

The Murder

(ABOLITION OF DEATH PENALTY)

Bill*

This article reprinted from New Horizon the Wormwood Scrubs Magazine is written by two men serving life sentences. The opinions expressed are their own, and not necessarily those held by other men serving life sentences.

NOBBY AND JAO

THE SO-CALLED "No Hanging" Bill, as most people will have read, was introduced by Mr. Sydney Silverman, M.P., on the 4th December, 1964. The Second Reading was on Monday, 20th December, 1964, when the House got down to discussion and general principles, as distinct from details, were discussed. These were approved, the Bill passed its Second Reading and was referred to a Committee of the whole House, where it will be examined clause by clause. The usual procedure is for the Report stage to follow, where the House will consider the Bill as reported by the Committee and recommend whether further changes should be made. The final stage is the Third Reading, when the House will consider the Bill as a whole and whether or not it should become law. It will then be passed to the House of Lords, who, if they so

desire, may reject or amend it, but cannot delay the Bill indefinitely.

Although the "No Hanging" Bill has been introduced as a Private Member's Bill, it would appear to have the backing of the Government, and the main opposition appears to come from a section of Conservative M.P.s. Some of these have tabled a motion calling for the Bill to be rejected on the grounds that there is no provision for "a substitute deterrent of comparable gravity" to the death penalty. According to the *Daily Mail*, others "... are worried about the short sentence actually served by a reprieved killer or one given life imprisonment ... the average time spent in jail worked out at nine years. Many Tory M.P.s feel that this is not good enough. Sanction for longer sentences and fixed jail terms (to avoid having them eroded by remission) are likely to

*Bill to abolish capital punishment in the case of persons convicted in Great Britain of murder or a corresponding offence by court martial and

in connection therewith, to make further provision for the punishment of persons so convicted.

be pressed by back benchers looking for stronger deterrents." Another proposal, which appears to have Government backing, after consultation with Lord Parker—a former opponent of the abolitionists—and other judges, is that fixed sentences of from three to 15 years (longer in bad cases) should be substituted for the death penalty.

Political Football

It is to be hoped that the fate of the murderer is not to be used as a "political football" to be kicked around by those who are seemingly obsessed by an idealistic desire to abolish hanging at any price, and those who see all murderers as pathological killers without any consideration for human suffering, devoid of any redeeming features or commendable human emotions. There appears to be the very great danger that the former, in order to attain their ideal, may make concessions to those obsessed with *their* ideal of the prime importance of deterrence in the form of the substitution of a slow death for a quick one, by means of extremely long sentences.

With one exception, reactions to the Bill, as published in the national press, were mainly concerned with the later part which proposes further provisions for the punishment of convicted murderers. The exception was that of Mr. Percy Howard, writing in the *Sunday Express* who came out completely against the abolition of hanging. His article opens with the blunt question: "Would you be

glad if you heard that John George Haigh, the mass murderer was still alive and coming out of jail tomorrow?" After dealing with Heath and Christie, he then states: "The abolitionists have produced yards of controversial and often dubious statistics to prove (so they think) that the death penalty is not a deterrent. They never mention its deterrent influence on the relentless killer. There is nothing else which deters him so effectively from committing his crime again." He also writes: "The abolitionists love to build up the fear in decent people's minds that some day, somehow, an innocent man may possibly be executed in Britain. If that ever happened, they intone in their rational way, his blood would be on the hands of all of us."

Soft Hearted?

Mr. Howard then asks on whose hands would be the blood of the further victim of a released killer. Further, he apparently regards the abolitionists as soft-hearted, naive, "marks," only too ready to fall for soft-soaping sob stories; quote: Can you imagine any of them remaining dry-eyed if a Hanratty sent a pathetic note from jail to assure them that he had lost all his aggressive impulses in middle age or if a Haigh begged to atone for the past by doing work in family welfare or conducting experiments in the peaceful use of acid? No doubt some doctor would be found to give supporting evidence. But there is no need to speculate about what

might happen if someone like Hanratty were subsequently freed instead of being executed. We already know." Unquote. This final sentence refers to the case of Simcox.

Giles Playfair, writing in the *Sunday Telegraph*, is of the opinion that, if hanging is to be abolished "... the penalty needs to be fixed by statute and certain to be imposed except in the case of clearly extenuating circumstances. It should be as severe a penalty as any that the criminal law allows. Finally, it should be no more and no less severe than is necessary to deter people, *capable of counting the cost*, from committing murder."

An article in *The Times* by a Special Correspondent sums up this preoccupation with the alternative to hanging thus: "The 'life' sentence, an average of eight or nine years, is not, according to the Lord Chief Justice, generally believed to be a deterrent today. Those who suggest that there should be an alternative deterrent of a minimum sentence of 20 or 25 years—subject to the Royal Prerogative—will have to contend with the views of those who argue that so long a term would institutionalize the offender in a quite inequitable way, or even with those who maintain (with the late Sir Alexander Paterson) that death would be more humane. And there will be many who will say that the existing form of the life sentence, by which an offender may be re-

leased on licence by the Home Secretary, is an adequate safeguard for the public."

