

# The Awkward Ones — Dealing with Conscience, 1916-1918

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IN the course of 1916 it became clear that the flow of reinforcements for the Expeditionary Force to which its government had committed New Zealand could not for much longer be sustained by voluntary recruiting. The Government calculated that the country as a whole was willing to bear the burden of conscription, and that this could be introduced without the dire consequences predicted by the *Maoriland Worker* — insurrection as a possibility, and at least such a wave of strikes as New Zealand had never seen.<sup>1</sup> But whether or not such militant unionists as the coalminers carried out their threats to strike against conscription it was certain that there would be those who would refuse on the grounds of religious or conscientious objection to perform military service. This article deals with the formulation of government and official policy towards them.

The Military Service Bill of 1916 as first presented contained no specific provision for religious or conscientious objectors and it has usually been assumed that the Government originally intended no relief even for the former. This interpretation gained force from the forthright stand of the Prime Minister, W. F. Massey, before a deputation from the Women's Anti-Conscription League on 10 June. Asked about the claims of God on men's consciences he thumped the table and insisted 'the State must come first'.<sup>2</sup> That was undoubtedly the view of many Members of Parliament, seldom deterred from their willingness to offer up their young men by the fact that they themselves were too old to be required to serve. The Government seems however not to have been unanimous. James Allen, the Minister of Defence, said, for instance, in the second reading debate: 'exemption on account of religious objections has been left out because we deemed it necessary that all appeals for exemption should go before the Appeal Board'.<sup>3</sup> Allen was no liar and he can only have envisaged that religious objections

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would be heard under the heading of public interest or of undue hardship. The Government was also aware that for the scruples of certain religious groups, above all the Quakers, there was widespread sympathy. Allen was later to admit frankly that he acted because so far as was possible the Government wanted public opinion behind it in applying the 'very extraordinary principles' of compulsion embodied in the Bill. Many who were in favour of conscription did not want to see men gaoled because of their religious beliefs: 'it would be a pity to alienate this opinion and to cause sensible friends of compulsion to believe that the country wished to be unjust to good men in the community'.<sup>4</sup>

It was in deference to these 'sensible friends of compulsion' that Allen offered in committee what might have been a far-reaching amendment. It would have added to the allowable bases for an appeal that a man 'objects in good faith to military service on the ground that such service is contrary to his religious belief'. A sympathetic Board could clearly have used a clause in this form to cover many more appellants than were ever actually successful in New Zealand. Allen added that his proposal would allow for the services of the Quaker being accepted in a civil capacity outside the Expeditionary Force altogether. 'Personally, he objected to the extension, but he was content to leave it to the committee'. Asked if he would not offer non-combatant service to conscientious objectors, he replied: 'No, I do not see my way to include them here. You can test religious beliefs, but you cannot test conscientious beliefs'.<sup>5</sup> The House would in any case not have accepted such a measure, for it rejected the amendment Allen did offer by eight votes. Most of the ministers opposed it.<sup>6</sup> Yet Allen insisted that the Bill as it stood 'will enable a sensible Board to consider the appeal of a Quaker or of any man who can really show to the Board that he actually holds religious and conscientious objections, and . . . has held them for some considerable time. I have no doubt that the Boards will listen to these appeals'.<sup>7</sup>

The friends of the Quakers and similar groups were not satisfied by Allen's assurance and preferred to believe that the effect of the Bill would be to deny them all relief. Accordingly, a deputation of leading Wellington clergymen saw the four senior ministers (W. F. Massey, J. G. Ward, F. D. Bell and Allen) and argued that the House of Representatives had not considered Allen's amendment carefully, that it had been voted on by a House which was not very full (fifty voted), and that the issue had been confused by the fact that Allen had been supported by some (Labour) members whose general views were 'not exactly attractive to the majority'.<sup>8</sup> The Government's response to this deputation was the introduction by Bell, in the Legislative Council, of a clause making it a ground of appeal that a man was on 4 August 1914 and had been continuously since, a member of a religious body whose tenets declared the bearing of arms and the performance of

military service to be contrary to divine revelation, that this was also his own conscientious belief, and that he was willing to perform non-military work in New Zealand. This clause was passed by the Council only after acrimonious debate in which there were a good many references to German rapists and to cowards who would not defend the honour of our women, and in which one member revealed that he thought 'Christadelphian' was another name for 'Red Feds'. For Labour, J. T. Paul made an eloquent and vain plea to have conscientious as well as religious objectors included, while Bell refused also the suggestion that religious belief rather than membership of a religious body should be a ground for appeal.<sup>9</sup>

The liberalism of their seniors was too much for the Lower House and there ensued a protracted wrangle on the subject of the new clause. Not until 21 July was Massey able to report agreement between the managers of the two houses and to assure the House of Representatives that conditions for the successful objector had been toughened. He would now have to declare himself willing to perform non-combatant service within or beyond New Zealand, and if need be in the Medical Corps or the Army Service Corps. There was to be absolutely no escape for the 'shirker', for Massey accepted the extreme proposition that a religious objector could be called upon to erect barbed wire between the front trenches and the Germans. If so, he would have to 'go under fire in cold blood . . . without the excitement of a bayonet charge or an attack under shrapnel or grenade fire'.<sup>10</sup> Given such guarantees the House finally decided to accept the report of the conference of managers, and the wishes of the Government.

