

THE POLITICS OF THE ROPE

THE CAMPAIGN TO ABOLISH CAPITAL PUNISHMENT IN BRITAIN

1955-1969

(revised version)

by

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ABSTRACT

This thesis is an account of the campaign to abolish the death penalty for murder in Britain from the mid 1950s to the late 1960s.

It examines the campaign and the debate that it generated from a very broad perspective. It looks briefly at the history of capital punishment in this country so as to set the campaign in context. It focuses on the chief pressure group set up to lobby for abolition, the National Campaign for the Abolition of Capital Punishment (NCACP), and examines in detail its motivation, activities, strategy and influence. It examines the high politics of the campaign; the role played by government and opposition and the interplay between them, and scrutinizes the Parliamentary debates. It examines the role of the main political parties and their internal conflicts, both structurally between front bench, backbench and grassroots membership, and ideologically between pro and anti-hangers and examines the way in which the configuration of opinion within the parties affected the controversy. It looks at the debate within the framework of the other 'conscience' issue campaigns of the time in order to see what light this casts upon the process of pressure group activity and policy change.

It examines the state of public opinion as reflected in the published polls, and other outlets, and questions the weight and significance to be attached to it. It looks at the attitude of official bodies

and professional organizations, especially those representing the legal profession, the police and prison officers, and examines the extent of their input into the debate. It investigates the role of the churches, particularly the Church of England, and seeks to account for the radical transformation in the stance of the church hierarchy during those years, and asks what effect, if any, that had in political circles and on public opinion. It investigates the role played by the media, especially television and radio, but also film, theatre, books and journalism, and asks how influential they were. It looks at events in the courtroom, specifically the series of apparent miscarriages and injustices, and analyses the extent to which they may have played a role in converting or solidifying opinion. It looks also at the growth of movements designed to counteract the campaigns of the abolitionists.

It seeks to analyse the reasons for the success of the campaign in the face of formidable institutional opposition and hostile public opinion, and conversely the reasons for the ultimate failure of those who supported the retention of capital punishment, and subsequently its restoration. It sets the debate in the context of the times and the ferment of cultural change to which society was then subject. It views the campaign as indicative of these liberalizing trends. It argues that there was a kind of historic inevitability about the timing of the campaign and its ultimate success.

It is based, largely, on hitherto unpublished or under-utilized source material including, *inter alia*, the minutes of the NCACP and the private papers of its leading figures, the archives of the Church of

England and of professional organizations, the BBC written archives and televisual, radio and film material, Hansard, the archives of the main political parties and the National Archives.

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THE POLITICS OF THE ROPE

THE CAMPAIGN TO ABOLISH CAPITAL PUNISHMENT

IN BRITAIN 1955-1969

INTRODUCTION

On Thursday, 13th August 1964 a strange ritual was played out for the last time. At a few minutes before eight o'clock in the morning, in two separate prisons several miles apart, two men were led from their respective prison cells with their hands pinioned behind their backs; marched into an adjoining cell through a door, the presence of which had been hitherto concealed from them by a wardrobe; were positioned over the chalk marks drawn on a wooden trap door; had their ankles strapped together and a white hood placed over their heads; had a noose attached to a rope suspended from the ceiling placed round their necks, held in place around their neck by a rubber washer with the metal eyelet situated under the left angle of the jaw. A cotter pin was swiftly removed from the trap door and a lever pulled causing the doors beneath them to bang open. At this they instantly fell a distance of about six feet through the air until their drop was arrested by the rope causing their heads to jerk sharply backwards, breaking one or more cervical vertebrae and severing or crushing the spinal cord. Death was

instantaneous. The whole exercise from the parties' entry to the cell up to the moment of death had taken about twelve seconds.¹ Peter Anthony Allen and Gwynne Owen Evans had become the last men to be hanged in England under the jurisdiction of the English criminal law.²

The grisly pantomime that had been staged time and again was never to be repeated. This last hanging was the final episode of a struggle that had consumed the passions of generations of lawyers, judges, politicians, churchmen, writers, journalists, novelists and campaigners and had been the cockpit of a furious battle for the previous twenty years in which all the machinery of the British parliamentary system had been enlisted. The object of this struggle was an archaic punishment, still practiced with the trappings of antiquity and clung about with the musty odours of former centuries.³ Just over a year later an Act was passed into law that abolished the practice. Capital punishment had come to an end and was never to be restored.

Almost everyone had a view on hanging. Opinion polls showed, whatever else they might indicate, that nearly everyone had a view one way or the other. It was a simple issue. It didn't involve complex economic arguments or political calculations. It didn't have awkward

¹ This account is based on that given in Block, Brian P and John Hostettler, *Hanging in the Balance: A History of the Abolition of Capital Punishment in Britain* (Winchester: Waterside, 1997), p.15, which was culled partly from Pierrepont, Albert, *Executioner: Pierrepont* (London: Harrap, 1974)

² It is a widespread fallacy that James Hanratty was the last man to be hanged in Britain, for in fact he had seven successors, of which these were the last. Eddleston, John J, *The Encyclopaedia of Executions* (London: John Blake, 2002)

³ In fact executions had once invariably been in public; and it was only in 1868 that this practice ceased and they were confined within prison walls.

ramifications. It was a straight choice - an 'eye for an eye' or 'turning the other cheek'. This simplistic view was reflected, on a slightly more sophisticated plane of argument, at the level of party and pressure group politics. Here the pros and cons of hanging had been thrashed out time and again in sometimes thrilling set-piece House of Commons debates, in 1948, in 1953, 1955 and 1956 and then in 1964-65, and 1969, and then many times again in the years after abolition. It is the issue that never goes away, no matter how much abolition seems now to have receded into the mists of time. It remains the most contentious of all of the 'peripheral' questions of British politics.

This work seeks to answer some basic questions about hanging and the campaign to end it, that, for all the heat generated by the debate, seem not yet to have been answered in any satisfactory way. It asks why the issue generated so much controversy. It asks why abolition succeeded when it did, and not earlier or later. Why did it culminate in the period 1964-65? Why did it take twenty years for a Commons majority for abolition, which had existed since 1945, to translate itself into an Abolition Act, given that hanging was, and is, traditionally a question that is decided on a free vote of the House? Or, to put the question in a very different way, how did abolition manage to triumph against the combined opposition of the massed ranks of the establishment and of popular opinion in the country, and to do it so soon after it had been decisively rejected? Was it the *zeitgeist* of the early sixties? If someone who knew a lot about British politics, but, by

some quirk, knew nothing about the capital punishment issue, was asked to guess when abolition took place he might well hazard the early sixties, and perhaps even, if he was particularly well informed he might come up with the precise year of 1965. Perhaps his knowledge of election results would stand him in good stead here, together with an understanding of the inclinations of the membership of the parties, and the sort of time-scales that are involved in bringing to fruition a controversial measure such as that of abolition. Perhaps, also, received ideas about the 'permissive society' and the 'swinging sixties', associated with a *melange* of measures to do with homosexual law reform, abortion liberalization, easier divorce, abolition of theatre censorship etc. would enable him to make an informed guess.

In retrospect it seems absolutely fitting that abolition took place when it did. It is hard to imagine the England of earlier periods *not* still having the death penalty, even if only as a lingering vestige sparingly used. Equally, it is difficult to conceive of the England of the mid-sixties forwards still *having* the death penalty. It belongs quintessentially, it seems at this distance, to sterner, fustier times shrugged off in the social revolution of the 1960s. Some events seem to be so right for their times that it is almost impossible to imagine them not happening when they did or of them happening somewhen else. Abolition seems to be one such. But for all that, abolition happened when it did because of the mechanics of parliamentary procedure, and the results of elections, and the actions of individuals. Politics was the vehicle of abolition, sailing on a liberal tide. Abolition raised some intriguing counterfactual

questions. Suppose that abolition had not been brought about when it was? How would the subsequent course of English political history have differed? How would the question of terrorism, which was virtually re-invented in the late sixties, have been handled if the gallows was still in action?⁴ Would terrorists have been executed and what would the consequences have been of that for any peace process? High political considerations would probably have precluded the use of the rope in terrorist cases, but if so then it could scarcely have been used in 'ordinary' murder cases. It would therefore have fallen into abeyance. If in abeyance then would that merely have presaged its abolition anyway? But can one then conceive of abolition happening in the much more violent climate of the terrorist era? As it was, abolition had to be driven through the narrow aperture of Parliamentary procedure, and once thus driven, the process was almost organic in that it could hardly have been reversed. But if the process had not taken place then could an even narrower aperture have been traversed later?

What of the party political scene in the early to mid-sixties? By then the Labour Party had moved from being preponderantly abolitionist to being overwhelmingly abolitionist. The Conservative Party was still predominantly retentionist, though the abolitionist rump of the fifties

⁴ Curiously, though hanging for murder had been abolished in 1965 in respect of England, Wales and Scotland it remained on the statute book in Northern Ireland until abolished by the Northern Ireland (Emergency Powers) Act of 1973 at the height of 'The Troubles'. In practice, after 1965, the Home Secretary always exercised the prerogative of mercy to reprieve convicted murderers in Northern Ireland, the Isle of Man and the Channel Islands. It is interesting, in retrospect, to speculate on the possible ramifications for Northern Irish politics of the execution of an IRA or loyalist terrorist at that time.

had swelled to about a quarter to a third of the party by 1964-65. Why was abolition so very much an obsession within the Labour Party, and the left and centre of British politics, and why did the question divide along party lines to the extent that it did, given the supposedly non-partisan nature of the issue? Labour had always been the abolitionist party going back to the inter-war years, and the abolitionist campaigners had always reposed their hopes in Labour. Yet there was nothing intrinsically socialist or left-wing about abolition, and the hanging question and penal policy generally, was tangential to the main arena of partisan conflict over economic and social questions. Part of the answer must be to do with Labour's Christian/humanist origins which naturally indicated an 'enlightened' and progressive penal policy, with the stress on reform and rehabilitation rather than punishment and deterrence.

Also many of the founders and early leaders of the party were pacifists. Abolition was, arguably, the penal equivalent of pacifism. The values that drove men to refuse to serve in the armed forces clearly informed opinion about penal questions. Labour has always seen itself as the 'progressive' party (in contrast with the 'outmoded' values of the Tories), and not merely as the party of socialism, trade unionism or the working class. Abolition was clearly 'progressive' in the historical sense of being in accord with the general trend of policy over the decades and centuries, which was towards a softening of the harshness of judicial punishments and the search for more humane methods of correction. There has not been the same degree of concern in Labour's ranks with the maintenance of law and order and the defence of property that has

traditionally driven the Tories to favour a tougher stance on penal issues. Again there is a reflexive streak of anti-establishmentism in the Labour ranks, and nowhere are establishment attitudes more evident and more deeply entrenched than in the ranks of the judiciary and the legal profession. Furthermore the judiciary, for most of the century has been deeply Conservative in its political hue, and notoriously anti-Labour, a further goad to the left to abolish one of its most cherished institutions that conferred upon its higher echelons the power of life and death.

For the Conservative Party these considerations were less significant, but nonetheless a substantial minority of its MPs had, by the 1950s, moved to an abolitionist stance, arising mostly out of the same humanistic values that drove Labour abolitionists. Finally, though capital punishment was nearly always subject to a free vote in the House of Commons it would be naive to suppose that MPs were thereby free of pressures. The lash of the whips was replaced by the blandishments of pressure groups and fellow MPs, and the admonishments of constituents and constituency parties. It is uncertain whether such pressures operated within the Labour Party on this issue, but it is clear that they did for many abolitionist Conservative MPs who at the height of the controversy in the mid-fifties were under strong pressure to fall into line with the bulk of the party, and very often succumbed to the pressure.⁵

⁵ Noteworthy is the case of Nigel Nicolson, but he was only the most prominent. See especially Nicolson, Nigel, *People and Parliament* (London: Weidenfeld and Nicolson, 1958)

Much has been said about the supposedly liberal spirit of the era, but public opinion throughout the controversy, at least as measured by the polls, showed consistently large majorities in favour of hanging, whatever liberal sentiments might have been expressed on other issues of the day. Though the trend was towards abolition, even by 1964-65 there was still a majority for hanging. It is plain that whatever zeitgeist moved the abolitionists it was not that of the bulk of the population. Why the consistent pro-hanging stance of the public? What differences were evident here, if any, on the basis of age, sex, class, income, level of education, views on other matters, religious beliefs, party political affiliation, and even personality factors? What changes in opinion were evident as a function of events in the courtroom and the political arena, and did factors such as these operate differently with different types of people? Did the chance occurrence of a series of horrific murders at a particular time cause a resurgence in the popularity of hanging, and, conversely, did disquiet over miscarriages cause a shift towards abolitionism? To what extent did public opinion influence the politicians, if at all, or were opinion polls, like crime statistics, used by the politicians in the manner that the drunkard uses the lamp-post - for support rather than illumination? Finally, why did public opinion fail to follow the lead given by the politicians, as it has in so many other areas of policy?

How was the party political fight affected by the issue? Since Labour was by 1964 almost wholly abolitionist, and was effectively the

sponsor of the Silverman Abolition Bill in all but name, did this adversely affect its fortunes at the polls in the 1964 and 1966 general elections, or in subsequent by-elections, or in subsequent general elections? Did the issue have any salience amongst the general public; were they aware of the stance of the parties, and did it weigh with them when they entered the polling booth? Though Labour did not seem to have suffered to any significant degree, it is interesting that at the 1966 general election a pro-hanging candidate, the uncle of a murdered child, garnered a very large number of votes standing against the leading abolitionist, and though not unseating him gained more votes than any genuinely independent candidate since the end of the Second World War.⁶ Nonetheless a 'capital punishment party' has never emerged. Why not?

Consideration of public opinion, and its interplay with politics, leads on naturally to a consideration of the role played by the various pressure groups that sprung up to advance the cause of abolition, most notably, from 1955 onwards, the National Campaign for the Abolition of Capital Punishment (NCACP), and to a lesser extent, the Howard League for Penal Reform, which from the early fifties began to devote itself increasingly to the cause. From where did they draw the bulk of their support, and what motivated them? How effective was their campaign,

⁶ Patrick Downey, uncle of Lesley Downey, a victim of the Moors Murderers. Downey stood on an expressly pro-hanging platform and gained 5,000 votes, a post-war record for a genuinely independent, non former MP, standing in a general election. See Hughes, Emrys, *Sydney Silverman: Rebel in Parliament* (London: Charles Skilton, 1969), pp.182-92

what methods did they use, what audience did they pitch to, and how well did they liaise with the parties and politicians who carried their banner? On the other side of the debate there was initially no 'Campaign for the Retention of Capital Punishment', and no major figures in public life propagating for retention. Thus it may seem that it was an unequal struggle, and yet the retentionists had much of the establishment on their side in the form of the judiciary, the police force and its influential mouthpieces, the prison service and its associations, the House of Lords, and the bulk of the general public. It was, for much of the time, a contest between two evenly matched, but disparately organized and led bodies of opinion. A condition of dynamic equilibrium had been established. But it would be misleading to suppose that this was a contest between idealists and pragmatists. The retentionists were often portrayed, and often portrayed themselves, as hard-headed realists standing out against the sickly sentimentality of the abolitionists. Yet given the uncertainty of the deterrent value of hanging, and the extreme unlikelihood of anyone of their number being the victim of murder, it seems that the attitude of the pro-hangers was in many ways just as ideologically motivated as that of the anti-hangers. It was a contest between two sets of ideologues over what was for both of them, and for nearly everyone else, an almost abstract concept.

Much has been written about the supposed effects on the murder rate, and on crime generally, of abolition, and adduced as evidence, given the appropriate gloss, by both sides. No doubt the number of

murders has risen dramatically in the years since abolition, but this almost certainly reflects the increasingly violent nature of society and may have little or nothing to do with the effects of abolition. The murder rate had been rising steadily, along with other forms of violent crime, for years and decades before abolition, and it is a moot point whether the *rate* of increase steepened from the mid-sixties, or merely continued on a smooth upward parabola.⁷ What is the comparison with the figures for other countries where abolition has taken place?

What was the effect of the various miscarriages of justice, real or supposed, that littered the period from Timothy Evans in 1950 to Hanratty in 1962? How did these influence the debate and shift public opinion? Many books have been written about Timothy Evans and John Christie, Derek Bentley and Christopher Craig, Ruth Ellis and James Hanratty, as well as numerous other less well-publicized cases. Did the drama and unease about these cases begin to move public opinion away from hanging, as is often supposed? Is there opinion poll evidence on these specific points? Was Hanratty the final straw, or were these cases largely irrelevant; convenient fodder for abolitionist propaganda, but not the reason for anyone to change his mind about hanging? Plainly there was public disquiet, and the much-vaunted power of the Home Secretary to reprieve, so often adduced by retentionists in support of the contention that innocent men were never hanged, was much dented by the failure of successive Home Secretaries to issue a

⁷ During the currency of the abolition provisions of the Homicide Act from 1957-1965 when there were, uniquely in English criminal history, two classes of murder it rather seems that the rate of increase in non-capital murder was not significantly greater than that of capital murder.

reprieve in the two cases (Bentley and Ellis) that cried out for it.

What of the role of the media in all of this? The press was sharply divided on the merits of abolition, with the divide roughly shadowing the political divide. The Conservative press tended to be pro-hanging, and most of the Labour or Liberal press abolitionist. Was this co-incidence, or did the papers follow the lead of the politicians and parties they generally supported, and what was the nature of the interplay between the parties and the press? And how influential was the press in massaging public opinion? Was the press as uninfluential as it generally is in the realm of politics?

What of the rest of the media? Given the salience of the capital punishment issue it was naturally a frequent topic of debate on television and radio, with many news items, current affairs programmes and documentaries devoted to the question. How influential were these in altering public opinion and shaping the nature of the debate? What was the extent of their influence by comparison with that of the press? And did the cinema, the theatre and the literature of the time take up the theme; and if so what was their stance, how did they interpret the debate and weave it into the fabric of popular culture, and how influential were they in shaping political and public perceptions?

Given the salience of the capital punishment question there is no dearth of literature on the history of hanging and of the numerous

abolition campaigns.⁸ There is, however, no work dedicated specifically to the period of the consummation of the campaign from 1955 to 1969, which culminated in the passage of Sydney Silverman's Murder (Abolition of Death Penalty) Act in 1965 and its confirmation in 1969. It should be pointed out that of course capital punishment was technically only abolished, in 1965, for the crime of murder, and that it remained theoretically in force for the crimes of treason, arson in government dockyards, piracy on the high seas, and mutiny in the armed forces.⁹ This is very much a technicality since, even when the death penalty was still in common use, only three men had been hanged for treason (or for any crime other than murder) this century, and all of these were during, or in the immediate aftermath, of war.¹⁰

⁸ The chief works that deal, *inter alia*, with the period in question, or part of the period, are: - Christoph, James B, *Capital Punishment and British Politics: The British Movement to Abolish the Death Penalty 1945-1957* (London: Allen and Unwin, 1962); Tuttle, Elizabeth Orman, *The Crusade against Capital Punishment in Great Britain* (London: Stevens 1961); Potter, Harry *Hanging in Judgment: Religion and the Death Penalty in England from the Bloody Code to Abolition* (London: SCM 1993); and Block and Hostettler, *op cit*.

⁹ Capital punishment was formally abolished for these other crimes in May 1998.

¹⁰ Roger Casement, John Amery and William Joyce. This excepts a total of 19 executions of American servicemen that took place during the Second World War under the jurisdiction of USA military courts.

CHAPTER ONE

ABOLITIONIST PRESSURE GROUPS

This chapter examines pressure group activity and its influence on the debate, and also sets the capital punishment debate in the context of the other ‘conscience’ issue campaigns of the time. The great weight of such activity was, inevitably, on the abolitionist side, at least until 1965, because it was they who were seeking to effect change. The active retentionists, by contrast, were located chiefly within pre-existing institutional bodies such as the Police Federation, the prison service, the judiciary, the Conservative Party (or elements of it) and the House of Lords. After 1965, when abolition had become a reality, retentionist bodies began to emerge and flourish. These are examined in a separate chapter. Easily the largest and most significant of the abolitionist bodies was the National Campaign for the Abolition of Capital Punishment (NCACP), which was far and away the most influential of such bodies and effectively incorporated into itself most pre-existing abolitionists and abolitionist movements. The great weight of abolitionist sentiment was articulated through the organs of the NCACP, which had some claim to be an ‘insider’ group in that it often had the ear of those in power, though not institutionally an insider group in the sense of enjoying a regular forum with government ministers or departments, and because its membership was sufficiently high-level for it to have

some leverage with government.

The NCACP: Inception and Early Successes

By 1955 the feeling within progressive circles was that circumstances were propitious for a renewed drive towards abolition. The Royal Commission on Capital Punishment had reported in September 1953 and had come as close as its terms of reference allowed to recommending complete abolition.¹¹ Several prominent figures had declared themselves for abolition, most notably Viscount Templewood, who, as Samuel Hoare, had been home secretary in the National government in the 1930s, and who was not in any sense a radical.¹² There had been several egregious miscarriages and injustices, especially those of Timothy Evans and Derek Bentley, and to a lesser extent, Ruth Ellis, the cumulative effect of which was to shake the faith of many in the infallibility of British justice and the impossibility of hanging an innocent man.¹³ Public opinion, which had been extremely

¹¹ Gowers, Sir Ernest, *Report of the Royal Commission on Capital Punishment*, Cmnd 8932 (HMSO, 1953)

¹² Templewood, Viscount, *The Shadow of the Gallows* (London: Gollancz, 1951).
Sir Samuel John Gurney Hoare (Viscount Templewood) (1880-1959). Conservative politician. MP for Chelsea 1910-1944. Secretary for Air 1922-24, 1924-29. Secretary for India 1931-35. Foreign Secretary 1935. First Lord of Admiralty 1936-37. Home Secretary 1937-39. Lord Privy Seal 1939-40. Secretary for Air 1940. British Ambassador to Spain 1940-44. Created 1st Viscount Templewood 1944.