Prison Officers are best Judges

Louis Blom-Cooper, co-author of the book *A Calendar of Murder*, apparently accepts that hanging will be abolished and in his article in *Observer* deals exclusively with the question of life imprisonment. The position as he sees it is this: "For the bulk of murderers, who before abolition would have been reprieved, something up to nine years will probably remain the normal term served. To this extent there will be no change in the release policy which has been so successful throughout the years. The problem now is what to do with the comparatively small number of murderers who come in the post-1957 capital murder category and a few of the non-capital cases about which public anxiety is understandably most acute. This will probably not involve more than a dozen cases a year . . . the public is entitled to a guarantee that a life sentence never becomes an empty formula. And while it is unnecessary, indeed harmful to predetermine a man's incarceration as far in advance as, say, 25 years, dangerous killers, particularly the aggressive psychopath, must not be let loose on the public . . . It should be said that the best arbiters of how long a man serving a lengthy sentence must be kept in a cage—for that is what prison is—are those who have the day-to-day task of administering

the penal system. . . In a recent book, *A Calendar of Murder*, Dr. Terence Morris and I argued that the Government should establish a Parole Board presided over by a High Court Judge, which would advise the Home Secretary. Similarly, the Board could recommend those cases where hospital treatment rather than prison is required. . . . The more society, by its representatives, has a say in the difficult task of determining the length of a killer's period in custody the more the responsibility is shared by those who ought to bear it, namely, the public in whose name such severe penal sanctions are exacted."

It can be inferred from opinion expressed in the national newspapers that a large number of people, whose interest *has* been aroused by proposals for the alternative to the death penalty, are mainly preoccupied with deterrence as distinct from the punitive, reformatory and therapeutic aspects of a prison sentence. It is wholly desirable that the apparent necessity of deterring other people from committing a similar offence should relegate these last three considerations—which take into account the fact that the killer is, in the final analysis, a human being subject to stresses of environment, and who will, in all probability, eventually re-emerge into Society?

Frightening knowledge

The human animal is rather

peculiar in the respect that he will allow himself to suffer most of the indignities and sorrows that befall him during his lifetime, solely because that streak of optimism which everyone possesses in his make-up urges him to believe that at some future date things are bound to get better. It is only when man is confronted with the frightening knowledge that no matter how hard he struggles, no matter how consistent his endeavours, no matter how sincere his intentions and actions, he is unable, in any way to extricate himself from an impossible situation, that one of two things happen. He either adopts the practice of a particular species of jungle rat who, when cornered and can see no possible way of escape, will end its own existence; or, having nothing whatever to lose, he will frantically rebel against whatever he, rightly or wrongly, feels to be the cause or causative of his predicament. Both of these reactions usually end in the destruction of human life.

With regard to the former, those who have examined the effect of long-term imprisonment on men have not hesitated to state that ten years is the very maximum that the average man can endure without severe human deterioration. As this is a well-known opinion, the fear of becoming a "human vegetable" may well cause newly convicted persons to become unbalanced and possibly take their own lives. It is interesting to note

that in 1960 out of the 98 persons known to have committed, or who were suspected of having committed, non-capital murder—a crime carrying not the death penalty, but the average 9-10 year life sentence—29 committed suicide. In 1962, 35 out of 108 took their own lives. All of these may not have committed suicide through fear of a long prison sentence; it could have been for any reason, such as remorse. No man can ever know. However, is it not the authorities' realization of the possibility of attempted suicide by a man faced with the prospect of a long sentence, which accounts for all freshly convicted murderers being kept under close and individual observation for an initial period of their sentence?

Nothing to lose

Concerning the latter possible reaction, the Prison Officers' Association (who, after all, know the prisoner) have sensibly recognized the fact that it will be the lot of the prison officer (and other prisoners) to bear the brunt of the effect that the prospect of a 20 or 30 year sentence must certainly have on a convicted man. The Secretary of the P.O.A. pointed out that it would become increasingly difficult to handle convicted killers who have virtually nothing to lose.

Obviously, for a man serving a 20 or 30 year sentence, which has been proposed in conjunction with the new Bill, there

can be no lever with which the authorities may enforce discipline—not even the reward of the death penalty.

Not all opinions voiced in the Press have been concerned with deterrence. Most understandably, the question of protection of the public has also been raised. Unfortunately we cannot just say we are only one-time killers and expect these fears to die down. But it is a very definite probability that the chances of a killer killing again are more remote than that of the average citizen killing once.