The next year was to see a great deal of confusion in policy and treatment. Regulations were gazetted on 10 October setting out the form to be signed before an appeal under clause 18 (e) of the Military Service Act could be allowed. It was addressed to the Commandant and was an undertaking to perform non-combatant service, 'including service in the Medical Corps and the Army Service Corps, whether in or beyond New Zealand'. Only the theologically naive could have expected Quakers or Christadelphians to accept the Army Service Corps as a non-combatant unit, and it was difficult to argue that the Medical Corps had no military characteristics. Allen had indeed said in Parliament, and in passing, that the Quakers and others would refuse all service in the army, but he had given no indication of what might then happen. In fact nearly all Quaker and Christadelphian appellants refused to sign the undertaking and their appeals were either rejected or adjourned. This, coupled with the requirement adopted by the Military Service Boards that the 'religious body' involved must have something approaching a formal written constitution prohibiting military service, meant that virtually no appeals were allowed in the early months. This made fairly academic the legal discovery that where an appeal was

allowed the objector would not be a member of the Expeditionary Force and would therefore not be under military law. It was thought both undesirable and impracticable to have such men in camp and under civil law. The Chief of the General Staff suggested that they be put to work under the Public Works or another Department, or, better, that the Act be amended to bring them under military discipline for home service duty in camps — 'fatigue, sanitary, cooks, mess orderlies, grooms, officers' servants, etc'.<sup>11</sup> Considering what objectors were refusing, one cannot think that this solution would have helped.

The Defence Department was anxious to afford relief, if to very limited categories of objectors, and it decided to seek both work and a form of undertaking which would be acceptable. It explored the idea of using the newly constituted National Efficiency Board. This, it was thought, might order successful appellants to report for civilian work in return for a private's wage and some allowance for lodging and rations.<sup>12</sup> This idea was torpedoed by the Solicitor-General, J. W. Salmond. The Board could not be used, because there was no provision in the Act for any kind of industrial conscription. The men involved could, however, be handed by the commandant over to some government department.<sup>13</sup> The next step was a conference of under-secretaries out of which emerged the prospects of work on railway construction, on state farms or at tree planting. This last activity, under the Lands Department, was at first considered best, mainly because the work was wholly unskilled. The 'sentimental' objection that prison labour was also used on this work could, it was felt, be circumvented by putting the religious objectors in different areas. In fact, however, negotiations were finally clinched with the Agriculture Department and new regulations were gazetted on 24 April 1917. These specified 'such non-combatant work on services in the employment of the Executive Government of New Zealand as may . . . be required of him by the Commandant, or by an officer of the Public Service authorized in that behalf by the Commandant'. The form of undertaking to do such work was still addressed to the commandant. The regulations specified that the men would not be compelled to wear uniform, and they were accompanied by an intimation to the heads of religious denominations that what was in view was work on the state farm at Levin.<sup>14</sup>

The Defence Department intended a general re-hearing of rejected religious appeals, certainly hoping that men who had earlier refused would now sign the prescribed undertaking. R. W. Tate, the Adjutant-General, recognized that there were men who fell outside the narrow confines of the Act but whose scruples were genuine. He suggested that in their cases the Military Service Boards might make recommendations regarding non-combatant service within the army.<sup>15</sup> This proposal too was rebuffed by the Solicitor-General as being against both the spirit of the Act and the known intention of a Parliament which had

deliberately refused exemption to conscientious as distinct from a closely hedged religious objection. If it became known that the statute was being frustrated, argued Salmond, 'there will be a very extensive development of suddenly acquired religious beliefs and conscientious scruples . . . . So far as the merely conscientious objector is concerned it would seem more consistent with the public interest that he should be in gaol for disobedience to orders, than that he should be relieved from military service because his conscience does not allow him to serve his country.' For the few genuinely difficult cases there was no reason why the camp commandants could not continue with the policy they were already quietly adopting, allowing the 'reasonable' conscientious objector, who would wear uniform and obey orders, to serve in the Medical Corps.<sup>16</sup>

The camp commandants were duly asked to prepare a return of religious and conscientious objectors. The first category of this return was to comprise those who clearly fell under the exemption clause of the Act, that is who belonged to an appropriate denomination and who would have signed the new (April) form of undertaking. These appeals were to be re-heard. As for those who did not fall within this group, those of genuine conviction and good conduct could be offered the Ambulance Unit or the Army Service Corps. Those who were not offered this option and who refused to obey normal orders would have applied to them the sequence of summary punishments, court martial and imprisonment. On expiry of their sentence they would be shipped abroad without training.<sup>17</sup> A few weeks later the celebrated 'fourteen' were placed aboard a transport, the first and only victims of this aspect of policy.<sup>18</sup>

The camp commandants seem in fact in compiling their first category to have considered only whether a religious objector was willing to sign the new form of undertaking and not whether he fell under the Act in the other essential respects. The result was that most of the rehearings of the fifteen men returned by the commandants of Trentham and Featherston camps in this first category again resulted in the appeals being dismissed.<sup>19</sup>

A handful of determined men could by their passive resistance drive the military authorities almost to distraction. In August 1917, for instance, the Trentham commandant complained of his inability to deal with fifteen religious objectors. They 'refuse to put on uniform, and they also refuse to do any work of any kind or description whilst in Camp. They only sleep and eat!' They had to be guarded constantly 'not only to prevent them from escaping, but also to protect them against the soldiers in Camp, amongst whom feeling runs very high'. Again, 'the example of these fat loafers, and rabid anti-militarists living in the lines, doing nothing, and priding themselves on their conduct is having a bad effect on the discipline of some men in Camp, especially on raw re-

cruits'.<sup>20</sup> This was hard language to use of a group the religious basis of whose objections was not disputed, but it is a measure of the exasperation they caused. The difficulty was compounded by the presence of other objectors ranging from conscientious pacifists to socialists who would not fight in an 'imperialist' war and Irish patriots who would not fight for Britain. Whatever should be done with these groups, it was abundantly clear that a training camp — especially since there were no adequate detention barracks — was not the place for them. This fact was largely responsible later in the year for the abandonment of the practice of keeping the men in Trentham while trying to persuade them or to coerce them by summary punishments, and the substitution of courts-martial in the local districts. When the Officer Commanding at Auckland complained in November 1917 of an 'epidemic' of conscientious objectors — he meant that he had four to cope with — he was told that the camps were too busy dealing with ordinary crimes, 'and the odd objector who is taken to camp before his true demeanour has been found'. The procedure to be followed was set out in detail. When the men refused an order to take their kits and put on their uniform they should be brought before a court-martial, 'and in order that there may be something like co-ordination of sentences, and without any desire to influence the Court as to the amount of punishment that should be given, yet you may in all good faith intimate to the President that men of the same class in Trentham are being sentenced by Court-Martial to the maximum penalty of two years imprisonment with hard labour'.<sup>21</sup>

