securing that object. And in other quarters it was suggested that the court could order a convicted person to be taken before a medical board and be subjected to examination, but the one thing the subsection was not intended to provide was punishment for a particular refusal, because the orders were to be without prejudice to any penalty that might be imposed ; the court could not direct a person to be detained with a view to the detention exercising such pressure upon his mind and body that he would be coerced into agreeing to a course of conduct to which he would not have given his free consent.

The Solicitor's Department of the Ministry of Labour, however, seemed satisfied that indefinite detention was legal, though the Ministry were somewhat uncomfortable about it. But representations from the Central Board failed to bring any satisfaction. C.O.s up and down the country were becoming very restive, believing that the Board was not tackling the matter with sufficient vigour, and in particular frequent prods came from the Manchester area, which was anxious for an authoritative decision on the law, through *Habeas Corpus* or other appeal proceedings. Naturally, however, they were anxious not to initiate any such proceedings while there was any chance of the Ministry of Labour giving way gracefully, perhaps by instructing its representatives to ask for a definite maximum period of detention. Finally, the Central Board, though somewhat disorganized by the nightly bombing of London, decided to apply for a writ of *Habeas Corpus* for a man already detained for two months, but, encountering the law's delay, then more pronounced than ever, failed to make very speedy progress with the application.

In the meantime, on August 14th, Cecil Wilson had raised the question in Parliament by asking the Attorney-General under what statutory authorities courts of summary jurisdiction had recently imposed sentences of detention without limit as to length. Sir Donald Somervell promised to look into the matter and later wrote saying that the Home Office had the matter under consideration with a view to seeing that orders for detention should be precise as to the steps to be taken under them and the period of their operation, which meant substantial success for the representations made.

In fact, new instructions were already operating. When on

September 11th Sydney Howard of Swinton had appeared before the City Police Court at Salford the prosecuting solicitor had asked that any order made by the Bench should clearly state, first, a maximum period of detention, and secondly, the persons responsible for taking the C.O. before a Medical Board. In this particular case the magistrates fined the defendant one pound with the alternative of seven days imprisonment, and made an order for him to be detained for seven days (to run concurrently with the prison sentence) or until after medical examination ; and they further ordered the prison authorities to take Sydney Howard before a Medical Board as soon as might be during that period. This became the normal procedure in the months that followed, though some difficulty was encountered through magistrates, in the heat of the chase, imposing maximum detention of three months, six weeks and so on.

Soon the new policy was finally endorsed in a Home Office Memorandum sent to all Justices' Clerks for the guidance of Benches throughout the country. This Memorandum was notable for some interesting admissions. For instance, it was admitted that the section contemplated that if an order were made for arrest and detention it should be made " not for any penal purpose, but for the purpose of getting the offender to the place of . . . medical examination ". In future a maximum period of detention should always be specified, for if the order were couched in general terms there was a danger that the defaulter might be detained indefinitely. If the defaulter refused to undergo examination when taken before the medical board, the board could not undertake an effective examination by force but, in spite of that, it was not, in the Home Office view, legally possible to detain a man further in custody after he had been taken before the board. Model forms of order were set out for the guidance of magistrates.

Concurrently, the Home Office, in association with the Ministry of Labour, had been gradually releasing the men already sentenced to indefinite detention. On August 10th Charles Egersdorff had been released from Chelmsford, and others quickly followed. By the end of October all the other C.O.s indefinitely detained had been conducted before medical boards and on their refusing to be examined had been released without further ado.

The next few months saw the new system working with increasing smoothness and none of the cases received a great deal of publicity, except for the prosecution of Gordon Muirhead. At that time C.O.s could not be sent to prison unless they refused to pay the fine of five

pounds which was then the sole penalty for refusing medical examination, but the Chairman of the Bench at Brentford, one of the Courts least sympathetic to C.O.s, made a practice of ordering them to be remanded in custody (that is, in prison under remand conditions) for three weeks, even before they were called on to plead to the summons. This he did without consulting his fellow-Justices or the clerk of the court, and applications for bail were promptly refused. On January 1st, 1941, this procedure had already been followed in the two cases immediately preceding, when Gordon F. Muirhead, a young Ealing solicitor, was called to answer a charge of failing to submit to medical examination. He had refused to appear before the Tribunals because he was not prepared to accept a decision he could not square with his conscience, and had been removed from the register. "I'll treat them all alike," said the Chairman of the Bench, making another order for three weeks in custody. Muirhead then applied for bail —and was refused.

As it happened, Robert S. W. Pollard, a Quaker solicitor who later became an honorary legal adviser to the Central Board, was in court at the time and felt certain this practice was not only unusual but irregular. Accordingly, he reported the matter to the Central Board and application for bail was successfully made to a Judge in Chambers. A writ of *Certiorari* was then applied for to quash the order of the Justices remanding Muirhead in custody. Legal process was anything but quick in those months of dislocation, and it was not until October 29th, 1941, that the case was called for hearing.

At the Law Courts, just past Temple Bar in the Strand, the Lord Chief Justice, Lord Caldecote, sitting with Mr. Justice Humphreys and Mr. Justice Lewis, heard the argument of W. A. L. Raeburn, Muirhead's counsel (now a K.C.), and the reply of F. D. Levy on behalf of the Brentford Justices.*

On the previous day the Central Board had asked me to watch the proceedings for them and I well remember explaining to Muirhead, not knowing he was himself a solicitor, that the front row of the court was reserved for King's Counsel, the second row for juniors and so on. What an ass he must have thought me! But if he did, he was gentleman enough not to show it.

Soon the Lord Chief Justice was giving judgment. He said:

> "The court has listened to an argument which I cannot describe otherwise than as an astonishing one. . . . It was said

* This case is reported as *Rex* v. *Brentford Justices; Ex parte Muirhead* (1942), 166 L.T. Rep. 57.

by Mr. Levy that the Justices have an uncontrolled discretion to remand in custody any person who appears before them on an information. This argument, which was unqualified, leads to the conclusion that this court has no power to interfere with the exercise by Justices of their powers under the above section, although it may lead to the imposition of punishment in excess of the penalty prescribed by the Act which constitutes the offence. . . .

"If Parliament", Lord Caldecote continued, "has prescribed a penalty for an offence, it is an excess of jurisdiction on the part of the Justices to impose a punishment in excess of that penalty. Justices, in exercising their discretion under section 16 of the Act of 1848, must exercise it judicially and for a proper purpose, as, for example, for the purpose of obtaining information. It is entirely beyond their jurisdiction to do what was done in this case, namely, to remand a person in custody for purposes of punishment. For this reason I am of opinion that the application for an order of *Certiorari* to quash the order of the Justices must be granted."

The two other Judges formally concurred and Muirhead had won the day. More than that, he had been granted an order for payment of costs by the Brentford Justices personally, such an order being distinctly unusual.

Muirhead's success, of course, could not last. Greased by new legislation, the wheels of the law began to turn and in due course the summons came again; the young solicitor was "sent down" for twelve months by Middlesex Quarter Sessions on December 4th following, and while in prison lost all remission by refusing to work. Notwithstanding, Muirhead's experience in prison served only to deepen his sense of social responsibility and, after a period as Registrar of the Cambridge House Free Legal Advice Centre at Camberwell, Muirhead sailed for India under the Friends Service Council to give what help he could to a desperately unhappy people.

Though the prosecutions were going quietly ahead in the later months of 1940, it was plain to all that the Ministry of Labour had not yet solved their difficulties. Even under the revised procedure obligations under the National Service Act were being quite inadequately enforced, and no one felt the position was likely to remain unchanged. So there was little surprise (except as to the manner of the announcement) when a Ministry of Labour representative, prosecuting on November 5th, incautiously let out that the Act was to be amended to make refusal of medical examination punishable by a maximum sentence of six months imprisonment. However, it

seemed as if there might be some foundation for the statement and Fenner Brockway, as Chairman of the Central Board, lost no time in taking up the matter with the Minister. After saying he felt difficulty in believing that an important change should be announced publicly by this means, he continued in a follow-up letter dated January 22nd, 1941 :

> If, however, it is the intention of the Government to amend the Act in this way I hope that a provision will be included under which any C.O. sentenced to imprisonment for refusal of medical examination will have the opportunity of an appeal to the Appellate Tribunal for a second time. There would seem to be no reason why the C.O. should not have this right in a case of refusal of medical examination in the way that it is extended to C.O.s imprisoned as a result of court-martial sentences.

The country had not long to wait for new legislation. On March 19th the National Service Bill (1941) was presented, clause 4 of which provided that the court by which any person was convicted of failing to comply with a medical notice or similar direction might, without prejudice to any penalty which might be imposed on him, *order him to submit himself* to medical examination at a place and time to be fixed and any such order might include provisions that he should be detained in custody, subject, however, to an important proviso that no person should be detained by virtue of any such order for more than fourteen days (later amended to seven). Any person who failed to comply with a court order for examination was to be liable on indictment to a maximum penalty of two years imprisonment or a fine of £100 or both, or, on summary conviction, to half those penalties.

In moving the Second Reading of the Bill a week later, Ernest Bevin explained the Government's motive in altering the procedure :

> Experience has shown that there are loopholes in the existing law, and that advantage has been taken of them. The first amendment of the law deals with refusal to submit to medical examination. The present position is that a person who so refuses can be taken before a court and fined £5. It is now found that this is not limited to Conscientious Objectors ; others are refusing to submit for entirely different reasons, and a week or two ago I was asked a Question in the House on this very issue, in regard to which the questioner alleged that a prominent Fascist who had refused medical examination had got off scot free. This is an intolerable position in view of the obligations to which

the rest of the citizens of this country have to submit, but at the same time I think that a forcible examination would be repugnant and we have not indulged in that. We have also found that in some cases the courts have sent men to prison, but that there is no power in the present law to let them out. They are therefore imprisoned for an indeterminate time, which also is unsatisfactory. To put a man in prison for an undefined time created an intolerable situation. We therefore propose to lay down a maximum period of two years imprisonment or a maximum fine of £100.

The Government's difficulty was generally appreciated and it was felt in the House that, though the new sentences were onerous enough, at least the Government had chosen a direct and honest method of punishing men who broke the law of the land. One thing, however, was not forgotten, particularly by the C.O.s of 1916-18—the possibility of repeated punishments for refusing successive medical notices. Edmund Harvey, the Quaker Member for the Combined English Universities, gave voice to a feeling of apprehension, when, later in the same debate, he said:

It is right that there should be penalties when there is a wilful failure to observe conditions and when there is a failure to go up for a medical examination. Those who refuse to do this on conscientious grounds will, if they are conscientious, recognize that it is the duty of the State to enforce its law, and that therefore they must incur the penalties prescribed by law; but there is a danger that, unless there is in this Bill a provision analogous to section 13 of the principal Act, the penalty may be incurred again and again, and there will be that 'cat-and-mouse' position that existed during the last war, when men were court-martialled and sentenced to imprisonment repeatedly—sometimes as many as four or five times—for what was really the same offence.

In winding up the debate, Herbert Morrison, the Home Secretary, replied to this point.

"As I see it," he said, "Parliament would impose an obligation for service and, leading up to that service, there would be a requirement for registration and medical examination. If a man failed to observe the law in that respect proceedings would follow and he would be fined, or imprisoned, or both. In due course he comes out of prison—if he went in—but the law continues to operate. He is still required to register or submit to medical examination, and if he does not, he commits a new

offence. I am afraid that is all I can say. That is the provision in the Bill and that is the way in which it would work."

"The old 'cat and mouse' business!" exclaimed James Maxton.

At the Committee Stage on April 2nd, Lewis Silkin, now Minister of Town and Country Planning, successfully moved an amendment reducing the maximum period of detention from fourteen to seven days. Supported by Fred Messer, he then tried to get the penalties reduced, but the Conservative Ralph Assheton, on behalf of the Ministry of Labour, refused to give way.

No further move to lessen the penalties was made, but when the Bill came before the House of Lords on the following day, Lord Faringdon drew attention to the possibility of repeated sentences, and returning to the attack on a later occasion, roundly declared that the "cat-and-mouse" process had been found highly undesirable in the First World War, and that penalties of this kind seemed to degenerate into persecution and hence bring the administration into disrepute. In reply Lord Snell stated for the Government:

> The difficulties of the position suggested by the noble Lord are, of course, well known, and we have no desire that they should be repeated on the present occasion. It is very much hoped that it will not be necessary to proceed over and over again against any individual, but power to do so must be there. The Government cannot, I am afraid, deny themselves the use of these powers if the individual insists on repeating over and over again what the Government think is an offence, but I hope that in actual experience it will be found that the consideration of the difficulties concerned will allow the work to proceed without any of the evils that the noble Lord deplores.

So on April 10th the Bill became law as the National Service Act, 1941, and C.O.s up and down the country awaited the first prosecutions with great—and not always impersonal—interest. What sentences would the courts impose? What would happen after prison? In this waiting time imagination ran riot and many a C.O. could hear himself sentenced more times than any C.O. of 1916, always with the maximum penalties, always on indictment at Quarter Sessions, and always with disastrous consequences to his health, his prospects, and his family.

CHAPTER II

BACK TO THE APPELLATE

THOUGH the new legislation as to medical examination did not come into force until April 24th, 1941 (fourteen days after the passing of the National Service Act), by June 11th the first C.O. had been sent to prison for refusing a court order to be examined. He was E. A. Downer, a young shop assistant of Forest Gate, who, after being constantly interrupted when he tried to say anything in his defence, was sentenced to six months imprisonment by the Stratford (London) Police Court. On the following day, Joe Rowley, then of Burton-on-Trent, received a similar sentence with hard labour from the court at Derby, and was taken off to Leicester Prison. The first sentences of twelve months imprisonment followed on the 20th and 24th of the same month, after which the Ministry began to turn the handle in earnest; in the ensuing months prosecuting solicitors were to be found busily engaged in the usually uncongenial task of gaoling "Conchies". From that time onward there was a steady progress from court to prison.

In such cases procedure varied. When a C.O. was found guilty at the "first stage" of his prosecution a fine of up to five pounds was usually, but not invariably, imposed, and an order was made for him to submit to examination. The C.O. was then taken by the police, perhaps in a police car, to the medical centre (though this might be delayed for a few days if a Medical Board could not conveniently sit) during which time the C.O. was kept in police custody. Sooner or later, however, he was escorted before the local examining board. The medical officer then told the C.O. to prepare for medical examination which the C.O. would decline to do. Sometimes a short discussion ensued, with occasional pressure of warnings and threats. If the C.O. persisted in his refusal to submit, this was reported to the police; the C.O. was then either taken back to the court forthwith, or kept in custody or released on bail to await the next sitting. He was then formally charged with refusing to comply with the court order to submit. At this, the so-called "second stage" of the proceedings, a substantial sentence was usually passed in double-quick time (three minutes was often

sufficient to impose twelve months) and the C.O. was taken to cool his heels in the police cells until the Black Maria drew up to take the day's haul to prison.

Occasionally, however, the C.O. was released after refusing to submit and a new summons, returnable at a later date, was served on him for failing to comply with the court order. At Kingston-on-Thames, for instance, a month regularly elapsed between the first and second stages: possibly this was the more regular procedure, as the authority for detaining or arresting a C.O. after his appearance before the medical board was not always free from doubt.

By the end of July sixty-eight C.O.s had been prosecuted under the new procedure. Of these ten submitted to examination—two in the hope of being accepted for service in the Auxiliary Fire Service, two accepting Army service forthwith, and the other six starting, at least, with the intention of resisting the military and possibly obtaining a court-martial sentence that would take them back to the Appellate Tribunal. Of the remaining fifty-eight, six were serving a year and twenty-five the more moderate six months. In the following month the Ministry really got into its stride, as many as 183 prosecutions being initiated in August. Further progress can be seen from the following table:

Date	*Number of C.O.s in prison for refusing examination*	*Number serving twelve months*
1941		
September 15th	227	64
October 16th	344	100
October 31st	391	119

In November a further 107 C.O.s were prosecuted for this offence, of whom eight submitted to examination when the testing-time came.

During these months the pronounced inequality of sentence of the various courts added a geographical touch that Conscientious Objectors could well have done without. It was not that courts tended to distinguish between the more and the less deserving cases: for the most part they did not. Magistrates (or their clerks) seemed rather to have, fixed in their minds, a stock penalty which they meted out indifferently to all comers. This example of equality would have commended itself more to those interested in penal problems had not the measure varied so greatly from place to place. For example, Bedford, Brentford, Bolton, Greenwich, Huddersfield

and Wealdstone imposed twelve-month sentences from the very beginning, but, at the other end of the scale, Blackburn started with two sentences of one month and two of three months, and Cambridge with five of three months, while in the first sixteen cases terms from Lambeth were small but unpredictable. As the patience of the various Benches became more sorely tried by the procession of cases, there arose a marked tendency to increase "the sentence of the court". Stratford and Tottenham were notorious examples, where six months rose to nine, then nine to twelve, a sentence maintained through good cases and bad with monotonous consistency.

Not all the Courts, however, were anxious to pass heavy sentences. Some were not without understanding, even in the more depressing phases of the war. The desire of one Bench, at Norwich, to deal leniently with a C.O. led to a sequel that received wide publicity at the time. The Magistrates took the unusual course of "binding over" a C.O. under the Probation of Offenders Act without proceeding to conviction, and the question was whether they could legally do so. This is how the argument arose.

Herbert Story, a Quaker C.O. and Friends Relief worker registered by the Tribunals for non-combatant duties in the Army, was prosecuted at Norwich on October 3rd for refusing to be medically examined and was duly ordered by the Court to submit. He again refused and, summoned back to the court on the following day, pleaded guilty to the charge. The Magistrates, however, took an understanding attitude and, with one dissentient, "expressed the opinion that the respondent was a man of good character and antecedents who had refused to submit to medical examination because of his conscientious objection to service in His Majesty's Forces in any capacity, non-combatant or otherwise, and that a conviction would not deter him from repeating the offence but would merely prevent him from doing the work he was willing to do". Accordingly, they decided not to convict the C.O. but to release him on probation. This they did, in Story's own recognizance of five pounds, subject to the conditions "that he be of good behaviour and that he seek ambulance or similar work under the Society of Friends or the Peace Pledge Union or agricultural work". This seemed to the Ministry of Labour a bare-faced attempt to usurp the functions of the Tribunals and they appealed to the High Court by case stated.

I have never seen such gown-pulling as when the appeal came up for hearing at the Law Courts on January 12th, 1942, before

Mr. Justice Humphreys, Mr. Justice Wrottesley and Mr. Justice Croom-Johnson.* Apparently the Attorney-General had intended to put the case for the Ministry of Labour himself but at the last moment had been unable to do so and Sir William Jowitt, K.C. (the present Lord Chancellor was then Solicitor-General), had been instructed at the last moment. Sitting behind him was W. Arthian Davies (himself now a K.C.), an expert on conscription law, plainly charged with piloting his leader through the treacherous waters of the National Service Acts. The Judges, though not unduly sympathetic to Story, were determined to satisfy themselves that the Ministry's case was watertight in all sections. It appeared, for instance, that more than one medical notice had been served on the respondent.

"What authority, Mr. Solicitor," asked the Court without mercy, "is there for serving repeated notices to submit to medical examination?"

Momentarily Jowitt bore a blank look and was beginning to extemporize in the best legal tradition when his junior leaned forward, tugged his gown and drew attention to a provision in the Act of 1939 authorizing the Ministry to serve notices "from time to time". And so it went on. In all the Solicitor-General was on his feet for an hour and forty minutes.

H. V. Lloyd-Jones (instructed by Harry Bailey of Lowestoft), representing Story, had to admit that the "condition" imposed was void but that did not, he submitted, vitiate the rest of the order.

After the Court had taken time to consider the case, judgment was given on February 3rd, when Mr. Justice Humphreys said:

> In my opinion, the majority of the Justices completely misinterpreted their powers and duties in the matter of the charge on which they were adjudicating, with the result that they acted in excess of jurisdiction and contrary to law, and that is clearly shown by their "opinion". It was not part of their duty to decide whether and to what extent the respondent was a Conscientious Objector. That task is reserved by the Act to the Local and Appellate Tribunals, and the opinion expressed by the majority of the Bench is in direct contradiction of the findings of those two Tribunals. . . .
>
> The court of summary jurisdiction before proceeding to apply the terms of the statute to any case is to have regard to the

* The case was widely reported as *Eversfield* v. *Story*, [1942] 1 K.B. 437; (1942), 111 L.J. K.B. 353, etc.

individual before it, his age, character, antecedents and health, to the nature of the offence, whether of a grave or trivial character; and to the circumstances in which the offence was committed; and is then to decide whether it is expedient to deal with the case in one of the ways indicated by the statute, remembering that one of the objects to be sought is the prevention of any repetition of the same or the commission of any other offence. In this case the Justices had before them a person who was confessing for the second time in two days to a deliberate refusal to obey the law and, in effect, announcing his intention to continue in that disobedience. . . .

To such a case, in my opinion, the Probation of Offenders Act, 1907, has no application. . . . The discretion vested in courts of summary jurisdiction is a wide one and this court will not interfere with the lawful exercise of that discretion, but the Act is not to be used as a means of evading the law or of encouraging persistent offenders in their contumacy. . . .

Mr. Justice Wrottesley contented himself with adding two points to what had already been said:

"The first", he declared, "is that the Justices here appear to have thought they were dealing with a man of good character and good antecedents within the meaning of the Probation of Offenders Act, 1907. In relation to the Acts under which the respondent was charged he had neither a good character nor good antecedents. He was what is known as a Conscientious Objector and he took full advantage of the provisions of the Act and the regulations which have been passed for the benefit and protection of such persons, but when it came to his complying with the obligations laid on him by that legislation he preferred to defy the law. He is, therefore, no more of good character in this context than is a person who persistently exceeds the speed limit a person of good character when he is charged with an offence under the Acts dealing with the driving of motor-cars on the highway. . . ."

So C.O.s could not be placed on probation when refusing medical examination. Story had lost the appeal and the case was sent back to the Magistrates at Norwich with a direction to convict.

The report of this judgment appeared in some twenty newspapers, but few seemed to pick up the sequel: when the case was called again at Norwich, the Bench decided not to send the C.O. to prison and fined him five pounds, which he refused to pay but which was ultimately paid by a friend. Herbert Story was later prosecuted

again for refusing medical examination at Portsmouth and sent to prison for six months. When the law was later changed he was able to apply again to the Appellate Tribunal and was registered conditionally on doing social relief or ambulance work. In the spring of 1943 he sailed for Tengeru in Tanganyika, where for some years he was commandant of a camp for Polish refugees.

Story's was, of course, an extreme case. But long as some of the sentences were, the movement was beginning to look beyond them to the future. What would happen to the imprisoned C.O.s on their release? As the wave of prosecutions reached new heights, the earlier prisoners were coming out of prison with mixed feelings: were they to be prosecuted again and again in a sustained effort to break their opposition? Was there to be any administrative limit to the limitless number of sentences that the law allowed? The C.O.s of the First World War began to retell the story of their "cat-and-mouse" treatment with new topicality and there was undoubtedly a widespread uneasiness. The men affected had not forgotten that they were liable for military service (even though the liability could not be enforced while they refused to be medically examined) and that, short of submitting to examination and refusing Army service when called up, there was no way in which they could be taken out of that category.

Not the least of those concerned at the position were the members of the Central Board. Pressure was being brought to bear on the Board from all quarters and there was much discussion as to the type of remedy to press for. Inevitably, perhaps, two lines of thought came into deep but good-humoured conflict. When the War Office had found that section 13 of the National Service (Armed Forces) Act, 1939 (which allowed a review Tribunal after court-martial), failed to provide for men who had only developed a conscientious objection while in the Army, the safeguard of the Advisory Tribunal had been devised without any legislative backing at all. Legislation or not, should the right to a review Tribunal be extended to C.O.s refusing medical examination? That was the point of conflict. Some members of the Board, firmly convinced that no human Tribunal could judge a man's conscience, were prepared to oppose on principle any suggestion to extend the Tribunal system. Moderates on the Board were not prepared to press for such an extension but would gladly accept the right if the Government thought fit to grant it. On the other hand, many (and these included a fair cross-section of young and old, religious and

political) felt no difficulty at all in pressing for the equivalent of section 13 rights for this new class of C.O.s who could not possibly have been in the minds of our legislators when the Acts of 1939 were passed. In the end the last group won the day: it was agreed to press for a review Tribunal but to leave the Government, if willing, to decide its own means of providing it.

So in the following Memorandum dated October, 1941, the Board proceeded to set out the problem in its context:

CONSCIENTIOUS OBJECTORS IN PRISON

THE FACTS AND THE SOLUTION

Many men and women will be shocked to learn that, in spite of all assurances and protestations against the penalization of Conscientious Objectors, the beginning of October found at least 350 young men in prison for their convictions. Of these 87 were serving one year, the maximum penalty that can be imposed by Police Courts. Most of them will, when released, be liable to be prosecuted and imprisoned again and again. How has this come about?

WHAT C.O.S IN THE ARMY ARE ENTITLED TO

Section 13 of the National Service (Armed Forces) Act, 1939, provides an opportunity for Conscientious Objectors who have been unsuccessful before the Tribunals and have consequently been drafted into the Army to present their cases again to the Appellate Tribunal if they have been sentenced by court-martial to imprisonment for three months or more.

If the Appellate Tribunal considers that the offence which led to the court-martial was committed on grounds of conscience it may recommend that the man be transferred to non-combatant duties *or* that he be registered as a C.O. conditionally on performing civilian work *or* that he be so registered without condition. These recommendations are binding.

A concession allows a similar right to soldiers who did not register as C.O.s before going into the Army.

Conscientious Objectors who resist service in the Army are, therefore, entitled to have their cases reviewed after they have been imprisoned for their beliefs. This right forms a valuable safeguard against "cat-and-mouse" treatment.

THE ILLOGICAL TREATMENT OF OTHER C.O.S

Over 300 of the C.O.s now in prison are there because they refused on conscientious grounds to be medically examined for the Army. They believe medical examination to be solely for military service and the first step towards that service which

their consciences forbid them to perform. Upon that they have made their stand.

In no circumstances are C.O.s who resist medical examination . . . entitled to have their consciences re-examined at any time.

WHAT THE BOARD PROPOSES

The Board proposes that the Government be pressed to devise means whereby these men may be accorded similar rights to those serving in the Army. By this means their consciences could be re-examined by a Tribunal as they would be if the men had been sentenced by court-martial, instead of their being penalized for the particular stand they had taken. Then there would be some end to the punishment imposed by the State.

It was felt that this policy could best be advocated by two deputations to the Minister of Labour, one from Members of Parliament and the other from Church leaders. So steps were taken to call a meeting of the Parliamentary Group on C.O.s, and Stuart Morris, the Board's Public Relations Officer, and Percy Bartlett sought to interest religious leaders in this problem of civil liberty. Deputations of important people are, however, notoriously difficult to arrange. Even when many preliminary difficulties have been disposed of and their agreement to serve has been secured, the problem of arranging for the deputation to be received and fixing a mutually convenient date and time remains. In the present case, too, there was a feeling that private approaches might be more successful than deputations. The Parliamentary Group, fully alive to the seriousness of the issue, went ahead with the arrangements for a deputation of their own.

On the religious side the most important approaches were those to the two Archbishops. On October 16th, 1941, Stuart Morris wrote to Dr. Lang, then Archbishop of Canterbury, asking if he would lead a deputation on the subject. Nine days later came this reply, marked " Confidential " in Dr. Lang's bold handwriting :

Pray forgive my delay in answering your letter of October 16th. As you wrote then about being in correspondence with the Archbishop of York on the matter with which it dealt I waited till I had an opportunity of consulting him about it.

So far as I am concerned I fear I cannot lead or introduce any such deputation as you desire to the Ministry of Labour. I have already more than once communicated with the Secretary

of State for War about the renewal of this foolish "cat-and-mouse" procedure, and I have nothing more to say to him or the Minister of Labour on the matter. On the other hand the Archbishop of York might be willing to take a deputation on this particular matter.

But to be quite frank I must add that I find it very difficult to support those whose consciences object to a medical examination in itself simply because it is ordered by an authority which is engaged in the prosecution of the war. There is nothing in itself which is unreasonable and the time when conscience can legitimately act is when men who have been passed by the doctors are called up for military duties which their conscience forbids them to undertake. I am bound to say that there are limits to the support which can be given to conscientious objections as such. As you know when they are reasonable I am always most ready to defend them, but it is not enough that a man should say that his conscience objects to this or that and then expect others to support him merely because he says so. Responsibility in many cases must be his and his alone.

I hope you will not think this means any lack of sympathy with reasonable and intelligible conscientious objections.

In reply, the Board's Public Relations Officer did his best to explain how the objection taken was not to medical examination in itself but to the whole process which attempted to embody a C.O. by compulsion in the Army, to the intention and use to which the examination was a part; the men concerned were taking their stand at the particular point of medical examination as the best witness they could make to their conscientious objection to war as a whole.

It is possible that Dr. Lang did write to the Minister privately; certainly consultations took place between him and Dr. Temple, then Archbishop of York, who was sympathetic to C.O.s on this issue. Following the Board's approach, the latter had replied:

> Very many thanks for sending me the *Bulletin*. I shall be seeing Percy Bartlett and some others shortly and will try to discuss with them the ways in which any influence could be brought to bear in this matter.

Percy Bartlett sent Dr. Temple a Memorandum, based largely on that of the Central Board, with the added suggestion that cases should be referred to the Advisory Tribunal sitting administratively with wider terms of reference. After discussions which continued over several weeks, it became known that, though Dr. Temple did

not feel he could arrange a deputation, he was writing to the Minister of Labour and believed that Dr. Lang was doing likewise. The active interest of the Rev. Henry Carter could be seen from an article he wrote for the *Manchester Guardian* drawing attention to the anomalous position then obtaining.

Meanwhile, Fenner Brockway, expert in the ways of drawing attention to personal difficulties, had published in the *New Leader*, of which he was Editor, an open letter to Bevin and at about the same time had submitted a specific case to the Minister. The Minister's reply was noteworthy for an admission that a C.O. might be genuine though rejected by both Tribunals, but otherwise he was giving little away. The right to a further Tribunal hearing after court-martial was allowed "as much to provide the Army with a regularized means of dispensing with a man as to benefit the man himself"; and a Conscientious Objector who simply refused medical examination was not in any corporate body from which he could be discharged.

> "It is true", wrote Ernest Bevin, "that as the law stands at present he might be summoned repeatedly to medical examination. It seems to me that it is necessary to retain this power, but so long as it is not exercised in such a way as to persecute men that, despite their inability to satisfy either the Local or Appellate Tribunal, may have genuine conscientious objections, they have nothing to gain by further appearance before the Appellate Tribunal. . . ."

A somewhat similar reply was sent to William Gallacher, Communist M.P. for West Fife, in response to somewhat unexpected representations made by him!

Fenner, with his usual optimism, thought the Minister's case could be "riddled" and believed the reply augured well for the forthcoming deputations. Difficulties in carrying out the original plan had, however, proved insurmountable, and on November 15th Stephen J. Thorne, the Board's Vice-Chairman, sent the Minister a copy of the Memorandum with a covering letter asking him to receive a mixed deputation of six or seven to discuss its implications. An acknowledgment was soon received, but no further progress could be made.

Though the Home Secretary had admitted to the House on October 16th that 372 men (mostly claiming conscientious objection) were in prison for refusing medical examination, comparatively little publicity had been sought for or given, as it seemed unwise to give

the reactionary Press an opportunity to open a new inquest into the rights already granted to C.O.s. It was therefore with mixed feelings that the Board, fearing a direct negative in view of the Minister's unyielding attitude, found that John Dugdale, Labour Member for West Bromwich and then Parliamentary Private Secretary to Attlee, the Deputy Prime Minister, had put on the Order Paper of the House of Commons a direct Question in these terms :

> To ask the Minister of Labour whether he will consider applying section 13 of the National Service (Armed Forces) Act, 1939, to men who, on grounds of conscience, refuse to accept medical examination, and are, in consequence, sentenced to a term of imprisonment?

However, all breathed freely again when, on November 27th, Ralph Assheton replied that his right hon. Friend had the point under consideration.

Indeed, that proved to be the beginning of the end. For on December 4th, a new Bill—the National Service (No. 2) Bill (1941) —was presented, and the Board's officers, eagerly scanning the green sheet rushed post-haste from Westminster through the courtesy of a sympathetic M.P., were relieved to find, amid a miscellaneous collection of clauses, this provision :

> 5. After subsection (2) of section four of the National Service Act, 1941 (which relates to the enforcement of requirements as to medical examination) there shall be inserted the following subsections :—
>
> "(2A) If any person, being a person who has made application for registration as a conscientious objector, is undergoing a sentence of imprisonment for a term of three months or more imposed upon him for failing to comply with an order made under this section, then, if he claims that the offence was committed by reason of his conscientiously objecting to performing military service or combatant duties, he may apply in the prescribed manner to have his case considered by the appellate tribunal.
>
> "(2B) On any such application the appellate tribunal shall, if it finds that the offence for which the applicant was sentenced was committed by reason of such a conscientious objection as aforesaid, have power to make any order with respect to his registration as a conscientious objector which it would have had power to make on an appeal under section five of the principal Act, and any such order shall have effect immediately upon his discharge from prison."

That same evening a hurriedly-convened meeting of the Board's officers was held in the Reception Room at Dick Sheppard House, London. Nancy Browne and Fenner Brockway were unable to attend at such short notice but the rest of us, E. C. Redhead, Robert S. W. Pollard, Joe Brayshaw and myself, sat round the table in various stages of subdued excitement, listening to Stephen Thorne, outwardly, at least, as unemotional as ever, reading the Bill in tones of calculated monotony. Various suggestions were made. It was found that the Tribunal clause did not apply either to those C.O.s who had already been prosecuted or to those who, having themselves refused to register, had been provisionally registered by the Ministry under section 5 (7) of the Act of 1939. So simple Amendments were drawn then and there to cover these points.

The purpose of the provision was thus explained by Ernest Bevin at the Second Reading of the Bill on December 9th:

> Clause 5 seeks to remedy an anomaly in the treatment of Conscientious Objectors. In the 1941 Act, we introduced an amendment regarding medical examination. Where a man refused medical examination he was brought before the court and could be sentenced to imprisonment. If a man is put into the Army notwithstanding his objection to serving, and he is court-martialled and receives three months or more imprisonment, he can then appeal back to the Appellate Tribunal. On the other hand, the man who is called for a medical examination and receives three months imprisonment for refusal may then be subject to a sort of cat-and-mouse procedure. We have not yet exercised that procedure, but I think the House will agree that it is objectionable. Under this Bill, we have put a man who refuses medical examination in the same position as if he had been in the Army and had been court-martialled.

It remained for Edmund Harvey to move the Board's Amendments to Clause 5 of the Bill which, drafted and moved in a spirit of endeavour rather than hope, were to the gratification of all concerned accepted by the Government.

A week later the Bill became law as the National Service (No. 2) Act, 1941, and though it provided for an extension of conscription that was widely deplored, one section at least warmed many a C.O. enjoying the cold comfort of Christmas in one of His Majesty's prisons.

Application for a review Tribunal by a C.O. sentenced to three months or more in prison for refusing medical examination was to

be made on a simple form N.S.195, which need not have overtaxed the education of any man. Supplies of the form were sent to all Prison Governors and one of the earliest questions asked on "reception" was usually: "Do you want a form for the Appellate Tribunal?" If so, the application was completed and despatched through the appropriate channels to the Ministry of Labour. A covering circular (H.Q.693) gave the usual explanation about representation at the hearing, witnesses, etc., and asked for a Questionnaire (H.Q.694) to be returned, showing the names of any representative or witnesses the C.O. proposed to have. In the case of C.O.s who had already been released, forms were not sent to them individually by post, but they could be obtained from any Employment Exchange or from the Central Board which had been given a stock of cyclostyled copies.

After an interval of six to eight weeks, C.O.s, in and out of prison, were given about a fortnight's notice of the date of their review hearings. Arrangements were made for prisoner-applicants to appear in their own clothing instead of the uniform prison-grey. Applicants from the prisons of Southern England were usually collected at Wormwood Scrubs a day or two before the hearing, and the "Tribunal bus" became a regular feature of life in the citadel of Shepherd's Bush.

The first cases before the six Divisions of the Appellate Tribunal began on various days in early March, 1942, with distinctly uncoordinated results. On the whole, unconditionalists received short shrift and were often rejected, as were many Jehovah's witnesses. As early as March 12th the second of the three London Divisions ruled, sensibly enough, that a sentence of imprisonment, though evidence of sincerity, was not in itself sufficient for the Tribunal to find that the refusal of medical examination was caused by reason of conscientious objection to combatant or non-combatant duties: so began a frantic search for testimonials and other evidence not before the Tribunal at previous hearings.

An important subsidiary question, long foreseen, arose with the first of the successful review hearings. Would the balance of sentence be remitted? For some months the Board had been pressing for C.O.s to be released from prison if they succeeded at a review Tribunal after refusing medical examination. Where a court-martialled C.O. had been successful at his review Tribunal under section 13 of the Act of 1939, remission of sentence had been granted as a concession notwithstanding the wording of the section

which appeared to contemplate otherwise. This concession had later been extended to men successful before the Advisory Tribunal, so there seemed no reason in logic and equity why a similar procedure should not be adopted in the new class of cases covered by the No. 2 Act. But the position was complicated by the fact that, though the Home Office was ultimately responsible for all special releases from prison, the existing military cases were primarily a matter for the War Office and the new type for the Ministry of Labour and National Service. It was therefore necessary for official policy to be "dovetailed" as between these Government departments, with resulting delay. On March 13th, however, before any reply to the Board's representations had been received, eleven C.O.s who had been successful in London were called before the Governor of Wormwood Scrubs prison and told that instructions had been received to release them forthwith—provided they were willing to sign an undertaking to observe the Tribunal conditions imposed. This announcement was received with mixed feelings but, when it came to the point, all signed and were discharged. (It should, of course, be borne in mind in assessing their action that, the human element apart, it was usually the man willing to do alternative work who was successful at the Tribunal; only too often the unconditionalist was rejected as being animated by motives other than conscience.)

But no undertaking of any sort had been required in the earlier kinds of case: C.O.s recommended for Army discharge by the Appellate Tribunal were almost invariably registered for civil work and there seemed no reason why undertakings should be required of one class and not the other. Again, there were already ample penalties for refusing to comply with Tribunal conditions, however imposed, and it was against principle to penalize a man beforehand for an offence that the authorities might think he intended to commit. These were the considerations that Joe Brayshaw, who had succeeded Stuart Morris as the Central Board's Public Relations Officer, put to the Home Office, which tried to justify its action by analogy to "binding over" and requiring recognizances to keep the peace or be of good behaviour. But deep-grained Mancunian persistence won the day. On March 18th, 1942, the Home Office wrote to the Board* in these courtly terms:

> . . . The Secretary of State is . . . proposing to follow the War Office procedure so far as practicable and he has in mind to

* Reference 834/885/86.

recommend that in the exercise of the Prerogative of Mercy the remainder of the sentence of imprisonment should be remitted in each case where the appellent is either unconditionally registered as a Conscientious Objector or registered on condition that he undertakes certain specified work.

Where, however, an order is made that the man concerned is liable to be called up for service but to be employed only in non-combatant duties, the Secretary of State will only feel able to consider recommending the remission of the remainder of the sentence after the man has shown himself willing to accept the findings of the Tribunal by undergoing a medical examination, for which the Secretary of State will be prepared to make arrangements in each case.

Pursuant to this policy, the sentences of a further eighteen C.O.s were remitted two days later, the men being released from Wormwood Scrubs without any mention of undertakings. And henceforth, through the Crown's Prerogative of Mercy, releases went through like clockwork within an average of four to seven days after favourable decisions of the Appellate Tribunal had been announced.

The table on page 161 is an official Ministry of Labour analysis up to June 30th, 1942, of just under four months' working of the review applications.

Out of the 672 applicants, only 4 were registered unconditionally, and it is quite possible that even they were so registered through physical defects, or else, perversely, because of their complete willingness to do any type of civil work imposed by the Tribunal as a condition of exemption. Of the remaining 668, 394 were registered conditionally and—a heart-breaking decision this—16 were varied from liability for combatant to non-combatant military service.

As the table shows, there was wide variation of decision between the various Tribunals, the outside limits being the First Division of the London Tribunal, which recognized the sincerity of 84 per cent. of the applicants and the Scottish Division which recognized only 45 per cent. But when Rhys Davies asked Bevin on July 30th whether this indicated "a geographical distribution of conscientious objection or the need for greater uniformity in dealing with the men concerned", the Minister contented himself with saying that the Appellate Tribunal was an independent judicial authority and he was not prepared to speculate as to the reasons for the different proportions of appeals allowed. Nevertheless, this lack of uniformity caused a dissatisfaction in quarters more official than the C.B.C.O.

Division of the Appellate Tribunal	Number of applications heard	Decision of Appellate Tribunal: No conscientious objection found and no order made	Conscientious objection found and applicant ordered: A (Unconditional registration)	B (Conditional registration)	C (Non-combatant military duties)	Previous order varied by Appellate Tribunal: Number varied	Percentage
Southern England No. 1	151	24	1	124	2	127	84
„ „ No. 2	175	89	—	80	6	86	49
„ „ No. 3	119	26	—	91	2	93	78
Northern England	123	64	3	51	5	59	48
Wales	8	2	—	6	—	6	75
Scotland	96	53	—	42	1	43	45
	672	258	4	394	16	414	62

Strangest of all the discrepancies, the First and Second Divisions of the London Tribunal varied from 84 to 49 per cent.!

In the meantime, moreover, sentences had become heavier. "Twelve months" had become more prominent than ever and sentences of more than a year were beginning to appear. Twelve-month sentences had never, of course, been the real maximum; for even in the Police Court an additional fine of £50 could be imposed and on indictment the penalties were doubled. Throughout the emergency the heaviest sentence for refusing medical examination was that imposed on Ernest E. Beavor, a thirty-year-old Jehovah's witness, who, faced with prosecution at Tottenham, had elected to be tried by Quarter Sessions. Though he declared he was ready even to suffer death for his faith and though evidence was given that he had resigned a most lucrative directorship to devote himself to full-time work as a missionary, the Deputy Chairman of Middlesex Quarter Sessions, J. H. Thorpe, K.C., on April 9th, 1942, sent him to prison for two years with hard labour. The Second Division of the London Appellate Tribunal under Sir Michael McDonnell, then the least popular of all the divisions, decided he was not actuated by conscience and accordingly the C.O. served his full sentence less the usual one-third remission for good conduct. Ernest Beavor, for long (too long) the star exhibit at Wormwood Scrubs, is a man for whom I have the greatest respect and in many ways admiration.

Another severe sentence was that upon Sidney Smith, a Leicester advertising artist, who at the age of forty elected to be tried by the local Quarter Sessions. So, on August 19th, he appeared, complete with trim beard and spectacles, before the Recorder, saying: "I feel strongly that you are going to make me pay for it for pushing you to the extreme of trial by jury." However that might be, the decision was fifteen months imprisonment and a fine of £25. But the C.O. had the last word—he was conditionally registered by the Appellate Tribunal seven weeks later and was soon released from prison, a free man.

Christopher L. Shrimplin of North Shields, however, was less fortunate. A Jehovah's witness, Shrimplin had been sentenced to eighteen months imprisonment at Newcastle-upon-Tyne Quarter Sessions on January 6th; his subsequent Tribunal application was dismissed, the Chairman telling one witness who spoke of Shrimplin's Covenant with God "not to talk nonsense". So the C.O. had to serve twelve months of his eighteen. The Rev. R. G. Bell, Advisory Bureau secretary at North Shields, once told Nancy Browne how he

visited Shrimplin in Durham prison. He announced himself and stated his credentials. "I don't need your help," exclaimed the C.O.; "I've prayed to God who'll give me all the help I need." But Ralph Bell was quite equal to the situation. Looking Shrimplin squarely in the eyes, he said: "Shrimplin, I'm the answer to your prayer!" After that the two got on famously together.

But I have always thought that one of the hardest cases was that of a young local government officer from Wanstead, Ronald E. Smith. This C.O. served six months hard labour and, an uncompromising absolutist, was rejected by the review Tribunal. At that time further medical notices were being served and, on his being summoned again, the Magistrates at Stratford (London), in the few minutes left before lunch, just had time to send him down for another twelve months. Having represented him on the second occasion I regarded the case as one of my worst and felt most incensed at the summary treatment he had received from the Court. Doctors are said to bury their failures but when, four months later, I myself went off to prison, one of the first things I saw was the smiling, friendly face of Ronald Smith, who had again been rejected by the Tribunal because he would not consider any form of alternative service. As a protest Ronald Smith voluntarily restricted his prison diet to bread and water *for five weeks*, despite the Governor's threats of forcible feeding. (The longest consecutive period of "bread and water" that could be imposed as a punishment was three days; for longer periods it was alternated with fuller diet.) Smith, who for three weeks of his fast was joined by another C.O., Herbert Moore, is one of the bravest and most hard-headed C.O.s I have known. And many other C.O.s might have been Ronald Smiths but for an important move described in the next Chapter.

CHAPTER 12

ORFORD AND AFTER

BY the autumn of 1942 a great many of the C.O.s originally liable for medical examination were happy enough. Since the review Tribunals began 590 men—about six in every ten who applied—had been taken out of the category of those liable for military service and registered conditionally for civil work.

Nevertheless, by no means all the C.O.s who could do so applied for a further Tribunal hearing. Several circumstances contributed to this. First, there was the C.O. who refused on principle to apply to a Tribunal, denying, as he did, the capacity of any human Tribunal to judge his conscience. Next, there were those who, rightly or wrongly, felt it was no use applying to the Tribunal as none of its divisions would ever accept the sincerity of their objection; consequently they might just as well serve out their sentences. Lastly, some "absolutists" noted that the number of men unconditionally registered from prison could be counted on the fingers of one hand; in their mind's eye they could see the Tribunal accepting their genuineness but refusing their claim to "unconditional"—and either saddling them with registration conditions (for breach of which heavy penalties could be exacted) or rejecting their claims altogether. All in all there seemed little point in it. Another factor that tended to reduce the number of applications was that there was no limitation of time in which C.O.s need apply. If they wished they could wait until the Ministry of Labour began to threaten further action before availing themselves of their right to a Tribunal, and many took just such a course.

What of these men? And what of the four hundred-odd men rejected by the Appellate Tribunal who remained liable for military service with the possibility of receiving further medical notices in their letter-boxes? Section 5 of the No. 2 Act had whittled down the numbers involved but had solved the problem only in a partial and fragmentary way.

When such C.O.s were first discharged from prison there seemed a real hope that the Government would not summon them again to medical examination. Many of them were served with "directions"

under the Defence Regulations to civil work, such as work on the land, and those C.O.s who refused to comply became liable to prosecution. But the latter were in a minority, by far the larger number being willing enough to render service of this kind.

In March, 1942, however, the practice underwent a sudden and disconcerting change: further medical notices began to be served. And when the Board took up the matter with the Ministry of Labour, it was told that the earlier procedure had been merely an interim measure and that nothing could be done.

After the medical notice followed the summons. The first case was that of Percy A. Relf, sentenced to three months imprisonment for refusing medical examination at Cambridge on January 19th and rejected by the Appellate Tribunal on applying from prison. On going home from gaol, he had found, much to his dismay, a further medical notice awaiting his return. On July 6th Relf was sent to prison for a further six months. In the next case the C.O. had previously served only two months, a month short of the minimum that would allow him another Tribunal. His "obstinacy" earned him a sentence of six months from the Carlisle Bench on July 13th.

But it was the principle behind these cases that was exercising the minds of Board members, particularly when renewed medical notices were served on some of those who had already served twelve-month sentences. Here was an example of that policy of repeated prosecutions which in the First World War had so easily degenerated into the hated "cat and mouse".

Preliminary representations had drawn from the Ministry a statement that it was the Minister's desire to avoid the repeated prosecution of men who had a conscientious objection to military service, but there must be no question of recalcitrants escaping further prosecution merely because they had been fined or sentenced to a term of imprisonment. Men might refuse medical examination not by reason of conscience but in the hope of escaping "the common lot". However, the door had not been completely closed, so that on July 4th the Board's Public Relations Officer had followed up this approach with a letter to the Minister himself, asking Ernest Bevin to receive a deputation of the Board's officers. No reply had been received.

A spirit of urgency was added to the situation by the prosecution at Manchester City Police Court on July 10th of a young taxi-driver, Stanley Harrison Orford of Whalley Range, Manchester, who had already served four months imprisonment for refusing medical

examination and had later been turned down by the Appellate Tribunal. In view of the representations the Board was making, I was instructed to try for an adjournment so that Orford should not, by a mere accident of time, be deprived of the benefit of any modification of policy that might result. As a first step the Ministry's local solicitors were asked if, in the circumstances, they would agree to a month's adjournment. But it was not long before the following polite but unyielding telegram was delivered at Dick Sheppard House:

> REX V ORFORD REGRET OUR INSTRUCTIONS DO NOT PERMIT OUR AGREEING TO ADJOURNMENT SUGGESTED IN YOUR LETTER.

This meant a journey to the North-West, and I appeared before J. Wellesley Orr, the Manchester Stipendiary, on July 10th. After some discussion the Magistrate said he did not feel that the prosecution would be prejudiced by the extra time asked for and agreed to adjourn the hearing for one month to see if the Ministry's policy as to prosecutions should change.

So the Board, which had not known beforehand of the two previous prosecutions, was given exactly a month in which to achieve success. Great energy was put into the task of bringing influential pressure to bear upon the Minister. At its meeting on July 18th the Board unanimously passed a resolution deploring the whole principle of further prosecutions and urging all constituent bodies and advisory bureaux to protest to their M.P.s and do what else they could to direct public attention to the seriousness of the issue. The Archbishops of Canterbury and York and Archbishop Lord Lang of Lambeth all expressed concern at the position, and between twenty and thirty M.P.s were known to be interested; as a practical step some of these sent a joint note to the Minister. A statement from the Board appeared in the *Manchester Guardian* and a letter from Dame Sybil Thorndike in the religious press received editorial support. The "campaign" seemed to be going well.

But hopes were dashed when a letter dated July 27th was received from Ernest Bevin's Private Secretary, saying that the Minister could not add anything to what had already been said and he did not think any useful purpose would be served by his seeing a deputation.

The Minister seems to have been under pressure from both sides —not only from C.O.s and those supporting freedom of conscience, but, on the other hand, from the men (often in positions of influence) who wanted the Government to take a stern line with this awkward

squad so that public opinion might realize that in no circumstances could it pay to be a "Conchie". In view of this, the matter was not raised on the floor of the House, as this might have made it more difficult for the Minister. Vague rumours began to circulate that "everything would be all right", but small credence was attached to these in view of the letters from St. James's Square just mentioned.

So when the adjourned hearing of Stanley Orford's case opened on August 7th, John Sharples, a sympathetic solicitor from Blackburn, appeared on his behalf with instructions to secure as moderate a sentence as would yet entitle Orford to a review Tribunal. But, little knowing the attention his statement would receive, the prosecuting solicitor astounded some of those present by announcing that in future *C.O.s who had been sent to prison for three months or more for refusing to submit to medical examination would not again be prosecuted for a similar offence.* Instead, they would be directed to civil work under the Defence Regulations. The solicitor made it clear, however, that such would not be the invariable practice and that the Ministry reserved the right to take any action they thought fit. In the circumstances, the Ministry did not press for an order to be made for Orford to submit to medical examination or for him to pay the costs of the adjournment, but asked that some penalty be imposed. The Magistrate, however, somewhat daringly in view of the *Eversfield* v. *Story* decision, decided against imposing a penalty and bound over the defendant in the sum of five pounds to be of good behaviour for the next twelve months.

The effect of this new policy on those agitating for greater strictness in the treatment of C.O.s was awaited with interest. Most of the national dailies included, in some cases on the front page, an accurate enough report of the change of policy. Rather amusingly, though, one or two papers seemed to think that the solicitor's announcement heralded a new policy of stringency, and proceeded to welcome it in that spirit. The *Sunday Chronicle*, for instance, managed to bring it within the headlines:

NEW LAW KILLS CONCHIE JAIL TRICK

Going to Prison Won't Stop Call-Up

In short, though wide publicity was given, there was little evidence of any harmful effect. The *Manchester Guardian*, ever on the side of the angels, registered its warm approval in a leader "Cat and Mouse" which ended with these words: "This decision should

substantially put an end to 'cat and mouse' treatment. But need it have taken three years?"

So ended another phase of the story. For the policy enunciated that day was followed with only minor modifications until the main prosecutions came to an end.

From an administrative point of view it was an able ruling. For to a large extent it met the objections of both sides. The C.O.s and their supporters were deprived of the main "cat and mouse" plea, as only a minority refused to comply with the "directions" given, and even in those cases, though the C.O.s could be said to be "repeatedly prosecuted", it was certainly not for the same (or even a similar) offence. On the other side of the balance, the C.O.s were not being let off their obligations, though official requirements were being changed: they were to have no easy time, for the work was to be strictly manual. With only the modest agricultural wage, they were to be taken away from their homes and social activities. This point, an administrative brain-wave, served to quiet the mother in the same road whose son had been taken off to India and who found it a great test of her tolerance to see the local "Conchie" returning every evening from his day's work to the bosom of his family. It has been claimed, too, that the new policy helped to supply labour to isolated districts where it could not otherwise be obtained, but the importance of this must not be over-estimated.

The rule was fairly well defined. If a sentence of less than three months imprisonment were imposed upon a C.O., even through the sympathy of the Bench, another medical notice could be expected with fair confidence. A fine of £25 or a sentence of two months invariably meant re-prosecution.

But the rule was not inflexible. For example, between September 15th and November 17th, 1942, the Bench at Croydon which had hitherto imposed sentences of six months imprisonment apparently in a misguided effort to separate the sheep from the goats sent nine men to prison for twelve weeks—one week short of the minimum for a review Tribunal. And in nine later cases a similar course was taken. Normally these C.O.s could expect to receive further medical notices on their release from prison, for their sentences fell short of the "substantial sentences" within the Ministry of Labour ruling. Instead, however, each was asked whether he would comply with a "direction" to civil work, and, if he agreed to do so, no further medical notice was served. On the other hand, the "absolutists" who refused to consider such work were summoned again for medical

examination. But when two of the eighteen C.O.s concerned—R. G. Dossett and G. W. Seager—were each given a *second* sentence of twelve weeks by this highly individual Bench, the Ministry of Labour felt that honour was satisfied and did not pursue them further.

This was an example of a mitigation of the ruling. When the solicitor in the Orford case had pointed out that the new practice would not invariably be followed, it seemed there might be cases in which further medical notices would be served on men who had already been to prison for three months or more for refusing to be medically examined. Perhaps this was only intended as a line of retreat should public opinion clamour for its pound of flesh. Certainly there were no such cases which were not quickly corrected when the Ministry's attention was drawn to them. There were about a dozen " mistakes " of this kind where medical notices were withdrawn following representations from the Board.

As a result of the change-over another segment of the movement had become, at least in one sense of the term, " satisfied C.O.s ". Gradually public attention passed to another derivative stage, affecting even fewer of the original number of C.O.s who had refused to be examined. When a C.O., who had already served in prison a " substantial sentence " (that is, three months or more) for refusing medical examination, failed to comply with a direction to heavy manual work away from home, he was prosecuted for his refusal. Thus, to take one example out of the 160 which had occurred up to November, 1943, Leonard Trayner, chairman of London Regional Board for C.O.s and a staunch unconditionalist, served six months imprisonment for refusing medical examination. He did not exercise his right of appeal to the Appellate Tribunal and after his release from prison was served with a direction to land work ; he refused to comply and was sentenced to three months imprisonment and a fine of £25 (or a further month in prison in lieu of the fine), a sentence rather heavier than the average. If he still refused compulsory work after this *second* prosecution, would new proceedings be taken against him, perhaps on a further direction?

Though no official policy was ever disclosed, by the end of 1942 it had become plain that such prosecutions were not intended. After the unconditionalist had been prosecuted twice—once for " medical " and once for the direction—no further steps were taken against him if the Ministry of Labour considered the work he was doing of some value to the State, for which purpose every case was examined on its

merits. Probably, too, local feeling against a C.O., including any complaints received about him, would be taken into account.

Comparatively few C.O.s failed to pass the test. The only indication the public had was a tendency to regard full-time Jehovah's witnesses as available for further direction. For instance, Eric Britten of Coventry, an International Bible Student, served three months in prison for failing to submit to medical examination and a similar sentence for refusing a later direction to civil work. He was then directed to be a male nurse at a mental hospital and on September 15th, 1943, was prosecuted for refusing to go. Similarly, Ernest Clarke, a shuttle-maker at Nelson, Lancs, served six months for refusing medical examination, one month for refusing directed work and (though not a Jehovah's witness) three months for failing to comply with a later direction. He had refused to pay the fines allowed as alternatives on the two later occasions. These cases were, however, only a beginning.

For in other cases directions were being given and seemed likely to lead to prosecutions. The Board felt strongly that action must be taken to stop discrimination of this kind and from July, 1943, onwards every case in which a third prosecution seemed imminent was taken up with the Ministry of Labour. As a result the Ministry explained the pressure brought to bear on them to take additional measures to put these C.O.s to work of national importance and reminded the Board that no such prosecutions were brought without prior review at the Headquarters of the Ministry. In short, little progress could be made. And a request for the Minister to receive a deputation on the matter only served to elicit a reply* in the following terms:

> Careful consideration has been given to the matter and it has been decided that each case must be dealt with having regard to the individual circumstances. It is not desirable, however, that the impression should be created that men can escape liability for work merely by claiming to be Conscientious Objectors to military service and then serving what may be a short sentence of imprisonment. The circumstances borne in mind may include the value to the national effort of the work on which the man is engaged, the sentence he has already suffered, and any other special considerations relevant to the particular case.
>
> In conclusion I am to state that the matter has been dealt with on lines which have due regard to every consideration

* Dated January 25th, 1944 (Reference: M.107733).

including the repeated allegations of what is termed "cat and mouse" treatment, and in these circumstances it is considered that no useful purpose would be served by a deputation to the Minister.

The phrase "repeated allegations of 'cat and mouse' treatment" was one of those neat touches that all too seldom relieve the official tones of Government communications! But there was little else to be said in its favour.