Most people who have killed will analyze their reasons for having done so, and learn from their mistakes: by self-realization their emotional control is intensified. However, if concrete facts are desired to reinforce our opinion, statistics will show that out of the 76 murderers released between 1955 and 1960, only two were subsequently convicted of *any* crime of violence. We strongly believe that the main reason for public anxiety concerning released killers, is the distorted and antiquated concept that the average man holds of the convict.

Is it not a fact that the popular image the public have of the convict is as he is depicted in the newspaper cartoons—a blunt-featured, narrow-eyed, shaven-headed moron, dressed in a suit with large broad arrows and a ball and chain? In the same way, the prison officer is usually caricatured as a hob-nail booted, sadistic auto-

maton, carrying a rhino whip, capable only of callous indifference towards his charges. These impressions could be no further from the true picture. It is not our place, or intention, to discuss the prison officer. But we feel that we are qualified to comment on the average prisoner and, in particular, those who have taken life. Make no mistake about this: the average murderer is not an ape-like, slit-eyed, cauliflower-eared, Bill Sykes character.

In the Press, it has been said that "the murderer is this," and "the murderer is that." This generalization will be realized, by people of intelligence, to be absurd. A murderer may be stereotyped in the same way as any member of the public may be. After all, what was the murderer before he killed, but a next-door neighbour; a man sitting next to you on a bus; a man you may often have seen window-shopping with his wife? They can have only one common attribute—the fact that they have killed. While not wishing to present the murderer as a wholly praiseworthy creature, we do feel that his public image has been extremely distorted by the exaggerations of journalism and by the apparition-creating fear of the unknown that is conjured up by the very sound of the word "murderer."

Is Prison the answer?

There can of course be no justification for the act of killing.

premeditated or otherwise, but it does appear that the denominator common to killers is a pathetic inadequacy in one or other of the attributes necessary to anyone competing in the Human Race. We repeat that we are not trying to justify the murderer's actions; but we are, as impartially as we can, trying to give some indication as to why he kills. We admit that in some cases murder is committed out of sheer greed and selfishness; but, in the main, we have found that the unconscious motivation of many murderers has been, essentially, the inability to compete favourably with their fellow men. There are also those neurotics who have found themselves in circumstances with which they had a complete inability to cope. This inability has been the precipitating cause of their committing murder.

Finally, all normal people, either inside or outside prison walls, must feel (except in cases involving mercy-killing) a natural revulsion for and horror at, that type of crime which in all sincerity, we cannot ignore—that of the murdering of a child. Would any normal person entertain the thought of committing such a heinous crime? Would any normal person think of even harming a child? The answer is too obvious. Anyone who commits such a crime *must* be abnormal. Is prison the place for such a person? Is punishment the cure for his obvious sickness? Again the answer must be too apparent.

To summarize our point of view towards proposals for longer sentences made in connection with the "No Hanging" Bill, may we bring to your notice an article which ran in most of the national papers recently? It concerned a prosecution against a murderer released in February 1964, after serving 20 years in a South African jail. It was quoted that he was "suffering from the bewilderment of freedom" and his defence counsel said: "There is nothing he would like better than to go back to prison for 10 to 15 years." Before passing sentence of four years on the defendant, the Recorder stated: "I think twenty years in jail is enough to remove the spirit from anyone . . . Your problem is basically insoluble . . . maybe in the future some clever doctor may find a way of sending people to prison for years and years without destroying the person not only physically but mentally, because that is almost what has happened to you." In our opinion, this pathetic case illustrates more than anything else the inhumanity, and completely nihilistic effect of a long prison sentence.

Death would be kinder

The present system whereby the Home Secretary, assisted by the ever-observant eye of the various prison authorities, determines the length of each individual life sentence, seems to us to be quite effective and logical. Who is more likely to be aware of whether a

man is "safe" to be released—and this must be the aspect most dominant in the minds of the public—the people who have known the man for a period of years (in particular the prison officer, who has closest contact with the prisoner), or the judge, who has known the man for only a matter of days whilst he has been on trial?

The M.Ps. who, to our minds, quite illogically support the contention that judges are more qualified to determine the length of life sentences, show a singular lack of confidence in the administrators of the Home Office who, after all, can show quite a successful record statistically. There is always the danger, if their arguments carry the day, of inequity. One does not have to be a criminologist to be aware of grave inconsistencies in the judiciary's meting out of sentences in cases of similar circumstances, a subject upon which Lord Gardiner himself expressed concern in an article in the *Sunday Times* not many months ago.

Finally, let us again say we hope that this will not be the dawn of a new era of long soul-destroying sentences. Ten years of the unnatural life of prison is sufficient deterrent for any man who can differentiate between "living" and "existing." Twenty would be an abomination.

We feel that a sentence of death is infinitely more preferable.