It is not difficult to illustrate the extremely restrictive working of the New Zealand legislation. By the end of 1917 only twenty-eight men had signed, or been allowed to sign, the declaration of willingness to perform non-combatant work — sixteen Christadelphians, ten Seventh Day Adventists and two Quakers.<sup>22</sup> Groups such as the Christchurch-based Richmond Mission, the Testimony of Jesus and the Brethren found their appeals rejected on one ground or another. Usually it was held either, as in the case of the Brethren, that they did not constitute a formal body or, as with both the Brethren and the Richmond Mission, that they could not point to a formal written prohibition of arms-bearing existing before 1914. The leaders of the Richmond Mission had undoubtedly held since 1909 that they could not in conscience serve in the Ambulance or the Army Service Corps. Tate accepted this as proof, but the Military Service Boards would not allow that it was established that the sect held the requisite doctrine. In the case of the Brethren Tate believed it 'probable' that they held the doctrine most of them said they did. He appealed to the Solicitor-General for a ruling, but once again Salmond was unhelpful. While so far as he knew the Boards had not held that it was a matter of law that a statement of belief must be in writing the burden of proof rested with the objector, who might

find it very difficult to establish his case without such a written statement. In any case nothing could be done, for the Military Service Boards were the sole judges of these questions.<sup>23</sup>

The most easily accommodated of the three 'lucky sects' were the Christadelphians. When the secretary of the Auckland Fraternity, H. G. Such, first asked Allen for the same provision for non-military service as was said to be intended for Quakers, he was able to assure the Minister of Defence both that his sect had been recognized as exempt during the American Civil War and that its members were not shirkers and would gladly do non-military duties. Allen replied that he would be pleased to do what he could to help.<sup>24</sup> When the form of the Military Service Act was known a number of Ecclesiae (congregations) wrote courteous but firm letters thanking Allen for his sympathy, but adding 'we must apprise you . . . that we feel in duty bound to Christ to resist passively this invasion of our sacred duty to him. *We cannot enter any Branch of Military Service. We repudiate any insinuation of selfishness or cowardice in this matter, being moved exclusively by a long-standing conviction of solemn duty to Christ.*' Still hoping to avoid friction, Such sought Allen's advice — 'We will do *any civil duty* the Government may think fit to impose upon us.'<sup>25</sup> Allen's reply was both cryptic and hopeful. On the one hand, 'the Military Service Act, in so far as it deals with religious objectors is not exactly as I, myself, would have had it, but it expresses the will of Parliament'. On the other, 'you may be sure that so far as I am concerned every consideration will be given to the feelings of the Christadelphians'.<sup>26</sup> The idea of using the National Efficiency Board may well have been first suggested by a Wellington Christadelphian, J. M. Troup.<sup>27</sup> Troup's daughter worked in the Prime Minister's Department. She was used as an intermediary when the sect, which was satisfied with the April Regulations, ran into difficulties on a rather different issue. Two appeals had been rejected on the ground that the men involved had not been full members before 4 August 1914. To this the Christadelphian reply was that both had been unbaptized adherents before the war though neither had completed the long years of study and probation required for full membership. This spiritual apprenticeship, it was urged, was its own guarantee against the Christadelphian system being abused by any shirker. Transmitting a request for removal of the time limit, Miss A. D. Troup remarked: 'I do not think that the House will amend the Act in this particular direction, they seemed so bitter about it . . . in the beginning, but we were wondering if something could not be done by way of an Order in Council.'<sup>28</sup> The fund of goodwill in the Defence Department towards the Christadelphians was sufficient to lead Allen to persuade the relevant Military Service Board to agree to re-hear the two appeals — they were again rejected — and then to agree to add to the Expeditionary Forces Amendment Bill a clause placing 'or adherent' after 'member'. This Bill

was of course not passed, because of the controversy over the exemption of the Roman Catholic teaching brothers,<sup>29</sup> but J. M. Troup was assured that because the clause which interested the Christadelphians had been approved by both Houses the Military Service Boards would be informed of this and asked 'to deal with the appeals of all reservists coming within this category in accordance with the principle affirmed by Parliament'.<sup>30</sup>

The people whom the Military Service Act was primarily supposed to exempt were the Quakers, but they proved difficult to help. There was perhaps nothing very surprising in the statement made by the Auckland monthly meeting in January 1917. The principles of the Society of Friends could embrace neither combatant nor non-combatant service, for even the latter meant 'supporting and becoming part of the vast military machine'. The Friends Ambulance Unit was indeed supported by donations from the Society, and those who worked for it took no oath and were free to leave at any time. But inevitably it was often and largely under military control, which was why only a small number of Quakers had personally involved themselves in its work. Many did, on the other hand, feel called to the Friends War Victims Relief Fund, for it could work without consideration for anything but human need. As a general rule, they must accept punishment rather than violate conscience.<sup>31</sup>

The real trouble began with the issue of the Regulations of 24 April which had been expected to meet the Quaker objections. Instead, the Friends found the new rules almost as bad as the old. They would still have to sign a form addressed to the commandant and they would have to perform work required by him or a civil servant authorised by him. The offer of farm work could be revoked, as indeed could the Regulations, at any time. The Friends were also concerned for the fate of all conscientious objectors 'irrespective of membership in the few sects whose official tenets are opposed to war'.<sup>32</sup> What the Quakers could accept had been set out in a letter from a Past Clerk of the Auckland Friends. He suggested some form of voluntary 'Home Service' scheme, not under the Military Service Act, and open to all conscientious objectors, and went on to expound a vision of 'reconstructional and humanitarian work . . . or such other essentially civilian service as will promote a new social order based upon principles of equity and justice . . .'.<sup>33</sup>

These Quaker attitudes were not well received in the Defence Department and there followed some sharp correspondence in which one side asserted and the other denied that service of a type the Friends should be able to accept had been offered. As for conscientious objectors in general, Allen asserted that there was no point in trying to obtain relief for them. Parliament had already rejected their case once, and they had since compounded their offence in most eyes by refusing ambulance

service and the Army Service Corps.<sup>34</sup> The majority of Quakers continued to refuse to sign the undertaking and were gaoled.