By April, 1944, eighteen of these prosecutions had taken place, all but one of the men being Jehovah's witnesses, and more cases were in the offing. Whatever the intention of those operating it, the policy in fact resulted in discrimination against a particular religious sect, and their unpopularity offered no justification for such treatment. Also, the mere fact that third prosecutions were being instituted against some seemed an ever-present threat to the liberty of the others. With the willing help of Percy Bartlett and the Rev. Henry Carter, therefore, Joe Brayshaw sought to interest Dr. Temple, then Archbishop of Canterbury, in this refinement of the "cat and mouse" issue. After a good deal of thought and after discussion with those intimately concerned, the Archbishop wrote to the Minister of Labour on April 21st, 1944, in these words:

I have much hesitated to trouble you again on this subject but have come to the conclusion that I ought to let you know that several of us who are not pacifists or even like myself are anti-pacifists are a good deal troubled by what has been happening in the case of a considerable number of Conscientious Objectors lately. The people about whom we write are those who have failed to satisfy the appropriate Tribunals and are required to have a medical examination for the Forces. Your Department gave most careful consideration to earlier representations and directed that instead of a medical examination being required these people, or some of them, should be directed to land or other civil work. That has met the majority of cases, but there is still a small minority who feel obliged to refuse the work specified. It seems to me inevitable that the authority of the State should assert itself in such a case in the form of imprisonment or otherwise; but in fact these people persist in their refusal after imprisonment and are then brought up again. I have had sent to me a statement giving the position of the first eighteen cases where prosecutions have been instituted for the third time. Incidentally nearly all these people are "Jehovah witnesses". I regard that group as particularly wrong-headed and vexatious

but it is difficult to avoid the impression, false as I know it to be, being conveyed to the public so far as they know the facts, that there is a deliberate persecution of this group. That, however, is not my main point though I think it has some importance. The main point is to ask that if possible the regulations should be so framed that no one is being punished twice, still more that no one is punished thrice, for what is really one offence. I know how profoundly irritating I should find these people if I were in charge of the administration and how difficult it must be to have any patience with them. All the same, I do not think we can be too sensitive on this point. The respect for conscience shown by the Government throughout the war is one of the most admirable features in the whole stand that our country has made for freedom, and it seems to me important that it should be freed from all occasion for criticism on ground of inconsistency in that regard for conscience.

A little over a fortnight later the Archbishop received the following reply* from Ernest Bevin :

I am writing in reply to your letter of 21st April, about the prosecution of persons for offences which they claim to have committed by reason of conscience.

I appreciate your reference to the success with which the general question has been handled by the Government and I, of course, desire to avoid action in particular cases which would distress fair-minded persons. You will, however, appreciate that the men in whom you are interested must have failed to establish conscientious objection to combatant or non-combatant service with the Forces, and have refused to submit to the medical examination which is a necessary preliminary to enlistment. Their first prosecution was for this offence.

For some time past I have refrained from serving further medical notices on men who remain liable for military service on release from prison, apart from a few cases where men have escaped with a light sentence, or with a fine on first conviction. Instead, I direct the men to civil work and about 1,200 were so directed up to the end of 1943. The majority do as they are told, but about 200 refused to comply with the direction. I really had no alternative but to enforce the law in their case. I do not regard this as a second prosecution for a similar offence.

There remains the question whether men in this position should be left to do as they please after one conviction for refusing medical examination and another for refusing to obey a direction

* Dated May 9th, 1944 (Reference: M.135802).

to civil work. I have to bear in mind the resentment which may arise, particularly among persons who accept their obligations, but who feel it is only just that others should do so. I have, therefore, been unable to accept the proposition that men still liable for military service must necessarily escape further punishment because of their previous convictions. As an administrative measure, however, I have instructed my officers not to proceed repeatedly against such men as a general rule. They may be directed to work for a second time only after full consideration of the circumstances of the case, including the punishment already received.

As regards Jehovah's witnesses, I think you may be satisfied that no special action is taken against them by reason of their connection with that body. It is a fact that many of the recalcitrants are Jehovah's witnesses, but this is because there are few people outside this body who are unwilling to do anything in the way of useful work.

Though no change of policy was foreshadowed in the Minister's letter, there is no doubt that cases were scrutinized even more carefully than before, and when by the end of August, 1944, thirty-four "third prosecutions" had been brought, twenty-eight of the C.O.s were found to be International Bible Students. The other six were respectively a shuttle-maker (the Ernest Clarke mentioned above), a watchmaker, a radio repairer, a joiner, a window-cleaner and a shoe-dealer.

The thirty-fifth and next case, however, raised other questions and gave rise to a fear that these prosecutions might be extended. The central figure was Roy Walker, of P.P.U. Headquarters staff and joint secretary of the P.P.U. Food Relief Campaign. Roy had made a wide study of non-violent resistance and his Tribunal stand showed signs of originality in unexpected directions. His name had been removed from the register of C.O.s by the London Local Tribunal. When he had offered to answer any questions put to him by the Appellate Tribunal (this with other communications being construed by the Ministry of Labour as an appeal), the following dialogue took place before the First (London) Division of the Appellate Tribunal, presided over by Sir Gilbert Jackson:

Chairman: "You say that you do not appeal in any statutory sense, Mr. Walker. Is that so?"

Walker: "Yes, that is so."

Chairman: "Then there is no appeal?"

Walker: "Not on my part."

Chairman: "You have withdrawn your appeal—"

Walker: "No. Might I point out that I made my position clear in correspondence and that I only came here as I was asked to do so by the Ministry."

Chairman: "Well, there is no appeal. There is nothing more to say."

So the appeal came to nothing. After that Roy Walker was sent to prison for six months for refusing medical examination, and as a protest refused prison work. Dietary punishments were imposed for three months, all remission was lost, and the prisoner remained in solitary confinement for twenty-three hours daily for the full six months. Early in 1944 he was summoned again, this time for refusing to take up land work to which he had been directed in the interim. He pleaded that his refusal was not an anti-social action, since it arose from a sense of vocation for pacifist and food-relief work. He refused to pay a fine imposed and served a further six weeks imprisonment, during which he again maintained a strike against compulsory prison work. He was released at the expiration of the full sentence after a week as an in-patient of the hospital at Wormwood Scrubs—dietary punishments having brought on symptoms of anaemia. By this time Roy's hair had turned grey.

Here the matter was expected to end.

But whether the Ministry took the view that this strong-willed C.O. was "not doing any useful work" in his duties for the Food Relief Campaign or whether his devotion to duty caused him to be treated like the witnesses who refused to be led aside from strict obedience to their covenant with Jehovah, has never been clear. Suffice it to say that a further direction to land work was given and another summons issued when this was disobeyed.

It will be long before I forget the hearing at Clerkenwell Police Court, where in the afternoon of September 20th, 1944, Walker appeared before the Stipendiary Magistrate, Frank Powell. On his behalf I produced in unorthodox fashion a bundle of letters from well-known men and women who testified to the value of the work Roy Walker was doing. Among these were the Bishops of Birmingham and Chichester, T. Edmund Harvey, M.P., Laurence Housman, Harold Nicolson, John Middleton Murry, H. N. Brailsford and Vera Brittain. The Bishop of Birmingham was particularly outspoken, while Laurence Housman made the very practical gesture

of offering to help with the cost of the defence. I pointed to the evidence of Roy's social consciousness with a view to getting over the initial difficulty of his refusal to grow food whilst doing everything possible to modify its distribution. Undoubtedly Roy could have secured exemption before the Tribunals had he felt it right to plead before them and accept their decision, and I gave what was intended to be a stirring appeal against repeated prosecutions.

Then came evidence of character.

"Call Dr. Joad," I said, and the attention of all was taken by this short man in the rough tweed suit whose voice and scrubby beard they knew so well. Dr. Joad proceeded to pay tribute to the defendant as an ex-student of his whom he remembered because he had "dared to contradict him". And John P. Fletcher, called as a second witness, waxed eloquent as to Roy Walker's character and attainments.

A good deal of argument followed in which the Magistrate tried hard to understand the defendant's attitude that had led to three different prosecutions. Then he delivered this compact little judgment:

> This has been an interesting discussion, which has travelled perhaps a little way from the matter I have to deal with. The question is, what punishment, if any, I shall impose on the defendant for his refusal to comply with the law.
>
> This is not the first time the defendant has been before a Court in regard to matters of this sort. Each appearance before the Court arises out of the same fact—the fact that he has been and is a Conscientious Objector to military service. Because he is that, he has already served a sentence of six months imprisonment. On another occasion he served a sentence of six weeks. He has suffered that punishment because of his attitude to the law arising out of the fact that he is a Conscientious Objector.
>
> It is really contrary to the spirit in which justice is administered in this country that a man should be continually brought before the Courts. He can never be charged twice with the same offence. That would be contrary to the law. It is not a fact that the offence for which he is prosecuted to-day is one for which he has been prosecuted previously, but the fact remains that all these prosecutions arise out of the same thing—that is, what is called a conscientious objection. For that attitude he has already suffered. In those circumstances I don't think I am called upon to pass a further sentence, because it is really adding to the previous sentences. I shall impose a fine of £5.

After the hearing Dr. Joad said that if the C.O. felt difficulty in paying the fine, he would gladly pay it himself. "Tell him", he said, "not to be silly and think he must go to prison again." However, Roy Walker, having made his stand, after careful thought decided to pay, recognizing that the Magistrate had gone out of his way to meet his point of view in a case where the offence was admitted and some punishment must be imposed. But the general effect of the case was not calculated to inspire an extension of the policy of third prosecutions, though a further nine cases, making a total of forty-four, occurred afterwards.

Meanwhile the first prosecutions, and in a lesser degree the second, were still proceeding, the former at an average of some seven a month. Later sentences became shorter, as Magistrates often felt that the end of hostilities entitled them to act a little more understandingly, even generously, to members of a minority who had been good customers for so long. Though some Courts still imposed twelve-month sentences, there was sometimes a tendency to avoid sending C.O.s to prison at all with the result that second prosecutions seemed inevitable. This was the Board's cue to press for a revision of the old Orford policy, framed as it was for sterner days. Though no statement could be obtained from the Ministry of Labour in any helpful sense, the position did seem slightly more elastic than before, and if a C.O., sentenced to less than three months in prison, were engaged on important work or if there were other justifying circumstances, the case might be quietly filed away unless and until a later review were required.

A minor change, introduced in June, 1946, was a modification of the procedure between the first and second stages of medical prosecutions. Thenceforth, instead of being charged again shortly after refusing to submit to examination, a new summons was issued requiring the C.O. to attend Court, often as long as a fortnight later, on a charge of refusing the Court order. This, legally the most regular way, had, of course, been the invariable practice for years in some Courts and at the most was a matter of machinery.

There remains one further point which, though a trifle academic in the extremities of war, was not without interest as reflecting the attitude of the Magistrates in war and peace. The question was this: if a Court found a C.O. guilty of refusing to comply with a medical notice, could it refuse to make an order for him to be examined? The Act provided that the Court by which a person was convicted for refusing to comply with a medical notice "may,

without prejudice to any penalty which may be imposed on him, order him to submit himself to medical examination " at a time and place to be fixed. " May " and not " shall ". The obvious meaning of this was that the Magistrates had a discretion to make or refuse an order as they thought fit, but *dicta* in *Maxwell on the Interpretation of Statutes** and elsewhere suggested that in such cases Parliament had intended orders to be made but that no private citizen should be in a position to compel the Magistrates to make orders in particular cases.

Whatever the true interpretation, a C.O. or his representative could sometimes be heard submitting that in all the circumstances of his case justice could best be served by the Court declining to make an order for examination. Often success seemed near, yet just out of reach. Three cases, however, deserve mention. At Stratford (London) Police Court on September 3rd, 1941, the Magistrates refused to order Norman Ellis of Leeds (a County Court clerk who later went into the Forces) to be medically examined, on the understanding that he left for Ethiopia with the F.A.U. within two months, and they dismissed the summons on payment of one guinea costs. Favourable as this was, however, it did not constitute a real precedent because, in dismissing a charge in such circumstances, Magistrates did not technically " convict " the defendant, so that in strictness the provisions of the section did not arise at all.

The second case, a protracted business, had a Gilbertian flavour that seldom failed to raise a smile. It concerned J. E. Jones, organizing secretary of the Welsh Nationalist Party who, despite his persistent argument that Welsh Nationalism was a sufficient basis for the registration of C.O.s, had been removed from the register by the North Wales Local Tribunal, a decision affirmed by the Welsh Appellate Tribunal after over two and a half hours of legal and philosophical debate, mainly between Jones's Counsel and R. Hopkin Morris (now K.C., M.P.), one of the Tribunal members. At the same time the Tribunal stated publicly that they had no doubt as to the sincerity of the appellant's views. As was expected, Jones then refused to submit to medical examination and before long, in the face of much local sympathy for this champion of self-government for Wales, he was summoned to the local Police Court in Caernarvon on April 27th, 1942, when he successfully pleaded that the Bench

* See the Eighth Edition (1937), at pp. 210-212. Curiously enough, this edition is by Sir Gilbert Jackson, a former Judge of the High Court at Madras, who was Chairman of the First (London) Division of the Appellate Tribunal.

should refuse to make an order for medical examination.* Only a fine of £5 (with two guineas costs) was imposed; Jones went free and Caernarvon had set a lead to other Courts by refusing to make the order authorized by section 4 (1) of the National Service Act, 1941.

Obviously the Ministry of Labour could not leave the matter there. So J. E. Jones was prosecuted again, and again the Magistrates refused to order him to submit and contented themselves with imposing another fine of five pounds.

To quell this minor revolt serious measures had to be taken. So W. Arthian Davies (now a K.C., but then Junior Counsel for the Ministry of Labour) entrained for Caernarvon complete with instructions to ask the Magistrates to state a case for the High Court if they maintained their refusal. When this, the third prosecution, opened on February 8th, 1943, Counsel began his opening speech in English. Jones interrupted with a request that the proceedings should be in Welsh, which led Counsel to quote the Welsh Courts Act with a submission that he was entitled to continue in English. The Mayor of Caernarvon (in the Chair) said the Magistrates had decided that the proceedings should be in Welsh. Deadlock nearly ensued, for Arthian Davies, not to be outdone, declared flatly that his statement would have to be interpreted as his Cardiganshire Welsh would not be understood by the Bench. And so it might have gone on had not Jones intervened by withdrawing his objection to English to save time all round. Here I quote from the report in the local press:†

> . . . Counsel went on to say that Jones, who was thirty-seven, refused to undergo medical examination in November last. Referring to the provision of the National Service Act he conceded that the word used was "may" in relation to the power of the Court to order medical examination. He did not suggest that may meant must, but it clearly meant that the Court had discretion and discretion must be used judicially. It was not for the Magistrates to adjudicate upon the reasonableness of the law. He asked them to make an order, and respectfully suggested that they should show some of the courage displayed by the defendant, and state their reasons for acting in a particular way. He added that every single court in the kingdom, with the exception of Caernarvon, had exercised discretion by making an order. Mr. Davies quoted three cases in support of his

* See the pamphlet *Cyfiawnder i Gymro (Justice for a Welshman)*; Swyddfa'r Blaid, Caernarfon.

† *Caernarvon and Denbigh Herald*; February 13th, 1943.

request that Jones should be ordered to appear before the medical board.

In a statement to the court, Jones disagreed with counsel's submission that Caernarvon was the only Court to refuse an order, and cited a case at Stratford, London. Continuing, Jones reminded the Court that this was the third time he had been summoned for the same offence, and now the Ministry of Labour had brought a barrister from a considerable distance in an attempt to make the Magistrates change their minds, but without submitting any substantial reason why they should do so. It had been suggested that a man who had served three months imprisonment would not be further prosecuted, but that was not correct. . . .

Jones's present work was a matter of conscience, and he could not conscientiously leave or neglect it on the request of any foreign Ministry. "It is easy enough to imagine the desire of these bureaucrats to put an end to my small contribution to this little nation," he added. "This prosecution has become a persecution on the part of the Ministry of Labour," he remarked. "It is a great injustice to prosecute a man time after time simply because he is a Conscientious Objector, and, moreover, it is an insult to this Court. The Ministry is fully aware that I will not submit to medical examination and these proceedings are, therefore, but a waste of time and money."

Thereupon the Bench made every appearance of capitulating and ordered Jones to submit to examination, though no fine was imposed. As expected, Jones told the Medical Board that he had no intention whatever of being examined and was brought back to the Court for sentence. The Magistrates, faced with maximum penalties of twelve months imprisonment and a fine of £50, then *proceeded to fine Jones five pounds*, prescribing, as it were, "the mixture as before". After this Pyrrhic victory, quite without prejudice to the Magistrates' discretion to refuse an order, the authorities seemed to feel that the Army must do without Mr. J. E. Jones of Caernarvon, though efforts were still made to induce him to do compulsory work of a civil character.

Three years passed, and with them the transition from war to peace. By this time the *cause célèbre* of J. E. Jones was but a cherished memory of local friends, and except for earlier cases at Caernarvon no other refusal had been made by any Court in the country. Nevertheless, in May, 1946, the Magistrates at Kingston-on-Thames, whose "usual sentence" was six months imprisonment,

declined to order Ronnie Noble, a Guildford C.O., to submit to examination. Noble had already been before the Bench on a similar charge in the previous January, when he had been ordered to be examined and fined £5 and £15, but the Magistrates had decided not to send him to prison.

Representing the C.O. on the Board's instructions, I explained that Noble had been on the land since the previous June and was employed by the Surrey W.A.E.C. This was believed to be the first time the Kingston Bench had been required to deal with a second prosecution of this kind and it seemed paradoxical that it was the understanding attitude of the Bench in not sending him to prison on the previous occasion that had led to the present summons. The Magistrates were asked to exercise their discretion by refusing to make an order for Noble to be medically examined.

When the legality of this was questioned by the Clerk the Ministry of Labour representative, H. S. Lees, applied for an adjournment to enable him to ascertain the views of the Solicitor's Department of the Ministry on this point. The Mayor of Kingston, F. C. Digby (in the Chair), granted his request.

When the hearing was resumed on May 24th, Lees said that the Ministry agreed that the Bench had a discretion to make or refuse an order in such cases, but the discretion must be exercised judicially.

This is how the case continued:

The Clerk (Mr. S. C. T. Littlewood): "This case was adjourned in order that the meaning of the word *may* under section 4 (1) of the National Service Act, 1941, might be considered. Mr. Lees and Mr. Hayes have been in communication with the Ministry of Labour and I understand that the Ministry has accepted under the Act that the word *may* is permissive and not mandatory. Next, the Ministry is not prepared to have a public statement made on the policy of persistent refusals to attend for examination. It is left to the discretion of the Court to make the order. . . ."

The Chairman then read this judgment:

The defendant has pleaded guilty to this offence, and he therefore must pay a fine of £5. The prosecution, while it asks that we should make an order under section 4 (1) of the National Service Act, 1941, agrees that the matter is one for our discretion.

We have given a good deal of thought to this case and have come to the conclusion that we should refuse to make an order. We should like to be told the Minister's policy in cases of people

who refuse again and again to attend for examination, but we are informed that the Minister does not consider it in the public interest for such a statement to be made.

At the same time, the Minister invites the Magistrates to give their reasons for refusing to make an order in this case. We should like to state our reasons, but think they may conflict with the policy of the Minister. That being so, we have come to the conclusion that no reasons should be given.

There will be no order as to costs.

At the end of 1946 over 3,000 C.O.s had been prosecuted for refusing to be medically examined* and there were few of these who had not, by patiently holding to their position, forfeited the immediate attention of the Ministry of Labour. For good or ill, the policy of the movement had been one not of frontal attack but of gradualness, a slow building up of a tradition of freedom by appeals to the best in the administration and the country. But for that, many more would have gone to prison—and the witness of the C.O. might then have seemed of greater effect. But it is just as likely that the Conscientious Objector's reputation for service, to be discussed in the next three Chapters, would have been seriously impaired, because the opportunities might not have been allowed him.

* Details as at December 31st, 1948, are given in Appendix C.

CHAPTER 13

IN CIVIL DEFENCE

" THERE are thousands of cases in which Conscientious Objectors, although they have refused to take up arms, have shown as much courage as anyone else in Civil Defence and in other walks of life." So declared Ernest Bevin in the House of Commons on December 9th, 1943. " Some of us saw a pacifist section of the Auxiliary Fire Service do heroic work during the London blitz." So wrote the author of *Man-Power*, the official story of Britain's mobilization for war. Indeed, around the service of conscience in the often hazardous duties of the bombed areas grew a legend that tended to dwarf the reality. It is true that a Finsbury C.O., H. F. Finch (later killed on duty), was awarded the George Medal, and another C.O., T. R. L. Black, an auxiliary fireman in London, the British Empire Medal, but these were samples of a general recognition of good service. Not once but many times have I been asked for a list of the decorations given to the C.O.s in Civil Defence!

In general, youth was on their side but even so their proficiency was as noteworthy as their example. For instance, in the 1943 London Region Civil Defence competitions between 1,500 Rescue Squads, with a total personnel of 7,500 men, the two squads which worked their way up to the grand finale of this gruelling test included four and three C.O.s respectively out of the total of five men per squad—that is, of the first ten men in 7,500, seven were C.O.s. Holborn, with four C.O.s out of five, were the winners.

Yet Civil Defence was one of the services that caused most division of opinion among C.O.s. Some were eager to take part, rejoicing in this new opportunity for service; others, fortified by the official accounts put out for the consumption of a war-obsessed people, felt it too near the war effort for them to participate. So long as it was voluntary all was well; when compulsion came the spirit became tainted with a reluctance amounting as often as not to downright unwillingness. For this Chapter really tells not one story but three. First, how C.O.s worked for local authorities in the Civil Defence *Services* as, for instance, the Rescue and Decontamination Services; secondly, of their duty, often but not always

compulsory, in a Civil Defence *Force* such as the National Fire Service; and lastly, of the attempt that was made to enrol C.O.s for *part-time* duty in units of Civil Defence.

I

From the outset Civil Defence, which developed from the system of Air-Raid Precautions instituted before the war, was civil duty organized independently of the War Office under the general direction of the War Cabinet. As the fire-raids of 1940-1941 became severe and the need for men and women to serve full-time in Civil Defence became urgent, many C.O.s were led to volunteer for this work—only to be rejected through prejudice against their stand.

Referring to such cases, Herbert Morrison, Minister of Home Security as well as Home Secretary, replying to Reginald Sorensen on January 30th, 1941, deprecated such refusals at a time when the services of every citizen were required. This was followed by a Supplementary Question in these terms:

> "Is the right hon. Gentleman aware that in many cases Conscientious Objectors have offered themselves for fire-fighting and other hazardous duties, and have been rejected purely on the ground of prejudice?"
>
> "Yes," said the Minister, "I am aware that that is so. The local authority is the employer; but, in view of the statement I have made, I hope that beneficial results will follow."

Nevertheless, many local authorities failed to take the hint, some believing that all C.O.s were cowards who would prove useless in emergency; others, bound by prior resolutions to dismiss C.O.s from their employ or give them indefinite "leave of absence" without pay, felt unable to take other C.O.s onto their staffs, even in the emergency role of maintaining the buildings of the district safe from fires started by the enemy.

An example of a third type was the London County Council where "friction" between C.O.s and others necessitating staff transfers had led to a ban on the employment of C.O.s in the L.C.C. Civil Defence Services in June, 1940. Here was a test case. If London with its eight million inhabitants could be persuaded to accept C.O.s, less sympathetic authorities would be faced with a formidable precedent. So, following the Minister's statement, Fenner Brockway and Joe Brayshaw, on behalf of the Central Board, were received at the County Hall, London, by Charles Latham (now Lord Latham),

Chairman of the Civil Defence and General Purposes Committee of the L.C.C. The Vice-Chairman of the Committee was also present. Pointing to the obviously dangerous and arduous work undertaken by C.O.s, Fenner Brockway pressed that C.O.s should be allowed to volunteer for the Council's Civil Defence Services: many had Tribunal conditions specifically covering Civil Defence and were anxious to comply; the National Service Act of 1941 gave the Minister of Labour compulsory powers to enrol conditionally registered C.O.s in Civil Defence Forces and the case for accepting volunteers seemed a strong one. Largely as a result of these representations the ban was raised; on July 29th, 1941, the Clerk of the Council wrote to the Central Board saying the Council had decided that, if otherwise suitable, registered C.O.s would be eligible for employment in the Civil Defence Services administered by the Council, adding that very young men would not in general be regarded as suitable for the rest centre and meals services "since they could be more usefully employed in the more active and hazardous civil defence services". This decision received some publicity at the time, the *Daily Herald* report, for instance, being headed:

C.O.S GOOD WORK IN RAIDS ENDS L.C.C. DEFENCE BAN

and there is no doubt that it provided a clear pointer to other local authorities.

So far so good. But better was to come, for less than a week later came an even stronger move to end this widespread reluctance of local authorities, this time from the Government itself. In a Circular* sent to all local authorities the Ministry of Home Security enunciated its policy on the employment of C.O.s in the Civil Defence Services. In the past, it said, the question of accepting C.O.s had been left to the discretion of each local authority and some authorities had hesitated to accept C.O.s notwithstanding that in many places they had "proved satisfactory in every way". The position had, however, been altered by the National Service Act of 1941, and in addition the need for man-power was pressing. Any possible resentment from others in the Services could be overcome, and C.O.s should be given the opportunity of showing that their attitude to military service was not conditioned by fears of personal safety.

Somehow the true spirit of reconciliation seemed to pervade the Circular, which was undoubtedly effective. Led by Blackpool,

* Dated August 1st, 1941 (No. 169/1941).

Croydon and Manchester, a good proportion of local authorities, including most of the London boroughs, reconsidered their attitude and allowed C.O.s in their Civil Defence Services. In so doing they were helped by the devotion to duty of the C.O.s already in Civil Defence, for the testing months under fire had found them rising to the emergency in a way that excited the respect of those who liked them least. Besides, common-sense dictated that it was better to take a chance on " Conchie " rescuers than be left under a pile of debris.

But breakers were ahead. Men and women in Civil Defence were encouraged to do work on munitions and other war work in their off-periods, and there seemed a danger of Civil Defence workers being used in military activities. The C.D. Casualty Services, for instance, were expected to handle casualties resulting from the engagement of the enemy by Home Guard units, and exercises on a national scale took place to promote smooth working. As early as December 10th, 1941, Horace W. Hopper, an ambulance driver in Dagenham Civil Defence, was prosecuted at Stratford for refusing to obey an order to take his ambulance to an " incident " in connection with a military exercise in which the local Home Guard was to take part. His solicitor claimed that as Hopper had been conditionally registered to do " work of a civil character under civilian control " he was under no liability to carry out the order, which was an infringement of the safeguard accorded by statute to conditionally registered C.O.s. The Town Clerk of Dagenham, prosecuting, admitted that circumstances might have arisen in which the defendant would be required to obey a medical officer of the Home Guard. Hopper seemed to be within an ace of getting the summons dismissed altogether, but on reflection the Bench thought it would have been more reasonable for him to take out his ambulance and defer his refusal until an actual order by the Home Guard was given, even though this might immobilize his ambulance in the middle of an " incident ". So though the Magistrates found an offence had been committed, they contented themselves with fining Hopper £5, recommending that he be discharged from Civil Defence and allowed to transfer to his alternative Tribunal condition of work on the land. This was later carried out.

Though an isolated case, Hopper's dilemma was clearly a straw in the wind. From various quarters pressure grew to have Civil Defence workers trained in the use of arms and, though Lord Croft in the House of Lords on January 21st, 1942, explained that for the purposes of international law C.D. workers were civilians, and could

not, therefore, be provided with military uniform or bear arms, Government policy seemed to be to go as near the military as was possible without violating that cardinal principle. For instance, permission was given for most members of the Civil Defence Services to join Home Guard Units and to train as Home Guards, so that they could be called upon in either capacity as necessity required. Circulars of the Ministry of Health and of the London Civil Defence Region laid down principles of co-operation with the Home Guard, though in such matters the services of Civil Defence personnel were to be utilized only after the collection of wounded by Home Guard stretcher-bearers.

However, a lengthy lull in the air-attack that had led to the full organization of the Services gave Civil Defence personnel and Government alike time to work out a longer-term policy than that so hastily implemented to meet the *blitz* of 1940. From as early as April 1st, 1941, whole-time members had been restricted from leaving without official consent and, to assist in reviewing the available man-power, the Minister of Labour and National Service made an Order on March 16th, 1942, requiring all whole-time paid Civil Defence workers to register during the week commencing March 22nd, giving particulars of their past industrial and other experience, the understanding being that these particulars could be used by the Government if it seemed possible to make better use of their services, whether in Civil Defence or in other work.

Hardly was the registration complete before an Order in Council was issued* extending the duties which could be required of Civil Defence personnel. Thenceforth, the duties of all branches of the Civil Defence Services were made interchangeable; in addition, members of Civil Defence might be put "on the construction or improvement of buildings or works used or intended for civil defence purposes . . . or on work for forestalling or mitigating the effect of enemy action; or on any other work for any Government Department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services." Disobedience of any lawful order, or absence from duty without reasonable excuse, was to be punishable on summary conviction by one months imprisonment or a fine of £10 or both.

These provisions were nothing if not comprehensive and, to add to the general tension, a well-known Counsel consulted by the

* April 30th, 1942.

Central Board advised that the fact of a C.O. having been registered for "work of a civil character under civilian control" was quite irrelevant to the legality or illegality of orders given him as a member of Civil Defence, though a conscientious objection to particular duties might be held a "reasonable excuse" for absence from duty. The only consolation was that a conditionally registered C.O. might be able to satisfy a Court that he was not guilty of failing to comply with his condition if he could prove that the work specified was not in fact of a civil character.

Nevertheless, the Regulation was so carefully administered that for nearly a year little difficulty arose. It was later learnt that in mid-1942 the Ministry of Home Security, whose opinion had been officially sought on the general issue, had advised that it would be going beyond the intention of Parliament for an attempt to be made to force C.O.s to undertake such duties as the handling of Home Guard casualties under active service conditions, and the reporting of enemy movements, though it might be legitimate to require Objectors to take part in exercises with the Home Guard on the score that the exercises were designed, not so much to help the Home Guard under active conditions, as to train the two Services in their respective functions with the object of avoiding overlapping and confusion in the event of invasion. Officials were to take account of the fact that the C.O.s serving in Civil Defence were men who had satisfied the Tribunals that they should not even be registered for non-combatant duties, and so be enlisted in the R.A.M.C. How widely this advice was given it is impossible to say; certainly it was not known to the C.O.s themselves and it is more charitable to assume that it was unknown to those local authorities who, a few months later, were to insist on their pound of flesh from the Conscientious Objectors in their service.

The move to militarisation, however, continued apace. Renewed pressure from Peers and Press was put upon the Government to provide weapon training from Home Guard instructors. This, it was known, would be widely unacceptable to the C.O.s concerned, but perhaps the latter could be retained as non-combatants or, if not, be dismissed *en bloc*. The Central Board was watching the position closely and had already intervened in a few isolated cases, e.g., at Cardiff in September, 1941, when some firemen were required to carry revolvers while on guard duty, and in North London at much the same time when a man who refused to do sentry duty with a rifle was refused admission to the Auxiliary Fire Service.

Yet they were old history, and now a new climax was threatening. The first disquieting sign was the prosecution at Bradford on February 12th, 1943, of Frank Kershaw, a C.O. who had been conditionally registered following a prison sentence for refusing medical examination. A stretcher-bearer in a First Aid Party of Bradford Corporation, Kershaw was ordered to load and unload railway wagons at a munition works and, when he refused, was charged with disobedience to orders without reasonable excuse. The hearing lasted for two hours; at one time the Court was cleared and the hearing continued *in camera* because of the reference to munition works. As a result, the Stipendiary Magistrate, Dr. Coddington, bound Kershaw over for twelve months, agreeing that the Tribunal had never contemplated that work in Civil Defence (which was included in his registration conditions) would involve duties connected with munitions. According to a private report from J. E. Rhodes, a Halifax solicitor who conducted the case on Kershaw's behalf, the Magistrate "stated that he wished to express in the strongest terms possible that such an order should not have been given to a man with a 'diseased' conscience, as the defendant had proved his sincerity and such duties were abhorrent to him".

Three months later the prosecution of four other C.O.s was almost as unsatisfactory from the official point of view. For after serving two and a half years in Civil Defence at Hendon four C.O.s refused to appear in a "Wings for Victory" parade with members of the Armed Forces and other groups of men and women on national service. Their previous conduct had been exemplary and after Robert S. W. Pollard, joint legal adviser to the Central Board, had addressed the Court, which seemed courteous, even sympathetic, each of the defendants was fined only £1. On the following day, four provincial newspapers carried a syndicated editorial drawing the attention of the Minister, "as a Conscientious Objector in the last war", to the anomaly between the parade in question and the Civil Defence duties which the C.O.s had been discharging satisfactorily.

Two Lambeth C.O.s who refused to clear bombed sites to provide hardcore for constructing aerodromes were not proceeded against. The prevailing tension was resulting in some C.O.s transferring to alternative conditions of land or hospital work. Perhaps it was all to the good that the issue was brought to a head at Edmonton where the Town Clerk had sent out a circular on March 17th to the seventeen C.O.s in the borough's Civil Defence Services. It read:

The Corporation are required, as part of their civil defence functions, if and when the necessity arises, to arrange for :

(1) the conveyance of Home Guard and, possibly, other military casualties from Casualty Collecting Points behind the firing line to Hospitals or First Aid Posts ;

(2) the transmission of military intelligence ;

(3) the reporting of enemy movements ;

(4) the clearance of roads or other work for the military.

All these duties are work of a civil character under civilian control. They are covered by paragraph (1C) (b) of Defence Regulation 29B.

The Town Clerk then required the unfortunate seventeen to sign this undertaking :

IN CONSIDERATION of my continued employment as a whole-time member of the Civil Defence Service of the Edmonton Corporation I HEREBY UNDERTAKE to carry out all and any duties which may be required of me in the Civil Defence Service, including the conveyance of military sick, and of military and Home Guard casualties, in Civil Defence vehicles, from army units to military hospitals, the clearance of roads for military traffic, and transmission of messages which may have military importance, *being work of civil character under civil control.*

Only two signed, the others either refusing point-blank or asking for time to consider their position as the soft answer that turneth away wrath. The matter was soon reported to the Central Board ; an immediate approach to the Minister was decided upon, and it was not long before the Edmonton Council was officially asked to hold over the undertakings pending discussion of the general issues involved.

At the same time a great deal of thought and discussion was going on to find out the views of Civil Defence C.O.s as to what form the proposed representations should take. Meetings of the C.O.s concerned were held in different parts of the country, the largest being in London where the Regional Board was in direct touch with some four hundred C.O.s in Civil Defence. At the two meetings held at Friends House, London, a hundred and fifty were present, some representing all the C.O.s in a particular squad or depot. Nearly all were keen on staying in Civil Defence if some safeguard could be devised. An unexpected reaction was that few felt any difficulty of conscience in assisting with Home Guard casualties while remaining themselves in an essentially civil organization. On the basis of all the expressions of opinion received, the Central Board, on April 17th,

decided to press the Minister to receive a deputation to put the following four points:

1. C.O.s in Civil Defence wish to continue to serve the community in the Civil Defence Services;
2. Such C.O.s should nevertheless be granted release if they request it because conscientious objection to military or near-military requirements;
3. Instructions should be issued that C.O.s in Civil Defence be not required to perform military or near-military duties;
4. In preference to dismissal the C.O.s in any particular branch of Civil Defence would serve in special C.O. groupings if this were necessary to their retention in the Service involved.

On May 25th, 1943, Herbert Morrison's secretary wrote to Fenner Brockway informing him that the Edmonton Council had decided not to pursue the question of undertakings and going a considerable way to meet the difficulties that had arisen. Best news of all, the Ministry was considering the issue to local authorities of a Circular explaining official policy. Details were discussed at an interview between Fenner Brockway and Joe Brayshaw and two officials of the Ministry on September 8th, and, a fortnight later, a Circular* was issued to all local authorities in which an attempt was made to "draw the line" for conscience. In general, it would be contrary to Government policy for C.O.s in the Civil Defence Services to be compelled to undertake duties that were not of a civil character and under civilian control, or which conflicted with the Ministry of Labour's undertaking not to require C.O.s to do work on munitions or other work closely connected with the military side of the war effort. "Original duties" of Civil Defence must be carried out without question, but in the case of "extended duties" a certain discretion should be used. For instance, unloading munitions from railway trucks (as in the Kershaw case) should not be required, while, to ensure against breakdown, C.O.s should not be required to take part in concerted arrangements with the military to meet invasion (as with Hopper), though the conveyance of military sick between army units and military hospitals was regarded as civil work under civilian control. C.O.s should not, however, be pressed to remove hardcore for aerodromes (the Lambeth cases), nor to attend "Wings for Victory" parades (as at Hendon).

* Dated September 22nd, 1943 (No. 162/1943). The text is reproduced in Appendix D.

(Though this advice applied, in strictness, only to the Civil Defence Services, the same principles were later applied to C.O.s in Civil Defence Forces such as the National Fire Service and the Mobile Reserves.)

Whatever its limitations the Circular succeeded in avoiding the difficulties that had once seemed certain, with the result that those C.O.s who felt duties in Civil Defence a constructive contribution to the well-being of the nation were able to continue their service through the dangers of the flying-bombs and the rockets. Prejudice against them remained, and no doubt there are exceptions in every group of people with such diverse backgrounds, but on the whole these men and women proved their worth not only in their witness for peace but in their often arduous service for their fellow-men.

Now the entry of C.O.s into the full-time Civil Defence Services had been essentially voluntary for, though, as we shall see at the end of this Chapter, direct compulsion was possible, it wisely remained unexercised. Why "essentially" and not "completely" voluntary? For this reason. Many of the C.O.s, having satisfied the Tribunals of their sincerity, had been registered conditionally on taking up, say, "A.R.P. or A.F.S. or land", and had chosen the first, so that though there was a real choice and those who fancied agriculture could have steered clear of Civil Defence, the selection of work was limited.

II

In the second part of the story, though, compulsion came close, for the National Service Act, 1941, which came into force on April 10th of that year, made all C.O.s, other than those unconditionally registered by the Tribunals, liable to be called up for full-time duty in a Civil Defence *Force*. This caused a considerable flutter in the dovecotes, particularly among the 15,830 conditionally registered C.O.s whose conditions could be suspended for this new liability. The Civil Defence Forces under the Act were the Auxiliary (later the National) Fire Service, the Police War Reserve, the Civil Defence Reserve and the Kent and West Sussex County Civil Defence Mobile Reserves. Both the Minister of Labour and the Minister of Home Security gave assurances that C.O.s would not be drafted into the police, where they might be required to bear arms.

Apart from this, official indications of policy were meagre, Bevin's statement on April 1st that he did not intend to move C.O.s from essential work (such as agriculture) or from the Friends

Ambulance Unit or the nursing or hospital services being the most important.

The Government, however, was bent on causing as little dislocation as possible, and the Home Office, in a Circular* dealing with the enrolment of C.O.s, informed local authorities of a decision to consider only the following classes with a view to their enrolment in the Fire Service:

> (*a*) Conditionally registered Conscientious Objectors who were anxious to perform Civil Defence duties, and those who were not unwilling to serve in Civil Defence; and
> (*b*) Conscientious Objectors who were liable to be called up for military service of a non-combatant character, and who expressed a preference for Civil Defence service.

At the end came a paragraph designed to remove prejudice against the inclusion of C.O.s in local Fire Brigades:

> Local authorities will appreciate the necessity of accepting any man who is selected as suitable by the Auxiliary Fire Service notwithstanding that he may have expressed a conscientious objection to military service. In this connection I am to ask that the attention of Chief Officers, and other officers of fire brigades who are called upon to undertake the duty of interviewing men under that procedure, may be directed to the importance of ensuring that no man who would otherwise be suitable for the Auxiliary Fire Service is rejected on grounds of conscientious objection to military service.

The Circular made it crystal clear that to have unwilling men in the Fire Service would be much more trouble than it was worth, and instead of a piece of high-handed conscription, the provision of the Act became in effect a means of varying Tribunal decisions at the option of the C.O.

The machinery of call-up was soon to become clear. In the months that followed, many men, particularly those conditionally registered, received notices calling them to interview at local Employment Exchanges to discuss whether they could take up work of greater importance. If there were personal or domestic circumstances which would prevent their taking up new work, the interview provided an opportunity for their consideration. Men in occupations reserved at twenty-five were not usually interviewed. Pressure was

* F.B. Circular No. 50/1941. This Circular was later embodied in National Fire Service Instruction No. 27/1942.

not unknown; even C.O.s who raised strong objection to being enrolled for Civil Defence were sometimes called to interview, the theory being, as it seemed, that the official conducting the interview could form his own opinion of just how unwilling a C.O. was. After the interview those found to be anxious, not unwilling or expressing a preference for Civil Defence received notices calling them to medical examination. If classified fit they were interviewed by Fire Service officials, and those considered suitable, "bearing in mind that the Fire Service wants men ready to accept its discipline", were enrolled for duty in the Service.

Though cases of error did occur, the administration was wise and careful in regard to C.O.s conditionally registered. Only one instance of a C.O. being enrolled against his will found its way into the Courts. He was Peter T. Marsden of Ely, a 24-year-old Cambridge graduate, who was called to an interview at Harrow Exchange while complying with his Tribunal condition of work as a school-teacher. Perhaps he did not make quite clear, either then or later at medical examination, his unwillingness to serve in Civil Defence; certainly he received on October 4th, 1941, a notice of enrolment in the National Fire Service. For refusing to comply Peter Marsden was summoned to Wealdstone Police Court on January 16th, 1942, a bitterly cold Friday morning when the Magistrates discussed the case seated at a table in the warmth of a large fire. The real difficulty was that, having been enrolled for duty, Marsden had actually become a member of the Fire Service, and, whatever sentence the Bench imposed, his membership continued with the likelihood of further breaches of duty and consequent appearances before the Wealdstone Court. As it happened a fine of £10, with two months allowed for payment, was imposed. So understanding was the Bench that the obviously college-trained Police Inspector in charge of the case, so affable before the hearing, froze to an alarming extent after the Bench's decision had been announced, thinking no doubt that Marsden had failed to get his deserts. The Central Board managed to secure this C.O.'s discharge from the Fire Service.

So while some C.O.s gladly entered the Fire Service in compliance with their conditions and others were equally glad to be enrolled despite their conditions, no attempt was made to force those unwilling to serve. The possible enrolment (a) of C.O.s registered for non-combatant duties and (b) of those rejected altogether by the Tribunals carried the tendency to overrule the Tribunals a step further. For while the C.O.s registered on conditions might have refused to

consider Civil Defence as too closely allied to the war effort, many of those given less or no exemption were keen to join. Indeed, it had often been this will to serve that decided the more astute Tribunals to tempt them into some form of military service. So at or after their medical examination men of any age registered for non-combatant duties and men refused exemption if over thirty (later reduced to twenty-five) were allowed to express a preference for service in a Civil Defence Force. To such men the "N.F.S. option", as it was called, was manna from heaven. Hundreds were enrolled in the Fire Service and fulfilled their duties conscientiously and well.

On the debit side, however, arose an expected difficulty— the medical examination for Civil Defence *was the same as that for the Armed Forces*. As we saw earlier, men who passed their "medical" could be called up for the Army, and here lay a trap for the unwary. C.O.s medically examined for the National Fire Service whose medical category was not sufficiently high, or who were for some reason considered unsuitable for Civil Defence, could then be enlisted in the Army, arrested by the police and taken under escort to Army Units as absentees or deserters (C.O.s with conditions could not be called up for the Army, so in their case the point did not arise). This possibility, particularly in the earlier days, was not always understood by the C.O.s affected, who at times were not slow to charge the Ministry of Labour with bad faith. The position was aggravated by the fact that, even though a C.O. were placed in Grade 1 at his medical examination, he might well be rejected for the Fire Service because he was too short or wore spectacles! On the other hand, when the possibility of Army call-up was understood, it caused a natural disinclination to risk submitting to medical examination which might be for service which the C.O.s concerned were utterly resolved to refuse.

In a few cases men had been examined after an assurance by a Ministry of Labour official that the "medical" was for the N.F.S. only, and when the Board took up these cases with the headquarters of the Ministry they were put right. But where no such assurance could be established, cases had to follow their normal course and there was no stopping an Army call-up. Even the marking of the medical notice with the letters "N.F.S." was insufficient. Had medical examination for the Fire Service been separated from that for the Army, the dilemma would have been solved. On June 9th, 1942, Stuart Morris, the Board's Public Relations Officer, took up

the whole question with the Ministry of Labour, citing thirteen specimen cases in which C.O.s had been called up for the Forces after being examined with a view to serving in Civil Defence: of these six had already been court-martialled, six were awaiting trial and one was expecting arrest at any moment. But despite this request and the interest of Sir Stafford Cripps, then Lord Privy Seal, the Government refused to budge, on the ground that, as there were then so few vacancies in the Fire Service, the possibility of enrolment in Civil Defence would no longer be mentioned to C.O.s except where they had already been regarded as suitable for the N.F.S.

Although the call-up was almost invariably for the Fire Service, a few C.O.s found their way into another Civil Defence Force, the Civil Defence Reserve. This was a highly-trained mobile force comprising Columns and Units at strategic points ready to move at a moment's notice to the assistance of any bombed district in their area. Service was on semi-Army lines and discipline very much stricter than in other branches of Civil Defence, considerable power being vested in the Unit commandant. There were C.O.s happily engaged in the duties of the Reserve, and it was no accident that the journal *Fire Protection,* mentioning the presence of C.O.s in one Unit, went on to comment:

> It says a great deal for the commonsense of the commandant and his officers that men who disagree so fundamentally in their religious and political opinions can be led to live and work together so harmoniously.

A few C.O.s felt it necessary to refuse service in the Civil Defence Reserve on account of its apparent connection with the war effort, for the Units were stationed in South Coast areas where preparations for the invasion of Europe were proceeding, and this, coupled with the general lack of information about the Force itself, led to some apprehension as to its real purpose.

So went on the work of training and duty at home, each doing his own job. Persistent rumour notwithstanding, the Civil Defence Forces were not required to follow the troops overseas, though volunteers had been listed, C.O.s among them. Few even of the volunteers actually went to the Continent, though one fireman C.O., Harry Lakeman, made this proud claim:

> One day a lonely N.F.S. lorry ploughed its way through the stricken towns of the Reich. Manning it were seven firemen,

five being Welsh, one from Northampton and myself, commonly called the Cockney. On we rolled through once-beautiful Bingen to Mainz (still smouldering) until on April 10th, 1945, we crossed the Rhine by a newly-constructed pontoon bridge—the one N.F.S. appliance officially to cross.

It had long been recognized that the work of Civil Defence would be virtually over as soon as the enemy was so pressed as to make air attack on any scale impossible, and as early as September, 1944, many of the "whole-timers" in the Civil Defence Services were scheduled for early release. Even before that a great comb-out of the younger men had taken place in the Fire Service with the result that some of the C.O.s there had been discharged. When discharged, conditionally registered C.O.s were required to transfer to any alternative condition, such as land or hospital work, which had been imposed by the Tribunals. If Civil Defence was their only condition their cases were referred back to the Local Tribunal, on the ground of reasonable excuse,* for other work to be specified; and if they had had some years of Civil Defence service the Tribunals sometimes let them return to their pre-war work.

But with other C.O.s the position was not a little curious. Those liable for non-combatant duties, if still of military age, were served with medical notices for the Army and if they submitted were called up for the Non-Combatant Corps. If they refused and were prosecuted, a prison sentence of three months or more enabled them to have their cases brought before a review Tribunal.† No new Tribunal hearing was possible except by way of prison. One would have expected a similar position to obtain for those, rejected altogether by the Tribunals, who had exercised the "N.F.S. option", but that is where the curiosity arose. Through the operation of section 4(1) of the National Service (No. 2) Act, 1941, such men were liable to register again and could do so provisionally as C.O.s *and have further Local and Appellate Tribunal hearings* without going to prison at all! Even so there were some unfortunate prosecutions, particularly among the non-combatants who had rendered yeoman service in time of danger and felt they were being treated a little shabbily when the need for their help had passed.

* See Chapter 16.
† See Chapter 7.

III

From essentially willing service we now pass to the third part of the story—the attempt to compel the more radical objectors into *part-time* Civil Defence. Here again there were numbers of C.O.s who voluntarily spent a great deal of their spare time at "the Post" (Nancy Browne, Secretary of the Central Board, for instance, did duty over a long period near her home in Kensington). But compulsion of the unwilling was another matter.

When it was found that the Civil Defence position in a number of "target areas" was becoming acute, the Government decided in December, 1941, to empower the Minister of Labour to direct men and women to compulsory Civil Defence duties in their spare time. By Order in Council* a new Defence Regulation, Number 29BA, was issued by which National Service Officers could direct any person in Great Britain to full-time duties in a Civil Defence Service or to part-time unpaid service in any branch of Civil Defence, though only the latter was utilized in practice. Failure to comply with a direction was punishable by the usual penalties of three months imprisonment or a fine of £100 or both, with heavier penalties on indictment, though men and women who had actually complied with the direction but who later disobeyed orders were liable only to a maximum of a months imprisonment or a fine of £10 or both, the penalty being the same if they were absent without reasonable excuse in a duty period.

For a while little use was made of the Regulation, but in July, 1942, the heavily-raided City of Bristol initiated a scheme whereby every man between 18 and 60 and every woman between 19 and 49 were to be sent a particulars form, similar to that in use for the Home Guard, asking for a number of personal details and stating that the question of direction to part-time duties in the police or Civil Defence was being considered. There was, of course, no mention of conscientious objection as a ground of exemption, and persons available were to be interviewed for the National Fire Service, first-aid parties and Rescue and Decontamination Squads.

At a full meeting of the Bristol Advisory Bureau held on July 8th, it was decided to send to Ernest Bevin, the Minister of Labour, to the Regional Commissioner and to the Press, a letter stating that:

> The meeting feels that this measure marks a further attempt to secure by coercion the compliance of the civil population in

* S.R. & O., 1941, No. 2052.

> the prosecution of the war, whilst, owing to the exclusion of a conscience clause, denying to the individual the right of upholding his convictions against the claims of the State.

Those present expressed strong opposition to the measure and notified the authorities of their inability to accept any directions under the Order. Widespread publicity was given to this resolution which was quoted in at least a dozen newspapers in districts as far apart as Plymouth and Edinburgh.

At much the same time enquiry forms on a smaller scale began to be served in different provincial centres, and it became clear that the issue was by no means to be confined to Bristol. Gradually the policy behind the directions became clearer ; the Order was generally being confined to men between 18 and 60 and to women between 18 and 55, and was frequently invoked to catch men and women who, for some technical reason, could not be required to fire-watch under the existing Orders. Conscientious objection was no excuse, and had the system been applied more intensively and over wider areas, the problem would have become acute.

As it was, this question arose: should C.O.s unconditionally registered by the Tribunals be directed to *part-time* Civil Defence? Undoubtedly it was legal to direct them, the question being rather one of policy. For directions of one kind or another under the Defence Regulations had been served on only a handful of such men and women. Here, again, some of the C.O.s who had been unconditionally registered felt unable to comply with directions to part-time Civil Defence. An instance arose at Stepney on January 29th, 1943, when W. L. Prentice, a full-time member of Pacifist Service Units, who had been unconditionally registered by the Scottish Appellate Tribunal nearly three years before, was directed to become a part-time post warden in Civil Defence, despite his refusal to take up duty of this kind. The Central Board took up the question with the Ministry of Labour and the direction was later withdrawn, not on account of Prentice's unconditional registration but because of the voluntary work he was doing (he was attached to a Borough Scheme for Medical Aid to Shelters and he was on call during all "alerts").

But a later case, that of Jack Gibson of Glasgow, also unconditionally registered, led to a review of the whole position by the Ministry with this carefully drawn decision: while the Ministry would not agree that directions to enrol in part-time Civil Defence

should not be given to unconditionally registered C.O.s, very full and sympathetic consideration would be given to the cases of such men who refused to obey before any decision was taken to prosecute. In this way the authorities got the best of both worlds. Many C.O.s with "unconditional" would be perfectly willing to comply with a direction, but if after direction an unconditionally registered C.O. seemed set against complying, he was quickly written off unless he were a complete fraud or unless some special circumstance existed.

Many C.O.s of the various classes directed under Regulation 29BA took advantage of the appeal machinery set up by the Police and Civil Defence Duties (Tribunals) Order, 1942,* whereby a person directed could, within four days of the giving of the direction, apply in writing to the Ministry of Labour for the withdrawal or modification of the direction on the ground that it would be an exceptional hardship to do the duty required. In no case, however, was this successful, and 109 prosecutions of C.O.s took place, 88 men and 7 women being affected. The heaviest sentence was upon Frank Middleton of Exeter, who, sentenced to three months imprisonment and a fine of £25, refused to pay and served a total of five months. In addition, fourteen C.O.s served three months, nine two months and nineteen one month.

These hearings took place in towns as widely scattered as Nottingham, Norwich, Romford, Chelmsford and Cambridge. Possibly Nottingham Summons Court provided the most unusual examples of all. On June 28th, 1943, three C.O.s appeared charged with refusing part-time Civil Defence duties, one saying he was a member of the Ecclesia of Christ. Sir Albert Ball, the Chairman, said he regarded such men as cowards and *imposed a fine of £5* upon each. Exactly a week later, three C.O.s appeared at the same Court on similar charges and were each *sent to prison for three months and fined £100* by the Chairman, Sir Albert Atkey, sitting with Sir Julien Cahn. (This was the maximum sentence possible, but on appeal it was reduced to three months only.) One of the C.O.s, Vincent Copestake, also claimed to be a member of the Ecclesia of Christ and handed in a long statement after which the Chairman said:

> "The proper place for you is a mental home. Meanwhile all we can do is to give the same punishment and to hope you will recover your sanity."

* S.R. & O., 1942, No. 914.

The last prosecution occurred in September, 1944, and it was not long before the Regulation was suspended altogether.

And the moral of these three stories of C.O.s and Civil Defence? The unsympathetic might say that the radical Objectors who refused to do Civil Defence had spoilt an otherwise enviable record; but it seems much sounder to regard the matter as an object-lesson in the importance of service freely given and in the destructive effect of compulsion.

CHAPTER 14

WITNESS AND SERVICE

"TO some their witness is their service, to others their service is their witness." It was George Sutherland who originally pointed to this paradox in which there was a good deal of truth. Only too often the choice was there: either to set one's face against authority in a personal stand against compulsory service for war purposes or else to undertake some form of special service, chance being hailed with open arms by the Tribunals and risk letting the witness go hang.

But the true position was not nearly so simple as that, for a number of factors made this "choice" an unreal one. First came the relation of the C.O.s to their pre-war jobs. The varied character of C.O.s' work before they were brought under conscription is shown in a test analysis undertaken by Charles F. Carter, Fellow of Emmanuel College, Cambridge. A summary of his report reads thus:

> The Central Board's card-records of Appellate Tribunal results commonly state the C.O.'s occupation as it was given by him in his first statement to the Local Tribunal; and, except in the case of those who changed their occupation before applying to the Local Tribunal, they give a reasonable indication of "normal" or "peacetime" occupations.
>
> A sample of 674 was taken at random from these cards. Unfortunately, the occupations of 111 of the C.O.s are not recorded: over 70 per cent. of these 111 are men who failed to appear at their Appellate Tribunal, and it seems likely that there would be a larger proportion of inarticulate unskilled workers amongst them, though some may not have been C.O.s at all. On the basis of the rest of the cards (which were confined to men), an analysis of the C.O.s' occupations was made.
>
> We do not know the occupational distribution of the whole population just before the war in sufficient detail; but a reasonable guess can be made on the basis of the 1931 census results. We can then calculate the "expected" numbers in each occupation on the assumption that our 563 men are taken at random from the whole population. As will be seen, the differences between the "observed" and the "expected" numbers are considerable. There is a high proportion in the occupations known

as "black-coated"; the lower position of the "commercial, financial and shop-keeping" group is due to a considerable deficiency of shop-keepers. The "personal service" occupations, covering barbers, etc., and requiring some independence of outlook, are also heavily represented, but the staple trades requiring manual strength or skill have a low proportion of C.O.s. The surprisingly large number in agriculture suggests that some went into work of that kind in advance of their Tribunals.

Here, then, is a table showing the results in detail:

(1) *Occupations*	(2) *Total No. observed*		(3) *Number expected*	(4) *Number observed as % of that expected*
Professions, Civil Service	56		27	207
Clerks, draughtsmen, typists	56		33	170
Personal service, entertainments	31		23	135
Metal, engineering, electrical trades	77		68	113
Agriculture, forestry, fisheries	55		51	108
Commercial, financial, shop-keeping	54		62	87
Builders, painters, decorators, carpenters, furniture trades	46		61	75
Textiles, apparel, leather trades	19		26	73
Transport, communications, Post Office	43		67	64
Miners, quarrymen	14		42	33
Food trades	21			
Warehousemen, storekeepers, packers	10	112	103	601
Unskilled labourers	17			
All other trades	64			
Total	563		563	
No trade recorded	111			
	674			

From this variety of categories it will be seen that no class had anything approaching a monopoly of "conscience", and that C.O.s as a body could be found performing the hundred and one tasks that go to make up the wealth of the nation. Yet it is eminently understandable that, if a man feels he is giving his best service in a way for which he is already trained at a time when men and women are being withdrawn from the work and his services are becoming more and more necessary, he should want to continue, whatever the nature of his work. In the early days of the war many C.O.s felt this, though some immediately volunteered for a special form of service.

Possibly a human dislike of change and a desire to provide for their dependants entered into the picture, but these factors were seldom decisive. This was quite a different problem from that of the unconditionalist discussed in Chapter 16, for the latter refused to comply with a Tribunal condition *under compulsion* and would frequently be the first to volunteer for new work that his conscience approved.

Yet three factors led to a great change: first came the attitude of the Tribunals, many of which deliberately took a C.O. from his pre-war work. In doing so their motives might be all or any of four: to put the C.O.s to work of high priority not directly connected with the war effort (get them to do as "important" work as they will); to take the men out of their present work (why should they be allowed to remain at home when others are taken?); to see that they got a hard manual job with low pay (we'll "larn" them to be C.O.s); generally to see that they got no advantage from their stand (make it worse rather than have any suspicion of better). Next came the attitude of employers, and last but not least the character of the C.O. movement itself in times of dislocation. The second and third of these features need fuller treatment.

At first, employers—private firms and public bodies alike—were filled with the desire to be scrupulously fair to any of their men who registered as C.O.s and this was often fortified by the latter's record of efficient service. But after the period of "phoney war", when the nations got really to grips, when their own sons and partners and officers were being summoned to serve in a disagreeable duty which they yet felt unable to refuse, when the ravages of the fifth columns of the Continent had become increasingly clear, when anxiety needed an outlet and the conscience clause provided a useful scapegoat, then came the about-turn. The ensuing victimization of C.O.s by their employers was no isolated phenomenon but merely part of a general reversal of public opinion in the spring and summer of 1940. Read, for example, this extract, fortunately not typical of the Christian Church, from a north country newspaper:*

Vicar Puts Ban On "Conchies"

"I would sooner put a handle on the organ than have a Conscientious Objector on the staff of my church."

This is the view held by the Rev. J. G. Byrnell, vicar of St. James's Church, Selby, who, out of eight applicants for the post of organist at the church, has found five to be Conscientious Objectors.

* *Yorkshire Evening News*; May 10th, 1940.

He has not yet filled the vacancy and on Sunday will not only preach and conduct the services, but also act as organist.

Or take a few examples of increasing pressure on C.O.s by the general public: one C.O. known to me had "conchie coward" chalked on his gate so often that it seemed useless to clean it off. Another, living in a flat, had to talk to his wife in whispers as the people above were continually listening for evidence of disloyalty; while a nasty scene was precipitated by a third who played Haydn's "Austria" on the piano, a familiar hymn-tune he got from the Methodist Hymn Book.

