

We recommend the repeal of the existing Medical Appeal Board, and that the right of appeal be given in the following cases :—

- (a.) The rejection of any claim for a pension on the ground that the death or disablement of the member of the Forces in respect of whose death or disablement the claim is made was not due, directly or indirectly, to his employment as a member of the Forces, or, in the case of disablement, that the condition of disablement was not aggravated by such employment ; and
- (b.) The assessment of a pension granted to any member of the Forces in so far as the assessment is based on medical grounds.

On any appeal under these provisions the tribunal may either confirm the decision of the War Pensions Board or may direct the Board to grant a pension or to increase or reduce the amount of any pension.

As a condition precedent to appeal, there should first be a hearing by the War Pensions Board which the applicant has an opportunity to attend in person and be represented by counsel or agent, if he so desires, and submit all his evidence. We do not suggest the impossible course of the War Pensions Board giving a personal hearing to every applicant in the first instance, but where the applicant is dissatisfied with the Board's decision on the grounds above set out he should notify the Board, and then arrangements should be made for a hearing at which applicant must submit all his evidence. If, after such hearing, applicant wishes to appeal, the whole case to be submitted to a Stipendiary Magistrate or to the Crown Law Office to certify whether it is a reasonable case for appeal. This is absolutely essential to guard against abuse of the right to appeal. If this certificate is given, applicant to have the right to appeal to a tribunal consisting of a Judge of the Supreme Court, with a medical assessor, who preferably should be a specialist in the particular class of case ; this assessor would act purely in an advisory capacity and take no part in the decision. The appeal to be by way of rehearing, and unless by special leave of the Court no additional witnesses to be called : such a provision would tend to ensure a complete presentation of the case to the War Pensions Board in the first instance. The Court to admit any evidence it deems proper, whether legally admissible or not, in the same way as the Board does, and the parties to have the right to appear by counsel or agent.

As the War Pensions Board consists of a Stipendiary Magistrate, a medical man, and a soldiers' representative, and any appeal tribunal must be a body of higher qualifications and standing, this could not be obtained by appeals being made to another Stipendiary Magistrate—in fact, such a procedure would probably render intolerable the position of the War Pensions Board. What is necessary to inspire confidence and give authority to its decisions is a finding by a judicial body which is entitled to general respect, and many of the cases may be abstruse and difficult. It is for the above reasons that we make our recommendation for the constitution of the appeal tribunal. With the procedure and safeguards we have suggested as preliminary to appeal it is reasonable to expect that the number of cases proceeding to appeal would be so limited that they could be coped with by the Judges in the different judicial districts in which they arise.

R S.A. CLAIM 7.—*That a pension should not be cancelled or reduced in addition to other punishment inflicted by the Court.*

It is claimed by the Returned Soldiers' Association that a soldier suffers double punishment if deprived of his pension, and in this respect is more harshly dealt with than civilians. We are by no means satisfied that the proposition can be stated so absolutely : *e.g.*, a Civil servant who goes to gaol loses not only his employment but his pension rights. This, however, is stated merely by way of parenthesis.

As the nature of the offence and character of the offender will differ in varying degrees, it is not possible to lay down any general rule which would apply equitably to all cases. Two cases will illustrate this : (1.) A pensioner may be sentenced for theft, but apart from this his general character may be good. (2.) A case which the Board actually dealt with : A soldier in receipt of a pension of 10s. a week seduced the wife of another pensioner and lived with her ; he was also of dissolute habits. The Board cancelled both his pension and that of the offending wife. We submit that it would shock the public conscience if the State had continued to subsidize this dissipated immorality.