The third of the 'lucky' groups were the Seventh Day Adventists. They had considerable initial difficulty on two points. Once the Boards decided, as a conference of their chairmen did in February 1917, that a written constitution was essential for exemption the Adventists had to admit that they had 'no man-made written constitution or creed'.<sup>35</sup> On this statement of the rules of the game rejection of their appeals was inevitable, though they were willing to do non-combatant service within the original meaning of the Act; or, rather, they were willing to do it if the sabbatarian issue could be resolved.<sup>36</sup> The Defence Department, to save trouble in the camps, was prepared to be reasonably accommodating in this respect. Tate, who claimed that exhaustive enquiries had failed to show that the Adventists regarded armsbearing as contrary to Divine Revelation, suggested the course that was officially adopted. They were to be given leave on Fridays and Saturdays, and were invariably to be used for fatigues on Sunday. This, Tate thought, would probably cause most of them to see things differently.<sup>37</sup> The decision was posted on a notice-board at Featherston, but not at Trentham where nearly all fresh drafts of men concentrated. When Allen was prompted to ask why this was so he was told that it was for fear of large numbers of men claiming to be Adventists in order to get every Saturday free. The members of the sect were being informed privately.<sup>38</sup>

By July 1917 the situation of the Adventists had improved to the point that the Military Service Boards were accepting new documentary evidence from America and directing most appellants to Levin. Those who had already been gaoled seem not, however, to have been released and there was sporadic correspondence as to whether they would in fact accept ambulance service. This bogged down over the problem of accommodating sabbatarianism to the conditions of active service, and no conclusion had been reached when these events were overtaken by the Armistice.

Before the end of 1917 the New Zealand pattern was clear enough. About thirty successful appellants were under orders to go to Levin and their cases presented no problems. Another small group who had religious or conscientious scruples had accepted service in the Medical Corps, and for them this solution was entirely successful. The great majority of objectors, however, went to gaol. The 1917 figures are difficult to calculate but one Defence Department estimate prepared late in the following year was that there were 208 objectors in prison. Of these a handful were men who could have appealed successfully but who refused to do so. Ninety-two were reckoned to have genuine religious or conscientious objections. The remaining 111 were provisionally classified as 'defiant' objectors, by which was meant in departmental terms those who had 'disloyal, political, or cowardly reasons'. All were legally dis-

obedient soldiers, and the departmental answer to the question 'why treat all alike?' was that 'the law treats them all alike and the Department has no option'.<sup>39</sup> There was no sympathy for the 'defiant', but in other respects there was a good deal of heart-burning in 1918, partly but by no means wholly fueled by a persistent public campaign. This unease is most clearly discernible in R. W. Tate, but it is obvious enough also in J. B. Gray (Secretary of the Recruiting Board) and in Allen himself. It sprang from an awareness of the inadequacy of a system which permitted so few men to satisfy the law, and of the arbitrary criterion by which the appeal boards had singled out the 'lucky sects'.

When in March Tate first began to say that the Act was too narrow and that something should be done for those whose objections were genuine,<sup>40</sup> he was probably still thinking of the 'religious' as distinct from the 'conscientious' objector but he, like Allen, was increasingly impressed by the arguments advanced by those they regarded as sober and weighty critics. The strident protests of H. E. Holland and the *Maoriland Worker* were not taken so seriously because they came from quarters unremittingly hostile to anything the Government did. But uneasiness was increasingly expressed by many who were against neither the war nor conscription as such. A committee set up by the Christchurch Presbytery argued that suppression of genuine conscientious objection ran counter to the liberties for which the country claimed to be fighting, and that the rights of the private conscience, though ignored by the Military Service Act, were among the fundamentals of Protestantism.<sup>41</sup> The Congregational Union passed resolutions supporting the war and accepting that it was the duty of a Christian to help his country during it, but coupled them with others calling for the existing test to be replaced by the criteria of character and genuineness.<sup>42</sup> A group of Christchurch women, headed by Jessie Mackay, argued in a letter to all members of Parliament that while the inner recesses of a man's conscience could not be judged by a human tribunal, the extent to which he really let his conscience be his guide in the daily affairs of life could be. This group believed that an adequate test would be to offer alternative service under indisputably civilian control. Even so, 'extremists who will not accept this relief will probably remain, and will have to be dealt with under civil or military law'.<sup>43</sup>

A similar request had also been made by the Anglican Bishop of Wellington at the instance of his Military Affairs Committee. Allen's reply illustrated his perplexity, his fears, and his intellectual limitations. He admitted that he was greatly concerned by the whole question, and implied that he was not happy with the limits within which the law confined him. On the other hand, 'if you knew as much about so-called conscientious objectors as I do you would be very chary about asking that any special privilege should be allowed them. So far as my judge-

ment goes there are more defiant objectors than conscientious objectors, and once we allowed a man to escape service on account of conscientious objections I believe we should have a very large number of similar applications.' This fear was very real to Allen. He always believed that to accept a man's assertion about his own conscience as a ground for exemption would make it impossible to maintain the flow of reinforcements to the Expeditionary Force. He was also profoundly doubtful as to the moral status of a conscience uninformed by religion. Of the man who has no religion and belongs to no church, 'might I ask how the conscience of that man was cultivated, and whether it is based on sound premises'. Nor could Allen understand how a genuine conscientious objector could refuse service in the Ambulance Corps or as a stretcher bearer. And he was not certain whether, even if all these doubts were cleared away, conscience had an absolute right to assert itself without penalty. 'Can it be assumed for a moment that any man's conscience should excuse him from the saving of life, and is it fair to suggest that a man who develops such a conscience is to enjoy all the privileges which belong to the State without undertaking the duties that pertain to the citizens of the State in its defence?'<sup>44</sup>

