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C. (54) 61

17th February, 1954

CABINET

SEXUAL OFFENCES

MEMORANDUM BY THE SECRETARY OF STATE FOR SCOTLAND

The Cabinet may wish, in considering the Home Secretary's memorandum, C. (54) 60, on sexual offences, to have some information about the position in Scotland.

Prostitution

2. There have been no recent indications of public concern about this social evil in Scotland; and I have received no representations about it. The total number of convictions for prostitution (including aiding and abetting prostitution) in 1952 was 95, and the average number in the post-war years (1947 to 1952) was 89; these totals compare with 230 in 1938, and an average of 238 in the years 1933 to 1938.

3. Section 381(22) of the Burgh Police (Scotland) Act, 1892 provides that every person who, in any street or public place, "being a common prostitute or streetwalker, loiters about or importunes passengers for the purpose of prostitution," shall be liable to a fine of 40s.; but section 465 of the Act enables an additional penalty of 40s. or 30 days' imprisonment without the option of a fine, to be imposed for a second or subsequent offence. In addition, Edinburgh and Aberdeen have local Act provisions which increase the maximum penalty for the offence (including a first conviction) to a fine of £10 or imprisonment for 60 days. The power of sentencing to imprisonment is in fact being used; of the 95 persons convicted in 1952, 24 were given prison sentences, and the average number of such sentences in the years 1947 to 1952 was 28 (average number of convictions—89).

4. In Scotland the evidence of two persons is required before a conviction can be obtained, and the police themselves do not act as prosecutors. Women's organisations have represented, however, that the court may be prejudiced against the woman charged, by reason of the statutory definition of the offence; the words "being a common prostitute or streetwalker," which must appear in the charge, are said to create an impression of guilt.

5. There is no evidence that the practice of letting flats for the purpose of habitual prostitution is common in Scotland.

Homosexual Offences

6. There has been some increase in Scotland since the war in offences of this kind. The number of cases made known to the police of sodomy, bestiality and attempts to commit unnatural offences rose from 11 in 1938 to 23 in 1952; the annual post-war average (for the years 1947 to 1952) is 29, against a pre-war average (for 1933 to 1938) of 13. The number of cases of gross indecency in 1952 was 96 (pre-war figures are not available).

7. As in England, our experience is that only a minority of homosexual offenders—those who are prepared to co-operate fully—are susceptible to psychotherapeutic treatment. This is given to some extent in prisons, and in addition, arrangements are made wherever possible for short-time prisoners to have the treatment continued at psychiatric clinics after their release. The whole question of the treatment of sexual offenders in Scotland was investigated by the Scottish Advisory Council on the Treatment and Rehabilitation of Offenders who published a report on it in 1948.

Conclusion

8. It will be apparent that the Scottish problem would not in itself justify an inquiry. If, however, it should be decided to appoint a Royal Commission I think it would clearly need to have terms of reference for the whole of Great Britain.

J. S.

*Scottish Office, S.W. 1,
16th February, 1954.*