Five years later Sir Ernest Gowers, the chairman of the Commission, came down for abolition in Gowers, Ernest, *A Life for a Life?: The Problem of Capital Punishment* (London: Chatto and Windus 1956)

¹³ David Maxwell-Fyfe (Conservative MP and later home secretary in the Churchill government of 1951-55) had declared in the 1948 Commons debate that those who thought an innocent man could hang were 'moving in a realm of fantasy'. HC Deb vol 449, col 1077, 14th April 1948

hostile to abolition a few years before was beginning to move. A more liberal climate was emerging in the Britain of the mid-1950s, with memories of the war and post-war austerity receding into the past, and a greater willingness to consider measures of social reform. Against this background leading supporters of abolition began to coalesce around figures such as Victor Gollancz who had long been a champion of such causes.¹⁴

The NCACP was founded in the late summer of 1955 by three men who thereafter formed the nucleus of the group: - the wealthy publisher and campaigner Victor Gollancz, the philosopher and academic Arthur Koestler and the radical cleric Canon John Collins. It was effectively the successor body to the National Council for the Abolition of the Death Penalty (NCADP) which had been set up in 1925 by E Roy Calvert.¹⁵ The earlier body, after heavy activity in the 1920s and 1930s, rather faded in the late 1940s after the failure of the 1948 abolition drive and merged with the Howard League later that year. There was little overlap of membership, and no carry-over of funds or organization, though Gollancz, Gardiner and Frank Dawtry were active in both bodies, and their aims and methods were of course largely identical. The Howard League acted as a kind of midwife, with its secretary Hugh Klare being active on the Executive of the NCACP. The later body enjoyed much

¹⁴ Victor Gollancz (1893-1967) publisher, writer and humanitarian. Founded the Left Book Club in the 1930s whose authors included George Orwell and Ford Madox Ford. Campaigned for reconciliation with Germany after World War II.

¹⁵ Papers of the National Council for the Abolition of the Death Penalty, 1925-1948 (Modern Records Centre at the University of Warwick).

greater success in that it was able to carry its campaign through to a victorious conclusion, arguably because its leadership had a much higher profile but also perhaps because it operated in an era much more receptive to social reform.

Gollancz was a tireless campaigner on behalf of numerous humanitarian causes and his abolitionist instincts extended even to an appeal to the Israeli government not to execute Eichmann.¹⁶ His involvement with the cause of abolition dated back well before the formation of the NCACP for he had been closely involved with several reprieve campaigns in the early post-war period. In 1953 a Kitty Lamb wrote to him asking him to speak at a meeting at Conway Hall regarding abolition.¹⁷ This clearly signalled the crystallization of a new abolition movement around Gollancz and others to replace the defunct NCADP and revive its campaign. Hugh Klare of the Howard League wrote to Gollancz in 1955 about the government's rejection of a motion to suspend capital punishment that February due, he felt, to the government's belief in a lack of public support for it.¹⁸ The Howard League was going to present a Memorial, signed by '200 leaders of public opinion', to the Home Secretary as part of its campaign, designed presumably to persuade the government of the strength of popular feeling, and naturally he wanted Gollancz to add his own name.

Gollancz was motivated to publish an article in *The News*

¹⁶ Gollancz papers (hereafter cited as Gollancz), Modern Records Centre, University of Warwick, MS/157/3/CAP/1/6 - 18th April 1961.

¹⁷ Gollancz, MS/157/3/CAP/3/8, Kitty Lamb to Gollancz, 9th March 1953

¹⁸ Gollancz, MS/157/3/CAP/3/12, Klare to Gollancz, June 1955

***Chronicle* later that year (1955) entitled *It's Still Murder even if we all plead Innocence* which adumbrated his case against capital punishment, and apparently launched the Campaign proper, which hitherto had probably existed only in slightly inchoate and nebulous form.¹⁹ The article bore the unmistakeable imprint of his emotive and impassioned style:**

Imagine that you are in the death cell, with three weeks to wait...I am convinced that, on balance, it [capital punishment] is devoid of preventative value, and may even tend positively in the opposite direction. But if I believed the opposite I should still say, with undiminished conviction, that the most urgent of all tasks, for any people with a care for religious or human values, is the ending of capital punishment... Capital punishment is wrong; and that is all there is to it...it transgresses the most categorical of all imperatives - 'Thou shalt not do unspeakable cruelty to thy brother'.

Of the other leading figures Koestler was a brilliant journalist, writer, polymath and radical polemicist of long-standing, while Collins was a very prominent radical clergyman who had been active in many campaigns, founding Christian Action, which was a sort of guerrilla wing of the Church of England. A couple of years later he helped found CND, with which there was much cross-over of membership. Another very prominent figure of the NCACP from its formative years onwards was Gerald Gardiner, a liberal barrister and later Lord Chancellor in the Labour Government of 1964 (appointed to that post by Harold Wilson

¹⁹ Gollancz, MS/157/3/CAP/4/10, article in the News Chronicle 10th November 1955

partly to oversee abolition, given his known views).²⁰ Gardiner, too, had been active in the cause for many years preceding the advent of the NCACP, and had been active in the NCADP. As early as 1946 he was engaged in correspondence with Frank Dawtry of the NCADP over the desirability of the execution of war criminals at Nuremberg.²¹ A year or two later he was in correspondence with Chuter Ede, Home Secretary in the Attlee government, urging the introduction of an abolition clause in the forthcoming Criminal Justice Bill and praying in aid the findings of the 1930 Select Committee and the 1934 Party Conference resolution.²²

The NCACP grew extraordinarily rapidly, recruiting many prominent figures, and gaining a membership of thousands within a few months of its inception. It remained in being for at least twenty years and certainly until well after abolition had been achieved in the mid-sixties.²³ It was a very high-powered organization supported by a roll-call of eminent individuals from all walks of life. It was well funded by the millionaire Gollancz as well as by subscription and donation and its leading individuals were highly influential in their respective spheres. It also gained a strong platform in *The Observer* newspaper, whose

²⁰ See Box, Muriel, *Rebel Advocate: A Biography of Gerald Gardiner* (London: Gollancz, 1983) written by his wife. He had originally been a member of the Haldane Society of left-wing lawyers but left it in the late 1940s because of its increasing infiltration by Communists to join the Society of Labour Lawyers of which he was the inaugural chairman. Box, pp. 54-68

²¹ Gerald Gardiner papers at the British Library (Historical Manuscripts section), hereafter cited as 'Gardiner'. Letter Dawtry to Gardiner, 2nd August 1946, enclosing a draft urging that death sentences not be carried out. Gardiner, MS: Add 56455A, vol 1 1946-1955.

²² Letter from Gardiner to Chuter Ede (undated but presumably 1947), Gardiner, MS: Add 56455A

²³ The exact date of its formal dissolution is unclear, though it certainly remained in being, albeit maybe only in skeletal form, well into the 1970s long after the re-affirmation of abolition in December 1969.

editor/proprietor, David Astor, was another prominent abolitionist, and which gave a regular column to Koestler under the pseudonym *Vigil*, in which he blasted the political and judicial establishment.

The Executive Committee, formed in August 1955 consisted initially of the three founder members; Gollancz, Collins and Koestler; plus Gerald Gardiner, QC (barrister and later co-chairman with Gollancz); Ruth Gollancz (Victor's wife); Christopher Hollis (publisher and former Conservative MP); Hugh Klare, (secretary of the Howard League); Reginald Paget, QC, (Labour MP); and Frank Owen (ex Liberal MP and journalist). Peggy Duff, an indefatigable left-wing campaigner, became secretary to the Committee. Over the next few years it was supplemented by several others including John Grigg, Lord Altrincham (writer, historian and politician); Canon Edward Carpenter (treasurer of Westminster Abbey); Julian Critchley, (Conservative MP); Frank Dawtry (secretary of the National Association of Probation Officers); John Freeman (politician and broadcaster); C R Hewitt (C H Rolph) of the New Statesman (an ex police inspector in the City of London force); Dr J A Hobson (psychiatrist); Peter Kirk, (Conservative MP); Sydney Silverman (Labour MP); Jeremy Thorpe (Liberal MP) and Wayland Young, Lord Kennet (Labour politician).²⁴ Their active participation in the affairs of the body varied considerably from person to person and over time. The

²⁴ John Freeman, MBE (1915-) Labour MP for Watford 1945-1955, Bevanite. Resigned as junior minister in 1951 with Bevan and Wilson over prescription charges. Editor of the New Statesman 1961-5. Presenter of *Face to Face* 1960-61. High Commissioner to India 1965-8, Ambassador to USA 1969-71, Chairman of LWT 1971-84. Cecil Hewitt Rolph or Cecil Rolph Hewitt (1901-1994) policeman, author and journalist. John Jeremy Thorpe (1929-) Liberal MP for North Devon 1959-1979. Party leader 1967-1976. Wayland Hilton Young, 2nd Baron Kennet (1923-) writer and Labour and SDP politician.

Campaign, in due course, also formed a 'Committee of Honour' of the great and the good who supported its aims which was chaired, in due course, by the Earl of Harewood, a cousin of the Queen.

The inaugural meeting of the Executive was in August 1955 at its Henrietta St. headquarters, the offices of Gollancz publishing.²⁵ It consisted of Gollancz (chairman), Collins²⁶, Gardiner²⁷, Ruth Gollancz²⁸, Christopher Hollis²⁹, Koestler, Frank Owen³⁰ and Reginald Paget QC MP³¹, with Peggy Duff³² as secretary and treasurer. Hugh Klare, formerly a leading figure of the predecessor NCADP, and now secretary of the Howard League, was also present. Thus the Executive represented a broad spectrum of distinguished figures from politics, the law, the church, business, academia and journalism. It decided upon the name of the organization; resolved to inaugurate a 'Committee of Honour' and

²⁵ Executive Committee minutes, 11th August 1955. Gardiner, MS Add: 56460 (vol VI)

²⁶ (Lewis) John Collins (1905-1982), Anglican clergyman. Dean of St Paul's for 33 years; political campaigner for a raft of radical causes, especially the anti-apartheid movement and CND of which he was a founder member. Also a founder of Christian Action (for reconciliation with Germany after WWII), War on Want (to fight global poverty) and the Canon Collins Educational Trust for Southern Africa (CCETSA).

²⁷ Gerald Austin Gardiner, Baron Gardiner of Kittisford, CH KC PC (1900-1990), barrister and human rights campaigner. Labour parliamentary candidate (unsuccessful) in the general election of 1951. Defence counsel in the Lady Chatterley obscenity trial of 1960. Refused promotion to the bench because of opposition to capital punishment. Lord Chancellor 1964-70, overseeing widespread penal reform and the introduction of the Law Commission, as well as the abolition of capital punishment. Subsequently Chancellor of the Open University.

²⁸ Livia Ruth Gollancz, wife of Victor Gollancz.

²⁹ (Maurice) Christopher Hollis (1902-1977) academic, author and politician, Conservative MP for Devizes 1945-55. One of the earliest Conservative converts to abolition.

³⁰ (Humphrey) Frank Owen (1905-1979) journalist, broadcaster and Liberal MP for Hereford, 1929-1931. Editor of the Evening Standard 1938-41 and of the Daily Mail 1947-50. Biographer of Lloyd George.

³¹ Reginald Thomas Guy Des Voeux Paget, Baron Paget of Northampton, QC PC (1908-1990). Barrister and politician. Labour MP for Northampton 1945-1974. Author of polemical work on the Bentley case.

³² (Margaret Doreen) Peggy Duff (nee Eames) (1910-1981) journalist and political activist. Member of Common Wealth party during WWII. Associated with Gollancz's Save Europe Now campaign 1945; business manager of Tribune 1949-55; Labour councillor and chief whip on St Pancras Borough Council 1956; organizing secretary of CND 1958-65; resigned from the Labour Party 1967 in protest at Wilson's support for the US in Vietnam; wrote *Left, Left, Left: A Personal Account of Six Protest Campaigns, 1945-65* (London: Allison and Busby, 1971).

drew up a list of prospective members to be invited to join it; resolved to hold a press conference and issue a statement to the press as soon as possible; and resolved upon a plan of campaign which was to combine the conventional and the unconventional. The former was to include a press campaign, the distribution of literature, public meetings, lobbying and a comprehensive 'Memorial' to the Prime Minister. The latter were to consist of pledges not to attend places of recreation or amusement, or parties, on the night preceding an execution, services in churches from midnight until the hour of execution, the closing of shops and offices for one hour and the wearing of some form of mourning on the eve of an execution. It also resolved that no activities outside prison gates should be encouraged. Koestler and Gollancz agreed to consult together about the publication of further books on abolition, including one on the Ruth Ellis case.

A press release accompanying the formation of the body asserted that: 'It is believed that there has recently been a significant change in public opinion on capital punishment' and that a national campaign was to be launched and a 'Committee of Honour' to be formed including the name of Benjamin Britten. The campaign announced that it was to employ two methods – one educational with the publication of books, pamphlets and statements and public meetings and the other more personal with, for example, abolitionists abstaining from attending places of entertainment etc. on the eve of an execution. It emphasized that the: 'Campaign will be conducted in a reverent and indeed religious spirit; any disruptive or sensational action such as demonstrations

outside prisons will be rigorously discountenanced.'³³

Meetings continued on a regular and more or less monthly basis, as agreed, and these early meetings were staggeringly productive of ideas for publicity and campaigning, many of which, though not all, came to fruition. But for all of this torrent of activity the Executive of the NCACP cannot be said to have been the most harmonious of organizations, and in fact it appeared to have been riven with internal discord, largely of a personal nature. In particular there was a giant clash of egos between Gollancz and Koestler, who had entirely different conceptions of how the Campaign should develop and whose intellectual and literary rivalry threatened to undermine the whole Campaign.³⁴ As Rolph has written their joint efforts were 'fruitful but stormy.'³⁵ They were equally passionate in their loathing of capital punishment but Koestler was for reasoned argument whereas Gollancz was for absolutist denunciation.³⁶ This dichotomy was evident in their respective testaments. Koestler's *Reflections on Hanging* (1956) based on extensive research displayed formidable intellectual rigour, whereas Gollancz's *Capital Punishment: the Heart of the Matter* (1955) was emotive and confessional. Koestler's masterpiece did not impress Gollancz, who started to write his book as a consciously moral and religious appeal compared to Koestler's argumentation. The two books

³³ Gardiner, MS Add 56460, (vol VI). This latter stressed the extent to which the newly formed body was anxious to distance itself from some of the noisier and less respectable outlets for abolitionism such as the activities of Mrs Violet van der Elst (1882-1966), a vociferous abolitionist who organized demonstrations outside prisons on the eve of an execution.

³⁴ Collins, John, *Faith Under Fire* (London: Leslie Frewin, 1966) p. 247

³⁵ C H Rolph Collection (LSE), Capital Punishment papers, File 1/4/3

³⁶ Dudley Edwards, Ruth, *Victor Gollancz: A Biography* (London: Gollancz, 1987) p. 638

were complementary and presented the two faces of the abolitionist rhetoric, the rational and the heartfelt.

Aside from these personal animosities another potential source of disharmony was the broad range of the political affiliations of the membership. The Campaign was of course mindful of the need to appeal to as wide a spectrum of the population as possible, and in particular not to frighten away Conservatives who might have been chary of joining a movement that drew its inspiration primarily from the left. As it was, some were clearly reluctant to make common cause with the likes of Canon Collins or Sydney Silverman. The Campaign was anxious to allay any suggestion that it was a left-wing or socialist body, and to that end it was careful to include Conservatives on the Executive.

Christopher Hollis (former Conservative MP for Devizes) was there from the outset and he was joined in due course by Peter Kirk, the leading Conservative abolitionist MP, John Grigg and Julian Critchley.³⁷ Much later both Geoffrey Howe (founder of the Bow Group of progressive Conservatives) and Iain Macleod were invited to join. The presence of Conservatives on the Executive also assisted the vital aspect of liaising with potentially sympathetic Conservative MPs, without whose assistance the Campaign could not possibly hope to make legislative progress.

³⁷ Sir Peter Michael Kirk (1928-77). Conservative MP for Gravesend 1955-1964. Conservative MP for Saffron Walden 1965-1977. Leading Tory abolitionist. John Edward Poynder Grigg, 2nd Baron Altrincham. Conservative politician, author and historian (1924-2001) Stood unsuccessfully for the Conservatives in 1951 and 1955. Disclaimed peerage on the day the Peerages Act received the Royal Assent in 1963. Joined the SDP in 1982. Biographer of Lloyd George. Sir Julian Michael Gordon Critchley (1930-2000) Conservative MP for Rochester and Chatham 1959-64, Aldershot 1970-1997. Strong critic of Thatcherism.

In late 1955 Gardiner set to work on his own book *Capital Punishment as a Deterrent and the Alternative* to be published by Gollancz, organized meetings, and wrote to both Sir Ian Jacobs, the then director-general of the BBC and Sidney Bernstein, head of Granada television and the Granada cinema chain (independent commercial television having just begun in 1955) urging them to make programmes on the subject of capital punishment.³⁸ The Campaign also set about publishing a monthly bulletin which would summarise the current activities of the organization and give a round-up of persons convicted of murder and sentenced to death. The first issue of the NCACP Bulletin was published on 15th January 1956.³⁹ It trumpeted the successes of the Campaign to date; announced the setting up of a Scottish branch in Glasgow and regional committees in Birmingham, Liverpool, Manchester, Edinburgh, Glasgow and Swansea; and boasted of its roll-call of prominent supporters, both individual and corporate.

By February 1956 the Campaign had maintained its momentum of the preceding months and had continued to flourish in many ways.⁴⁰ Moreover, and far more significantly, there was to be a debate on an abolitionist motion in the Commons, and the Executive was to convene an extraordinary meeting when the precise date of this was known. Six

³⁸ Gardiner, MS: Add 56455B. Letter to Jacobs, 4th January 1956; letter to Bernstein 4th January 1956. The Bernstein letter seems to have been lobbying for a short documentary to be shown in cinemas rather than on TV. Sidney Lewis Bernstein (1899-1993), later Baron Bernstein was the head of the Granada group and a prominent socialist millionaire. It is unclear whether anything came of this lobbying. Certainly the reply from Bernstein was not encouraging, but that from a T S Gregory of the BBC was more so. See the chapter on television.

³⁹ Howard League files. *NCACP: Essays and Papers Arguing Abolition 1969-79*; Gardiner, MS Add 56455B

⁴⁰ Executive Committee minutes, 8th February 1956. Gardiner, MS Add 56455B

days later the extraordinary meeting was duly held with Gollancz, Collins, Gardiner, Ruth Gollancz, Hewitt, Hobson, Hollis, Koestler and Duff.⁴¹ In anticipation of the forthcoming Commons debate every MP had been sent a copy of Gardiner's book and a report of the *Vigil* article in *The Observer* (penned by Koestler).

The NCACP and the 1956 Parliamentary Campaign

Early 1956 saw the first fruits of the Campaign at a Parliamentary level with a Commons vote in favour of a motion to abolish or suspend capital punishment in February 1956.⁴² This was assisted in large part by the presence in the abolition lobby of a substantial bloc of Conservative MPs for the first time, many of them, such as Peter Kirk, from the younger, more liberal intake that had been elected in May 1955. Though the Eden government had promised to honour the result of the motion by giving it legislative effect it eventually decided on giving government time to a private members bill introduced the previous autumn by Sydney Silverman rather than to legislate on its own account. Obviously such a bill had less chance of success than a government bill, and in particular it would have had to surmount the formidable barrier of the Upper House which had sunk the abolition clause of the 1948 Criminal Justice Bill.

⁴¹ Executive Committee minutes, 14th February 1956. Gardiner, MS Add 56455B

⁴² HC Deb, vol 548, cols. 2651-6, 16th February 1956. The motion, moved by former Labour Home Secretary James Chuter Ede, called for the government to introduce legislation forthwith for the abolition or suspension of the death penalty. It passed by 292-246.

Nonetheless the passage by a good majority of the abolitionist motion seemed to persuade Gollancz that victory was already won and that the Campaign could be wound down. He wrote to Lady Squire about the: 'sensational victory in the Commons...there is no further need for a campaign in the original sense. We shall, however, keep going as a vigilance group on a small scale...'⁴³ In the same vein he wrote to Nigel Nicolson, MP, one of the leading abolitionists on the Tory side, thanking him for his speech which he thought one of the: '2 decisive speeches of the evening.'⁴⁴ He had become absurdly over-optimistic about the imminence of total success, which was to cause a rupture with Koestler and others who took a more hard-headed view, and he seemed curiously oblivious to the fact that there was every probability that an Abolition Bill would founder in the House of Lords, just as the 1948 abolition clause had foundered in the Upper House eight years previously. There was no reason to suppose that the mood of the Lords was very different from that of 1948, for although the episcopal benches were notably more liberal the Archbishop of Canterbury, Fisher, was still against total abolition, and the judicial benches were still under the sway of the hard-nosed Lord Chief Justice, Goddard. The Labour contingent of the Lords was greater than it had been but was still massively under-represented.