Allen had perhaps come further than he was willing to allow his correspondents to know. Though far from clear as to how and by whom 'honest' and 'spurious' objectors were to be distinguished, he had agreed with Gray and Tate by the end of March to put to Cabinet the case for amending legislation. How far he envisaged going is unclear. The record contains specific mention only of such sects as the Testimony of Jesus, the Brethren and the Richmond Mission, though there are also hints of a wider scope. In any case it was not regarded as an urgent problem. A short parliamentary session was scheduled for the near future, but there was no question of contentious legislation in that. Nothing could be done till the end of the year, and the probability was that even then nothing could be done. 'Personally', wrote Gray, 'I do not think for a minute Parliament will agree to the proposal. If anything it is likely to impose further disabilities on these objectors.'<sup>45</sup>

In the next few months Tate continued to worry away at the problem of classifying objectors. By July he had come round to the view that one should in default of evidence to the contrary accept the genuineness of a statement of conscientious objection. The 'defiant' objector left beyond the pale would be he who had not pleaded religion or conscience, or who had palpably done so only for the court-martial.<sup>46</sup> The office of the Director of Personal Services stressed that in every case care must be taken to distinguish those who were also socialists, or who made statements about the Government, capitalists or class war. Whatever their religion such men were 'defiant' objectors.<sup>47</sup>

The Defence Department's thinking and discussion issued in the long memorandum prepared by Tate in October which has already been

referred to. It accepted that the ninety-two 'genuine' religious or conscientious objectors reckoned to be in gaol 'deserve consideration just as much as the religious objectors who have passed the test of the statute'. A good deal of stress was put on the existing necessity of subjecting them to the same fate as the 'defiant', the now standard sentence of two years at hard labour.<sup>48</sup> These sentences were served in civil prisons and there was an arrangement with the Prisons Department whereby all military prisoners were put to the 'comparatively easy work of tree-planting. There is no clemency for the real conscientious objector . . . and there is no severity for the rebel whose case merits no consideration . . . . The present system of imprisonment is not a deterrent — it has been softened almost to the point of a course in horticulture. The genuine objector no doubt suffers; the rebel and the coward are removed from any danger to their persons and remain in security, while the sons of loyal people go abroad to risk wounds and death.'

The memorandum then turned to a subject about which relatively little was known by New Zealand officialdom, the English and American methods of dealing with the problem. Both, it was realized, however difficult either might be to operate in practice, allowed conscience rather than religion as the basis for appeal. The 'defiant objector' was treated as in New Zealand, 'and it would seem that unless their punitive measures are severe neither England nor America has overcome the difficulty as to this man any better than we have done'.

It then considered the amount and kind of public comment which the treatment of objectors had aroused. Much of it, the argument ran, 'has come from such sources as to discount its being anything more than agitation in support of objection to military service as such, but there has been some comment which compels attention. Some of the most eminent of the clergy have discussed the general question, and the trend of all their utterances is that the recognition of the individual conscience must be taken into consideration.' Tate accepted that there were substantial objections to leaving the law as it was, 'unless the Legislature intends to limit relief and the transference to civil work to only the Christadelphians, the Quakers, and the Seventh Day Adventists . . .'. The arguments which moved him most were that no relief was possible for men whose scruples were certainly genuine, that members of religious groups which certainly did forbid military service were punished for lack of a formal written constitution, and that no member of the major Christian churches, whatever his personal beliefs, could claim exemption.

The alternative to leaving things as they were was of course to substitute a test of conscience for that of religion. It was a difficult test to apply, but why assume that New Zealand was any less capable than other countries of working it? So the suggestion was made 'that a tribunal might be set up in which the Churches, more particularly the

Non-conformist Churches, and labour should be represented'. This body should undertake the formidable task of separating the genuine from the non-genuine conscience. The possessors of the former should be uprooted from their civil occupation and put to work of national importance at pay no greater than that of a private soldier, plus a subsistence allowance.

This would still leave the problem of the 'defiant' objector, 'the rebel and the coward', those who 'do not possess the virtue or the encumbrance of a conscience'. They deserved much more severe punishment than they now received, and it was suggested not only that their imprisonment be with genuine hard labour but also that they should lose forever such civil rights as the right to vote or to hold public office. There was no reason why they should not suffer as a penalty the loss of what the Christadelphian, 'probably the highest type' of conscientious objector, forewent voluntarily.

This memorandum was intended to be circulated for public information and comment, and its setting-up in type signified that after however long and tortuous an approach Allen had decided to recommend the adoption of a system which would afford relief to 'conscientious' objectors as defined in it. He was prepared to fight for the proposal even against his most naturally ally in Cabinet. When F. D. Bell learned what was afoot he advised 'most strongly' against the attempt. He admitted his own unhappiness with the narrowness of the Military Service Act, but he recalled the difficulty with which even minor concessions had been won, and he did not think that the mood had changed. The Act of 1916 'went as far as you are ever likely to induce Parliament to go now in relief of these men'.<sup>49</sup> Allen persisted. His proposals were before Cabinet on 8 November and he was able to get permission for legislation to be drafted. This was then to be subject to rigid scrutiny. A few days later the Armistice overtook the preparation of Allen's proposed law. What was passed instead, in a couple of days in December, was the Expeditionary Forces Amendment Act.