These are small incidents of little importance in themselves, but they well indicate the atmosphere of 1940. By July of that year, parallel with these developments, the Central Board had evidence that as many as 86 local authorities had decided to dismiss C.O.s from their employ, 33 had decided to suspend them for the duration and 13 to put them on soldiers' pay; only 16 had decided against dismissal. Much the same thing went on with private employers. In each case *the men affected were often those allowed to remain by their Tribunal decisions.*

Here then were well over a hundred local battles where each side mustered its support, those councillors with a deep love of freedom and tolerance for minority views supporting any anti-war element there might be in the council-chamber. Birmingham Corporation, with as many as 140 C.O.s on its staff, decided to suspend registered C.O.s without pay. At Bristol the local authority was surprised to find it had 61 C.O.s on its books; Norwich had 16. Manchester, after deciding not to dismiss C.O.s, later changed its policy to that of dismissing them where it was legally possible. Nottingham and Wolverhampton also decided to dismiss. York went one better, dismissing even those who "declared themselves C.O.s" as well as those who had registered as such, while Stockport decided on dismissal even in face of the Town Clerk's advice that they would thereby commit an offence punishable by a fine of £50! London set a lead by allowing C.O.s to remain, but Middlesex gave leave of absence without pay one month after the C.O.'s Tribunal hearing.

What went on in the larger councils could be found with less *finesse* but equal vigour in the small. One of the most revealing pieces of dialogue of this time came from Alton (Hants) where the Rural District Council had been asked by the Ministry of Health to reconsider their decision not to appoint a C.O. applicant as assistant sanitary inspector. This is what took place:

Mr. F. D. H. Joy said the Emergency Committee felt very strongly that they did not wish to employ C.O.s.

The Clerk: "The letter from the Ministry is very specific."

Mr. Joy: "We said we don't like conchies and left it at that."

Mr. Gadban: "I don't like writing to the Ministry and saying the Council refuses to consider it further."

Mr. Joy: "Why not send for the man, interview him, and then find he is not up to the job?"

Mr. Bennett: "From the application he is not a suitable man."

The Chairman: "We have seen the application, and apart from his conscientious objection we should not entertain it for a moment."

The Clerk: "I wonder why; he is a qualified Sanitary Inspector."

The Chairman: "That does not cover everything. . . . Would anyone work with him, or would he be accepted in the district?"

Major Wessel: "He will find himself in an ashbin, sir."

Mr. Gadban: "If he was not a Conscientious Objector, there is not the slightest doubt that you would have sent for this man."

Major Wessel: "I suggest that we advertise again and say, 'No conchies need apply'."

A resolution to give the matter further consideration was defeated.

Even in this grave time voices were not wanting in defence of the C.O. *The Daily Herald, The Spectator* and other newspapers denounced the dismissals; the Archbishop of York, one or two Bishops (including the Bishops of Bristol and Derby) and leading Free Churchmen inveighed against them. Even Winston Churchill made it known that he felt "anything in the nature of persecution, victimisation, or man-hunting odious to the British people", while some of the Tribunal Chairmen made it abundantly clear that when a C.O. was registered, for instance, to remain in his present employment they looked to his employers not to penalize him for his views, recognized as they were by the law of the land. Among these Judge Frankland was outstanding. And the Minister of Labour continually pressed on the C.O.s' behalf, left it in no doubt that he thoroughly deprecated the whole business,* though having no power to intervene.

* See *Hansard* for May 29th, July 18th, August 15th and August 22nd, 1940.

A distinctive feature of the controversy had been a resolution passed by the Corporation of Lytham St. Annes, Lancs, which received much publicity as the Corporation went to great pains to invite other authorities to follow suit. It was "that in the opinion of this council Conscientious Objectors should be compelled to carry out work of national importance on rates of pay no higher than, and under conditions no better than, those of H.M. Forces". Followed by many other councils this resolution brought to a head a grievance that had been growing for some time: should C.O.s be allowed to be better off than the men in the Forces? Certainly there was a *prima facie* case for paying some part of a C.O.'s pay into a Central Fund (as was done in some other countries); the possibility was known to be receiving the active attention of the Minister of Labour, and it was thought that C.O.s might like to make a gesture by voluntarily giving up the balance of their civil pay. A referendum of all known C.O.s was decided upon by the Central Board and discussions took place throughout the country.

The issue was a difficult one. For instance, what should be the position of the considerable proportion of men found to be medically unfit for the Forces? What of the many thousands of men "reserved" from the call-up and getting heavily inflated wages in war industry? Why should some C.O.s go on Army pay if their employers made up the pay of their fellow employees on war service (most local authorities did this)? Obviously the position seemed unequal, but what of the free board, lodging and uniform, the allowances and the war service grants, of the men in the Forces? If Army pay were insufficient was not the right redress to level it up rather than level down that of C.O.s? If a C.O. were a director of a business (or a Bishop) could he perform his office on soldier's pay? Again if steps were taken to tinker with the pay of one class doing all manner of civil jobs, who would come next? Was it not a dangerous precedent and a menace to British standards of living? All these and kindred questions were discussed, not without warmth, and in the result very few C.O.s were found in favour of a compulsory scheme (each man must decide for himself), but quite a large proportion were willing to make a voluntary sacrifice in some form.

Though the Minister of Labour was informed of the results of the referendum, it was the Trades Union Congress that put its foot down: it refused to touch a scheme which so obviously violated the principle of "the rate for the job" and imperilled the hard-won rights

of the British working-man. So Ernest Bevin was found announcing to the House of Commons on February 6th, 1941, as follows:

> I have given careful consideration to this proposal, which would require legislation before it could be put into effect, and have discussed it with the Joint Consultative Committee representing the T.U.C. and the British Employers' Confederation. As a result, I am satisfied that, whatever may be the merits of the proposal otherwise, it would arouse acute controversy and would require disproportionately elaborate and expensive administrative machinery for its effective operation. In these circumstances, I have decided not to proceed further in the matter.

By this time, however, Tribunals and employers had managed to shake up the C.O. movement like dice in a cup. The teacher had joined the F.A.U., the clerk was on the land, and the lorry driver was hard at work in a hospital.

Above all, the character of the movement had, in one particular, shown a decisive change. In the First World War the C.O.s' witness had been their primary contribution. In the name of their stand they virtually outlawed themselves for the duration of the war, many suffering disfranchisement for years afterwards just for good measure. The C.O.s of those days were bent on breaking an evil system, so that when the final cast was made it was no surprise to learn that at least three in every ten had been to prison. The service of society had been of secondary importance. Now, however, the roles were reversed. C.O.s had won a place in the community, and their campaigning vigour had been reduced. Despite everything, they had remained a part of society, a society over-worn and anxious, that needed their service. And the conscience of the second generation saw its fullest expression not in rigorous opposition to military service (most were "excused" from personal participation), but in co-operation to the limit in the things that made for peace, in those works that either softened the blows of war or preserved the means to a peaceful society. It is largely on this basis that the movement is to be judged: if its members were able to make a contribution of service that others could not, if their faith gave them power denied to others, then some measure of success must not be denied. But if they merely followed others, travelling without interest the cleared paths that all men of goodwill could follow, the Objector of the First World War might ask, not without justification, if the tradition of those days was in safe keeping.

A substantial proportion of the C.O.s conditionally registered by the Tribunals was ordered to do work on the land, many with alternative conditions. In this the "equalitarian" (or punitive, according to one's outlook) element can be seen most clearly, for most of the men directed to take up agriculture, horticulture, market gardening, forestry, land drainage, etc., had been born and bred in the towns and were essentially urban in outlook. In August, 1940, it was known from official sources that up to July 27th, 1940, 2,095 C.O.s had been registered for work on the land of whom 1,224 had taken it up. Again, on April 25th, 1942, there were as many as 7,295 conditionally registered C.O.s engaged in land-work, which was at least 40 per cent. of all conditionally registered C.O.s at that time. This figure did not, however, include C.O.s on the land who had been registered without conditions, and had voluntarily entered agriculture as a form of positive service in wartime, nor did it include men either registered for non-combatant duties or else refused exemption altogether who had gone on the land and been allowed to stay there.

Early in the war many C.O.s, given conditional exemption and perfectly willing to do land-work, were unable to find jobs either because there were no vacancies or because farmers and agricultural authorities refused to employ Objectors. At this time Ernest Brown, a devout Nonconformist, was Minister of Labour and National Service, and in the summer of 1939, even before the war, the suggestion was made that the Society of Friends might undertake the organization of alternative service in some form. Its Executive body, the Meeting for Sufferings, "after deep consideration" declined to do this in an official capacity as it was felt that it "should take no step that would weaken the testimony of the Society against conscription". However, the Rev. Henry Carter, C.B.E., founder of the Methodist Peace Fellowship and a man of great business acumen as well as Christian spirit, undertook to help solve the problem in an independent unofficial capacity, and it was from this beginning that Christian Pacifist Forestry and Land Units began.

Henry Carter's aim was to provide an opening for three types of religious C.O.—first, the men whose firms had transferred to war work in which C.O.s felt unable to continue; secondly, the men thrown out of work because they were C.O.s; and thirdly, the men directed by Tribunals to work on the land or in forestry but who were unable to find work of that character, however hard they might try. It was a fortnight after the outbreak of the war that Ernest Brown

received a deputation from the Methodist Peace Fellowship ; subsequent conversations took place with the Forestry Commission and as a result of these approaches the first unit was formed, deep in the Hemstead Forest, Kent. The only accommodation available was a large, derelict and reputedly haunted house (it had been the scene of a tragedy years before), which six men, working their best in the daytime, tried to set to rights in the evenings of the snowbound January and February of 1940. Obstacles were many but the determination to succeed of these men of " Dockenden " opened the way to further work with the Forestry Commission. As other men became grouped together in the work of afforestation it became natural to speak of each group as a Unit, so that, partly by accident, partly by design, there gradually sprang up a " Units movement ".

Soon Units were to be found in Sussex, Hampshire and the Forest of Dean. As before, housing was the main difficulty. Often the sites were far from villages and, through difficulties of communication, even more isolated than the distance implied. There was a good deal of improvization. Tents were borrowed ; caravans, even railway coaches, hired ; hospitality was arranged at Youth Hostels ; once a village schoolroom was rented. How Unit members looked forward to the periodic visits of Henry Carter, the indefatigable Fred Mitchell and others from headquarters! For their leaders never spared themselves and it was the knowledge of their complete devotion to the Units that made the members doubly appreciative of the long chats, the time for devotion and perhaps the Covenant Service that their visits implied.

The summer had brought recruits from most of the Christian denominations, and early in 1940 Anglicans joined with Quakers, and Methodists with Baptists, in a broader-based fellowship to be known as Christian Pacifist Forestry and Land Units. Careful administration accompanied a period of expansion as the military disasters of 1940 shook the nation, so that at the end of the year 400 religious C.O.s were to be found in the Units. The Units in Scotland and Wales were to a large extent independent, though their membership was included in this total. From March, 1941, a printed Chairman's Letter was issued each quarter, and by this means members were kept in touch with one another. Though it was felt in some quarters that the organization tended to work too closely with a Government at war (in appropriate cases a leaflet about the Units was enclosed with the official notification of Tribunal decisions), the response was demonstrating the need.

But the movement towards total war meant the breaking down as well as the raising of barriers, for in face of an imperative need of man-power on the land the County War Agricultural Committees, founded to promote production in agriculture, were urged to accept C.O.s and acquiesced, so that there was a marked swing-over from afforestation to agriculture, and of the 838 members at the close of 1942 some 400 were in the employ of the County Committees, and less than 200 in the forestry service. By a friendly fiction Unit members working separately for private farmers were deemed members of the Kingsway or Headquarters Unit. At no time was the term "Christian pacifist" interpreted in any narrow or exclusive sense.

It was in the sense of fellowship that developed in the Units that the real achievement of C.P.F.L.U. lay. Perhaps it was easier in that all were specifically religious in outlook (though sectarianism in Christianity can be as divisive as in any other sphere), but here were men at close quarters, largely segregated from the rest of the community, living a life of harmony in which petty disagreements were forgotten as soon as they appeared. Members experienced something of the fellow-feeling to be found in the American Civilian Public Service Camps at their best. The problem of the land worker without land to call his own, even in the sense that the farm-hand knows the farm as his own, was almost solved. It is in the nature of things that man should wish to watch his work grow in result and to care for the fruit of his labours, but that satisfaction was too often unknown to the workers of the war years, so that the spirit of C.P.F.L.U. represents a greater triumph for its members than would otherwise appear. The spirit of self-discipline, essentially wholesome but noticeably lacking in some quarters, here reached a high and encouraging level. For, as often as not, the Units were as anti-war islands in a martial sea. Prejudice was rife. Henry Carter was never one to magnify difficulties, and here is his sober, realistic summary of some of the men's experiences:

> The hostility of which I have spoken still smoulders, and flares up on occasion. There have been a few local outbreaks of physical violence; in more than a few places a ganger has been bullying and tyrannous; and I add with regret that some places of worship have refused offers of service in church and social activities. Where such tensions have arisen the real meaning of Christian pacifism has been tested, and often have I felt thankful for the absence of resentment and the presence of goodwill. Usually, as time passes tension ceases, and neighbourly

relations are formed and continue. A Unit entertained in their forest quarters some army officers "on manoeuvres"; when on the last morning the senior officer learned that his forestry hosts were C.O.s, he said, "Well, I take my hat off to you chaps." Resolutions and letters of appreciation for work done by Unit members as lay preachers, Sunday School teachers and in youth clubs come now and again from Quarterly Meetings and other Church bodies in rural areas.

Later in their development members of the Units tended to centre more and more in the Kingsway Unit, where Christian pacifists in Civil Defence and other types of service were accepted or retained in membership. A shilling a week was contributed to Headquarters by all working members. As C.O.s began to establish themselves and private land-work became easier to secure, the contribution of Units tended to wane—their greatest service was in the earlier days; so that, though in the spring of 1943 they became registered as a Friendly Society and added the suffix "Ltd." to their title, the Units' movement had seen its best and, with the improvement in the war situation, turned to prepare for post-war tasks. Some who had found the thrill of satisfaction on the land are still there, but on the whole the number is not large; when opportunity came to take up again the threads of town life many, even of those genuinely interested in agriculture, went back with less hesitation than had been expected.

These were only part of the Conscientious Objectors on the land, and as some of the hardest words about C.O.s have been said of the men in agriculture, it must be admitted at the outset that there were on the land men who were no credit to the movement: the fault may have been partly that of the Tribunals, but a few men, deeply disappointed at ever having been ordered on to the land, seemed determined to make the worst of a bad job. They worked only when the boss was watching, took no interest in their work, had no respect for the genuine farm workers, but in one way and another managed to spread their resentment to their fellow-labourers. However, these men were but a small minority, even though their conduct secured quite disproportionate publicity. All too often, the nine good workers were forgotten and the tenth hit the headlines. There were three main kinds of C.O. in agriculture. First came the man with a genuine call, or "vocation", to serve in the natural, fundamental life of the country as against the artificial life of the city—many of these gained a permanent career and a satisfying life among

the barns and the fields. Next came the man who needed a job at a difficult time and was willing to show his sense of obligation to society by undertaking whatever peaceful work the State should require of him—to these land-work might be an ordeal requiring unlimited patience and restraint. Lastly came the few who went to the farms as a means of escape—and it was these who neither gave nor derived satisfaction from their experience.

When either the Press or the Conservative Members of the Commons were short of material their thoughts turned naturally to C.O.s, and the bad land-worker came in for much criticism. Possibly the choicest specimen came from the *Sunday Express*,* the headlines of which were:

FARMERS RAGE AT "SUNBATHING CONCHIES"

THEY SPEND THEIR TIME BEHIND THE HEDGES READING

They Cannot Be Sacked For Loafing

But, colourful as it was, this was only one example of many. Now great care was needed in estimating the degree of truth in Press allegations of this kind, for there was severe prejudice against C.O.s as such, and the sort of worker many farmers liked was the obsequious, subservient man who dared do nothing that might offend "the master" (the economic power of past generations was still very real); and this was a pretty inaccurate description of the average C.O.

A C.O. working for a private farmer lived the natural life of a farm worker, his work varying in nature as spring gave way to summer and summer to autumn. But most of the Agricultural Executive Committees were responsible for the wide use of a "gang" system whereby men (C.O.s among them) were engaged on one task, such as threshing, over a long period subject to strict discipline and numerous personal regulations, not always administered in a spirit of strict impartiality. It was only natural that the highly individual and libertarian C.O.s should accept such a system only with grave misgivings, misgivings which from time to time flared up into disobedience and revolt in an endeavour to secure greater personal freedom. Sometimes the C.O.s were suspended by the County Labour Officer, sometimes dismissed outright for serious misconduct, those so treated being as often Christian pacifists as political C.O.s. Few of these disputes actually ended in the Courts, but there were exceptions. It was quite likely that a genuine protest against bad conditions rather than slacking or lack of interest had led to the

* May 21st, 1944.

allegations. Douglas Rogers, one of the founders of the Association of Pacifist Land Workers and a great fighter for social justice, explains the position in this way:

> The important fact, as I see it, is that it is the best type of worker who is most vigilant about maintaining and improving the conditions under which he works. The man or woman who is interested in his job and takes a pride in good workmanship does not want to work in conditions where his status has no more dignity than that of a slave. If he himself respects his trade, he expects, wants and will fight for the rest of the community to respect it. The question of his conditions is also the question of the status of his trade. He is not prepared to be treated as just so much social flotsam which can be picked up at the price of a few shillings wages and cast aside when no longer wanted. At the time I was on the land, the price of a qualified farm worker was 48s. a week. Beginners were paid 38s. a week. I myself received 38s. for my first two months of really hard, sustained labour. For these sums of money, the farm workers did exhausting and variously skilled tasks for an average of fifty hours a week. It was thus a duty to seek to bring attention to this insult to a most honourable section of the community and to try to remove it. The good trade unionist is invariably a good tradesman.
>
> Most people are prepared to consider the professional dignities of doctors, musicians, painters, writers, scientists and so on. Not so many are willing to bear in mind the professional dignities of agricultural workers, miners, gas-production workers, who are of at least equal importance to a successful community. The fight for improving the conditions of the working people —not only in respect of wages and working conditions but of the degree in which they are partners in running their industry—is also on behalf of the dignity of human creativeness everywhere.
>
> That is why I drew to you the distinction between the fellow who, understanding all this, when he became a farm worker also became an agitator on behalf of improving the conditions and status of farm workers. The fellows who didn't work because they were disdainful of farm work were a menace to everyone. Their attitude was that after a few years they would —thank heavens—be quit of a distasteful occupation; so why should they worry? One wanted either to roll them in the mud or banish them from the land.
>
> As for myself, when I went on the land, I expected to be treated as a farm labourer. If I protested as a C.O. it was only inasmuch as I wasn't being treated as a farm labourer. When I

found the position becoming impossible and especially when I found country workers being called up into the Forces and other young farm workers being threatened with being called up if they didn't do this or that, I left the land. When I went on the land I wanted to make a job of it. I admit to making lots of mistakes but I have no shame in having been " an agitator ". It was not only for the good of agricultural workers but for the good of agriculture. After all, there is no agriculture without agricultural workers!

One experiment in land-work led to unexpected results. In the spring of 1940 it was learnt that the Channel Islands were desperately short of labour for potato-picking and similar work on food production and, through the Pacifist Service Bureau under Nancy Richardson and Jack Carruthers, working at full pitch in an effort to cope with the heavy lists of men wanting jobs, some 200 C.O.s were put in touch with a Ministry of Labour scheme for work in Jersey. Those who eventually left for Jersey, and an unexpected future, were a mixed lot. The urgency of the need on both sides made careful choice of men a virtual impossibility, and though some returned almost by the next boat others made a fair living at constructive work. After only a few weeks, however, British troops were withdrawn from Jersey and after a lapse of a fortnight a small German force landed by plane. Jersey had fallen. The " occupation " was quite peaceful (apart from one demonstration of bombing), for the civilians left put up no resistance. A hundred and four C.O.s were given a chance to sail for England but they deliberately allowed the ship to sail without them, feeling that here was a ready-made test of their pacifism and that an ignominious bolt by sea was no answer to aggression. Besides, they were curious to know what would happen and recognized that the less active folk left on the Island would need their " man-power " before very long. Property was requisitioned, stocks were taken by the Germans and difficult marginal situations arose as to how far co-operation with the Occupying Forces was justified to keep things going. On the whole the Germans were reasonably fair and disciplined and there were few major incidents.

In 1942, however, the Germans ordered the deportation to the Reich of all non-Island born residents, and in September of that year the first batch of deportations took place; at the end of the same month a second followed. Due for deportation (presumably in the first draft) were the Rev. Thomas Corrin, a Congregational Minister, his wife and daughter, but rather than have them suffer, three C.O.s,

Leslie Owen, David Savage and C. A. Closs, volunteered to take their places and were accepted as substitutes, which left Thomas Corrin free to continue his spiritual work. A stout-hearted pacifist, the Rev. Donald Stuart, was then Methodist Superintendent Minister of the Channel Islands, and he and his wife, though no longer young, with four other Ministers, volunteered to sail for Germany with the first batch of men.

The deportees were taken by boat to St. Malo and thence by train to Dorsten near Essen in West Germany. Next, the single men were separated from the married folk who were taken to Biberach a small place standing high against the Alps some fifty miles north of Lake Constance. The former were housed in a former Bishop's Palace at Laufen at the foot of the Bavarian Alps: a guarded letter in December, 1942, revealed that fifty-three of the C.O.s were there. Red Cross parcels were greatly appreciated and though the food was poor there was little actual ill-treatment. At this time Friends Service Council in London received the following telegram through Friends in Switzerland:

> Channel Island Friends in Camp Laufen Oberbayern Germany holding regular Meetings Worship ask prayers Friends everywhere on their behalf Signed Jack Nutley Clerk of Meeting George Shaw Stop We can write direct sending literature can you send needed clothing.

Before going to Jersey, Jack Nutley had been a member of the Tonbridge P.P.U. Group.

So until the spring of 1945 these men and women remained, and it was only on the allied break-through that liberation came. The married people, with Donald Stuart and his wife, were repatriated on the celebrated *Drottningholm*, but the men of Laufen were freed by spearheads of the American Seventh Army and, after various vicissitudes, many were accorded the privilege of air transport by plane from Rheims, little the worse for an unusual experience.

But easily the most imaginative experiments connected with the land were the various "communities" formed in an endeavour to put into practice the tenets of brotherhood and co-operation which are the basis of pacifism. The best known modern community was the Bruderhof, which was founded by the late Dr. Eberhard Arnold, at Sannerz, near Schluechtern, Germany, in 1920. Its beliefs involved refusal to participate in war and many other State activities, sharing of goods within the Community and complete

chastity in support of Christian marriage. Members tried to combine a real witness for peace and equality with a positive attitude to work. In addition to farming, woodwork and craft activities, much importance was attached to the printing and publishing side of the Community. The rise of National Socialism in Germany created increasing difficulties for the Brothers who in 1936-8 migrated to the Cotswolds where two hundred and forty men, women and children of German, Swiss, British and Dutch nationalities lived at the outbreak of war. To this Mecca came a stream of men and women interested in communal living, and the spread of the idea undoubtedly owes much to the Brothers who, early in 1941, moved to Paraguay where they have triumphed over unbelievable obstacles. However, a smaller group known as the Wheathill Bruderhof, at Bridgnorth, Shropshire, remained.

In pacifist thought there were several distinct trends towards community. First came the neo-mediaevalists, the followers of Eric Gill to whom the hand-work of the craftsman was the mark of real society and who were willing to accept a reduction in man's material standards of living to attain that end: this faction was for the most part devoutly Catholic. Next were the Adelphi Group, centred in John Middleton Murry's belief that the only hope lay in men and women co-operating in small groups as far outside "the system" as they could, so that those taking part might come to lose their primitive egotism: The Oaks at Langham was the principal centre of this group, though there was an offshoot at Frating Hall, Colchester. The third main class was that of the dedicated Christian, Dr. George MacLeod's Iona Community and the Rev. Charles Stimson's Anglican "Brotherhood of the Way" being two of the best known. Another type arose at Holton Beckering in Lincolnshire where Henry Carter and Fred Mitchell joined with Middleton Murry and others in a "feet-on-the-ground" attempt to develop a co-operative farming enterprise for C.O.s and their families, though the undertaking was later split into individual holdings. Lastly came the smaller communities, some, such as Cheesecombe and Gloucester Land Scheme, being based on agriculture, and others on income-sharing and communal living between people of the towns doing ordinary work in capitalist society.

These groups suffered many setbacks: hostility of neighbours, practical farming difficulties joined with insufficient experience, lack of capital, the need for some business contact with the "system" —even if it were only the sales-line of the homecroft technique—to

make life possible; all were felt at one time or another. The best thinkers (and talkers) were not always the best workers, and the best workers were not always the most successful men of business. Thousands of pounds were sunk in the various schemes. Yet it was most often in the realm of personal relationships that success was lacking. The pattern of community life imposed a strain that many were untrained to bear: the fundamental need was for self-discipline, and though the "communiteers" had often seen the Promised Land from afar, their provision for the journey was often sketchy in the extreme. When man has cast aside many of the social conventions he discovers a need for some form of guidance and it is significant that the most successful communities have been those with either an evangelical flavour or an iron discipline self-administered. George MacLeod knew this well enough when, describing the beginnings of the highly successful Iona Community, he wrote:*

> Some of our happiest days were those on which we worked twelve and sixteen hours to get work finished. Nor did anyone object to the many discomforts. Living so closely together was not always easy but we learned much from one another and we survived for three months, no one departing or being sent away. At the end we realized how true a community spirit had emerged. You see, on the island of Iona there are none of those "escapes" that are so often sought as mollifiers of tension or friction in our relationships—no picture house, no pub, no bus to the nearest city. There sin can show itself in its true colours at last—the gross sin that has brought Europe to war, man's *inability to share*. At last it broke upon us that if there is to be co-operative building of anything, anywhere, we must face the Cross; we must be bridled if we are to be able to share. We faced it—and it worked!

Non-evangelical groups need to solve the problem of the family in community and the future may see greater success in developments on cottage lines as at Brockweir, in the Wye Valley, and, to an extent, at Frating Hall, than in the purely farmhouse or mansion type. In any event Communities are courageous experiments, and strenuous efforts must be made to profit from our failures; for society seeks a solution to its present plight even more desperately than before.

The general position of C.O.s working in hospitals, another

* See *Community in Britain* (new and revised edition): Community Service Committee; 1940.

favourite Tribunal condition, was not dissimilar from that of the men on the land. Often, as far as employers were concerned, it was a case of any port in a storm. C.O.s were only accepted because the authorities were crying out for staff, not so much in the skilled technical grades as for plain portering, orderly work, or stoking. The hospital worker, though there were exceptions, was essentially a labourer, taking cases from the ambulances to the casualty department, taking the post and the meals round the wards, helping the undertakers to put the corpses in coffins, mopping down the corridors, emptying the bins of soiled dressings and keeping the furnace going. Probably the pay was even less than that of the land-worker, but hours of work were regular and there was regular time off, so that a man could study if he wanted to; above all, hospitals were often in the centre of the towns and there were opportunities for town-dwellers to live something approaching their normal lives. A few hospitals, such as the Radcliffe Infirmary, Oxford, and the Winford Emergency Hospital, near Bristol, employed numbers of C.O.s who were thus able to maintain a real corporate spirit.

Charles Dimont, at one time Reuters Correspondent in Vienna (he later renounced his conscientious objection), wrote from his own experience:

> The C.O. in the hospital is in no way cut off from the world but rather constantly in touch with the fact of war. He works side by side with men who support the war, yet his views are rarely held against him. . . . It is by the way he does his job that he is judged. If he does it well, the fact that he happens to believe the moon is made of green cheese is immaterial.

Yet, like land-work, these hospital duties were not for the weakling.

CHAPTER 15

SERVICE AND WITNESS

ONE of the most unusual pieces of service done by C.O.s was associated with the name of Kenneth Mellanby, a biologist at Sheffield University, who, not himself a C.O., at the outbreak of war felt a call to do work of more immediate importance to society. On learning of the uncertainty surrounding the disease known as scabies or "itch" this young doctor (he was then little over thirty) approached Sir Weldon Dalrymple-Champneys, Deputy Medical Officer of the Ministry of Health, with the suggestion that experiments be made using human volunteers. "It appears probable," he said, "that a number of men registered as Conscientious Objectors will be willing to co-operate and it is suggested that they be given pay etc., similar to that received by a private soldier." The Ministry agreed to provide the necessary funds and in December, 1940, Dr. Mellanby took over a large, old-fashioned house in Sheffield which was soon furnished and equipped for use. Volunteers were found through Pacifist Service Units, and early in 1941 the experiments began.* The C.O.s were a widely assorted lot: a former mathematics master was joined by a ladies' hairdresser; an artist was joined by a milk roundsman and an electrician, and so through a variety of trades and professions (one volunteer had tried his hand at several, including electric welding and winkle boiling). The men, he discovered, had a reasonable amount of tolerance and a well-developed sense of humour, though some turned out to be real "characters" with an individuality all their own, so that life for the Unit of twelve "guinea-pigs" at the Sorby Institute was seldom dull.

Now scabies is caused by a small mite, just visible to the naked eye, which burrows into the outer layer of the skin and causes severe irritation, particularly at night. The sufferer scratches himself and is liable to develop sores. The skin becomes generally infected and complications like impetigo may appear. These complications are worse than the actual infection by the mites, which may merely cause discomfort and some loss of sleep.

* The full story of the Sorby experiments is told by Dr. Mellanby in *Human Guinea-Pigs*; Victor Gollancz, Ltd.; 1945.

It had often been suggested that the use of blankets and clothing which had been in contact with infected persons was the most likely way in which scabies was contracted. To test this, Dr. Mellanby arranged for members of the Unit to sleep between blankets taken from beds occupied by scabies patients or to wear the latter's underclothing night and day for a week. Baths were not permitted for a further week or more (much longer in some cases) to allow sufficient time for any infection to develop, but in spite of this the results of sixty tests were all negative but two. These developed much later and more slowly than had been expected: instead of being short, the incubation period was found to be very considerable.

The next step was to infect several volunteers artificially to find out whether one or two mites, having been allowed to establish themselves, could cause any general infection over the body of the patient, and to observe the development of the process. Such experiments had to continue for as long as four or five months, and from these it appeared that most people were insensitive to the presence of mites for two or three weeks, but then a gradually increasing irritation was felt and large areas of the body became covered with a rash. While these experiments were being carried out, others were tried, such as putting two volunteers, one infected and the other not, into the same bed every night for a week. Only a few of such tests were made, and all but one showed that, even though the men concerned wore pyjamas, mites could be transmitted. It seemed that direct contact with an infected person was the almost universal way of contracting scabies.

This discovery, which was amply verified by later experiments, led to a saving of many thousands of pounds through the discarding of unnecessary work, the elaborate treatment that had previously been applied being replaced by a simple painting of the patient with an emulsion of benzyl benzoate, which was almost invariably successful.

When the tests had been proceeding for some time, an extension was decided upon and, with their consent, some of the volunteers were allowed to suffer from scabies for as long as nine months at a time. Dr. Mellanby wrote:

> This experiment was very unpleasant for the participants. They had, many of them, in the first experiments been infected for a few weeks only and they felt rather that the symptoms of "intolerable irritation" and other unpleasant experiences attributed in the literature to clinical scabies tended to be exaggerated. They soon changed their minds. After being infected for about

a hundred days they mostly agreed that what they had previously experienced was mostly negligible. Some kept rough brushes to rub over the skin to relieve the irritation. On cold nights some would rise from a sleepless bed and walk naked through the house, as when the skin was chilled the itching temporarily subsided and sometimes, if sufficiently tired, it was possible to fall asleep before the skin got warm and the irritation returned. Certain volunteers were reduced to sleeping naked as they scratched so vigorously in their sleep that their pyjamas were torn to shreds. Unfortunately, this constant scratching not infrequently damaged the skin and allowed the entry of sepsis-producing bacteria; these gave rise to unpleasant secondary infection, which could not be cleared up until the scabies was cured. I had sometimes to terminate infection as I was afraid that permanent damage might be done to the volunteers, though they themselves were quite willing to continue with the experiment.

Tribute to the volunteers was paid in Parliament by the Minister of Health; an instructional film of the experiments was made, and one of the volunteers, sent to prison for three months for refusing medical examination for the Army, was specially released through the "Royal Prerogative of Mercy" because of the volume of public protest at his imprisonment.

In April, 1941, however, the Unit at Sheffield had been approached by Dr. Krebs of Sheffield University for volunteers to help in some diet experiments on calcium deficiency, which could be undertaken simultaneously with the scabies investigations. It appeared that the Ministry of Health was much concerned over a possible deficiency resulting from a wartime diet lacking calcium foods, the proposal being to fortify bread with calcium if necessary. Six of the C.O.s volunteered.

For twenty-two weeks they accurately weighed and measured and retained specified samples of everything they ate and drank. They also collected their faeces and urine. 100 ccs. of milk and 1½ lb. of National Wholemeal bread were taken daily; cheese was omitted entirely. By the twentieth week the results showed that the volunteers were giving out more calcium than they were taking in. This indicated that a similar diet over a long period would result in a softening of the bones, nails and hair. The milk allowance was then increased to 200 ccs. daily, and within a fortnight all the volunteers had corrected their calcium balance. From these findings it appeared that a ration of milk of two pints a week, with the addition of cheese and a normal diet, was sufficient to maintain the balance.

An additional two weeks' experiment was carried out to ascertain the digestibility of Wheatmeal bread.

Another experiment carried out at the Sorby Institute was aimed at alleviating the sufferings of shipwrecked crews. For three days the C.O.s, Dr. Mellanby and an Army Major lived without any drink at all entirely on the rations supplied to lifeboats—ships' biscuits, pulverized meat, malted milk tablets and concentrated chocolate—with a view to find out the physical reactions of being shipwrecked. Then they had a few days of normal food and drink, after which came a period of very low "water intake", the total experiment lasting nearly a month. The object was to discover how long it was possible to live without water on a shipwreck diet and to find out the best way of regulating any drinking-water available.

Now let Dr. Mellanby, who in 1945 was invested with the O.B.E. for research into scrub typhus, have the last word about the work at Sheffield:

> I myself am not a pacifist, but for three years I have lived and worked with these volunteers and I think it is possible for me to give a fairly detached view of them and the contribution they have made to research and medicine. It will appear that the volunteers, except for their views on war, were a fairly normal selection with perhaps rather more virtues and rather less vices than the average members of the population, but for the most part they were in no way either saints or "cissies". Some were diligent, a few were bone idle. Most of them were of more than average intelligence. But in addition to their pacifist views (and these were by no means uniform) they had one thing in common throughout the whole of the long period through which they served as human guinea-pigs—they co-ordinated in the experimental work with complete trustworthiness and loyalty. Never in any way were the experiments "let down" by the volunteers; I think that this was a remarkable achievement on their part which deserves the highest praise.

Yet the C.O.s' greatest contribution to the future may have been in the sphere of social casework. Within the lowest strata of society are "the problem families, always on the edge of pauperism and crime, riddled with mental and physical defects, in and out of the Courts for child neglect, a menace to the community of which the gravity is out of all proportion to their numbers. It is a serious matter that no study of this class of the population exists." So ran an extract from *Our Towns—A Close-Up*,* and it was the lack of

* Women's Group on Public Welfare; Oxford University Press; 1943.

such a scientific study that Pacifist Service Units were to make good in an attempt to restore these fallen people to social independence and well-being. Many organizations had concentrated on the families willing and able to make use of the material help and advice given: the Units consciously chose the worst. The distinctive feature of their work* was that it was undertaken not from the standpoint of one above assisting one below, but of two, worker and "patient", trying to climb together. "Don't you sometimes feel like a Lady Bountiful?" I once asked Mike Lee, an officer of the Units, not without guile. "Such ladies", he said, "don't get loused-up as we do. We try to be neighbours and it's difficult to be a Lady Bountiful while you're scrubbing the floors." I was convinced.

Two of the Units were situated in Liverpool and Manchester and were engaged on casework as a whole-time activity from February, 1942, and October, 1943. A third Unit opened in Stepney in March, 1943, but had to close after a year and a half through shortage of staff and the disruption caused by flying bombs. There were other Units, engaged in different work, in London and Cardiff. Each Unit occupied a large house in the area where it worked, and this served as a hostel for the whole-time workers as well as an office. In some respects there was a resemblance to residential settlements, but the differences were marked. All the domestic work was normally shared by the members of the Unit and occupied not less than an hour a day and very much more when a share of the cooking had to be undertaken.

The average complement of the Units was ten in Liverpool, six in Stepney and eight in Manchester, excluding domestic staff, and there was a small office in London presided over by the invaluable Duncan Christie. During the first three years, forty-two members were engaged in casework (ten of them women), their ages varying from 23 to 34. Few had had any experience of casework with other bodies but many had done church social work or youth club work, or had had experience of emergency rest-centre and shelter duties. While serving with the Units nine members were prosecuted for refusing to accept directions by the Ministry of Labour to go to other work, and five of them served prison sentences varying from one month to a year.

A Unit normally consisted of a Fieldwork Leader, a Secretary

* A full report, on which the present writer has drawn, was published under the title *Problem Families* (ed. Tom Stephens; Pacifist Service Units and Victor Gollancz, Ltd.; 1945).

and a team of caseworkers, each of whom usually handled about fifteen cases, of which about one-third would require priority attention and concentrated work at any given time. Adequate attention could not be given to a greater number. The worker's turnover of cases would also be small—some twenty to twenty-five in a year—since the more important might well be active for a year or more. Members received full maintenance—board and lodging, clothing, necessary personal expenses and pocket-money of ten shillings a week, and the cost of the two main casework Units was about £2,000 a year. This was raised almost exclusively by small subscriptions from the pacifist community and sympathizers in the districts concerned.

In the depression before the war suffering was widespread, and heart-rending stories could be told of abject need and wretchedness. But full employment and the gradual clearing of the slums had made a difference, for in such circumstances national recovery and political action may result in great improvement: *Love on the Dole* may cease to be topical. But infinitely more difficult and just as heart-rending problems remained to be solved. Families and persons had to be dealt with one by one; no amount of political or legal action could do much to help, for the essence was, or had become, spiritual. P.S.U. sought to care for the families whose very attitude to life, irrespective of environment, expressed itself in bad living conditions, vicious habits and all the other symptoms that show an inability to make the best out of life.

One of the families with which P.S.U. was intimately concerned comprised a mother, a daughter and a son of eight who used to sleep on a mattress on the parlour floor, which was soiled with excreta. The only furniture in their four-roomed house was in the kitchen and there wasn't much of that (one chair, and that had no seat). It was the height of winter and they had no coal. All were filthily dirty and in rags. The father and a son of nineteen were in gaol, the mother had a broken arm, which was in plaster, the boy of eight had never been to school and the girl of fourteen was pregnant by an Indian seaman. They were getting relief from the P.A.C. Members of the Unit cleaned the house and were able to get some domestic equipment for them. The mother soon started to help as well as she could and the family began to use the front door, which they had hitherto been ashamed to do. Next they were able to get the girl to a home, where her baby was born: she proved to be mentally backward and both she and the baby were found to be suffering from

V.D. They later went into homes to get proper treatment. As the mother's arm improved she made a great effort to build up a home and, when P.S.U. got the little boy to school, she took a job, so as to be financially independent. The aim was to help her build up a decent and stable home for the father and the son to return to on their release from gaol and good progress was made in that direction.

This example could be multiplied time and time again, often the mother being psychologically unable to make the great effort necessary. Most often the results seemed negligible but the occasional family that rose above their weaknesses more than repaid the efforts made.

One of the other Pacifist Service Units lighted upon an altogether different problem.* While engaged in Club work in a tough riverside area stories reached its members of a rehousing area, small but dense, where all social activities had practically disappeared. If the Liverpool and Manchester Units had dealt with problem families here was a problem *area*. It turned out to be twenty-seven blocks of flats on an island site, bounded on three sides by the embankments of railway lines and isolated from the rest of what was a rather comfortable surburban part. On this estate local authorities had rehoused some five thousand people, mainly slum dwellers from dock and riverside areas. Though the flats had been built between 1933 and 1937, no provision had been made for the social needs of the people. In fact, there was neither community centre nor Church, neither cinema nor post office, only six shops and later a school for the children. Cold-shouldered by the adjoining neighbours, the five thousand were infinitely less happy than in their old slum days. Neglect and apathy were fast beginning to produce the symptoms of problem families and though some of the inhabitants were quite good, others were quite bad. The buildings, though inconvenient in many ways, were very sanitary and modern: the drama lay in the human beings who dwelt in them.

The Unit was able to form a club for the hundreds of school children who were running wild on their return from evacuation, and its members then attempted to start something similar for the adolescents. But they failed to make headway and it was not long before they found the reason: they had fallen into the cardinal error that Liverpool and Manchester had avoided—they were outsiders doing

* The story is told in detail in *Tenement Town* by L. E. White; Jason Press; 1946.

good works for others. So they rented a flat on the estate and ceased to be "foreigners". They lived simply, as the flat dwellers lived simply; indeed, so precarious were the finances of P.S.U. at the time that they probably had less to spend than the others. But the young people's club began to progress well, almost embarrassingly so, for the Unit members in their deliberately open flat could hardly call their souls their own.

Next, all the inhabitants were asked to answer written questions about their needs and their feelings on various topics relating to life in the flats. When the report that was based on their answers was publicized in the right quarters, much interest was taken in the problem of this estate, and help was forthcoming in the endeavour to build a community life in what had once been but barren dormitories. Circumstances had brought into relief the lack of real living on the estate; but the symptoms there prevalent can be found in lesser degree in most parts of the British Isles, so that the experiments of Tenement Town may be of value in raising the level of community life elsewhere. For the faith of these young C.O.s had won through where other social workers had failed, and it was essentially the faith that counted.

Another piece of service was undertaken by the Anglican Pacifist Fellowship in much the same spirit. During the air-raids of 1940 many of London's down-and-outs were so filthy and verminous as to be unsuitable for the close society of the public shelters. The Westminster Council converted a railway arch under Hungerford Bridge between the Strand and the Embankment as an alternative to sleeping in the parks or on the Embankment and early in 1942 the Anglican Pacifist Service Unit, in the true tradition of Dick Sheppard, took over responsibility for this unique shelter. The Unit was exceedingly well served by its organizers, Bernard Nicholls, Fred Pinder, Sidney Greaves and many others, and I have often thought that if I were asked for an example of unselfish service I should say without hesitation, "Try the Hungerford Club." Note the lack of condescension in this account by Sidney Greaves—written for the unofficial prison magazine, *The Flowery*, on the night before his discharge from gaol:

> We began with a "membership" roll of about 40 men and 20 women, but during the first six or eight months it increased to about 90, at which it remained fairly constant. We have bunks for nearly twice this number, and could quite easily fill them every night with those to whom a free bed means more than beer,

but we endeavour to sort the sheep from the goats, and to take in those who, for perhaps only a few days, really are without money for a bed, or those real down-and-outs who are unable to look after themselves through physical or mental weakness. About two-thirds of our flock would come under this latter head—they are the "regulars"—and many have been with us right from the start. They scrape a meagre living in odd ways such as selling newspapers, carrying "boards" (surely the most degrading of all jobs), entertaining theatre queues and various forms of begging.

One of the most important and interesting parts of our work is the interviewing of fresh arrivals. A newcomer is first of all taken into the office for a chat, and we try to find out his story. Maybe he has just come to London to look for a job and has no cash; or perhaps he has a job and needs helping over to his first pay-day. Not everyone who comes for a night's "kip" is admitted. Quite often a man is merely trying to get a free bed and cheap food and so reduce his "overheads", in which case he is sent on to Bruce House or the Salvation Army Hostel. If, however, a man is thought to be genuinely in need, he may be permitted to stay for one or two nights or longer, and perhaps given money for breakfast and supper at the canteen. Whenever a man is out of work, we always make a point of seeing that he goes along to the Labour Exchange and makes some effort to find a job, unless of course he is unfitted for work. So many of them are only too willing to live without working if there is half a chance, and it is not kindness to make it easier for them to do so.

The Club Canteen is staffed by F.o.R. teams who come one night per week. Although food is sold at the cheapest possible rates—a penny will buy a pint of tea, a good big sandwich, a plate of porridge or a plate of hot soup—yet even so we manage to make a profit. This goes to the Distress Fund and so is returned to the Club members.

Another of the Club amenities is the Medical Aid Post, where one of the Unit works under the supervision of a Sister from Charing Cross Hospital. We have been able to get a number of men and women into hospital for varying periods, and many more have received out-patient treatment. In several cases, too, we have been able to get people away into the country for periods of convalescence. Once a fortnight, also, members receive the attention of a qualified chiropodist.

Right from the start, we felt that one of the fundamental needs of the members was real human friendship and sympathy, and it is along this line that we have worked. Consequently, a large part of our time is spent in chatting to men and women,

playing chess or bagatelle or darts with them, and in this way a new atmosphere has gradually crept into the Club ; the attitude of reserve and often of suspicion towards us and each other is much less prevalent, and there are signs of a re-awakening social consciousness. We have avoided making any claims on the members, such as expecting them to help with the work of cleaning and so forth. We felt it better to wait for them to volunteer, and although for months no one offered the least help, one or two did at last begin to help with the cleaning and other work in the shelter.

This same procedure was adopted with regard to one of our biggest problems—that of " de-lousing ". When, in the early days, we began to tackle the question, we did not make it compulsory, but called for volunteers. One or two brave spirits came forward, and from them others learned of the comforts of being cleaned, until one by one, we had " sprayed " most of the shelterers. Some held back longer than others, but before long " de-lousing " was a most important part of our routine, and, together with regular bathing, is accepted as part of the Club.

Well might Ernest Brown, as Minister of Health, replying to a Question by Cecil Wilson,* pay tribute to the excellent work which these voluntary workers were doing. " So far as I am aware," he added, " there are no counterparts elsewhere. "

Brief mention must also be made of the Poplar Relief Service Unit which, originating in the Hounslow P.P.U. Group, owed much to the energy of Michael Pelham. From September, 1940, voluntary helpers, forming a rota each night, served food and drink to people living in the air-raid shelters. The Unit's original van was later replaced by a mobile canteen provided by the people of Western Australia, and few outside the East End can appreciate the high regard in which these workers were held for their practical help and cheery message.

Having dealt with the " home missions ", as the Nonconformists would say, it is now time to turn to the three types of " foreign missions ".

The war-time work of International Voluntary Service for Peace, the first of these, followed no one pattern, but bordered at one point upon that of C.P.F.L.U., at another upon that of the F.A.U., and at a third upon that of Friends Relief Service. I.V.S.P. had developed from the Continental *Service Civil* which had been founded soon after the First World War through the genius of Pierre Cérèsole, son

* February 26th, 1942.

of a former President of the Swiss Confederation, who with his brother, Colonel Ernest Cérèsole, guided the movement until his death in October, 1945. In this picture of the two brothers, the Conscientious Objector and the Colonel, working in complete harmony for a new conception of peace and fraternity, lies the key to an understanding of I.V.S.P. It is not a pacifist body in the narrow sense of being confined to men and women who refuse to take part in war, but in the wider sense of uniting together those who, whatever their convictions as to participation in war, love peace, it is pacifist to the core. But from 1939 to 1945 the British organization had perforce to rely almost entirely upon Conscientious Objectors to see it through the days when truly international work was ruled out by the exigencies of war.

I.V.S.P., as it is never tired of saying, lives for the "pick and shovel": it believes in the spiritual value of manual work when voluntarily undertaken as a piece of service without pay. Discipline and organization, too, must go hand in hand. "Work will have to be done in the rain," "No smoking on the job," and other dicta were outside indications of this, though my heart warms to the fact that "although conditions were strict and the standard of work high, Pierre always recognized the value of the man of goodwill whose practical output was not up to the average".*

One of the aims of *Service Civil* and to a lesser degree of I.V.S.P. itself was to obtain official recognition under conscription (neither had any inhibition against co-operating with Governments), and at times this tended to raise difficulty with those who, while anxious to serve, yet felt the need for a full witness against conscription. For the Continental side of the movement at least saw no difficulty in providing alternative service, for it felt not that this might be helping to make conscription run more smoothly but that it meant one step more along the road to reforming the concept of national service—of removing the military and destructive, and infusing the ideas of civilian and positive service into the nation's arrangements for the training of its sons. Accordingly, as soon as conscription was introduced in 1939, an attempt was made to secure official acceptance of I.V.S.P. as providing alternative service for Conscientious Objectors, and, following an approach to the Ministry of Labour, the Ministry of Supply invited I.V.S.P. to undertake forestry work. This was

* See *International Voluntary Service for Peace* (ed. by Ethelwyn Best and Bernard Pike; George Allen and Unwin, Ltd.; 1948) from which most of the facts here noted are taken.

felt, however, to be too near the war-effort to command general assent, but an offer of afforestation work—planting trees to provide much needed timber after the war—was eagerly seized upon, and agricultural work was added a little later. So I.V.S.P. groups were to be found, like the Christian Pacifist Units, serving in remote parts of the country, at Hawkshead, Kershope and in the Kielder Forest, at Whitehaven and Clows Top, where the volunteers laboured for pocket money, the agricultural wage being paid to the movement itself.

Side by side with this went demolition and relief work at West Ham and Croydon, where the "pick and shovel" again came to the fore. Nevertheless, these projects were very different from the earlier concept of short-term work camps in holiday periods that had characterized the service before the war.

In November, 1942, however, relief work overseas became a real possibility and, through the Council of British Societies for Relief Abroad, I.V.S.P., along with other organizations such as the F.A.U. and Friends Relief Service, began to train its teams for the new types of duty that were opening up. The first unit of twelve volunteers left for Egypt in February, 1944, and saw service in Egypt and, after vexing delays, in Greece. A second team, serving in Italy with the Italian Mission of U.N.R.R.A., helped to get 25,000 refugees registered, distributed clothes and later assisted reconstruction in Chieti province on the east coast of Central Italy. A third team saw service in Crete and ultimately in the Patras region on the mainland.

But the work of which I.V.S.P. is proudest is probably that in North-West Europe where Fate took a team of volunteers back to Bilthoven, Holland, the earliest scene of duty of *Service Civil*. Next came a move into Germany, working by the side of U.N.R.R.A. teams in camp administration for Displaced Persons, this being followed by welfare work for Germans in Berlin. Other teams engaged in a variety of relief and welfare activities in Duisburg and Schleswig-Holstein.

And so it went on, the Service gradually reverting to its pre-war pattern, its pacifist and non-pacifist, its short-term camps, its alternative service, until the experiences in khaki battledress at the war's end became one part of a tradition which, as Major Milner, Deputy Speaker of the House of Commons, has said, "shows an earnest struggle towards alleviating human suffering in many parts of the world, brings hope and confidence for the future, and has created a

unity which transcends differences of caste, creed, colour and political outlook ".

Of the special service that C.O.s rendered, undoubtedly the most dramatic was that of the Friends Ambulance Unit. In the First World War there had been a unit of the same name consisting of about a thousand men working on ambulance convoys and on ambulance trains in France and Belgium. Now, under the leadership of Paul S. Cadbury, a new Unit arose to maintain the tradition of fearlessness and endurance of the old.

Two of the greatest men in the F.A.U. were Thomas L. Tanner and Peter J. Hume, men of tremendous ability and devotion, born leaders. Their loss at sea on the steamship *Ceramic* has been thus described by A. Tegla Davies in his fine account of the Unit: *

> In the course of 1942, it was becoming obvious that a visit by Tom Tanner to China would be of immense benefit, not only to China but to London. Communications at the time were extraordinarily bad; delays up to four or five months in receiving letters were not uncommon. One letter arrived after sixteen months on the way, its problems already solved by Time the Great Healer. It was obvious, too, that the section in China was having a difficult time in settling down. And if China, then other sections could be visited on the way. So, in the autumn, plans went ahead for a visit, and after some discussion and change of plan as to who his companion should be, it was decided that Peter Hume should go. It was to be the first visit from headquarters to sections overseas, and they were to be away nine months. On 23rd November they set off from Euston Station. Those were among the darkest days of the war at sea; the U-boat campaign was at its height. As December advanced uneasiness grew because their boat was overdue. Two days before the end of the year news came through that it had been torpedoed and sunk in the South Atlantic; there was only one survivor. The loss of the *Ceramic* was one of the biggest single disasters of the war at sea. For the Unit, it was the cruellest blow which it could have suffered.

Peter Hume was the F.A.U.'s representative on the Central Board, which he regularly attended. In this and many other ways he stressed the concern of the Unit for the C.O. movement as a whole, being always anxious that the " absolutist " who declined to promise alternative service should not be placed at a disadvantage as compared

* *Friends Ambulance Unit*; George Allen and Unwin, Ltd.; 1947.

with the generally respected Unit member. Hume never sacrificed pacifism to respectability and he it was who, more than once, insisted that the F.A.U. was not just a form of service for volunteers who preferred it to the R.A.M.C., but that it was specifically for those whose consciences would not permit them to give any service within the Armed Forces.

Other Unit members included Freddy Temple, a nephew of the late Archbishop of Canterbury, Gerald Gardiner, now a K.C., who left a most lucrative practice at the Bar to assist in healing the wounds of war, a Lord and a Bishop's son; but anything in the nature of "celebrity-hunting" was severely frowned upon: it was the quality of a man's work that counted not his antecedents. Women were admitted to membership as the Unit developed. Members of the Council (the Elder Statesmen) included such figures as Horace G. Alexander, friend of Gandhi, Professor John W. Harvey, T. Edmund Harvey, M.P., Sir George Newman, formerly Chief Medical Officer to the Ministry of Health, and Philip J. Noel-Baker, later to become Secretary of State for Air and afterwards Secretary of State for Commonwealth Relations.

Unit members were organized in camps and so quickly was a loose form of organization evolved that by September 27th, 1939, fifty-eight men had started training at Manor Farm, Northfield—the first of the twenty-two camps of the F.A.U. "We propose to train members", they declared, "as an efficient Unit to undertake ambulance and relief work in areas both under civilian and military control, and so, by working as a pacifist and civilian body where the need is greatest, to demonstrate the efficacy of co-operating to build up a new world rather than fighting to destroy the old. While respecting the views of those pacifists who feel they cannot join an organization such as our own, we feel concerned among the bitterness and conflicting ideologies of the present situation to build up a record of goodwill and positive service, hoping that this will help to keep uppermost in men's minds those values which are so often forgotten in war and immediately afterwards."

Some criticism had to be faced in Quaker circles: for just as the Society itself had refused to organize an alternative service scheme, so it seemed to some that individual Friends were doing by the back-door what Meeting for Sufferings had declined to do by the front. Moreover the fact that Unit members had to wear khaki while serving in theatres of war raised misgivings not wholly confined to these critics. But the Unit founders were careful men: it must always be made

clear that the Unit was a private, unofficial venture of individual Friends; nothing, by word or deed, must be done to endanger the right of the unconditionalist to witness to the truth in his own way, and there must be the fullest respect for his convictions; on no account must the Unit be *bound* to accept men given Tribunal conditions specifying the Friends Ambulance Unit—indeed the Unit ought never to be specified as a condition of registration: if a C.O. wished to join the Unit, the appropriate formula was "civil ambulance work or civil hospital work under civilian control", and even then acceptance must be strictly on suitability and merit. How many difficulties were avoided by this natural tact!

Above all, members must never allow themselves to be regarded as a race apart from the rest of the C.O. movement. In stress of war public opinion could easily be rallied at one and the same time to laud the brave boys of the Friends Ambulance Unit and to condemn the cowardly "Conchies". (F.A.U. Headquarters, for instance, would never have had "Cowards' Castle" chalked up outside the office, as the Central Board did.) This was a point of substance, for the F.A.U. was the aristocracy of the movement, serving for a small allowance of pocket money, while the economic factor precluded many of the humbler C.O.s from joining even had they wished. Of the 65,000 C.O.s some 5,000 inquired as to membership and 1,300 actually joined.

At first there was disappointment. The goal of overseas service at the Front seemed out of reach, and the early members had to be content with the less exhilarating duties of a London hospital. But soon an opening was found in Finland where the Finns and the Russians were in full combat—only to find, after surmounting the apparently insurmountable, that peace had come and service was limited to some five weeks. An offer of help was made to Norway and accepted. But here again circumstances seemed against any long-term service, for the Germans promptly proceeded to overrun Norway.

Then followed a period of frustration. The F.A.U. consisted essentially of high-spirited youths who longed for action and also, be it admitted, an excitement that the tedium of work in East End hospitals failed to give. But with the *blitz* of 1940 came new opportunity which the Unit seized with both hands—the chance not to help comrades overseas but their own people, the homeless of London, in the devastation of night bombing. Some who saw this work reckoned it among the Unit's finest service.

Twenty-five of the men who had escaped from Scandinavia through Sweden and Russia had managed to get through to Egypt where work lay in Alexandria, and afterwards in Greece. Again the dice seemed loaded against these C.O.s for after a short spell in Greece they were taken prisoners of war. One of my most vivid recollections is of taking down an account of his experiences from one of these men, Tom Burns, who had been held prisoner by the Germans at Corinth, Salonika and Stalag VIII B in Upper Silesia. He stated:

> It is a long story, indeed, but the critical time arrived when we were at Kalamata during the British evacuation of Greece. It is a small port in the Peloponnese, and it was a rare sight to see at the quayside in the moonlight thousands of soldiers in a long, quiet orderly queue awaiting the ship that would take them to safety. At daybreak all the troops dispersed, but at nightfall they met again; on the second night we were rather well-placed in the queue. However, there was no sign of a ship, and when the news got round that the Town Hall was being used for receiving some of the heavy casualties, we knew how short-staffed they would be; the sixteen members of the Unit who were left went to the Town Hall to give what help we could.
>
> First we had a short rest. But at 6 a.m. we were hard at work. In fact, we worked so hard on the large number of cases to be treated that we hadn't time to pay much attention to what went on outside. We were not too busy, however, to hear the sound of gunfire, the noise of cars going through the town, and the rattle of machine-guns not very far away.
>
> Then there strode through the door a tall German officer, pistol in hand. One of our members who spoke German went up to him and explained our position and the work we were doing. The officer, who obviously had other matters to attend to, told us to continue with the work, but not to come out of the Town Hall. Thereafter we knew we were prisoners of war. We got on with the job.
>
> At the quayside that night a small battle was fought, and we heard later that the British had retaken the town and the small party of Germans in occupation had been practically wiped out. But on the following day the German Forces arrived in strength, and the main body of the British troops had to surrender. Throughout this time we were working all-out in the hospital, and the Germans brought in any of the surrendered medical officers and other personnel they could find to take charge of the casualties.

Some of Burns' companions had been away so long that they had never been before Tribunals (they had gone overseas while provisionally registered). So Tribunal hearings were arranged for them at the Local Tribunal at Fulham, and all were registered subject to acceptable conditions. As they were standing in the corridor before leaving, the Chairman, Judge Hargreaves, stopped to shake hands with them as he left the Town Hall.

These are but samples of the work undertaken by the F.A.U. Yet while they worked with the Armed Forces, a search went on for a proper basis of service in such a way that the urge to do this sort of work could be reconciled with the other equally strong urge not to become too deeply involved in Army organization. But it was seldom easy. Even more important than the service already described was that with the Army in the deserts of North Africa, with the Hadfield Spears Hospital Unit (the band of the Foreign Legion, seventy strong, turned out at 7 a.m. to play a group of nursing sisters and *les Quakers* out of France), while ventures in Syria and Ethiopia worked out a more permanent system of medical services for those countries, though it is still too early to say if lasting results followed.