Gollancz, Gardiner and Koestler conferred outside the House of Commons immediately after the key vote, and Gollancz expressed his conviction that the war had been won and that the Campaign should be

⁴³ Gollancz, MS/157/3/CAP/3/19, Gollancz to Lady Squire, 17th February 1956

⁴⁴ Gollancz, MS/157/3/CAP/3/20, Gollancz to Nicolson, 17th February 1956

wound down by cancelling projected meetings, whereas Koestler was well aware that they had merely won a battle and that there was still a long way to go to get a Bill through the Lords.⁴⁵ Gollancz unilaterally cancelled the forthcoming meeting at Manchester, to the annoyance of the Bishop of Middleton, telling him that he didn't think that many people would turn up to hear about a *fait accompli*.⁴⁶ Rolph reports Peggy Duff as saying that Gollancz had simply become bored with the Campaign and that his fickle intellect had already moved on to other things.⁴⁷ At the next meeting a week later it was decided that all further national meetings were to be cancelled and to issue a statement that the Campaign was to be widened to take in penal reform.⁴⁸

The Campaign now centred almost wholly on supporting the Parliamentary effort to get the Silverman Abolition Bill through the Commons and then, crucially, the House of Lords. The Lords was a key target for propaganda, especially its episcopal and judicial benches. It was decided in June to circularize all peers who had voted for the abolition clause in 1948 and all Labour and Liberal peers who were regular attenders with Campaign literature.⁴⁹

These great efforts came to nought in Parliament with the defeat in the House of Lords, by a large majority, of the Silverman Bill, in July 1956.⁵⁰ The Campaign had to move to its fallback position which was to

⁴⁵ Duff, Peggy, op cit. p. 106

⁴⁶ Dudley Edwards, op cit. p. 641

⁴⁷ Rolph, op cit. 1/4/3. Dudley Edwards, op cit. p. 646

⁴⁸ Executive Committee minutes, 21st February 1956. Gardiner, MS Add 56455B

⁴⁹ Executive Committee minutes, 7th June 1956. Gardiner, MS Add 56455B

⁵⁰ HL Deb, vol 198, col 839-42, 10th July 1956. The Bill was defeated on second reading by 238-95. Nonetheless this was a much larger number of abolitionists than in 1948.

try to persuade the government to legislate itself on abolition, but it was very unlikely that the government would attempt to carry all-out abolition given its instinctive hostility to the measure, and the opposition of the overwhelming majority of grassroots Conservatives. Moreover, it was soon to become embroiled in the Suez affair, and social reform took rather a back seat. The Campaign concentrated its energies on a 'Memorial' for presentation to the Prime Minister which would contain the names of as many distinguished figures as possible urging abolition. In the latter part of 1956 Gardiner corresponded widely with leading figures, particularly educationalists such as headmasters, masters of colleges and professors, to persuade them to add their names to the proposed Memorial

The Homicide Act 1957 and After

In the next Parliamentary session of 1956-7 the government brought forth its own Bill which delicately attempted to steer a middle course between the total abolition of hanging demanded by a clear majority in the Commons on the one hand, and the outright hostility to abolition of any kind of a majority in the Lords (and rank and file Conservatives) on the other. It envisaged the partial abolition of hanging, along with a number of other reforms to the law of homicide, some of which had been advocated by the Gowers' Commission. Capital punishment was to be retained for only a few special classes of murder such as that of police and prison officers in the execution of their duty,

murder in the course or furtherance of theft, murder by shooting or causing an explosion, and multiple murder if the murders were committed on separate occasions. The Bill also proposed a number of other changes to the law of homicide such as the introduction of a partial defence of diminished responsibility and the abolition of the doctrine of felony murder, which were on the whole welcome to the abolitionists and to progressive opinion but which in no way compensated, in their eyes, for the failure to do away with hanging altogether. The NCACP and the Labour abolitionists in the House opposed the Bill (or at any rate the provisions for two classes of murder) but the Tory abolitionists decided *en masse* to support it. With the force of the government behind it the Bill passed easily through the Lords and became law in March 1957. The moratorium on hanging, which had held since the autumn of 1955, came to an end and in July 1957 John Willson Vickers became the first man to be hanged for nearly two years. Executions continued but at a somewhat reduced rate of about half a dozen per year rather than, as before, a dozen.

The Homicide Act of 1957 was 'a disaster from day one'.⁵¹ The operation of the Act was riven with anomalies which discredited the legislation from the outset and the Act was utterly friendless. Absurdities abounded such as that of a man who attempted to kill his wife with a shotgun and when that failed due to malfunction battered her to death with the butt-end. This was technically non-capital since the

⁵¹ This was the uncompromising verdict of Terence Morris (criminologist and NCACP member), interview 6th April 2006

actual cause of death was not shooting but battery. Equally deemed non-capital was the case of a woman who had murdered three husbands by poisoning and had forged their wills to benefit herself, because the forging of the wills was not theft in the technical sense. The discrediting of the Act, together with the natural reluctance of the legal profession to go back to the position pre-1957, led ineluctably to complete abolition a few years later.

After this ferment of activity in the first year of its life there was an inevitable sense of anti-climax within the ranks of the NCACP after the defeat of the Silverman Bill in the Lords, which was scarcely appeased by the government's decision to bring in its own Bill to limit the application, but not abolish, hanging. Executive meetings became less frequent and the Campaign went off the boil. In March 1957 Gardiner wrote on behalf of the Executive to the membership outlining the Campaign's position, post Homicide Act. Executions, he said, were to recommence and there was: 'no practical prospect of getting any further in the lifetime of this Parliament'. However, they were not going to abandon the campaign until capital punishment had been finally abolished. The organization was to stay in being to maintain records and statistics, to issue information and letters to the press, to supply information to candidates and others, etc. He closed with a plea for continued funds from the membership.⁵² This was a hard-headed decision based on a realistic appraisal of the situation, but it was not

congenial to all members, some of whom would doubtless have preferred that the Campaign continue to be more pro-active and energetic, however remote the prospects of success in the short to medium term.

There may have been misapprehensions in some quarters, not least among abolitionists, that although hanging had not been totally abolished *de jure* by virtue of the Homicide Act it would be abolished *de facto*, or only used very sparingly indeed. In fact hanging was to continue as normal for those categories of murder deemed capital, as the government soon made clear both in words and actions by virtue of the hanging of Vickers. A key question for the Campaign was whether, and in what way, it should lobby for a reprieve in individual capital cases. One view was that it should do its utmost in any and every case so as at least to reduce to the minimum the number of executions. The alternative view was that there were many cases where little could be said for the defendant, and a reprieve campaign would not only have been futile but possibly counter-productive in that it would lessen the impact in a case where there were strong grounds for a reprieve.

This difficulty is illustrated by an exchange of letters between Gardiner and Silverman in late 1958 regarding Brian Chandler, whose appeal against sentence of death had been rather cursorily dismissed by the Court of Appeal. Gardiner queried whether there was any point in writing to the Home Secretary about the case and Silverman took the

⁵² Gardiner letter to members, March 1957. Gardiner, MS Add 56457A

view that a letter would come better from Gardiner than from himself.⁵³

In the event Gardiner did indeed write to the Home Secretary pressing for a reprieve.⁵⁴ This ambivalence reared its head again a month or two later respecting another case with Gardiner writing to Silverman:

I have as you know for some time been uncertain whether our policy of writing to the Home Secretary in nearly every case is a sound one. If one does this it necessarily weakens the effect when one does write. On the other hand if one writes in 90% of the cases, not to write would seem discrimination in the case of the other 10%. I thought that my letter in Chandler's case was a sound reasoned argument but as you know the Home Secretary refused a reprieve.

Gardiner continued to correspond with the press regarding individual cases such as that of Vickers.⁵⁵ The Marwood case was another that aroused much attention and was the subject of various pleas including from the local vicar and parish priest, as well as from Nuell, secretary of Christian Action, enclosing a petition for mercy.⁵⁶

The government was determined to give the Act 'a chance to work' and to monitor its effects, however unsatisfactory its compromise was universally reckoned to be. The NCACP knew that it could do nothing but sit things out and wait for the return of a Labour government (whenever that would be). There were continued Parliamentary guerrilla tactics by abolitionists in the Commons led by

⁵³ Gardiner to Silverman, 2nd December 1958. Silverman to Gardiner, nd. Gardiner, MS Add 56457B

⁵⁴ Gardiner to Home Secretary (Butler), 8th December 1958. Gardiner, MS Add 56457B

⁵⁵ Gardiner to the editor of the *Manchester Guardian*, 2nd July 1957, marked 'not for publication in the event of a reprieve' pointing out that the conviction raised questions about the meaning of malice aforethought in the new Act. Gardiner papers, MS Add 56457A

Silverman and other sympathetic Labour members, who repeatedly took advantage of procedural niceties to call for abolition or the further reduction of hangings, and periodically protested to the Home Secretary about an upcoming execution which they felt represented a miscarriage, or a misconstruction of the intentions of the Act. The cases of Vickers, Marwood, Podola, Forsyth and Harris and Hanratty in particular were all grist to the abolitionists' mill, though other cases too aroused excitement and controversy.

Outside Parliament and the offices of the NCACP the controversy raged on in other ways. There were often demonstrations outside the prison gates on the day of an execution, which intensified and sometimes degenerated into a near riot. The debate was continued in the pages of the national press and there were periodic contributions from leading public figures. In 1960 the new Lord Chief Justice, Parker, caused a storm by denouncing the Homicide Act as unworkable and indicating his conversion to abolition even if only as the lesser evil of the two. It was acutely embarrassing for the government and symbolized the gradual transformation of the judiciary from a very largely pro-hanging body to a preponderantly sceptical or anti-hanging one. Similar transformations had already taken place, or were taking place, within the episcopacy and the hierarchy of the churches generally, and these straws in the wind all spoke of the fact that abolition was not far off.

⁵⁶ F Nuell, Christian Action, to Gardiner 27th April 1959. Gardiner papers, MS Add 56457B

The general election of October 1959 was the next major opportunity for the Campaign to exert itself. Gardiner sent out a circular letter to all declared candidates asking them not to commit themselves to the maintenance of capital punishment until they had had the opportunity to consider all the relevant facts – including the effect of the Homicide Act. Equally there was a circular letter to all Campaign members asking them to write to all candidates in their constituency urging them to support abolition if elected.⁵⁷

The Revival of the Campaign 1960-64

The future direction of the Campaign was uncertain, with the Executive still effectively being forced to mark time until another general election brought a less Tory-dominated House, yet having to cope with an increasingly restless grass-roots membership frustrated at the lack of progress. An attempt to revive the flagging spirits of the Campaign was made with the arranging of a major public meeting at the Royal Albert Hall scheduled for 18th April 1961 to feature speakers including Altrincham (John Grigg), Kingsley Amis, Peter Kirk, Christopher Brasher, the Bishop of Colchester, Gardiner, Gollancz and Silverman.⁵⁸ Further big meetings were planned for Manchester in October and Edinburgh in November. A new Memorial was planned which was to be

⁵⁷ Gardiner to parliamentary candidates; Gardiner to Campaign members, September 1959. Gardiner, MS: Add 56458A

⁵⁸ Circular from Gardiner and Gollancz to the membership, 15th February 1961 regarding a meeting 'crucial' to the Campaign. Gardiner, MS Add 56459A

sent out to 16,000 people, with 2,418 signatures gained up to that time.⁵⁹

The next significant development was the government's stated intention to review the position of capital punishment and the working of the Homicide Act after a five year period, which period was due to expire in March 1962.⁶⁰ The perennially optimistic Silverman was of the opinion that the following year might be a good time for another parliamentary push. There was evidence of further activity in the Church of England with the Bishop of Southwark to propose, and Exeter to second, a motion for abolition at the forthcoming meeting of Convocation the following January (1962).⁶¹ After Convocation had voted almost unanimously for abolition Gollancz wrote to all the bishops in both Provinces (Canterbury and York) to sign the Memorial.⁶²

This second Memorial was duly presented to Prime Minister Macmillan in March 1962 by a very high-powered deputation headed by the Archbishop of York (Coggan), Harewood and Chuter Ede.⁶³ Macmillan said that abolition was a matter of timing, and that though it was inevitable sooner or later there was no question of the government legislating in the present Parliament.⁶⁴ Silverman reported on a deputation to the Home Secretary which had consisted of himself, Critchley, Kirk, Chuter Ede and Jeremy Thorpe. The meeting had been

⁵⁹ Elizabeth Ferriday (secretary) to Gardiner, 27th June 1961. Gardiner, MS Add 56459A

⁶⁰ Gardiner to Pakenham, 27th September 1961. Gardiner papers, MS Add 56459A
Frank (Francis Aungier) Pakenham, 7th Earl of Longford KG PC (1905-2001). Labour politician, author and social reformer. Cabinet minister under Harold Wilson 1964-68. Resigned over failure to raise the school-leaving age.

⁶¹ Correspondence, 12th December 1961. Gardiner, MS Add 56459A

⁶² Rennie to Gardiner, 19th January 1962. Gardiner, MS Add: 56459B

⁶³ Gardiner and Gollancz to Macmillan, 28th March 1962. Gardiner, MS Add 56459B

⁶⁴ Executive Committee minutes, 13th September 1962. Gardiner, MS Add 56455B

friendly and Butler had said that he appreciated that all the trends were towards abolition and that he was sure it would eventually come, but that the level of Conservative support for it in the House was insufficient to justify further government legislation this session. Thus Silverman advocated that a concerted drive to convert Tory MPs was desirable, particularly given that Butler had indicated that the deputation should stay in touch and report to him on any significant change in the temper of the House.

These events led to further debate as to the desirability of continuing a full-blooded campaign or resting on the oars pending another general election. Gardiner argued that there was little point in continuing a full-time campaign at this stage, and announced that the secretary, Morag Rennie, was to be retained only on a part-time basis. Altrincham by contrast argued for the maintenance of a full campaign to attempt to keep up the pressure on public opinion. It was decided that there should be no public suggestion that the campaign was to quieten down as this might be construed as an admission of failure. Letters were to be sent out to local branches and to members urging them to contact secretaries of local organizations with a view to holding talks and debates, and the Campaign head office would continue to supply literature and speakers to such meetings on request. They would also continue the practice of replying to all letters in the press supporting retention.

The 1964 General Election – Victory In Prospect

By 1964 another general election was in the offing, expected by some in the spring, though it didn't materialize until almost the last possible moment in October. The Campaign took the view that tactically their best policy was to downplay capital punishment as an issue given that a Labour majority was likely which would probably deliver the goods for them, whilst if capital punishment had a high salience in the election Labour candidates could be embarrassed by the question.⁶⁵ Gollancz and Gardiner wrote jointly to all members in April 1964 asking them to keep abolition out of the forthcoming general election, telling them that it would not be an issue and that it would not be in the interests of the movement to make it an issue. However, they added, once the election was over they would be writing to members asking them to do what they can to ensure that a bill is introduced. Labour, they said, had made it clear they would leave it to a free vote, but whatever government was returned to power the House would be younger and there was every probability that their efforts would be crowned with success. An indication of the Campaign's confidence at this time was a letter from Paget to Gollancz saying: 'Frankly, we have only got to win the Election in order to abolish capital punishment.'⁶⁶

⁶⁵ Gardiner and Gollancz to membership, April 1964. Gardiner, MS Add 56459C; Gollancz, MS/157/3/CAP/1/62

⁶⁶ Gollancz, MS/157/3/CAP/1/63 - 25th April 1964

After the election and the coming to power of a Labour government under Wilson events rapidly gathered momentum. The NCACP was very active and its members were in constant contact with the government and sympathetic backbenchers over the drafting of a Bill and Parliamentary tactics, but the spotlight moved to the Parliamentary theatre. After a stormy and drawn out Parliamentary passage, in both Commons and Lords, complete abolition became a fact in November 1965 with the Death Penalty (Abolition Bill) receiving the Royal Assent. The Campaign had to decide whether to remain in being or to wind itself up. Given that the Abolition Act, as passed, contained a renewal clause that had to be voted on within five years if abolition were to remain permanent, and given also that there would almost certainly be a concerted drive by retentionists to bring back hanging either then or earlier, there could not really be much doubt that they would decide to maintain the organization, even if only in reduced form.

By the late 1960s, as the date for the Parliamentary vote on the confirmation clause approached the Campaign re-awoke. By then both Gollancz and Silverman had died and Collins had been unanimously chosen as Gollancz's successor as chairman at a meeting on 20th June 1968. It was decided to meet at quarterly intervals thereafter and to prepare literature and statistics for the coming struggle to be anticipated. Members were contacted as to whether they wished to remain members, which in the overwhelming majority of cases they did,

and they were asked for further contributions.⁶⁷ Collins sent out letters to all members in August 1969 seeking their continued support in the light of attempts to bring back capital punishment: ‘...we must prepare ourselves for further action. Mr Duncan Sandys and his colleagues are already campaigning for the re-introduction of capital punishment in certain cases and it is essential...we should be ready to counter their propaganda.’

Callaghan, then Home Secretary, wrote to Collins in November 1969 regarding the timing of the debate on the confirmation resolutions.⁶⁸ He suggested they hold themselves in reserve against a retentionist campaign, though there was useful work to be done in continuing to press the cause privately and in informed circles: ‘I should be grateful if before considering any wider campaign you would be good enough to discuss it with me.’ After the successful negotiation of the confirmatory resolutions in 1969 abolition was entrenched and required no further Parliamentary action to become permanent. But that of course did not preclude the possibility (if not probability) of the retentionist camp making repeated attempts to re-introduce hanging, especially if the murder rate were to increase significantly. The Sandys campaign had illustrated how influential such a restoration campaign could be, though it failed at the Parliamentary level. Moreover, both the 1965 Bill and the 1969 resolution had passed through a House of Commons with a Labour majority. There was no guarantee that a future,

⁶⁷ Howard League, NCACP (Committee of Honour) correspondence file 1969

⁶⁸ Howard League *ibid*, NCACP correspondence 1969, Callaghan to Collins, 4th November 1969

Conservative dominated, Commons might not one day pass a restoration bill. Thus the Campaign resolved to stay in being for the foreseeable future, though it concerned itself primarily thereafter with the question of capital punishment outside Great Britain, especially in the parts of the Commonwealth that still possessed it.

On the face of it the NCACP enjoyed a remarkable degree of success, certainly if judged by the standards of pressure groups in general. Within a few months of its inception it had gained tens of thousands of adherents including leading figures in politics, the law, the church, the arts and media and had made a big impact via its highly publicized meetings, articles in the press, radio and television coverage and an outpouring of literature. A regional organization and local activities of all sorts sprang up everywhere and abolitionist sentiment seemed to be manifesting itself across the board. Not only that, but within six months or so moves were afoot in Parliament once more to bring in another abolition measure, and this, unlike its predecessors, looked as if it were to succeed. So much so that Gollancz, for one, was convinced of its success and felt able to scale down the Campaign. In the event this proved over-optimistic because of the intransigence of the Upper House, and the movement had to be content with a highly unsatisfactory compromise measure embodied in the Homicide Act. After this setback the wind rather went out of its sails and it more or less reconciled itself to waiting for a more opportune political time to achieve ultimate victory. That time proved to be only eight or nine years in the

future. Thus the Campaign was crowned with success within ten years of its formation. It would be difficult to think of a comparable movement around a highly contentious issue that achieved so much so rapidly.

How much of this success, however, was attributable to the efforts of the Campaign itself, and would the change in the law have happened anyway on more or less the same time scales even if the NCACP (or an equivalent movement) had not existed? Undoubtedly the Campaign focussed public attention on the question and gave a boost to those who had already been campaigning for abolition in more isolated and less well publicized ways. It provided a channel into which these pre-existing campaigns could pool their resources and enabled the abolition movement to present itself as a highly-organized and essentially respectable body, rather than merely a collection of well-intentioned cranks engaged on a futile mission.

Though several Executive members were highly influential in their respective walks of life it is hard to gauge the extent of this influence on those spheres. Collins was a very high profile figure in the Church of England, but also a highly suspect one in the eyes of many of its more orthodox communicants, and it is unclear what the effect of Christian Action propaganda was on rank and file Anglican opinion. It may well have been mixed. It is true that opinion on many subjects within the church hierarchy was evolving radically at about this time but that was chiefly a function of the changing of the guard at the top with Ramsey, Coggan, Stockwood and others replacing more conservative figures such as Fisher, and would have happened anyway. Gardiner was

eminent in the legal profession, as a future chairman of the Bar Council and Lord Chancellor, and the legal and judicial profession was certainly starting to move in an abolitionist direction, but this was again a function of long-term changes in the profession. Gollancz himself was a distinguished figure but a highly controversial one and his campaign for the reprieve of Eichmann, for example, provoked a very hostile response from many within the Jewish community.

In the final analysis Parliamentary action was the *sine qua non* of bringing about a change in the law and this required the marshalling of majorities in the Commons and the Lords and preferably a sympathetic government. There had been a majority for abolition in the Commons since 1945 but this had been unable to prevail in 1948 both because of the hostility of the government and the outright opposition of the Lords. A few isolated attempts in the early 1950s had got nowhere and it was only in 1956 that an abolition bill (as distinct from an abolition clause) had been passed in the Commons. This was a result partly of the altered arithmetic with the Labour Party (front and backbench) now overwhelmingly on the abolition side and a substantial bloc of backbench Conservatives, many of them elected in 1955, now likewise abolitionist. The Eden government, if not exactly sympathetic, was at least reluctantly acquiescent. It is difficult to believe that these Parliamentary manoeuvres would not have taken place when and how they did irrespective of external campaigns and the existence of the NCACP. Though there was a great deal of liaison between the

Parliamentary and the extra-Parliamentary wings of the movement it is noticeable that Silverman, the pre-eminent abolitionist MP, was kept off the NCACP Executive for a long time apparently because of personal hostility between Gollancz and himself. The NCACP Executive had a good deal of contact with certain Conservative abolitionist MPs such as Medlicott and this may have helped stiffen the resolve of some of these who might otherwise have resiled from their position in the face of grassroots Tory hostility. But then again it is difficult to evaluate the extent of this kind of influence and it is likely that most Conservative abolitionists would have stuck to their guns anyway given the strength of feeling on the issue at the time. When, subsequently, the government put the whips on to force through the Homicide Bill, to which the Campaign was adamantly opposed, all of these Tory abolitionists fell into line behind their political masters.

In the years immediately following this, when there was no real will in the Commons for further reform, the activities of the Campaign were utterly unavailing, and it had to await the advent of a new Labour government (one that was for the first time very favourable to reform and highly pro-active) before abolition could finally be enacted. Thus, for all the great exertions of the Campaign it was ultimately necessary to have the government of the day on its side. If the government was onside then success was almost assured, and if it wasn't then it was highly improbable. The Campaign made a great deal of noise and generated an enormous amount of heat but it didn't have any power,

and in the final analysis was probably less effectual than it appeared and less so than it might have liked to portray itself.

Other Abolitionist Campaigns

In addition to the Howard League and the NCACP there were naturally many organizations and individuals which had an interest in penal matters and which took an abolitionist stance, including, for example, *The Society of Labour Lawyers*, whose leading light by the early 1960s was Dingle Foot, shortly to be Solicitor-General in the 1964 Labour government, and *The Haldane Society of Socialist Lawyers*. In addition abolitionist societies were set up in academic circles, for example by Oxford University in the form of 'the University Movement for the Abolition of Capital Punishment' whose leading figure was Professor H L A Hart. Another body that appeared to take a consistently abolitionist line was *The National Secular Society*. Bodies that were associated with the NCACP from shortly after its inception included *The Ethical Union* and *The Fellowship of Reconciliation* (the former a secular body and the latter a Christian pacifist body). *The National Council for Civil Liberties* (NCCL) was another established pressure group that took an abolitionist line. In early 1956 its executive committee recommended that the Council should support abolition, chiefly because of the possibility of a miscarriage rather than because of opposition to

hanging in principle.⁶⁹ It resolved that:

...having considered the case of the three men who were wrongly convicted of attacking a policeman and causing him grievous bodily harm and taking into consideration other cases of wrongful conviction known to the Council, and the general doubt about the Christie-Evans case, have decided to recommend to the annual general meeting that in view of the errors in the administration of justice which not only can, but manifestly do occur, the NCCL should on these grounds support the abolition of capital punishment.

