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WAR CABINET.

ARTICLE IN THE "SUNDAY PICTORIAL."

QUESTION OF FURTHER POWERS TO DEAL WITH SUCH ARTICLES.

Memorandum by the Home Secretary.

THE Cabinet at its meeting on Monday, the 27th October, asked me, in consultation with the Lord President of the Council and the Minister of Information, to consider whether it would be desirable to obtain further powers to deal with articles in the Press of the same description as the article which appeared in the *Sunday Pictorial* on the 26th October. The following memorandum summarises the results of such consultation, at which the Attorney-General was also present:—

1. The question referred to us, which raises once again the problem of the use of Defence Regulations for controlling expressions of opinion, must be considered in relation to the history of Defence Regulations on this subject. A note is appended of the history of the attempts made to deal with the matter since the outbreak of war.

2. No Defence Regulation could be devised which would cover the article in the *Sunday Pictorial* without at the same time covering numerous other criticisms of the Administration and raising the controversial issue whether the Government is to be clothed with extensive powers for the control of expressions of opinion. However limited may be the use which the Government would make of such powers in practice, any Regulation which would be effective for dealing with such an article as that in the *Sunday Pictorial* would have to be so framed as to cover a wide field and would be open to attack on the ground that it would empower a Government to exercise more extensive control over expressions of opinion than the present Government would in fact exercise, or would think it right to exercise.

The article in the *Sunday Pictorial* differs from other propaganda which has been directed against the Government's methods of conducting the war in that the *Sunday Pictorial* article contains abuse of Members of Parliament belonging to all parties in the House of Commons; but, so far as the article suggests that the Government should be reconstructed and that many of the existing Members are unfit for their posts, it differs little, except perhaps in the crudity and offensiveness of its tone, from criticisms that have appeared from time to time in other papers, including the *New Statesman*, the *Daily Herald*, the *News Chronicle* and the *Tribune*. In the *Tribune* for the 24th October there was an article by Mr. Aneurin Bevan, M.P., headed: "These Men are Paralysed." In

this article there appeared the following sentence: "We are being governed by sick men stupidity and appeasement still remain in high places—they must be cleared out at once."

Several attempts have been made to devise a Regulation which would hit propaganda calculated to hinder the war effort by weakening authority, disheartening the people or disrupting national unity, but all such attempts have proved abortive, because any Regulation which covers propaganda of this kind would also cover expressions of opinion for which liberty can properly be claimed on the ground that they are intended to produce improvements in the national policy, and to effect changes in the Government by constitutional means. Many people advocate anti-war policies, including policies of a pacifist character, which, however repugnant they may be to the majority of people, ought nevertheless (provided they do not positively impede the war effort or aid the enemy) to be permissible in a country which prides itself on the tradition of freedom of speech.

3. Any Defence Regulation which was wide enough to check such expressions of opinion as appeared in the article in the *Sunday Pictorial* would not only be open to attack from the defenders of civil liberties in the House of Commons, but would unite the Press in opposition to the Government. The majority of newspapers would certainly condemn the article in question; but by attempting to make such articles illicit the Government would forfeit the advantage of the support of the better newspapers, and would drive them into alliance with the worst on the issue of freedom of expressions of opinion.

4. The despicable character of the *Daily Mirror* and the *Sunday Pictorial* is unquestionable. The tone and policy of these newspapers reach as low a level of journalism as has been known in this country. The object of the papers in adopting these methods is to make money. There are no grounds for thinking that there are any subversive influences behind the papers. The financial interests are widely spread, and it appears that the shareholders and directors leave the widest liberty to the editorial staff to pursue any methods which will increase the circulation of the papers and augment the dividends. Since the outbreak of war the circulation of the *Daily Mirror* has, the Minister of Information informs me, greatly increased, and the paper has a wide circulation amongst the troops, but it is a matter of some doubt as to how far its leaders or political articles are much read, or have much influence. So far as is known, the "left wing" attitude of this paper is adopted because this attitude helps to sell the paper, and perhaps because, in the view of the influential members of the editorial staff, such an attitude might conceivably be advantageous to them in the future.

5. I have considered *inter alia* the question whether it would be possible to devise a Regulation requiring certain forms of propaganda, which are likely to be injurious, to be submitted for censorship, but any attempt to define the forms of propaganda which should be submitted to the censor would create the same difficulties as have been experienced in trying to define the forms of propaganda which might properly be proscribed as illegal. A system of censorship would not overcome the difficulties. There would be the same objections to any such method of control as there are to a wide Defence Regulation prohibiting expressions of opinions which may be harmful to the success of the war.