Early in the history of the Unit four members had travelled to Rangoon, and from this small beginning evolved the F.A.U.'s service in China and India. Members were always keen to go to China, though the enormity of its needs seemed to dwarf all the efforts made to ease the suffering of the Chinese people. In the summer of 1942 the threat of Japanese attack by air took a small section to Calcutta. Though the threatened raids did not materialize, flood and famine did: here was opportunity with a vengeance and the Unit in India did not fail, so that though something under two hundred men served in both these immense areas for under five years the feeling of gratitude to the Unit will take many years to dim.

However, even as the war drew to an end, the prevailing emphasis in other spheres was gradually shifting to civilian relief in Europe as one avenue of wartime service after another closed. Sicily and Italy were followed by Greece, the Dodecanese, Yugoslavia, and finally, North-West Europe, culminating in a Germany stricken in defeat.

At the end of June, 1946, the Friends Ambulance Unit of the Second World War came to an end, though for a period the work is continued by a new body—Friends Ambulance Unit Post-War Service. But the Unit itself had passed away as it had been created —with the unassuming tidiness of the Quakers: and now there are

two Units to call to memory, two Units to look upon with humble pride, for the work of 1939 to 1946 had proved not unworthy of the forerunners of twenty-five years before.

The official relief organization of Friends was Friends Relief Service, much of whose work at home was closely co-ordinated with that of the F.A.U. In this case the tradition went even further back, for a Friends War Victims Relief Committee had been formed in 1870 to relieve civilian suffering in the Franco-Prussian War, and it is not generally known that the red and black Quaker star symbolizing the Society's civilian relief work was designed to avoid confusion with the newly-formed Red Cross, which symbolized military relief. Again from 1914 a War Victims Relief Committee had organized work for nine years in nine countries and had won for the Society a tremendous reputation.

With the invasion of Poland in 1939 came a new call to serve, and after the period of "phoney war" local groups, particularly in the Midlands, started work for the homeless of Britain's bombed cities. In November, 1940, many of these were absorbed into a newly-formed Friends War Victims Relief Committee, which worked in conjunction with the F.A.U. Civilian Relief Section. Meanwhile, at Spiceland in Devonshire, a decrepit mansion had been made into a training centre where many young C.O.s, Friends and non-Friends alike, were trained to take their part in unaccustomed emergency tasks. For the evacuees in Quaker care were not the ordinary run of evacuees, but the difficult cases who could not easily be brought within the ambit of the official arrangements or billeted in private homes, either because they were too old, or because their families were too big or because from other causes they needed special attention. Apart from the hostels, community centres were organized for people, evacuated under the official schemes, who were existing rather than living in their billets.

A woman worker at one of these hostels for old people once wrote:

> It is now eleven o'clock at night and we have just finished bedroom problems. . . . I feel very sad this evening, having tucked in some of the old ladies. It seems so dreadful that these folk, who have been so independent and done so much, should be so bomb-shocked and have to rely on us. The last one I chatted to was 84—and there was I trying to make her comfortable on a mattress on the floor! The old folk help a lot, washing-up and vegetable-cutting, sweeping, wood-chopping, gardening.

> . . . One woman over 80 makes an excellent kitchen-maid and scrubs with more energy than I could. . . . Quite a lot of them are very cheery and ready for fun, especially when we tuck them up and say good-night. I heard some of them talking in the bedroom to-night, saying how much they appreciated kind words and sympathy at this time. What a dreadful thing that kindness should have to be met with such surprise. . . . But their minds are in chaos. . . .

Almost all the work was makeshift improvisation according to the needs brought by war. Besides service in air-raid shelters or evacuation hostels, F.W.R.S. members were to be found filling in the long "stand-by" periods in London and elsewhere by repairing furniture or making toys and equipment for the Nursery Schools Association. Throughout it all much of the initiative and enthusiasm came from Roger C. Wilson: as its original General Secretary, his name will always be first remembered for his tireless leadership of Friends Relief Service, as it later became. He is now Dean of the Faculty of Arts at University College, Hull. Christopher B. Taylor, A. Bernard Hadley, Eustace S. Gillett and Richard Naish were among others who gave particularly long and responsible service at headquarters during this initial period.

Other work undertaken at the same time included help with "blue-print" arrangements to take effect in case of further raids, social work in London, the Midlands, Merseyside and Tyneside, the provision of mobile units to assist the hard-pressed services of the cities, and the provision of drivers and canteen organizers for some of the "Queen's Messenger" food convoys. Much of this work depended for its success on the spirit in which it was undertaken. How the spiritual basis of the problem was recognized is shown in this extract from one of the many leaflets of the Service:

> In some ways Quaker Relief in this war is living rather than giving. Many of the sufferers can pay for their material wants, but need the help of others to adapt themselves to emergency conditions. In bombed areas, personal standards, frail enough before bombs fell, have too often collapsed altogether during "lull". This deterioration among citizens, old and young, threatens the ruin of much fine effort at "reconstruction". Only by living right in among the people can they be helped, and, what is more important, led to help themselves.

In 1942-3 Friends War Relief Service (as it then was) had a full-time staff of nearly five hundred, all working on a pocket-money and

maintenance basis. Nearly half were members of the Society of Friends and almost all were Conscientious Objectors. At the beginning of 1942 the Service was spending £5,500 a month—a very substantial sum to budget for. For long the American Friends Service Committee made a monthly grant of $10,000 and the value of these generous donations can hardly be emphasized enough when considering the work of the Service. Government grants were also made, but the fact remains that the bulk of the burden was borne by the liberality of Friends and public alike. Re-organization of the Service came in 1943, the name being changed to Friends Relief Service on the drawing together of the old War Relief Service, the Friends Committee for Refugees and Aliens and the Post-War Service Committee of the Friends Service Council.

Apart from the work in Britain, the closing months of the war made overseas relief a real possibility—no longer were the civilian units tied to work at home. Memories of the first relief teams to enter Berlin after the First World War were never far from mind as new spheres of service opened. Within the framework of *Secours Quaker*, the relief organization of French Friends, British and American Friends were able, from December, 1944, to help with extensive feeding programmes for children and other special groups, with prison visiting, clothing distribution and work with refugees and prisoners of war. Some 200,000 Spaniards and other "stateless" groups, mainly in the south of France, were without a protecting power and all too often felt deserted by those to whom they had looked for help. From centres in Toulouse, Montauban and Perpignan the work was intense. At the end of August, 1946, F.R.S. had sent to France 264 tons of food of a total value of £31,700 and 105 tons of clothing. F.R.S. participation in the work for Spanish refugees in the south of France came to an end in June, 1947, but the work for German war-prisoners in the Toulouse area was continued and eventually taken over by the Friends Service Council in May, 1948.

Soon after the liberation two relief teams had begun work in Holland, one in the island of Walcheren, which had been flooded by the Germans, the other in the battle area of Betuwe, but by May, 1946, the Dutch had made such rapid strides towards recovery that it was possible to withdraw from these areas.

Palestine, Greece, Poland and Italy were also the scene of F.R.S. activities; but better known than any of these was the work in Germany and Austria. The fact that this was done in territories

under British military occupation brought both opportunities and dangers. Opportunities, because it was often possible to influence officials of the British Military Government—and later the civilian Control Commission for Germany—whom many C.O.s came to find more unimaginative than bloodthirsty. Many whimsical situations arose. Conscientious Objectors (some of them previously gaoled in this country for their stand) were to be found, under the style of section leaders or relief workers, gently instructing Colonels who had but rudimentary ideas, e.g. as to who exactly were "D.P.s" and what their needs were. In the main, it was a revelation to C.O.s, as staunch opponents of militarism, to discover the humanity and sympathy of most Army officers. Yet the officers' mess and its mentality had insidious dangers to those who would testify against all war. In many ways the F.R.S. members, like other civilian relief workers, were hangers-on to the Army, and lived as the occupiers; so that at times they were uneasy. These conditions were a compromise that the Service had accepted as inevitable for entry to much of Europe, though Yearly Meeting had insisted on "Quaker grey" uniform instead of khaki. Still, there was room for difference of view on the balance of opportunities and dangers.

Members of a F.R.S. team were among the first civilians to enter the notorious concentration camp of Belsen after the repulse of the main German Forces. Later, in Germany the Control Commission had arranged for the return to their own countries of over six million displaced persons but there remained over a million D.P.s—men, women and children with their distinctive racial characteristics living together in large camps—for whom resettlement provided a real problem. Conditions in most camps were grim and often appalling; people were without incentive to work and without hope for the future, seeming, it must have appeared, mere pawns on the chessboard of Europe. Hand in hand with idleness and irresponsibility went speedy degeneration. This it was the aim of F.R.S. to prevent (the spiritual task again), and the teams at Goslar and Brunswick and later at Schleswig and half a dozen places in Austria will be talked of in years to come in widely scattered corners of Europe where the D.P.s have at last found homes.

The other main concern of Friends Relief Service in Germany was, as in Britain, for the homeless—in this case men and women living in schools, ruined factories, barns, or the shelters of the cities. But what a difference! Never had the British been left homeless for so long; never had the airless stench of the living quarters

become so oppressive; never had amenities sunk to so low a level. To the mass of the German people, distraught and preoccupied with their own problems, all this seemed inevitable, and a wave of apathy, coupled with the appalling material destruction and shortage of all supplies, prevented the effort needed to put the situation to rights. It was new hope and will to effort, the inner response, that Quaker Relief in Germany sought to call forth.

Friends Relief Service, which in its later years had enjoyed the services in key positions of Lettice Jowitt, a sister of the Lord Chancellor, and Joe Brayshaw, closed down on May 31st, 1948. As a member of the Council of British Societies for Relief Abroad the Service had been able, as far as funds allowed, to buy food in bulk (cod-liver oil, cereals, baby foods and such like) for shipment to those in dire need; and in the three years from July, 1945, to the time of closing down, 1,962 tons of food valued at about £200,000 had been sent to eight European countries. Clothing and footwear had been collected, sorted, baled and shipped during the same period—amounting to about 1,200 tons or nearly four million garments.

The work of F.R.S. was by no means exclusively the work of Friends. Not only did the Service depend largely upon the support of the general public in the matter of money, it depended on the non-Friend world for workers, too. In later years at any rate, only 35 to 40 per cent. of its membership were Friends or attenders at Friends Meetings. The remainder comprised almost every denomination from Church of England, Jews and Roman Catholics, through the varying shades of nonconformity, to those implicit Christians who modestly described themselves as undenominational. A considerable proportion of the European work of F.R.S. was handed over to the Friends Service Council, the body responsible for long-term Quaker work overseas. F.S.C. has succeeded F.R.S. in membership of the Council of British Societies for Relief Abroad and has continued to buy and ship food in bulk and to collect and ship shoes and clothing to Austria, Germany and Poland. The Council, moreover, has continued to maintain workers among displaced persons and *Volksdeutsche* in Austria; it has functioned in Berlin, Brunswick, Cologne and Bad Pyrmont in Germany, and in the work of the Anglo-American Quaker Relief Mission in Poland.

* * *

Such then was one side of the picture. The movement had given of its best. But, as we saw at the beginning of the last Chapter,

there were also those "whose service was their witness". Some men and women, such as Herbert Story and Kathleen Lonsdale, to take only two examples, had managed to combine spectacular witness with spectacular service, but the great majority did their often humble tasks in a quiet, conscientious manner that got no publicity at all but was none the less valuable for that. All the time we knew that our convictions might not be recognized: the Tribunals might refuse us exemption or give us less than we could conscientiously accept; our employers might show us the door; in a thousand ways society might register its disapproval, silent yet real. But many Tribunals, employers and individuals were sufficiently enlightened to make the witness moderately easy and we rejoiced in this while remaining ready to stand should the blow fall.

For if the hour of witness did come C.O.s rose to the occasion. Four thousand-odd, whose story fills much of this volume, went to prison and as we think of the F.A.U., of the problem families, of the I.V.S.P., and the scabies experiments, we also remember those like Victor Walker who died after coming out of prison, like Barbara Roads who entered Holloway while expecting her baby, like the medically unfit who chose prison rather than be medically examined for the Forces when the result would have put "paid" to their liability, like all the men who quietly kept things going and, being prepared, were not called to special witness.

For witness and service are one. Like sunrise and sunset, each is but an aspect of the same eternal values, each is necessary to even the most superficial appreciation of the faith of the Conscientious Objector.

CHAPTER 16

THE EXTREMISTS OF PEACE

DESPITE the urge to give "positive" service, the fifteen hundred radical C.O.s of the First World War who elected to stay in prison rather than be released for alternative service inspired many of the younger generation to take the "absolutist" stand. What was this? The "absolutist" or, as I prefer, the "unconditionalist", was the man or woman who would not accept conditional registration as a Conscientious Objector, i.e. conditional exemption from compulsory military service. Within this general definition lay almost as many variations of attitude as there were Objectors professing them. Nevertheless, the salient features of the unconditionalist stand were twofold, one negative in form if not in substance and the other positive both in form and substance. The first was complementary to the second, and signs of each could be discerned in varying degree in most unconditionalists.

First stood the man whose prime resolve was to resist an evil system—the man whose opposition to military conscription was so complete (or "absolute") that it would be a compromise with principle to accept any condition of exemption. To such Objectors, "the logicians of conscience, the extremists of peace", alternative service was the price of an exemption they would not buy. By accepting any condition of exemption such men and women felt they would be doing a voluntary act which amounted to an acceptance of compulsion for the millions of men on the Military Service Register. By taking easy terms for themselves they would give up their right to protest against the conscription of others.

Secondly, as against this apparent negative stood the Objector whose prime claim was for freedom—freedom to develop his personality untramelled by years of compulsory service, military or alternative, under the National Service Acts. For conscription came at the most formative period of a man's life and, unlike the incidental compulsions, might have a profound effect on his moral and spiritual development. "I am the master of my fate, I am the captain of my soul." Some would claim this freedom not so much to secure integration of mind and spirit as to enable them to follow inner guidance wherever it might lead. To these men and women, awaiting, as

some would say, direction from that of God within, a condition of exemption from a man-made Tribunal became an irrelevance, a near-impertinence. Even a condition of "present occupation" was an insult to their integrity, for who could say when their sense of responsibility would lead them to help air-raid casualties, to work for peace, to a life's work for Christian evangelism?

A man with such a message in his heart felt, parallel with his conscientious objection, an equally strong conscientious impulsion to particular activity. To some men had come positive vocations to which they would be false were they to enter upon any full-time duties for an indefinite period in lieu of compulsion for the Armed Forces. For refusing to serve they might well be sent to prison, but this would be but the application of superior power, not a voluntary turning aside from the inner command. From Michael Tippett, the composer, to the humblest Jehovah's witness unable to break his covenant with Jehovah God, the fundamental claim was the same.

These were the principal bases of the so-called "objection to civil work" and not, as some Tribunals tried to insist, the military significance of particular work suggested. Nor was the absolutist "prepared to do nothing for his country", as was often alleged—in most cases he was doing skilled work for which he was trained: what he did refuse was to change his work at the behest of a Tribunal whose direction conflicted with his own judgment as to the best service he could render to that society of which he was a member.

Radical objection manifested itself in several different lines of action, from active resistance to modified co-operation. The most extreme case was that of the men who not only declined to appear before the Tribunals but refused to register at all. Some would passively wait for the authorities to discover their default; others, with the aggressiveness of non-violent resistance, would immediately inform the officials of their action, thereby almost inviting them to prosecute. Yet others would register under the Acts but, by declining to appear before the Tribunals, would refuse to acknowledge the capacity of five men of the world to judge their consciences. "The one way *not* to defeat conscription", they would argue, "is to utilize its machinery. The conscience clause goes a long way towards making conscription work: have nothing to do with it!" And it is impossible to deny the logic of their position.

The less extreme of the absolutists would feel that the Government, by providing for unconditional registration, had made an effort to meet their needs which it would be churlish to ignore. Such C.O.s

in particular were bent on complying with the law to the maximum consistent with their conscience; if the hard-won right to complete exemption were not claimed, they would say, it would fall into desuetude, to become but a relic of the past. In this belief they proceeded to register and put their cases to the Tribunals. For many this was an unpleasant duty often reflected in a truculent attitude of "take it or leave it" before the Tribunals, accompanied at times by refusal to bring any evidence other than the word of the applicant himself. The absolutists were seldom slow to make it clear that nothing less than complete exemption would satisfy their consciences. Some, given a condition that they should remain in their present occupation, even appealed to the Appellate Tribunal for removal of the conditions or threw up their jobs without waiting for their appeals to be dismissed.

The proportion of C.O.s who objected to any condition did vary a little from district to district—Glasgow, Manchester, Bristol and Newcastle-on-Tyne were more extreme than Birmingham, Nottingham and Leicester. But this by no means accounted for the wide disparity in treatment accorded by the various Local Tribunals. Up to July 6th, 1940, for instance, the London Local Tribunal had registered without conditions a little over 1 per cent. of those applying, while the South-Eastern Tribunal (also sitting in London) granted unconditional registration to over 10 per cent. In the same period the South-Western and East Anglian Tribunals respectively had registered unconditionally as many as 23 per cent. and 26 per cent. of the applicants before them, while near the other end of the scale the Midlands Tribunal had registered only 2 per cent. and the North-Eastern 4 per cent. These discrepancies were only partly corrected on appeal.

Almost as startling was the sharp decline in the number of men allowed unconditional registration in the months that followed the fall of France and a serious military situation for the nation. The aggregate percentage for all Local Tribunals dropped from 9 per cent. up to July 6th, 1940, to 2·7 per cent. for the ensuing half-year. For the Tribunals had hardened their hearts with the totality of the war effort. The figures for individual Tribunals were even more arresting. The South-Eastern Tribunal had fallen from 10 to 0·7 per cent., and the First Tribunal for South-West Scotland from 21 per cent. to 3·6 per cent. The figures for the South-West (23 per cent.) and East Anglia (26 per cent.) had each become less than 6 per cent.

Nor was this rock-bottom: though there was fair stability from then onwards a further decline was to follow as the years passed, until the probability hardened to certainty that some of the Tribunals had made it a matter of policy not to register C.O.s unconditionally except in the most extraordinary circumstances. Nor did the military conscription of single women from December, 1941, onwards have any appreciable effect on the decisions given. For instance, in the years 1941 and 1942 the Southern Local Tribunal gave only one unconditional out of 1,040 cases heard. Addressing a woman Jehovah's witness applicant on September 11th, 1942, Judge Maurice N. Drucquer, Chairman of this Tribunal, was reported to have said: "We are not empowered to give you complete exemption. Only ministers of certain religious bodies are given complete exemption, and yours is not one of them. You must, therefore, do the same as other people—some kind of work of national importance." After the Board had taken up the matter, the Judge made the following public statement at Southampton on October 24th. "In a newspaper report I was stated to have said that the Tribunal had no power to grant complete exemption. . . . If I did say so, I did not intend to say so. We have got power to grant complete exemption to full-time evangelists if we think fit to do so." Nevertheless in the ensuing four years, 1943-6, not a single C.O. was registered unconditionally by this Tribunal! Where there's a will there's a way—but the converse need not be as true.

The Birmingham Weekly Post of October 11th, 1946, though writing unofficially, reflected the attitude of many Tribunal members when it said of the Midlands Local Tribunal under Judge Finnemore:

> Work on the land or in a hospital remains the alternative in most cases where a genuine conscientious objection is established, it being a principle of the Tribunal not to penalise a patriotic lad by allowing those unwilling to fight, or train for fighting, to stay at home and pursue chosen careers. "We have to be very patient", said one member of the Tribunal.

What were the principles applied by the Tribunals in giving or withholding complete exemption? Were Tribunal results, as Bernard Shaw once suggested, unpredictable? Certainly little help was to be derived from the Act, which provided simply that when the Tribunal was satisfied that the ground of the application was established, it should direct either unconditional registration,

conditional registration or registration for non-combatant duties without giving any indication as to when these categories would be appropriate. Doubtless the Tribunals must use their discretion, bearing in mind all the circumstances of the case. This principle of commonsense was expressly confirmed by the Appellate Tribunal on January 18th, 1940, when the Tribunal significantly added: "including if it thinks fit the question of whether the applicant has proved to the satisfaction of the Tribunal that he himself has a well-founded objection to undertaking civil work as an alternative to military service."* But the passing of the Emergency Powers (Defence) Act, 1940, which sought to place person and property completely at the disposal of the Government, and of the National Service Act, 1941, which enabled conditionally (though not unconditionally) registered C.O.s to be called up for Civil Defence, helped the Tribunals to rationalise their reluctance to give complete exemption. Nevertheless, the Appellate Tribunal on October 2nd, 1941, scouted the idea that these Acts had implicitly taken away the power to grant unconditional registration, though it laid down that as a general rule when so many men were engaged on hazardous duties it would be inequitable to allow C.O.s to remain in their present work; that is, they should be conditionally registered. At the same time there were exceptions: unconditional registration was provided for C.O.s who voluntarily devoted their energies so fully to the national cause that compulsion was unnecessary and also those who for physical or other reasons had no energies to devote. A conscientious objection to civil work (i.e. the unconditionalist objection) was a factor to be considered in deciding a case, but not an overriding factor. Even though satisfied that an absolute objection was a "genuine obsession", a Tribunal would not be precluded from registering a C.O. for civil work.†

This, then, is the explanation of some of the surprising decisions of the war years. It was on this basis that C.O.s of great talent in the fields of art, music and literature were given absolute exemption. Occasionally a man who offered to do any civil work outside munitions would be surprised beyond words by being registered without conditions. Similar treatment meted out to the lame, the halt and the blind could be explained in similar fashion. All too often, however, the real unconditionalist left the Tribunal saddled either with a registration condition or with a liability for military

* See Appendix B; Serial No 1.
† See Appendix B; Serial No. 6.

service he was determined to resist. So that not only did some say: "I have been rejected by the Tribunal", but others exclaimed with as much vehemence: "I reject the Tribunal's decision!"

Some Tribunals, faced with an uncompromising absolutist, reasoned thus: "This man has proved a genuine conscientious objection to military service, combatant and non-combatant. He has gone further—he has shown an objection to civil work as a condition of registration. Whether or not that arises from conscience we are not prepared to say, but in any case we do not think this is a case where unconditional registration should be given: this man must either do some form of war-time service like everyone else or take the consequences. He will therefore be conditionally registered." But other Tribunals reasoned in a somewhat different way: "This man claims a conscientious objection both to combatant and non-combatant duties; he also refuses to accept any condition of alternative service. While there is some evidence of conscience in regard to military service, we think that his anti-social attitude to civil work shows that his objection to military service cannot really be conscientious and we therefore remove his name from the register of C.O.s."

Before some Tribunals in 1942-3 the Archangel Gabriel, I am convinced, would have been rejected had he appeared refusing "conditional" service. It was only human for the Tribunals to dislike imposing conditions which the applicants had no intention of observing, but this was no reason for shirking their legal duty, once sincere objection to all military service had been established, of registering the C.O. conditionally or unconditionally. In this some Tribunals were just as obstinate as the "logicians of conscience" who appeared before them. The refusal of any exemption to the absolutist was especially hard on men who applied to the Tribunal during a prison sentence: if they refused to entertain a condition many of the highest integrity were sent back to complete their sentences, perhaps of twelve months; had they been even conditionally registered they would have been released from prison, whether willing to comply with the conditions or not.

What was the position of the rejected absolutists? Those liable for military service, combatant or non-combatant, received notices for medical examination and have been discussed in Chapter 10; but the C.O.s who refused to comply with Tribunal conditions found themselves caught in a parliamentary draftsman's nightmare. Closely following a clause in the Military Training Act, the principal

Act of 1939 provided* that where, on the information of any person, a Local Tribunal was satisfied that a conditionally registered C.O. had failed to observe his condition, the Tribunal should report the fact to the Minister of Labour who was to require the C.O. to apply to the Local Tribunal afresh, when the Tribunal was empowered to deal with him "in like manner as after being satisfied that the ground of his application was established they had power to deal with him on his original application"; if, however, the C.O. did not apply to the Tribunal when required to do so, the Minister was given power to remove his name from the Register of Conscientious Objectors, and to register him for non-combatant duties.

In practice, this meant that somewhat complicated machinery had to be set in motion. Information as to non-compliance with a registration condition was invariably laid by the Ministry of Labour itself, and when this was brought to the notice of the Tribunal the latter was under the Gilbertian duty of formally reporting back the fact to the Minister, which it usually did after hearing the applicant and any witnesses he cared to bring as to whether he was, in fact, complying with the condition imposed. The table in Appendix C shows that, in all, information was laid in 437 cases, 126 of these being in the North Midlands Region centred in Nottingham. 116 C.O.s were found to be already complying with their conditions and the remaining 321 were reported to the Minister for not carrying out the work previously imposed by the Tribunals.

When non-compliance was reported, a further hearing usually followed at which there was discussion as to how far the applicant's failure arose from "obstinacy" and how far from circumstances beyond his control. On the basis of the information thus obtained, the Tribunal could either (a) register the C.O. unconditionally; (b) vary the existing condition, or leave it unchanged, as, for instance, in the belief that the causes which had prevented the applicant from complying no longer obtained; or (c) remove the C.O.'s name from the Register and make him liable for non-combatant duties.

Tribunals varied. Some took the view that, having once found a valid conscientious objection to non-combatant duties, they would not be justified, even though it were legal, in taking away the exemption given, simply because the applicant regarded it as insufficient and insisted on a greater degree of exemption than the Tribunal had seen fit to accord. Others seemed impressed by the fact that if a C.O. refused to make the fresh application required, a Government

* See Appendix A.

official, without further reference to the Tribunal, could forfeit the exemption and reduce the recalcitrant to the least possible exemption consistent with his being a Conscientious Objector ; the logical consequence was that there could be no objection to a judicial body taking a similar step if satisfied it was the right thing to do after full investigation into the circumstances of the case. The position was made even less satisfactory by the fact that failure to comply with a condition was no offence under the Act, whereby a breach of duty was clearly stated to be an offence, and either a specified penalty was provided or the general sanction of a fine not exceeding £5 applied.

In the event, only 2 C.O.s were registered without conditions, 155 were left with registration conditions, original or varied, and 105 were " down-graded " by the Tribunals to non-combatant duties. How many were reduced to non-combatant duties by the Ministry itself is not known, but the total cannot have exceeded 59, the number unaccounted for by second applications. The South-Eastern and South-Western Tribunals never reduced the small number of C.O.s concerned to non-combatant duties, and in the North-East and North-West this power was very sparingly used. But at Edinburgh all applicants were " down-graded " and the North Wales Tribunal spoilt an otherwise sound record by reducing 23 out of 26 applicants. Of these the majority were men whom the Tribunal appeared to accept as having made real endeavours to obtain work of the kind specified. But the London Appellate Tribunal went one better by short-circuiting this complicated procedure, absolutists being reduced to non-combatant duties when they appealed against conditional registration in the first place. Fifteen C.O.s were dealt with in this way in January-February, 1941.

That this unfortunate method of withdrawing men's exemption was discontinued was due in no small measure to the efforts of the Central Board. At the beginning of 1941, Joe Brayshaw, recently appointed Organizing Secretary of the Board, had drawn up a careful memorandum on the subject, arguing as best he could the illegality of " down-grading ", but in case it were legal, continuing with a convincing argument as to the moral indefensibility of forfeiting a recognition of conscience in such circumstances. Joe Brayshaw pressed his case in an interview with Myrddin Evans of the Ministry of Labour on January 25th, when the latter defended the existing system but had an open mind as to the possibility of improvement. So a more formal deputation to the Ministry of Labour followed on March 6th, when Stuart Morris, Robert Egerton, an hon. legal

adviser to the Board, and Joe Brayshaw himself were received by A. Creech Jones, then the Minister's Parliamentary Private Secretary but now a member of the Cabinet, Myrddin Evans and another Official. The Ministry again defended the legality of "down-grading" C.O.s for non-compliance. But when the deputation proceeded to argue that the practice was neither reasonable nor equitable, the Officials countered by asking whether the Board was suggesting that some other penalty be imposed on C.O.s who refused to comply with their conditions. Stuart Morris averred that if there were to be a penalty it would be preferable for it to be specific and appropriate, rather than the implied penalty of a change of status. The Ministry agreed to bear this in mind, and when the National Service Bill (1941) was introduced in the House of Commons on March 19th, 1941, it was found to propose radical changes in the law as to non-compliance.

The reforms of the resulting legislation, which came into effect on April 10th, 1941, introduced a new element of reasonableness, though the penalties for breach of condition of imprisonment up to twelve months or a fine up to £50 or both, with heavier penalties on indictment, were substantial. But if the previous machinery had been involved, the new position was even more so. Procedure differed according to whether or not the Ministry of Labour considered that a C.O. had "reasonable excuse" for not complying with his registration condition. Serious illness, unsuccessful attempts to obtain work of the kind specified and penalization by fellow employees were the main grounds on which the Ministry made its decision. If the Ministry considered that a C.O. had "reasonable excuse", he was recalled before the Local Tribunal, and if the Tribunal were satisfied that he had failed to comply with his condition, *but had reasonable excuse* for so doing, it was to report accordingly and either (a) make no order in the matter (i.e. leave the C.O. registered on his original condition) in the belief that he might later be able to comply; or (b) register him unconditionally; or (c) vary the existing condition or substitute a new condition. On the other hand, if the Tribunal were of opinion that the C.O. *had no "reasonable excuse"*, it made no report and left it to the Ministry of Labour to prosecute. Whatever the decision, the usual appeal lay to the Appellate Tribunal within twenty-one days.

If, however, the Ministry of Labour considered that a C.O. had broken his condition without "reasonable excuse", he could be prosecuted without any reference to the Tribunal or other formality,

though no prosecution could be brought where a Tribunal had decided that " reasonable excuse " for non-compliance existed. And as the section of the Act provided that a defendant should not be guilty of an offence if he satisfied the Court that he had " reasonable excuse " for failing to comply, it was open to the C.O. to prove either that he had not broken his condition at all, and so was not guilty of the offence charged, or that, though he had broken his condition, he had " reasonable excuse " for doing so and was similarly not guilty under the terms of the statute.

It needed no legal training to appreciate the importance of the term " reasonable excuse ". The phrase was used both in the provision for referring cases to the Tribunal and for prosecuting in the Courts, and it seemed reasonable to suppose that its meaning was identical in each case. A struggle then ensued in Tribunal and Court alike to secure recognition under the section for the claims of the unconditionalist Objector. The first prosecution under the new provisions took place at Canterbury on November 13th, 1941, when Leonard E. Fox of Whitfield, Dover, was charged

> for that he being a person conditionally registered in the Register of Conscientious Objectors under section 5 (6) of the National Service (Armed Forces) Act, 1939, did on or about the 12th day of September, 1941, at Whitfield in the county of Kent, fail to comply with the condition on which he was so registered, to wit, that he should undertake full-time work on the land or whole-time civilian ambulance or A.R.P. work, contrary to section 5 (4) of the National Service Act, 1941.

The defendant pleaded " guilty with reasonable excuse " and the prosecuting solicitor volunteered the statement that he knew Fox personally, and also his family, and had no doubt whatever that he was a genuine Conscientious Objector ; nevertheless, the fact that the defendant was undoubtedly doing useful work in a solicitor's office was not in his view a " reasonable excuse ", because C.O.s could not choose their own employment. Asked if he had anything to say, Leonard Fox told the Court :

> I was very dissatisfied with the decision of the Tribunal, and stated so at the time and also confirmed this in a letter which I wrote to the Ministry within twenty-one days of the hearing. I was deeply concerned that I should be afforded full freedom of conscience and having a condition attached was repugnant to me. It means, in short, that I could only be considered to have a conscientious objection providing I did certain work, which to my mind was most absurd, and I could not accept that. Furthermore,

in directing me to undertake certain work, that work was given me as war work and I felt that by complying with the order of the Tribunal I should be contributing to the war effort.

Despite the C.O.'s submission that he had "reasonable excuse" and the prompt denial of the prosecuting solicitor, who, admittedly without instructions, claimed that this applied only to men who were lame or otherwise incapable of undertaking the work specified, the Bench, after a lengthy consultation in private, seized upon the fact that Fox had pleaded guilty (despite his defence of "reasonable excuse") with the result that they must impose a penalty of some kind. So Fox was fined £5 and ordered to pay three guineas costs. Though most sympathetic, the Bench was determined not to lay down any principle that might incur the wrath of the Tribunals. The fine was paid. Nevertheless, about a year later, Leonard Fox through a variety of circumstances decided to comply with a Ministry of Labour direction to land work, a form of employment that was included in his Tribunal condition.

Later in November, Harold Ashurst of Wigan was sent to prison for six months on a similar charge. At Greenwich Police Court on December 5th, however, a determined effort was made to claim on behalf of an uncompromising absolutist, Philip H. W. Couldry, Secretary of the Fellowship of C.O.s, that his conscientious objection to compliance with his condition constituted "reasonable excuse" under the Act. But even the quietly moving eloquence of Gerald Gardiner on Couldry's behalf failed to convince the Bench, and the C.O. was sent to prison for twelve months, a favourite sentence of that Court.

Then came help from an unexpected source. The phrase "reasonable excuse" was as capable of interpretation by the Tribunals as by the Courts, and a decision of the First (London) Division of the Appellate Tribunal on January 22nd, 1942, provided a useful precedent. On that day Geoffrey E. Beck of Cambridge, who had already appeared seven times before the Tribunals through his unconditionalist attitude, claimed that he could not comply with his condition as he felt called to other work incompatible with that directed by the Tribunals. Reversing the decision of the Local Tribunal, the Appellate Tribunal allowed his claim of "reasonable excuse" and so added to his condition as to permit him to continue his studies and do social and relief work on their completion. *The only grounds that Beck had alleged for failing to comply were those of conscience and vocation.*

Nil desperandum was the watchword. A month later a straightforward plea of conscientious objection as "reasonable excuse" was put forward by Robert Egerton on behalf of James Hartley before the Salford Stipendiary on February 24th, but the Magistrate summed up his view of the case in the apophthegm that he saw "nothing conscientious nor any reasonable excuse" in Hartley's attitude. When Beck was mentioned, the Stipendiary pointed to the element of vocation involved, and hinted that if Hartley had not merely refused to carry out his condition but had been able to show a vocation to other work incompatible with it, the defence might have fared better. Hartley was sent to prison for ten months.

The Central Board was not slow to test the Stipendiary's suggestion with a plea of vocation as "reasonable excuse". On March 27th, at Tottenham Police Court, where twelve-month sentences held unrivalled sway, John W. Cowling, Circulation Manager of *Peace News,* who had helped Humphrey Moore to found the paper as a weekly journal of the P.P.U., put forward his sense of vocation as a journalist. After Cowling had given evidence, his solicitor called Humphrey Moore, saying: "Mr. Moore, you are assistant editor of *Peace News,* which is edited by John Middleton Murry?"

Like a stage aside came the voice of the prosecuting solicitor in tones of heavy playfulness: "Why don't you call Mr. Middleton Murry?"

A few minutes later the defence was able to oblige, but despite the evidence in Jack Cowling's favour, the Bench decided, after some discussion, that they could not admit vocation as "reasonable excuse" and for the next six months other arrangements had to be made in *Peace News* offices. That there had been a real chance of success was shown by the confession of a Court official some months later that he had thought a "not guilty" verdict quite likely.

Yet a plea of vocation was allowed by the Northern Appellate Tribunal at York on April 16th, 1942, when Max Walker, a full-time F.o.R. Regional Secretary, was found to have reasonable excuse for not complying with a condition of land, hospital or ambulance work; he was registered unconditionally, the Tribunal apparently being convinced that Walker would make good use of his time in Christian work for the Fellowship.

It was not until February 1st, 1944, that by a majority decision the Bench at Kingston-on-Thames upheld a similar plea by Albert F. Hoffler, a Kingston C.O. who had been given a number of alternative conditions by the Tribunals but felt a calling to become a medical

missionary. "Having this mission in life", he said, "the attitude of the Ministry of Labour seems to be quite contrary to what I believe to be religious guidance." After two doctors from the British Post-Graduate Medical School had given evidence of the value of Hoffler's work as an assistant with the Medical Research Council, the Chairman announced that, by a majority, the Magistrates had decided that Hoffler had "reasonable excuse" for breach of his condition and that the summons would be dismissed. This decision, however, was but as winter sunshine after a rainy summer.

Indeed, on December 11th, 1946, the Lord Chief Justice himself delivered a mortal blow at this whole line of argument when he read the judgment of a Divisional Court of the King's Bench Division in a C.O.'s appeal against a decision of the Bradford Magistrate.* In dismissing the appeal he said:

> ". . . The Magistrate added to his finding in the case: 'I was of opinion that the words of section 5 (4) of the National Service Act: "unless he satisfies the Court that he had reasonable excuse for failure" were not intended to constitute the Court of Summary Jurisdiction a Court of Appeal from the said Appellate Tribunal, and I therefore held that I was not entitled to hear, by way of such excuse, arguments and evidence which had been or could properly have been put before the said Tribunal, and that I was not concerned with any misunderstanding on the part of the Appellate Tribunal, nor could I enquire into what had happened or not happened during the hearing before the said Tribunal, and accordingly I refused to allow evidence to be given or arguments to be addressed to me along the lines indicated in the said letters.' Those are the letters in which this young man had apparently arrogated to himself the right to decide whether his work was more important than the work which he was ordered to do. The learned Magistrate went on to say in the case: 'For the assistance of this honourable Court, I may add that, if I had thought myself entitled to consider such matters, I should have held that a willing worker in the Appellant's present work was of more value to the nation than an unwilling one in directed work, and should therefore have found the Appellant not guilty.'
>
> "It is quite obvious", he went on, "that a reasonable excuse for not obeying the Tribunal order means something which could be regarded as an excuse for this man not doing that which

* In the unreported case of *Corina* v. *Harrison*. The quotation is taken from shorthand notes supplied through the courtesy of the Solicitor to the Ministry of Labour and National Service.

he was ordered to do, such as that, at the time he was summoned, he had never had a copy of the order served upon him and did not know that he had been called up to work because of that failure to supply the notice ; or that he had, for instance, become ill, broken his leg, met with an accident which prevented him from going to work. It is not a reasonable excuse to say: 'I do not like the decision of the Appellate Tribunal and I want some other Court which has not jurisdiction to do it to express the opinion that the Tribunal is wrong'. It is quite clear that the Magistrate was right on the point of law and that the opinion at the end of the Case as to the value of this young man's services has no materiality and has nothing to do with the case."

What some libertarians would say about the phrase "had apparently arrogated to himself the right to decide . . ." is best left to the imagination!

Meanwhile, the list of prosecutions had grown, though the numbers were small compared with those expected. April, 1942, had heralded increased activity in Ministry of Labour circles and by the end of July the hundred mark had been passed. Most of these men had been sent to prison, two, Stanley Chadwick and E. A. Jennings, for as long as fifteen months imposed on them by Quarter Sessions. The reason in each case was undoubtedly—by giving a heavier sentence than the Police Court maximum—to avoid any suggestion of leniency and so deter others from "electing trial". These sentences were not exceeded in any later cases of refusing Tribunal conditions.

Prosecutions against women came somewhat later. By the time they had been called before the Local Tribunal, had appealed to the Appellate Tribunal and been brought to court the spring of 1943 was turning to summer. In drawing deductions from the prosecution of women unconditionalists the words of warning in Chapter 2 should be borne in mind. The majority of these women absolutists were full-time Jehovah's witnesses who declined to turn aside from their work for the coming of His Kingdom, and until March, 1944, the record was shared by two women—Miss Nancy Morgan and Miss B. Heywood—who had each been "sent down" for six months: for magistrates seemed to think it improper to apply the maximum sentence to the young women of good character who appeared before them.

But the Lord Mayor of Portsmouth and those who sat with him on March 21st, 1944, had no such scruples when they sentenced a 27-year-old Isle of Wight girl, Miss Rita Matthews, to twelve months

in prison. Like so many of the others she was a Jehovah's witness (a body which the Court was prepared to admit as "very genuine"). Nevertheless, the Lord Mayor felt constrained to say: "You have deliberately refused to undertake this work and in consequence you leave us no alternative but to give you twelve months imprisonment," a somewhat pompous remark that needed to be taken in the spirit rather than the letter. Rita Matthews was not content to leave it at that—with the help of the Board she appealed to Quarter Sessions claiming excessive sentence. Yet her Counsel, G. R. F. Morris, found it heavy going when he rose to present the appeal before the Recorder of Portsmouth, an elderly lawyer with extensive experience in the Divorce Court. One after the other his arguments were ruled out as irrelevant to the main issue, but, in face of frequent interruptions, he managed to hold his ground for nearly an hour, fighting hard but apparently making little impression. (He told me afterwards he'd never worked so hard in his life.) However, to the surprise of everyone, doggedness won the day: the sentence was reduced from twelve to six months *and the costs of the appeal were to be paid by the Ministry of Labour!* The latter was a most unusual order, for the Ministry had put their case quite properly and had in no way been responsible for the original sentence.

And so the prosecutions went on: one further sentence of six months was given (on Miss Muriel Brown at Oakham, Rutland, on November 6th, 1944), but this was never exceeded, despite the fact that many of the prosecutions were for refusing work in hospitals, an attitude on the part of Christian Objectors that few Benches professed to understand.

In some ways the C.O.s breaking their Tribunal conditions were less fortunate than their comrades who refused medical examination, for a sentence of three months or more enabled the latter to have their objection reviewed by the Appellate Tribunal. No such right accrued to the men sentenced for breach of condition even though the Tribunals had recognized the sincerity of their objection to all forms of military service, so that they had already received much fuller recognition than the others. A suggestion that these men should be allowed a review Tribunal if sentenced to three months or more imprisonment had been made informally when the National Service (No. 2) Bill, which extended the right to "medical" cases, was introduced. But as a matter of deliberate policy these men were excluded from the clause on the ground, fundamental to the Government's whole treatment of the problem, that no general right of conscientious

objection to civil work could be recognized. That was the rock on which the claim foundered.

As more men became due for release, so the possibility of further prosecutions came to the fore. Would a review Tribunal settle the problem? The law was of no avail without the spirit to work it, and the chances of Tribunals giving "unconditional" on appeal from prison were remote indeed: without a radical change of policy, the unconditional registration that Parliament had provided to meet the claims of just such men would be withheld. Again, to have an existing condition confirmed by a review Tribunal after prison would be little more than an incentive to the Ministry to prosecute afresh. For the Central Board had been advised by Counsel that non-compliance with a Tribunal condition was a repeatable offence, the fact that a man had been convicted for non-compliance between particular dates being no bar to further prosecution for a later failure. The shadow of "cat and mouse" appeared dimly in the background.

So much depended on official policy once a C.O. had served his sentence and been released from prison. The line actually taken confirmed the Board in its determination not to press for a review Tribunal: at first a C.O. who had served a substantial sentence was served with a "direction" to some form of work covered by his condition, and was prosecuted if he ignored it; before long this was quietly dropped and, though no declaration of policy was ever made except in the usual non-committal form, a C.O. who had served three months or more for refusing a Tribunal condition was in actual fact left to his own devices. Saddled with a Tribunal condition he might still have employment difficulties but, all in all, his treatment was both generous and wise.

Perhaps the Government felt it could afford to be generous. Too many C.O.s had demanded "unconditional" from the Tribunals when later reflection led them to undertake work the Tribunal ordered. It may be as well that no statistics of those *asking for complete exemption* are available. Having said that I must not be taken to accept the figures given by the Minister of Labour to the House of Commons on May 3rd, 1945, when Ernest Bevin said that, after deducting those who had renounced their registration, at the end of March of that year 24,625 men remained conditionally registered, *of whom 23,046 were reported to be complying with their obligations.* Of the remainder, 1,013 men had furnished satisfactory reasons for not complying, 498 were the subject of further inquiries, 61 were under consideration with a view to prosecution, and 7 were

in prison. *Only 307 men had been prosecuted for non-compliance.* The relevant figures for women were given as 732 remaining conditionally registered with 583 complying. Those who had furnished satisfactory reasons for non-compliance numbered 65; 68 were the subject of further inquiries; 15 were about to be prosecuted and 1 was actually in prison. *Women already prosecuted for non-compliance totalled 84.*

For there was a good deal of "nominal compliance" in 1945 as in 1918. One C.O., registered for full-time Civil Defence, was allowed to carry on his practice as a solicitor, provided he turned out on call with his local A.R.P. a little farther down the High Street. And fire-watching an office each night was tacitly accepted as full-time Civil Defence even though the C.O. concerned did a full day's work as well! After all, Ministry of Labour officials, beneath a sometimes unpleasing exterior, were as human as anyone and in the main took no pride in passing a file to the Solicitor's Department for Court action: for them it was no triumph but a confession of failure.

Yet this cannot obscure the fact that many unconditionalists compromised. Circumstances seemed to change cases, and six years was a long time. Many a man held out against social difficulty and general misunderstanding of his position, until he found on marriage that his wife could not understand why he should make himself a social outcast by a substantial prison sentence for refusing to help, say, the humanitarian work of a civil hospital. If all would be military casualties to be nursed back to health she could understand, but civilian patients and even air-raid victims, no. To her the unconditionalist argument against conscription was just "playing with words" and when at last a friend told the C.O. of a promising hospital vacancy he took it. No one who has not been through the same difficulties should blame him.

Economic as well as personal forces often pulled strongly against the unconditionalist stand. Conscription, too, instead of being a new importation had attained in the public eye a respectability that had an insidious effect on all schools of thought. It has been said that some at least of the absolutists of the First War would not have refused civil work if offered by a Tribunal in the right spirit at the outset, but that for them acceptance of the Home Office Scheme during and after imprisonment was unthinkable; so that the badness of the Tribunals increased the ranks of the extremists, as it were, artificially. Be that as it may, the C.O. movement in 1939 and after had decided otherwise. Its main witness was the witness of service.

CHAPTER 17

CONSCRIPTION IN INDUSTRY

THE time was May, 1940. The military situation had taken new turns of disaster. "The House will be aware", Churchill told Parliament on the 28th of that month, "that the King of the Belgians yesterday sent a plenipotentiary to the German Command asking for a suspension of arms on the Belgian front. . . . The German Command had agreed to the Belgian proposals and the Belgian Army ceased to resist the enemy's will at four o'clock this morning." This surrender of the Belgian Army meant that, to avoid being cut off, the British Army had to cover a flank to the sea over thirty miles in length. Soon the enemy had broken through to such effect that even the Channel ports of Calais and Boulogne had fallen, and only the pier and the beaches of Dunkirk remained. The unexpected evacuation of nearly three hundred and fifty thousand men was the sole consolation for the loss to German arms of the Continent of Europe. France still held, but for how long no one knew.

This was the background in which the Government turned to mobilize the resources of the nation for total war. German preparations for invading Britain were well advanced and Parliament was in no mood for half-measures. A Bill to amend the Emergency Powers (Defence) Act passed at the outbreak of war became law in a day* and under this Act the Crown could make Defence Regulations requiring the people so to place themselves, their services and their property at the disposal of the Government as appeared to be necessary or expedient for securing the public safety, the Defence of the Realm, the maintenance of public order or the efficient prosecution of the war or of maintaining essential supplies or services.

The same day a stringent Order in Council was issued, introducing a power of conscription—the well-known Regulation 58A—under which the Minister of Labour could "direct any person in the United Kingdom to perform such services within the jurisdiction as might be specified in the direction, being services which in the opinion of the Minister the person directed was capable of performing". In issuing directions the Minister was to have regard to the trade union

* May 22nd, 1940.

and other usual wage-rates. Power was also given to the Minister to make Orders regulating the engagement of workers and the duration of their employment.

This was industrial conscription with a vengeance, an almost unlimited power that must have made the socialist pioneers turn in their graves. Throughout the First War freedom of service in industry had been jealously guarded, and not only had attempts to impose compulsion been successfully countered but even the latent threat in military conscription had been fought with the greatest tenacity, the high-water mark being the inclusion of the so-called "industrial conscription clause" in the Military Service Act, 1916. Though in the latter part of the war there was wide regulation of industry, at no time was there civil conscription.

At first, however, the Government did not proceed to a wide use of their powers, though National Service Officers had been appointed to "direct" on the Minister's behalf. A careful start was made by issuing Orders calling upon various classes to register for war-work. First came engineers and scientists, then chemists, physicists and quantity surveyors not already in important work.

But this extension of registration from the military to the industrial sphere, largely the work of Lord Beveridge and G. D. H. Cole, raised important problems for C.O.s in the classes affected. Registration was obviously to further the war-effort and the possibility of being directed to work connected with the war seemed a real one. Again, the Order under which the registrations were held contained no conscience clause. Opinion among C.O.s varied, as it always had, between refusing to register at all under an Order the purpose of which they heartily condemned, registering with the reservation that any war-work required would be refused, and registering without qualification but refusing any work that might offend their scruples of conscience. But when Stuart Morris explained the difficulties to the Ministry of Labour he was told on August 29th that the purpose of registration was not merely to find men for war-work but for essential work of all kinds—for instance, older skilled men were needed to keep peace industries going. The Government realized that some C.O.s would still object on the ground that this might help to release other men for the Army, but the point could not be met. The question of conscientious objection had been considered when the Orders were drafted, but the authorities could see no case for exemption as the Government was trying to find skilled men for civilian as well as war work.

Though this peacemeal registration continued, new and wider registrations seemed a political certainty. The Central Board decided to press the Government to accept a statutory declaration of conscientious objection as a ground of exemption, first, from compulsory transfer to war-work, and secondly, from compulsory change of job.

The pressure for recognition of conscience came from four principal quarters. At a meeting with Ministry of Labour representatives on February 13th, 1941, the Board's Public Relations Officer continued to press for C.O.s to be given an opportunity to state their position when registering, but this suggestion was turned down for the same reason as before—that the registration was for employment generally and not simply for munitions. In a written reply after the meeting the Ministry went on to make this important announcement :

> No new compulsory powers are being taken to direct people to take up specified work. These powers have existed and have been exercised since last May. In the exercise of these powers for the future, however, the Minister has decided that there shall ordinarily be a right of appeal to independent Local Appeal Boards, which are to be constituted as soon as possible. This constitutes a limitation on, rather than an extension of, existing powers.
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> This Department will endeavour to use its powers of direction reasonably and it is not the Minister's intention so far as it can be avoided to direct persons to perform services against which they have genuine conscientious objections. If, however, the National Service Officer should direct a pacifist to take part in the manufacture of munitions against which he has a conscientious objection, it would be open to him to lodge an appeal and though such objection would not be a specific ground of exemption, the Appeal Board would no doubt take it into account in arriving at their conclusion.

So an objection to making munitions, at least, was to be recognized. Further inquiry as to how the Ministry could be sure that Local Appeal Boards would take conscience into account in such circumstances elicited this further note dated April 17th :

> I am desired by Mr. Bevin, in reply to your letter of 1st April, to say that there is no limitation on the matters which a Local Appeal Board may take into account when appeals are made against directions given by National Service Officers to persons to take specified work. The Minister has no power to issue instructions to Local Appeal Boards and he is satisfied that it is

undesirable and unnecessary for him to communicate with them on the one question of conscientious objection. He cannot see any reason for supposing that Appeal Boards would rule that grounds of conscience are out of order.

Persons directed to take specified employment will be informed at the Employment Exchanges of their right to appeal and will be provided with the necessary forms for this purpose.

Next came activity from the Parliamentary Exemptions Group led by Dr. Alfred Salter and Cecil H. Wilson. But they fared no better, the latter being told exactly the same as the Board.

The third line of action was through Canon Charles E. Raven and the Rev. Henry Carter, who, on April 4th, wrote to Dr. Temple, then Archbishop of York, asking him to press for specific instructions that genuine conscientious objection should be admitted as a ground for refusing war-work. Four days later Dr. Temple replied:

> I had already been in correspondence with Mr. Bevin before your letter came, and I had thought his answer to me fairly satisfactory; certainly it was more satisfactory than his answer to Mr. Wilson, but only perhaps in so far as it was less explicit. There is of course a difference between legislation and Orders issued by the Government: what we are now dealing with is one of the latter. It is in that way different from the Military Service Bill, and the extent to which it will be used is still entirely unknown. I agree that directions ought to be issued whereby conscientious objection—e.g. to taking part in the manufacture of munitions—ought to be a specific ground for exemption from that service, and we ought not to be left with a vague statement that the Appeal Board "would no doubt take it into account". I will see what I can do to get this cleared up.

But perhaps the most cogent of all the representations came from the fourth source, the Society of Friends. In correspondence extending from the end of February to the beginning of April,* Stephen J. Thorne, Recording Clerk of the Society (he was also Vice-Chairman of the Central Board) put three main points: (1) that conscientious objection should be a specific ground of exemption; (2) that facilities should be provided for stating a conscientious objection at the time of registration; and (3) that the Appeal Board or other tribunal machinery should have among its personnel those who, while not necessarily sympathetic, nevertheless understood and

* The correspondence is printed in full in *Reports and Documents presented to London Yearly Meeting, 1941*, at pp. 169-73.

were themselves prepared to recognize the validity of a claim to conscientious objection to war industries: experience had taught the Society that conscience could secure effective recognition only when treated as a specific ground of appeal by a separate tribunal and not as one of a variety of "hardships". But these proposals did not fit in with the official idea of the fitness of things: there was, the Ministry claimed, no necessity to set up special machinery to deal with hypothetical cases which were most unlikely to arise if the Order was administered as promised. But, nothing daunted, the Quakers had the last word by stressing this truth—the very fact that the purpose of the Order was the more effective organization of labour power for war industries would, of itself, create difficulties for many who would feel an objection to such form of compulsion as well as an inability to undertake alternative service under such direction.

By this time the threatened Order had been made: for on March 15th the Registration for Employment Order, 1941,* was issued by the Ministry of Labour. All British subjects in Great Britain were affected, except those classes exempted from call-up under the National Service Acts. It did not, therefore, apply to members of the Armed Forces (other than the Home Guard) or to the clergy, regular ministers of a religious denomination, lunatics, mental defectives and the blind. The Ministry could specify any class of persons and call on them to register, usually at Local Employment Exchanges. For example, the Ministry might require a whole age-group of men and women to register or might limit the registration to those in a particular area or occupation.

In a very adequate explanation of the arrangements under the Order, the official *Ministry of Labour Gazette*† gave this summary of the objects of the Registration Order which it is not easy to square with the Ministry's repeated protestations of innocence:

> The purpose of this order . . . is to enable a survey to be made of the available labour force in the country with a view to selecting those who are likely to be useful to the war effort, whether they are in employment or not. For those in employment the question is whether they can more usefully be employed on some other more essential work. The needs of the Armed Forces, including the Women's Services attached to the Forces, and the programme of the Production Departments are such that very large numbers of men and women are required. On the

* S.R. & O., 1941, No. 368.
† March, 1941.

other hand, the numbers of unemployed registered at Employment Exchanges who can properly be regarded as suitable and available for new work are now so low that new sources of supply must be looked for.

The first registration under the Order was on April 5th, when most men of forty and forty-one had to attend their Local Exchanges. The first class of women was of those born in 1920, who registered after a fortnight, while the later age-groups, both of men and women, followed at steady intervals, until by September, 1942, men born as early as 1892 had been registered and little over a year later women born in 1893. These fifty-year-olds were the oldest groups to be registered, though at the other end of the scale, half-yearly registrations of " women " attaining eighteen were continued until July, 1945.

If people registered it did not necessarily follow that they would have to change their jobs. Unless it was clear that a person was already doing work of great value to the national effort or, in the case of a woman, had exceptional domestic responsibilities, he or she was called to a " selection interview " at which further particulars were taken and an opportunity was given to explain any personal circumstances which would prevent transfer to more vital work. It was on the basis of this interview that the decision was made whether a person should be sent to work of greater national importance.

Interviews were usually held at Employment Exchanges by National Service Officers and, particularly in the early days, complaints as to the way in which they were conducted were not infrequent. Unfair pressure upon young women interviewed, through excess of zeal on the woman interviewer's part, was no unusual occurrence. Although in those days the Women's Services were on a purely voluntary basis, young women were often urged at their interviews to join one of the Services in a way that was later officially admitted to be objectionable. Nevertheless, some freedom of choice was allowed, the aim being to place men and women in vital work to which they were most attracted (or least unattracted). The interviewer tried to get the person concerned to agree to a particular type of work at the interview, and time to decide was often allowed. Directions were not given immediately but those who did not take up work of the kind indicated were later " directed " to do so.

Those unfortunates who received directions had a right of appeal to a Local Appeal Board consisting of three members, one chosen after consultation with employers, another after consultation with trade union interests, and an independent Chairman appointed

by the Ministry of Labour. Women members were included for women's appeals. The decision of the majority was the decision of the Board. Appeals had to be made in writing within four days of the direction, forms for this purpose being obtainable from any Employment Exchange, but a letter or other note sent with the intention of appealing was sufficient. Appellants could either state their case in person or be represented by a trade union official but not by a barrister or solicitor. Witnesses could be called in support of the appeal, but the Board could decline to hear them. In most cases letters and statements from friends were also allowed.

Even so, the whole question of appeal was administrative rather than legal: all that a Local Appeal Board could do was to recommend to a National Service Officer that the direction should or should not be withdrawn. This had two important consequences. First, these recommendations, like those of the Advisory Tribunal, were not divulged even to the men and women concerned, the theory being that all they were entitled to was official notification of the National Service Officer's decision after taking into account the Board's recommendation. Secondly, it was always open to the National Service Officer to decline to accept the Board's recommendation, and there was no means of finding out when the recommendation had been accepted and when rejected. In practice, the Boards frequently failed to convince observers as to the judicial character of their procedure, and I know of men and women returning from a hearing boiling with rage at the high-handed way in which the proceedings had been conducted.

The Ministry of Labour might not have been able to "see any reason for supposing that appeal boards would rule that grounds of conscience were out of order" but the Boards themselves were not slow to do so. Indeed, some seemed to resent any suggestion that conscientious objection might come within their terms of reference and refused point-blank to hear any argument on the point. In the nature of the case it was difficult to find any clear-cut decision that could be quoted as a precedent for the acceptance of conscientious objection; in most cases personal circumstances of various kinds were included with the principal ground of conscientious objection and it was impossible to find out the relative importance attached to each ground of appeal either by the Appeal Board or the National Service Officer. In the earlier days there were obvious cases of error where pacifists had been ordered to munitions and similar work, the directions being withdrawn after an appeal hearing. However, most of

the C.O.s directed were left with the straight choice—to comply or refuse.

Those who refused were handled with circumspection and restraint. Public opinion, particularly in trade union and Labour circles, was not happy about industrial conscription, and the whole business of enforcement was administered with great care lest the public should get wrong ideas from frequent press reports of prosecutions. And C.O.s in the main were reputable citizens; prosecution of the women and older men of the movement was not to be lightly undertaken. In September, 1941, it was announced that there had been 47 prosecutions for refusing directions and that 68 further cases were pending. None of these were of C.O.s in the orthodox sense, though one man, John Heathcote of Denaby Main, claimed a conscientious objection to work in a particular pit for refusal of which he was "sent down" (in another sense) for three months.

The first prosecution of a Conscientious Objector to war was that of G. Hylton Bartram, a Sunderland shipowner and well-known F.o.R. worker, who had registered under the Registration for Employment Order at the age of forty-three. From his firm, of which he was managing director, Bartram had retired because of its connection with the war and, after several interviews, the Ministry of Labour directed him to land work under the Durham County Council which Hylton Bartram, "not knowing whether to laugh or cry at the stupidity of the whole business", refused to do because, had it not been for the war effort, he would never have been required to do it. In due course this C.O. was prosecuted for his refusal and, with his natural dignity and near-white hair, must have been an imposing figure as he told the Sunderland Magistrates on December 19th, 1941, of his conscientious objection. After an able speech by his Counsel, J. Harvey Robson, Bartram was sent to prison for two months in the second division.