One might also mention, in regard to Northern Ireland (which was autonomous in penal matters and was excluded from the Abolition Act that was passed in 1965) the formation of the 'Association for the Reform of the Law on Capital Punishment in Northern Ireland' in August 1961 after one of the two executions there that year.⁷⁰

Apart from these organized bodies there was an assortment of private individuals who campaigned, some vociferously, but whose influence was very slight. Foremost among these was Mrs Violet van der Elst, a wealthy and colourful eccentric, whose speciality was to demonstrate noisily outside prison gates during executions and who once shouted down the Archbishop of Canterbury from the public

⁶⁹ *The Times*, 16th February 1956

⁷⁰ 'Ulster on the Tightrope' by Alan Milner (lecturer in law at Queen's University, Belfast), *The Spectator*, 2nd March 1962. He mentions also the formation in September, of something 'unique in the annals of penal retrogression' – A Society for the Retention of Capital Punishment in Northern Ireland. A debate between the two bodies at Queens University led to a victory for the abolitionists by 184-26

gallery while he was giving evidence before the Royal Commission.⁷¹ She was kept at arm's length by the NCACP in the light of her exhibitionism which was probably felt to be potentially detrimental to the cause. Strangely though, Attlee is alleged to have stated to her biographer that: 'she has strong claims to be regarded as the woman who did more than anyone else to secure the abolition of capital punishment in Britain.'⁷² This is almost certainly mistaken and he may have been over-impressed with her voluble methods. Her campaign began in 1935 and seems to have been inspired by her late husband who was a passionate abolitionist. She felt temperamentally unable to work as part of a team and declined to join either the NCADP or the Howard League whom she regarded as intellectuals who would disapprove of her methods (in which she was probably right). She cast herself in the role of a latter-day suffragette, and her first prison demonstration set the tone for all the others. She drove around in her yellow Rolls Royce, hired a brass band to play the Death March and got a sandwich-board man to parade up and down with placards. She toured the West End inviting signatories to her petition for reprieves. She even hired aeroplanes to fly above the prison. She also started a paper, *Humanity*, to campaign for her cause and in 1937 published *On the Gallows*, a lively indictment of capital punishment, in which she stated her belief that murderers were very often insane, or sex maniacs, or drug-addicted or the victims of poverty and unemployment and that

⁷¹ Gattey, Charles Neilson, *The Incredible Mrs Van der Elst* (London: Leslie Frewin 1972); Van der Elst, Violet *On The Gallows* (London: Doge Press, 1937)

⁷² Gattey, *ibid.* p.7

none deserved to die. Moreover trials were often unfair, she argued, because juries were unqualified to assess these matters. Predictably both the Derek Bentley and Ruth Ellis cases engaged her energies. When the Abolition Bill passed its second reading in March 1956 with her in the public gallery several Labour MPs in the chamber including Jennie Lee stood and applauded her. After the Lords rejection of the Bill she wanted to abolish the Lords. She died in 1966.

Conclusion

The vexed question of capital punishment generated such passion that from the nineteenth century onwards a series of pressure groups emerged to campaign for abolition, culminating in the inception of the NCACP in 1955, led by Gollancz, Koestler, Collins and Gardiner. This was a far more effective body than any of its predecessor organizations had been. It was better funded, better organized, more politically astute, had a higher profile membership, made better use of the media and generated far greater publicity than any of its predecessors, and, though it tended to be prey to internal discord, it was able to crown its efforts with success in the form of the passage of the Death Penalty (Abolition) Act of 1965 which seemed to end hanging for perpetuity. It successfully resisted a series of attempts to resurrect the gallows in 1966, 1969 and on numerous occasions thereafter. Other very small abolition groups and individuals continued to exist and to campaign separately but they were of little significance. The NCACP

tended to operate in tandem with the Howard League, a longstanding and highly respected penal reform body that had the ear of the Home Office, and the two organizations tended to complement each other and to supplement each others efforts, with the League providing the access to officialdom, the resources and the statistics carried over from the older NCADP, and the Campaign providing the mass membership, funding and high profile propaganda. The NCACP also developed very close relations with Parliamentary backbench abolitionists, such as Silverman and Paget, and they were able to co-ordinate their efforts to good effect. It is debatable, however, to what extent the NCACP, for all of its high profile, may be said to be chiefly responsible for the success of the abolition campaign. Ultimately it was only the existence of a large majority for abolition within Parliament (Lords as well as Commons), and a benevolent government willing and able to assist, that the Bill made its way onto the statute book.

CHAPTER TWO

THE ABOLITION CAMPAIGN IN CONTEXT

It may be fruitful to examine the abolitionist campaign in the context of other political campaigns, particularly those for social reform, that were in progress at or about the same time, and to compare and contrast their methods and degree of success, to see what light it throws upon the process of attitude change and political decision making. Abolition was one of several so-called 'conscience' issues that bubbled just above the surface of British politics in the 1950s and 1960s, and which, like abolition, were able to crown their efforts with success in the period 1965-69. Chief among these were the campaigns to liberalize the divorce laws and legalize abortion and homosexuality, and, in a similar reforming vein though of lesser importance, the attempts to abolish theatre censorship and ease the Sunday Observance laws pertaining to sport and entertainment. Each had their own pressure groups to co-ordinate their campaigns and articulate their case to government and Parliament; each rose to a crescendo of activity in the middle to late 1960s; each was deemed to be a non-partisan question and a matter for private members bills not government bills; and each met with success (with the partial exception of the Sunday Observance campaign) in the sense that legislative change was brought about

largely in accordance with their objectives.⁷³ The course of these campaigns is briefly summarized below.

Homosexual Law Reform

Homosexuality had been an offence from time immemorial, denounced in the Bible.⁷⁴ It ceased to be a capital offence by virtue of the Offences Against the Person Act, 1861 and instead became punishable by legal servitude for life. There was little or no change in the position during the twentieth century until the 1950s when the Church of England Moral Welfare Council produced a report, *The Problem of Homosexuality*, published in 1954. Both they and the Howard League urged the Home Secretary to initiate an official departmental enquiry which was duly set up under the chairmanship of Sir John Wolfenden, and which reported three years later in 1957. The tone of the latter's report was surprisingly liberal. It regarded homosexuality as being neither more nor less harmful than heterosexuality, and found no justification for the existing law. It argued that it was not the business of the state to interfere in the private conduct of the individual, and said

⁷³ This was something of a Golden Age for the private members bill with five contentious pieces of legislation passed this way in the space of four years. See, particularly, Bromhead, P A, *Private Members' Bills in the British Parliament* (London: Routledge and Kegan Paul, 1956); Richards, P G, *Parliament and Conscience* (London: Allen and Unwin, 1970); Pym, Bridget, *Pressure Groups and the Permissive Society* (Newton Abbot: David and Charles, 1974); Marsh, David and Melvyn Read, *Private Members' Bills* (Cambridge: Cambridge University Press, 1988); There was something of a reaction against the private member's bill as a vehicle for important legislation after 1970 and the Heath government refused to give time or assistance to any of them. Burton, Ivor and Gavin Drewry, *Legislation and Public Policy: Public Bills in the 1970-74 Parliament* (London: Macmillan, 1981).

⁷⁴ "Though shalt not lie with mankind, as with womankind; it is an abomination" Leviticus

that homosexual acts in private between consenting adults should cease to be criminal and that the age of consent should be fixed at seventeen: 'We do not think it is proper for the law to concern itself with what a man does in private unless it can be shown to be so contrary to the public good that the law ought to intervene in its function as the guardian of the public good.'⁷⁵

The Homosexual Law Reform Society (HLRS) was set up in 1958 emerging out of the correspondence generated by a letter to *The Times* by an academic Tony Dyson, which was co-signed by Lord Attlee, A J Ayer, Isaiah Berlin, Trevor Huddleston, Julian Huxley, J B Priestley, Bertrand Russell, Donald Soper, Angus Wilson and Barbara Wootton and which called for the implementation of the Wolfenden proposals. The HLRS included among its founders Victor Gollancz, Sir Stephen Spender and Kenneth Younger, MP. Parliament gave slowly increasing attention to the subject. There were parliamentary debates on the question in 1957 (Lords) and 1958, 1960 and 1962 (Commons) but the Parliamentary campaign only really got going after the election of a Labour government in 1964 (as with capital punishment). In May 1965 the Earl of Arran (Liberal) moved in the House of Lords for action and introduced a private members bill to implement Wolfenden which was passed by 94-49, but it was unable to progress in the Commons.⁷⁶

Several other attempts were made but it was not until the 1966-7 session that the measure finally came to fruition. Leo Abse re-

chapter xviii, verse 22. King James Authorized Bible. Quoted in Richards, *ibid*, p.63

⁷⁵ Wolfenden Committee Report, 1957, paragraph 52, quoted in Richards, *ibid*, p.70

introduced a previous Bill in the Commons under the Ten-Minute Rule which was supported by 244-100, partly due to the enhanced Labour composition of the Commons after the 1966 general election.⁷⁷ Abse persuaded the government (or, more precisely, Leader of the House of Commons Richard Crossman and Home Secretary Roy Jenkins) to find time for the legislation.⁷⁸ He obtained a second reading for the Bill without a division in December 1966 (partly because the leading Conservative opponent of the Bill was allegedly too drunk to stand up and object).⁷⁹ After the government was persuaded to give it further time it finally received a third reading by 99-14.⁸⁰ The Lords gave it a second reading by 111-48, the committee and report stages were formalities and *The Sexual Offences Bill* received the Royal Assent on 27th July 1967.⁸¹ It had taken only ten years from the publication of the Wolfenden Report for its recommendations to be translated into law.

Abortion Law Reform

Abortion became a statutory offence in 1803, and a capital offence in 1828, though the latter was repealed in 1837. It was re-enacted in the

⁷⁶ HL Deb, 1965, vol 266, cols 631-712, cited in Richards, *ibid*, p.76

⁷⁷ HC Deb, 1967, vol 731, cols 259-68, cited in Richards, *ibid.*, p.77

⁷⁸ The National Archives (TNA) HO 291/198 'Note of a meeting with the Lord President of the Council', 6th September 1966, cited in Dorey, *op cit*, p. 349

⁷⁹ Ponting, Clive, *Breach of Promise: Labour in Power 1964-70* (Harmondsworth: Penguin, 1990) p. 265 and Castle, Barbara, *The Castle Diaries, 1964-76* (London: Macmillan, 1990) p.100, 20th December 1966

⁸⁰ HC Deb, 1967, vol 749, cols. 1403-1525 cited in Richards, *op cit.*, p.79

⁸¹ HC Deb, 1967, vol 275, cols. 146-77 cited in Richards, *ibid*, p.79

Offences Against the Person Act, 1861 which then formed the basis of the law for the next century. The Infant Life (Preservation) Act, 1929 partially legalized it by providing that it was not an offence when done to preserve the life of the mother.⁸² A leading case of 1938, *R v Bourne*, effectively legalized abortion where giving birth might be seriously injurious to the general health (physical and mental) of the mother, and/or where the pregnancy occurred as a result of rape, so as to avoid consequent distress to the mother in continuing the pregnancy and in giving birth.⁸³ The Birkett Committee (a Home Office departmental committee) was set up in 1937 and reported in 1939, and recommended the legalization of 'therapeutic' abortion in line with the Bourne case which occurred while the Committee was sitting. However, it rejected the proposals of the Abortion Law Reform Association (ALRA), the pressure group for law reform in that area founded in 1936, for legalization of abortion for social, economic and personal reasons.

The first real step on the Parliamentary road to reform came with a private members bill introduced in June 1965 under the Ten-Minute Rule by Renee Short (Labour, Wolverhampton North East).⁸⁴ It proposed that abortion be made legal on four grounds:- a) to preserve the life of the mother; b) where giving birth would impose a grave risk to the mother; c) where there was a risk of serious deformity to the child; and d) where pregnancy was as a result of a sexual offence. The Bill wasn't debated

⁸² Again the account is taken largely from Richards, *ibid*, pp. 85-112. See also Hindell, Keith and Madeleine Simms, *Abortion Law Reformed* (London: Peter Owen, 1971)

⁸³ (1938) 3 AER 615; (1939) IKB, 687 Cited in Richards, *ibid*, p. 87

⁸⁴ HC Deb, 1965, vol 714, cols 254-8, cited in Richards, *ibid*, p. 98

or voted on and made no further progress. In November 1965 Lord Silkin (Labour) introduced a similar bill in the Upper House which received a second reading by 67-8.⁸⁵ It passed through the Lords just as Parliament was dissolved for the 1966 general election. Another private members bill was introduced in the Commons under the ballot system by Simon Wingfield Digby (Conservative, Dorset West) in February 1966 but the Speaker refused to allow it a second reading because the debate had been too short and it was talked out by Peter Mahon (Labour, Preston South).⁸⁶ But the ground had been set as with homosexual law reform for a bill in the new Parliament.

After the 1966 election David Steel, the recently elected Liberal MP for Roxburgh, Selkirk and Peebles, got third place in the ballot for private members bills, and after consultation with ALRA he introduced a Bill which received a second reading by 223-29.⁸⁷ Home Secretary Roy Jenkins explained the government's position as one of neutrality but offered drafting assistance for the later stages. The Steel Bill was similar to previous ones and allowed for 'therapeutic' and 'eugenic' abortion and included a social clause that permitted abortion where a woman's capacity as a mother would be severely overstrained. This and a clause covering rape were dropped at committee stage. Again, as with both homosexual law reform and the abolition of capital punishment the government awarded the Bill extra time, and two more whole days were

⁸⁵ HL Deb, 1965, vol 270, cols 1139-242, cited in Richards, *ibid.* p. 98

⁸⁶ HC Deb, 1966, vol 725, cols 837-56, cited in Richards, *ibid.* p. 99

⁸⁷ HC Deb, 1966, vol 732, cols 1067-1166

required to complete the Bill's passage.⁸⁸ Twenty-eight divisions were needed on report and there was an element of deliberate time-wasting. A sunset clause allowing for the Bill to expire in 1973 (shades of capital punishment again) was heavily defeated. Opponents of the Bill were split between those opposed on principle and those who wanted it more tightly drawn. It was passed on third reading 167-83.

Theatre Censorship

Censorship of the theatre had a very long history going back to the sixteenth century and to an Act of 1543 concerned with the 'advancement of true religion and the abolishment of the contrary'. The Master of the Revels was the first official to be responsible for the enforcement of censorship, succeeded by the Lord Chamberlain in the late seventeenth century. Walpole in the eighteenth century attempted to extend censorship in the light of theatrical attacks on him and his administration, and though his motives were political it was disguised as being concerned with morals. This resulted in the Licensing Act of 1737 which enlarged the powers of the Lord Chamberlain. By the early twentieth century censorship was under strong attack, especially in the light of the number of plays by distinguished playwrights such as Wilde, Ibsen and Shaw for which the Lord Chamberlain had refused a licence, but the edifice of censorship stood, though there were private theatre

⁸⁸ HC Deb, 1967, vol 749, cols 895-1102; and vol 750, cols 1159-1386 cited in Richards,

clubs outside the scope of the censorship laws.

In 1949 a private members bill proposed the abolition of theatre censorship and was carried on second reading by 76-37 but made no further progress due to lack of parliamentary time.⁸⁹ In the theatre itself barriers were rapidly being broken down irrespective of the attentions of the Lord Chamberlain who grew increasingly permissive anyway. The campaign to end his powers really got underway in 1958 with the formation of the Theatre Censorship Reform Committee (TCRC) including Noel Annan, Roy Jenkins, Wayland Young and representatives of the League of Dramatists and Equity. Dingle Foot (Labour, Ipswich) introduced a Ten-minute Rule Bill in 1962 to make the submission of a play to the Lord Chamberlain for licensing optional, but it was rejected by 134-77.⁹⁰ As with the other conscience issues it was the advent of the Labour government in 1964 which re-invigorated the parliamentary campaign. Senior figures of the TCRC were now in positions of authority. Roy Jenkins became Home Secretary in December 1965 and Annan and Young were now in the Lords. In the Commons another Ten-Minute Rule Bill was moved by Michael Foot (Labour, Ebbw Vale) to abolish stage censorship altogether, but neither of these initiatives got anywhere due to the imminence of the 1966 general election.⁹¹

But early in the new Parliament the Commons accepted the Lords

ibid., p. 101

⁸⁹ HC Deb 1949, vol 463, cols 713-798 cited in Richards, *ibid.*, p. 119

⁹⁰ HC Deb, 1962, vol 668, cols 1321-34 cited in Richards, *ibid.*, p. 124

⁹¹ HC Deb, 1966, vol 725, cols 2053-60; cited in Richards, *ibid.*, p. 125

proposal without a debate.⁹² It took evidence from a range of witnesses and produced a report unanimously in favour of the abolition of censorship.⁹³ George Strauss (Labour, Vauxhall) won tenth place in the ballot for private members bills that year (1967-8) and approached the Home Office for assistance in drafting a bill to give effect to the Committee's proposals, which was duly forthcoming. It received a second reading in February 1968 without a division.⁹⁴ Only one division was required at committee stage when a new clause proposed by St John Stevas (Conservative, Chelmsford) to safeguard the Royal Family was rejected by 9-2. The Bill went to the Lords where it received almost unanimous support.⁹⁵ After debate on some points of detail in committee and at report, it won a third reading and received the Royal Assent as the Theatres Act, 1968.

Divorce Law Reform

Divorce had been a statutory matter from the end of the

⁹² HC Deb, 1966, vol 729, col 419, cited in Richards, *ibid*, p. 125. The membership of the resultant Joint Committee was from the Lords: - The Earl of Scarborough, ex Lord Chamberlain, Earl of Kilmuir (Conservative ex Lord Chancellor who died while the committee was sitting and was replaced by Lord Brooke, Conservative ex Home Secretary), Viscount Norwich, Lord Tweedsmuir, Baroness Gaitskell, Lord Lloyd of Hampstead, Lord Annan, Lord Goodman, Chairman of the Arts Council; and from the Commons: - Andrew Faulds (Labour, Smethwick) ex actor, Michael Foot (Labour, Ebbw Vale), Emlyn Hooson (Liberal, Montgomery), Hugh Jenkins (Labour, Putney) ex officer of Equity, Sir David Renton (Conservative and National Liberal, Huntingdonshire) ex Under Secretary at the Home Office, Norman St John Stevas (Conservative, Chelmsford), George Strauss (Labour, Vauxhall) Minister of Supply 1947-1951 and William Wilson (Labour, Coventry South). St John Stevas had been a keen supporter of Roy Jenkins Obscene Publications Act, 1959. Wilson was a sponsor of the Divorce Reform Bill in the 1967-8 session.

⁹³ HC 503 and HL 255 (1966-7)

⁹⁴ HC Deb, 1968, vol 759, cols 825-74 cited in Richards, *op cit*, p. 128

seventeenth century, having previously been a matter for the ecclesiastical courts. It was not until 1836 that civil marriage ceremonies were permitted. In 1857 the Matrimonial Causes Act instituted a secular 'Court for Divorce and Matrimonial Causes' which took on the divorce work of the ecclesiastical courts, following on from the recommendations of a Royal Commission on the Law of Divorce.⁹⁶ The Divorce Law Reform Union (DLRU) was established in 1906 to campaign for further liberalization. A further Royal Commission of 1909-1912, under the chairmanship of Gorell, failed to come to a unanimous view and the outbreak of war in 1914 prevented further legislation. The granting of the vote to women immediately after the war led to an equalization of the grounds for divorce as between the sexes, but it was not until the 1930s and the campaign led by A P Herbert that the Gorell proposals became law in the Divorce Act, 1937.⁹⁷ This was a private members bill under the ballot procedure and was thus a trailblazer for the much later campaigns on divorce and other issues in the 1960s. After the Second World War Eirene White (Labour, East Flint) promoted a Bill in 1950-51 which sought to allow divorce where the couple had lived apart for seven years, even if one party objected, and introduced the concept of 'irretrievable breakdown' of marriage rather than fault on one side or the other.⁹⁸ The Bill was carried easily on second reading. However, she withdrew her Bill in return for a promise of another Royal

⁹⁵ HL Deb, 1968, vol 292, cols 1044-1104

⁹⁶ 1852-53 [1604], xl cited in Richards, op cit, p. 133

⁹⁷ Herbert, A P, *The Ayes Have It* (London: Methuen, 1937) is his own account of the campaign.

⁹⁸ HC Deb, 1951, vol 485, cols 1017-20

Commission. This duly laboured for four years under Lord Morton but produced an anodyne report.⁹⁹

There was no further action until 1963 when Leo Abse (Labour, Pontypool - subsequently a promoter of homosexual law reform and an opponent of abortion law reform) introduced a bill under the ballot procedure which sought to provide for reconciliation between estranged couples but also to allow divorce after seven years separation. This received a second reading without a vote.¹⁰⁰ However, such was the opposition to the divorce element of the Bill that he had to drop it to permit the Bill to pass with the reconciliation element. Nonetheless, this re-activated discussion of the issue. In 1967 another Bill incorporating the idea of irretrievable breakdown as the basis of divorce was introduced by William Wilson (Labour, Coventry South) who won fourth place in the ballot. It received a second reading by 159-63 in February 1968. It had a difficult committee stage requiring thirteen meetings and by the time it got back to the floor of the House there was insufficient time to debate the report stage and, since the government refused to give it extra time, the Bill was lost. There was dissatisfaction with the situation from the Bill's supporters, especially Leo Abse, and this resulted in the government giving support to a similar bill in the following session of 1968-9. Alec Jones (Labour, Rhondda West) was persuaded by Abse to adopt a divorce bill, which was almost identical to

⁹⁹ Report of the Royal Commission on Divorce 1955-56, Cmnd 9678, xviii. Cited in Richards, *op cit*, p. 137 For a critique see McGregor, O R, *Divorce in England* (London: Methuen, 1957)

¹⁰⁰ HC Deb 1953, vol 671, cols 806-84 cited in Richards, *ibid*, p.137

the Wilson Bill, and which received additional time in a morning session to enable it to receive a second reading by 183-106.¹⁰¹ Finally the Bill received a third reading by 109-55.¹⁰² In the Lords it received a second reading by 122-34. The bishops were split with five in favour and three against with the Archbishop of Canterbury abstaining. In October 1969 the Commons accepted the Lords amendments and the Bill finally received the Royal Assent.