The most important provision of this Act was for the compilation of a 'Military Defaulters List' of those who had in the opinion of the Minister of Defence intended 'permanently to evade military service in the present war'.<sup>50</sup> These defaulters were to lose their civil rights for a period of ten years. This was defined as barring them from public office and employment, and from the exercise of political rights whether as electors or as members of any public authority. The one concession was that no one would be included in the list if the Minister was satisfied that his offence was due to a bona fide religious objection to military service. Bell dwelt briefly on the argument that conscience rather than religion should be the criterion. The religious objector at least claimed the sanction of 'somebody better than ourselves against shedding blood'. But who could judge mere conscience? A man might claim it yet really

'be prompted by lack of courage or a really scientific determination to shed no other blood than that of a capitalist'.<sup>51</sup> In the course of a bitter debate in the House H. E. Holland had in fact already admitted that the socialist or Irish objector was not opposed to bloodletting as such but wanted to pick his war.<sup>52</sup> Whatever the merits of this claim it at least involves a different argument from that of the objector to all military service, and it was not one which any government of the time was likely to take seriously. The Bill was passed with such overwhelming majorities — the Council did not divide and in the House only Holland and P. Fraser voted against on the third reading — and with such a display of passion as to make one think it unlikely that Allen could have passed the measure he had suggested for conscientious objectors.

On 13 January 1919 Cabinet approved the establishment of the Religious Objectors Advisory Board and its four members were formally appointed a fortnight later. They included the Inspector of Prisons, a returned Anglican chaplain, a Methodist minister and the controversial M. J. Mack. In government eyes Mack, a union official, passed for a Labour man though he was totally unacceptable to the Labour Party. He had supported conscription, served as a member of a Military Service Board and stood against Fraser in the Wellington Central by-election. The Board was to investigate all cases of men convicted by court-martial of 'offences indicating an intention permanently to avoid or refuse to fulfil their obligations to Military Service in the War'. It held nineteen sittings, considered 273 cases and reported on 20 March 1919.<sup>53</sup> Its findings were stated to be unanimous. The Board said that it had been generally well received, though thirteen men at Waimarino and twenty-six at Waikeria had refused to come forward. Their cases were dealt with as far as possible on documentary evidence. The Board found of 113 men that they were genuine religious objectors in terms of the Act and entitled not to be on the list of defaulters. A group of eight were said to have objections closely bordering on bona fide religious ones and for another group of eleven the Board urged special consideration.<sup>54</sup> Its reasons are given and make rather pathetic reading. Four were Quakers who had refused to appear before the Board. The group also included an Australian whose presence in New Zealand was due to a domestic quarrel, now resolved; his conduct had been excellent. One objector was mentally deficient, one had promised a dying wife that he would not leave their child, and one man had twice been discharged from camp for medical unfitness and genuinely believed his obligations were at an end. The Board also singled out eleven Maoris. Their objections were not really religious, but equally they did not really understand the nature of either their offence or of the punishment it was proposed to inflict on them. Of the remaining 130 cases the Board found that their objections were not bona fide religious. This group

contained thirty men of socialist and seventeen of Irish conviction, and a further two who were both.

Of those dealt with by the Board only the 113 in the first category received relief in the sense that they were excluded from the defaulters list published in May. The Board, as one of its subjects was to testify later, had been very broad-minded and anxious to interpret 'religious objection' as widely as possible. It had tried to persuade men whose objection was on moral to claim religious grounds. Since it was believed that those whose religious convictions the Board affirmed would be released from gaol it was an added tribute to the sincerity of those who refused.<sup>55</sup> The motives of those religious objectors who threw away their chances by refusing to appear before the Board were thus put by one of them — 'because we considered retrospective discrimination against socialist, Irish and Maori objectors to be immoral and unjust'.<sup>56</sup> Despite widespread misapprehension the Board neither made nor was asked for recommendations regarding the release of objectors from gaol. The end of the war saw a new campaign to secure their release.<sup>57</sup> To all the protests which reached him Allen had a fairly standard reply. He would do what he could for honest religious objectors and he was willing to take a wide view of that term. In the event Cabinet decided in April not to release any of the men whose sentences were uncompleted. The overriding consideration was the feeling that objectors should not have the opportunity of returning to civil life before all fit soldiers were demobilized. The Maori objectors were quietly freed for King's Birthday. By the end of June the standard reply to protests was that the matter would be considered again when peace was signed. In August it was decided to release those objectors who had been left off the Defaulters List and those serving sentences other than their first. This applied to seventy-one men, and left in custody fifty-nine objectors, all of whom were due for release by July 1920. There was talk of freeing these by Christmas, or by the end of January 1920 when, it was expected, the last transport would be back: but on 9 January Cabinet decided to take no action on those remaining in custody. No more was done until late June when all military prisoners were granted six months remission of sentence. This freed the remaining handful of those imprisoned as objectors.

A few comparative comments suggest themselves. On the formal legal level New Zealand was obviously less tolerant than the United Kingdom where legislation allowed for conscientious as well as religious objection. The New Zealand attitude was decided by Parliament in 1916. This decision bound the Defence Department, the drafters of Regulations and the Military Service Boards. There is no evidence that at any time during the war this policy ceased to be supported by both Parliament and public opinion. On the other hand, the Military Service Boards took the decision which restricted the operation of the religious exemp-

tion clause to a very narrow compass. The Boards were accessible to the Defence Department but not subject to it and in fact tended to guard their independence jealously. And even if pressure had induced them to widen their interpretation of the religious clause this would, unless the Boards tried to breach the Act, have still left it narrow. The Testimony of Jesus, the Brethren and the Richmond Mission would have gained, but no Anglican, Presbyterian or Catholic could have been exempted. Moreover the application of the 'conscience' test would not have removed all difficulties. The United Kingdom, after all, ended the war with 1,500 objectors in gaol. Many of them were doubtless the equivalent of New Zealand's socialists or Irishmen, but many cases also were the result of a tribunal's refusal to believe men whose objection was to military service as such. It is not of course necessary to doubt the genuineness of the position of the socialists and the militant Irishmen, but it has to be noted that argument on their behalf came very close to being argument against conscription and whatever its merits was a different argument from that application to conscientious objectors in the narrower sense of the term.

