CABINET 69 (48)

CONCLUSIONS of a Meeting of the Cabinet held at 10 Downing Street, S.W. 1, on Monday, 8th November, 1948, at 11 a.m.

Present:

The Right Hon. C. R. Attlee, M.P., Prime Minister (in the Chair)


The Right Hon. A. V. Alexander, M.P., Minister of Defence.

The Right Hon. Viscount Addison, Lord Privy Seal.

The Right Hon. J. Chuter Ede, M.P., Secretary of State for the Home Department.


The Right Hon. George Tomlinson, M.P., Minister of Education.

The Right Hon. Sir Stafford Cripps, K.C., M.P., Chancellor of the Exchequer.


The Right Hon. Viscount Jowitt, Lord Chancellor.

The Right Hon. A. Creech Jones, M.P., Secretary of State for the Colonies.

The Right Hon. A. Woodburn, M.P., Secretary of State for Scotland.

The Right Hon. Aneurin Bevan, M.P., Minister of Health.

The Right Hon. J. H. Wilson, M.P., President of the Board of Trade.

Also present:


Secretariat:

Sir Norman Brook.

Mr. A. Johnston.

Contents

<table>
<thead>
<tr>
<th>Subject</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Punishment</td>
<td>70</td>
</tr>
</tbody>
</table>

38203—3
The Cabinet considered a memorandum by the Home Secretary and the Secretary of State for Scotland (C.P. (48) 252) proposing the appointment of a Royal Commission on capital punishment.

The Home Secretary said that by the statements made by Government spokesmen in the House of Commons on 22nd July, which were reproduced in paragraph 1 of C.P. (48) 252, the Government had undertaken to investigate the possibility of retaining the death penalty only for certain crimes of murder; and he and the Secretary of State for Scotland had been considering how effect could best be given to that undertaking. They were satisfied that some form of independent enquiry was required, and that neither a Departmental Committee nor a Select Committee would command sufficient public confidence. They therefore recommended the appointment of a Royal Commission, with terms of reference which were sufficiently general to cover the question of total abolition of capital punishment but would, at the same time, direct special attention to the possibility of retaining the death penalty only for certain crimes of murder and to the problem of alternative treatment for persons who would otherwise have suffered the death penalty.

Public attention might soon be drawn to this question in one of three ways: it might be raised in the proceedings on the Criminal Justice (Scotland) Bill, or by the introduction of a Member's Bill, or when a case occurred in which, under the existing law, the responsible Minister felt unable to advise that the death sentence should be commuted to penal servitude for life. On any of these occasions the Government might be asked how they proposed to implement the undertakings given on 22nd July. It was therefore recommended that an early announcement should be made to the effect that the Government had decided to appoint a Royal Commission with the terms of reference proposed in C.P. (48) 252; the composition of the Commission could be settled later.

The Cabinet first discussed whether it would be possible to avoid holding an independent enquiry into this question. The statements made on 22nd July did not, it was suggested, commit the Government in terms to a formal investigation by an independent body. There were as yet no signs of renewed interest in this question by any substantial number of Government supporters; and it might be that, after the inconclusive debates of the preceding Session, public opinion generally would be content to leave this controversy in abeyance for the time being. Most Ministers, however, thought it inevitable that the question should be raised in one way or another during the course of the current Session; and they feared that it would give an impression of weakness if the Government took no action until forced by public pressure to carry out the undertakings given on 22nd July. The Cabinet therefore concluded that some form of enquiry ought to be set on foot.

Discussion then turned to the question whether the scope of the enquiry should be such as to include the total abolition of capital punishment. On this, the general consensus of opinion in the Cabinet was that an enquiry embracing this general question was not likely to lead to any practical result. If the Commission were to include persons who had already declared themselves in favour of or against total abolition, there would be little prospect of securing an agreed report; and, if it were to include no one who had declared himself on the general question, it would be difficult to assemble a body of people whose views would command public confidence. It would be preferable, therefore, to limit the enquiry to the two practical questions (i) whether there was any practicable means of retaining the death penalty only for certain crimes of murder and (ii) under what conditions, and for how long, persons who would otherwise have suffered the death penalty should be detained. This would have the effect of stressing the practical and historical approach to the problem, and avoiding the abstract issues of justice and conscience on which controversy was not likely to be brought to a final conclusion. But even this limited enquiry would raise problems of
such complexity that it was unlikely to be completed before the next General Election.

The question was then raised whether the advocates of total abolition would be content with an enquiry with this limited scope and, in particular, whether any of them would be willing to participate in it. On this point there was some divergence of view; but the majority of the Cabinet believed that some of those who were opposed to the death penalty might be persuaded to participate in an enquiry designed to limit its application.

It was agreed that the enquiry should not extend to the imposition of capital punishment in the Armed Forces or in Colonial territories overseas. It should be limited to the powers of the civil courts in Great Britain.

Before reaching a final decision Ministers wished to have an opportunity of considering revised terms of reference, on the restricted basis suggested during their discussion. They also wished to be satisfied that it would be possible to secure the services, for a limited enquiry of this kind, of people of standing whose names would command public confidence. For this latter purpose they agreed that the Home Secretary might take informal soundings with a view to assuring himself that some of those whom he had in mind would be prepared to serve.

The Cabinet—
Invited the Home Secretary and the Secretary of State for Scotland to submit (i) draft terms of reference for an enquiry, by a Royal Commission, which would not embrace the general question of the total abolition of capital punishment and (ii) an appreciation of the prospects of securing, for such a limited enquiry, the services of individuals whose views would command public confidence.

Cabinet Office, S.W. 1,
8th November, 1948.