Less than three weeks later came a striking event, though one that had long been inevitable. A woman Conscientious Objector was sent to prison. She was Constance E. Bolam, a Newcastle-on-Tyne unconditionalist, twenty-one years of age and housemaid to a Miss Kitty Alexander. Fate seemed to call C.O.s to distinction with a fine disregard of social position, for *Miss Bolam was the first woman to be sent to prison as a Conscientious Objector in Britain in either the First or Second World War,* though many were to follow. Miss Bolam had been directed to work as a ward-maid at the local Eye

Infirmary, but she told the Newcastle-on-Tyne Magistrates on January 7th, 1942, that she disagreed with war in any shape or form and would not take up any work she was conscribed to do; she would never have been required to work in a hospital but for the war and, though the work itself seemed unexceptionable, it was for the better organization of the war effort. Miss Bolam was fined 40s. She refused to pay. She was sent to Durham Prison for a month where she spent her working hours in the laundry helping to clean prison clothes, with occasional spells of cleaning out the prison chapel. To this C.O.'s secret amusement she was asked to knit socks for soldiers as her cell task, but when she said that she hadn't come to do work for the Army she found herself with no cell task at all for the whole of her month's stay in the Cathedral City. When the allotted time was nearing its end the authorities seem to have thought some demonstration likely on her discharge, and to avoid any publicity Miss Bolam was quietly released two or three days in advance.

On the registration of women the situation was even more striking, for when Bevin had been asked in the House of Commons on December 11th, 1941, how many women who failed to register had been prosecuted, he replied mildly that no cases had yet come to his notice in which there appeared sufficient ground for prosecution. This was early in the story, but nevertheless, though many C.O.s among the women and older men refused the industrial registration, only one was prosecuted for not registering. She was Miss Kitty Alexander (mentioned above), who was prosecuted at Northumberland Petty Sessions on December 2nd, 1942. Miss Alexander came of a well-known family of left-wing war-resisters, and when charged with failing to register with her age-group pleaded "technically guilty but morally not guilty". The prosecuting solicitor submitted that the Court ought not to take into consideration that the defendant claimed to be a Conscientious Objector "because such cases were dealt with by Tribunals". A fine of £5 was imposed and when Miss Alexander quietly but firmly declined to pay, a month's imprisonment was substituted. (The prosecution also cost Miss Alexander her job; she was dismissed from her post as cashier in a local insurance office.) As she was being led down to the cells beneath the Court, a sympathizer spontaneously cried out: "Freedom is in peril, defend it with all your might!"

One reason why other C.O.s were not prosecuted was that failing to register was not really a substantial offence as the personal details required for the register could usually be obtained either from other

sources or by calling these "trouble-seekers" to an interview, of which more will be said later.

Though by mid-1942 there had been under three score prosecutions of women and older men on the industrial side—a phenomenally low total—these cases brought out with new clarity a struggle that had started in 1940 and was to continue through most of the emergency. This was the under-surface conflict between the National Service Acts and the Defence Regulations. Under the former most men and many age-groups of single women could be liable for military duties with reinstatement rights, other privileges, and gratuities at the end, together with the benefit of a conscience clause allowing Tribunal hearings, while under the latter the whole of the country became liable for direction to civil work without reinstatement rights, with few of the privileges of the Forces, little chance of gratuity, no conscience clause and no Tribunal.

Against many men and women these two bodies of law could be operated at the choice of the Government, which occasionally endeavoured to operate both. Yet in some cases it worked very hardly. For if people were being dealt with only for industrial direction, it was immaterial that they were of an age proclaimed as liable for military service and so in other circumstances might have secured unconditional exemption from a Tribunal, *in which event they would not in practice have been "directed" at all,* though they were not exempt from the liability.

So Miss Esther Turrie of Colchester, a 23-year-old Jehovah's witness, was sent to prison for a month on February 24th, 1942, and Miss Louisa Hercock of Southgate, a year her junior, was sentenced to three months imprisonment and a fine of £25 on March 6th. As the latter refused to pay the fine, her sentence was increased to a total of six months imprisonment which she served in Holloway. Petitions for the release of both these C.O.s were rejected by the Home Office and representations both as to the prosecutions that had already taken place and on the general issue were made to the Ministry of Labour. And this approach was supported by a Parliamentary Question in the name of T. Edmund Harvey on March 26th. Eventually the Ministry agreed that all men and single women C.O.s who were of proclaimed ages were entitled to register as Conscientious Objectors to military service even in advance of their age-groups if they wished to do so, and it was further agreed that in all such cases the question of industrial direction should be held over until a final Tribunal decision had been arrived at. Had

this right been admitted earlier there would have been no need for Miss Turrie, Miss Hercock and others to go to prison. In fact, on registering as a C.O., Miss Turrie was registered unconditionally at Cambridge; Hylton Bartram was treated similarly at Newcastle, and neither was troubled further.

But the matter did not end there, for exactly the same position arose a few months later, in relation to a young Quaker girl *below the minimum age for military service*. The age-limits for compulsion into the Women's Services were 20-31 but industrial directions were applied to women as young as 18. Now Mary Cockroft of Sowerby Bridge was only nineteen when she was directed from her work for a local Co-operative Society to be a wardmaid at the Victoria Hospital, Keighley. Consequently there was no possibility of her registering as a C.O. and having a Tribunal. She refused to go and for her pains was fined £10 (with ten guineas costs) at Halifax on July 1st, 1942. This was paid anonymously on her behalf. The local office of the Ministry were not satisfied with this but proceeded to issue another direction to a local hospital. Another summons followed and Mary Cockroft was fined £20 or two months in prison. She chose the latter. Many were sympathetic to this young Friend and on October 22nd Cecil Wilson put a carefully worded Question to the Minister of Labour about her treatment by the authorities. For not only had she been twice prosecuted but only an accident of age prevented her appearing before a Tribunal like many of the other women. Replying for the Minister, Malcolm McCorquodale admitted to an interest in the case which had arisen in his own constituency! Defence was forthcoming from another quarter, for in the House of Lords on March 2nd, 1943, the Duke of Bedford said with his customary vigour: "I have seen this girl. She is a mere child, a simple and sincere person, and again I say that such a prosecution, especially of a member of the Society of Friends, is iniquitous. . . . The only adequate remedy for this state of affairs is the recognition of conscientious objection to industrial conscription. . . ." Though the direction was not formally withdrawn, Mary Cockroft, now Mrs. Ken Sheppard, was not troubled further by the powers that be.

Overlapping between the National Service Acts and the Defence Regulations also appeared in other circumstances. Detailed discussions took place, and in June, 1942, the Ministry of Labour authorized the Board to publish in its *Bulletin* this statement of policy at points of conflict:

1. All men and women within the classes liable to be called up for military service whose age falls within the range of those proclaimed as so liable have the legal right to register as Conscientious Objectors to military service whether their particular age-group has in point of fact been called up or not. In the case of women it will be noted that this does not apply to married women as they are not liable to be called up for military service.

2. Where persons exercise their right to register as Conscientious Objectors in advance of their age-group being actually called up for military service, their cases will not ordinarily be put to Conscientious Objectors Tribunals until the question of their being called up for military service arises. Nevertheless, if such persons demand that their cases should be put to a Tribunal, this will be done as quickly as possible.

3. The Ministry take the view that registration as a Conscientious Objector to military service, and the provisions of the National Service Acts relating to conscientious objection, do not affect the power given to the Minister and to National Service Officers under Defence Regulation 58A (1) to direct a person to perform such services as in his opinion the person is capable of performing, and the Department holds itself free to issue directions under this Regulation to persons who have registered as Conscientious Objectors to military service, whether or not their cases have been decided by a Conscientious Objectors Tribunal.

4. It is not the intention of the Minister in cases where a Conscientious Objectors Tribunal has granted conditional exemption to direct the person concerned to perform services which would be at variance with the conditions on which exemption has been granted or to continue such a direction if it has been given. In the case of Conscientious Objectors who have been granted exemption from military service without conditions, they must be regarded as available for civil employment and no guarantee can be given that they will not receive directions.

5. The Minister's undertaking that persons who have a conscientious objection to war will not be directed to take part in the manufacture or handling of munitions or other work closely connected with the military side of the war effort stands. There is ample scope for such persons to render service in such occupations as agriculture, the food industries, or the hospital services.

6. In cases where a Conscientious Objector is awaiting the hearing of his or her case by a Tribunal, the question whether meantime a direction under the Defence Regulations should be

given is a matter of administrative convenience and not one of principle, and will be dealt with accordingly.

In addition to the Turrie-Hercock type of case, two other points of argument were intended to be covered by this statement—the directing of C.O.s already tied by Tribunal conditions and the directing of those unconditionally registered. Conditionally registered C.O.s could undoubtedly have been directed to work outside their Tribunal conditions. (In exceptional cases this sometimes happened, though the position was invariably rectified when the circumstances were drawn to the Minister's attention.) However, if such a C.O. failed to take up work covered by one of his Tribunal conditions within a month, he might well find himself served with an industrial direction to a particular job covered by the conditions. And refusal to obey meant added penalties.

Sometimes it was even more serious. For in other cases the Ministry took it upon themselves to direct C.O.s *already complying with one of their Tribunal conditions* to work comprised in an alternative condition. For instance, a C.O. registered conditionally on doing "full-time work in forestry, on the land or in a hospital" who took a clerical post in a hospital might be directed to work as an agricultural labourer, for the Ministry sometimes considered that, though a C.O. might be technically complying with his conditions, he could be more usefully employed in other work specified. With a view to remedial action by the Ministry, County War Agricultural Executive Committees were not backward in reporting their dissatisfaction with the acreage or staffing or production of holdings in which C.O.s were concerned; communal efforts, in particular, did not always commend themselves to the unphilosophical farmers on the Committees. From time to time strong representations were made by the Board against this practice, the Minister's argument invariably being that if Tribunals exempted men from military service on condition that they performed specified work it was reasonable for him to see that such work was performed in the way that best served the national interest. And from that position no amount of argument could shift him.

So much for "conditional". What of "unconditional"? Though the right to be registered as a C.O. without conditions had long been a distinctive feature of British law, the rise to prominence of "directions" to industry constituted a clear threat to its substance if not its letter. Powers under the Defence Regulations were completely independent of those under the National Service Acts, and

it would have been possible to "direct" all C.O.s registered without conditions even to work (such as full-time work on the land) normally given as a Tribunal condition.

Careful watch was kept on the position and representations were made to the Ministry with a view to preserving the value of "unconditional". Early in 1942 interest was immediately heightened by the direction to wood-loading and stacking under the Ministry of Supply of J. Peter Grant, a 24-year-old C.O. from Ringwood, Hants, who had been unconditionally registered by the South-Western Local Tribunal in May, 1940. This was the first case of an unconditionally registered C.O. being "directed" to vital work, though Grant's work as a philosophical psycho-analyst (he made free use of rubber stamps bearing such words as "Practical Worthwhile Living", "Main Subject: Happiness" and "Cancel if Illegal") seemed to indicate that the Ministry might consider that special circumstances existed.

Though in its official statement the Ministry had declared that unconditionally registered C.O.s must be regarded as available for civil employment and had declined any guarantee that they would not receive directions, it was obvious that a great difference might lie between liability to direction and actual compulsion. If the Ministry had decided privately not to "direct" C.O.s unconditionally registered, it was surely unlikely to publish the fact! Nevertheless, the Board was able to take the matter a little further. For even at the time of the official statement steps were being taken to direct a master at the Bluecoats School, Ewart Bambury (who had been unconditionally registered as early as November, 1939) to land drainage work, despite the vigorous opposition of his headmaster. When this was referred to the Ministry's headquarters, the Board was told that it was not the Ministry's intention to review all cases of unconditionally registered C.O.s with a view to their direction to work, but in individual cases where a direction seemed desirable the Minister would exercise his power. Bambury himself was not to be directed. In practice, the cases where directions of this kind were given could probably be numbered on the figures of one hand, the main reasons in those cases being that an unconditionally registered C.O. had been unemployed for a long time or that his registration had been procured by fraud, as for instance by the deliberate production of false evidence to the Tribunal.

Apart altogether from conscience, Regulation 58A had not been working smoothly, and on December 18th, 1941, an Order in

Council* had been issued to close up the cracks. In the first place, unconscientious persons had sought to escape their directions by complying for a short time and then leaving for more congenial work. So a new paragraph was added to the Regulation providing that a direction was to continue in force until varied by a subsequent direction or withdrawn by the Ministry. Next, it was not quite clear whether a person convicted of failing to comply with a direction could later be prosecuted again for continuing to refuse, though the Ministry of Labour could always serve him with another direction. So the Regulation was amended to provide that for such continued failure after conviction a person should be liable, in addition to the usual penalties, *to a maximum fine of £5 a day while the default continued!* This provision was not quite so harsh as it seemed, for the maximum imprisonment which could be imposed for refusing to pay a fine of any amount—apart from black market offences—was three months. Nevertheless, the situation was serious, for the Regulation would obviously be a potent weapon in the Minister's hands in reducing an obstinate minority to compliance.

But so far as C.O.s were concerned, the provision was little used. Though proceedings may have been threatened in other cases, only one prosecution took place. The victim was Mrs. Alice M. Stubbings, who at Tunstall Police Court on April 2nd, 1942, had been fined £2 with two guineas costs for refusing a direction to work as a hospital cleaner. She refused to pay. Less than six weeks later Mrs. Stubbings was to be found at Court again, on a charge that "having been convicted . . . for failing to comply . . . she did continue to fail to carry out the direction". As a result this Objector was sent to prison for three months, while the fine and costs of the earlier hearing were commuted to 28 days imprisonment to run concurrently with her sentence. As this might herald a change of policy, the Central Board was not slow to protest against the Minister's action, but possibly the whole business was due solely and simply to excess of official zeal in Staffordshire.

A third amendment to Regulation 58A proved of greater importance, and from quite a different aspect—the position of employers. For unless an employer had incited a person to avoid national service, he himself had been under no liability even if the employee had been directed to other work. An amendment to the Regulation now made it an offence for an employer knowingly to employ a person directed elsewhere without the written permission of a National

* S.R. & O., 1941, No. 2052.

Service Officer. This was an acute move, for most employers had to rely on the local offices of the Ministry of Labour for staff and a telephone call from the National Service Officer was usually sufficient to bring employers to heel: the threat of prosecution was only half the penalty. Many an unconditionalist C.O., with a "direction" to industry, was refused work by an otherwise sympathetic employer who dared not risk falling foul of the Ministry, perhaps in fairness to his fellow-directors, his partners, or ultimately his customers. The economic pressure that resulted is not hard to imagine.

From an early date men and women who wanted to stay in their present work had sometimes refused to attend the selection interview, much to the embarrassment of the National Service Officers who were powerless to compel attendance. For, on the one hand, it was seldom possible to decide on a person's suitability for work from the registration particulars, and on the other, directions given irrespective of suitability were apt to create more trouble than they were worth. A similar position had arisen with the men and women, C.O.s among them, who refused to register. Accordingly, the same Order in Council as that already mentioned introduced a new Defence Regulation, Regulation 80B, which empowered National Service Officers "for the purpose of determining whether any and if so what direction ought to be given to any person in Great Britain under any of these Regulations" to direct a person to attend for interview.

This Regulation had a direct effect on policy. As we have seen, proceedings were not taken against those C.O.s who refused to register under the Order. But as time went on they were directed to attend at an Employment Exchange for an interview to discuss the possibility of direction. If they attended they might persuade the Ministry not to issue a direction—though there was the much more likely alternative that a direction to work would be served on them. If, however, they refused to attend, no direction to work would be issued but proceedings would be taken for their refusal to attend for interview. On this head there were 57 prosecutions of women C.O.s, of whom 31 went to prison. Men prosecuted numbered only 33, their main liability being for the Forces.

The same Regulation gave National Service Officers power to direct a person to submit to medical examination by a doctor selected by the Ministry with a view to deciding if a direction to industry should be issued. This power was sparingly used and only 37 men C.O.s and 4 women were prosecuted.

Comparatively few C.O.s—men and women—stood out against

direction to civil work not directly connected with the war, as, for instance, on the land, in a hospital or in food distribution, and many of those who did were Jehovah's witnesses dedicated to Divine service. In most cases an important incident of legal proceedings is to deter others from taking a similar stand; but in the case of women the cardinal principle was to keep ever before the public mind the virtual unanimity of the womenfolk of Britain in their determination to make all possible sacrifices, in support of their husbands and sons, to achieve the unconditional surrender that was the Government's only war aim. Any minority views to the contrary were to be kept in the background. And while public opinion found that justice had been done and the law vindicated when a mere man was tried and sentenced for refusing war-time duty, there was often a general feeling of sympathy, irrational though it might be, with those women who suffered the same fate for the same stand. So the velvet glove was much in evidence.

For refusing directions to work 257 women C.O.s were prosecuted, 15 being summoned twice and as many as 214 going to prison. Miss Mildred Knowles of Preston went to prison for a month and later for six weeks, and Miss Betty Brown of Scunthorpe served two separate months. (The latter had been told by Sir Gilbert Jackson at the Appellate Tribunal that she would be ranked with the martyrs and could go to gaol, but they had no lions or tigers.)

Though the Minister claimed that little difficulty had arisen in the transfer of labour, direction to work had been anything but popular in the war years. For example, on September 23rd, 1944, Lord Citrine, then General Secretary of the Trades Union Congress, said bluntly that people would not stand for industrial conscription after the war; inducement and not compulsion was the thing needed. And on November 2nd following, Congress sent a circular to affiliated organizations in more polite language but to much the same effect.

That the Government had a good deal of sympathy with this view appeared from a White Paper* issued in November, 1944, in which the Government stated that its aim was to effect the necessary redistribution of man-power as far as possible on a voluntary basis and to narrow the field of compulsion to the strictest limits; while it was essential to maintain the power of direction in the interim period, the official intention was to dispense to a great extent with the use of

* Re-Allocation of Man-Power between Civilian Employments during any Interim Period between the Defeat of Germany and the Defeat of Japan; Cmd. 6568.

direction in favour of indirect control. "In fact", the White Paper concluded, "it is hoped to dispense with its use completely at an early date." Accordingly, the Cease Fire in Europe, sounded on May 8th, 1945, saw relaxations in the issue of directions, and when seven months later the Minister of Labour made a detailed statement on labour controls, it was found that as from December 20th, 1945, directions were only to be used in industries and services of high priority or in a few cases where they were needed for carrying out the Essential Work and similar Orders. No further registrations of women were to be held.

But the roots of Regulation 58A were deeper than had been suspected and in due season new growths were to come about through the economic strain of the transition to peace.

CHAPTER 18

CONTROLLING LABOUR

DURING the war everything capable of control was controlled by the State in the interests of the war effort, and to this the work of hands and brain, the people's main asset, was no exception. In the preceding Chapter we saw how men and women were "directed" to employment, this being the type of control most easily recognized. But in fact the labour-market was regulated from top to bottom by restrictions of various kinds.

I

Most of these regulations were creatures of the war, but one in particular had been carried forward from the days of peace and unemployment. This was the withholding of unemployment benefit from those who in one way or another refused to toe the line, and, as the war footing of the nation greatly reduced the number of jobs which C.O.s could undertake without violation of their principles, so the importance of the subject increased. Men and women insured under the Unemployment Insurance Acts were entitled to benefit when they were out of work, but other conditions apart, there were two special disqualifications that could usually be relied upon to arouse ill-feeling even when a man could show that he was available for work. The first was this: a person drawing benefit could have his meagre allowance stopped if he either lost his job through misconduct or voluntarily left his work without just cause. Secondly, a person was similarly disqualified if the Ministry of Labour proved that he had without good cause refused or failed to apply for a suitable job notified to him by an Employment Exchange. Disqualification, which was for a maximum period of six weeks, could be imposed by an official known as the Insurance Officer, subject to the claimant's right to have his case referred to a Court of Referees. In certain circumstances an appeal against this Court's decision could be made, either by the claimant or the Insurance Officer, to an Umpire whose decision was final.

Actions prompted by religious conscientious objection had always been recognized under the Acts. Recognition was not limited to an

objection to work connected with war, though an objection to working on munitions had early been admitted, but included a religious objection to working on Sunday or on the Jewish Sabbath or on licensed premises. All such objections, however, must be honestly held; and further, they must not be "extravagant".

For when a person's actions were extravagant, even though prompted by conscience, no allowance was made. For instance, in a 1940 decision* a "leather buffer" left work, having been asked to resign because he objected to working on orders connected with the war. This C.O.'s claim was disallowed on the ground that he had voluntarily left his employment without just cause, and he was disqualified for receiving benefit for the maximum period of six weeks. The Umpire did not consider that the claimant left his employment on conscientious grounds, and pointed out that even if he had done so the objection was extravagant. "The claimant's work was so far removed from participation in warlike service that, even if he had a conscientious objection to war, he was not justified in leaving his employment. Had the claimant been employed on the manufacture of munitions of war different considerations would apply." In other words the work was not sufficiently close to the war effort.

A similar principle was applied in another case† in which a C.O. had been dismissed for misconduct because he refused to take part in A.R.P. drill. He was a pacifist and a member of the P.P.U. and claimed that it would be against his principles to take part. But the Umpire decided that it was not sufficient for a claimant to say he had a conscientious objection to doing what was required of him: he must show that it really did conflict with the principles on which his objection was based. In the particular case before him the claimant had failed to show that A.R.P. drill was in this category and accordingly he was disqualified for benefit because he had rendered himself unemployed by refusing to obey instructions legitimately given by his employers. This restricted interpretation of the scope of conscientious objection was confirmed by a later case‡ when the Umpire was similarly not satisfied that the C.O.'s pacifist principles genuinely caused him to refuse a particular order of his employers to take part in a "safety practice" to accustom employees to the use of air-raid shelters. This was held not sufficiently closely connected with

* U.I. Code 8b: No. 73/40 (Pamphlet 3/1940).
† No. 2024/39 (Pamphlet 6/1939).
‡ No. 2618/39 (Pamphlet 8/1939).

conscientious objection to the man's work to make refusal justifiable. In other words, the claim of conscience was extravagant.

War conditions showed their impact in another way. "Circumstances alter cases," said the Umpire in effect, for he refused, in the stress of war, to allow the same degree of recognition to conscience as in peace. For instance, in one appeal* a heating and ventilating draughtsman left his employment after being asked to design equipment for an aero engine factory. To be entitled to benefit, the C.O. had to show just cause for leaving and availability for work. In his decision, the Umpire said: "I am not prepared to accept the view that during this war-time the decisions relating to conscientious objections, given under and for peace-time conditions, can or ought to be allowed to operate in the same way as they did in the circumstances which prevailed when the decisions were given," and he referred to another ruling given about the same time that "circumstances which before the war were held to afford justification for the refusal of employment will not necessarily afford justification in a time of war". Surely a sad commentary on the inviolability of conscience! But the Umpire went further, holding that, since the claimant's class of work was almost all connected with the war, the C.O. was not available for work within the meaning of the statute because there was no reasonable probability of his obtaining employment which would not conflict with his objections. The claimant was doubly disqualified.

One fundamental principle in a conscript nation was, however, established: it was not "misconduct" to register as a Conscientious Objector, even if this led to loss of one's job. For in 1940 a man, after being employed for nearly eight years in an aluminium factory, registered as a C.O.; this made him unpopular with his fellow-workmen and led to his dismissal, the C.O.'s employers stating he was "unsuitable owing to views expressed on registration", which was alleged to be "misconduct" on his part justifying disqualification for benefit. But the Umpire decided† that "the claimant's loss of employment was not brought about by any act of misconduct on his part" and he was accordingly entitled to benefit.

A further decision on misconduct recognized a C.O.'s right to confine himself to work within the scope of his Tribunal condition. A C.O.‡ registered by one of the Local Tribunals to continue in his present occupation, that of a welder, was assigned by his firm to

* No. 196/London/40 (Pamphlet 5/1940).
† No. 590/40 (Pamphlet 6/1940).
‡ No. 1084/41 (Pamphlet 2/1941).

packing and loading ammunition box handles (which might well have come under the heading of munitions). He refused to do this and as a consequence was dismissed from his job. The Umpire held that the occupation which the C.O. refused to follow was that of a packer and loader which was an entirely different occupation from that of a welder. Having regard to the order of the Local Tribunal, he was justified in refusing to change. Accordingly the C.O. had not lost his job through misconduct, and his claim to benefit was allowed.

So far all the cases cited have been of the "leaving" variety—either of being sacked for misconduct or leaving work voluntarily without just cause. There was also the second type—the case where a man "without good cause" refused to take work for which he was put forward by an Exchange.

That similar principles applied can be seen from the following illustration as to the type of work to which a C.O. should be sent. On August 12th, 1942, George P. Elphick, a C.O. conditionally registered for civil work by the Tribunals and later to attain great prominence for his refusal to fire-watch at his home-town of Lewes, Sussex, was submitted for a carpenter's job with the Southern Railway Company at their Marine Shops at Newhaven. On the following day he went for an interview and, being under the impression that it might be naval work, stated his position as a Conscientious Objector, telling the interviewer that he was unable to undertake work that would aid the war-effort.

"He spoke to me", said George Elphick afterwards, "in a sympathetic manner and I remember him saying, as he handed me back the Labour Exchange 'green card': 'Sorry, sonny, it's all Admiralty work.'"

As Elphick had declined the job, the Insurance Officer disallowed his claim for unemployment benefit for six weeks. On September 9th, this C.O. appeared before the Brighton Court of Referees claiming, among other grounds, that he was registered for work of a civil character under civilian control and that the marine workshops were under Admiralty control or supervision. The appeal was dismissed. On the 25th of the same month he applied for leave to appeal to the Umpire, but this was refused.

The Central Board then placed the facts of the case before a sympathetic M.P., who took up the matter with the Minister of Labour, and it was later learnt that the Chief Insurance Officer had himself appealed against the decision of the Court of Referees on the

ground " that the employment offered was not suitable employment as it entailed the performance of Admiralty repair work and was therefore not of a civil character " as specified in the National Service Act of 1939.

The matter was considered by the Umpire on March 4th, 1943, when the appeal was successful and George Elphick's benefit was allowed.* When the Umpire's decision became known, the C.O. wrote to Nancy Browne, Secretary of the Central Board, saying: " I do sincerely thank both you and the Central Board for what you have done in the matter ; for without your influence it could not have reached this stage. I hope that the result will benefit other C.O.s as well as myself." And as soon as the benefit was received, Elphick, being then at work again, sent the whole amount as a donation to the Board, a gesture which greatly touched those of us in the office who had followed the case and knew of the circumstances in which it was sent.

II

But obviously the power to withhold benefit—potent weapon though it was in days of under-employment—was of little avail at a time of acute man-power shortage. And as a means of regulating the labour-market at such a time its value was negligible. So the Government set about to find other means of control. Whether or not they were inspired to imitate the national foe I know not ; but the fact remains that a German Labour Order of September 1st, 1939, provided a broad prototype for future measures in Britain. For on that day an emergency Ministerial Council for National Defence, presided over by Field-Marshal Goering, issued an Order with these main provisions. First, the consent of a Labour Exchange was to be required before workers or apprentices were engaged. Exceptions to this rule covered persons employed in agriculture, mining and certain domestic service, who could be engaged directly, while other exemptions might be authorized by the Federal Minister of Labour. Secondly, the consent of a Labour Exchange was to be required before a person could leave or be dismissed from his job or apprenticeship, except when this occurred by agreement or by suspension of work in the particular undertaking or where a worker had been employed for less than a month as a probationer or substitute. No consent was required to end merely casual employment. Further exemptions might be authorized by

* No. 28/43 (not reported in the official Pamphlets).

the Minister of Labour in this case also. Lastly, those workers who could be dismissed without official consent were required to register at a Labour Exchange immediately on leaving their work.

That these provisions were known to the British Government is undoubted, for a summary of the Order appeared in the *Ministry of Labour Gazette*.* The analogy must not, however, be pressed too far, for restrictions in general largely correspond to these three basic types: consent to taking a job, consent to leaving a job, and an obligation to register on leaving. It may be convenient at this stage to examine shortly the principal British provisions and their relation to conscientious objection.

First in order of time came the need for consent to take particular kinds of employment. By an Order of June 5th, 1940,† an employer was to engage a worker in the civil engineering and general engineering industries only if the latter had been submitted for the job by an Employment Exchange following notification of the vacancy; and conversely a worker wanting a job in one of those industries had to register at an Employment Exchange and take only work for which he was put forward by the Exchange.‡ Another provision of the same Order was that no employer should take on a man normally employed either in coal-mining or agriculture for work outside those industries except on submission by an Exchange to fill a vacancy previously notified. Re-engaging an employee was permitted in certain circumstances.

When a person was submitted for a job under these Orders, he was not "directed" to it but was given an introduction card (popularly known as a "green card", though buff in colour) as a token of official blessing. The issue of green cards was not restricted to cases where they were legally necessary and, as labour restrictions became more and more complex, the feeling grew among employers that it was unsafe to engage *anyone* without a green card, a point on which an "unrestricted" C.O. might argue for hours without avail.§

This liability or possible liability of employers was of great

* November, 1939; at p. 386.

† Undertakings (Restriction on Engagement) Order, 1940, S.R. & O., 1940, No. 877.

‡ In March, 1941, work on electrical installation and repair was subjected to similar restrictions (S.R. & O., 1941, No. 409).

§ On December 18th, 1941, the whole Order was revoked and re-issued in revised form, with the omission of the provisions as to coal-mining, as the Undertakings (Restriction on Engagement) Order, 1941 (S.R. & O., 1941, No. 2069).

importance though seldom the subject of proceedings in Court. So far the orders had been limited to particular industries. But on January 22nd, 1942, a new Order brought the subject of consent to new work very much to the fore. On that date the Employment of Women (Control of Engagement) Order, 1942,* applied similar restrictions to all women between the ages of 20 and 31, whatever the work they wished to take, though the consent of an employment agency officially approved under the Order was to be an alternative to a Ministry of Labour introduction. So the Government moved from the particular to the general. So far as women were concerned, agriculture, nursing, midwifery, teaching, the Women's Services and unpaid work were among the specific exceptions. In addition to these " excepted employments ", there was a limited list of " excepted persons " ; that is to say, certain categories of women, even though between the restricted ages, were to be able to take posts of any kind without official consent. Included in this list were women with children under fourteen years of age living with them and women registered as blind. In addition, the Minister was to have power to issue permits setting out particular kinds of work which women were to be free to take without the intervention of an Exchange or agency.

Shortly after the Order had begun to operate, the Pacifist Service Bureau, a department of the Peace Pledge Union, which under the secretaryship of Mrs. Nancy Richardson did some splendid work in finding jobs for unemployed C.O.s in the critical days of 1940, concerned at this limitation of their activities on the women's side, applied to become an " approved agency " under the Order, but were rejected, as agencies were not being approved unless they dealt with a particular field of qualified professional workers with such a comprehensive and specialized knowledge of the supply and demand in that field that they could best undertake the distribution in the national interest of the labour available. " I am afraid ", the official notification added, " that it would be difficult to reconcile approval of the Bureau with this policy." This letter, which was dated May 22nd, 1942, and addressed to Mrs. Richardson from Miss Mary Smieton of the Ministry of Labour, went on to outline the place of unapproved agencies in the general scheme of things, ending with a careful concession to one particular class of C.O.s :

> . . . Permits may be given to individual women exempting them from the provisions of the Order in respect of specified employment or employments. A woman exempted in this way

* S.R. & O., 1942, No. 100.

can obtain employment by direct application to an employer or by using the services of any agency or placing organization. Social service and work with children are among the types of employment in which arrangements have been made for the issue of permits in suitable cases to women with qualifications as social service workers or as nursery nurses. Some of the women in whom you are interested may qualify for such permits and you would then be free to place them in appropriate work.

The question whether a woman had conscientious scruples to undertaking work connected with the war would not bear relevant issue in the granting of a permit, though, as you know, the Minister has given an undertaking that such women would not be directed to employment directly associated with the military side of the war effort.

In the case of a Conscientious Objector registered unconditionally under the National Service Acts, however, it is the intention of the Ministry to issue a permit to such a person to undertake any employment. I should add that the issue of permits is of course without prejudice to the Minister's power to issue directions.

This limited concession to unconditionally registered women C.O.s, though seldom brought into operation, was an interesting example of the way in which a National Service exemption could be applied to restrictions under the Defence Regulations. Occasionally permits were granted to women C.O.s with social service conditions but, instead of being unlimited, as for an unconditionally registered C.O., they were only valid for the types of work prescribed by the Tribunal.

More stringent control of a different character was now being widely applied; the present type of restriction remained limited to women and a few classes of men until Germany had been reduced to submission and the Government considered a substantial relaxation in control possible. As explained in the preceding Chapter, this was done mainly by a reduction in the use of "directions" to work, but for these an extended form of control of engagement was substituted. Somewhat curiously, therefore, at a time of general relaxation, restrictions on taking new work were extended to a degree hitherto unknown.

The Control of Engagement Order, 1945,* under which this was done, was issued on May 22nd, 1945, a fortnight after peace had returned to Europe, the previous Orders being revoked. Henceforth all men between 18 and 51 and all women between 18 and 41

* S.R. & O., 1945, No. 579.

were not to take new work without an introduction from an Exchange or other approved agency (this being still restricted to professional, trade union and similar agencies). Similarly, employers were only to engage men and women of those ages if, after the Exchange had been notified of the vacancies, the persons in question had been submitted for the posts. Though these restrictions, applied to the great bulk of male workers for the first time, were general in nature, there was a complicated system of exceptions, divided as before into "excepted employments" and "excepted persons". Among the former were included work in agriculture, unpaid and part-time work, "employment in a managerial capacity" and "employment in a professional, administrative or executive capacity". The classes of excepted persons were numerous and complex, but included the old categories of casual workers, the blind, women with children and men and women with exemption permits.

C.O.s were affected by the Order in numerous ways. Difficult problems, for instance, arose for land-workers in the employ of private farmers who, in substance, were permitted to change their jobs within the industry but were prevented from taking new work outside agriculture, horticulture or forestry without official consent. Despite the fact that the Order was intended to prevent men and women *from taking certain kinds of new work*, it was widely interpreted by local Offices of the Ministry *as a restriction on leaving*. This led to frequent conflict when C.O.s wished to take up managerial or professional jobs which, under the terms of the Order, they were permitted to do without consent, the Ministry frequently seeking to prevent C.O.s from leaving, though in fact they were under no obligation to stay. The position is discussed in greater detail in connection with the release of C.O.s from their Tribunal conditions.*

The Control of Engagement Order contained a clause allowing the age-limits of the men and women affected to be reduced with little formality, and numerous other amendments were made to adapt the terms of the Order to the progressive relaxation of labour controls.† For instance, in most cases the upper age-limit for men was reduced to 31 on December 13th, 1945, and with one or two temporary exceptions women of all ages were taken out of its scope at the same time, the exceptions being finally abolished six months later.

* See Chapter 21.

† See S.R. & O., 1945, No. 1557 and S.R. & O., 1946, Nos. 832 and 1287.

III

At this stage we move from the restrictions on taking new work to the next point. A limitation on leaving formed the second class of controls introduced by Field-Marshal Goering's Defence Council. Here again, after some delay and the consideration of alternative schemes, Britain followed suit. G. K. Chesterton once said that any law which sent a man back to his work when he wanted to leave it was in plain fact a Fugitive Slave Law, and though British regulations never descended to a physical taking-back, the possibility of fine or imprisonment for leaving work was hardly conducive to personal and industrial liberty.

Perhaps the whole issue was a negative corollary to the positive power to direct to work. For though directions and the threat of directions were the most stringent of all war-time forms of industrial conscription their application was limited to the particular men and women on whom they took effect. And so far as their object was to maintain or augment the labour force in the industries concerned, the issue of directions would have had small practical value without the support of regulations restricting freedom to move from one job to another at will. In other words it was idle for the Government to compel a man to start mining coal if those already engaged in coal-mining could leave for less exacting tasks at little or no notice. These restrictions were of general application and therefore, though less direct in nature, they affected millions as against the thousands individually directed to new work.

The normal basis of the restriction was to prevent workers from leaving their jobs without some special form of consent, usually but not invariably that of a National Service Officer. Foremost were the Essential Work Orders which at their zenith affected over eight million men and women. The first of many such orders was the Essential Work (General Provisions) Order, 1941,* which empowered the Minister of Labour to enter in a " Schedule of Undertakings " the names of firms, branches and departments engaged on essential work, that is, work appearing to the Minister to be essential for the Defence of the Realm, the efficient prosecution of the war or the life of the community. The principal iron and steel, engineering, transport, chemical and public utility undertakings were among the first to be scheduled in this way. One of the principal terms of the Order was a provision that men and women in Essential

* S.R. & O., 1941, No. 302.

Work were not to leave without the written permission of a National Service Officer, subject to a right of appeal to a Local Appeal Board. On the other side of the picture, employers were not to dismiss their employees in Essential Work without obtaining the consent of a National Service Officer in the same way, unless they could prove the employees guilty of serious misconduct. And employers had a similar right of appeal to a Local Appeal Board. An important concession to trade union interests was the introduction of a guaranteed wage, by which men and women, both on time and piece rates, became entitled to minimum pay as for a normal week. Again, the Minister was under an obligation, before permanently entering a firm in the Schedule of Undertakings, to see that conditions of work and welfare provisions were satisfactory. The Essential Work Order was fortified by severe penalties of fine and imprisonment.

By special Orders, similar arrangements were introduced, with modifications, for certain industries as a whole, such as ship-building, ship-repairing, coal-mining, building, civil engineering, the Merchant Navy and work for a private farmer in Scotland ; dock labour, too, was restricted in much the same way. As whole industries were automatically covered in such cases, there was no need to schedule particular firms.

The principal Order was later revoked and the position became governed by the Essential Work (General Provisions) Orders, 1942 and 1944,* the special Orders being similarly revoked and re-issued with elaborations.

What was the position of the Conscientious Objector in this mass of regulation? In the Order no provision was made for conscientious objection. Yet the problem arose in a number of ways. A man, for example, might want to leave his work because its connection with the war effort was repugnant to his conscience. On account of the Orders he would be required to remain, unless the permission of a National Service Officer was forthcoming. In such a case, the C.O. affected set out details of his objection on the application. No well-defined policy could be found on the part of the National Service Officers, but their recognition of conscience approximated to that admitted for unemployment insurance, i.e. an objection would be recognized if it truly sprang from conscience and was not extravagant. In practice this meant that a C.O. would be allowed to leave munition or near-munition work—and little more. But any permission necessary to enable a C.O. to comply with a Tribunal condition of

* S.R. & O., 1942, No. 371 ; S.R. & O., 1944, No. 815.

other work was invariably granted. Another question occurred in connection with the employer's right to dismiss a man, without any consent, for "serious misconduct". Would such dismissal be upheld? Here again the broad principles of unemployment insurance were applied: the mere holding of a conscientious objection to certain kinds of work was not misconduct, and refusal of orders could only be justified if stringent conditions as to reasonableness and direct connection with war production were met.

In general, considerable difficulty might have been expected from the very comprehensiveness of the Essential Work Orders. But in fact comparatively little trouble arose, mainly because of one saving factor: the firms and industries listed for Essential Work were first and foremost those closely connected with war industries and few C.O.s felt a sense of vocation in that direction. Though some of the religious fundamentalists in the movement were able to engage in munitions and allied work without a qualm of conscience, they formed a tiny minority. Many C.O.s, engaged in the heavy industries in peace-time, were faced with the switch-over to war-production and most of them had left or been discharged long before March, 1941, when the first Essential Work Order came into force.

Nevertheless, one kind of C.O. was caught on the horns of a dilemma: he was the young man in war industry who had reached a conscientious objection only during the war and, having little or no background of objection to rely upon, was refused permission to leave. If he left his work without consent, he committed an offence; if he obeyed the law he would probably be judged insincere by the Tribunal because his conscience was not sufficiently strong to order him to "down tools". It was a real dilemma, solved in practice in various ways. Some men who left without consent were let off with a warning and without prosecution; others were prosecuted and went to prison or paid a fine; yet others stayed at work and with difficulty persuaded the Tribunal they had done their best to leave and that a Tribunal condition of other work was the one thing needed to ensure the success of a new application. How the provisions of the Essential Work Orders—particularly those of suspension and dismissal—were used to discipline C.O.s working for War Agricultural Committees has already been mentioned.

But the Essential Work Orders were not the only regulations to prevent men and women leaving their work. Various Orders restricted the right to leave all branches of Civil Defence; this covered persons employed in part-time duties only but not young people

under 18, though employers were not restricted from dismissing anyone. Grounds of conscience did not entitle a C.O. to leave, though in practice it was often found impolitic to retain a worker who could not be relied upon in an emergency. The control of building and civil engineering workers was especially stringent, consent being necessary for a person's transfer even from one site to another. During the war Civil Service staffing had reached new heights (numerally at least), and steps were taken to prevent a sudden exodus after the defeat of Germany. Accordingly, on May 21st, 1945, Civil Servants, temporary as well as permanent, were restricted from leaving without the written permission of the permanent head of their department, subject to some exceptions and a right of appeal.*

But it was nursing, with its strong sense of discipline, that provided one of the strangest examples of the working of labour controls. Under an Order issued in 1941,† whole-time paid mental nurses of twelve months service were required to continue in their work until their services were dispensed with by the person in charge or by the Chairman of the Board of Control. A number of C.O.s, conditionally registered perhaps for hospital work, had felt that here lay a unique opportunity for serving the sick and helpless. One of the C.O.s who volunteered for this somewhat depressing work was O. David Evans, the son of a Welsh Presbyterian Minister, who though unconditionally registered took a post as a temporary male attendant at the Borocourt Mental Institution, Reading. After he had served two and a half years the work and environment began to "get him down" to such an extent that a change seemed essential. So he got a job as porter at a London hospital at a reduced salary, hoping to help with air-raid casualties, and being "frozen" by the Mental Nurses Order, applied to the Institution for his release. But even though his new employers gave Evans a note asking for his services, release was refused and his appeal to the Board of Control was rejected. As a consequence the C.O., still doing his hospital work in London, was summoned to appear at Henley Police Court on March 18th, 1943, when he was fined £2 and costs. This he declined to pay and served a month in prison instead.

Because Evans still refused to go back to the Institution after his

* Control of Employment (Civil Servants) Order, 1945, S.R. & O., 1945, No. 561.

† Mental Nurses (Employment and Offences) Order, 1941, S.R. & O., 1941, No. 1294.

release from prison he was summoned again when a similar fine was imposed. Still the Institution was not satisfied, claiming that if Evans got off with comparatively light penalties there was no knowing which of their staff would follow his example, though the fact that Evans had been to prison on his first prosecution should have weighed against such a course; but perhaps the rest of the staff were not so conscientious (or obstinate) as this Welsh C.O.

At the third hearing on October 7th, Evans was represented by Robert Egerton, an honorary Legal Adviser to the Central Board, and a clerk from the hospital where Evans was working gave evidence for him. As a result the Chairman of the Henley Magistrates told the prosecuting solicitor that the Bench did not consider that Evans would be any good to them again and they might reasonably leave things as they were. So with a little gentle prodding from the Minister of Health, to whom the Central Board had put the facts of the case, the Bucks, Oxon and Reading Joint Board for the Mentally Defective (the authority concerned in the prosecutions) finally let the matter drop and Evans was left to continue his hospital work in peace. To some, however, the most curious part of the whole story was lost, for at this time the Borocourt Institution regularly advertised for staff in the columns of *The Friend*!

How these leaving restrictions affected the release of C.O.s from their Tribunal conditions is discussed in Chapter 21. Here and now it will suffice to say that the Essential Work Orders were gradually lifted after the war, three months notice of the "liberation" being given for each industry or group of industries. For instance, the iron and steel industries were freed on May 15th, 1946, and coal-mining on September 1st following. But agriculture under County Committees, the work of greatest concern to C.O.s, was not freed until the very end—May 20th, 1947. The restrictions on Civil Defence personnel had been lifted on September 20th, 1945, while mental nurses had been given back their pre-war freedom on June 20th, 1946. Civil Servants had been restricted from leaving until the beginning of February, 1947.

IV

Only one final point remains. The third type of restriction imposed by the German Council for National Defence was a requirement that such workers as could be dismissed without official consent were to register at a Labour Exchange immediately on leaving their

work. Somewhat comparable provisions in Britain were in force for building workers and civil engineers, and though the German type of restriction had no exact counterpart in this country, the Control of Employment (Notice of Termination of Employment) Order, 1943,* is a fair approximation. For under that Order, which came into force on August 20th, 1943, as soon as notice to leave work was given or received or when any person left without notice, written particulars were to be sent to the local Employment Exchange. This restriction covered all workers, men and women, except the categories mentioned in a Schedule to the Order, being chiefly cases where the information was unnecessary or was already obtainable in other ways, e.g. under the Essential Work Orders. By this means the Ministry of Labour was enabled to maintain contact with the movement of labour in all cases where the more stringent restrictions did not apply. The Order was revoked on May 8th, 1945, when this somewhat troublesome requirement came to an end.

* S.R. & O., 1943, No. 1173.

CHAPTER 19

FIRE-WATCHING UNDER COMPULSION

AS soon as the use of incendiary bombs in the air-raids against Britain became general, employers and bodies responsible for public buildings took steps to maintain a constant watch by night so that these small but deadly missiles could be dealt with immediately, before the fires had reached dangerous proportions. This system worked reasonably well and it was not until the end of 1940 that the Government decided upon compulsion: the necessary legislation was rushed through and completed in record time. So great was the haste that the consultations with trade union interests that would normally have taken place were omitted and as a result the schemes, with their unpaid duty out of working hours, started with a mass of working-class prejudice against them.

Fire-watching, or, to use its technical title, "fire prevention duties", was a somewhat irksome war-time obligation defined in the Defence Regulations as:

> The duty of keeping a watch for the fall of incendiary bombs and for any outbreak of fire occurring as a result of hostile attack, and the duty of taking such steps as are immediately practicable to combat such a fire and of summoning such assistance as may be necessary, and . . . the duty of being in readiness to perform any such duties as aforesaid.

What did fire-watching involve in practice? In some cases, about one night a week according to rota fire-watchers went to their business premises or to a fire-watching centre in parties of three or four, one keeping watch for a few hours while the others slept, or attempted to sleep, on camp beds between camp blankets. Periodically the watcher did the round of the premises to see that all was well. At the warning wail of the siren, all were wakened and took stations at strategic points inside and outside the building, with one or two blithe spirits on the roof. In other cases people at home had a rota under which men and women, whose turn it was, stayed awake at night during duty hours and came out to guard all the houses in the scheme if the "alert" sounded or there was enemy activity overhead. There was much local variation. In some districts, for

instance, it was sufficient to sign a log-book accepting responsibility for a particular night, and as long as the watchers appeared at the siren-sound it was unusual to ask questions about other periods. But that was the exception rather than the rule.

Fire-watching raised perplexing questions for the C.O., partly through the nature of the duty, partly by its compulsory character and the gradualness of its coming, partly by the extreme technicality of the position. For if any war-time issue rejoiced in fine points and nice distinctions it was fire prevention. Defending his support of the war, the non-pacifist was wont to say that he saw the essential choice not between black and white, but between varying shades of grey, and on this issue at least, the Conscientious Objector had some fellow-feeling with him. For a serious decision was required. If a C.O. undertook fire-watching duties he would, according to *dicta* of the nation's leaders, be making a valuable contribution to the war-effort and the defeat of Germany ; if he refused duty he ran the risk of allowing the buildings of his own people to go up in flames when, by previously planned duty, he might just have extinguished the blaze at the outset. Many subsidiary difficulties arose : if a man were willing to guard his own house, could he object to guarding his neighbour's? Or his employer's? Or his local church, or factory, or public house or armament works? And if he would " watch " any of these as a neighbourly act, what should be his attitude if the seal of law were superimposed on this moral duty? Ought he to cease because the authorities could compel him and all his fellows under threat of fine or imprisonment? Would compliance mean yielding ground in the great struggle for personal liberty? The law could take him from the place where he felt the need most urgent and make him serve elsewhere as one unit in a district plan. Should this affect his attitude?

It was interesting, at times amusing, to hear some of the leading C.O.s of the First World War, over military age in the Second, discussing their position with an intensity that varied with the proximity of their registration day. Men to whom the movement looked for advice were re-examining their consciences in the light of this new demand of the State. The old arguments against alternative service were beside the point, for here was a primary liability, and the choice was straightforward. The words of Maurice Rowntree,* who at fifty-nine himself refused to register, show well the open mind and fidelity to principle of these older C.O.s: "We realize the great

* *Peace News* ; October 10th, 1941.

difficulty that faces all of us in maintaining a true sense of proportion in these matters. But if we are sincerely faithful first of all to our duty to all mankind, we shall not thereby be shelving our civic responsibility, but rather increasing our acceptance of it by putting first things first."

Perhaps the ablest statement came from George Sutherland, who analysed the situation thus:*

> . . . Most C.O.s object to military service (or at least combatant service) as such. But it is difficult to believe that anyone, except perhaps a fire worshipper, can object to fire prevention as such. A man living in Manchester might well feel that Manchester ought to be allowed to burn; his objection is not to fire prevention but to fire prevention in Manchester. Another would be glad to assist in fire prevention in peace-time but will have nothing to do with it in war; his objection is to fire prevention for war purposes. A third is already doing the work voluntarily, but may still object to fire prevention under compulsion. Yet another may already have refused to undertake such work at the behest of a Tribunal, in expression of an objection to fire prevention (or anything else) as an alternative to military service. In none of these cases can the objection be correctly described as being an objection to assisting in fire prevention; in every case the determining factor is contained in the words that follow, viz: (a) in Manchester, (b) for war purposes, (c) under compulsion, (d) as an alternative to military service. . . .
>
> We need not spend much time on (a) but the humorous form in which it is propounded must not be allowed to obscure the principle that there may be a conscientious objection to being compelled to prevent fire in any or every building. As examples of buildings in which doubt might be felt consider a distillery, slum property, or an armaments factory. The armaments factory might be felt to be in a class by itself and more properly to be included in category (b), but it is intentionally mentioned here as presumably the objection of most people to fire prevention duty in such a place would be as strong in peace-time as in war.
>
> The man that objects to fire prevention for war purposes will argue that the real reason why he is being invited to take part in it is for the more successful prosecution of the war effort—and in the utterances of Government spokesmen and the phraseology of official documents he will find plenty of evidence to support this contention—and that on those grounds he must refuse. On the other side it can be said that whatever the motive behind the

* *C.B.C.O. Bulletin*; September, 1941.

compulsion the effect will be the desirable one of saving lives, homes and places of employment, and from that it is difficult to stand aside.

Some of those that are doing the work voluntarily may feel great reluctance to accept compulsion. To understand the point at issue it is better not to use the word conscription, since that word has an emotional connotation that may cloud the vision. The compulsion in question is not military conscription, nor does it seem to have the objectionable features of industrial conscription. But it is undoubtedly compulsion for war purposes, and the question to be decided seems to be whether the inclination to resist compulsion for war purposes should override the obligation that all but anarchists (and there are doubtless anarchists among C.O.s to-day as there were twenty-five years ago) feel to accept a measure of compulsion as a necessary part of community life. Very many of the social advantages we now enjoy are the result of compulsion applied to unwilling members of the community. Can a man justifiably object to compulsion just because it is war-time unless the service demanded is one to which he would conscientiously object in peace-time? . . .

There was a wise refusal to dogmatize. Most of the anti-war organizations declined to commit their members to any course of action, but assured to each their full support for whatever line his conscience and judgment prompted. The Fellowship of Reconciliation adhered unswervingly to this view, while the Peace Pledge Union took this course at the beginning but later leaned towards refusal. Beyond indicating an awareness of the increased compulsion of the citizen, Friends made no formal utterance, though feeling in the Society seemed on the whole against resistance and in favour of an endeavour " to transform every compulsion whose purpose is not in itself destructive, substituting an inner will-to-good ".

The Central Board, offering help to all actuated by conscience, soon found itself in a legal morass. For the most part fire-watching arrangements had been completely voluntary until on January 18th, 1941, Herbert Morrison, then Minister of Home Security, issued two Orders under the Defence Regulations of the day, one for business premises and one for residential areas. These were the Fire Prevention (Business Premises) Order, 1941,* and the Civil Defence Duties (Compulsory Enrolment) Order, 1941,† and throughout the war compulsory fire-watching followed these two main lines. To

* S.R. & O., 1941, No. 69.
† S.R. & O., 1941, No. 70.

regulate exemptions under both Orders the Civil Defence Duties (Exemption Tribunals) Order, 1941,* was promulgated on February 6th, while a special Order for the City of London was issued on April 17th, 1941.

First, then, the business premises. Here fire-watching became compulsory when the Business Premises Order was applied to a particular area by the Regional Commissioner, the date being in the case of London and most vulnerable areas January 22nd, 1941. Under this Order the occupiers of all business premises affected were to make adequate fire-watching arrangements, and within fourteen days after the Order was applied, occupiers were to notify the arrangements they had made to the appropriate Government Department in the case of most factories and large offices, and to the local authority in other cases. No objection was raised to occupiers engaging either full-time paid fire-watchers, or part-time volunteers from among their employees, but if this were not done, the men (but not the women) working at the premises, subject to the exemptions provided in the Order, were to be compelled to take turns of unpaid duty. If compulsion were decided upon, liability to duty rested, with small local variations, upon all male British subjects between 18 and 60 who worked on the premises, but not more than 48 hours duty could be required in each calendar month. Except in the case of a joint scheme, men were liable for fire-watching only at the building where they normally worked.

Exemption from duty was mainly for those already engaged in other war-time duties such as Home Guard and Civil Defence, but men on vital work for long hours could also claim to be excused. The most important exemption, however, was covered by this paragraph dealing with cases of medical unfitness and exceptional hardship:

> Any such person may, in accordance with any order under Regulation 27A of the Defence (General) Regulations, 1939, for the time being in force, apply to the Tribunal mentioned in that Order for exemption from all or any of the said duties on the ground that he is medically unfit to perform them, or that it would be an exceptional hardship for him to be required to perform them.

When the Government had an opportunity to consider the Scheme at greater leisure (and, no doubt, after consultation with the Trades

* S.R. & O., 1941, No. 1411.

Union Congress) a number of improvements were decided upon, and the existing Order was replaced as from September 12th, 1941, by the Fire Prevention (Business Premises) (No. 2) Order, 1941.*

Failure to carry out fire-watching duties under a compulsory scheme was an offence punishable by up to three months imprisonment or a fine of £100 or both, with heavier sentences on indictment, and a similar penalty could be imposed upon occupiers who either failed to make acceptable arrangements or refused to make any arrangements at all. As employees were not required to register, a fertile source of prosecution was avoided, and the fact that, in these early stages, volunteers could be employed meant that often the compulsory provisions were not called into play and conscientious objection was not brought into conflict with the law. For the most part, too, employers, knowing the idiosyncrasies of their staff, were reasonable and understanding in their attitude.

So duty at business premises raised but little difficulty. However, the Compulsory Enrolment Order, amended in detail from time to time, presented problems of a more serious nature. Local authorities were required to provide fire-watching parties to protect dwellinghouses and business premises that were empty or for which no satisfactory arrangements could be made under the other Order. After a time, Regional Commissioners applied the Order to all areas where the Business Premises Order was in force; this meant the holding of public registrations in the great majority of urban areas. Each local authority then published a registration notice requiring all male British subjects, usually between the ages of 16 and 60, in their district to register at a given time and place.

Though members of the Armed Forces, the police, persons of unsound mind or registered as blind, and some others were not required to register at all, the clergy and ministers of religion (notwithstanding their exemption from military service registration) were not exempted in any way. Certain classes of men were required to register but were not to be enrolled for duty: these included those already fire-watching at business premises and those exempted through medical unfitness or exceptional hardship, the relevant clause being substantially the same as that already quoted.

These "Civil Defence registrations" involved local authorities in a great deal of work. The Orders had never been popular and applications for exemption assumed alarming proportions, being officially estimated at 60 per cent. of all registrations under the

* S.R. & O., 1941, No. 163.

Order.* On one of the registration dates in September, 1941, at Salford 7,918 men registered of whom at least 6,000 claimed to be exempt. At Battersea two-thirds applied for exemption. But the most striking figure was at Norwich where, out of 25,000 registering, 24,750 claimed exemption, 80 per cent. on the ground that they were already doing fire-watching and 10 per cent. on medical grounds. "Get the women included!" came the cry even at that early stage. Refusing to register, or refusing to carry out fire-watching duties after being enrolled, was an offence punishable by up to three months imprisonment or a fine up to £100 or both as under the Business Premises Order.

Seldom have law and principle been so inextricably interwoven as in the case of conscientious objection under the Compulsory Enrolment Orders. Some Conscientious Objectors felt unable either to carry out organized duty or to register, though few, if any, would have refused to put out fires actually occurring. Many more, however, though having no conscientious objection either to duty in general or to particular duties then being required of them, felt the libertarian aspect most strongly, believing that they would be untrue to their individual stand were they to register under this compulsory order for personal service, unmitigated by a conscience clause.

From a legal point of view it was clear that if a man refused to register, he could not, on the wording of the Order, claim an exemption from enrolment to which he would otherwise be entitled. But another point was equally clear. If a person refused to register, he could be prosecuted and sentenced: but there the matter ended. In the absence of a further registration notice for the whole district, *no further proceedings could be taken for his failure to register,* as he had already suffered for that offence and became entitled to plead in subsequent proceedings the ancient but none the less valid defence of *autrefois convict.* And whether from tenderness of feeling, lack of imagination or, more likely, extreme haste on the part of the draftsmen of the Order, local authorities were given no power to register those who refused to sign up with the rest of the community. So if a man refused to register, it was one prosecution and then stalemate. On the other hand, failure to carry out duty by a person who had registered and been enrolled was a continuing offence for which a summons could be issued for each date on which a breach occurred.

When fire-watching was first made compulsory, the Orders were

* H.C. Official Report; January 8th, 1942; Cols. 67-8.

eagerly scanned for some kind of exemption for Conscientious Objectors who had been found genuine by the Tribunals, and particularly those registered as such without conditions, or, failing that, a clause allowing individual exemption for those whose consciences forbade them to participate. But no such clause was found. When the Central Board met on January 22nd, 1941, it was agreed to raise the matter with the Minister of Home Security and if necessary to press, through the Parliamentary Group interested, for a right of exemption on those objecting by reason of conscience making a statutory declaration to that effect. Accordingly, Stuart Morris had an interview with an Official of the Ministry of Home Security on February 27th, and as a result of this and other representations he was sent this letter from the Ministry of Home Security :

> . . . I recollect, not only that I agreed that there was no reason why Conscientious Objectors should not state their objection when applying on grounds of exceptional hardship to the Tribunal, but also, that I said we would endeavour to provide a space for "other relevant information" on the forms to be used in connection with the Compulsory Enrolment Scheme.
>
> At the same time you will doubtless remember that I said we could not possibly suggest to the Tribunals, who are independent bodies, how such applications should be treated. The Ministry, I remarked, might be open to serious criticism if it endeavoured to prejudice either way any case, or type of case, which might come before the Tribunals.