Sunday Entertainment

The Lord's Day Observance Society (LDOS) was founded in 1831 to oppose commercial encroachments upon the Sabbath. In practice it has concerned itself with sport and entertainment rather than trade and employment given that it accepted that essential services have to be maintained on the Sunday. Much Sunday Observance legislation was archaic and had become a dead letter, such as the Acts of 1625 and 1677 which were repealed in 1969 as part of the Statute Law (Repeals) Act. The controversy centred on an Act of 1780 which stipulated:

that...any house, room, or other place, which shall be opened or used for publick entertainment or amusement, or for publicly debating upon any subject whatsoever, upon any part of the Lord's Day... and to which persons shall be admitted by the payment of money, or by tickets sold for money, shall

¹⁰¹ HC Deb 1968, 17th December 1968, vol 775, cols 1045-8

¹⁰² Richards, op cit, p.154

be deemed a disorderly house or place...¹⁰³

The coming of the cinema in the twentieth century added to the anomalies by opening on a Sunday. The London County Council, which like all local authorities was required to licence cinemas, required that the profits from Sunday screenings be paid to selected charities. The Labour government of 1929 sought to legalize the status quo and a bill was given a second reading on a free vote by 258-210 but the government was overwhelmed by economic difficulties before proceeding any further. The National Government passed the Sunday Entertainments Act effectively legalizing the status quo in relation to cinema, concerts and lectures, though theatre, variety and dancing were still prohibited. Inevitably these were sidestepped in sometimes bizarre ways and clubs were exempt. During World War Two there was a free vote on whether theatres should be allowed to open for the benefit of servicemen on leave. It was defeated 144-136, indicating the strength of sabbatarian feeling.

Lord (Ted) Willis introduced a Bill into the Upper House in November 1966 covering only sport and entertainment which passed through all stages, but there was no time to debate it in the Commons and it therefore lapsed. In the following session William Hamling (Labour, Woolwich West) sponsored the Willis Bill and its second reading was carried by 29-18, after a nifty piece of parliamentary gamesmanship by John Parker who allowed himself to be portrayed as

¹⁰³ Quoted in Richards, *ibid*, p.161

talking the Bill out when in fact he was talking it in!¹⁰⁴ The Bill was talked out at report stage, however, by Sir Cyril Black (Conservative, Wimbledon) amongst others. In the 1968-9 session effectively the same Bill was introduced again by John Parker (Labour, Dagenham) who had won third place in the private members' ballot, and it narrowly received a second reading, by 104-95.¹⁰⁵ But the Bill was talked out in committee.

A Comparison of the Campaigns

Of the five campaigns outlined above (taken together with that for abolition) there are many striking similarities, and a few key differences. In terms of general support there was a tendency for the leadership to be drawn from the ranks of fairly high-profile and moderately liberal establishment figures, whether from politics, the law, medicine, the churches and even from the world of sport, the arts and entertainment, though supplemented (and sometimes handicapped) at grass roots level by more extreme or outlandish figures. Given the tendency for support to come from the establishment, and from wealthy figures such as Gollancz, they tended to be well funded, though funding was not necessarily an issue. Given also the high intellectual calibre of their leadership they were able to articulate their respective cases very effectively in the press and the media generally. They also tended to have rather good access to Parliament and to government, usually

¹⁰⁴ HC Deb, vol 755, cols 1931-2, cited in Richards, *ibid*, p.167

¹⁰⁵ HC Deb, vol 778, cols 2069-174, 28th February 1969 cited in Richards, *ibid*, p.169

because they were assiduous in cultivating Parliamentary support, and because anyway the world of the campaigners on the one hand and that of Parliament on the other intertwined so closely. Moreover, there was usually a smattering of support for their causes within the ranks of the government of the day, whatever its complexion.

Each of these campaigns, initially loosely-based, developed well organized pressure groups to co-ordinate their activities and act as a conduit to Parliament.¹⁰⁶ Sometimes there was only one such body; sometimes there were several to start off with which eventually coalesced into one, the better to co-ordinate their efforts; and sometimes there was a breakaway at some point in their history. The HLRS was formed in 1958 to agitate for homosexual law reform and more specifically the implementation of Wolfenden, and was for a long time effectively the only major lobby group. But, after the passage of the Sexual Offences Act in 1967, there was a breakaway by a more radically-minded group from its north-west branch in 1969, which agitated for a

¹⁰⁶ For an analysis of pressure groups see particularly Stewart, J D, *British Pressure Groups* (Oxford: Clarendon Press, 1958); Finer, S E, *Anonymous Empire* (London: Pall Mall, 1958); Potter, A, *Organized Groups in British National Politics* (London: Faber, 1961); Kimber, R and J J Richardson (eds), *Pressure Groups in Britain: A Reader* (London: J M Dent, 1974); Richardson, J J and A G Jordan, *Governing under Pressure: The Policy Process in a Post-Parliamentary Democracy* (Oxford: Martin Robertson, 1979); Jordan, A G and J J Richardson, *British Politics and the Policy Process: An Arena Approach* (London: Allen and Unwin, 1987); Baggott, Rob, *Pressure Groups Today* (Manchester: Manchester University Press, 1995); and Grant, Wyn, *Pressure Groups, Politics and Democracy in Britain* (Hemel Hempstead: Harvester Wheatsheaf, 2nd ed, 1995). For case studies of particular groups and/or particular campaigns see, for example, Eckstein, H, *Pressure Group Politics: The Case of the BMA* (London: Allen and Unwin, 1960); Wilson, H H, *Pressure Groups: The Campaign for Commercial Television* (London: Secker and Warburg, 1961); Self, Peter and H Storing, *The State and the Farmer* (London: Allen and Unwin, 1962); Driver, Christopher, *The Disarmers: A Study in Protest* (London: Hodder and Stoughton, 1964); Hindell, Keith and M Simms, *Abortion Law Reformed* (London: Peter Owen, 1971); Ryan, M, *The Acceptable Pressure Group: A Case Study of the Howard League and RAP* (Farnborough, Saxon House, 1978); and Marsh, David and J Chambers, *Abortion Politics* (London: Junction Books, 1981)

more strenuous campaign to achieve equality rather than mere toleration and which evolved into the *Campaign for Homosexual Equality (CHE)*. Other, even more radical groups, emerged in their wake by the 1970s such as *The Gay Liberation Front*. ALRA was founded in 1936 to argue for the legalization of abortion, at least in certain circumstances where there was a danger to the life or health of the mother or where pregnancy had occurred as a result of rape or incest, and was active before the Second World War, contemporaneously with the sitting of the Birkett Committee, and was for a very long time the only real advocacy group for abortion law reform. With legislation imminent an anti-abortion group was founded in the form of SPUC (the Society for the Protection of the Unborn Child), and given the continuing Parliamentary trench warfare a whole series of other groups have subsequently emerged, on both sides of the debate. The DLRU was founded as early as 1906 to lobby for a relaxation of the divorce laws, specifically for the concept of irretrievable breakdown of the marriage as valid grounds. The TCRC was formed in 1958 to campaign for the abolition of theatre censorship. On the other hand there was no single pressure group to agitate for a relaxation of the Sunday Observance laws, and it may or may not be co-incidental that this was the only campaign that was unsuccessful.

Usually the executive committees of these pressure groups contained at least a few Parliamentarians among their number, sometimes from each of the three main parties, so as to emphasize the breadth and diversity of their support and to facilitate liaison with each

of the parties separately. The NCACP had Silverman and Paget (Labour, left and right wings respectively), Peter Kirk, Julian Critchley and Christopher Hollis (Conservative) and Jeremy Thorpe (Liberal). The TCRC had Roy Jenkins. The HLRS had Kenneth Younger (Labour). Their tactics were carefully crafted to eschew unlawful or eccentric activities, and they were mindful to exclude from their ranks and their counsels the mavericks (such as Mrs Van der Elst from the NCACP). They were anxious to avoid alienating the establishment and popular opinion, confident in the knowledge that diligent campaigning in the right quarters would bring eventual success.

Most of these campaigns enjoyed a fair measure of popular support, with the obvious exception of the abolition of capital punishment, usually amounting to a majority of the population (at any rate as measured by opinion poll data), though the sizes of these majorities varied over time and between the different issues. Divorce law reform probably had the highest level of consistent public support, amounting to a large majority, with abortion law reform some way behind and homosexual law reform somewhat behind that. Theatre censorship was too esoteric a matter to attract strong opinions from the bulk of the (non theatre-going) populace, and may never have been the subject of a poll, while the question of the Sunday Observance laws was too multi-stranded to provide a clear picture of the level of support.

The campaigns tended to enjoy, at least potentially, the support of a majority of the House of Commons and the House of Lords, though the bulk of that support tended almost invariably to come from the

Labour and Liberal Parties, with a smattering of reformist Conservatives. The level of Parliamentary support tended to grow over time with an initially very small group of Conservatives tending to become a substantial minority, and a majority of Labourites and Liberals eventually becoming an overwhelming majority. Nonetheless, a majority of Conservative MPs was always opposed to most or all of these reforms, as was likewise a small minority of Labour MPs, drawn preponderantly from the ranks of socially conservative, working class members, often northern and often Roman Catholic, of which the Mahon brothers, Simon and Peter, were archetypical. There was a good deal of overlap between those supporting and those opposing reformist measures in both major parties, and support for one of these measures was fairly highly correlated with support for another, lending credence to the notion of an underlying variable of liberal/conservative that, to some extent, cut across the party divide. This is discussed more fully in the chapter on the political parties. There were, inevitably, some exceptions. Leo Abse, for example, was a prominent supporter of both homosexual and divorce law reform, and of the abolition of the death penalty, and an equally prominent opponent of abortion law reform.

All of these campaigns had had a fairly long history of extra-Parliamentary campaigning before becoming the material of private members bills in the 1960s, and often there had been a succession of Royal Commissions, or committees of enquiry of one description or another, which had promulgated reports advocating reform, and which foreshadowed the Bills actually passed. Capital punishment had been

the subject of Royal Commissions in the 1860s and the 1950s (Gowers) and a Commons Select Committee in 1929-1931; abortion a Home Office committee in the late 1930s (Birkett); homosexuality a Home Office committee in 1954-7 (Wolfenden); divorce a Royal Commission in the Edwardian era (Gorell) and again in the 1950s (Morton). These bodies tended to sit for a long time and to produce very little in the way of recommendations, and their reports tended to gather dust on the shelf for a long time before taken up by politicians. All these issues were the subject of several abortive attempts at private members legislation, before finally one of them managed to make it through the meat-grinder to the statute book.

However, all of these campaigns were able to crown their efforts with success at some point in the 1960s – in fact within a space of four years between 1965 and 1969, with the exception of the Sunday Observance laws (and even here there was a clear indication that the law would eventually be relaxed or would simply be defied with impunity). The Death Penalty (Abolition) Act was passed in 1965, less than twenty years since it had become a seriously debated question and only ten years after the formation of the NCACP. The Sexual Offences Act was passed in 1967, only ten years after Wolfenden had reported and nine years after the HLRA was formed. The Abortion Act was passed the same year, some thirty-one years after the formation of ALRA, but only a few years from the first real attempts to legislate for legalization. Abolition of theatre censorship went through with extraordinary ease in 1968, only ten years after the initiation of the

TCRC. And the Divorce Reform Act was passed in 1969, after a slightly longer and rather more convoluted process than the others, though again only a few years after the first serious attempt to reform the law in 1963.

Unquestionably none of these measures could have been passed as swiftly as they were (or in fact at all) had it not been for the support, or at least benevolent neutrality, of the government of the day, which was prepared to offer Parliamentary time, assistance with drafting and tactics, and moral support. Invariably the benevolence was more apparent than the neutrality. That in turn was because the Wilson government was, on the whole, favourable to these reforms, though by no means all of its members favoured all of the reforms. Harold Wilson and Lord Gardiner were passionate advocates of the abolition of the death penalty, as was Roy Jenkins, though he did not arrive at the Home Office until after it had been accomplished. Jenkins was, nonetheless, unshakeable in his resistance to the demands for reintroduction that emanated from the police force and the prison service in particular, orchestrated by Duncan Sandys from the Conservative backbenches. He was also a keen supporter of the other reforms, all of which he had advocated in his influential book *The Case for Labour*, published during the 1959 election campaign, and he had been responsible for the passage of the Obscene Publications Act, 1959, arguably the only other significant piece of private members legislation of the post-war era. He was also, as mentioned, on the executive committee of the TCRC. Richard Crossman, Leader of the House and the government's

Parliamentary manager, was another keen advocate of these reforms. However, not all members of the Wilson cabinet were so favourably disposed. George Brown and James Callaghan, for example, were opposed to homosexual law reform and Anthony Greenwood voted against the Abortion Bill, and Longford, Gunter and Ross were all opposed to a greater or lesser extent. Harold Wilson himself was unenthusiastic, to say the least, about both homosexual and abortion law reform, and was only persuaded by Jenkins of the desirability of giving government assistance so as to get the matters out of the way before the next election.

Nonetheless, the government was generally extremely well-disposed to reform, and was accused in some quarters of seeking to promote its own liberal agenda by the back door of private member's bills, thereby sidestepping the ensuing controversy and evading responsibility for the consequences of the measures. Another frequent Conservative accusation was that these measures were a sop to its vociferous and discontented left-wing which was angry with Wilson for his economic, industrial and foreign policies. This, suggestion, however, fails to take fully into account the fact that the reforms tended to be supported across the whole spectrum of PLP opinion from extreme left to extreme right, and that the party's left-wing was consistently and unremittingly hostile to the government throughout the whole period during which they were being enacted.

The various pressure groups that sprang up were classic examples of the promotional rather than sectional type, in the sense that

their membership was not drawn from any particular sphere of employment nor had anything in common other than their desire to see the reforms enacted, and the membership could not personally benefit from the reforms in any direct material sense. Generally speaking, as promotional groups, they did not enjoy the insider status of, for example, sectional groups such as the trade unions or the CBI; they had no regular access to government ministers or senior civil servants and had no regular forum with which to exchange views with government. They did, of course, contribute and give evidence to the various Royal Commissions and departmental committees of enquiry which were set up. Certainly the Howard League and the NCADP gave evidence to Gowers, ALRA gave evidence to Birkett and the DLRU gave evidence to Gorell and Morton. But they tended to make their input and exert their influence at the level of the Parliamentary backbenches rather than government, because the very nature of the reforms made them candidates for private members bills, and the relevant government departments tended to disavow responsibility for legislation, even when favourably disposed towards the reforms.

On the other hand, the membership of the executives of several of these groups was often very high profile, and in the nature of things there may have been a great deal of networking with frequent informal, social contacts between these figures and government ministers and senior civil servants, and a commonality of outlook would have been fostered even if it did not already exist, which would have conduced to the gradual erosion of resistance to reform. Moreover, some

promotional groups, especially the Howard League, were of long standing, were highly respected within their respective Departmental circles and had institutionalized contact with that Department (the Home Office in the case of the League and most of the other groups). In respect of the League this was partly because of their fact-gathering function, which was useful to government, and the breadth of their agenda was such as to necessitate regular and frequent contact. They were able to lobby for abolition, in addition to their more general objective of penal reform, but were also prominent in lobbying for homosexual law reform.

This contrasts with the position of the NCACP, which had been set up specifically to lobby for abolition, but who could thus use the League as a conduit to government, given the commonality of their aims and the overlap of their membership. In fact the two bodies were complementary in their methods and objectives. Whilst the League acted as the classic insider group, meeting regularly with Home Office officials to lobby for their cause and to exchange information they rigorously eschewed any overt criticism of the government of the day, and avoided any sort of public display of dissent in the form of demonstrations, petitions and so on. They had acted as host and adviser to the earlier Calvert led NCADP, and both bodies lobbied Home Secretary Chuter Ede in the late 1940s to include abolition within the forthcoming criminal justice bill.¹⁰⁷ From October 1948, after the defeat

¹⁰⁷ Howard League, executive committee minutes, July 1947, quoted in Ryan, Mick, op cit. p.39

of the abolition clause in the Lords and before the inception of the Royal Commission the NCADP effectively wound itself up and agreed to continue under the auspices of the League, with members transferring their subscriptions from the NCADP to the League, but on the understanding that in due course a League committee dedicated to abolition would be formed. It duly was and it was this body which prepared the League's evidence to the Royal Commission in 1949.¹⁰⁸

After the formation of the NCACP in August 1955 the League was slightly wary of forming too close an alliance with the new Campaign, and initially rejected Gollancz's proposal that the League secretary, Hugh Klare, should join the executive.¹⁰⁹ This was partly because, as before, they did not want to compromise their excellent working relationship with the Home Office (then still institutionally hostile to abolition under the aegis of its permanent secretary, Frank Newsam) and did not want to become too closely identified with a single issue campaign that formed only one aspect of their multi-faceted penal reform work. Moreover, it was immediately evident that the NCACP wanted to engage in very public and overt displays such as mass rallies, petitions and propaganda directed at the media which would again have jeopardized their relations with the Home Office. The League was jealous of its reputation for building its case on the dispassionate presentation of factual information with a view to persuading officialdom of its merits. Nonetheless it assisted the NCACP unofficially, and Klare

¹⁰⁸ Howard League, executive committee minutes, April 1948. Quoted in Ryan, Mick, *ibid*

¹⁰⁹ Howard League, executive committee minutes, October 1955. Quoted in Ryan., *ibid*

did eventually join the Executive, whilst Gardiner, also a member of the League's Executive, was allowed to join the Campaign. There may have been justification for the League's wariness, given that some of the Campaign's more vigorous antics did cause offence to the League's official contacts in the police force and the prison service. The two groups complemented rather than competed with one another, and the resultant division of labour may have been beneficial, with the League providing the research, contacts with government, officialdom and the world of criminology and a reputation for integrity, whilst the NCACP supplied the wider membership, finances and propaganda. This symbiosis was necessary because the League was not equipped for, or desirous of, engaging in a large scale campaign.

The passage of the various reform measures can, and have been, cited as triumphs for their respective lobby groups, but it is debatable to what extent this was really so. The passage of the Bills could not have happened had there not been receptive Parliamentary soil, backed up, as we have seen by the tacit support of the government of the day. There were plenty of supporters of these measures on the backbenches, particularly on the Labour side, straining at the leash to introduce bills or propose amendments to give effect to them, and they needed no extra-Parliamentary organization to thrive. On the other hand, all of the extra-Parliamentary lobbying in the world would never have enabled the Bills to pass had not pre-existing Parliamentary majorities been there.

Generally the reforms have been consolidated since their

enactment, with public acceptance of their legitimacy, and often further progressive legislation has been enacted, building on the earlier Acts. Most have been largely proof against repeal or regressive amendment. The divorce laws have been further liberalized and there has been no attempt to legislate in the opposite direction notwithstanding the huge rise in the divorce rate (and the claim in some quarters that this is a factor contributing heavily towards social breakdown). Homosexual law reform has advanced dramatically in the intervening years with the passage of legislation equalizing the age of consent, the removal of the ban on homosexuals in the armed forces and the diplomatic service (the former as a result of a European directive), acceptance of the right of homosexual or lesbian couples to adopt and the inception of 'civil partnerships'. Significant also has been the repeal of the one piece of regressive legislation passed in the intervening period in the form of section 28 of the Local Government Act, 1988, which banned the promotion of homosexuality by local authorities.

By contrast, both abortion law reform and the abolition of the death penalty have been repeatedly subject to attempts at reversal and/or regressive amendment. Though there has been no attempt to repeal the Abortion Act there have been numerous attempts to water it down, chiefly by seeking a reduction in the period of time after which a termination may not be performed from the twenty-eight weeks specified in the Act. There were no fewer than nine private members' bills in the period between 1967 and 1981 designed to de-liberalize the Act in one way or another, culminating in the Corrie Bill of 1979-80, and only one

such bill designed to liberalize it.¹¹⁰ And though no attempt has been made to repeal the Act the attempts to restrict its application may be seen as a tactical move in that direction. There were many reasons for this retrogression. SPUC had been to an extent superseded by a more radical group in the shape of LIFE. In 1974 a book was published which made a variety of allegations (subsequently proved false) that placed the practice of abortion in a very unfavourable light.¹¹¹ By 1979 there was a bewildering array of pressure groups operating in the field – nine on the pro-abortion side, including ALRA, and seven on the anti-abortion side.¹¹² Moreover, as Marsh and Chambers argue, the abortion issue was a very complex one morally in that the characterization of it as a ‘liberal’ measure is far from clear-cut. The supporters of abortion always saw it as a matter of ‘a woman’s right to choose’; of freedom versus compulsion; but those on the other side saw it as, at worst, mass slaughter comparable to murder on a massive scale, and would have seen it as ‘liberal’ only in a highly technical, politicized sense of that word.

Given the extent to which it has come under repeated attack it may be questioned as to why and how an Abortion Bill was able to be passed in the first place. There were many factors. As with the other reforms there was a favourable climate of public opinion, a relatively young and Labour- dominated House, a supportive government and

¹¹⁰ Marsh, David and Joanna Chambers, *Abortion Politics* (London: Junction Books, 1981) and Marsh, David and Melvyn Read, op cit

¹¹¹ Lichfield, Michael and Susan Kentish, *Babies for Burning* (London: Serpentine Press, 1974)

¹¹² Marsh and Chambers, op cit, p. 40

home secretary and the fact that the Bill's sponsor, David Steel, drew a high place in the ballot. But additional factors were at play such as the recent thalidomide disaster which heavily conditioned public opinion, Steel's adept Parliamentary tactics, wide consultation and willingness to compromise, the hyper-activity of ALRA which had been given a new lease of life in 1963 by the infusion of a new generation of activists, and the relative ineffectiveness of the opposition which was slow to mobilize itself.¹¹³

The abolition of the death penalty has been, if anything, under even stronger assault than the Abortion Act. Unlike any of the other measures, including abortion, it was opposed by a clear majority at the time of its enactment - a majority which has grown steadily larger over time - and there have been repeated attempts at repeal and the restoration of the death penalty, often for specified categories of victim, particularly police and prison officers, and sometimes for specific types of murder, though none has ever come close to success. There were several reasons why abolition failed to gain general acceptance, but undoubtedly the initial public hostility to the Act denied it the legitimacy granted to the other reform measures. This lack of acceptance encouraged backbench Conservatives to introduce restoration bills or amendments, and the rapid rise in the murder rate, attributed (rightly or wrongly) to abolition, gave them a powerful incentive and a superficially powerful argument. Nonetheless the line held against restoration in

¹¹³ Marsh and Chambers, *ibid.* They argue, p.41, that ALRA was perhaps the most sophisticated, politically aware and knowledgeable of all non-economic lobby groups operating at that time.