On the level of practice it is far from clear that comparison does not favour New Zealand. There were some coarse idiots on some of the Military Service Boards, but few New Zealand objectors seem to have had to face the kind of bloodthirsty hectoring in which many members of British tribunals indulged. The same impression prevails if one attempts to judge physical brutality. There was a great deal in England and very little in New Zealand. The fourteen shipped abroad were of course ill-treated, though H. E. Holland noted that they were much worse treated by British N.C.O.s than by their compatriots. Other men were ill-treated for a time at Wanganui in 1918,<sup>58</sup> but this was stopped as soon as it came to light. Few other allegations of physical brutality were made. No doubt part of the explanation lies in the fact that New Zealand objectors were not usually left long in military hands. The Prisons Department did not regard it as any part of its duty to make soldiers of the objectors in its custody. Nor were the conditions of imprisonment anywhere near as onerous in New Zealand as in Britain. Of course Britain is not the only possible comparison: the Australian example might seem to indicate that the first world war could be managed without conscription and therefore without the problems posed by determined objectors. In the New Zealand context that would certainly have meant a substantial downward revision of the size of the monthly draft promised early in the war to the Imperial authorities. This the Government was never willing to contemplate.

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## NOTES

<sup>1</sup> *Maoriland Worker*, 31 May 1916.

<sup>2</sup> *ibid.*, 21 June 1916.

<sup>3</sup> *New Zealand Parliamentary Debates* [NZPD], CLXXV (1916), 646.

<sup>4</sup> *ibid.*, CLXXVII (1917), 334.

<sup>5</sup> *Otago Daily Times*, 8 June 1916.

<sup>6</sup> NZPD, CLXXV (1916), 694.

<sup>7</sup> *ibid.*, p. 783.

<sup>8</sup> This account is essentially Bell's, NZPD, CLXXVI (1916), 367.

<sup>9</sup> The Councillors are best seen in action in their third reading debate, NZPD, CLXXVI (1916), 346-68.

<sup>10</sup> NZPD, CLXXVII (1916), 331-2.

<sup>11</sup> C.G.S. for Adjutant-General, 16 January 1917, D.10/407.

<sup>12</sup> Re-draft of Regulations, by R. W. Tate (Adjutant-General) [?], approved by J. D. Gray (Secretary, Recruiting Board), 1 March 1917, D.10/407.

<sup>13</sup> Solicitor-General to Adjutant-General, 13 March 1917, D.10/407.

<sup>14</sup> For a useful memorandum on the sequence of problems, Adjutant-General to Secretary, Recruiting Board, 27 March 1917, D.10/407.

<sup>15</sup> Proposed Circular for Military Service Boards on Classification of Conscientious Objectors, prepared by Tate, May 1917, D.10/407.

<sup>16</sup> Solicitor-General to Adjutant-General, 22 May 1917, D.10/407.

<sup>17</sup> Adjutant-General for Director of Recruiting and Camp Commandants, 11 June 1917, D.10/407.

<sup>18</sup> The episode of the fourteen is fairly well known, thanks to the pamphlet *Armageddon or Calvary* by H. E. Holland (Wellington, 1919), and to Archibald Baxter's noble autobiography *We Will Not Cease* (London, 1939). The men were certainly sent away as the result of a policy approved by the Minister of Defence, who seems to have regarded it as a means of showing the objector that he could in no way hope to avoid the risks to which soldiers were exposed. No one had thought seriously about the consequences possible if the objectors remained obdurate, and the actual decision to implement the policy was taken by the commandant of Trentham Camp without discussion with his superiors. As for their later treatment, Wellington accepted the argument that if they were forcibly dressed and washed (i.e. hosed) at sea it was for hygienic reasons. Once they reached England and were sent to France the Defence Department had little real knowledge, and not much curiosity, about what happened to them until Baxter's case became a *cause célèbre* with the widespread circulation of his despairing letter of 5 March 1918 ('I have suffered to the limit of my endurance . . .') and the routine notification that he had been transferred to hospital out of concern for his mental condition. Then the department, which had to face a well-organized campaign of protest, busied itself in trying to find out whether 'Field Punishment No 1' was torture and had driven Baxter mad. As applied to him it certainly was torture, but this was not admitted and was probably not known by New Zealand officialdom. The extraordinary brutality with which men like Baxter and Mark Briggs were treated took place mainly at unit level in France and seems to have been below the ken even of General G. S. Richardson, on whom the Defence Department in Wellington relied for its information. The department tried, not very successfully, to get regular reports from Richardson, and it did not necessarily believe all that he told it. But, the issue of Baxter's Field Punishment apart, no attempt was really made to find out what degree of force was being used. The department was sensitive to the charge that by not sending further batches of objectors away it was admitting that a mistake had been made with the first. It insisted that defaulters and offenders were regularly sent with their reinforcement drafts. This was strictly true, but the men involved were not objectors to military service. The official correspondence can be found in D.10/407; D.10/408/3; D.24/275.

<sup>19</sup> Twenty-three men were returned in the second category, including all of the 'fourteen'. The Defence Department added about twenty names to the first category. Most of these appeals were also dismissed on re-hearing.

<sup>20</sup> For these complaints, Chief of the General Staff to Adjutant-General, 9 August 1917, D.10/407.

<sup>21</sup> Adjutant-General to District Headquarters, Auckland, 27 November 1917, D.10/407.

<sup>22</sup> Return on D.10/407/2.

<sup>23</sup> Adjutant-General to Solicitor-General, 16 May 1917; Solicitor-General to Adjutant-General, 22 May 1917, D.10/407.

<sup>24</sup> H. G. Such to Allen, 16 June 1916; Allen to Such 28 June 1916, D.10/407.

<sup>25</sup> Such to Allen, September 1916, D.10/407.

<sup>26</sup> This was Allen's standard reply to the Christadelphian Ecclesiae, September-October 1916, D.10/407.

<sup>27</sup> In his 'Statement of Christadelphians', January-February 1917, D.10/407.

<sup>28</sup> A. D. Troup to R. W. Tate, 17 October 1917, R.B. 5/4.

<sup>29</sup> P. S. O'Connor, 'Storm over the Clergy — New Zealand 1917', *Journal of Religious History*, December 1966, 129-48.