These "Tribunals" had no connection with the Tribunals for C.O.s under the National Service Acts, but were merely the Military Service (Hardship) Committees sitting as Tribunals to consider applications for exemption from fire-watching. Each consisted of a chairman and two other members ; applicants could be represented by a trade union representative, a relative or personal friend, but not by a barrister or solicitor as such ; and a representative of the local authority could also be heard. Against the decision of a Committee there was no appeal.

How far conscientious objection would be recognized by the Committees as a basis of exceptional hardship became a burning question of the months that followed. For there was no blinking the fact that the plea for a conscience clause had failed. The Government, consistently with its general policy, had made up its mind against allowing any right of conscientious objection to fire-watching duties ; henceforth it was for the individual Objector to register his

protest. The feeling was widespread that if even a few of the Committees could be quoted as allowing claims of conscientious objection, a useful precedent would be created for other Committees. Nearly all such applications were, however, rejected; for the Committees could recognize as exceptional hardship a broken arm or an ailing mother with much less difficulty than the Inner Light of moral conviction.

There was some excitement at the outset. On April 4th, 1941, R. J. Bell of Hook, Surrey, pleading conscience, applied to a Hardship Committee in the City of London for exemption from duty at his place of work in the City. The Chairman first suggested that the grounds he put forward did not come within the exemption clause as there was no evidence of hardship. To this Bell replied that to be compelled to do anything against one's conscience was a greater hardship than a compulsion to which one had no radical objection, and he referred to the Ministry's letter quoted above. As a result full consideration was given to the circumstances put forward. After the hearing a notice signed by the Secretary of the Committee was sent to the C.O.'s employers, *stating that indefinite exemption had been granted,* but after the case had been given considerable publicity it was found that the notice had been issued in error and that the application had, in fact, been refused. A correction was issued.

Nevertheless, it had obviously been touch and go, and three later applications met with success. George F. Hollier of Bristol applied under the Business Premises Order on April 2nd, when his grounds of conscience were recognized as exceptional hardship and his application was granted. On May 13th, Ronald Cuthill, a Bolton doctor, appeared before the Bolton Committee under the same Order, and similarly pleaded his conscientious objection to duty. He was exempted indefinitely. The third case was that of G. Hylton Bartram, a widely respected shipowner already mentioned in connection with industrial exemption, who applied to the local Hardship Committee under the Compulsory Enrolment Orders after registering as required. Here the Committee was divided, but indefinite exemption was given by a majority vote. These were the sole successes until by an odd chance nearly two years later Humphrey S. Moore, founder and then Assistant Editor of *Peace News* was given indefinite exemption under the Compulsory Enrolment Order after full examination of his conscientious objection (he had been unconditionally registered by the Tribunals), the Chairman stating

that the Committee was concerned not with whether he had a "reasonable conscientious objection" but whether he had a "conscientious objection".

Yet despite numerous failures throughout this period there was no legal decision that exemption was impossible. Though many of the Committees would have liked to grant exemption, being satisfied of the complete *bona fides* of the applicants, they felt nevertheless that the exceptional hardship clause had not been designed to meet such cases, and that if the intention had been to allow exemption on grounds of conscience, a special clause would have been included in the Orders. Then came the *coup de grâce*. Any doubt there might have been as to the propriety of recognizing conscientious objection as a ground of exceptional hardship was dispelled—in an adverse sense—in the middle of 1943 when a Divisional Court of the King's Bench Division* disallowed the claim of Mrs. A. S. Deverill of Stoke Newington to be allowed to appear before a Committee on the basis of her conscientious objection. In dismissing the application, the Lord Chief Justice said that the Court desired to treat with the greatest respect any opinion based on conscience but in their opinion it would be wrong to exercise their discretion to give facilities for an application based on such a ground as was relied on in the present case. In the view of the Court the ground put forward could not be considered as being one of exceptional hardship within the Orders and the Committee had no jurisdiction to hear the application.

Meanwhile the imposition of compulsion and the lack of a conscience clause had combined to start a new witness for conscience and liberty through an ever-increasing number of prosecutions in the Courts. Fire-watching at business premises having been applied first, it was natural that those C.O.s who declined to comply with the Business Premises Order should be the first to come before the Courts. Manchester had led the way in applying the Order, and Manchester was the scene of the first prosecution. On March 26th, 1941, G. Kenneth Siddall of Chorlton-cum-Hardy was charged at Manchester Police Court with refusing to serve on a fire-watching rota at work and was told to pay £5 or go to prison for twenty-five days; he elected the latter and was taken off to Strangeways. (He was later prosecuted twice more). Then on April 3rd Joseph A. Hobson of Nottingham was fined £20 for refusing to fire-watch at a local Bank, and under the same Order Duncan M. McInnes was

* See *The Times*; June 30th, 1943.

fined £5 (or thirty days) at Glasgow on the 23rd of the same month. When 21-year-old Eric S. Randall of Exeter appeared at Exeter Police Court on May 8th, charged with a similar offence, he contended that his unconditional registration as a C.O. entitled him to exemption from fire-watching, but a solicitor member of the Bench pointed out that this conferred no exemption at law, and after a week's adjournment the Court decided to send Eric Randall to prison for six days.

All these cases were for failing to carry out duty, but on May 30th there came the first case of an employer C.O. who refused to make fire-watching arrangements at his own premises. He was John Morley, chairman of the Newcastle-on-Tyne War Resisters' group of the P.P.U., who was fined £50 (with five guineas costs) at Newcastle City Police Court. An uncompromising absolutist of the First War, he flatly refused to pay and was " sent down " for three months instead. Later the Magistrates changed their minds and decided to distrain for the money, thinking no doubt that all the time Morley was in prison his coach-building business would be completely without fire-watching arrangements. So after a few hours he was released, only to be re-arrested on July 1st following unsuccessful attempts at distraint. (Morley later served a further three months for similar offences.)

Soon the Compulsory Enrolment Orders brought prosecution on a greater scale. At Hove Police Court on July 21st, two Christadelphians, William A. Rivers and John D. Webster, both of Portslade, were charged with refusing to fire-watch after registering under the Compulsory Enrolment Order and applying to the Hardship Committee without success. Rivers was fined £5 (with five guineas costs), while the case against Webster was adjourned for three weeks to give him an opportunity to show that he was, in fact, doing fire-watching at work, which might have exempted him from duty.

The first prosecution of a C.O. for failing to register was that of George C. Bristol of Herne Bay, who was fined £2 by the local Police Court on July 30th. For refusing to pay he was sent to prison for a month. According to the *Kentish Observer* of the following day:

> Arthur Dixon Firt, Inspector at Herne Bay, stated that when he asked Bristol why he had not registered he said the reason was because his exemption was not on the list and therefore it was

no use his registering. Asked what his exemption was, he said, "I am a Conscientious Objector."

Four weeks later, an interesting report appeared in the *Western Daily Press and Bristol Mirror*:*

> Ten members of a Christadelphian community in York Street, St. Paul's, Bristol, who said that they would not in any circumstances associate themselves with the Government's military machine, were fined 10s. each at Bristol Police Court yesterday for failing to register for fire-watching under the Compulsory Order.
>
> They all signed a statement declaring that they did not vote or take part in political matters and did not interfere with the State in its wars.
>
> "There comes a time", they stated, "when human laws conflict with the laws of God."
>
> Mr. A. C. Caffin, prosecuting, said that the Christadelphian Society was a religious body whose views were a little difficult to understand. "They don't mind fire-watching", he said, "but they object to registering."
>
> The Chairman (Mr. G. F. Jones) told the defendants: "Any exemption you may have received from the Military Service Tribunal has nothing to do with the offence to which you have pleaded guilty to-day."
>
> When asked whether they had the money to pay the fines, one defendant said, "It's in the bag," indicating an attaché case he was carrying.

Almost as curious, to English ears at least, was the prosecution of Guy A. Aldred, an anti-war agitator well known in Glasgow for his big heart and helping hand, who refused to register. Charged at Glasgow Sheriff Court in April, 1942, he showed his legal acumen by "objecting to the competency and relevancy of the charge" on six grounds drawn in the technical phrasing of Scottish law. Aldred's fundamental objections made the Court adjourn the summons for a week; a further adjournment followed, and on May 6th the Procurator-Fiscal intimated that, on instructions from the Crown, the prosecution would be withdrawn.

The fact that so many authorities were entitled to take proceedings for fire-watching offences led to grave anomalies between district and district, though the issue of "advice" to local authorities as to how their discretion should be exercised brought greater

* August 26th, 1941.

uniformity after the first few months. In addition, there was a good deal of confusion as to the incidence of the Orders, and these facts, with the widespread prosecutions that were taking place, led the Central Board at the close of 1941 to ask the Minister of Home Security to receive a small deputation on the whole subject of fire-watching and conscience. Though Herbert Morrison was unable to receive the deputation personally, Fenner Brockway, Joe Brayshaw and I went to the Home Office Building—opposite the Cenotaph in Whitehall—on January 14th to discuss the matter with the late Ellen Wilkinson, then Joint Parliamentary Secretary to the Ministry of Home Security, Francis Hemming, a high Official at the Ministry, and W. H. Hardman of the Ministry of Labour, who attended the meeting for co-ordination of policy.

The morning was a very cold one and Joe and I were glad enough to take off our coats in the warmer atmosphere of the Home Office. Fenner, however, elected to keep his on, telling us after the interview that he was always losing scarves and was wearing a lady's dressing-jacket beneath his overcoat as it seemed impossible to lose.

We were shown into the presence. Opening the interview, Fenner Brockway mentioned some of the bodies affiliated to the Central Board, but none of the names appeared to cut much ice except the Women's Co-operative Guild.

Miss Wilkinson said: "You mean a pacifist group within the Guild."

"Oh no, Ellen," Fenner replied, "I mean the Guild itself. Mrs. Ridealgh, the Chairman, is a member of our Board." (Mrs. Ridealgh is now M.P. for North Ilford.)

Ellen Wilkinson did not hesitate to express her strong disapproval of fire-watching C.O.s and proceeded to give a short talk on civic responsibility. But Fenner countered this by saying, in quiet, almost confidential tones, that he had long been the leader of a voluntary fire-watching party in the block of flats where he lived, but that when compulsion had been applied such a state of doubt existed that the whole organization had simply melted away, and so far as he knew there was no system then in existence.

"You should have reported it, Fenner!" said the future Minister of Education, now completely scandalized.

"Oh, I did, Ellen," her visitor replied, "but nothing seems to have happened."

The two main points put by the deputation were the need for a

conscience clause and the unreasonable prosecutions that had already taken place. Discussion centred on these issues. Hardman, an old contact at the Ministry of Labour, said little, but Hemming, who smoked incessantly and kept producing an outsize box of cigarettes from his trousers pocket in the manner of a conjuror, appeared to have a real grasp of the issues involved, and a breadth of outlook that helped him to give real consideration to the suggestions made.

After the interview, a draft statement was submitted to the Ministry, but this draft was radically altered, presumably by Ellen Wilkinson herself, and in its revised form seemed to reflect the spirit in which the deputation had been received:

> . . . Many Hardship Committees, sitting as Tribunals in connection with fire-watching, have regretted their inability to grant exemption on grounds of conscience even when convinced of the genuineness of the conscientious objection, while other Committees at Bolton, Bristol and Sunderland have recognized conscience in this way and granted exemption. Miss Wilkinson replied, however, that a recent opinion by the Ministry's legal advisers stated that, as the law stood, Committees were not entitled to grant exemption on grounds of conscience. She held out little hope of the Orders being amended to recognize conscience as she feared the creation of a "privileged class" in that case.
>
> The deputation pointed out that the position might lead many to refuse to register who would do so if conscientious objection were recognized. They complained of unwarrantable prosecutions, often of voluntary fire-watchers, for refusal to register under compulsion. Thomas Rhodes of Lancaster was serving three months imprisonment although he was voluntarily fire-watching, and William Speak of Radcliffe had been sentenced to three months imprisonment and £100 fine. At Luton, sentences of two months imprisonment had been passed on A. W. Evans, a C.O. sentenced to death in France in the last war and now nearly blind, on John Murphy who had been voluntarily fire-watching and on Leonard A. Smith, who had also been sentenced to 21 days imprisonment in lieu of a fine for refusing medical examination under the National Service Acts. There had been between sixty and seventy fire-watching offences where conscientious grounds were alleged.
>
> Miss Wilkinson said that in the serious condition of the present war, fire-watching was necessary to save life, and refusal to register for it was therefore a serious offence. Nor could the scheme be left to casual goodwill. It was socially necessary that

a compulsory scheme be organized. She did not agree that prosecution for refusal to register was a frivolous prosecution.

In the early months of 1942 the fire-watching position, from the Government point of view, deteriorated rapidly, particularly on the Compulsory Enrolment side. The registers, being fixed at a particular date, had proved too rigid. Men away from home at the critical date had never been caught; men already registered in one district who had moved to another escaped from the net, for there was no provision for transferring the registration; youths who attained the minimum age could not be compelled to fire-watch; and, as before, there could be no enrolment of those who refused to register. Some of the less scrupulous had evolved the practice of employing regular substitutes to do their spells of duty for them; there was " wastage " of man-power in the old voluntary fire-parties, and the so-called " funk expresses " took home at night the men who had chosen to live in one of the rural areas where compulsory fire-watching was but a new-fangled curiosity of the town.

But even if these anomalies were swept away there would still be a shortage of personnel. There was one way in which this could be overcome, a way that had been advocated by the Emergency Committee of the Westminster City Council fully twelve months before—the inclusion of women. In a House of Commons Debate on July 30th Herbert Morrison gave a strong hint as to official intentions.

Six weeks later came the new compulsion.

CHAPTER 20

NINE AND ELEVEN

COMPULSORY fire-watching was first applied to women on September 19th, 1942. Unless they came within one of the exemptions (by this time extended to include expectant mothers and women with children living with them), women between 20 and 45 were to take turns of duty at their place of work,* and local authorities were to hold registrations of women between the same ages with a view to their enrolment for duty in their own neighbourhood at home if they were not doing duty at work.† Most of these registrations were held between September 26th and October 10th.

Now it was the turn of the women of the movement. The same arguments were worked out once more, the invidious choice was made. Some decided one way, some the other, the experience of the men having clarified most of the points that had been obscure the previous summer. In November the prosecutions began. At Scarborough on the 6th of that month Elsie S. Hunt was fined £5 for failing to register as required by local registration notices and on Armistice Day, November 11th, Hilda Marshall, a clerk in the City Treasurer's Department at Leeds, was sent to prison for three months for a similar offence. When the defendant said she was a Conscientious Objector, the Leeds Stipendiary said: "I think you are a humbug!" A few cases of repeated prosecutions took place. Florence Haynes of Ruislip, for instance, served prison terms of one month, two months and three months as an alternative to fines imposed for offences against the fire-guard code, though the last-named was in excess of the maximum allowed by law and was specially reduced to two months by the Home Office following representations by the Central Board. Mrs. G. E. Silver and Miss G. Silver of Burnt Oak, mother and daughter, were each tried three

* Fire Prevention (Business Premises) (No. 3) Order, 1942, S.R. & O., 1942, No. 1655.

† Civil Defence Duties (Compulsory Enrolment) Order, 1942, S.R. & O., 1942, No. 1654. This Order replaced the earlier Compulsory Enrolment Orders as from August 31st, 1942.

times for refusing to fire-watch in their local street-parties, while at Camberley three sisters, the Misses Dungey, all went to prison together three times for conscience sake. But on the whole the prosecution of women was on a small scale and the repeated prosecutions on a smaller. In all there were only eighty prosecutions of women C.O.s for fire-watching refusals, this modest total being due in no small measure to the reasonableness of employers and the reluctance of local authorities to prosecute women.

Apart from a new supplementary registration for men, a second point of importance under the new Compulsory Enrolment Order was a curious provision whereby any person convicted of failure to register should "forthwith furnish to the local authority the particulars which he was required to furnish by the registration notice, and the local authority shall thereupon register him" under the Order. The usual penalties for fire-watching offences applied to breaches of the new duty. Men and women who objected to registering inevitably felt the same difficulty about furnishing the particulars required, the net result of this novel clause being, in effect, to substitute the possibility of two prosecutions for one. I well remember in the winter of 1942 being called from my work at B-Hall in Wormwood Scrubs Prison, on the second day of a short sentence for refusing to register, and being handed a letter from the Town Clerk of Hampstead "requesting" me to give the necessary particulars under the Order. I declined in suitable words, but the authorities did not prosecute again.

For those who regard the Government as showing little intelligence in handling the many problems of war-time service, it may be of interest to record that when Joe Brayshaw, then the Board's Public Relations Officer, visited an Official of the Ministry of Home Security to discuss outstanding fire-watching problems he was told what he had previously half expected, that the clause had been deliberately framed so as to provide heavier penalties than under the earlier Orders and yet to avoid the possibility of an indefinite number of prosecutions for the more radical fire-watch C.O.s. For it would have been easy to include power for local authorities to register those who refused to apply, and it is to the credit of the Government that, at that stage at least, such a course was not taken.

Even so there had already been hard cases, many of which were mentioned in the House of Lords by the Duke of Bedford in a general Motion on the treatment of Conscientious Objectors, including "the failure of the Government to recognize the right of conscientious

objection to fire-watching" whereby "many persons of good character were being heavily fined or imprisoned, sometimes repeatedly for the same offence". The Duke's aim was to secure the right of conscientious objection to fire-watching, but despite a closely documented argument and supporting speeches by the Bishop of Birmingham and Lord Ponsonby the House was unmistakably hostile.

Viscount Elibank claimed that the Duke's speeches had on every occasion been directed towards what he might frankly call helping the enemy; his present speech was concerned "almost entirely with trying to assist a certain section of the community to evade or to avoid all its civic duties. . . . The role which the noble Duke now sets out for Conscientious Objectors is, I submit, the most perfect one for any individual who wishes to skulk behind his neighbours and do nothing to defend or help his country or himself."

Replying for the Government, the Earl of Munster said:

> The Secretary of State for Home Affairs, early in 1941, stated in another place that it was not intended to prescribe that Conscientious Objectors should be exempted from the general obligations of the Defence Regulations relating to fire-watching. Again, in the same year, and during the passage of the National Service Act, my right honourable friend the Minister of Labour stated that, while conscientious objection to military service was recognized, conscientious objection to direction into a civil occupation was not recognized, and Civil Defence was in fact regarded as a civilian occupation and not as a military service.
>
> I think that those two remarks, made by responsible Ministers, sum up very clearly the views of the Government from which we are not prepared to depart.

When the Duke of Bedford's turn came to reply, he made good use of the opportunity to correct a number of erroneous impressions that had appeared during the Debate.

> "A suggestion was made", he said on the fire-watching issue, "that I wished to enable Conscientious Objectors to avoid doing anything to put out fire, and it was also suggested that the majority of Conscientious Objectors desired to have their property made safe by other people and to take no part whatever in putting out fires. That is a gross libel on quite 99 per cent. of Conscientious Objectors. They would certainly put out fires and help their neighbours to put out fires in a voluntary capacity. It is the conscription they object to, for the reasons I have given. And I am perfectly certain that if it were desired to increase the

> efficiency of the fire service, one of the best possible ways of doing it would be to allow conscientious objection to fire-watching, and for the Prime Minister or some other person to say that, as that had been granted, he could put it to the honour of those who were exempted to do what their consciences allowed them to do in a voluntary capacity. If he did that I think the response would be immediate. . . ."

At the end of 1942 there had been 234 prosecutions of C.O.s for fire-watching offences, and the Central Board had made urgent pleas to the Ministry of Home Security from October onward. Correspondence piled up but little progress was made.

A fundamental point concerned the responsibility for prosecuting. When faced with an unpleasant duty lawyers have a useful habit of disavowing all personal responsibility by commencing: "My client has instructed me to inform you. . . .", even though they have themselves persuaded their clients; conversely, clients, faced with a similar duty, are wont to write: "My lawyer has advised me, against my own inclinations. . . ." There were signs that this technique was not unknown on the larger scale of Government Department and local authority. For of all the officials with whom the Board was concerned, the most expert at "stonewalling" were those of the Ministry of Home Security, whose letters repeated *ad nauseam* that the institution of proceedings in case of fire-watching offences was entirely a matter for the local authority, with whose discretion the Ministry could not properly interfere. Local authorities on the other hand "passed the buck" by referring to advice or instructions from the Ministry or the Regional Commissioner.

Nevertheless, there was some support for fire-watch C.O.s in the trade union movement, where Sir Walter Citrine, then General Secretary of the Trades Union Congress, was known to be deeply concerned, though existing tension between Transport House and Herbert Morrison tended to reduce its value. In trade union eyes the issue was reduced to absurdity when Aileen Hallsworth, only daughter of Joseph Hallsworth, then General Secretary of the National Union of Distributive and Allied Workers, and an ex-president of the T.U.C., refused to pay a fine of 10s. and went to prison for seven days for refusing to register. For Ellen Wilkinson, who was largely responsible for what happened on the women's side of fire-watching, was also an official of the Distributive and Allied Workers.

Nor was this all. The Parliamentary Exemptions Group was

particularly concerned at the prosecutions taking place, and Cecil Wilson agreed to ask Herbert Morrison to meet a small deputation consisting of T. Edmund Harvey, Rev. James Barr and himself. At least three months before, Edmund Harvey and Cecil Wilson had urged the ending of "cat and mouse" in such cases upon Osbert Peake, Joint Parliamentary Secretary with Ellen Wilkinson, but little seemed to have been done. Illness, however, supervened, and on April 15th Edmund Harvey was asked if he would consider deferring the deputation until after Easter as the position was being examined afresh. It was not long before a hint leaked out that some concession would be made to Conscientious Objectors in the new Orders under consideration at the Ministry, and when at last the deputation was arranged, it was received, on June 10th, 1943, not by Morrison but by Ellen Wilkinson; John Parker, then Secretary of the Fabian Society, went in place of the aged Barr.

As might be expected the deputation got little change from Ellen Wilkinson, accompanied by the Permanent Secretary, Sir Harold Scott, now Commissioner of the Metropolitan Police; she repeated that the Ministry were not prepared to make any provision for conscientious objection to compulsory fire-watching unless this was expressly decided by Parliament, a contingency which all parties seemed to agree was remote. The Ministry, however, wanted to meet the case of those men and women who, though doing voluntary fire-watching, had refused to register or furnish the necessary particulars after conviction, and the suggestion was that the new Orders should provide that, after conviction for refusing to register, a person *should be deemed to be registered*. The intention behind this move was to secure that, in the case of those already doing fire-watching, local authorities should have the good sense to leave well alone and not to claim the duties as compulsory or impose compulsory duties at other premises. Such a course would have been little less than a catastrophe, because such a clause would mean that those who refused both registration and duty could for the first time be enrolled for duty *and prosecuted every time they failed to appear, which would normally be weekly!* This was pointed out, but neither politician nor Civil Servant seemed distressed at the thought. As the interview drew to a close, Cecil Wilson, seeing the lie of the land, asked the lean, capable Sir Harold Scott if he would meet one or two of those who felt unable to register, a suggestion to which the Permanent Secretary readily agreed. Nevertheless, the deputation came away with the impression that if the matter had been left to Morrison

himself the problem might have been examined with greater sympathy, but that Ellen Wilkinson, notwithstanding the fact (unknown to the general public) that she had for a short time before the war been a sponsor of the Peace Pledge Union, felt undisposed to help.

So deputation led to deputation. Sir Harold Scott was as good as his word and on June 29th Edmund Harvey, with his customary Quaker charm, introduced Dr. Kathleen Lonsdale, John V. C. Wray and Joe Brayshaw, certainly a varied trio. Kathleen Lonsdale, who had for some years been clerk of Uxbridge Friends Meeting, was an X-ray research worker and later became one of the first women to be elected Fellow of the Royal Society. She had twice been prosecuted for fire-watching offences and had served a months imprisonment at Holloway. Had she been willing to register, Kathleen Lonsdale could have claimed exemption as a married woman with three children under fourteen. Jack Wray, who had been court-martialled four times in the First War, though one of the older generation, had recently served two separate months in prison for refusing to register, while Joe Brayshaw, the third member of the deputation, had spent a month in Wandsworth for a similar offence. He had been unconditionally registered by the Tribunals. Here is Joe Brayshaw's business-like report :

> . . . Sir Harold Scott hinted that the forthcoming Orders were now ready and that he could not hold out any hope of further amendments, and he stressed the difficulty of discriminating between Conscientious Objectors and others who refused to do fire-watching. He said that the Government definitely declined to consider a conscience clause in this connection and he confirmed that the intention of the new Orders was that non-registrants should be prosecuted once only and that on conviction the local authority should be given power to register them.
>
> We pointed out that this would open up the possibility of repeated prosecutions. . . .
>
> Sir Harold Scott hinted that though local authorities would have the power to register non-registrants they would not necessarily thereafter enrol them if there were exempting circumstances ; but he agreed that it would rest with local authorities and he did not dispute our suggestion that they were somewhat variable.
>
> It was further suggested by Sir Harold Scott that the presence of many more shirkers made it impossible to provide against repeated prosecutions of genuine C.O.s. We pointed out, first, that very few shirkers would rather suffer imprisonment than

fire-watching duty, and secondly, that the presence of shirkers had not deterred the War Office and Ministry of Labour from making several real efforts to prevent repeated prosecutions of C.O.s. Sir Harold Scott was interested in this and we explained the War Office procedure for discharge. . . . He said that he would get in touch with the War Office about this, and we stressed that in legalizing repeated prosecutions the Home Office was running counter to the general policy of other Departments of State.

In discussion it was suggested to Sir Harold Scott that if comparatively sympathetic treatment were to be given to those who were voluntarily fire-watching, some of them would feel unable to continue, on the ground that their previously voluntary service had been incorporated into a compulsory system and made the price of their exemption.

Winding up, T. Edmund Harvey asked that special effort should be made to avoid repeated prosecutions which are generally felt to be objectionable, and Sir Harold Scott promised to consider this.

Next day, June 30th, 1943, the Defence (Fire-Guard) Regulations, 1943,* were issued, and on July 28th three new Orders were signed. These were the Fire Guard (Local Authority Services) Order, the Fire Guard (Business and Government Premises) Order, and the Fire Guard (Medical and Hardship Exemptions) Order.† Together these constituted a single code, embodying everything connected with the Fire Guard Service (as it was renamed), and taking the place of ten previous Regulations and eleven Orders.

The provision foretold by Sir Harold Scott appeared as Article 8 (5) of the Local Authority Services Order:

> Where any person is convicted of failing to make an application to be registered under this order, or to make a report under paragraph (3) of this Article, the local authority shall forthwith register him under this order. . . .

Although the operation of a later clause made the position somewhat doubtful, the better opinion was that a conviction for refusing to register *under the previous Orders* would not be sufficient to enable a local authority to register a person against his will; consequently, there seemed a real danger of the 220 C.O.s already convicted who objected to registration but not to duty being re-prosecuted to enable the local authority to register them.

* S.R. & O., 1943, No. 916.
† S.R. & O., 1943, No. 1043-5.

Joe Brayshaw took up this and other points with the Ministry of Home Security, and as a result of his intervention the Minister decided to clarify the position in a forthcoming amending Order in which various adjustments were to be made. In the meantime, a Circular (No. 170/1943) was sent to all local authorities in England and Wales which included the following advice:

> . . . Pending the issue of the amending Order referred to above, local authorities are requested not to institute proceedings for failure to apply for registration or for failure to report under the present Order against persons convicted for failure to apply for registration under the Civil Defence Duties (Compulsory Enrolment) Order, 1942, either in the area in which they are now resident or in some other area.

Various difficulties delayed the amending Order and, as the months went by with no sign of its issue, the possibility of further prosecutions of those already convicted receded more and more into the background. Only two summonses were issued in defiance of the Circular, and each of these was dismissed on payment of the purely nominal fine of 2s. 6d.! In fact, the amending Order was never issued.

But summonses were still being served for fire-guard offences, the attitude of local authorities varying enormously. In some areas honour was satisfied by one prosecution, in others by two, or perhaps three. At the end of 1943 there had been 343 prosecutions of men C.O.s and 58 of women for various fire-watching offences under the Orders.

Gradually the issue of repeated prosecutions narrowed itself to three cases of varying seriousness. The first was that of the Rev. Sidney Spencer, the Minister at Hope Street Unitarian Church, Liverpool, who based his refusal to register upon a "disbelief in the principle of compulsion for that purpose". Ministers of religion were not required to fire-watch except in their home area or at their own churches, and Sidney Spencer was already doing as much voluntarily as he could be compelled to do. But this was no defence for refusing to register; in April and November, 1942, respectively, he was fined £5 and £10 for refusing registration under the Compulsory Enrolment Orders of 1941 and 1942; on each occasion the fine was paid anonymously. The second prosecution, however, laid him open to further proceedings for "failing to furnish the required particulars after conviction" and this resulted in a prison sentence of one month without the option of a fine. So Hope Street Church was

without its Minister for a few weeks while, at the age of 54, Sidney Spencer was within the walls of Walton Prison.

Under existing practice the third summons might have been expected to end this Unitarian witness to freedom of conscience. Yet the local authority proceeded against Spencer once more. But this time they were on doubtful legal ground. The summons stated that the charge against Spencer was that he failed to furnish the required particulars after conviction for failing to register under the Order of 1942, and the plea of *autrefois convict*—a submission that the defendant had already suffered the penalty of the law for that offence—became possible. However, this defence was overruled and Sidney Spencer was sentenced to two months imprisonment, again without the option of a fine. He decided to appeal on the point of law involved ; on the strength of his appeal the summonses against three other C.O.s, John E. Watson, Albert E. Helsby and Alun M. Davies, who had been charged in somewhat similar circumstances, were held over.

Accordingly, the Magistrates, releasing Sidney Spencer on bail, stated a case for the High Court. The chances of the appeal seemed good. Three weeks after the decision to appeal the Magistrates at Brighouse, Yorks, upheld a similar plea to Spencer's made by John Furness, a Quaker schoolmaster, the summons against him being dismissed. Some support was received from Sidney Spencer's Church ; a resolution urging the amendment of the Orders to give recognition to conscientious objection had been passed by the Council of the General Assembly of Unitarian and Free Christian Churches on March 26th ; and the Duke of Bedford had instanced the case in the House of Lords in the same month. The Liverpool Council, alarmed at the time the appeal was taking, endeavoured without success to have the hearing expedited, for the pending appeal effectively blocked further proceedings.

It was not until January 13th, 1944, nine months after the Magistrates' decision, that the appeal was called, and by that time the Fire-Guard (Local Authority Services) Order had abolished the offence for which the four C.O.s had been convicted. Though it did not affect the legal argument, this lent an air of unreality to the proceedings at the Royal Courts of Justice in the Strand when Mr. Justice Lawrence, Mr. Justice Lewis and Mr. Justice Wrottesley took their seats to hear W. A. L. Raeburn (now a K.C.) address them on Spencer's behalf. This he did in masterly fashion, dealing with the legal intricacies and with points put to him by the Judges for

nearly two hours without reference to brief or notes. But neither his particular plea on the wording of the articles involved nor his general call to the Judges to weigh the results of their decision in terms of increased "cat and mouse" treatment of a minority was of any effect, and H. I. Nelson (now a K.C.), replying for the Liverpool Council, nervous but scrupulously honest in basing his case not on the grounds which commended themselves to the Judges but on those that seemed to him soundest in law, did not find his burden a heavy one. So the appeal was lost (with costs), the Judges deliberately refraining from any remark on the wider points of public policy raised. Spencer, his bail ended, became liable to arrest after the long business of drawing up and entering the judgment had at last been completed.

There were so many circumstances the High Court could not take into account that the Central Board decided to apply for exercise of the Royal Prerogative of Mercy for the remission of Spencer's sentence. There was great speculation as to the likely outcome of this application, which had been urged in somewhat uncompromising terms, and interest increased when it appeared that the Home Secretary would remit the sentence if the Liverpool Council decided to withdraw the outstanding summonses against the three other C.O.s. On February 1st Messrs. Watson, Helsby and Davies were summoned to appear before the Magistrates—only to be told that their cases would be adjourned for a fortnight. Two weeks later the Council's attitude was still not clear and a further month's adjournment was granted. Soon, however, Theobald Mathew, a nephew of the legal wit of the last generation and a future Director of Public Prosecutions, wrote to Joe Brayshaw informing him that the sentence on Spencer would be remitted, and in due course, the summonses against the other C.O.s were withdrawn. In this successful issue it looked as if the Ministry of Home Security had been trying hard to persuade the Liverpool Council to a more humane view and the Board was left with the impression that the central Government was much more enlightened than this particular example of Britain's local authorities.

Spencer's had been essentially a matter of refusal to register, but the second case of the "big three" involved both refusing to register and refusing duty. The central figure was a young greengrocer named Kenneth Sibley who came of a family well known and respected in the City of St. Albans. On political grounds he had refused war service of all kinds. Sibley was a colourful character:

after serving in the Navy he had come to a simple belief in the wrongness of war, and, just as many C.O.s attached great importance to signing the peace pledge, so this young man felt bound by a solemn promise not to take part in war which he had given when his father was dying. Having declined to register under the National Service Acts and having refused to submit to medical examination he had been heavily fined at Herts Quarter Sessions.

Feeling that registration for fire-watching would be co-operating in a form of war service, Sibley refused to sign, and a strange tale followed. First he was fined £2 for refusal to register under the Order of 1942. Then he was prosecuted again on exactly the same charge, but the case was dismissed as being ill-founded in law. After this the C.O. was fined £5 for failing to give the necessary particulars after his first conviction, and at his fourth prosecution, in February, 1944, he was fined 2s. 6d., which, though a nominal amount, yet enabled the authorities to register him for duty. This he declined to do and, after being compulsorily enrolled, was fined £3 for refusing duty. As Sibley left the Court after this, his fifth prosecution, he was served with another summons to appear on a similar charge a week later, *the summons actually being dated the previous day!*

Further prosecutions resulting in two fines of £3, two of £5 and one of £2 followed, and it seemed clear that the local police were trying to secure a prison sentence which the Bench, understanding the defendant's claim of conscience, was unwilling to provide. Sibley's refusal was said to be having a bad effect upon other fire-guards, though Sibley himself found little evidence of prejudice against him, even in the conventional society of Hertfordshire.

Strong protest had been made against these repeated prosecutions and the climax of the case came on July 20th, 1944, when Kenneth Sibley appeared at St. Albans Police Court for the tenth time. After hearing him explain his reasons for refusing duty (reasons which had become as familiar to the Bench as they were to Sibley himself), the Magistrates retired to consider the case privately. In the chair was Cyril W. Dumpleton, Quaker Mayor of St. Albans, later to represent that constituency in the House of Commons. When the Magistrates returned, Dumpleton said:

> I am expressing my own views, not shared by members of the Bench necessarily. I think the continued direction to do fire-watching, in the circumstances, is alien to the spirit which has been declared by members of the Government as to how

> Conscientious Objectors should be treated, and continued prosecution is wrong. By a majority decision, the Bench will fine you £1 for each of these offences which are before us this morning.

This enlightened statement, showing the Chairman's realization of the wider issues involved, was to prove of the greatest value in later cases of repeated prosecution.

This was indeed the last Act of the drama, but the Epilogue remained, for one further summons was served. This resulted only in a further fine of £1 and the local Council, cutting their losses, hit upon the happy solution of placing Sibley on the Fire-Guard Reserve with the result that he was not again posted for duty. Nevertheless, it is difficult to see why this commonsense solution could not have been achieved at a much earlier stage in the proceedings.

From the eleven to the nine. In all the issues of fire-watching and conscience, one case transcended all others in public interest and dramatic force. A struggle took place in the Sussex county town of Lewes in which the feeling of the people against one Conscientious Objector reached a pitch reminiscent of the small towns of the United States in centuries past. George Elphick, the central figure in this drama, was a Christian Objector of unimpeachable character, helpful and tolerant and lacking in those qualities of smartness, self-importance and cantankerousness that can be so divisive. Elphick, who had been conditionally registered by the Tribunals, was from the outset firmly opposed to any form of fire-watching duty under the Orders, as he objected to becoming a member of any service organized in connection with the Government's Civil Defence scheme.

Local Secretary of the F.o.R., George Elphick applied the principle of reconciliation by registering under the Orders, feeling that he had no conscientious objection to registration, that he must go as far as ever he could in observing the law of the land, and that if he applied for exemption to a Hardship Committee it was just possible that a conflict with the State would be avoided. But his application for exemption was rejected, and, wanting nothing better than to continue with his work as a carpenter, with his duties as a sidesman at Southover Parish Church and his hobby of bell-ringing, he set his face firmly to the future.

On December 2nd, 1941, Elphick appeared before the Magistrates at Lewes charged with failure to carry out fire-watching duties. Explaining his position he said:

> Fire-watching as an act is not wrong: it is the motive behind

> the act that is wrong—the motive of fire-watching being to assist the prosecution of the war even though it be indirectly. I am endeavouring to live a useful life within the dictates of my conscience, and if I were in any place where I could be of any help to my fellow-men, be it fire-fighting, first-aid or such like, I should do it in the capacity of a free citizen, but never as a member of any civil defence service.

The hearing was adjourned for seven days to allow the defendant to discuss the matter with his Rector who, though disagreeing with his stand, had given evidence of his upright character. But the end of the week found Elphick still of the same mind, and he was fined £5 or 28 days in the second division. He refused to pay the fine and went to prison.

Two further prosecutions followed; on the first occasion a further fine of £5 was paid anonymously, and on the second Elphick again accepted the alternative of 28 days in prison.

Time went by until, six months later, the local Council, ignoring an opinion of the Regional Commissioner that no good purpose would be served by further prosecution, unanimously reversed a decision not to prosecute again, so that on December 3rd, 1942, another fine of £5 was imposed—and once more Elphick went to prison for a month.

Though feeling against Elphick had been rising, the fourth prosecution only served to rally progressive opinion to his side and many reasonable men and women could not forget that on two occasions at least the Chairman of the Magistrates had said there could be no doubt about the complete sincerity of this Conscientious Objector. Accordingly a petition signed by 140 people, including two of the local clergymen and a well-known journalist, was presented to the Mayor and published in the local Press; the Duke of Bedford referred to the case in stirring terms in his Motion of March 2nd, 1943, already mentioned; and behind the scenes other moves went on to promote a more reasonable attitude on the part of the Lewes Borough Council. Nevertheless, a fifth prosecution was decided upon and, the patience of the Bench being exhausted, Elphick was sent to prison for two months, without the option of a fine, to the accompaniment of loud cries of "Shame" from the back of the Court.

Though the case was raised by Rhys J. Davies in the House of Commons on July 8th, Morrison could give little satisfaction. The C.O. movement, however, was beginning to feel that the happenings

in this apparently peaceful county town so bordered on persecution as to become a national concern, and the institution of a sixth prosecution brought many offers of help. As a first step the Board made a careful scrutiny of the legal position and found that Elphick's original direction to fire-watching required him to obey the orders of one C. G. Sains, whereas the recent direction to duty had been required of him by another official altogether. The least the Council could do was to have their proceedings legally in order, and after much discussion between the Council and the Central Board, the Town Clerk asked leave of the Court to withdraw the summons, to which, naturally enough, no objection was raised!

This was no solution. The day of reckoning was merely postponed, and the Council immediately prepared to rectify the position. The Council decided to prosecute once more, and Alderman W. Hoyles betrayed, not for the first time, his contempt not only for George Elphick but, it would seem, for Conscientious Objectors in general by declaring: "Personally, I would blow the whole Pygmalion lot sky-high if I had my way."

So a further summons was issued. The case was working to a climax. The Borough of Lewes, anxious not to lose face with the burgesses on a second occasion, decided to leave nothing to chance and instructed Counsel to appear, while the Central Board, determined that Elphick should be at no disadvantage, also instructed a barrister to represent him. The case had become far removed from the ordinary run of prosecutions in the Police Court, and everyone from the Chairman of the Bench to the merest stranger in the public gallery felt a tinge of excitement as the hearing began. The Court room in the building in High Street, Lewes, was crowded as I took my seat behind D. G. A. Lowe, a former athlete of international repute, who was appearing for the defendant, while Harold Brown, a short, greying, round-faced barrister, sat at the other end of the bench. Next to me was Clarence E. Tritton, the Board's local adviser, who had been most active on Elphick's behalf, and behind me sat the Bishop of Chichester who, having met Elphick at his work and visited him in prison, had agreed to bear testimony to his high Christian character. The atmosphere was electric.

Harold Brown opened the case for the prosecution, making one or two Biblical references which caused the Bishop to write quick pencilled notes on a sheet of paper before him.

"In present-day society there is no room for pocket John Hampdens", Counsel exclaimed, as he contrived to give the

impression that Elphick was merely posing as a martyr while in reality quite impervious to his duties to society. It was a telling speech and, as the peroration drew to a close, three months in prison seemed a probability rather than a possibility to one at least of those present.

And then the bubble burst. The Magistrates' Clerk, L. G. Vinall, asked the prosecution to produce its authority to bring the proceedings. A minute or two passed as the Town Clerk searched the Council records. But when at length the authoriy was produced Vinall proceeded to point out that the Council's decision had been taken *before there was any breach of the direction.*

At this point Lowe jumped in and, after legal argument and half an hour's discussion in private, the Magistrates announced that the Bench was not prepared to convict. In high dudgeon, Brown immediately asked for a case to be stated for the High Court, the mode of appeal Sidney Spencer had used ; the Chairman welcomed the idea, saying it would be good to have the point settled. The case was therefore adjourned for seven days for the formal application to go through. The Bench retired, Counsel went to their room, and the public gallery slowly emptied.

Lowe, the Bishop, Mrs. Tritton and I had gone to have lunch across the road when a very agitated Town Clerk entered the room saying that a further technicality had arisen and on the wording of the decision they were having great difficulty in bringing their application within the rules. It is easy to imagine the temper of the Town Council at its next meeeting when, faced with two failures to secure conviction and the prospect of an expensive appeal to the High Court, it met to decide on policy. The Council again proposed to play safe—to abandon the appeal, to serve Elphick with a new direction to fire-watching, and after his refusal to prosecute anew.

Before then Rhys Davies had again raised the matter in Parliament, securing from the Home Secretary on December 9th, 1943, a statement that the Regional Commissioner had written to the Town Council as early as October, 1942, deprecating repeated prosecutions in this particular case, but the local authority had nevertheless decided to go on. Pressed by Sydney Silverman as to whether the Defence Regulations could not be amended so that undesirable prosecution should not take place, Morrison admitted that he had considered the suggestion, but in view of the grave difficulties that would attend such a step he had come to the conclusion that things must run as they were. In addition, publicity was given to a *Manchester*

Guardian leader of December 13th condemning in forthright terms the action of the Lewes Council.

On January 25th following, an eighth prosecution was brought. Counsel was heard on each side, and after detailed legal argument a fine of £10—with two months imprisonment as an alternative—was imposed on Elphick, despite an eloquent plea by his Counsel.

With the object of tiring the Town Council of the whole business the Conscientious Objector and his friends decided to appeal to East Sussex Quarter Sessions where, after further argument, the appeal was dismissed with costs. So Elphick went to prison *for the fifth time*. (Spencer had been actually "inside" only once, Sibley not at all.)

Even that was not the end. In the course of time the Council decided to prosecute yet again, and this time the volume of protest was greater than ever. Once more Rhys Davies pressed the Minister in the Commons on June 15th, when Morrison replied:

> These cases are often difficult to understand. I have tried, in the special circumstances of this case, to be as helpful as I can, and I will do so, but I do not think I ought, so to speak, to usurp directly the function of the local authority in this matter.

Meanwhile, letters of protest were flooding in to Council and Ministry alike. A local rector, the Rev. Kenneth Rawlings, who had been a tower of strength throughout, wrote a short pamphlet, *Catalogue of Conviction*, which was published by the Central Board and circulated widely. The Bishop of Chichester went to Lewes for a long talk with the Mayor. The *Church Times* of June 23rd, in a striking editorial, said:

> Sensible authorities drop these prosecutions after one or two convictions, but Lewes believes in ploughing the victim's back and making long furrows.

The same week the *Christian World* stigmatized the action of the Lewes Council as being "merely stupid" as well as against the spirit of English law, while *The Friend* and *The Christian Pacifist* were equally emphatic.

A petition urging the Council to show clemency and not to proceed further against a man whose repeated punishments "have surely amply fulfilled the Council's general obligation to enforce the law" was signed by Vera Brittain, Laurence Housman, Rev. Henry Carter, C.B.E., Margery Fry, The Lady Parmoor, Professor G. H. C. MacGregor, D.D., D.Litt., Benjamin Britten, Peter Pears, Michael Tippett, Clifford Curzon, F.R.A.M., and ten Members of Parliament

including James Griffiths, the present Minister of National Insurance. This petition was presented to the Mayor by a deputation of three local residents led by the Rev. Harry Maguire, a local free church minister, but the first citizen of Lewes, with a copy of *Catalogue of Conviction* on his desk, was polite but unbending. Dr. C. E. M. Joad, taking part in a Brains Trust at Lewes and having tea with the Mayor beforehand, took the opportunity of emphasizing the opposition to the Council's action which he had already discussed in a lengthy article in the *New Statesman and Nation* of May 6th, 1944; still, a nasty scene threatened to develop after the Brains Trust when Kenneth Rawlings and Clarence Tritton were giving out copies of the pamphlet to people leaving the meeting.

As a protest against the Council's continued prosecution of a man whose integrity had not been questioned, the Rev. Kenneth Rawlings gave notice that he would stop fire-watching himself and would refuse any direction that might be served on him. He himself "had no objection to fire-watching as such, but had the strongest objection to tyranny".

So the name of George Philip Elphick was again called in the all too familiar court-house. As a measure of belated economy, both sides had decided against Counsel; the Town Clerk appeared for the Council, and I represented Elphick myself.

The Town Clerk addressed the Court in a sound, workmanlike manner, and in a plea for a better understanding of Elphick's attitude I endeavoured to show the imperative nature of conscience, winding up with a reference to Cyril Dumpleton's statement at the prosecution of Sibley.

After a lengthy retirement, the Chairman made this statement in an atmosphere of still expectancy where all had been noise and bustle:

> This is the ninth time Elphick has appeared before us, and I say again, as I have said on every previous occasion, that the Bench entirely disagree with his attitude, and we fail to understand it. We realize that the case is an extremely difficult one, but we want to make it quite clear that we entirely disagree with his actions and we think he would be better advised to follow the example of his many friends who have taken the opportunity of doing fire-watching.
>
> Having said that, we do feel that his case has been before us quite often enough, and we cannot see any useful purpose is served by further prosecution. It is quite clear that the object

of prosecuting in all these cases, as had been pointed out by the Home Secretary, is to ensure that duty is carried out. The main object is to bring people to a better frame of mind and to secure their willing co-operation, but we confess we have failed to bring Elphick to a better frame of mind, and we regret that. The question is whether it is worth while to go on trying. The law cannot make a man do things—it can only punish him for not doing them.

The proceedings at St. Albans have been quoted, and it seems a somewhat similar case. We are rather impressed by that and we propose to follow their example and impose a fine of £1.

At last the solicitors and witnesses withdrew; little knots of people clustered round the Town Clerk, round Elphick, his mother and his fiancée. This unexpected turn had stunned the prosecution to silence. The Council had secured a conviction, but on terms that seemed to preclude the possibility of further proceedings being taken with any effect. I shall never forget the face of Mrs. Elphick who, with a weak heart, had daily faced almost as much censure and derision as her son and only support—it was as if a cloud had been lifted from the lives of both of them to reveal a future of comparative peace.

So ended one of the strangest cases of the war. No more proceedings were taken after the fateful ninth, and George Elphick was left to his carpentry and to the long task of making by hand the furniture for his new home. Spencer, Sibley, Elphick. Each had won through in the end.

Though fire-watching had first been instituted to deal with incendiary bombs and the outbreak of fire, Hitler's *Luftwaffe* had long since transferred its affections to high explosive and flying bombs, and even deadlier weapons were nearing perfection. The strain of fire-watching week after week in such circumstances led to a general move to abolish fire-watching altogether, particularly as part-time N.F.S. workers had been "stood down" and it seemed unlikely that the enemy would, or could, again launch fire attacks on the old scale. Thus, on September 6th, 1944, the Minister of Home Security announced that most of the duties would be suspended as from September 12th, adding of the fire-watching and Civil Defence Services that no announcement of this kind "would be complete without at least a last word of praise and thanks to the civilian forces which have done so much to defeat Hitler's air bombardment and have played so great a part in the achievement of victory". The last

prosecution of a C.O., George W. Hooper of Totteridge (his fifth prosecution for offences on grounds of conscience), took place on February 26th, 1945, and compulsory fire-watching was abolished throughout the country shortly afterwards.

Now the 555 prosecutions that took place against fire-watch C.O.s must not blind us to the fact that the great majority of their comrades never felt the least difficulty of conscience in fulfilling their obligations under the fire-watching Orders: on the contrary, they can take credit for doing their bit—and often more than their bit—in safeguarding the homes of Britain. But those whose conscience compelled them to take an often misunderstood stand can take heart that their witness to peace and liberty was of sufficient strength, in the end, to wear down the opposition. Their steadfastness had run opposing forces to a standstill months before the Fire-Guard Services were suspended; a fact which must surely entitle them to a humble place with the men and women without number who in ages past have withstood the encroachments of authority in the name of personal freedom.

CHAPTER 21

HOW C.O.s WERE RELEASED

HOW seldom C.O.s appearing before the Tribunals gave thought to the length of time the Tribunal decisions would apply to them! At that time the accent was on the category in which they were placed, on the kind of alternative service specified, on the Unit to which non-combatants would be called. Yet, as the years passed, all these became subsidiary and release became the burning problem.

In all the complexities of the question two facts stood out. First, unconditionally registered C.O.s did not come into the picture at all: their registration was simple exemption and did not place them under any practical liability. But all the other classes of C.O.s—the "conditionals", the non-combatants, the "provisionals" and so on—all had a personal interest in release. Secondly, those C.O.s registered for non-combatant duties and actually in the Army fell to be demobilized like other soldiers. As their release came to be the pattern for that of conditionally registered C.O.s, it may be well to consider shortly the main principles applied.

Soldiers in general had been called for service until "the end of the present emergency" and non-combatant C.O.s had been registered for the same period. A short subsection* in the Act of 1939 had provided that, for the purposes of that Act, the emergency should be deemed to end on such a date as might be declared by Order in Council. Under the Army Act and the Acts governing the other Services, however, the authorities had power to discharge soldiers whose services were no longer required or to transfer them to the Reserve and it was under these powers that the scheme first outlined in the White Paper on Re-Allocation of Man-Power,† and later embodied in the Regulations for Release from the Army, 1945, was operated. There were three main kinds of discharge, releases in Class A and Class B and release on compassionate grounds. In Class A men and women were released from the Army in groups based on their age and the length of their service counting for Army

* Section 21 (2).

† Cmd. 6548; September, 1944.

pay; for this purpose two months of such service were equivalent to an additional year of a person's age. Release in Class B existed because the community urgently needed people for particular kinds of work, such as building, teaching and coal-mining. If eligible for this concession, men and women in the Forces could apply to be released before they would be "demobbed" in Class A, but, to make up for this, the conditions were less favourable. So far as the third category—Class C—was concerned, soldiers or someone on their behalf could apply to their Commanding Officers for release on compassionate grounds, but, except in cases of exceptional hardship, such release, which could be granted either on grounds of domestic distress or business interests, would be only temporary. Whether or not applications were granted depended entirely on the Army authorities.

So much for the release of the men and women in the Forces. What of the C.O.s with Tribunal conditions? Here registration was similarly "until the end of the present emergency", but apparently the minds of the men who drew up the Act were as little directed to questions of release as those of the C.O.s: certainly there was no provision enabling the Ministry to dispense with anybody's services until the emergency had been formally ended, an event which might well be delayed for some years after the war.

The Ministry of Labour was reminded of the special position of conditionally registered C.O.s as early as September, 1944, when the White Paper* on demobilization from the Services was published and the release of Civil Defence personnel was in the air, and there is no doubt that considerable thought was given to the question in the months that followed. Despite pressure from varying directions, however, no statement of policy could be obtained, the favourite formula being that the matter was under discussion at a high level at which all representations would be taken into account. Apart from the claims of justice and equity, no practical administrator would wish to see twenty-five thousand men leaving their war-time work on the day the emergency was declared at an end, and such indications as there were pointed to acceptance of the general principle of earlier release. But apart from this the National Government, with its high and low levels of progressive thought, seemed in a quandary.

The months drifted by. In May, 1945, the Ministry agreed to receive a deputation consisting of Joe Brayshaw and myself—

* Cmd. 6548.

and then asked for the interview to be postponed to allow certain points to be cleared up first.

Civil Defence was being greatly reduced, and most of the general personnel released, though technically liable to call-up or "direction", were being allowed to go back to their pre-war jobs in a way that made the C.O.s in Civil Defence, tied as many were by Tribunal conditions, somewhat envious of their good fortune. Admittedly the non-C.O.s were mainly older men but the position remained anomalous in other respects. Some of the inequalities were, however, ironed out by the humane practice of the Tribunals known as the "informal procedure". On a C.O.'s application his Tribunal conditions could sometimes be added to or varied by the Tribunals without an official hearing, and some of the C.O.s discharged from Civil Defence had their pre-war work added to that originally specified. As a result they attained much of the practical freedom of release. But so many applications of this kind were made that in mid-1945 the Ministry of Labour clamped down on the practice and no more C.O.s were "released" by this method.

So the back door was closed and the front door remained shut. Still, by this time it seemed clear that the principles of the Army Scheme were to be applied with some modifications, but the extent of these modifications was shrouded in the mysteries of St. James's Square. All political parties were preparing for the General Election, and while strong criticism raged on the inadequacy and slowness of demobilization from the Forces it was perhaps too much to expect a statement on an inflammable topic like the release of C.O.s only a few weeks before Election Day. The Labour Party left the Government and in the new "Caretaker" Government announced on May 29th, R. A. Butler, a Conservative conscriptionist, became Minister of Labour. Though the "Caretakers" felt they had no mandate to introduce a scheme for releasing C.O.s, Butler's moderate reply to a question on the release of F.A.U. personnel* showed no rooted objection to the principle involved.

Two other factors helped things along in those pre-election days. At its annual Whitsun conference the British Legion had passed a resolution sponsored by the L.C.C. (County Hall) Branch instructing its Council to ensure that C.O.s should not be released from Civil Defence or other non-military form of national service earlier than if they had served in the Armed Forces. The fact that this resolution took the criterion of military service and yet omitted to press for

* June 7th, 1945.

service preference seemed to augur well for the future. The other factor was the proposed release of nine hundred American C.O.s from C.P.S. Camps on a points system over a period of twelve months beginning in August, 1945. This scheme approximated to the plan for the American Army and proved a useful precedent, though the plan was later held up.

June 26th found Joe Brayshaw and myself at the postponed interview with the Ministry of Labour. We were received by three Officials and the discussion, which lasted over an hour, ranged from the usefulness of the "informal procedure" to the need for earlier release for specialist C.O.s, such as teachers and building workers, in any other plan that might be put forward. In general we urged that in matters of release the principle of equality be applied between soldiers and C.O.s. The Officials seemed well aware of the arguments for and against such a course, but we left Portman Square with the impression that the final decision would lie in the hands not of the Civil Service, powerful though it was, but of the political chiefs of the new Parliament—whoever they might be.

Then came the long-awaited election and the about-turn. Most of us had expected Churchill's personal popularity to carry the Conservative Party to triumphant success, and the dead hand of the "Caretakers" had been at the helm long enough to make this an uninviting prospect. Instead, the Labour Party, with a majority of two hundred and with many former C.O.s in its ranks, was returned to office and power to form Britain's third Labour Government. So Attlee took the place of Churchill, Herbert Morrison became Leader of the House and George Isaacs, a trade union official and a skilled arbitrator, Minister of Labour and National Service.

Though increased pressure was brought to bear on the new Minister of Labour, still the Government held back, and it was not until October 16th, in replying to a somewhat unfriendly Question by Major Beamish (who had succeeded his father, Rear-Admiral Beamish, as Member for Lewes) that Isaacs admitted that he was "examining the possibility of introducing a release scheme for Conscientious Objectors, based on the principles of age and length of time conditionally registered" and he hoped to be in a position to make a further statement on the subject at an early date.

Even then the Board was expecting some purely administrative scheme, and its prevailing reaction was one of surprise when, on October 26th, it learned that a special Bill of two sections had been introduced in the House. Its title was the National Service (Release

of Conscientious Objectors) Bill. The text was complicated but the meaning simple. The Ministry of Labour was to have power to direct that C.O.s should be released from their Tribunal conditions at any time after the closing date for Army releases of both officers and men in the same release group, but the release was not to take effect until a further four to six weeks had elapsed. A C.O.'s release group was to be calculated by reference to his age and the length of his service, that is, the length of time he had been conditionally registered. Release was to be equivalent to unconditional registration, but if, in a grave emergency, released Army groups were recalled to the Colours, the Ministry of Labour might refer back to the Tribunals the cases of the C.O.s in equivalent groups.

Interest was keen, and Joe Brayshaw, Doris Nicholls of the F.o.R. and Charles Swaisland of the F.A.U. had difficulty in getting places in the tiny public gallery of the war-time Chamber for the Second Reading of the Bill on November 9th. The Conservative Opposition seemed bent on discrediting the new Government at the earliest opportunity and a slightly unscrupulous appeal to the anti-C.O. prejudices of the House was expected with some confidence. Instead, they found a transformed House of Commons, the Bill being welcomed on all sides, every Member, however bitter against C.O.s, making a determined effort to be strictly impartial. For this many of the Conservative speakers—including R. A. Butler himself—deserve high praise, for with war sacrifices exacerbated by election catastrophe their feelings can be readily imagined.

Fairness and expediency had combined to commend the Bill. Not only was it just that C.O.s should be released before the technical end of the emergency, but their services might well be of greater value to society in the often specialized work they had performed before the war. In working out the scheme, the release groups chosen had been those for the Army, first, because they were simpler and easier to work, and secondly, because non-combatant C.O.s had been posted to the Army. The professed purpose of the provision for four to six weeks' notice was not to impose a penalty or delay the release but to give C.O.s notice to enable them to inform their employers and make the necessary arrangements. The release of women C.O.s would be related to that of the A.T.S., one result of which was that married women would be released as soon as possible after the Bill became law.

One further question, destined to lead to controversy a few weeks later, was dealt with by the Minister—the question of labour controls,

whereby a C.O. on his release might find himself still tied to his war-time work: if this were allowed to happen, general labour controls could remove all substance from the Bill, leaving an empty shell. This was what George Isaacs said:

> A Conscientious Objector who is in employment covered by an Essential Work Order, will have to obtain the permission of the National Service Officer before he can leave his work. If he is in employment not covered by an Essential Work Order, to which he has been directed, he will not be able to leave until he gets the direction withdrawn. He will be no more and no less liable to direction than if he had not been registered as a Conscientious Objector.
>
> It is the intention to ensure that the purpose of the Bill is not frustrated by the exercise of existing labour controls in such a way that a Conscientious Objector who has been released from his conditions is tied to the work from which he has been released under the Bill. We think it is important that that should be noted.