Parliament, and for all the public clamour the rope has never looked like making its reappearance.

In many ways the capital punishment issue was the odd man out amongst these five or six conscience issues. It was a penal question, as well as a social and moral one, and by comparison with the other measures it directly affected only a tiny minority of the population, though of course it may be argued (and was by the retentionist camp) that the deterrent effects of the death penalty made the issue one that potentially affected the whole population. It was the one issue that very definitely, and at no stage, had the support of anything like a majority of the population and where, moreover, the majority against it steadily increased after its enactment. With none of the other changes was there a clear majority against, and generally the state of opinion in the immediate aftermath of these reforms was favourable and tended to grow more favourable over time (though arguably the abortion issue may be another partial exception). It was an issue where it was argued, with or without justification, that the effects of the change were immediately apparent and highly deleterious to society in the form of rising murder and violent crime figures. And, perhaps as a function of the previous two points, it was the one issue where there was an almost immediate demand from many for a repeal of the reform and the reinstatement of the status quo ante.

Given all of that it might be queried, as for abortion, how it came to be enacted and how it has withstood the demand for repeal. One obvious answer is that, as with all these measures, the existence of a

clear Parliamentary majority, much of it very passionate in pursuit of its objective, was bound to win through given the arrival of a sympathetic government. But other factors worked in favour of the abolitionists that were perhaps not present in the other campaigns. One point is that the very nature of the issue provided a 'built-in' occasion for abolition propaganda in the form of an impending execution, thereby providing a flashpoint which focussed attention on the controversy in a way that was never possible for the other issues which could not supply these moments of high drama. Though the NCACP was essentially an 'outsider' group in the sense that, as a body, it had no routine or institutionalized access to government, its leadership was of such distinction that its chairmen, Gardiner and Gollancz, regularly corresponded with the home secretaries of the day over the campaign and particularly over specific upcoming executions usually in order to plead for a reprieve. Moreover, the Howard League, with which the NCACP was closely associated, was very much an 'insider' group by contrast, having regular meetings with home secretaries and Home Office officials over a range of penal reform issues, and the NCACP unquestionably benefited from the linkage.

Another aspect of the reforms is the extent to which they were susceptible of compromise. Here again capital punishment was rather the exception in that no real compromise was possible. The state either hanged people or it didn't, though of course the ground had been prepared by the introduction of degrees of murder, and the division into capital and non-capital murder, and of course prior to that the gradual

diminution in the number of capital offences during the course of the nineteenth century. There was also the introduction of new defences and the re-definition of existing ones so as to reduce further the chances of being hanged. With most of the other reforms there was much greater scope for compromise, and to that extent a better prospect of getting some sort of reform through. Abortion reform was enacted on the basis of a very restricted set of criteria for its legalization, though the interpretation of these criteria has become so lax as to be almost meaningless. David Steel was very flexible and open to compromise during the passage of the Abortion Bill. Likewise with the Sexual Offences Bill Leo Abse was very willing to negotiate over the details of the legislation. Homosexual reform went through but with a much higher age of consent than for heterosexual intercourse and with all or most of the restrictions on homosexuality that did not apply to heterosexuality still in place, such as the ban in the Armed Forces and the Diplomatic Service (and like abortion it did not apply to Northern Ireland), though most of these anomalies have subsequently been legislated away.¹¹⁴ But it was clear that without these compromises neither the abortion nor homosexual reforms would have been passed – or certainly that was the view of their protagonists. Abse has admitted that many of the compromises were tactically necessary to get the reforms through. The Divorce Bill, likewise, greatly increased the scope of the grounds on which divorce could be sought and obtained, but still made divorce relatively difficult, though again subsequent legislation

¹¹⁴ Leo Abse felt obliged to make a large number of concessions to get the Bill through and

has further widened it.

Conclusion

Ultimately these campaigns highlight questions about the whole process of pressure group activity and its relationship with Parliament and government. Do these campaigns distort the democratic process by coming between the peoples' will on the one hand and government on the other, so as to advance the interests of a small subsection of the people, or do they enrich the democratic process by filling in the gap between the electorate and the government in between (necessarily infrequent) elections by providing a process of continuous consultation?¹¹⁵ As *Finer* argued the overall effect of lobbying may be to temper the system and to provide a continuous interchange between government and governed. Moreover, as numerous studies have found, propaganda and media campaigns can be very ineffective.¹¹⁶ Looking at the broad political picture, for example, the Conservative Party vastly outspent the Labour Party in the immediate pre-election periods 1958-9 and 1963-4, and won handsomely in 1959 and lost in 1964. Both parties vastly outspent the Liberals, who did badly in 1959 but who rose

was hard pressed by the HLRS for doing so.

¹¹⁵ The latter is the view taken by *Finer*, op cit., in his seminal work on the topic, arguing that it embodies two basic principles of democratic government:- participation in policy-making and the demand for redress of grievances.

¹¹⁶ E.g. *Trenaman, Joseph and D McQuail, Television and the Political Image* (London: Methuen, 1961) This studied the effects of the party political campaigns and persuasive communications from various media on groups of electors in two neighbouring constituencies in Yorkshire during the 1959 general election, by comparing their knowledge, views and

dramatically in 1964, at least in terms of votes.¹¹⁷ *The Aims of Industry* (a private enterprise lobby group), to take another example cited by Finer, conducted a vigorous media campaign against nationalization in the period 1963-4 which appears, to judge by the opinion polls, to have been almost wholly ineffective.¹¹⁸ As Finer has observed money may be important to help publicize a campaign, but it is only useful up to a point, because there appears to be a ceiling above which extra money fails to bring commensurate results, if indeed any results at all.

opinions both before and after and found little or no attitude change.

¹¹⁷ Finer, S E, op cit, (2nd ed, 1966)

¹¹⁸ Finer, ibid, pp.120-1. 'Say NO! to Nationalisation' (Aims of Industry campaign 1963-4) BIPO polls conducted at six monthly intervals of the same set of voters indicated if anything a slight increase in the desire for more nationalization from March 1963 to August 1964 (22% for it at the end as against 18% for it at the beginning). Gallup Political Index, nos. 45, 51, 54 (1963-4)

CHAPTER THREE

THE POLITICAL PARTIES

Crucial to the success of the abolition campaign was, of course, the stance of the political parties. Parties are the vehicles of political change in a democracy, and significant reform can rarely occur without at least one major party putting its weight behind the cause. Hanging was of course a 'non-partisan' issue. Technically this had always been true in the sense that no political party had ever adopted abolition (or retention/restoration) as party policy; it had never been the subject of a pledge in an election manifesto (save for Labour's 1964 promise to 'give time' for a backbench bill and to permit a free vote on the question); and Parliament had nearly always allowed a free vote on the question (at least to backbench MPs). The only real exception to this was the Conservative government's promulgation of the Homicide Act in 1957, but that was a measure to which the Eden government felt itself driven so as to appease the abolitionist majority in the Commons which had been frustrated by the veto of the Lords.

But despite the supposedly non-partisan character of the issue what is striking is the extent to which the division of opinion on hanging in the Commons (and outside) has reflected the party divide. From when the issue first emerged seriously onto the political agenda the Labour and Liberal parties have been largely abolitionist, and latterly

overwhelmingly so, whilst the Conservatives have been preponderantly retentionist, initially massively so and latterly by majorities of round about two-to-one. Moreover, the Labour government of 1964 was strongly, if semi-covertly, supportive of abolition to the extent of providing time and assistance to the Silverman bill when it looked to be in trouble, and then putting through the confirmatory votes necessitated by the Act in December 1969. Thus it is necessary to qualify, rather heavily, the traditional view of the question as non-partisan, and to offer instead a modified view of it as a 'quasi-party' issue - one which, whilst the subject of free votes in the Commons, is heavily skewed on party lines. This chapter proceeds to look at each of the major parties in turn and briefly at the more prominent minor parties, and to analyze the balance of opinion within them on the issue, how it developed over time, how it was affected by the views of the party leadership, the party membership, public opinion and the institutions with which they were informally linked, and seeks to produce an ideological map of the parties in terms of capital punishment and other conscience issues.

The Labour Party

Perusal of the division lists reveals consistent differences between the parties. Most obviously the great bulk of abolitionist votes had always come from the Labour side of the House. The Labour Party had been consistently abolitionist and increasingly so over the years, and moved from being predominantly abolitionist in 1948 to being

overwhelmingly so by the time of the 1964-65 Bill.

As early as 1927 the party had issued a petition against capital punishment, declaring that: 'Capital punishment revolts the moral sense of the whole community...it is a relic of barbarism which hinders the reform of our whole prison system...Our Movement is almost unanimously ranged against Capital punishment.'¹¹⁹ Labour members such as Ernest Thurtle were in the forefront of the campaign to abolish the death penalty for desertion, cowardice and other military offences in the armed forces in the 1920s.¹²⁰ The MacDonald government of 1929-1931 set up an all-party select committee to look into the question, as previously mentioned, and the Labour Party conference of 1934 passed, unopposed, a resolution to abolish the death penalty.¹²¹ It was thus party policy. But Labour party policy is not necessarily Labour government policy. The 1945 Labour manifesto did not make any mention of the issue, and neither did any of the Queen's speeches of the 1945-1951 parliaments, though Labour abolitionists both inside and

¹¹⁹ Labour Party manifesto on capital punishment, January 1927. Gardiner, Add 56463B. Its signatories included both Ernest Bevin and Herbert Morrison who as cabinet ministers in the 1945-51 Attlee government voted against the Silverman clause, as well as such names as Margaret Bondfield, H N Brailsford, Fenner Brockway, Arthur Creech Jones, F W Jowett, George Lansbury and Ellen Wilkinson.

¹²⁰ McHugh, John, 'The Labour Party and the Parliamentary Campaign to Abolish the Military Death Penalty, 1919-1930' *The Historical Journal*, Vol. 42, No. 1 (March 1999), pp. 233-249. Ernest Thurtle (1884-1954) Labour MP for Shoreditch 1923-31, 1935-50; Shoreditch and Finsbury 1950-54; George Lansbury's son-in-law. Curiously he was one of relatively few Labour members to cast a vote against abolition in a division of 1953.

¹²¹ 'This Conference expresses its conviction that experience in this and other countries, as shown by the evidence submitted to the Select Committee of the House of Commons in 1930, has demonstrated the futility of the Death Penalty. The Conference believes that this punishment is ineffective as a deterrent, and, in its demoralizing effects, gravely prejudicial to social order and security. The Conference therefore urges the next Labour government to give legislative effect to the recommendations of the Select Committee for the Abolition of the Death Penalty for an experimental period of five years.' Labour Party Conference Reports

outside the House were hopeful that there would be an abolition measure at some point in the life of the government; either a substantive measure or as part of a portmanteau criminal justice bill. The great champion of the cause was a Labour MP, Sydney Silverman, and the former secretary of the *National Committee to Abolish the Death Penalty*, John Paton, was now in the House also in the Labour interest, and there were many known supporters of abolition sitting on the Labour benches. The government had a very large majority, and was indeed the first Labour government to have any sort of overall majority. It was thus not unreasonable for abolitionists to suppose that their hour had come, though their optimism looks in retrospect rather naive.

However, when it came to the crunch, the Attlee government proved hostile to all-out abolition, and when it finally brought forth a criminal justice bill it contained no such provision.¹²² Silverman moved an abolition clause at the report stage, much to the government's embarrassment, and the government then proceeded to advise the House against its adoption and, moreover, prohibited ministers and whips from supporting it. Nonetheless, on the vote on the clause in April 1948, it received a majority of twenty-three (245-222) in which there were 216 Labour abolitionists as against only seventy-five retentionists, a split of about 3-1 in favour of abolition.¹²³ Furthermore the number of

1934.

¹²² For a full account of the manoeuvring inside the Attlee government and the PLP see Bailey, Victor, 'The Shadow of the Gallows: The Death Penalty and the British Labour Government 1945-51', *Law and History Review*, vol 18 (no 2), (Summer 2000), pp 305-349

¹²³ HC Deb, vol 449, cols 1093-1098 (division no 124) 14th April 1948. Figures, as for all divisions cited, include tellers on both sides. Christoph, op cit, gives the figure as 74 Labour retentionists including tellers. The slight discrepancy might be accounted for by the ambiguity

abolitionists was artificially reduced, and possibly the number of retentionists boosted, because of the Attlee government's controversial refusal to allow ministers (and presumably PPSs also) to vote for the clause. Almost certainly a substantial number of the Labour ministerial abstentionists would have voted for abolition had they been permitted to do so. Within the cabinet, of fourteen members with seats in the Commons, nine voted against the clause (including the big guns Attlee, Bevin, Morrison and Home Secretary Chuter Ede) but five abstained (Stafford Cripps, Aneurin Bevan, Harold Wilson, Philip Noel-Baker and Arthur Creech-Jones). Some of these abstained ostentatiously, and certainly Cripps, Bevan and Wilson were all ardent abolitionists constrained by their cabinet position. Interestingly these were probably the three most left-wing members of the cabinet. Remarkable also was the fact that all four of the government's law officers (outside the cabinet) chose to abstain rather than toe the government line, and indeed absented themselves from the chamber during Chuter Ede's speech deprecating the Silverman clause.¹²⁴ Among back-benchers the proportion of abolitionists was even larger. Noticeable also was the fact that the two Communists in the House both voted for abolition, as did the ex-Commonwealth MP Millington (now in receipt of the Labour

of party labels in some cases.

¹²⁴ Attorney-General Hartley Shawcross, Solicitor-General Sir Frank Soskice, Lord Advocate John Wheatley and Scottish Solicitor-General Douglas Johnston. They would have been expected, in their official capacity, to sit on the government benches during the debate, and it was hard not to see their absence as a silent token of dissent from the government's anti-abolition position. See Christoph, *op cit*. Shawcross had been an Allied prosecutor at the Nuremberg trials and in that capacity had pressed for the execution of Nazi war criminals, but that was a special case. Shawcross himself says that he was in unhappy conflict with Attlee and Morrison over the Bill and opposed to their decision to give way to the Lords. Shawcross, Hartley, *Life Sentence: The Memoirs of Lord Shawcross* (London: Constable, 1995) p.167

whip), most Liberals, the one Irish Nationalist, and several Independents.

By the time of the next vote on the question in July 1953 (with Labour now in opposition) the Labour benches were even more skewed towards abolition. The number of Labour retentionists had shrunk dramatically from seventy five to fifteen, while there were 191 abolitionists.¹²⁵ Of course Labour representation in the House was much reduced as a result of the general elections of 1950 and 1951, but the ratio of abolitionists to retentionists within the parliamentary party had changed from about 3-1 to about 9-1. There is no reason to suppose that Labour MPs who had lost their seats in those two elections, or who had retired, were disproportionately composed of retentionists, nor that the intakes of those elections were disproportionately abolitionist. Thus it followed that many Labour MPs had switched their vote from retention to abolition in the intervening period. One such was Chuter Ede, the former Home Secretary, who had been a supporter of abolition pre-war but then became antipathetic to it once in office and who had now reverted to his former position. Precisely why isn't clear, though, as suggested by Christoph he may have been captured by the 'official' Home Office view whilst in power. He had certainly been affected by the Timothy Evans case in which, as Home Secretary, he had refused a reprieve to a man now found to be almost certainly innocent.

So far as the bulk of the PLP was concerned it may have been that they were simply falling in with what was clearly the overwhelming

consensus of their parliamentary colleagues, and of the party in the country, or that (particularly in the case of former ministers) relieved of the responsibilities of office they were free to pursue and advocate a more 'experimental' course, no longer having to answer for the possible consequences of their votes in the House. Also the tide of events was encouraging the steady growth of abolitionist sentiment in the country, and the fear of alienating voters was perhaps not so acute. Certainly Chuter Ede announced his conversion (in 1956) on the basis of the Evans/Christie cases and his realization that as Home Secretary, in 1950, he had been instrumental in sending an innocent man to the gallows. The Labour front bench in general seemed to have abandoned its former antipathy to abolition by the early to mid 1950s, as evidenced by the various parliamentary divisions of this period, and by the accession to the leadership of Gaitskell and then Wilson, both ardent abolitionists, in succession to the lukewarm Attlee.

The third post-war Commons vote on the issue came shortly afterwards in February 1955 (on the report of the Gowers Commission). The Labour pro-hanging vote had dwindled even further to a mere five as against 195 abolitionists.¹²⁶ And by the next occasion in February 1956 the balance was three to 241.¹²⁷ In March 1956, on the second reading of the Silverman Abolition Bill the balance was eight to 236.¹²⁸ On the third reading in June 1956 it was three to 130 in favour of the

¹²⁵ HC Deb, vol 517, cols 407-418 (division no 209) 1st July 1953

¹²⁶ HC Deb, vol 536, cols 2064-2184 (division no 34) 10th February 1955

¹²⁷ HC Deb, vol 548, cols 2536-2656 (division no 111) 16th February 1956

¹²⁸ HC Deb, vol 550, cols 36-152 (division no 119) 12th March 1956

abolitionists.¹²⁹ On the third reading of the Conservative government's Homicide Bill containing the compromise provision for partial abolition, which Labour had decided to oppose, there were only four Labour MPs going into the government lobby, all of them retentionists, as against 129 going into the lobby against the government.¹³⁰

By 1964, and with another large new intake of younger members, the balance had shifted even further, and on the second reading of the new Silverman Abolition Bill only one Labour member voted against, while 268 voted in favour.¹³¹ On the third reading it was 171-0 for abolition.¹³² In the 1966 vote on the Sandys Bill to reintroduce hanging for the murder of police and prison officers there was some 'backsliding' in that seventeen Labour members voted for it, though 255 still opposed it, but this may have been a slight aberration in reaction to the public outcry occasioned by the recent murder of police officers.¹³³ When it came to the 1969 vote required to confirm abolition the former pattern of small and diminishing Labour support for hanging was resumed. Only three Labour members voted against the motion to confirm, as against 279 in favour.¹³⁴

When it came to the various attempts to re-introduce the rope subsequent to 1969 Labour supporters of re-introduction were similarly

¹²⁹ HC Deb, vol 555, cols 713-840 (division no 250) 28th June 1956

¹³⁰ HC Deb, vol 564, cols 454-568 (division no 55) 6th February 1957

¹³¹ HC Deb, vol 704, cols 870-1010 (division no 44) 21st December 1964. The solitary Labour retentionist was Frank Tomney, the very right-wing member for Hammersmith North.

¹³² HC Deb, vol 716, cols 358-466 (division no 256) 13th July 1965

¹³³ HC Deb, vol 736, cols 1409-1418 (division no 208) 23rd November 1966

¹³⁴ HC Deb, vol 793, cols 1148-1298 (division no 39) 16th December 1969. The Labour antis were Peter Doig (Dundee West), Jack Dunnett (Nottingham Central) and David Ensor (Bury and Radcliffe) teller for the noes. In addition Desmond Donnelly, MP for Pembroke, who had

very thin on the ground though not quite totally extinct. For example, in 1975, in the wake of IRA bombings in London there were only three Labour members for restoration as against 297 against.¹³⁵ In 1979 following the return to power of the Conservatives under Margaret Thatcher there were again only three Labour MPs for restoration, as against 256 against.¹³⁶ There were corresponding imbalances within the Labour ranks in votes on the question in the House of Lords in 1948, 1956, 1964/65 and 1969. This probably reflected, roughly, the balance of opinion among party members in the country (though hard evidence on this point is lacking because pollsters rarely if ever poll grassroots party members) but did not of course reflect the views of the great mass of ordinary Labour voters.

resigned the Labour whip earlier that year and now sat as an independent, also voted against.
¹³⁵ HC Deb, vol 902, cols 663-728 (division no 15) 11th December 1975. The Labour restorationists were Doig and Dunnett again plus Arthur Lewis (West Ham North). The motion was to restore capital punishment for terrorist murder.

¹³⁶ HC Deb, vol 970, cols 2019-2126 (division no 70) 19th July 1979. The three Labour restorationists were Dunnett and Lewis again plus Leslie Spriggs (St Helens). This was the last occasion when a Labour MP went into the division lobby in support of hanging.

Labour Party Voting on Capital Punishment 1948-1979

Vote	Abolitionist	Retentionist	Abstentions	Total Lab MPs
1948	216 (54.96)	75 (19.08)	102 (25.95)	393
1953	191 (64.96)	15 (5.10)	88 (29.93)	294
1955	195 (66.32)	5 (1.70)	94 (31.97)	294
1956 (Feb)	241 (87.00)	3 (1.08)	33 (11.91)	277
1956 (March)	236 (85.19)	8 (2.88)	33 (11.91)	277
1964	267 (84.22)	1 (0.31)	49 (15.45)	317
1966	255 (70.44)	17 (4.69)	90 (24.86)	362
1969	279 (80.17)	3 (0.86)	66 (18.96)	348
1973	238 (82.92)	3 (1.04)	46 (16.02)	287
1974	302 (94.67)	3 (0.94)	14 (4.38)	319
1975	297 (93.39)	3 (0.94)	18 (5.66)	318
1979	256 (95.16)	3 (1.11)	10 (3.71)	269

Source: Hansard. Figures in brackets are the percentages of Labour members voting for or against or abstaining. All figures include tellers on both sides.

It is abundantly clear from the above table that the Labour Party has been consistently and overwhelmingly anti-hanging, at least since the early 1950s if not before, with the number of Labour pro-hangers withering away to very small proportions by the 1960s and dying out completely by the 1980s. Noticeable also was the uniformity of abolitionism across the whole of the party spectrum with the right and centre almost as solidly abolitionist as the left. It was an issue that united the party from Sydney Silverman to Roy Jenkins. Another

curiosity is that the process of moving to the right politically often seemed to result in the acquisition of pro-hanging views. For example, both Alan Brown and Desmond Donnelly who resigned the Labour whip at different times and subsequently joined the Conservatives voted in a pro-hanging direction afterwards.¹³⁷

It is unlikely that Labour members experienced any sort of pressure from their constituency parties to vote against abolition, unlike in the Conservative Party where there was undoubtedly strong pressure to do so, given that most local Labour Party members would have been likely to have been abolitionist.¹³⁸ It is possible that some Labour members voting to restore capital punishment in later years might have come under constituency pressure although there is no evidence of this. On the other hand Labour MPs and candidates certainly faced demands from voters and sometimes representations from local bodies, especially the police, to vote for hanging.¹³⁹ But there is again no evidence that these were effective, though it is possible that the relatively large Labour vote for the Sandys motion of 1966 (aiming to restore hanging for the murder of police and prison officers) may have been influenced by these factors in some cases, especially given the

¹³⁷ Alan Brown resigned the Labour whip in 1961 over defence and subsequently crossed the floor to join the Conservatives. He voted against raising the minimum age for hanging in 1961 on a party vote. Donnelly resigned the whip in 1968, sitting as an Independent and then forming his own Democratic Party, before joining the Conservatives in 1971. He voted for restoration in 1969, having previously been an abolitionist and a member of the delegation to the Home Secretary that urged a reprieve for Derek Bentley seventeen years previously.