6. In the memorandum circulated to the Cabinet on the subject of Press articles which are injurious to our foreign relations (W.P. (41) 269), it has been suggested that the most effective way of dealing with such injurious articles would be for a statement to be made in the House of Commons castigating by name the papers which are guilty of such conduct. The considerations which led to this conclusion apply also to articles of the *Sunday Pictorial* type. Any such statement might emphasise the distinction between writers and speakers who, however mistaken and wrong-headed they may be, criticise the administration with a view to effecting what they regard as improvements, and writers who make reckless attacks on the authorities and foster uneasiness, discontent and dissension merely for the purpose of selling their copy and boosting their own cleverness and vigilance in detecting examples of alleged inefficiency and incompetence.

H. M.

November 12, 1941.

HISTORICAL NOTE.

ON the outbreak of war a Defence Regulation was made providing that "no person shall endeavour, whether orally or otherwise, to influence public opinion (whether in the United Kingdom or elsewhere) in a manner likely to be prejudicial to the defence of the realm or the efficient prosecution of the war." The Regulation contained a provision that a prosecution should not be instituted except with the consent of the Attorney-General.

This was one of the Regulations to which objection was taken in the Debate in the House of Commons on the 31st October, 1939. The Government then undertook to reconsider this Regulation and certain other Regulations in consultation with representative Members of Parliament. As a result of these consultations, the Regulation was amended so as to make it an offence to "endeavour, by means of any false statement, false document or false report, to influence public opinion . . . in a manner likely to be prejudicial to the defence of the realm or the efficient prosecution of the war." The amended Regulation provides that it shall be a defence for the person responsible for the statement to show that he had reasonable cause to believe that it was true.

Under the amended Regulation prosecutions can only be taken in respect of false statements relating to matters of fact. Expressions of opinion and statements about matters which are the subject of argument do not afford ground for proceedings under this Regulation.

2. In the Spring of 1940, when it was felt that further powers ought to be obtained for dealing with Communist propaganda (the Communist Party being at that time hostile to the war effort), there was further consultation with representative Members of Parliament with a view to devising a Regulation which should check propaganda calculated to hinder the war effort. As a result of these consultations, Defence Regulation 2C was introduced. This Regulation provides that, if a person is concerned in the systematic publication of matter calculated to foment opposition to the prosecution to a successful issue of the war, and if serious mischief may be caused by subsequent publications of a similar character, the Home Secretary may cause to be served upon that person a notice drawing his attention to the matter objected to and warning him that, if he is concerned in any future publication of matter calculated to foment such opposition, he will become liable to prosecution. If, after such warning, that person publishes any matter calculated to foment opposition to the prosecution to a successful issue of the war, whether or not the matter is of a similar character to the matter in respect of which the warning was given, that person is liable on conviction to heavy penalties. This Regulation is fenced with many limitations, including a provision that it shall be a defence if the defendant can show that he had no intent to foment opposition to the war and had no reasonable cause to believe that the matter published was calculated to foment such opposition.

No action has hitherto been taken under this Regulation, which came into operation on the 9th May, 1940.

3. At the end of May 1940, after the overrunning of Denmark, Holland and Belgium, Regulation 2D was made, which applies only to newspapers and enables the Home Secretary to suppress a newspaper if he is satisfied that there is in such newspaper a systematic publication of matter which is calculated to foment opposition to the prosecution to a successful issue of the war. The only use hitherto made of this Regulation has been to suppress the *Daily Worker* and the paper called *The Week* run by Claud Cockburn, one of the principal contributors of the *Daily Worker*.

4. In September 1940, in connection with Communist propaganda and with abusive attacks on the Government which appeared in the *Daily Mirror* and the *Sunday Pictorial*, there was consultation between the Home Office and the Security Executive on the question whether a Regulation could be drafted making it an offence to attempt to subvert duly constituted authority or to disrupt the

national unity. The Home Office, however, after considering various forms of words suggested for the purpose of such a Regulation came to the conclusion that it would be impossible to devise a Regulation covering propaganda conducted with subversive intent or covering reckless attacks on authority, such as would be generally condemned by responsible opinion, without at the same time covering expressions of opinion for which the traditions of this country suggest that liberty ought to be allowed. It was recognised that the traditional doctrine of liberty for expressions of opinion gives great and, indeed, dangerous liberty to agitators who may do harm to the war effort, but no way could be found of reducing this danger without at the same time rendering liable to prosecution critics for whose expressions of opinion liberty ought to be allowed if the principles of democratic government are to be maintained. The democratic principle of freedom for expressions of opinion means taking the risk that harmful opinions may be propagated.