In the ensuing debate, Members from all sides of the House made suggestions for widening the terms of release: H. Wilson Harris, editor of *The Spectator,* and Reginald Sorensen queried the provision for retaining C.O.s until both officers and men had been released from the Army (certain groups of officers had been retained for operational reasons); R. A. Butler, for the Conservative Party, criticized the omission of Class B releases; while Basil Nield, K.C., Conservative Member for Chester, speaking as one with knowledge of the F.A.U., supported a suggestion that special service voluntarily undertaken before the date of a C.O.'s Tribunal should be counted in his "length of service"; and many other points were made.

As a result of this pressure and of the friendly spirit in which their proposals had been received, the Government felt at liberty to take a bolder line. Accordingly, when the Bill came before a Standing Committee of the House (an innovation of the new Government) on December 18th, a number of amendments were accepted. The Minister of Labour himself, amid general approbation, moved an amendment to remove the delay of four to six weeks. Almost as important was an additional clause, moved by the Minister and accepted by the Conservative Opposition as a great improvement to the Bill, whereby C.O.s were to become eligible for earlier release if their previous employment or qualifications would have made them eligible under Class B. A third amendment, similarly moved and

accepted, provided that service in the Forces prior to a person's conditional registration as a C.O. could be added to the length of time he had been conditionally registered. Other amendments were, however, less fortunate.

One of the Ministry's greatest problems lay in deciding upon a standard for a C.O.'s length of service. To investigate each case and decide just when a C.O. was and was not complying with his Tribunal condition would have been a gargantuan task from which the Ministry naturally shrank: even the rough-and-ready method of taking the length of time a condition had been in force must have seemed preferable to that, though the C.O. might not have obeyed the Tribunal for a single day. For under the terms of the Bill a C.O. could claim as service even time spent in prison for refusing to comply. A subsidiary anomaly arose in that under military regulations soldiers in prison or detention were not entitled to count time so spent in their length of service for demobilization, and it was this point that John Boyd-Carpenter, a Conservative spokesman, wished to rectify by an amendment providing that any time spent by a C.O. in prison or detention (other than as a prisoner of war) should not count towards his release. Later speakers, however, saw a refinement of the issue, for though nearly all C.O.s went to prison on grounds of conscience, few of the soldiers detained would have made such a claim. As Members felt no desire to victimize those persons who had shown the depth of their objection by serving a prison sentence, the Minister agreed to meet the points made. After other minor amendments had been considered, the Minister wound up the debate, which had lasted over two hours, with a generous tribute to the tolerance which Members with little personal sympathy for the Objector's views had brought to bear upon the provisions of the Bill.

By this time the first twenty-three groups of the Army (twenty of officers) and the first thirty-two groups of the A.T.S. (twenty-seven of officers) had been discharged and groups of C.O.s were overdue for release. Though it had been hoped that the Bill would become law before Christmas, extreme pressure upon Parliamentary time prevented this and it was not until January 22nd, 1946, that the Bill, as amended in Committee, was reported to the House, read a third time and passed. Only the House of Lords remained. The measure had passed through all stages in the Commons with the minimum of friction, and little further difficulty was expected. All breathed a sigh of relief and prepared to relax. But the unexpected was to happen.

The scene shifted to the House of Lords where ominous rumblings at the Second Reading on January 29th heralded the storm. The opening, however, was quiet enough, and after describing the terms of the Bill, Lord Nathan, Parliamentary Under-Secretary of State for War, whom the Government had deputed to guide the Bill, expressly confirmed Isaacs' statement of November 9th on the subject of labour controls.

After the Second Reading had been formally moved, the Earl of Rosebery, Conservative to the core, rose to make two main objections. First, no C.O.s in any group should be released until the same class in the Navy and Air Force (as well as the Army) had been demobilized. Secondly came the crucial question of labour controls: it was proposed to release C.O.s from their civil work as soon as their turn arrived, but other non-C.O.s directed to similar work, perhaps through physical disability for the Forces, would remain tied to their jobs. C.O.s should not have such preferential treatment. Over much of Lord Nathan's reply it is kinder to draw a veil: in this book I have tried never to make capital out of slips of the tongue or the pen, and, in accord with this principle, it is best to say nothing of the inaccuracies of this Government spokesman.

The Bill was committed to a Committee of the whole House and Conservative Peers turned to investigate some of Lord Nathan's statements, with anything but favourable conclusions. So when the Committee Stage was reached on February 5th, Viscount Swinton returned to the attack on Lord Rosebery's two objections. The point on labour controls had been developed a good deal in the interim and, moving the amendment, Lord Swinton summed up the Conservative case in this way:

> The point I wish to make it, first of all, that he [the C.O.] can stay where he is until the last Service group of a like category with him has been demobilized, and also if he is in employment under this special Order [the Essential Work Order] which obliges him and his fellows to stay in work, he should be treated exactly like his fellow-civilians and be compelled to stay there until the man of like age and category as himself can go. That seems to me to be simple justice. No one wants to deny the Conscientious Objector justice. That is what he is entitled to but he is not entitled to precedence over his fellow-civilians.

In other words, a double standard was to be applied to C.O.s: not only were they to wait for the Army, they were also to wait for the civilians. This argument was calculated to rally public support, for

no one wished to see the C.O. preferred to anyone who might appear to be in related circumstances. But it failed to take into account that the liability of C.O.s arose under the National Service Acts under which military service was imposed ; that theirs was in fact " alternative service " ; that in many cases the Tribunals had never pretended that, say, the land or hospital work specified was the service for which C.O.s were best qualified—their aim was to reduce the standard of life to Army level. Again, in a clear precedent, men who had taken to coal-mining instead of the Army were allowed, on obtaining release from the industry, to choose their own employment *free from labour controls* and there was not the slightest protest at this procedure. But it was otherwise with C.O.s. There might have been a strong case for " equality within the group " of men doing an identical job had the Government cared to apply it ; there was an even stronger case for equality with the Army ; but the imposing of a double standard—comparison with both group and Army—was in its total effect penal rather than equalitarian. But those who supported the Conservative view were little concerned with equality : their avowed object was to ensure that in no conceivable circumstances should a C.O. be preferred over anyone else.

The atmosphere was unmistakably hostile, in that politest of ways which the Upper House has evolved over the last hundred years. Lord Nathan, perhaps inadequately briefed, omitted the most cogent arguments and spoke like a commercial traveller who knew he was selling inferior goods, so that when he referred to Isaacs' undertaking in the Commons, Lord Swinton exclaimed brusquely : " We are not bound by it ! " Soon Lord Llewellin, a former Conservative Minister of Food, took up the cudgels and though the amendment was withdrawn " at any rate at this stage of the Bill ", the Opposition remained unconvinced.

Lord Llewellin had threatened to return to the charge and manifestly this was no empty threat. Would the Government hold firm ? Though its support in the Upper House was not too extensive, any amendment carried by the Lords would have to be considered by the Commons and, if not then agreed, might precipitate a constitutional crisis. Moreover, an amendment on labour controls would involve the Minister explaining to the large Government majority in the Commons just why he had given way on an undertaking to the House. It seemed unthinkable. Yet a certain shyness had developed in the Ministerial ranks, while Lord Nathan remained as unconvincing as ever ; despite repeated inquiries, Graham Wiggs, the new

Secretary of the Central Board, could get no reply from the Ministry of Labour.

In an attempt to solve this seeming riddle, Wiggs, entering the Lobby of the House of Commons, sent in a card for Walter H. Ayles.

"We're very worried about this business of labour controls," he confided when the Member for Southall appeared. "If there's anyone here from the Ministry of Labour, I wonder if you'd ask whether the Government does intend to stand firm against the amendment?"

"Certainly," said Ayles, walking back to the Chamber almost as he spoke.

Soon he returned with a short, neat Member in a well-cut suit.

"George," he said, "this is Mr. Wiggs of the Friends' C.O. Board. Mr. Wiggs, Mr. Isaacs!"

So Graham Wiggs, amazed at the working of democracy in Britain, put his question to the Minister, who in an understanding way replied: "Well, the file hasn't come through to me yet, but you can take it from me that there is no intention whatever of giving way." That seemed to clinch the matter. First, however, came further harrying tactics from the Opposition. For when Lord Nathan moved the Third Reading of the Bill on February 12th Lord Swinton professed complete dissatisfaction with the Government's explanations on both the points outstanding and following private talks between Lord Woolton and Lord Addison, Leader of the House, the Government agreed to an adjournment for further clarification.

The Government had neglected so many opportunities to straighten the tangle that such an agreement at the eleventh hour was generally interpreted as a sign of weakness, and the Central Board put all its energies into an effort to strengthen the official view. A detailed memorandum was drawn up and contact was made with Lord Addison, Lord Nathan and the Lord Chancellor, Lord Jowitt, on the Government Front Bench, while sympathetic Bishops and other Peers were urged to give their attention to the questions involved. Though the Kemsley-controlled *Daily Sketch* (now the *Daily Graphic*) had featured a long article supporting the Conservative view, the *Manchester Guardian* of February 25th published a letter from the Central Board with a striking editorial in support. Apart from these the whole issue, though carefully watched in Fleet Street, had received comparatively little publicity, the controversy being too complicated and technical to make the direct public appeal

needed for news items in those days of paper shortage. Certainly efforts to secure further national publicity for the C.O.'s viewpoint largely failed.

Not all the supporters of Conscientious Objectors felt that the Conservative amendment could be logically resisted. Lord Faringdon, in particular, thought it not unreasonable. Nevertheless, the final issue being still in doubt, sympathetic Peers attended the House for the adjourned Third Reading on February 26th when Lord Llewellin reiterated the Conservative case and moved an altered amendment on labour controls, though the other point had by this time been abandoned. It fell to the Lord Chancellor to make the formal surrender and there is no reason to think that he did so with any sense of difficulty. Lord Swinton let the cat out of the bag when, in a congratulatory and self-congratulatory speech, he thanked the Lord Chancellor not only for accepting the amendment *but for his help in the drafting of it.* Certainly some of the minor points in the Board's memorandum had been met by the more careful drafting of the new amendment. The truth seemed to be that different policies were being advocated at different levels within the Government, and the "balance of power" had been disturbed after November 9th.

Courageously the Bishop of Birmingham rose to protest in the name of pacifists and those in sympathy with them. But the atmosphere was wholly hostile and the Lords, having sent the Bill with its new amendment to the Commons, dispersed with that warm feeling that connotes a job well done.

How would the Commons react to this abandonment of a Minister's pledge in face of pressure in "another place"? The movement had three weeks to wait for the answer, for it was not until March 20th that the amendment fell to be considered in the Commons. The Minister's tactics were direct rather than delicate:

> The reason which has made us more ready to accept the amendment than we should otherwise have been, is that the labour controls, to which Conscientious Objectors will remain subject after release from the condition of their registration, have themselves been very substantially relaxed since I made the above statement. . . .
>
> Further, the whole question of labour controls is kept under constant review, and I anticipate further relaxations before long. Whereas, therefore, at the time of the Second Reading of the Bill it would have looked like a frustration of the object of the

Bill to retain labour controls on a Conscientious Objector who had been released from the conditions of his registration as such, this is much less so at present. . . .

At the same time, I do not wish to conceal the fact that the acceptance of this amendment will mean that many Conscientious Objectors may be retained in their war-time employment somewhat longer than they would have been without this amendment. In view, however, of the general tendency towards relaxation of labour controls, I do not think that in all the circumstances this is unreasonable.

Then the barrage opened. First came Hopkin Morris, for years a leading member of the Welsh Appellate Tribunal, who complained that the amendment sought to alter the whole character of the Bill and who alleged serious discrimination not only against C.O.s, but as between C.O.s themselves. As the Parliamentary Correspondent of the *News Chronicle* said of the issue, " it was clear that the House was not happy about it ", and though the Conservatives, Basil Nield and R. A. Butler, pressed the Opposition viewpoint, they did so with an understanding of the position that their friends in the Upper House had never attained. Unequivocal opposition to the amendment was voiced by Reginald Sorensen, Professor Gruffydd, Benn Levy and the Liberal Party leader, Clement Davies, K.C. Time was pressing and after forty minutes the Parliamentary Secretary to the Ministry of Labour, Ness Edwards, persistently interrupted, replied for the Government by admitting the cogent case put up against the amendment from both sides of the House. Nevertheless, speed in passing the Bill was of importance, and ultimately the amendment went through.

Indeed, when the National Service (Release of Conscientious Objectors) Act, 1946, became law, over three thousand C.O.s were overdue for release. At first the wheels moved slowly, but on April 16th men in Groups 1 to 24 and women in Groups 1 to 40, together with all married women, were posted their releases. Group 25 of men followed on May 1st, three weeks after the last day for Army officers and men, while Group 41 of women (released on the same date) was twelve days behind the equivalent group of the A.T.S. This time-lag, however, was gradually reduced and from the release of Group 36 on August 19th the Ministry attained a regular standard of from one to three days after the military closing dates.

So the Group A releases went on. Unfortunately no statistics are available of the number of C.O.s released " out of turn " under

the Class B provision included in the Act at the instance of the Commons. Detailed machinery was evolved: there were no block releases of C.O.s as there were of soldiers, all cases being dealt with individually. For C.O. teachers a special scheme was worked out by the Ministry of Education and the Scottish Education Department, in conjunction with the Ministry of Labour and the Central Board. In that case the C.O. himself applied, setting out the grounds on which he claimed early release with confirmation of his post endorsed by his prospective employers. In other cases application was made by a C.O.'s former or prospective employers to the Government Department concerned with the work or service in question. Building workers, students for the Ministry, university students and film technicians were among those released "out of turn" on the same principles as were applied for the Army.

Few C.O.s were missed when it came to release. Apart from very occasional delay in the case of some with Army service before their Tribunal conditions had been imposed, non-receipt of release notices was invariably due to failure to notify the Ministry of a change of address. In all, by the end of June, 1946, seventeen thousand out of twenty-four thousand conditionally registered C.O.s had been freed from their conditions.

With each release was enclosed a covering letter pointing out that, if C.O.s were in Essential Work or had been "directed" to their employment, they remained tied to their work unless and until a National Service Officer allowed them to leave, subject to a right of appeal to a Local Appeal Board against refusal of permission. It was also pointed out that the Control of Engagement Orders might prevent their taking up new work of most kinds without the official permission signified by a "green card". Thus was the pertinacity of the Lords rewarded.

But in practice the amendment raised much less trouble than was ever thought possible. In the main it affected only those men on the land who were working for County War Agricultural Executive Committees, though other small groups were also included in its terms. Indeed, it was one of the anomalies of the whole position that though such men in Essential Work were "restricted from leaving", C.O.s working for private farmers were not so restricted, though they needed "green cards" for new work unless exempt from that requirement. As the latter class were not subject to the amendment the Ministry of Labour was pressed to allow them "green cards" as a matter of course to assist in their rehabilitation but the

Ministry declined, even though, in effect, they were thereby extending the scope of the clause. So two distinct classes of case began to develop: the C.O.s refused permission to leave their employment and those refused an introduction card to new employment (this being a form of indirect pressure to stay in their current work).

Even so the number in each class was infinitesimal: the large-scale problem that had been threatened had failed to materialize. Up to the end of 1946, the Board had knowledge of only twenty-two cases where permission to leave was refused to C.O.s discharged from their Tribunal conditions. In this category were eight men working for the Essex Agricultural Committee which in the early months had a deliberate policy of retaining all C.O.s (except known "trouble-makers") on the simple basis of the importance of their work. The Board also had a fixed policy in such matters. If a C.O. were refused consent by a National Service Officer, he was advised to apply again setting out all the circumstances in his favour and drawing attention to official statements bearing on his position. If consent were still withheld, he was to apply to the appropriate Local Appeal Board, where some C.O.s were successful in obtaining release. Failing that, the Board asked for fullest details and placed the case before the Head Office of the Ministry of Labour, which meant, at the least, that all local discrepancies disappeared on review. As a result the hard core of "refusals" was gradually pared down until it disappeared.

Notwithstanding the cautious wording of the covering note, however, most County Committees ignored all logical refinements of the Upper House, taking the commonsense view that a release was a release and that when a C.O. produced a discharge from his Tribunal conditions he might well be allowed to say *finis* to his war-time work and go to something for which he was probably better qualified than ever he would be as an agricultural labourer. With the lifting, on May 20th, 1947, of the Essential Work Orders where they applied to agriculture came the virtual end of this aspect of the problem.

County Committees and other employers had acted with commonsense, and the Ministry of Labour officials who operated the Control of Engagement Orders were close runners-up. For in most cases it was clear that the community would be better served by allowing C.O.s to return to work of their choice than by pressing them to stay. To the end of 1946 only thirty C.O.s had notified the Board that "green cards" for new work had been refused. They

covered a wide area—Leeds, Hounslow, Yeovil, Bury St. Edmunds, Croydon, Maidstone, Exeter and Banbury being represented among many others. Here the Board adopted a similar policy: C.O.s were advised to make quite sure whether they were exempted under the Orders; if they were not, they were advised to make a further request for a "green card" giving all relevant details. Against refusal of such a request there was no appeal, and the Board proceeded to obtain the information necessary to place the case before the Ministry's headquarters. Here, again, the number was gradually reduced as one stage followed another, though a handful of individual cases remained. Of course, many C.O.s simply went to their new jobs, consent or no consent. Gradually this side of the problem came to an end.

The Release Act, however, affected only C.O.s with registration conditions. An important case unaffected by the Act was that of the C.O.s who had been denied registration by the Tribunals and, after serving a prison sentence for refusing medical examination, were either "directed" to heavy manual work on the land (as explained in an earlier Chapter) or voluntarily undertook civil work at which they were allowed to remain. When would these C.O.s, whose records were kept in a kind of "Suspense Account" at the Ministry's headquarters, be released to go to other, and perhaps more congenial, work? As soon as they became over military age (i.e. the current maximum age for calling up men for the Forces) they were free of any liability in lieu of military service, though remaining subject to any labour controls applicable. So long as they were still of military age, however, the Ministry released them administratively on similar principles to those applied under the Act: for this purpose they were given a "notional release" based on their age and the length of time since they were "directed" to or voluntarily undertook work as an alternative to military service after they came out of prison. No deduction was made for periods when they failed to do the work in question, but no service prior to imprisonment could be counted. Even when the date of notional release had come, the men concerned remained subject to any labour controls applicable. As was natural, notional releases dwindled in importance with the reduction in the call-up age, so that by the end of 1946, when the latter became virtually restricted to youths of eighteen, notional release became a dead letter.

There were other cases: for instance, those of "soldier C.O.s" who, though not registering originally as C.O.s, were court-martialled

and discharged from the Army on the recommendation of the Advisory Tribunal. As that Tribunal had no power to register C.O.s conditionally, the Release Act never operated. Nevertheless, such C.O.s, if they had no later Tribunal, were given a " notional release date " after which they were freed from special control. For calculating their " length of service " any paid Army service was added to the time after their discharge from the Forces. These " Advisory " C.O.s remained subject to any labour controls affecting them.

No question of notional release arose for the comparatively small group of men and women who had registered provisionally as C.O.s but, on account of the importance of their work, e.g. at radiologists, had never been called before a Tribunal and so had no opportunity of becoming registered either conditionally or unconditionally. Such C.O.s were released from their liability to be called to a Tribunal when they became over military age as defined above.

Finally, the release of the various classes of men who had taken to coal-mining during the war would need a Chapter to itself and, as the problem was not distinctively one affecting Conscientious Objectors as such, the reader may well be spared the subtle distinctions in which the situation abounded.

Thus were C.O.s released. Many drifted back to their pre-war jobs, others had found during their years of compulsory work a new sense of vocation radically altering their attitude to life. So some stayed permanently at their war-time employment, while others—much more numerous—began to train for a new kind of service to society. *Experientia docet.* Certainly few C.O.s failed to learn : they went forward into the years of peace probably sadder and certainly wiser men.

But by no stretch of the imagination can this be called the end.

CHAPTER 22

THOUGH WE HAD PEACE

"THOUGH we had peace, yet 'twill be a great while ere things be settled: though the wind lie, yet after the storm the sea will work a great while." So wrote John Selden, the celebrated jurist, at the time of the Civil War, and so was it in 1946 onwards. Though men knew better than to suppose they were returning to a "land fit for heroes", the strain of readjustment to the monotonous regularity of life in a highly industrialized society proved great. Those released from the Forces felt it most, for often the junior clerk of 1939 had become the Captain or Flight-Lieutenant of 1944, respected by the world, relieved of economic troubles, entering to the full into a life of excitement where all was secure save life itself. Then suddenly the about-turn: off with the uniform, away with the lights and the steady allowances; back to the crowded eight-fifteen, the routine of work, the office desk, the crying child, the washing-up and an inflation that meant self-restriction where previously the pounds had gone like smoke in those precious hours of relaxation.

Of this the C.O. knew but little. For him the war had, all too often, meant one long grind to provide enough to keep bare need at bay. For him release meant a chance to regain the standards of 1939, and though the rising cost of living made the event less pleasurable than the prospect, in a material sense the C.O. often stepped back from a manual to a professional standing. No, the C.O.'s problem was more personal than that of the soldier: how would the office treat the returning "conchie"? Would he be "cut" by his old colleagues? Not a bit of it: the general attitude was rather to let bygones be bygones and to look to the future. At a time when labour was the most coveted of all commodities any man could get a job, thus disproving the Jeremiahs who had prophesied untold disadvantages for C.O.s when the boys came home.

With this understanding attitude went a very reasonable Government policy in regard to post-war training. For instance, the most expensive of the schemes for training after the war was the Further Education and Training Scheme, under which substantial grants were made to enable "suitably qualified" men and women to take up

or continue education beyond the secondary school standard after a period of war service. Though this was primarily for ex-servicemen, the Ministry of Labour assured the Central Board at an early stage that applicants would not be ineligible for awards simply because they were C.O.s so long as they satisfied the other conditions. When there were more applicants than places a system of priorities might operate to the disadvantage of the C.O. but, as against this, the types of war service recognized under the scheme included Civil Defence and a residuary category of "other work of national importance" which in particular cases was taken to include war-time hospital, relief and similar work. A small number of C.O.s with such service to their credit were allowed to benefit.

In the case of the emergency training scheme for teachers, which provided another example, official statistics showed that there were 311 C.O.s among the 39,376 accepted candidates.* Here greater attention was paid to a man's suitability for teaching and the steps he had taken to prepare himself for educational work than to war record; what was wanted was men of vocation, and at a time of expansion to meet the raising of the school-leaving age it was tacitly recognized that C.O.s were just as likely to feel a call to the profession as men from the Navy, Army or Air Force. Often the C.O.'s practical experience of youth centres, club work, probation, or Sunday Schools was much greater.

In addition, as part of their post-war plan the Government sponsored schemes for industrial training in which places were available for men and women whose war service had consisted of work (including industrial work) of national importance, but few Objectors applied, though the great majority would have been eligible.

In some ways C.O.s were more concerned with the prospect of post-war conscription than with re-settlement; the latter might claim first attention for a brief space, but the thought that men (and perhaps women) might still be compelled into the Forces when the world had settled down to peace exercised their minds continually. Yet circumstances had changed: as a result of the war the public had but little regard for the views of C.O.s. Whilst pacifism had been almost fashionable in the early nineteen thirties, it was under a cloud in the late forties. It was old-fashioned, unrealistic; it savoured of appeasement; it smacked of pre-war delusion and a discredited philosophy.

In some respects, too, the war had resulted in the enthronement

* *Education in 1947*; H.M. Stationery Office; 1948.

of expediency. When the world was at grips with the dictators, practically any course—even the dropping of atom bombs—could be pursued, with little regard to principle, provided it paid dividends, and the criterion "Will it pay?" had all too often become the standard of a repressed people (though the less scrupulous would mentally add: "And shall we be found out?") In 1946 man stood astounded at his virtually limitless power through science; so that frequently the material was exalted over the spiritual, the sparrows and the lilies being forgotten in marvel at the completeness of man's mastery over the mass. This tendency partly accounted for post-war "realism". The man on the 'bus might still admit that in essence war-refusal was morally right but, if his good nature and politeness permitted, he would tell you that it was about as relevant to the political situation as crying for the moon.

C.O.s also had changed. The crusading enthusiasm of Dick Sheppard's day had given way to a soberness of judgment that tended to keep private views locked up in the safe. Partly it was a consequence of forming a minority through anxious years; partly it was a keener realization that conscientious objection was a long-term policy, a struggle of the spirit of non-violence against the most degraded forces of the world. How deep man, though made in God's image, could sink had not been understood in the halcyon days before the war: when, in the closing months, the enormities of the totalitarian regime were revealed in detail, C.O.s, who had hitherto tended to discount as propaganda reports of enemy atrocities, sometimes doubted the completeness of their vision. What relevance could conscientious objection have to the closed society of the concentration camp where armed guards drove their daily complement to the gas chamber? So C.O.s tended to turn to the other extreme, to feel the futility of political or social action, and to regard the stand of conscience as a completely personal matter.

It was John Bunyan who once declared: "You must own religion in his rags, as well as when in his silver slippers; and stand by him, too, when bound in irons, as well as when he walketh the streets with applause," and something similar could be said of Britain's jaded post-war pacifism until a natural resurgence of spirit in 1948 showed that it had thrown off its lethargy of the years before.

All this was closely felt in the matter of post-war conscription. In addition, the resultant feeling of powerlessness that accompanied agitations against conscription was heightened by the influence of Russian ideas upon a section of the British Labour Party. Whilst

Keir Hardie and the old pioneers had denounced conscription as an unmitigated curse, the Soviet Union had adopted it from France as a concomitant of the worker's revolution, and this link between socialism and militarism had combined with the legacies from war to keep a real peace policy out of the grasp of the Labour Government that had replaced the Caretakers of 1945.

As far back as January, 1942, Dr. Temple had said, when Archbishop of York:* "If you are not going to be pacifists, if you are going to have any force at all, you must be sure you have enough. It is more disastrous to have insufficient force than to have none at all. We must shoulder our burdens, and make it clear that conscription is going now to last for the next two generations; otherwise we shall be betraying the cause we are serving." Churchill's view was indicated nearly two years later,† when he was asked if Britain proposed to adopt a system of national military training after the war. "I hope so," he said, "but it is too early to pronounce." On other occasions support for post-war conscription had come from Lord Jowitt the present Lord Chancellor, Lord Elibank, Lord Nathan and Lord Strabolgi. But the Government had continuously stalled, and it was not until November 12th, 1946, that it made known its intention to extend military conscription after the end of 1948 when the period of transition was to end.

The opposition to conscription was co-ordinated through the No Conscription Council (which had been formed through the agency of the Central Board), and was not the task of the Board itself. However, a serious threat to the conscience clause seemed imminent, for passages from a speech by Clement Attlee, the Prime Minister, on November 12th, 1946, seemed to indicate the possibility of unconditional registration being discontinued, and with this the Central Board was directly concerned. Following an emergency meeting of the Executive Committee, a Memorial to the Premier was delivered at 10 Downing Street on November 16th:

> ". . . Up to the middle of this year", it read, "the Tribunals had given complete exemption to 3,913 Conscientious Objectors out of a total of 61,000. In addition, the Board has record of some hundreds of others, refused unconditional registration by the Tribunals, who were later prosecuted and in the main sent to prison for their refusal. The number of prosecutions would

* Speaking at Bristol; January 7th, 1942.
† House of Commons; November 10th, 1943.

undoubtedly have been very much greater had not the Tribunals recognized the sincerity of conviction of the 3,913, and we feel it should not be assumed that peace-time conscription will be more readily accepted than conscription in time of war.

"We appreciate with respect the principle of equality that may be expected to animate the Government, but for thirty years the Legislature has admitted that, in refusing alternative service, many have been genuinely actuated by conscience. Admittedly this is a privilege not to be granted without careful scrutiny, but then the whole right of conscientious objection is a privilege granted by the Legislature to meet moral convictions.

"The wide variety of service open to Conscientious Objectors has reduced the number of those requiring unconditional registration. But whether or not unconditional registration is allowed, there will still be those who must maintain an objection to 'alternative service' irrespective of the consequences, and we feel sure the Government will not wish to prosecute men of deep conviction whose energies are often voluntarily spent in work for the community. . . .

"We trust that the present Government will consider the issue in an understanding and sympathetic way."

Copies of this statement were sent to members of the Cabinet, and various other approaches were made.

Two days later the issue became clearer. For in the House of Commons on November 18th, Hugh Dalton, then Chancellor of the Exchequer, replying to an anti-conscription Amendment to the Royal Address moved by Victor Yates, the Labour Member for Ladywood, Birmingham, confirmed that in the legislation intended there might be no unconditional exemption. "There will be provision for Conscientious Objectors," he said, "as has long been the case in our law, but not in the form to give a Conscientious Objector an advantage over a person who does his service. The Conscientious Objector will be excused military service, but will not be excused from some alternative form of peaceful service for the community, details of which we will work out."

Accordingly the Prime Minister was asked to receive an early deputation, but owing to heavy pressure of work the Prime Minister asked the Minister of Labour to receive it on his behalf. So Fenner Brockway led a deputation to George Isaacs on December 12th, the other members being the Venerable Percy Hartill, Archdeacon of Stoke-on-Trent and Chairman of the Anglican Pacifist Fellowship; Michael Tippett, the composer who had served a prison sentence

rather than comply with a Tribunal condition ; Lady Parmoor, well known in Quaker circles whose husband had been Lord President of the Council in the first Labour Government ; and Joe Brayshaw who had himself been unconditionally registered. The members were well chosen. Archdeacon Hartill, though he would have been willing to accept alternative service himself, felt that the question raised issues of religious freedom ; Tippett was able to put the case of those who felt unable on vocational grounds to accept direction from the work they felt to be right, while Lady Parmoor was in a position to emphasize Friends' struggle, over three hundred years, for liberty to follow individual leading. Finally Brayshaw could point to the undoubted fact that the unconditionally registered C.O.s of 1939 onwards had not failed to measure up to the trust reposed in them.

Though little indication of the result of the ensuing discussion could be gathered, the deputation was acknowledged to be timely, and those who had waited on the Minister felt the opportunity had been well used. In the following weeks great efforts were made : Fenner Brockway wrote personal letters to many members of the Cabinet, one of the most interesting replies being from the late Ellen Wilkinson. Leyton Richards, whose death in 1948 removed a great personality, gladly wrote an *apologia* for the absolutist, and local and other pressure was brought to bear on those close to the Government.

Exactly three months after the deputation it was known that success had attended these efforts—unconditional registration was to be retained in the National Service Bill proposed. There is no reason to believe that it was through the Board's action that the proposal to abolish " unconditional " was dropped, but I think it true to say that its action tipped the scales by showing that there was a real answer to the equalitarian argument of the left-wing conscriptionist. Perhaps the Government were a little surprised that a clause which then affected a mere handful of men each year should stir such deep feelings. Certainly the significance of the proposal could not have been lost upon the Prime Minister, for his architect brother T. S. Attlee, had been among the imprisoned absolutists of the First World War. It must have come close to the bone. Yet the weightiest argument with the Minister of Labour may have been very different : conscription was running smoothly, and the conscience clause, despite its imperfections, had stood the test of seven years and a World War. Why tamper with a well-oiled machine? From every point of view it was best to leave well alone.

Welcome as this was, it did nothing to prevent the extension of conscription into the peace. The years 1947 and 1948 being regarded as an "interim period", the provisions of the National Service Bill (1947) were of two kinds, those intended to take immediate effect and those to operate only from January 1st, 1949. The latter preponderated. Though some modifications were to be introduced immediately, the main object of the Bill was to provide a fixed period of eighteen months service for lads called up in 1949 and after, with some years of compulsory territorial service afterwards, the latter involving liability to be called for active service in an emergency.

At the Second Reading debate on March 31st, 1947, Rhys Davies moved an Amendment to the effect that the discussion be deferred for six months, equivalent to a rejection of the measure. It was a powerful and telling speech; powerful because Rhys Davies had grown to maturity with the Labour Party, telling because of its fearlessness. "If a thing is wrong when the Tory Party is in power," he declared, "it cannot be right because it is done by a Labour Government"—this being a reference to Attlee's rejection of the Military Training Bill in 1939.* Though seconded by Mrs. Florence Paton and supported by Victor Yates, Clement Davies (Leader of the Parliamentary Liberal Party), and Hopkin Morris (a former member of the Welsh Appellate Tribunal), the Amendment was lost by 386 votes to 85. Time was given to the Committee Stage at six different sittings of the House and the Minister of Defence found it desirable, if not necessary, to rally the back-benchers of his Party by agreeing to a reduction of conscript service from eighteen months to twelve. But the principle had been decided and, even though the reduction did not impress the out-and-out opponents of conscription, the rest was bound to follow. In the Upper House Lord Faringdon, President of the No Conscription Council, which had worked hard to canalize public opposition to the Bill, found an able ally in the Quaker Lord Darwen, but the Lords were more conscriptionist than the Commons, their sole regret being that the period of service should ever have been reduced.

So the Bill became law on July 18th, 1947, as the National Service Act, 1947. One of the few provisions which came into force on that day was a section allowing lads subject to compulsory service to register and be called up six months earlier than they otherwise would have been, but this did not apply to intending Conscientious Objectors. Henceforth it was no longer to be necessary to have women on the

* See Chapter 1.

Tribunal panels, the previous provision under which women were to be included for women's cases having become outdated.

As from the beginning of 1949 the conscription of women and conscription for Civil Defence were both to be formally brought to an end, though in practice neither had operated for a long time. Lads called up for the Forces were to serve for twelve months and then to perform part-time service in one of the Reserves over the next six years, thereby increasing the " pool " upon which the nation could draw in an emergency. However, the whole of the training which could be required over the six years was not to exceed sixty days, nor were more than twenty-one days to be required in any year.

The position of C.O.s was closely related to that of the Forces. Those conditionally registered were to serve for twelve months, but, instead of training over the following six years, an extra sixty days were to be added to the full-time service, so that after one year and sixty days (served all in a lump) their liability would be over.

A C.O. could be " directed " to work within the limits of his conditions. Power to do this had previously been exercised under Defence Regulation 58A.* It was also to be possible for the Ministry of Labour to call a conditionally registered C.O. to a special kind of medical examination to decide if he were fit for the work specified by the Tribunal, this examination being quite different from that for the Forces. Though heavy penalties were attached to refusal, it was understood that neither of these powers would be widely used. Unconditional exemption and registration for non-combatant duties were still to be possible.

Opportunity had been taken, in framing the Act, to clarify a point which had given trouble in the past. When a man had refused to submit to a medical examination and disobeyed a court order requiring him to be examined, the more correct practice was for another summons to be issued calling upon him to attend a later sitting of the court, and the new Act simplified the procedure by making it clear that, as soon as a person refused to comply with the Court order at the Medical Centre, he could be arrested by the Police without warrant so that, if desired, he could be brought before the same Court later in the same day. This had been a general procedure during the war, but changes had later been made, presumably through doubt as to legality of the practice.

The only other amendment of substance affecting C.O.s concerned the right to a review Tribunal when a C.O. in the Army had

* See Chapter 17.

been court-martialled for an offence on grounds of conscience. As we saw in Chapter 7, the right to a further Tribunal applied only where the sentence was of three months or more imprisonment, and no sentence of detention, however long, allowed the offender a review Tribunal. Latterly, however, arrangements had been made for a C.O. awarded a substantial sentence of detention to be allowed to appear before the Advisory Tribunal, and the Act of 1947, throwing to the winds the doubts which had prevented such a course throughout the war, formally placed detention on the same footing as imprisonment, making an Appellate Tribunal possible in either case. This represented a considerable gain to the Objector, though steps were taken to remind the authorities that, for the reasons discussed in an earlier Chapter, detention as a punishment was unsuitable to C.O.s, and it was hoped that the new right would not lead Courts-Martial to make freer use of their power to impose detention where conscience was in issue.

Conscription was not, however, to be permanent, for no person who attained eighteen after the end of 1953 was to be called up under the Act, though power was given to extend this limit by Order in Council provided a resolution had previously been passed by each House of Parliament approving such a course.

Even before the Act appeared on the Statute Book plans had been made for the whole of the National Service Acts to be consolidated in one measure which, on becoming law, would replace the existing legislation. The period between July 18th, 1947, when the Act of 1947 was passed, and January 1st, 1949, when its principal provisions were to come into operation, provided a breathing space in which the task could be undertaken, and accordingly on July 30th, 1948, the National Service Bill (1948) was introduced in the House of Lords, purely as a consolidating Bill and without in any way changing the law. Now the grounds on which objection can be taken to such a measure are strictly limited, and when the Bill was considered in the Commons it was beyond the ingenuity even of Emrys Hughes, James Carmichael and James Hudson, tried anti-conscriptionists as they were, to make much progress with an objection to the principle of compulsory service. The Royal Assent was given on July 30th, 1948, the intention being that this, the National Service Act, 1948, should come into force at the beginning of 1949 in place of the Act of the previous year.

Before then, however, came the surprising *volte-face*. In the Autumn of 1948 the Government decided that what the deteriorating

international situation required after all was not twelve months service, as provided by the Act, but eighteen months, as had originally been proposed ! So a Bill to amend the consolidating Act was introduced forthwith and rushed through both houses so as to become law before members left to celebrate the birth of the Prince of Peace. Subsidiary provisions of the National Service (Amendment) Bill (1948) were designed to reduce the period of part-time service for conscripts from six to four years though the total of sixty days training over the period was to remain the same. As a further consequence the period for conditionally registered C.O.s was increased to eighteen months but the additional period of sixty days was unvaried, making a total service of eighteen months and sixty days to be served as one period by C.O.s of this class.

When the Bill came up for Second Reading in the House of Commons on December 1st, 1948, the Opposition was led by Ellis Smith and Victor Yates, ably supported by Emrys Hughes and others, though perhaps the most astonishing feature of the debate was a recantation by John McGovern of the anti-conscriptionist views he had held so long and so fervently: McGovern, who had never been a complete pacifist, felt that the social advances made by Britain under the Labour Government, coupled with the threat of Communism, had made irrelevant his objection to military compulsion in and for a capitalist society. Great play was made then, and at the Committee Stage on December 6th, with the moral temptation to which young conscripts were subject in the German ex-theatre of war, Emrys Roberts, a young Liberal member, scoring heavily in a House already apprehensive as to the effect of compulsory service overseas on lads of eighteen. Though only 51 members had voted against the Second Reading (these comprised some Liberals, the pacifists and near pacifists, and Communist sympathizers objecting to any steps towards a rearmament that might be directed against Soviet policy), only 338 were to be found in the Government Lobby, which meant that with the Conservatives in full support of the Government a large body of opinion on the Labour benches, though not prepared to embarrass the Party by an adverse vote, were sufficiently troubled in their minds to abstain.

The debates in the Lords were a smaller and more Conservative edition of those in the Commons, with Faringdon again opposing the Bill before an unsympathetic House, but the Government had decided that the measure should become law before Christmas, and before Christmas it did. The short result was, therefore, that as

from January 1st, 1949, the National Service Act, 1948, and the National Service (Amendment) Act, 1948,* made full provision as to the rights and duties of lads called up on or after that date, though most of the old conditions of service continued to apply to persons called up before the end of 1948.

During 1947 and 1948 registrations of lads for national service had been held quarterly and, though it was given little publicity, the conscience clause was still in full operation. In fact, about one in six hundred registered as Conscientious Objectors. The actual number of C.O.s varied from 105 to 150 as is shown in the following table :

Date of Registration	*No. of C.O.s*	*Total No. Registering*	*Percentages*
1947:			
March 1st	150	78,952	0·18
June 7th	128	74,433	0·17
September 6th	114	70,834	0·16
December 6th	142	80,386	0·17
1948:*			
June 5th	137	75,636	0·18
September 4th	132	81,345	0·16
December 4th	135	72,552	0·18

* No registration was held in the first quarter of 1948.

At the end of 1948 a total of 68,826 men and women had registered provisionally as C.O.s out of the phenomenal total of 9,332,519, which meant an aggregate percentage of 0·74.

The striking fall in the proportion of C.O.s resulted from the interaction of several factors. One of the most important of these was that for nearly ten years conscription had been the recognized mode of securing recruits; instead of being a hated expedient of an emergency it had won for itself a place in society which, if it did not lead to popularity, at least damped down the fire of the earlier conflict. For lads of eighteen, who had been mere boys of half that age when voluntary service had last been known, to go for one's term of service had become more and more the "done thing". From the age of nine they had been exposed to all the forces of national opinion, based as they were on the war method, and it was only

* These Acts can be cited together as the National Service Acts, 1948. The regulations relating to National Service were consolidated and re-issued with effect from January 1st, 1949, as the National Service (Miscellaneous) Regulations, 1948 (S.I. 1948 No. 2683).

in small cells of pacifism and anti-war socialism that the seeds of conscientious objection could develop. Even among the modest number registering as C.O.s the proportion of fundamentalist Objectors, such as Jehovah's witnesses, Plymouth Brethren and Christadelphians, had become more pronounced as those on the fringe of the peace movement turned away. Again, in a prevailing world attitude of "realism" only force seemed of any avail, and those whom bitter experience of "force" led to pacifism were not the youngsters but the older men.

The Tribunals still functioned. The reduced number of lads appearing before them resulted in less frequent sittings, and in 1947 it was found possible to reduce the number of Local Tribunals from fifteen to eight, while two Divisions of the Appellate Tribunal were disbanded. The old Tribunal members, with recruits added to replace the women members, continued their duties in relation to the new generation of Objectors that peace was bringing forth. For the most part tired and jaded, they modified their questioning to the circumstances of the day, though the main lines of their interrogation changed little. The applicants themselves were immature and, naturally enough, had not always thought out their position with any degree of completeness, so that the long experience of the Tribunals and the callow inexperience of the C.O.s joined to make the contest of wills even more unequal than before. All too often the Tribunals failed to make sufficient allowance for an applicant's youth and, with world circumstances as they were, the questions put sometimes involved such lack of imagination as: "Have you ever considered the case *against* conscientious objection?"

But the decisions themselves remained remarkably stable. In 1947 and 1948, out of 922 applicants before the Local Tribunals, only 31 C.O.s were registered without conditions, as against 429 conditionally registered, 187 registered for non-combatant duties and 275 removed from the Register, though it was not uncommon for lads conditionally registered to be allowed to remain at their present occupation which, though it had obvious drawbacks, might be regarded as half-way to "unconditional". Over the same period of two years the various Divisions of the Appellate Tribunal heard only 308 "straight appeals", about half of which were at least partially successful.

Though these Tribunal figures are almost entirely confined to the lads in their 'teens, there were men in 1947 and 1948, for the most

part relics of an earlier period, who were court-martialled following arrest or surrender. Some had deserted on conscientious or near-conscientious grounds; others had refused to comply with call-up notices served perhaps years before, and though they had never done a day's soldiering, they were members of the Armed Forces and, in the eyes of the law, as clearly deserters as the others. In the two years under review 28 Conscientious Objectors were court-martialled, of whom 23 were tried once, 3 twice and 2 three times. The sentences ranged from 42 days to two years, imprisonment being more usual than detention.

One of these men, Charles Brill, a talented musician serving a two-year sentence, preferred Dartmoor to Birmingham Prison or Wormwood Scrubs, though he missed his *Peace News* "on the Moor"! But the most difficult case was undoubtedly that of Harry J. Harrison, a young political C.O. whom I got to know well. During the war he had given his whole time to political work as his greatest contribution to society, even though he had taken his medical examination, had been called up early in the proceedings and was technically a deserter. When the end of hostilities came, however, Harrison felt his first step must be to set himself right with the authorities and, accordingly, he gave himself up in mid-November, 1946, and was immediately remanded for court-martial. Harrison's misfortune, however, was to surrender only a short time before the Minister of Defence announced the well-known "inducements" to deserters: his sentence in the following January was the old *bête-noire* of two years *detention,* which effectively prevented the Tribunal hearing he had hoped for. Yet when I visited him in the guard-room at Stourport-on-Severn, in a camp set on the crown of a hill, Harrison was in good heart and hopeful of some improvement in his position. Shortly afterwards, however, he was taken to Fort Darland Detention Barracks, near Gillingham, Kent, the scene of an unfortunate incident some years before which had led to searching inquiries, and thereafter the tale becomes more involved. Harrison stoutly maintained that, on refusing to put on uniform at the Barracks, he had been forcibly stripped and dressed in khaki by two members of the staff. He also said that because he refused to "see sense" and put on the uniform himself, he was placed in a cell unpopularly known as "the ice-box", being a soundproof cell-within-a-cell for violent prisoners in which such furniture as existed was securely fastened to the freehold. After the door had been locked an electric fan in the roof was turned on. The atmosphere

gradually got colder until Harrison became subject to fits of uncontrolled shivering.

If Harrison's story were true and after allowing small discount for exaggeration it had the unmistakable ring of truth, this was a most irregular procedure for dealing with a man who refused to accept the discipline of the Detention Barracks. Subsequently the Commandant allowed me to inspect "the ice-box" and I was able to converse with several of the staff of the punishment cells. Never in my life have I seen any place that reminded me so strongly of a concentration camp, while the smiling admissions of some of the staff seemed to indicate a completely different code of morality from that accepted in the world outside. But all this was much at variance with the War Office denials which came, perhaps inevitably, when the Secretary of State for War, F. J. Bellenger, was sharply questioned by Rhys Davies in the House of Commons: the fan, he said, had brought in warm air and Harrison had "voluntarily dressed himself", though the Secretary of State defended forcible dressing in Detention Barracks "for the sake of decency and health provided that no more force than is necessary is used". Persistent efforts were made to obtain further information about "the ice-box" but, as is often the case in such matters, little progress was possible.

Some success, however, was achieved on the main issue, Harrison *being allowed to apply to an Advisory Tribunal,* notwithstanding that during the war such a concession had been repeatedly refused to men with sentences of detention; but, despite the advocacy of Fenner Brockway, the Tribunal, on April 23rd, 1947, dismissed the application and Harrison was taken back to the Detention Barracks where he was now being very reasonably treated. One of the Officers is alleged to have said: "Take him away and wrap him in cotton wool! We want no more trouble over this one."

Ultimately Harrison's sentence was suspended, and another court-martial followed, again at Stourport-on-Severn, on July 17th, when Graham Wiggs, who represented him, and Harrison himself together managed to secure the moderate sentence of six months imprisonment. An appearance before the Appellate Tribunal followed three months later and on this occasion Harrison convinced the Tribunal of his sincerity and was registered as a C.O. conditionally on his undertaking forestry, land or hospital work. After a fortnight he was discharged from the Army and released from Wormwood Scrubs.

Except perhaps for Maxwell Collins, who clad only in a towel was paraded through Dreghorn Camp, Edinburgh, for an interview with the Adjutant, the other courts-martial failed to arouse as much public interest, but it is worthy of note that one of the C.O.s who had been court-martialled three times and had been rejected by the Tribunals was yet discharged from the Army* and that a C.O. in a similar position seemed on the brink of discharge as 1948 drew to a close.

The prosecutions for refusing medical examination also continued, the broad principles being the same as in war-time though the number of men affected had likewise greatly diminished. The total number of prosecutions for this offence in 1947 and 1948, and the sentences imposed, can be analysed thus:

	Number of Prosecutions of C.O.s		
	1947	*1948*	*Total*
Imprisonments	48	36	84
Fines	6	5	11
Refusal of court orders	1	2	3
Submissions to examination	1	1	2
	56	44	100

On the whole, the removal of the threat to national existence was reflected in shorter sentences, the standard sentence of twelve months imprisonment imposed by some Courts showing a marked decline. In a few cases, too, the Courts had shown praiseworthy reluctance to send C.O.s to prison at all, contenting themselves with fining the offenders. Two points, however, are worthy of note. First, the power of the Court at the first stage of the prosecution to refuse to make an order requiring a C.O. to submit to examination had been recognized three times—twice by the Cambridge Bench when they refused orders against Jack Overhill and Graham Marsh† and once at North London Magistrates Court in the case of Martin Lambourn.‡ Thus was the principle of the Ronnie Noble case§ expressly confirmed.

Secondly, the special circumstances of another case which received some publicity and a good deal of sympathy for the C.O. concerned

* See p. 108.
† April 24th, 1947; May 28th, 1948.
‡ May 5th, 1948.
§ See the close of Chapter 12.

seemed to spring from the Court's reluctance, already noted, to send Objectors to prison. The central figure was an East Ham schoolboy, Peter Green, who, in December, 1947, had refused to register even in the Register of C.O.s, though he had written to the Ministry of Labour informing them of his refusal and making clear his objection to the whole system of conscription. The wheels of the Ministry then began to turn with the result that, after Green had elected to go for trial, he found himself in the dock at Essex Quarter Sessions at Chelmsford on June 2nd and 3rd, 1948. Without much difficulty the Jury found this eighteen-year-old C.O. guilty and the Chairman proceeded to pass the astonishing sentence of "detention in a Borstal Institution for a period not exceeding three years", a sentence appropriate to a persistent offender or one with "criminal habits or tendencies or an association with persons of bad character"!

Green decided to appeal to the Court of Criminal Appeal, the case being heard on July 12th, 1948. The Central Board had arranged for him to be legally represented and, when it was known that the Lord Chief Justice, Lord Goddard, was to be presiding Judge, the substitution of a moderate sentence seemed distinctly remote. Only a few moments were needed to convince the Court of the inappropriateness of the Borstal sentence, but so unsympathetic did the Bench appear that it was almost with relief that those present heard Green sent to prison for twelve months. Strong pressure was brought to bear upon the Home Secretary to show clemency in the case but all pleas seemed of no avail. However, in January, 1949, Chuter Ede informed the Board that he had recommended a special remission of sentence, and accordingly, Green, who, consistently with his earlier attitude had refused to make application for a Tribunal hearing from prison, was discharged a few weeks earlier than he otherwise would have been.

Little more remains to be said. In 1947 and 1948 twenty-seven prosecutions were instituted against C.O.s refusing to comply with their Tribunal conditions. Though some of the old familiar institutions, such as the power to direct to work under Defence Regulation 58A and the control of labour by restricting new employment, remained, they were used but sparingly and little difficulty occurred. Civil Defence, suspended in 1945, was revived in modified form by the Civil Defence Act, 1948, which became law on December 16th of that year. Though no one can tell what the future may hold, the system envisaged by the Act is, at present at least, purely of a voluntary character, even the proposed power to impose fines or

imprisonment for breach of duty having been taken out of the scheme by Parliament.

* * * *

Throughout this time international relations had been worsening rapidly: the *coup* in Czecho-Slovakia, the persistent troubles of the French Third Republic, Palestine, Malaya, China, and above all Berlin, still the real centre of international conflict, had converted what had begun as a post-war situation into something perilously like pre-war. Certainly preparations for another holocaust have not been lacking, and the minds of all who care for the peace of the world are saddened by anxiety in an age, not of high-explosive bombs and rocket missiles, but of atom bombs and disease-bearing projectiles. Never has total destruction been easier or nearer.

And those who believe that the only effective way to a realization of the brotherhood of man and to lasting peace is a refusal to participate in the mass extermination that war has become, must view with apprehension the decline in numbers of those who, after nearly ten years of compulsion, still take the stand of conscience. If the causes are not far to seek, they do little to reassure those who pose this question: The pioneers of the First World War laid the trail through the steadfastness of their suffering, the C.O.s of the Second followed as best they could—will the torch be carried clear and steady through the perplexities of the aftermath to ages yet to come? A tremendous responsibility rests upon each one of us to renounce any natural diffidence and to witness fearlessly to the supreme relevance of conscience's challenge.

In 1939-1945 it was sixty thousand against eight million. But the mathematical discrepancy need frighten no one; for mathematics is an exact science, and it is the essence of our faith that not one of the eight million (or the sixty thousand) is the same as any of the others. One apostle of peace or one zealot for freedom can make nonsense of the most carefully compiled statistics, can confound the most advanced formula; and the ordinary chap who is really convinced and does his best can be mightier than the most brilliant.

Dogged fidelity to the best that is within us can see us through to the time far distant when peace shall reign and wars shall be but a curiosity of history. For our smallest action is not lost. John Morley, who resigned from the British Cabinet rather than take part in the direction of a world war, once wrote this striking passage:

The moral of this for you and for me is plain. We cannot, like Beethoven or Handel, lift the soul by the magic of divine melody into the seventh heaven of ineffable vision and hope incommensurable ; we cannot, like Newton, weigh the far-off stars in a balance, and measure the heavings of the eternal flood ; we cannot, like Voltaire, scorch up what is cruel and false by a word as a flame, nor, like Milton or Burke, awaken men's hearts with the note of an organ-trumpet ; we cannot, like the great saints of the churches and the great sages of the schools, add to those acquisitions of spiritual beauty and intellectual mastery which have, one by one and little by little, raised man from being no higher than the brute to be only a little lower than the angels. But what we can do (the humblest of us) is, by diligently using our own minds and diligently seeking to extend our own opportunities to others, to help to swell that common tide on the force and the set of whose currents depends the prosperous voyaging of humanity.

When our names are blotted out, and our place knows us no more, the energy of each social service will remain, and so, too, let us not forget, will each social disservice remain, like the unending stream of one of Nature's forces. The thought that this is so may well lighten the poor perplexities of our daily life, and even soothe the pang of its calamities ; it lifts us from our feet as on wings, opening a larger meaning to our private toil and a higher purpose to our public endeavour ; it makes the morning as we awake to it welcome, and the evening like a soft garment as it wraps us about ; it nerves our arm with boldness against oppression and injustice, and strengthens our voice with deeper accents against falsehood. . . .

So be it.

THE END

APPENDICES

APPENDIX A

THE CONSCIENCE CLAUSE

AT THE OUTBREAK OF WAR

On September 3rd, 1939, the National Service (Armed Forces) Act, 1939 (2 & 3 Geo. 6, c. 81), became law, the earlier Military Training Act, 1939 (2 & 3 Geo. 6, c. 25), being suspended. In the former Act there were two sections and part of the Schedule relating to conscientious objection and these followed closely the precedent of the Military Training Act. Though amended and added to from time to time, this Act remained the principal Act until the end of 1948. The provisions forming the "conscience clause" were as follows:

Conscientious objectors

5.—(1) If any person liable under this Act to be called up for service claims that he conscientiously objects—

(*a*) to being registered in the military service register, or

(*b*) to performing military service, or

(*c*) to performing combatant duties,

he may, on furnishing the prescribed particulars about himself, apply in the prescribed manner to be registered as a conscientious objector in a special register to be kept by the Minister (hereinafter referred to as "the register of conscientious objectors"):

Provided that where, in the case of a person who has been medically examined under this Act, such an application as aforesaid is made more than two days after the completion of his medical examination, the Minister shall dismiss the application unless he is satisfied, having regard to the grounds on which the application is made, that the making thereof has not been unreasonably delayed.

(2) Where any person duly makes application to be registered in the register of conscientious objectors, he shall, unless his application is dismissed in accordance with the proviso to the last foregoing subsection, be provisionally registered in that register.

(3) A person who has been provisionally registered in the register of conscientious objectors shall, within the prescribed period and in the prescribed manner, make to a local tribunal constituted under

Part I of the Schedule to this Act an application stating to which of the matters mentioned in paragraphs (*a*) to (*c*) of subsection (1) of this section he conscientiously objects, and, if he fails to do so, the Minister shall remove his name from the register of conscientious objectors.

(4) An applicant for registration as a conscientious objector who is aggrieved by any order of a local tribunal, and the Minister, if he considers it necessary, may, within the prescribed time and in the prescribed manner, appeal to the appellate tribunal constituted under Part I of the Schedule to this Act, and the decision of the appellate tribunal shall be final.

(5) The Minister or any person authorized by him shall be entitled to be heard on any application or appeal to a tribunal under this section.

(6) A local tribunal, if satisfied, upon an application duly made to it under this section, or the appellate tribunal, if satisfied on appeal, that the ground upon which the application was made is established, shall by order direct either—

(*a*) that the applicant shall, without conditions, be registered in the register of conscientious objectors ; or

(*b*) that he shall be conditionally registered in that register until the end of the present emergency, the condition being that he must until that event undertake work specified by the tribunal, of a civil character and under civilian control and, if directed by the Minister, undergo training provided or approved by the Minister to fit him for such work ; or

(*c*) that his name shall be removed from the register of conscientious objectors and that he shall be registered as a person liable under this Act to be called up for service but to be employed only in non-combatant duties ;

but, if not so satisfied, shall by order direct that his name shall, without qualification, be removed from the register of conscientious objectors.

(7) The Minister may provisionally register in the register of conscientious objectors any person liable under this Act to be called up for service, notwithstanding that he has refused or failed to make any application in that behalf, if in the Minister's opinion there are reasonable grounds for thinking that he is a conscientious objector, and the Minister may refer the case of that person to a local tribunal ; and thereupon the provisions of this section shall have effect in relation to that person as if the necessary applications had been made by him, and references in this section to the " applicant " shall be deemed to include references to him.

(8) If on the information of any person, a local tribunal is satisfied that any person who is conditionally registered in the register of conscientious objectors by virtue of a direction given under paragraph (*b*) of subsection (6) of this section has failed to observe that condition, the local tribunal shall report the fact to the Minister, who shall require him to make a fresh application to a local tribunal, and upon any such application that tribunal may deal with him in like manner as after being satisfied that the ground of his application was established, they had power to deal with him on his original application, but if he fails to make such a fresh application when required by the Minister, the Minister shall forthwith remove his name from the register of conscientious objectors and register him as a person liable under this Act to be called up for service but to be employed only in non-combatant duties.

(9) If, while a person is conditionally registered in the register of conscientious objectors, any change occurs in the particulars about him entered in that register, he shall forthwith notify the change to the Minister in the prescribed manner, and if he fails to do so shall be liable on summary conviction to a fine not exceeding five pounds; and the Minister may remove his name from the register of conscientious objectors and register him as a person liable under this Act to be called up for service but to be employed only in non-combatant duties.

(10) A person shall not be liable under this Act to be called up for service so long as he is registered in the register of conscientious objectors; and the Admiralty, Army Council, and Air Council, shall make arrangements for securing that, where a person registered as a person liable under this Act to be called up for service, but to be employed only in non-combatant duties is called up under this Act for service, he shall, during the period for which he serves by virtue of being so called up, be employed only in such duties.

(11) The regulations made under this Act regulating the procedure of such tribunals as aforesaid shall make provision for the appellate tribunal to sit in two divisions, of which one shall sit for Scotland, and shall empower the tribunals to take evidence on oath, and shall make provision as to the representation of parties to proceedings before the tribunals which shall include the right to appear either in person or by counsel or a solicitor or by a representative of any trade union to which they belong or by any person who satisfies such a tribunal that he is a relative or personal friend of the party he proposes to represent.

(12) No determination of a local tribunal or the appellate tribunal made for the purposes of this Act shall be called in question in any court of law.

(13) The Minister may pay—

(*a*) to members of tribunals constituted under this section such remuneration and allowances as he may, with the approval of the Treasury, determine ; and

(*b*) to applicants appearing before such tribunals, and to any witnesses whose attendance is certified by any such tribunal to have been necessary, travelling and subsistence allowances, in accordance with such scale as the Minister may, with the consent of the Treasury, approve ; and

(*c*) to persons undergoing training in accordance with directions given by the Minister under paragraph (*b*) of subsection (6) of this section training allowances in accordance with such scale as he may, with the consent of the Treasury, approve.