¹³⁸ Though data is lacking on the views of constituency party members on this issue and matters in general. Affiliated trade union members were of course a different proposition.

¹³⁹ This was certainly so in the case of Stan Newens, successful Labour candidate for Epping in 1964. Interview 9th April 1999.

recency of the Shepherds Bush murders.¹⁴⁰

An analysis of the very small number of Labour retentionists from the 1950s onwards is illuminating.¹⁴¹ It shows that they came almost exclusively from the right of the party, and more particularly the old working class, trade union right. Only William Baxter, who voted for the Sandys motion in 1966, could remotely be characterized as a left-winger.¹⁴² Some, such as Stanley Evans and Frank Tomney were conspicuously right-wing.¹⁴³ They were generally somewhat older than the average for Labour members at the time (those voting for hanging in the 1950s had nearly all been born in the nineteenth century) and they tended to be northern and often either nonconformist or Roman Catholic, representing constituencies that were likewise northern and often with a large nonconformist and/or Roman Catholic population. A majority (though slim) had had no more than elementary education. Most were working class in origins (when it was easier to differentiate the classes) and had had manual occupations and/or were trade union officials. Railwaymen were well represented among them. Very few had been ministers in the Attlee administration nor were to become so in the Wilson governments.

¹⁴⁰ Six of the seventeen had voted for abolition less than two years previously and four voted for abolition again in 1969.

¹⁴¹ Those voting for retention in 1948 can be discounted because in many cases they were simply following front bench advice.

¹⁴² He had been deprived of the whip in 1961 for voting against the Defence Estimates along with four other Labour members, including Silverman. Norton, Philip, *Dissension in the House of Commons: Intra-Party Dissent in the House of Commons' Division Lobbies 1945-1974* (London: Macmillan, 1975), pp.160-1; Jackson, Robert J., *Rebels and Whips: An Analysis of Dissension, Discipline and Cohesion in British Political Parties* (London: Macmillan, 1968), pp 180-1; HC Deb vol 636, col 1529-30 (division no 109) 15th March 1961.

¹⁴³ Evans had been sacked from the Attlee government for criticizing the 'featherbedding' of industry in 1951 and had been the only Labour pro-Suez rebel. He stepped down in 1956.

Labour Retentionists (Labour MPs who voted for hanging 1953-1979)

Vote	Birth	Birth	Education	Education	Occupation	Occupation	Total
	Pre-1900	1900+	Elementary	Advanced	Manual/TU	Non-manual	
1950s	17	2	12	10	13	9	22
1960s+	1	18	10	9	11	8	19

Note: The 1950s includes all those who had voted against abolition in the votes of 1953, 1955, 1956 and 1957. The 1960s votes are those of 1964, 1966, 1969, 1973, 1974, 1975 and 1979 (no Labour MP voted for hanging thereafter). In terms of voting they form two distinct groups with no overlap due largely to belonging to different generations.

Source: HC Deb; Stenton, Michael and Lees, S: *Who's Who of British Members of Parliament*, vol IV (1945-1979) (Sussex, Harvester 1981)

As mentioned earlier in 1948 the Labour cabinet abstainers were all from the left, and members of parties to the left of Labour such as the two Communists and one former Commonwealth member (in the 1945 parliament) voted abolitionist, as have the smattering of Plaid Cymru, Northern Irish SDLP and Irish nationalists in various subsequent parliaments. It is apparent that the Labour Party, and the left and centre of British politics in general, has been fiercely and steadfastly abolitionist.

Tomney was right-wing on most issues.

The Conservative Party

More interesting, because more divided, is the case of the Conservative Party. Here the pattern is to some extent the opposite of that of Labour. The Conservatives have always been predominantly pro-hanging, with the abolitionist element an initially small but steadily growing minority within the party, though the Tory abolitionists have been, at least after 1948, a somewhat larger minority within their party than the Labour retentionists within theirs, and have tended to be a growing minority rather than a diminishing one.

In 1948 there were sixteen Conservative supporters of the Silverman clause (including as Conservatives the National Liberals who were by then indistinguishable from them and the Ulster Unionists who then still took the Conservative whip), as against 145 Conservatives and allies who were against.¹⁴⁴ In the 1953 vote there were only four Conservative abolitionists as against 241 retentionists, superficially indicating that support for abolition was ebbing away within Tory ranks.¹⁴⁵ But by the 1955 vote they had rallied with seventeen abolitionists as against 239 retentionists.¹⁴⁶ And by 1956, reinforced by a new intake of younger members at the 1955 general election who were believed to be rather more liberal than their predecessors, their numbers had risen dramatically to forty-nine as against 245 retentionists.¹⁴⁷ They

¹⁴⁴ HC Deb, vol 449, cols 1093-1098, 14th April 1948.

¹⁴⁵ HC Deb, vol 517, cols 407-418 (division no 209) 1st July 1953.

¹⁴⁶ HC Deb, vol 536, cols 2064-2184 (division no 34) 10th February 1955.

¹⁴⁷ HC Deb, vol 548, cols 2536-2656 (division no 111) 16th February 1956.

were now about a sixth of the party's strength in the Commons. In March 1956, on the second reading of the Silverman Bill they had stayed solid at forty-seven to 254.¹⁴⁸ On the third reading, with a reduced turnout, the figures were 20-130, a roughly similar balance.¹⁴⁹

With the defeat of the Silverman Bill in the Lords, however, and the introduction of the Conservative government's Homicide Bill in the next session as a compromise the position changed. Whereas the Labour abolitionists were antagonistic to the Bill the Tory abolitionists by contrast fell in with the government's wishes, undoubtedly having been subject to strong pressure from the whips, and in some cases from their constituency parties (especially Nigel Nicolson at Bournemouth).¹⁵⁰ In the third reading on the Homicide Bill not a single Tory abolitionist joined the Labour Party in the no lobby, much to the disgust and chagrin of the Labour abolitionists, who felt that they had betrayed their principles.¹⁵¹ But the Tory abolitionists may have felt, at least in some cases, that partial abolition would pave the way for greater public acceptance of full abolition at some time in the future whereas complete abolition there and then might have caused a popular backlash. Abolition in two stages may have been preferable to one.

By 1964 the ranks of the Tory abolitionists had swelled further, again with the infusion of a younger and perhaps more liberal generation of members in the recent election, and the party split almost

¹⁴⁸ HC Deb, vol 550, cols 36-152 (division no 119) 12th March 1956.

¹⁴⁹ HC Deb, vol 555, cols 713-840 (division no 250) 28th June 1956.

¹⁵⁰ Nicolson, Nigel, op cit; Martin, Laurence W, 'The Bournemouth Affair: Britain's First Primary Election', *The Journal of Politics*, vol 22 (no 4) (November 1960), pp. 654-681

¹⁵¹ HC Deb, vol 564, cols 454-568 (division no. 55) 6th February 1957.

exactly two-to-one (counting those who voted) for the new Silverman Bill on the second reading; eighty for the Bill and 168 against.¹⁵² On the third reading it was twenty-three for the Bill and ninety-eight against.¹⁵³ In the 1969 vote the balance altered somewhat in the opposite direction with fifty voting to make abolition permanent and 180 voting against.¹⁵⁴ Doubtless quite a number of the Tories who had voted for abolition in 1964/1965 had done so on an experimental basis, and were now reverting to type in the light of evidence they may have regarded as indicating the failure of the experiment, though strong constituency pressures undoubtedly played a role in some cases. It is noticeable that on all of the votes up to 1969 there was a large contingent of abstainers, and though many of these would have been unavoidably absent, paired or simply undecided, it is not too fanciful to speculate that they included a substantial contingent of abolitionist inclined members who were fearful of upsetting their local parties but equally could not bring themselves to vote for hanging. At any rate it is likely that there were more abolitionists than retentionists among the abstainers.

Later votes saw a further slight tilt away from abolitionism with, in 1975 for example, the split being 47-214, reflecting probably a reaction to the rise of terrorism.¹⁵⁵ But by the time of the 1979 vote the abolitionists had risen again to the levels of 1964 and higher with 92 as against 227.¹⁵⁶ This rough balance of opinion within the party was

¹⁵² HC Deb, vol 704, cols 870-1010 (division no 44) 21st December 1964.

¹⁵³ HC Deb, vol 716, cols 358-466 (division no 256) 13th July 1965.

¹⁵⁴ HC Deb, vol 793, cols 1148-1298 (division no 39) 16th December 1969.

¹⁵⁵ HC Deb, vol 902, cols 663-728 (division no 15) 11th December 1975.

¹⁵⁶ HC Deb, vol 970, cols 2019-2126 (division no 70) 19th July 1979.

maintained into the 1980s and 1990s until the debate finally fizzled out.

Conservative Party Voting on Capital Punishment (1948-1979)

Year	Abolitionist	Retentionist	Non-voting	Total Con MPs
1948	17 (7.83)	146 (67.28)	54 (24.88)	217
1953	4 (1.24)	243 (75.46)	75 (23.29)	322
1955	18 (5.59)	241 (74.84)	63 (19.56)	322
1956 (Feb)	49 (14.24)	245 (71.22)	50 (14.53)	344
1964	81 (26.64)	170 (55.92)	53 (17.43)	304
1966	30 (11.85)	154 (60.86)	69 (27.27)	253
1969	53 (20.00)	181 (68.30)	31 (11.69)	265
1975	48 (17.26)	216 (77.69)	14 (5.03)	278
1979	93 (27.43)	229 (67.55)	17 (5.01)	339
1983	141 (35.51)	212 (53.40)	44 (11.08)	397

Note: Figures in brackets are the percentages of the total number of Conservative MPs.

Conservative includes National Liberal and Ulster Unionist up to 1969, but for votes thereafter Ulster Unionists are excluded. The 1956 vote is the abolitionist motion of February. The voting on the second reading of the consequent abolition bill a month later was almost identical. All figures include tellers for either side. Source: Hansard

As with the Labour Party the balance of Conservative opinion in the House of Commons was echoed in the Lords, though of course the picture is somewhat confused by the huge number of non-voting Tory hereditary peers whose views are unknown and whose votes and

presence in the chamber is a rarity.¹⁵⁷ So far as the Tory Party in the country was concerned there was an overwhelming majority against abolition, as attested to by several party conference debates, especially that at Llandudno in 1956 in the immediate wake of the first Silverman Bill. In his speech to the conference Home Secretary Gwilym Lloyd George was anxious to assert his pro-hanging credentials:

As the minister responsible for the maintenance of law and order in this country, I felt it my duty at the time when the Bill was before the House to urge the House to vote against abolition. My advice was not taken, but my belief that it would be a grave mistake to abolish capital punishment has not been altered.¹⁵⁸

Conference resolved by an overwhelming majority: 'That this conference emphatically opposes the terms of the Death Penalty (Abolition) Bill but urges that the law of murder be amended so as to limit the imposition of the death penalty.'

The strength of feeling among grass-roots Conservative may be gauged also by the tone of the letters that flooded into Conservative Central Office around this time. Typical was that from a lady in Worthing who complained of the recent failure to hang two child murderers and talked of: 'Sloppy Home Secretaries reprieving every murderer.' and

¹⁵⁷ See Bromhead, P A, *The House of Lords and Contemporary Politics 1911-1957* (London: Routledge and Kegan Paul, 1958); and Morgan, Janet P, *The House of Lords and the Labour Government 1964-1970* (Oxford: Clarendon Press 1975). Morgan, (p.2) estimates that, in mid-1968, there were 116 Labour peers, 351 Conservative peers, 41 Liberal peers and 554 peers taking no whip, based on *Lords Reform*, Cmnd 3799, November 1968. The 554 whipless peers may have been largely Conservative by inclination but that gave no indication as to the likelihood or the direction of their voting on conscience issues.

¹⁵⁸ Conservative Party Conference Report, Llandudno, 12th October 1956.

said that the public would have to 'take steps'. The birch should not have been abolished nor flogging for robbery, she went on, and for good measure she advocated castration for sex offenders and hanging for all murderers over the age of sixteen.¹⁵⁹ The Conservative Women's Annual Conference passed an emergency resolution by a large majority saying that it:

...welcomes the amendment to the capital punishment bill [sic] which provides for the retention of the death penalty in certain circumstances...urges Conservative MPs to continue efforts...that adequate attention may be given to the views of the many women who are strongly opposed to the total abolition of the death penalty.¹⁶⁰

The intensity of grass-roots feeling against some Tory abolitionists for ignoring their constituents' views is typified in a letter from a Gravesend Borough Councillor, who deprecated his MPs abolitionist stance (Peter Kirk being the offending member): 'I think it is regrettable that he should have added his name to any proposal without consulting his supporters.'¹⁶¹ Another correspondent deprecated the Tory abolitionists: '..morning of disillusionment for many of us who have believed that Conservatives had the courage to put their public duty above all...cowardly self-appeasement at the expense of the community.'¹⁶² The government's Homicide Bill did not receive a warm

¹⁵⁹ Conservative Party Archives, (The Bodleian Library, Oxford University) CCO 4/7/21. Mrs Blanchard to Lord Hailsham, 26th October 1957.

¹⁶⁰ Conservative Party Archives, ibid. CCO 4/7/21, undated.

¹⁶¹ Conservative Party Archives, ibid. CCO 4/7/21, Denis A Ford to party chairman, 16th February 1956

¹⁶² Conservative Party Archives, ibid. CCO 4/7/21, Dr G C Steel, SW15, to Central Office, 17th

welcome from some correspondents either. An anonymous writer from Bury St Edmund's characterised it as the 'Murderer's Protection Bill' and asked if they were surprised at recent by-election results: '...your Tory government has passed a bill making it illegal to hang a diabolical murderer – right against public opinion – will not vote for you again.'¹⁶³

Thus the Parliamentary party was considerably more abolitionist than the rank and file. The Conservative Party supplied nearly all of the chief Parliamentary campaigners opposed to abolition prior to 1965 such as Sir Thomas Moore, Brigadier Terence Clarke and Cyril Osborne, and nearly all the leading Parliamentarians who agitated for restoration after 1965 such as Duncan Sandys, Peter Rawlinson, Eldon Griffiths, Teddy Taylor and Jill Knight.

It is largely unsurprising that the Conservatives should have been so hostile to abolition given that they were the party of law and order and of custom and tradition, all of which might predispose them to prefer the retention of hanging. On the other hand there was nothing in Tory history and philosophy that expressly mandated support for the death penalty (just as there was nothing in Labour's ideology to mandate the opposite), and a significant minority of the party's MPs has been consistently abolitionist, notwithstanding considerable pressure, in some cases, from their constituency parties to modify or abrogate their stance.¹⁶⁴ Nigel Nicolson (Bournemouth), Sir Edward Boyle

February 1956.

¹⁶³ Conservative Party Archives, *ibid.* CCO 4/7/21, anon to Central Office, 23rd March 1957

¹⁶⁴ See Jackson, R J, *op cit*; Nicolson, Nigel, *op cit*. In addition to the notorious Nicolson case there were other less heralded instances of constituency pressure being exerted on abolitionist Tories, sometimes successfully. Shirley Williams (Lady Williams of Crosby) feels

(Birmingham, Handsworth), Montgomery Hyde (North Belfast), Sir Frank Medlicott (Norfolk East) and Humphry Berkeley (Lancaster) are all members who at one time or another experienced difficulties with their constituency parties which derived, at least in part, from their stance on hanging; though in all of these cases, and most other such, it was compounded by other offences. In fact abolitionist votes were usually a minor count on the indictment against them and it was some other offence that formed the main count; Suez in the case of Nicolson, Boyle and Medlicott. For Hyde though, who was a *pro-Suez* rebel, it was chiefly hanging that brought him into conflict with his constituency party and led to his de-selection in 1959, and for Berkeley it was chiefly his support for homosexual law reform that enraged some of his constituents and may have led to defeat in the 1966 general election.¹⁶⁵

On the other hand there were several abolitionists among the pro-Suez group who were generally on the right of the party and there is no evidence that they experienced any constituency pressure (apart from Hyde). Thus it seems that abolitionist voting was usually tolerated where the member was fundamentally 'sound', but was a convenient stick with which to beat a member when he was already 'suspect'.

that Edward Boyle was hounded out of politics because of his abolitionism. Interview 10th May 2007.

¹⁶⁵ Berkeley, Humphry, *Crossing the Floor* (London: Allen and Unwin 1972). He states (p.18) that he had had much more trouble from his constituency party than from the whips over his stance on many issues; including abolition, his introduction of a Homosexual Reform Bill in 1966 and his views on Africa (none of which necessarily put him at odds with the party leadership). At a public meeting in his Lancaster constituency a member of the City Council asked him what would be done with all the released murderers who would have hanged, and flatly refused to believe that only six had hanged in the previous three years (p.126).

It is intriguing to analyze the divisions within the party on this issue, given its totemic significance to the Tory party, and to speculate on what influenced a member's attitude. Much analysis has been devoted to the question based on a range of variables which indicates that age and religion may have been slight factors influencing opinion, but none have really attempted to analyse the effects of ideology.¹⁶⁶

Given that the Labour Party was strongly abolitionist and given also the apparent left-right orientation of the divide it might have been expected that Conservative abolitionists would have come chiefly, if not exclusively, from the left or inner wing of the party - that is to say the wing that was closer to the Labour Party on issues in general. Yet curiously this isn't entirely borne out by the division lists, which have shown a fair number of right-wing Conservatives voting for abolition and some left-wing ones for retention. For example, several Suez rebels (from the right-wing pro-imperial Suez Group) such as Angus Maude and Hinchingsbrooke were in the abolitionist camp in 1956-57, and the most definitively right-wing MP of recent times, Enoch Powell, has since 1955 been a consistent supporter of abolition (and opponent of restoration).¹⁶⁷ Conversely, Reginald Maudling, one of the most left-wing Tories on most questions, was consistently a supporter of hanging.

This may of course reflect the fact that it is notoriously more difficult to assign MPs reliably to the left or right of the Conservative

¹⁶⁶ See Richards, P G, op cit, pp. 179-96

¹⁶⁷ Heffer, Simon, *Like the Roman: The Life of Enoch Powell* (London: Weidenfeld and Nicolson, 1998), p.380, p.539, pp.664-5, p.776. See also Roth, Andrew, *Enoch Powell: Tory Tribune* (London: Macdonald, 1970) and Shepherd, Robert, *Enoch Powell: A Biography* (London: Hutchinson, 1996)

Party than it is to do likewise in the Labour Party. The Conservatives have often been described as a party of tendencies rather than factions.¹⁶⁸ It might be more accurate to refer to a 'foreign policy right-wing', an 'economic policy right-wing' and a 'social/penal policy right-wing', which may be overlapping but not identical. One might therefore suppose that the abolitionists would have come from the 'social policy left' of the party and be likely to support other liberal measures such as homosexual law reform, the legalization of abortion and the relaxation of the divorce laws (which seems to be the case) without necessarily taking up leftish positions on economics or foreign policy.¹⁶⁹ It may also conceal the fact that Conservative MPs may have had very different reasons from each other, and from their Labour counterparts, for favouring abolition. An exceptional case was that of Julian Amery, a consistent abolitionist, whose brother, John, had been hanged as a traitor in 1946.¹⁷⁰ Was this the source of his hostility to hanging?

To analyze this further it would be desirable to have a measure of where a Conservative MP stood in the party spectrum and to which, if

¹⁶⁸ Rose, Richard, 'Parties, factions and tendencies in Britain' *Political Studies*, vol XII (1) 1964, pp. 33-46. Tendencies constitute 'fluctuating alignments on specific issues' whereas factions represent 'a group of individuals who seek to further a broad range of policies through consciously organized political activity'. By contrast the Labour Party had a very consistent left-wing faction that was disaffected over a whole range of issues, both foreign and domestic.

¹⁶⁹ Richards, P G, op cit.

¹⁷⁰ West, Rebecca, *The Meaning of Treason* (London: Virago, 1982); Rubinstein, William D 'The Secret of Leopold Amery', *History Today*, Vol 49 (2), February 1999 pp.17-23; Weale, Adrian, *Patriot Traitors: Roger Casement, John Amery and the Real Meaning of Treason* (London: Viking, 2001); Faber, David, *Speaking for England: Leo, Julian and John Amery – The Tragedy of a Political Family* (London: Free Press, 2005). This was an extraordinary saga. John Amery was the elder son of the war-time Secretary of State for India, and long-time ardent imperialist politician, Leo Amery. A fascist sympathizer, John Amery was convicted after the war of treason chiefly for having attempted to recruit British and Allied prisoners-of-war into an autonomous 'Legion of St George' to fight alongside Nazi Germany against Soviet Russia. Even more bizarre is the fact that, as revealed by Rubinstein, Leo

any, ideological camp he belonged, but this is a notoriously difficult and chimerical exercise. It is well documented that there are 'liberal' Tories who tend to vote fairly consistently for measures of social and penal reform.¹⁷¹ But there is little evidence of these 'liberals' voting a consistent 'left' ticket on other issues. Of course on most mainstream issues of an economic, industrial or foreign policy nature the whips would have been on and so differences would not have shown up, unless there was a backbench revolt. But it is just such a revolt that may give indicators as to a Conservative MP's general ideological position. Another such indicator is the Early Day Motion (EDM) but these are numerous, and often uninformative as to whether a signatory is genuinely in support of the motion.¹⁷² A third indicator is membership of an ideological group within the party, such as the Bow Group, the One Nation Group, the Monday Club and the Suez Group, the chief such ginger groups within the party at the relevant time.¹⁷³ Again membership is not always easy to ascertain, sometimes fairly nebulous, and also possibly misleading. Though the Bow Group has always had the

Amery was a closet half-Jew, and John could scarcely have been unaware of his ancestry.