<sup>30</sup> J. D. Gray (Secretary, Recruiting Board) to J. M. Troup, 1 November 1917, R.B. 5/4. The men on whose behalf the approach was immediately intended remained in gaol, however, and similar cases seem not to have arisen.

<sup>31</sup> Statement made at the invitation of the Auckland Military Service Board, D.10/407.

<sup>32</sup> Minute of General Meeting of N.Z. Friends, sent to Adjutant-General, 11 July 1917, D.10/407.

<sup>33</sup> Letter handed to Military Authorities in Auckland by E. H. Wright, 22 June 1917, D.10/407.

<sup>34</sup> E. Gill to Allen, 25 July, 20 August 1917; Allen to Gill, 6 August 1917., D.10/407.

<sup>35</sup> W. H. Pascoe (New Zealand President) to Allen, 26 February 1917, R.B. 5/5.

<sup>36</sup> Statement of C. K. Meyers to Allen, 15 February 1917, D.10/477/1.

<sup>37</sup> Tate's note, and instructions issued by Chief of the General Staff, 2 April 1917, D.10/477/1.

<sup>38</sup> Commandant for Allen, 3 May 1917, D.10/477/1.

<sup>39</sup> These figures are from the long statement, 'Conscientious Objectors', prepared by Tate and discussed below.

<sup>40</sup> Tate, minute for Gray, 28 March 1918, D.10/407.

<sup>41</sup> R. Edwin, Convener, to Allen, 26 March 1918, D.10/407.

<sup>42</sup> A Conference of the Union, sent to Allen, 26 March 1918, D.10/407.

<sup>43</sup> March 1917, D.10/407.

<sup>44</sup> Allen to T. H. Sprott, 6 March 1918, Allen Papers, Misc. 10.

<sup>45</sup> Gray to Tate, 2 April 1918, D.10/407.

<sup>46</sup> Tate, memorandum, 1 July 1918, D.10/407/17.

<sup>47</sup> Memorandum, 19 August 1918, D.10/407/17.

<sup>48</sup> In many cases courts-martial had earlier imposed initial sentences of shorter periods. When these were completed an objector was again called for military service and again gaoled when he refused. This meant that many men were sentenced twice, and some three times.

<sup>49</sup> Minute, 15 October 1916, D.10/407.

<sup>50</sup> The defaulters, the men who were drawn in a ballot but who could not be located, were far more numerous than the objectors. When Tate compiled his memorandum there were 1,285 defaulters for whom warrants were in the hands of the police. The Defaulters List, published in 1919, contained just under 2,400 names.

<sup>51</sup> NZPD, CLXXXIII (1918), 892.

<sup>52</sup> *ibid.*, p. 874.

<sup>53</sup> For this Report, R.B. 9/1.

<sup>54</sup> There is some slight confusion in the figures. Four names meant to belong in the latter group were misplaced in the Report. The figures given here indicate the Board's intentions.

<sup>55</sup> R. O. Page to Minister of Justice (J. G. Coates), 16 September 1919, D.10/407/16.

<sup>56</sup> J. A. Brailsford to G. Fowlds, 24 May 1919, D.10/407/15.

<sup>57</sup> For a good deal of evidence regarding this campaign, D.10/407/16. The predominance of Christchurch-based organizations is noteworthy.

<sup>58</sup> The hope behind this experiment was that a short spell of rigorous discipline in a Detention Barracks would overcome the will of 'defiant' and the scruples of 'conscientious' objectors. Just how this was to be done with men who flatly refused to obey any order seems not to have been considered in Wellington. In May 1918 there were complaints that it was being done with force and brutality by the officer in command, Lieutenant J. W. Crampton. Allen at once ordered a magisterial enquiry. This was held in private and J. G. C. Hewitt S.M. found that the allegations were substantially true. He thought it clear that at least four men had been broken in by violence. Typically, they had been forcibly dressed in uniform, had weighted packs strapped to their backs and rifles tied or handcuffed in position. They had then been pushed, dragged, punched and kicked around the yard and had been deliberately pushed into corners so that their heads would strike the wall. Some had been dragged along by ropes, or by the hair. No permanent or serious injury was done, though in one instance there had probably been profuse bleeding from the face. The work had been done by men who knew how to hurt savagely without leaving much obvious mark.

Press and public reaction varied. Most of the metropolitan papers adopted editorially the grave tones of which the *New Zealand Herald* may stand as the representative. 'Unremitting firmness', yes; 'systematic brutality', no. Obviously the Minister and his officials had not known what was going on: 'Yet that ignorance reveals an inexcusable carelessness in administration which would only be aggravated by any attempt to condone the faults of those directly responsible.' Some of the smaller papers, however, took a very different line. The *Manawatu Times* noted that 'no bones were broken and no permanent injuries inflicted'. This by contrast with the fate of many soldiers: 'Still we are a soft-hearted race especially the political variety of us and there is a great deal of sympathy for the men who stayed at home. So the officials who induced discipline in their rough and ready way have been cashiered and the bleeding hearts have been propitiated, and all — all is well.' The *Marton Advocate* remarked that the objectors would have been shot in Europe and had only escaped the lash by a few years. In its view discipline had demanded that Crampton's will prevail and it had no sympathy to waste on a few stubborn shirkers. The *Rangitikei Advocate* took a similar line under the heading 'Howls of the Shirker'. Since the shirker was little better than an animal humane punishment had no effect on him. In any case, pulling a man around by a rope was harder on the puller than on the pulled, and thousands of New Zealand fathers did no more with a strap to their children than Crampton had to his, even if he had overstepped the mark in one or two cases.

No more objectors were sent to Wanganui. Crampton was left in command, applied for a court martial and was honourably acquitted in February 1919. The court martial was not entirely an Army whitewashing job. It did accept evidence as to 'the custom of the service' (i.e. the Imperial Army) which Hewitt had rejected as irrelevant to New Zealand law. But what was said against Crampton on oath was a good deal less lurid than what was originally alleged, and a major prosecution witness collapsed completely under cross-examination. The main sources are D.10/566, D.10/566/1 and the newspaper accounts of the court martial.