* * * *

Provisions as to certain persons sentenced by court martial

13.—(1) If any person, being a person who has made application for registration as a conscientious objector but who has nevertheless been called up under this Act for service, is undergoing a sentence of penal servitude or of imprisonment for a term of three months or more imposed on him by a court martial in respect of an offence committed by him while in Great Britain, then if he claims that the offence was committed by reason of his conscientiously objecting to performing military service or to obeying any order in respect of which the offence was committed he may apply in the prescribed manner to have his case considered by the appellate tribunal constituted under Part I of the Schedule to this Act, and that tribunal shall, if it finds that the offence for which he was sentenced was committed by reason of such conscientious objection as aforesaid have power to recommend to the Admiralty or to the Secretary of State that he be discharged from service in the armed forces of the Crown as soon as may be after serving the sentence imposed upon him.

(2) Upon receiving from the appellate tribunal a recommendation made under this section that a person be discharged from the armed forces of the Crown it shall be the duty of the Admiralty or of the Secretary of State as the case may be to arrange for his discharge accordingly.

(3) Where the appellate tribunal recommend under this section that a person be discharged from the armed forces of the Crown the tribunal shall have power to make any order with respect to his registration as a conscientious objector or as a person liable to be employed on non-combatant duties only which they would have had power to make on an appeal under section five of this Act, and any such order shall have effect immediately upon his discharge.

Section 5

SCHEDULE

PART I

LOCAL AND APPELLATE TRIBUNALS

Local Tribunals

Local tribunals shall be appointed for such districts as the Minister may determine, and shall consist of a chairman and four other members appointed by the Minister. In appointing members of such tribunals the Minister shall have regard to the necessity of selecting impartial persons, and of the four members not less than one shall be appointed by the Minister after consultation with organizations representative of workers.

The chairman shall be a county court judge or, in the case of a local tribunal for a district in Scotland, a sheriff or sheriff-substitute.

The Appellate Tribunal

Each division of the appellate tribunal shall consist of a chairman and two other members appointed by the Minister. In appointing members of the appellate tribunal the Minister shall have regard to the necessity of selecting impartial persons, and of the two members one shall be appointed by the Minister after consultation with organisations representative of workers.

The chairman shall be a person nominated in the case of the division for England by the Lord Chancellor and in the case of the division for Scotland by the Lord President of the Court of Session.

* * * *

AT THE BEGINNING OF 1949

On January 1st, 1949, the National Service Acts, 1948, came into operation. These Acts comprise the National Service Act, 1948 (11 & 12 Geo. 6, c. 64), which is a consolidating Act repealing and replacing all the previous Acts in force at the end of 1948, and the National Service (Amendment) Act, 1948 (12 & 13 Geo. 6, c. 6), which extended the period for full-time military conscription from twelve to eighteen months and made other minor amendments.

By this time the "conscience clause" had grown to six sections and a Schedule, and a comparison with the provisions in 1939 may help readers to assess the gains and losses of the war years. The Regulations under the National Service Acts were also consolidated as from January 1st, 1949, those applicable from that date being the National Service (Miscellaneous) Regulations, 1948 (S.I. 1948 No. 2683).

Sections 17 to 22 of, and the Fourth Schedule to, the National Service Act, 1948, as amended, read as follows:

CONSCIENTIOUS OBJECTORS

Registration in register of conscientious objectors

17.—(1) If any person subject to registration claims that he conscientiously objects—

(*a*) to being registered in the military service register, or

(*b*) to performing military service, or

(*c*) to performing combatant duties,

he may, on furnishing the prescribed particulars about himself, apply in the prescribed manner to be registered as a conscientious objector in a special register to be kept by the Minister (in this Part of this Act referred to as "the register of conscientious objectors"):

Provided that where, in the case of a person who has been medically examined under section eight of this Act, such an application is made more than two days after the completion of his medical examination, the Minister shall dismiss the application unless he is satisfied, having regard to the grounds on which the application is made, that the making thereof has not been unreasonably delayed.

(2) Where any person applies in accordance with the last foregoing subsection to be registered in the register of conscientious objectors, he shall, unless his application is dismissed in accordance with the proviso to that subsection be provisionally registered in that register.

(3) A person who has been provisionally registered in the register of conscientious objectors shall within the prescribed period and in the prescribed manner, make to a local tribunal constituted under the Fourth Schedule to this Act an application stating to which of the matters mentioned in paragraphs (*a*) to (*c*) of subsection (1) of this section he conscientiously objects, and if he fails to do so the Minister shall remove his name from the register of conscientious objectors.

(4) An applicant for registration as a conscientious objector who is aggrieved by any order of a local tribunal and the Minister, if he considers it necessary, may, within the prescribed time and in the prescribed manner, appeal to the appellate tribunal constituted under the Fourth Schedule to this Act, and the decision of the appellate tribunal shall be final.

(5) The Minister or any person authorized by him shall be entitled to be heard on any application or appeal to a tribunal under this section.

(6) A local tribunal, if satisfied, upon an application duly made to it under this section, or the appellate tribunal if satisfied on appeal, that the ground upon which the application was made is established shall by order direct either—

(*a*) that the applicant shall without conditions be registered in the register of conscientious objectors; or

(*b*) that he shall be conditionally registered in that register until the end of a period of [eighteen] months and sixty days, the condition being that he must until the end of that period undertake work specified by the tribunal, of a civil character and under civilian control, and

(i) submit himself to such medical examination at such place and time as the Minister may direct for the purpose of ascertaining the applicant's fitness for that work;

(ii) undergo such training provided or approved by the Minister as the Minister may direct for the purpose of fitting the applicant for that work;

and that at the end of that period he shall be registered in that register without conditions; or

(*c*) that he shall be registered in that register as a person liable or prospectively liable under this Part of this Act to be called up for service but to be employed only in non-combatant duties;

but, if not so satisfied, shall by order direct that his name shall be removed from the register of conscientious objectors:

Provided that in relation to any person who, by reason of his age, has not yet become liable under this Part of this Act to be called up for service, any condition imposed under paragraph (*b*) of this subsection shall be suspended until he attains the age of eighteen.

NOTE.—Eighteen months was substituted for twelve, *supra*, by the National Service (Amendment) Act, 1948.

(7) The Minister may provisionally register in the register of conscientious objectors any person subject to registration, notwithstanding that he has refused or failed to make any application in that behalf, if in the Minister's opinion there are reasonable grounds for thinking that he is a conscientious objector, and the Minister may refer the case of that person to a local tribunal; and thereupon the provisions of this section shall have effect in relation to that person as if the necessary applications had been made by him, and references in this section to the "applicant" shall be deemed to include references to him.

(8) Any person unconditionally registered in the register of conscientious objectors by virtue of paragraph (*a*) of subsection (6) of this section or conditionally registered therein by virtue of paragraph (*b*) of that subsection shall not be liable to be called up for service so long as he is so registered.

(9) The Service Authorities shall make arrangements for securing that, where a person registered in the register of conscientious

objectors by virtue of paragraph (*c*) of subsection (6) of this section as a person liable or prospectively liable under this Part of this Act to be called up for service but to be employed only in non-combatant duties is called up for service under this Part of this Act, he shall, during the period for which he serves by virtue of being so called up, be employed only in such duties.

(10) If, while a person is conditionally registered in the register of conscientious objectors, any change occurs in the particulars about him registered in that register, he shall forthwith notify the change to the Minister in the prescribed manner, and if he fails to do so shall be liable on summary conviction to a fine not exceeding five pounds.

Changes in register of conscientious objectors

18.—(1) A registered conscientious objector may at any time apply to the Minister in the prescribed manner either—

(*a*) for the removal of his name from the register of conscientious objectors and for his registration in the military service register as a person liable or prospectively liable under this Part of this Act to be called up for service ; or

(*b*) for his registration in the register of conscientious objectors as a person liable or prospectively liable as aforesaid, but to be employed only in non-combatant duties.

(2) A person registered in the register of conscientious objectors as a person liable or prospectively liable under this Part of this Act to be called up for service but to be employed only in non-combatant duties, may, at any time before the day specified in an enlistment notice served upon him as the day on which he is thereby required to present himself, apply to the Minister in the prescribed manner for the removal of his name from that register and for his registration in the military service register as a person liable or prospectively liable under this Part of this Act to be called up for service.

(3) The Service Authorities shall make arrangements for enabling a person registered in the register of conscientious objectors as a person liable to be called up for service under this Part of this Act, but to be employed only in non-combatant duties, to apply to the Minister, at any time on or after the day mentioned in the last foregoing subsection, for the removal of his name from that register and for his registration in the military service register as a person liable to be called up for service under this Part of this Act ; and where such an application is granted, the applicant may be employed in combatant duties.

(4) Where an application made under this section is granted, the Minister shall cause the register or registers to be amended accordingly.

Breach of condition of registration as conscientious objector

19.—(1) Where it appears to the Minister that a conditionally registered conscientious objector has failed to comply with any condition on which he is registered, but had reasonable excuse for the failure, the Minister may refer his case to a local tribunal.

(2) Where it appears to the Minister that a conditionally registered conscientious objector has, at any time after the expiration of one month after the condition relating to his undertaking work has been imposed on him, failed to undertake the work specified by the tribunal or ceased to undertake it, the Minister may direct him to undertake any work so specified until the end of the period during which he is so registered or the direction is withdrawn.

(3) On any reference of the case of any person to a local tribunal under subsection (1) of this section, the tribunal, if it is satisfied that he has failed to comply with the condition but had reasonable excuse for the failure, shall report to the Minister accordingly and either—

(*a*) make no order in the matter ; or

(*b*) order that the person whose case has been referred shall be registered without conditions in the register of conscientious objectors ; or

(*c*) order that the condition on which he was registered shall be varied, or that another condition shall be substituted therefor,

and any order made under paragraph (*b*) or (*c*) of this subsection shall have effect notwithstanding any previous order made by a local or appellate tribunal.

(4) Where the case of any person has been referred to a local tribunal under subsection (1) of this section—

(*a*) that person, if he is aggrieved by the order of the tribunal or by its failure to make an order or report to the Minister ; or

(*b*) the Minister, if he considers it necessary ;

may within the prescribed time and in the prescribed manner appeal to the appellate tribunal, and the decision of the appellate tribunal shall be final.

(5) If a person conditionally registered as a conscientious objector fails to comply with any condition on which he is registered or any direction given to him by the Minister under subsection (2) of this section, he shall, unless he satisfies the court that he had reasonable excuse for the failure, be guilty of an offence under this Part of this Act and liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine ; or

(*b*) on summary conviction, to imprisonment for a term not exceeding twelve months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

(6) A prosecution against any person under the last foregoing subsection for failing to comply with a condition or direction shall not be instituted except by or with the consent of the Minister ; and where the case of any person has been referred to a local tribunal under subsection (1) of this section, the Minister shall not institute or consent to the institution of such a prosecution against him—

(*a*) unless that tribunal has determined the matter and made no report that he had reasonable excuse for the failure and the time for appealing from that determination has expired ; or

(*b*) where an appeal has been brought from the determination of the local tribunal, unless the appellate tribunal has determined the matter and made no such report as aforesaid.

(7) On the prosecution of any person for such an offence, a certificate purporting to be signed on behalf of the Minister and stating—

(*a*) that he has not referred the case of that person to a local tribunal under subsection (1) of this section ; or

(*b*) that he has so referred the case and either—

(i) that the local tribunal has determined the matter and made no such report as aforesaid and that the time for appealing from the determination has expired ; or

(ii) that an appeal has been brought from the determination of the local tribunal and that the appellate tribunal has determined the matter and made no such report ; or

(*c*) that he has directed a person to undertake any work and has not withdrawn that direction,

shall be conclusive evidence of the facts so stated.

Provision as to certain persons sentenced for failure to attend medical examination

20.—(1) If any person, being a person who has applied for registration or who has at any time been provisionally registered as a conscientious objector, has undergone or is undergoing a sentence of imprisonment for a term of three months or more imposed upon him for failing to comply with an order made under subsection (5) of section eight of this Act, then, if he claims that the offence was committed by reason of his conscientiously objecting to performing

military service or combatant duties, he may apply in the prescribed manner to have his case considered by the appellate tribunal.

(2) On any such application the appellate tribunal shall, if it finds that the offence for which the applicant was sentenced was committed by reason of such a conscientious objection as aforesaid, have power to make any order with respect to his registration as a conscientious objector which they would have had power to make on an appeal under section seventeen of this Act, and any such order shall have effect immediately or upon his discharge from prison as the case may be.

Provisions as to certain persons sentenced by court martial

21.—(1) If any person, being a person who has applied for registration as a conscientious objector but has nevertheless been called up for service, is undergoing a sentence of penal servitude, imprisonment or detention for a term of three months or more imposed on him by a court martial in respect of an offence committed by him while in Great Britain, then if he claims that the offence was committed by reason of his conscientiously objecting to performing military service or to obeying any order in respect of which the offence was committed, he may apply in the prescribed manner to have his case considered by the appellate tribunal.

(2) On any such application the appellate tribunal shall, if it finds that the offence for which the applicant was sentenced was committed by reason of such a conscientious objection as aforesaid, have power to recommend to the Service Authority that he be discharged from service in the armed forces of the Crown as soon as may be after serving the sentence imposed upon him.

(3) Upon receiving from the appellate tribunal a recommendation made under this section that a person be discharged from the armed forces of the Crown, it shall be the duty of the Service Authority to arrange for his discharge accordingly.

(4) Where the appellate tribunal recommend under this section that a person be discharged from whole-time service, the tribunal shall have power to make any order with respect to his registration as a conscientious objector which they would have had power to make on an appeal under section seventeen of this Act, and any such order shall have effect immediately upon his discharge.

(5) Where under the last foregoing subsection the tribunal have ordered that a person be conditionally registered in the register of conscientious objectors, the Minister may by order of which he shall serve a copy on that person provide that the period for which that

person is so registered shall be reduced by any period of which in the opinion of the Minister account might be taken in reckoning the end of the term of that person's whole-time service.

Provisions as to local and appellate tribunals

22.—(1) The regulations made under this Part of this Act regulating the procedure of tribunals constituted under the Fourth Schedule to this Act shall—

(*a*) make provision for the appellate tribunal to sit in two or more divisions of which at least one shall sit for Scotland ;

(*b*) empower the tribunals to take evidence on oath ;

(*c*) make provision as to the representation of parties to proceedings before the tribunals which shall include the right to appear either in person or by counsel or a solicitor or by a representative of any trade union to which they belong or by any person who satisfies such a tribunal that he is a relative or personal friend of the party he proposes to represent.

(2) No determination of a local tribunal or the appellate tribunal made for the purposes of this Part of this Act shall be called in question in any court of law.

(3) The Minister may pay—

(*a*) to members of tribunals constituted under the Fourth Schedule to this Act such remuneration and allowances as he may, with the approval of the Treasury, determine ;

(*b*) to applicants appearing before such tribunals and to any witnesses whose attendance is certified by any such tribunal to have been necessary, travelling and subsistence allowances in accordance with such scale as the Minister may, with the consent of the Treasury, approve ;

(*c*) to persons undergoing training in accordance with directions given by the Minister under paragraph (*b*) of subsection (6) of section seventeen of this Act training allowances in accordance with such scale as he may, with the consent of the Treasury, approve ;

(*d*) to persons conducting any medical examination under the said paragraph (*b*) such remuneration and allowances as he may, with the approval of the Treasury, determine ; and

(*e*) to persons submitting themselves to such medical examination as aforesaid such travelling and other allowances, which may include compensation for loss of remunerative time, in accordance with such scale, as he may, with the consent of the Treasury, approve.

Sections 17, 22, 34 FOURTH SCHEDULE

CONSCIENTIOUS OBJECTORS TRIBUNALS

Local Tribunals

1. Local tribunals shall be appointed for such districts as the Minister may determine, and shall consist of a chairman and six other members appointed by the Minister.

2. In appointing members of local tribunals the Minister shall have regard to the necessity of selecting impartial persons; and of the six members other than the chairman not less than two shall be appointed by the Minister after consultation with organisations representative of workers.

3. The chairman shall, in the case of a local tribunal for a district in England and Wales, be a county court judge or a barrister of at least seven years' standing, and, in the case of a local tribunal for a district in Scotland, a sheriff or sheriff substitute or an advocate of at least five years' standing.

4. Of the six other members four only, to be selected by the Minister, shall be summoned to attend any particular session of the tribunal.

The Appellate Tribunal

5. Every division of the appellate tribunal shall consist of a chairman and four other members appointed by the Minister.

6. In appointing members of the appellate tribunal the Minister shall have regard to the necessity of selecting impartial persons; and, of the four members other than the chairman, not less than two shall be appointed by the Minister after consultation with organizations representative of workers.

7. The chairman shall be a person nominated, in the case of any division for England and Wales, by the Lord Chancellor, and, in the case of any division for Scotland, by the Lord President of the Court of Session.

8. Of the four other members two only, to be selected by the Minister, shall be summoned to attend any particular session of the tribunal.

General

9. The Minister may appoint another person having the like qualifications, or, as the case may be, nominated in the same manner, as the chairman to act as deputy chairman if the chairman of a tribunal is unable to act.

APPENDIX B

THE PRINCIPLES OF TRIBUNAL DECISIONS

THE FIRST WORLD WAR

Between 1916 and 1918 the Central Tribunal constituted under the Military Service Acts circulated from time to time notes of some of its more important decisions for the guidance of Local and Appeal Tribunals. These notes were printed in a series of Local Government Board Circulars, the leaflet references for cases of C.O.s being

R.77, R.80 and R.90 (subsequently collated in R.93) and R.96. Many of the Circulars in this series were not published for general use, and they are not printed in John W. Graham's *Conscription and Conscience*. Even the collection at the British Museum is incomplete. In all twenty-one decisions were circulated and, although it has not been possible to include them here, copies or summaries of these decisions have been filed with the Central Board for Conscientious Objectors, 6 Endsleigh Street, London, W.C.1, and with the Librarian, Friends Library, Friends House, Euston Road, London, N.W.1.

Brief particulars of the decisions are as follows:

CASE No. 1 (R.77). Circulated on April 27th, 1916. *Quaker Objectors.*

A member of the Society of Friends was not entitled as of right to absolute exemption.

CASE No. 2 (R.77). Circulated on April 27th, 1916. *Christadelphian Objector.*

The Tribunal was satisfied that the basis of faith common to Christadelphians forbade them to take service under military authority, but sincerity and *bona fides* must be proved.

CASE No. 3 (R.77). Circulated on April 27th, 1916. *Church of England Objector.*

Dependence upon a father whose income was partly derived from munitions did not negative conscientious objection.

CASE No. 9 (R.80). Circulated on May 11th, 1916. *Rationalist Objector.*

A member of the Rationalist Press Association was allowed exemption from combatant duties.

CASE No. 10 (R.80). Circulated on May 11th, 1916. *Enemy Extraction.*

That a person is of German extraction and has many relatives in the Germany Army did not constitute a conscientious objection. (See also Case No. 57, *post.*)

CASE No. 12 (R.80). Circulated on May 11th, 1916. *Absolutist Objector.*

An objection to work (other than work to which a person felt called) as a condition of exemption was held not to be a conscientious objection. Exemption granted from combatant duties only.

CASE No. 13 (R.80). Circulated on May 11th, 1916. *Right of Appeal.*

Appeal by a representative was held to be a sufficient appeal.

CASE No. 15 (R.80). Circulated on May 11th, 1916. *Loss of Employment.*

Following loss of work by a school teacher, exemption for ambulance work, etc., was allowed.

CASE No. 19 (R.80). Circulated on May 11th, 1916. *Present Occupation.*

A claim that a person's present occupation in education was work of national importance was met by exemption for ambulance work, etc.

CASE No. 37 (R.90). Circulated on June 14th, 1916. *Methodist Lay Preacher.*

A clerk and Methodist lay preacher objecting to both combatant and non-combatant service was allowed exemption for work with the Friends Ambulance Unit.

CASE No. 38 (R.90). Circulated on June 14th, 1916. *Present Occupation.*

A Quaker Secretary of poor health asking for present occupation was allowed exemption for work with the Friends Ambulance Unit. Discretion was allowed as to the work to be given, but the person's present post was not to be permitted.

CASE No. 39 (R.90). Circulated on June 14th, 1916. *Christadelphian Objectors.*

Nine Christadelphians willing to do civil work of national importance were allowed " work not under military control but nevertheless useful for the prosecution of the war ".

CASE No. 40 (R.90). Circulated on June 14th, 1916. *Seventh Day Adventists.*

Exemption from combatant service only was allowed after information from the War Office that it was not possible for special provision to be made for such persons in the observance of their Sabbath.

CASE No. 41 (R.90). Circulated on June 14th, 1916. *International Bible Students.*

There was not sufficient evidence that objection to war and fighting was an accepted tenet of the International Bible Students Association. Exemption from combatant duties only was granted in the particular case before the Tribunal.

CASE No. 42 (R.90). Circulated on June 14th, 1916. *Salvation Army Objector.*

Membership of Salvation Army did not necessarily imply that a person had conscientious objections sufficient to entitle him to exemption.

CASE No. 43 (R.90). Circulated on June 14th, 1916. *Unitarian Objector.*

Unitarian member of the Fellowship of Reconciliation willing to do farm work, etc., granted exemption from combatant duties only, as the Tribunal felt this would meet his conscientious objection.

CASE No. 45 (R.90). Circulated on June 14th, 1916. *Political Objection.*

The Tribunal " were of the opinion, after carefully considering the full statements put before them by the applicant, that his objection was a political one and that such an objection was not a conscientious objection within the meaning of the Military Service Act. They were satisfied that the appellant's opinions were genuine." Exemption was refused.

CASE No. 46 (R.90). Circulated on June 14th, 1916. *Humanitarian-Political Objector.*

Exemption refused to I.L.P. officer claiming universal brotherhood.

CASE No. 55 (R.96). Circulated on August 23rd, 1916. *Moral and Political Grounds.*

Socialists, not claiming to be religious but having a genuine belief that the taking of life in any circumstances was morally wrong, were properly exempted from combatant duties only. Persons who proved " a genuine settled conscientious objection not only to the actual taking of life, but to everything which was designed directly to assist in the prosecution of the war " were entitled to exemption from both combatant and non-combatant service. Age was regarded as an important factor in deciding whether objection was deliberate and settled. Membership of a socialist organization was not of itself evidence of conscientious objection.

CASE No. 57 (R.96). Circulated on August 23rd, 1916. *Enemy Extraction.*

An objection by a person of enemy-alien parentage to fighting in the war was not a conscientious objection within the meaning of the Military Service Act. (See also Case No. 10, *ante.*)

CASE No. 72 (R.120). Circulated on February 1st, 1917. *New Ground of Appeal.*

When a person changed over from hardship to conscientious grounds on appeal, the Tribunal were not bound to rule out the new grounds, but the circumstances which would justify allowing such grounds must be very exceptional.

THE SECOND WORLD WAR

Between 1940 and 1943 the Appellate Tribunal constituted under the National Service Acts similarly circulated notes of its more important decisions for the guidance of the Local Tribunals, though it was not always possible to understand why particular decisions should be circulated, while others, apparently of equal or greater importance, were omitted.

These Appellate Tribunal Precedents, as they were known, were merely cyclostyled notes addressed to the Local Tribunals and were not generally available to the public. In 1942, however, the Ministry of Labour and National Service allowed the Central Board to have access to the Precedents, and it had been hoped that a full verbatim copy might be included in this Appendix. Considerations of space, however, have prevented this and it is hoped that the following summaries may be found of interest. Complete copies of the Precedents are deposited with the Central Board and with Friends Library as in the previous instance.

SERIAL No. 1 (January 18th, 1940).

Unconditionalist Objector—Unconditional and Conditional Registration—Tribunal Discretion.

An applicant declared that the demands of the State as expressed in the National Service (Armed Forces) Act, 1939, conflicted with his belief that as a Christian he should do all in his power to live at peace with all men and take no part in war or preparations for war. He objected to being registered in the Military Service Register and asked for complete exemption. On his behalf Counsel submitted that the Tribunal, being convinced of his sincerity, had no alternative but to register him unconditionally as a Conscientious Objector.

The Appellate Tribunal ruled that there was no real substance in such contention but that, in determining whether to register a person conditionally or unconditionally, the Tribunal must exercise its own discretion, judicially, of course, and taking into consideration all the circumstances, including if it thought fit the question of whether the applicant had proved a well-founded objection to undertaking civil work as an alternative to military service.

SERIAL No. 2 (December 9th, 1940).

Welsh Nationalism—Conscientious Objection within the Act.

An applicant based his claim to be registered as a Conscientious Objector entirely on the ground of his Welsh nationalism. The

Appellate Tribunal came to the conclusion that this was not a conscientious objection within the meaning of the Act of 1939.

NOTE.—This Precedent was based on a decision of the Welsh Division of the Appellate Tribunal. Though the principle behind the decision was adhered to by that Tribunal until its dissolution, later cases showed that the Precedent was at variance with the practice of several of the other Divisions which consistently recognized Welsh nationalism as a valid basis of objection. (See Chapter 5.)

SERIAL No. 3 (December 9th, 1940).

Conditionally Registered Conscientious Objector—Failure to Comply with Condition—Power to "Down-grade" to Non-Combatant Registration.

A Conscientious Objector was conditionally registered on appeal to the Appellate Tribunal, but subsequently failed to observe the condition of his registration, and his case was referred under section 5(8) of the Act of 1939 to the same Local Tribunal as had originally considered his application. Counsel for the applicant submitted (a) that the case should be heard by a different Local Tribunal, and (b) that the only question that the Tribunal could consider related to the continuance, removal or variation of the applicant's registration condition.

The Appellate Tribunal rejected both these submissions. They declined to remit the case to a fresh Local Tribunal and laid down that under section 5(8) of the Act there was power to register a person unconditionally or conditionally or for non-combatant duties. In the particular circumstances, the applicant was registered for non-combatant duties.

NOTE.—Section 5(8) of the Act of 1939 was repealed by the National Service Act, 1941, so that the main principle of this decision is now of little practical value. (See also Serial No. 8, *post*, and Chapter 16.)

SERIAL No. 4 (December 9th, 1940).

C.O.s Engaged in War-Work—Evidence of Conscientious Objection.

In four cases Christadelphian applicants were employed by firms engaged in the manufacture of materials for the prosecution of the war. The Tribunal ruled that the state of a man's conscience was purely a question of fact, each case being decided on its merits. But if the Tribunal were satisfied that an applicant, on finding that his employers were engaged directly or indirectly on war-work, for that reason left his employment without undue delay, his action would help to confirm other evidence of conscientious objection. If, on the other hand, having a knowledge that his employers were so engaged, an applicant continued in his employment, the fact would

naturally weaken his claims, to a greater or less degree according to the circumstances.

SERIAL No. 5 (March 5th, 1941).

Tribunal evenly Divided—Onus of Proof.

In order to obviate any difficulty arising from a Local Tribunal's being evenly divided, as, for instance, by two members being in favour of a degree of exemption and two against, the Appellate Tribunal considered it advisable that Local Tribunals should for the hearing of any one case consist of the Chairman and four, or of the Chairman and two, other members.

SERIAL No. 6 (October 2nd, 1941).

Unconditional and Conditional Registration—No Implied Withdrawal of Power to Register Unconditionally—Effect of Power to Enrol Conditionally Registered Conscientious Objectors Compulsorily for Civil Defence—Exercise of Discretion to Register Unconditionally.

Three separate but related points were considered in this Precedent.

First, the Appellate Tribunal held that the passing of the Emergency Powers (Defence) Acts, 1940, and the National Service Act, 1941, with their wide powers to impose civil work or duties irrespective of conscientious objection, had in no sense taken away the Tribunals' power to register Conscientious Objectors without conditions.

Secondly, where an applicant had a valid conscientious objection to Civil Defence but not to land work, Tribunals were not obliged to register him unconditionally on the ground that, if he were registered conditionally, he would be liable to be enrolled compulsorily for Civil Defence under the National Service Act, 1941.

Thirdly, further general guidance was given as to the exercise of the Tribunals' discretion in cases where applicants were found to have a valid conscientious objection to civil work as an alternative to military service. The duty of Tribunals was to satisfy themselves that conscientious objection was established, and when so satisfied they could register applicants either conditionally or unconditionally. Though their discretion in the matter was not fettered by statute, there was a general consensus of opinion in regard to the intention of the Act. When so many of their fellow-countrymen were called away from their normal vocation to perform hazardous duties, it would not be equitable to allow Conscientious Objectors to continue in their own or even to usurp their fellows' occupation, and therefore they should also undertake work specified by the Tribunals.

At the same time it was recognized that there were some persons who voluntarily devoted their energies so fully to the national advantage that compulsion was unnecessary and also some who for physical or other reasons had no energies to devote. For such persons total exemption was provided by way of unconditional registration.

In deciding what work a Conscientious Objector should be directed to undertake, all the circumstances of each case must be considered including the Objector's own predilections and scruples. But the statute nowhere provided that a conscientious objection, other than an objection to military registration or service, should be considered a governing factor in the case. In short, a conscientious objection to work other than military was a factor to be considered in arriving at a decision, but not an overriding factor.

SERIAL No. 7 (October 1st, 1941).

No Objection to Non-Combatant Duties—Conditional Registration not Appropriate.

If a person declared that he had a conscientious objection to performing combatant duties but none to non-combatant military service, it was not a judicial exercise of discretion to exempt him from non-combatant service and to register him conditionally, even though such an exercise of discretion might not in terms be forbidden by the Acts.

SERIAL No. 8 (September 19th, 1941).

Proceedings Pending when Subsection Repealed—Interpretation Act, 1889—Proceedings and Powers Continued.

Section 5(8) of the Act of 1939 provided that conditionally registered Conscientious Objectors might, on alleged non-compliance with the condition imposed, be required to apply again to a Local Tribunal which might then, among other things, " down-grade " the applicant to registration for non-combatant duties (see Serial No. 3, *ante*). Although this subsection was repealed by section 5(7) of the National Service Act, 1941, proceedings pending at the time of repeal were not affected and could be continued as if the repeal had not taken place (Interpretation Act, 1889, section 38).

SERIAL No. 9 (September 28th, 1942).

Condition—" Work as Directed by the Ministry "—Actual Work must be Specified by Tribunal.

A woman applicant was ordered by a Local Tribunal to be registered conditionally on undertaking " work of national importance as directed by the Ministry of Labour and National Service, such as

land work, food production and distribution, employment in the nursing services, or civil defence".

The Appellate Tribunal held that section 5(6) (b) of the Act of 1939 required the actual work or a series of alternative conditions to be specified by Tribunals themselves, and it was not sufficient to leave it to the Ministry to specify the actual work to be performed.

SERIAL No. 10 (March 17th, 1943).

Non-Compliance with Condition—Reference back to Tribunal—No Variation of Condition unless Reasonable Excuse Reported.

Where a case was referred back to a Local Tribunal under section 5(1) of the National Service Act, 1941, on the ground of alleged non-compliance with a condition of registration, and the Tribunal was satisfied as to non-compliance but did not report that the applicant had reasonable excuse therefor, an order varying the condition was *ultra vires*, for the power to vary only arose when a Tribunal was satisfied that there was reasonable excuse. In the particular case, therefore, the only valid condition was that originally imposed.

SERIAL No. 11 (April 15th, 1943).

Conditionally Registered Conscientious Objector becomes "Regular Minister of a Religious Denomination"—Condition in Force until further Order by the Tribunal—Submitting to Jurisdiction Operates to Prevent later Repudiation.

While his appeal to the Appellate Tribunal was pending, an applicant who had been conditionally registered by a Local Tribunal became a regular minister of a religious denomination and so exempt from liability to be called up under the Acts.

It was submitted for the Ministry of Labour and National Service that the applicant remained registered as a Conscientious Objector notwithstanding this fact and that the Appellate Tribunal had power to hear and determine the appeal.

The Tribunal decided to register the applicant unconditionally, holding that, in provisionally registering as a Conscientious Objector in the first place, he had submitted to the jurisdiction of the Tribunals. If he discovered afterwards that he was exempt from call-up, his remedy lay in applying for an appropriate order to the court to which he had submitted: as he became a regular minister while his case was under appeal, the Appellate Tribunal was then the court with jurisdiction to make the appropriate order (*Emery* v. *Sage* (1943), 59 T.L.R. 214).

APPENDIX C

STATISTICS

PROVISIONAL REGISTRATIONS OF CONSCIENTIOUS OBJECTORS

(MEN)

Registration Date	Age Class: Date of Birth (inclusive dates)	Age Class: Approx. Age	Total No. of Provisional Registrations as C.O.s	Total No. of Registrations under the Acts	%
MILITARY TRAINING ACT, 1939:					
1. 3 June, 1939 ..	2.10.17- 1.10.19	20-22	4,392	240,757	1·80
NATIONAL SERVICE ACTS, 1939-1942:					
2. 21 Oct., 1939 ..	2.10.17- 1.10.19	21-23	5,073	230,009	2·20
3. 9 Dec., 1939 ..	2.12.16- 1.10.17	23-24	5,490	256,300	2·10
	2.10.19- 1.12.19	20-21			
4. 17 Feb., 1940 ..	1.1.16- 1.12.16	23-24	5,638	278,289	2·00
	2.12.19-31.12.19	20			
5. 9 Mar., 1940 ..	1.1.15-31.12.15	24-25	5,803	346,731	1·60
	1.1.20- 9.3.20	20			
6. 6 April, 1940 ..	1.1.14-31.12.14	25-26	4,772	335,909	1·40
	10.3.20- 6.4.20	20			
7. 27 April, 1940 ..	1.1.13-31.12.13	26-27	4,218	336,894	1·20
	7.4.20- 27.4.20	20			
8. 25 May, 1940 ..	1.1.12-31.12.12	27-28	3,684	348,991	1·04
	28.4.20- 25.5.20	20			
9. 15 June, 1940 ..	1.1.11-31.12.11	28-29	2,387	307,858	0·77
10. 22 June, 1940 ..	1.1.10-31.12.10	29-30	2,451	355,105	0·69
	26.5.20- 22.6.20	20			
11. 6 July, 1940 ..	1.1.09-31.12.09	30-31	1,898	330,456	0·57
12. 13 July, 1940 ..	1.1.08-31.12.08	31-32	1,752	342,367	0·51
13. 20 July, 1940 ..	1.1.07-31.12.07	32-33	1,669	331,030	0·50
14. 27 July, 1940 ..	1.1.06-31.12.06	33-34	2,192	380,087	0·57
	23.6.20- 27.7.20	20			
15. 9 Nov., 1940 ..	1.7.05-31.12.05	34-35	2,173	407,302	0·53
	28.7.20- 9.11.20	20			
16. 16 Nov., 1940 ..	1.1.05- 30.6.05	35			
17. 11 Jan., 1941 ..	1.7.04-31.12.04	36			
	10.11.20-31.12.20	20	1,658	366,684	0·45
18. 18 Jan., 1941 ..	1.1.04- 30.6.04	36-37			
19. 22 Feb., 1941 ..	1.1.21-31.12.21	19-20	1,674	291,143	0·57
20. 12 April, 1941 ..	1.1.03-31.12.03	37-38	1,342	319,456	0·42
21. 17 May, 1941 ..	1.1.02-31.12.02	38-39	1,176	323,881	0·36
22. 31 May, 1941 ..	1.1.01-31.12.01	39-40	1,170	306,907	0·38
23. 21 June, 1941 ..	1.7.00-31.12.00	40-41	558	152,107	0·36
24. 12 July, 1941 ..	1.1.22- 30.6.22	19	665	142,671	0·47
25. 6 Sept., 1941 ..	1.7.22-31.12.22	18½ 19	696	156,465	0·44
26. 13 Dec., 1941 ..	1.1.23- 30.6.23	18½-19	657	162,926	0·40
27. 18 April, 1942 ..	1.7.23-31.12.23	18	608	157,654	0·38
28. 15 Aug., 1942 ..	1.1.24- 30.6.24	18-18½	539	158,000	0·34
29. 7 Nov., 1942 ..	1.7.24- 30.9.24	18-18½	310	83,457	0·37
30. 9 Jan., 1943 ..	1.10.24- 31.3.25	17½-18	481	159,690	0·30
31. 3 April, 1943 ..	1.4.25- 30.6.25	17½-18	301	83,867	0·35
32. 19 June, 1943 ..	1.7.25- 30.9.25	17½ 18	267	79,864	0·33
33. 18 Sept., 1943 ..	1.10.25-31.12.25	17½	187	70,810	0·26
34. 11 Dec., 1943 ..	1.1.26- 31.3.26	17½	173	71,033	0·24
35. 4 March, 1944 ..	1.4.26- 30.6.26	17½	176	71,920	0·24
36. 3 June, 1944 ..	1.7.26- 30.9.26	17½	181	69,420	0·26
37. 2 Sept., 1944 ..	1.10.26-31.12.26	17½	148	67,847	0·22
38. 2 Dec., 1944 ..	1.1.27- 31.3.27	17½	155	75,563	0·20
39. 3 Mar., 1945 ..	1.4.27- 30.6.27	17½	176	84,017	0·21
40. 9 June, 1945 ..	1.7.27- 30.9.27	17½	157	72,028	0·21
41. 1 Sept., 1945 ..	1.10.27-31.12.27	17½	130	68,553	0·18
42. 1 Dec., 1945 ..	1.1.28- 31.3.28	17½	159	75,343	0·20
43. 2 Mar., 1946 ..	1.4.28- 30.6.28	17½	172	84,285	0·20
44. 1 June, 1946 ..	1.7.28- 30.9.28	17½	136	76,107	0·18
45. 7 Sept., 1946 ..	1.10.28-31.12.28	17½	106	73,306	0·14
46. 7 Dec., 1946 ..	1.1.29- 31.3.29	17½	168	77,245	0·20
47. 1 Mar., 1947 ..	1.4.29- 30.6.29	17½	150	78,952	0·18
48. 7 June, 1947 ..	1.7.29- 30.9.29	17½	128	74,433	0·17
49. 6 Sept., 1947 ..	1.10.29-31.12.29	17½	114	70,834	0·16
50. 6 Dec., 1947 ..	1.1.30- 31.3.30	17½	142	80,386	0·17

Note.—As explained earlier, the circumstances in which women registered are not comparable; in this connection the registration statistics for women C.O.s are of little value and have not been included in this Appendix.

DECISIONS OF LOCAL TRIBUNALS UP TO DECEMBER 31ST, 1948

Local Tribunal	*Registered as Conscientious Objectors unconditionally*		*Registered as Conscientious Objectors on condition that they undertake civil work or training*		*Registered as Conscientious Objectors but liable to be called up for non-combatant duties in the Forces*		*Removed from the Register of Conscientious Objectors*		*Total*
	No.	%	*No.*	%	*No.*	%	*No.*	%	
London No. 1 ..	145	1·1	3,083	23·2	4,852	36·4	5,239	39·3	13,319
*London No. 2 ..	75	3·0	667	29·0	527	23·0	1,025	45·0	2,294
*S.E. London Cases	66	4·0	734	37·3	606	25·4	881	33·3	2,287
*S.E. Eastern Cases	155		1,372		828		999		3,354
*Southern	45	1·3	1,237	37·1	1,039	31·2	1,012	30·4	3,333
*E. Anglia	275	10·2	1,395	51·8	693	25·8	329	12·2	2,692
S. Western	567	11·1	2,770	53·9	1,204	23·5	589	11·5	5,130
Midlands	98	1·5	4,205	65·1	995	15·4	1,165	18·0	6,463
*North Midlands ..	4	0·2	942	43·4	581	26·7	645	29·7	2,172
N. Eastern	80	2·5	1,057	33·2	1,110	34·9	934	29·4	3,181
N. Western	373	7·4	1,752	34·4	1,670	32·8	1,293	25·4	5,088
*Cumberland and Westm'land N.W. Cases ..	9	6·5	38	21·4	105	47·2	68	24·9	220
*Cumberland and Westm'land C. & W. Cases ..	21		61		113		47		242
*Northumberland and Durham ..	114	9·9	431	37·6	288	25·1	315	27·4	1,148
*S.E. Scotland ..	96	6·5	395	27·0	536	36·7	436	29·8	1,463
S.W. Scotland No. 1	449	14·7	568	18·6	377	12·3	1,659	54·4	3,053
*S.W. Scotland No. 2	11	0·8	376	28·7	196	15·0	727	55·5	1,310
*N. Scotland ..	5	3·7	21	15·3	48	35·0	63	46·0	137
*N.E. Scotland ..	19	3·9	209	42·7	158	32·3	103	21·1	489
S. Wales	252	8·3	1,356	44·6	907	29·8	526	17·3	3,041
*N. Wales	78	4·1	969	51·4	398	21·1	440	23·4	1,885
Men ..	2,868	4·7	22,949	37·5	17,193	28·1	18,217	29·7	61,227
Women ..	69	6·4	689	64·1	38	3·5	278	26·0	1,074
Cumulative Total ..	2,937	4·7	23,638	37·9	17,231	27·7	18,495	29·7	62,301

* Not now sitting.

NON-COMPLIANCE WITH REGISTRATION CONDITIONS

PROCEEDINGS OF LOCAL TRIBUNALS UNDER SECTION 5(8) OF THE NATIONAL SERVICE (ARMED FORCES) ACT, 1939 (REPEALED BY THE NATIONAL SERVICE ACT, 1941)

Local Tribunal	*Informations laid*	*Tribunal finding of condition observed*	*Tribunal finding of condition not observed*	*Second Application*		
				C.O. unconditional	*C.O. conditional*	*Non-combatant duties*
London No. 1 ..	27	4	23	—	11	5
*S.E. (London cases)	5	—	5	—	2	—
*S.E. (Eastern cases)	6	1	5	—	4	—
*S.E. (Southern cases)	1	—	1	—	1	—
*Southern	14	—	14	1	7	4
*E. Anglian (Eastern) ..	7	—	7	—	7	2
South Western ..	4	—	4	1	4	—
Midlands	15	—	15	—	26	20
*North Midlands (new) ..	126	65	61	—	34	18
North Eastern ..	30	2	28	—	19	6
*North Western ..	72	8	64	—	22	5
North Western (Cumberland & Westmorland cases)	4	1	3	—	2	—
*Northumberland and Durham ..	8	—	8	—	2	5
*S.E. Scotland ..	10	2	8	—	—	9
S.W. Scotland No. 1	6	1	5	—	4	2
*S.W. Scotland No. 2	5	—	5	—	—	—
*N.E. Scotland ..	8	1	7	—	5	1
S. Wales	41	26	15	—	2	5
*N. Wales	48	5	43	—	3	23
Cumulative Total ..	437	116	321	2	155	105

* Not now sitting.

DECISIONS OF LOCAL TRIBUNALS UNDER SECTION 5(1) TO (3) OF THE NATIONAL SERVICE ACT, 1941, UP TO DECEMBER 31ST, 1948

Local Tribunal	*No failure to comply with condition of registration*	*Failure to comply with condition of registration and no reasonable excuse*	*Failure to comply with condition of registration, but with reasonable excuse and*			*Total*
			No fresh order made	*Appellant registered unconditionally*	*Condition of registration varied*	
London No 1	1	19	23	84	1,935	2,062
*S E (London cases)	—	—	—	6	89	95
*S E (Eastern cases)	—	1	—	3	47	51
*Southern	2	15	1	2	261	281
*E Anglian	—	5	4	8	217	234
South Western	10	3	4	72	424	513
Midlands	14	8	15	138	434	609
*North Midlands ..	3	8	8	—	355	374
North Eastern ..	—	15	11	33	258	317
North Western	2	5	8	5	459	479
*North Western (Cumberland & Westmorland cases)	—	—	—	—	3	3
*Northumberland and Durham ..	1	4	9	15	77	106
*S.E. Scotland ..	6	10	4	23	102	145
S W. Scotland No 1	23	56	9	247	283	618
*S W. Scotland No. 2	9	6	3	20	94	132
*North Scotland ..	1	—	—	1	5	7
*N.E. Scotland ..	5	1	—	16	42	64
S Wales	13	14	—	41	270	338
*N. Wales	—	19	5	24	88	136
Men ..	89	187	104	716	5,351	6,447
Women	1	2	—	22	92	117
Cumulative Total	90	189	104	738	5,443	6,564

* Not now sitting.

APPEALS WITHDRAWN

Men	949
Women	9
Cumulative Total ..	958

APPLICATIONS UNDER SECTION 13 OF THE NATIONAL SERVICE (ARMED FORCES) ACT, 1939, BY MEN IN THE FORCES

Division of Appellate Tribunal	*Number of applications heard*	*Decision of Appellate Tribunal*			
		Discharge from H.M. Forces not recommended	*Discharge from H.M. Forces recommended and on discharge to be registered under*		
			A	*B*	*C*
*Southern England 1	133	23	—	105	5
Southern England 2	112	29	1	77	5
*Southern England 3	96	4	—	86	6
Northern England	407	146	2	242	17
*Wales	16	6	—	9	1
Scotland	44	13	2	24	5
All Divisions ..	808	221	5	543	39

* Not now sitting.

APPLICATIONS UNDER SECTION 5 OF THE NATIONAL SERVICE (No. 2) ACT, 1941, BY MEN IMPRISONED FOR FAILING TO SUBMIT TO MEDICAL EXAMINATION

Division of Appellate Tribunal	*No. of applications heard*	*Decision of Appellate Tribunal*					*Previous order varied by Appellate Tribunal*	
		No conscientious objection found and no fresh order made		*Conscientious objection found and applicant ordered*			*Number varied*	*Percentage*
		C	*D*	*A*	*B*	*C*		
*Southern England 1 ..	455	42	54	5	345	9	359	78·9
Southern England 2 ..	449	98	118	2	214	17	233	51·8
*Southern England 3 ..	356	41	60	1	246	8	255	71·6
Northern England ..	395	79	137	4	157	18	179	45·3
*Wales	27	5	4	—	18	—	18	66·6
Scotland	209	11	109	—	87	2	89	42·6
All Divisions ..	1,891	276	482	12	1,067	54	1,133	59·9

* Not now sitting.

KEY TO DECISIONS

A. Registered as Conscientious Objectors unconditionally.
B. Registered as Conscientious Objectors on condition that they undertake work or training.
C. Registered as Conscientious Objectors, but to be employed only in non-combatant duties in the Forces.
D. Names removed from the Register of Conscientious Objectors.

Division of Appellate Tribunal	Local Tribunal decision D.			Local Tribunal decision varied by Appellate Tribunal	
(1)	(6)			(7)	
	Appellate Tribunal decision			Number varied	Percentage
	B	C	D		
*Southern England 1	945	758	1,766	3,605	52·4
Southern England 2	605	549	1,522	2,274	48·7
*Southern England 3	430	284	455	1,185	58·2
Northern England	204	222	783	1,240	48·2
*Wales	146	56	143	472	60·7
Scotland	453	284	1,183	1,139	41·7
All Divisions { Men	678	2,148	5,756	9,678	50·3
All Divisions { Women	105	5	96	237	55·1
Cumulative Total	783	2,153	5,852	9,915	50·4

* Not included in column 7).

APPE WITH CONDITION OF

Division of Appellate Tribunal	with reasonable condition of registration varied	Local Tribunal decision varied by Appellate Tribunal	
		Number varied	Percentage
*Southern England	50	60	78·9
Southern England	59	67	67·0
*Southern England	46	52	65·8
Northern England	40	47	65·3
*Wales	13	30	66·6
Scotland	68	97	86·6
All Divisions { Men	272	347	72·5
All Divisions { Women	4	6	85·7
Cumulative Total	276	353	72·7

A. Registered but to be employed only in
B Registered
work[illegible]nscientious Objectors.

APPENDICES

NON-COMBATANT CORPS

1.	Numbers called up between April 1940, date of formation of N.C.C., and November 1946		7,181
	Less :		
	Cancellation of enlistments by Ministry of Labour		501
			6,680
	Add :		
	Transfers to N.C.C. from other Corps		86
	Number called up		6,766
2.	(*a*) Volunteers for the Mines		547
	(*b*) Volunteers for Parachute Duties who were accepted (June 1943 to August 1945)		162
	(*c*) Volunteers for Bomb Disposal Duties		465
	(*d*) Men employed on Smoke Screen Duties (Nos. 4 and 8 Coys, N.C.C.—November 1942)		607
	(*e*) Men employed on Clerical Duties (June 1945) :		
	P.O.W. Camps	400	
	Italian Labour Battalions	66	
	Dispersal and Disembarkation Camps	533	
			999
	(*f*) (i) Numbers who relinquished their non-combatant status and were either transferred to, or discharged for enlistment in, the following arms :		
	Pioneer Corps	595	
	G.S.C. and Infantry	230	
	R.A.	43	
	R.A.S.C.	51	
	R.A.O.C.	64	
	R.A.C.	8	
	R.E.	96	
	Intelligence Corps	4	
	A.C.C.	9	
	Royal Signals	27	
	Royal Navy	1	
	R.A.F.	1	
			1,129
	(ii) Transfers to other Corps whilst retaining non-combatant status :		
	R.A.M.C. (including Parachute Duties)	216	
	R.A.P.C.	467	
	R.A.O.C.	2	
			685
	(*g*) *Discharges :*		
	(i) Number who were discharged after being court-martialled	335	
	(ii) Medical grounds	521	
	(iii) Other reasons	16	
			872
	(*h*) *Deaths :*		
	(i) Enemy action	3	
	(ii) Other causes	21	
			24
	(*j*) Men called up but failed to report		32

1. Strength of N.C.C. at October 31st, 1946 680
2. Peak strength of N.C.C. at December 31st, 1943 3,806
3. Army Class recruit intake (May 1940 to October 31st, 1946) .. 6,399
4. Transfers to N.C.C. from other Arms (May 1940 to October 31st, 1946) 107
5. Items 3 and 4 above (i.e. recruit intake and transfers into the N.C.C.) represent the total numbers passing through the N.C.C. up to October 31st, 1946. These total .. 6,506
6. Transfers from the N.C.C. into other Corps (May 1940 to October 31st, 1946). An analysis of these numbers by Arms into which transferred is not available without lengthy research.
7. Total numbers of N.C.C. released under Release Scheme, June 18th, 1945 to October 31st, 1946, were :

Class A	2,130	
Class B	430	
Class C (Indef.)	87	
		2,647

8. Conscientious Objectors serving in Arms other than the N.C.C. at October 31st, 1946, were as follows :

R.A.M.C.	26	
R.A.P.C.	75	
A.D. Corps	1	
		102

COURTS-MARTIAL OF CONSCIENTIOUS OBJECTORS UP TO DECEMBER 31ST, 1948

(CASES KNOWN TO THE CENTRAL BOARD FOR CONSCIENTIOUS OBJECTORS)

MEN WHO ORIGINALLY REGISTERED AS OBJECTORS

	Number of C.O.s	*Number of Courts-martial*
Once only	410	410
Twice only	158	316
Three times only ..	65	195
Four times only ..	11	44
Five times only ..	2	10
Six times	1	6
Total	647	981

MEN WHO BECAME OBJECTORS WHILE IN THE FORCES

	Number of men	*Number of Courts-martial*
Once only	327	327
Twice only	54	108
Three times only ..	43	129
Four times	4	16
Total	428	580

CIVIL PROSECUTIONS OF CONSCIENTIOUS OBJECTORS UP TO DECEMBER 31ST, 1948

(CASES KNOWN TO THE CENTRAL BOARD FOR CONSCIENTIOUS OBJECTORS)

MEN

Offences			*Number of Prosecutions*
Refusal of Medical Examination :			
National Service (Armed Forces) Act, 1939			
This includes 202 cases of remand in custody for medical examination			517
National Service Act, 1941			
Convictions		2,829	
Submissions			
Known to have submitted	199		
No trace of second stage of prosecution	120		
		319	
Adjourned for Registration as C.O.s		8	
			3,156
			3,673
Non-compliance with Conditions of Registration by the Tribunals			296
Refusal to Register for National Service			8
Home Guard Offences			59
Industrial Conscription :			
Defence Regulation 58A (Directions to work) and offences against the Essential Work Orders		540	
Defence Regulation 80B (Directions to interview)		33	
Defence Regulation 80B (Directions to medical examination)		37	
			610
Offences in connection with Firewatching, etc.			475
Part-time Civil Defence :			
Defence Regulation 29BA			101
Civil Defence Offences against Discipline, etc.			47
National Registration Offences			5
Sundry Offences			7
Total			5,281

WOMEN

Offences		*Number of Prosecutions*
Non-compliance with Conditions of Registration by the Tribunals		59
Industrial Conscription:		
Defence Regulation 58A (Directions to work)	272	
Defence Regulation 80B (Directions to interview)	57	
Defence Regulation 80B (Directions to medical examination)	4	
		333
Refusal to Register for Employment		1
Offences in connection with Firewatching, etc.		80
Part-time Civil Defence:		
Defence Regulation 29BA		8
National Registration Offences		4
Sundry Offences		4
Total		489

APPENDIX D

C.O.s IN CIVIL DEFENCE

When the duties of Civil Defence became so close to the war effort as to create substantial difficulties of conscience for the Conscientious Objectors serving in that branch, the Ministry of Home Security issued to local authorities for their guidance the following Circular indicating the Ministry's views as to where the line of duty should be drawn (see Chapter 13):

Home Security Circular No. 162/1943
Scottish Home Department Circular No. 5478

CONSCIENTIOUS OBJECTORS IN
THE CIVIL DEFENCE GENERAL SERVICES

1. Certain questions have come to notice recently regarding the employment of conscientious objectors, enrolled in the Civil Defence General Services, upon the wider duties which members of these Services may now be required to perform, for example, under the provisions of paragraph (1C) of Defence Regulation 29B, and the Minister wishes to give some guidance to local authorities on this matter.

2. Substantial numbers of persons professing conscientious objection to military service, or to service allied thereto, are known to be serving as whole-time members of the Civil Defence General Services. Some have enrolled in compliance with the Order made by a Tribunal set up under Part I of the Schedule to the National Service (Armed Forces) Act, 1939, that they must undertake work, specified by a Tribunal, of a civil character and under civilian control. Others may have enrolled on their own initiative.

3. Local authorities will be aware that there is no legal right of conscientious objection to civilian work, but the Minister of Labour and National Service has pledged himself not to exercise the powers he possesses to compel persons, who profess a conscientious objection to making or handling munitions, to perform work which would involve their doing so. This pledge has been liberally interpreted to include work closely connected with, or allied to, the military side of the war effort.

4. It will be clear, therefore, that it would not be in accordance with the policy of the Government if persons professing conscientious objection who are serving in Civil Defence were to be compelled to undertake duties which are not of a civil character and under civilian control, or which conflict with the undertaking given by the Minister of Labour and National Service. In general, the practical application of these considerations will present no difficulty: exceptionally, questions may arise as to the propriety of requiring conscientious objectors to undertake particular tasks. No precise line of demarcation can be drawn to cover all circumstances, but the following observations are made for the guidance of local authorities.

5. The duties which it is necessary that every member of the Service must be ready to perform are, broadly, any duties directly connected with the main functions for which the Civil Defence Services were originally set up; for instance, if an industrial building were bombed, the necessary rescue and fire fighting measures must be taken irrespective of the nature of the work which is being carried on in the building.

6. There are, on the other hand, extended duties of an industrial or quasi-industrial nature which personnel may be required to perform under the provisions of paragraph (1C) of Defence Regulation 29B (subject to the instructions contained in Section C of Home Security Circular 88/1942). In allocating duties of this kind it is necessary to ensure that conscientious objectors are not called upon to carry out work which would conflict with the undertaking given by the Minister of Labour and National Service. For example, it would not be right to require a member who was a conscientious objector to unload munitions from railway trucks, but industrial

work which is not excluded by the terms of the undertaking must be performed by conscientious objectors as by other paid members.

7. There are other duties, for example, some of those referred to in Home Security Circular 215/1942, which are of a marginal nature and which might not, in certain circumstances, be work of a civil character under civilian control: this would depend, however, on the particular facts of the case and no general ruling is possible. Where advance arrangements require to be concerted with the military authorities against the possibility of invasion, it is obviously essential that there should be no risk of a breakdown at the vital time owing to a member who is a conscientious objector refusing to carry out an order, and accordingly it is desirable that any member who may express a conscientious objection to carrying out such work either in an exercise or in actual operations should be allocated to other duties.

8. The conveyance by civil defence personnel of military sick between Army units and static military hospitals is to be regarded as work of a civil character under civilian control.

9. The post-raid salvage of property and clearance of debris in accordance with the terms of paragraph 37 of H.S. Circular 35/1943 (H.S. Circular 220/1942 in the case of London Region) is considered to be a primary duty of the Rescue Service which a conscientious objector can be required to undertake. On the other hand, it is considered that pressure should not be brought to bear upon a member who professes conscientious objection to carrying out such duties as salvage collection generally, the removal of iron railings and the removal of hard core required for the construction of aerodromes on the ground that they are connected with the military side of the war effort.

10. The question of attendance at parades, such as "Wings for Victory" parades, has been raised from time to time. It is desirable that conscientious objectors should not be pressed to join in such parades against their will.

11. It is hoped that the above advice will assist local authorities to exercise a wise discretion in their handling of conscientious objectors in the Civil Defence General Services. The Minister's wish is, broadly, that persons who profess conscientious objection should make as full a contribution as possible to the national effort, but that they should not be required to carry out duties which are closely connected with, or allied to, the military side of the war effort.

12. This circular does not apply to the duties of fire guards, conscientious objection to those duties not being recognized.

13. This circular is issued by direction of the Minister of Home Security, with the concurrence of the Secretary of State for Scotland and the Minister of Health.

APPENDIX E

A SHORT BIBLIOGRAPHY

Conscription and Conscience. John W. Graham (George Allen & Unwin, Ltd.; 1922). The standard work on the C.O.s of the First World War. A most interesting and spirited account.

The Tribunal. The organ of the No Conscription Fellowship (1916 to 1920). A weekly account of the development of the C.O. Movement in the First World War, with a natural bias towards the political side.

The C.O.s Hansard. (No Conscription Fellowship; 1916 to 1919). A series of extracts of matters concerning C.O.s from the official parliamentary reports of the First World War.

The C.O.s Hansard. (Central Board for Conscientious Objectors; 1940 to 1948). A similar series for the Second World War.

Parliamentary History of Conscription. Edited by Richard C. Lambert, M.P. (George Allen & Unwin, Ltd.; 1917). Another collection of extracts from *Hansard*, valuable within its limits. It deals with conscription from August, 1914, to May, 1916, but does not cover the rest of the story. Nor does it contain extracts from the House of Lords reports.

The Citizen Faces War. Robert and Barbara Donington (Victor Gollancz, Ltd.; 1936). Includes a shorter account of the C.O.s of the First World War, owing something to *Conscription and Conscience*, but is very well written.

Conscience and Liberty. Robert S. W. Pollard, J.P. (George Allen & Unwin, Ltd.; 1940). This work deals with the place of conscience in the struggle for freedom, the writer being a specialist in matters of civil liberty.

Conscription Conflict. Denis Hayes (Sheppard Press, Ltd.; 1949). An account of the conflict of ideas that went to make up the controversy over compulsory military service between 1901 and 1939. The book deals with conscription as such and not principally with conscientious objection.

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Problem Families. Edited by Tom Stephens (Pacifist Service Units and Victor Gollancz, Ltd.; 1945). This short book tells the story of the case-work among the "submerged tenth" undertaken by Pacifist Service Units. Strongly recommended for anyone tending to complacency.

Tenement Town. L. E. White (Jason Press; 1946). A brief account of the war-time work of Pacifist Service Units among the people of a tenement estate.

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Report of the Ministry of Labour and National Service for the Year 1947. (H.M. Stationery Office; Cmd. 7559; 1948). A factual account of the Ministry's work and activities in 1947. Contains brief references to conscientious objection.

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