¹⁷¹ See for example:- Hibbing, John R and David Marsh, 'Accounting for the Voting Patterns of British MPs on Free Votes', *Legislative Studies Quarterly*, vol 12 (no 2) (May 1987), pp. 275-297; Read, Melvyn, David Marsh and David Richards, 'Why Do They Do It? Voting on Homosexuality and Capital Punishment in the House of Commons', *Parliamentary Affairs*, vol 47 (1994), pp. 374-386; Pattie, Charles, Edward Fieldhouse and R J Johnston, 'The Price of Conscience: The Electoral Correlates and Consequences of Free Votes and Rebellions in the British House of Commons, 1987-92', *British Journal of Political Science*, vol 24 (3) (1994), pp. 359-380; Mughan, Anthony and Roger M Scully, 'Accounting for Change in Free Vote Outcomes in the House of Commons', *British Journal of Political Science*, vol 27 (4) (1997) pp. 640-647; Cowley, Philip and Mark Stuart, 'Sodomy, Slaughter, Sunday Shopping and Seatbelts: Free Votes in the House of Commons, 1979-1996' *Party Politics*, vol 3 (no 1) 1997, pp. 119-130

¹⁷² See Franklin, Mark N and Michael Tappin, 'Early Day Motions as Unobtrusive Measures of Backbench Opinion in Britain', *British Journal of Political Science*, vol 7 (1), (1977), pp. 49-69

¹⁷³ Critchley, Julian, 'The Intellectuals', *Political Quarterly*, vol 32, 1961, pp. 267-274 gives an account of the Conservative Political Centre, the Bow Group and the One Nation Group and

reputation of being on the left of the party there are some members who clearly belong to the right on some issues and a few MPs such as Geoffrey Rippon have been members of both the Bow Group and the Monday Club. Likewise the One Nation Group, also impliedly leftist, contained some right-wing members such as Enoch Powell and Angus Maude, the former also a member of the Suez Group.

Early attempts to map the ideological contours of the party were made by Berrington, in the early 1960s, based chiefly upon EDMs as well as votes.¹⁷⁴ He noted that not only were revolts less common in the Tory Party by comparison with Labour, but that they differed in scope and nature. From 1955 to 1961 there had been three major crises of disunity within the party: - over abolition in 1956, Suez 1956 and Northern Rhodesia in 1961. However, the rebels on each of these issues were not altogether the same people. Berrington noted that the forty-eight Conservatives who voted for abolition in 1956 were a very mixed bag who formed an *ad hoc* coalition, and that there was very little correlation with how they had voted over the Suez crisis, the Rhodesia revolt and corporal punishment in 1961. In regard to Suez, there was only a slight tendency for the abolitionists to be more left, in terms of motions signed, than for backbenchers in general. There was the same proportion of abolitionists among what he termed the 'extreme right'

their activities and influence within the Conservative Party.

¹⁷⁴ Berrington, Hugh, 'The Conservative Party: Revolts and Pressures 1955-1961', *Political Quarterly*, vol 32 (1961) pp. 363-373. See also: - Finer, S, H B Berrington and D J Bartholomew, *Backbench Opinion in the House of Commons, 1955-59* (London: Pergamon 1961); Berrington, Hugh, *Backbench Opinion in the House of Commons, 1945-55* (London: Pergamon, 1973); Norton, Philip, *Conservative Dissidents: Dissent within the Parliamentary Conservative Party, 1970-74* (London: Temple Smith 1978).

(15%) as among backbenchers generally. In regard to Northern Rhodesia and the Turton motion of February 1961 (regarded as critical of colonial secretary Macleod and his attempt to impose black majority rule) there was again very little difference in the attitude of the abolitionists and the backbenches generally, with the former only slightly less sympathetic than the whole party to the motion. Even in regard to the associated question of corporal punishment where one would reasonably have expected abolitionists to be noticeably more liberal than their retentionist colleagues there was no significant difference between the reaction of the abolitionists and the party generally. On the amendment to the Criminal Justice Bill proposing the retention of corporal punishment (April 1961) 22% of abolitionists supported it as against 28% of the backbenches generally, and 31% opposed it as against 28% of the backbenches generally. Apparently hangers are not always floggers and anti-hangers not always anti-floggers!

As Berrington comments it would be difficult to find better evidence of the very specific character of Conservative rebellions. Though he went on to argue that there were signs of a consistent right-wing faction emerging in that the Rhodesia rebels overlapped substantially with the Common Market dissidents, and to a lesser extent with the birching rebels, he felt that this may have been exceptional. Moreover he found little or no evidence of the rebel or dissident groups being identifiable by any of the obvious factors such as age, social class, occupational or educational background, type of constituency,

etc, with the exception of the younger members tending to be more liberal on penal reform, as already noted. But as Berrington presciently observed the European question (the Common Market) seemed to bear the hallmarks of an issue capable of splitting the party, though subsequent Conservative divisions over Europe (by far the most deep and numerous) have borne little or no relationship to divisions over capital punishment or other policy areas.

Later and more sophisticated attempts to analyze the ideological structure of the party have tended to argue for the emergence of factions but based on two or even three dimensions of policy. Baker, Gamble and Ludlam (1993), for example, argue that simple left/right categories have never made much sense in the context of the Conservative Party and offer instead a two-dimensional analysis in which the party's MPs are arrayed on European integrationism versus nationalism in the foreign policy sphere and interventionism versus *laissez faire* in the economic; dimensions which are very largely independent of each other.¹⁷⁵ Thus their analysis yields four ideological quadrants in which, for example, Margaret Thatcher and Norman Lamont appear in the nationalist, *laissez faire* quadrant; Nigel Lawson and John Major in the Europeanist, *laissez faire*; Kenneth Baker and Alan Clark in the nationalist, interventionist; and Edward Heath and Michael Heseltine in the Europeanist and interventionist. It is a more satisfying topology of the party than a conventional left-right one though many MPs would be

¹⁷⁵ Baker, David, Andrew Gamble and Steve Ludlam, 1846...1906...1996? 'Conservative Splits and European Integration', *Political Quarterly*, vol 64 (1993), pp 420-434. Their terminology is slightly different but amounts to the same thing.

hard to place within this framework, and there is probably rather more of a tendency for the pro-Europeans to be economic interventionists than the authors allow. The analysis was of course based on the party of the early 1990s but was clearly intended to be applicable to earlier (and later) eras. Though the authors do not touch on the matter, since they are concerned pre-eminently with Europe, there is no reason to suppose that either of their hypothesized dimensions correlates with opinion on capital punishment or any social/penal question.

Another and even more recent analysis by Heppell (2002) utilizes three dimensions, essentially taking the foreign and economic policy dimensions of Baker *et al* and adding a third.¹⁷⁶ He postulates, following Cowley and Garry (1998), that the party can be ideologically configured in terms of economic policy (extended state versus limited state), European policy (pro-European versus Eurosceptic), and what he designates 'social/sexual/moral policy' (social liberals versus social conservatives).¹⁷⁷ He deploys data derived from division lists, EDMs signed, membership of party groups and public and private comments to ascertain MPs positions. His index on social, sexual and moral conservatism develops the 'Read and Marsh index' based on voting on capital punishment, abortion, homosexuality and divorce, so as to include another seven moral issues:- corporal punishment, immigration, identity cards, embryo research, voluntary euthanasia, the ordination of

¹⁷⁶ Heppell, Timothy, 'The Ideological Composition of the Parliamentary Conservative Party 1992-97', *British Journal of Politics and International Relations*, vol 4, no 2, June 2002, pp. 299-324. See also the reply to this: Cowley, Philip and Philip Norton, 'What a ridiculous thing to say! (which is why we didn't say it): a response to Timothy Heppell', *ibid*, pp. 325-329.

¹⁷⁷ Cowley, Philip and J Garry, 'The British Conservative Party and Europe: the choosing of

women priests and Sunday trading.¹⁷⁸ His typology yields eight different categories of Conservative MP, based on the different combinations of the three variables, to which all Conservative members of the 1992 House of Commons are assigned. Thus Michael Heseltine and Edward Heath, for example, appear as 'extended state, pro-European social liberals'; and Michael Howard and Michael Portillo are 'limited state, anti-European social conservatives' (by far the largest category).¹⁷⁹

As with Baker *et al* the analysis is peculiar to that Parliament but is clearly intended to be applicable to the party in previous and later periods. The third dimension identified by Heppell is far and away the most significant from the point of view of predicting attitude towards capital punishment which is of course a primary component of the index. Heppell's index identifies 101 'social liberals' and 230 'social conservatives'; i.e. a split of rather more than two-to-one in favour of the social conservatives - reflecting very roughly the balance of opinion at various times over capital punishment. Of course not every MP classified as a social liberal was always in the abolitionist lobby, but the great majority of those in the social conservative category would invariably have been in the pro-hanging lobby given that this was a touchstone issue of social conservatism.

Examining all the evidence of votes on capital punishment and other moral issues, and mainstream party issues, both free and

John Major', *British Journal of Political Science*, vol 28 (1998) pp. 473-499.

¹⁷⁸ Read, M and D Marsh, 'The Family Law Bill: Conservative Party splits and Labour Party cohesion', *Parliamentary Affairs*, vol 50 (1997), pp. 263-279

¹⁷⁹ There are two additional categories based on those who were 'agnostic' on Europe and economics, which somewhat surprisingly includes John Major - who might have been

whipped, as well as membership of party ginger groups, no clear picture emerges of the typical abolitionist Tory (or the typical retentionist).

There is some evidence that the abolitionist is more left-wing than the retentionist, particularly if one looks at dissenting votes on mainstream issues of both a domestic and international character, but it is far from conclusive. And it is in any case often extremely difficult to place a Tory MP as being on the left or right, or to say what stance on any given issue is left or right. It is clear that within the Conservative Party it was very difficult to predict which MPs would swing which way on capital punishment; a function both of the complex ideological structure of the party and of the 'stand-alone' nature of the hanging issue itself.

The Liberal Party and minor parties

The Liberal Party has since 1945 been generally abolitionist, with the majority of its very small number of MPs going into the anti-hanging lobby in each of the major votes on the issue from 1948 onwards. It voted 7-0 for abolition in 1948, when it had twelve MPs, and in the 1950s when it was down to a mere six MPs only the then leader, Clement Davies, recorded a vote for retention in 1953, while the party voted 5-0 for abolition in the votes of 1955 and 1956. All its MPs opposed the relevant provisions of the Homicide Bill in 1957, and the new leader, Jo Grimond, protested that the Bill was 'a curious compromise between

regarded as embattled rather than agnostic.

right and wrong' and merely a device for the suppression of the Silverman Bill.¹⁸⁰ In 1964 on the second reading of the Silverman bill they voted 8-1 for abolition and in 1969 on the confirmatory vote 10-2 against restoration. Alasdair Mackenzie (MP for Ross and Cromarty 1964-70) was the solitary Liberal retentionist in 1964, and only he and Wallace Lawler (Birmingham, Ladywood) among Liberals voted for hanging in 1969. Mackenzie was a supporter of the Sandys campaign to re-instate the death penalty for the murder of police and prison officers in 1966. Generally to the right of his Liberal colleagues on most issues this further reinforces the picture of the left-right orientation of the capital punishment debate. Lawler's was a perverse vote registering a protest against Home Secretary Callaghan's 'failure to offer a proper alternative', because he was in principle an abolitionist and said that had the vote looked like being close he would have abstained.¹⁸¹ Peter Bessell (Bodmin), who had been a qualified retentionist, voted for abolition because he did not want to go back to the Homicide Act. After 1970 the party remained very strongly abolitionist, though a few MPs voted the other way in votes in the 1970s.¹⁸² By 1975 the Party Council issued a statement that regretted the repeated calls for the re-introduction of capital and corporal punishment and, in anticipation of later developments, called for the new European Parliament to draw up a declaration on 'Basic Human and Civil Rights' to be ratified by member

¹⁸⁰ Liberal Party Papers (LSE), file 16/20/22, Information Department paper, November 1961

¹⁸¹ Liberal News, no 1072, 23rd December 1969

¹⁸² After 1970 only three Liberal MPs ever voted for restoration: - Cyril Smith (Rochdale), consistently, Stephen Ross (Isle of Wight) and David Penhaligon (Truro). Penhaligon was a curious case in that he had entered Liberal politics partly out of opposition to hanging (he had

states which should make clear its opposition to the death penalty.¹⁸³

By the mid-1950s it would be fair to say that the party was overwhelmingly abolitionist in the tenor of its pronouncements. The Liberal Party Council, the governing body of the extra-parliamentary party, resolved in September 1955, as the controversy was building, that the party should:

give a lead to enlightened public opinion by firmly declaring its opposition to the continuance of capital punishment in this country. It welcomes the findings of the recent Royal Commission that capital punishment is not the only effective deterrent for the crime of murder and that no increase in the murder rate has resulted in any of the countries which, for years, have lived without it. It urges the Party Executive and the Parliamentary Liberal Party to do everything in their power to secure the early removal of the death penalty from the Statute Book.¹⁸⁴

At a joint debate of the National Liberal Club and the Eighty Club (also a Liberal club) in February 1956 an abolitionist motion was carried by 64-26, with Gardiner and Basil Wigoder speaking for the motion and Tudor Price against.¹⁸⁵ This was not, however, binding on members of the Parliamentary Party, and in later years there were occasional votes registered for the return of capital punishment by Liberal MPs, and there was always a free vote on the matter, as with the other parties.

The party's full conversion to the abolitionist cause was

given evidence for the defence in the trial of Pascoe and Whitty in 1963), but voted for it on one occasion in 1975.

¹⁸³ Liberal Party Papers (LSE), file 16/21/133, briefing paper, 26th June 1979

¹⁸⁴ *The Times*, 26th September 1955

¹⁸⁵ *The Times*, 10th February 1956

trumpeted by an editorial in its chief organ, *Liberal News*, of 2nd March 1956, which urged that the party should put its weight behind the Silverman Bill and expressed the hope that there would be a free vote in all parties and that there would be no pressure on Conservative MPs behind the scenes.¹⁸⁶ It also argued that there must be a full opportunity to overcome constitutionally the opposition of the Lords, which implied the use of the Parliament Act, and insisted on a moratorium on hangings while the legislation passed. The editorial recognized, however, that there were different opinions within the party, and that it would be wrong to attempt to bind all members to an abolitionist stance. A further editorial of July 1956, after the Lords' rejection of the Bill, underlined the party's stance by recording with approval the large number of Liberal peers who had voted for the Bill, and reiterated that there must be no more hangings. The former leader Lord Samuel, it noted, had abstained on the vote but had proposed an extension of the home secretary's power of reprieve, whilst Lord Rea (Liberal leader in the Lords) and Lords Sherwood, Moynihan, Russell of Liverpool and Layton had all spoken and voted in favour of the Bill.¹⁸⁷ Generally Liberal peers followed their brethren in the Commons and voted for abolition. Samuel, as a cautious and unenthusiastic retentionist, was untypical but belonged to a much earlier and rather different generation of Liberals which had matured in the nineteenth century.¹⁸⁸

Liberal party members, Liberal organizations and Liberal

¹⁸⁶ *Liberal News*, no. 508, 2nd March 1956, 'There Must Be No More Hanging' (editorial)

¹⁸⁷ *Liberal News*, 20th July 1956, 'No More Hanging' (editorial)

¹⁸⁸ Herbert Louis Samuel, 1st Viscount Samuel (1870-1963). Liberal Party leader 1931-5,

supporters in the country were generally also abolitionist. A Young Liberal meeting of 1962, for example, voted overwhelmingly for abolition.¹⁸⁹ Liberals, or Liberal supporters, were often prominent in the frontline of the capital punishment debate. In addition to Thorpe's activities on the NCACP, Ludovic Kennedy, broadcaster and journalist and Liberal Parliamentary candidate (for Rochdale in 1958) was a prominent supporter of abolition and a leading campaigner for a posthumous pardon for Timothy Evans about whose case he had written a highly influential book.

Party documents rarely touched on the subject given its 'conscience issue' status, though a 1966 Liberal Party pamphlet dealing with legal reform briefly recapitulated the party's attitude towards hanging by pointing out that all Liberal members present had voted for the third reading of the Silverman abolition bill in 1965, and all had, at the time, opposed the distinctions introduced by the Homicide Act, 1957.¹⁹⁰ It went on to quote approvingly the words of Emlyn Hooson, Liberal MP for Montgomeryshire and home affairs spokesman, during the third reading debate, that: 'Let us get rid of all the cant and hypocrisy about the deterrent. The only genuine argument in favour of hanging is retribution...while that is the only genuine argument in favour of the retention of the death penalty, I suggest that in a civilised community its retention on this ground cannot be tolerated.' The document went on to criticize the Tory home secretaries Butler and

Liberal Party leader in the House of Lords 1944-55

¹⁸⁹ *Liberal News*, 17th March 1962, 'End Hanging Debate' (news item)

¹⁹⁰ Liberal Party Papers (LSE), file 16/19/1 - Law and Order pamphlet, March 1966.

Brooke for failing to review the working of the Homicide Act and for taking no notice of the Home Office's own Research Unit report of 1961.

Following a Council resolution of 1965 the party conference in Scarborough that year, after an impassioned speech by Ludovic Kennedy, resolved in favour of calling upon the home secretary to institute a new enquiry into the Timothy Evans case and to grant a posthumous free pardon if there was any doubt about his guilt.¹⁹¹

In that respect the Liberal Party was very similar to Labour in the pattern of its voting, illustrating that on social issues the Liberals were as 'liberal' as Labour if not more so (unsurprisingly). Moreover, its leadership from the mid-1950s onwards in the form of Jo Grimond (1956-1967), Jeremy Thorpe (1967-1976) and David Steel (1976-1987) was consistently abolitionist. Thorpe in fact was a member of the Executive Committee of the NCACP from the late 1950s onwards and a prominent abolitionist, and both Grimond and Steel were strong and consistent abolitionists as manifested both by their votes and utterances in the Commons and elsewhere, and would have set the tone for the rest of the party in that respect. Grimond in 1961 firmly declared himself opposed to both capital and corporal punishment as barbaric and ineffective deterrents.

Other, more minor, political parties were of very little moment as regards the capital punishment issue given their negligible, or non-

¹⁹¹ Liberal Party Papers (LSE), file 16/19/4, Council minutes 27th February 1965. Party conference minutes, 24th September 1965

existent, representation in Parliament at the relevant times, and the general lack of policy statements issuing from them on the question. So far as parties to the left of Labour were concerned the Communist Party (and other socialist or Marxist parties) were usually abolitionist, certainly so far as the inclinations of its supporters were concerned, and indeed the two Communist members in the Commons between 1945 and 1950 voted for the 1948 abolition clause, as did the solitary Commonwealth Party member (though by then having joined Labour).¹⁹² At the other extreme parties to the right of the Conservatives and/or quasi-fascist parties would usually have been pro-hanging both because of their 'tough-minded' stance on law and order and because of their appeal to tradition. Support for the return of capital punishment was certainly party policy for the National Front in the 1970s.

So far as the separatist and irredentist parties are concerned Plaid Cymru has been strongly abolitionist, though having had very little representation in the House at the relevant periods, while the Scottish National Party (SNP) was for a time in the 1970s evenly split (somewhat surprisingly given their generally left-wing stance on most issues), and their Parliamentary leader Donald Stewart (Western Isles) voted consistently for restoration. In Northern Ireland the Ulster Unionists have been treated as Conservatives for the purposes of the foregoing section and took the Tory whip up to the early 1970s. In general they were consistently right-wing on most issues. They have been very

¹⁹² Willie Gallacher (MP for Fife, West 1935-50) and Phil Piratin (MP for Stepney, Mile End 1945-50) were the two Communists and Ernest R Millington (MP for Chelmsford 1945-50) was the solitary Commonwealth member, though he joined the Labour Party in April 1946.

largely retentionist, though Montgomery Hyde was an early and vocal supporter of abolition (and may have suffered in his Belfast North constituency as a result). The hard-line Democratic Unionist Party of the Reverend Ian Paisley has been largely retentionist, though manifested in the House of Commons for much of the time exclusively in the person of Paisley himself. The moderately republican and socialist Social Democratic and Labour Party (SDLP) again had very little representation, and its solitary MP, Gerry Fitt, voted for abolition and against restoration.

Other, very minor, parties had no representation in the Commons or Lords in the relevant periods and would have been most unlikely to have taken up any strong position on the issue given that their interests were of a highly sectional nature.

Conclusion

The parties were crucial to the success of the campaign in that party was the vehicle of change in Parliament, even in regard to a backbench issue such as that of capital punishment, and moreover a controversial private member's bill had little chance of success, no matter how large the majority for it in the Commons, unless the government of the day looked benignly upon it at the very least. It was evident from the early days of the campaign that the Labour Party was favourable to the reform and that a very large and growing majority of the PLP would support the measure, notwithstanding the tepidness of

the front bench in the immediate post-war period. By the mid-fifties the pro-hanging element within the PLP had almost withered away completely, and the leadership had passed to men passionately abolitionist such as Gaitskell and especially Wilson, while avid social reformers such as Roy Jenkins had advanced within the party and were actively promoting a reform programme. In 1964 it was generally understood that the new Labour government would provide time for a bill to be passed, and would, though perhaps more discreetly, provide assistance of other kinds. This was abundantly demonstrated when it allowed the Commons to sit in the mornings to get the committee stages through after a tactical coup by the Conservative Opposition brought the Committee back to the floor of the House. After the Bill had passed the government then organized the introduction and passage of the required confirmatory measure four years later, again incurring the wrath of the Opposition, this time by rushing it through prematurely, as the Conservatives sought to characterize it. Thus the support of the overwhelming majority of the PLP was vital to the campaign's prospects of success in that it both provided the majority and the organizational skill necessary to see the reform through.

The Conservatives moved from a position of overwhelming hostility to abolition in the late 1940s to a steadily growing acceptance of it, to the point where, in 1964-5 a third or so of the party in the Commons supported the Bill. This more or less remained the balance of opinion within the Parliamentary party for the next few years. The existence of a sizeable minority of support for abolition both on the back

benches and, more importantly, on the front bench enabled the Bill to pass with a very large majority, while the emergence of the abolitionist Heath to the leadership facilitated the passage of the confirmatory vote in 1969. The bulk of the party nonetheless remained hostile to abolition and a succession of right-wing Tory backbenchers sought to reintroduce the rope by way of private member's bill or amendment to government justice bills throughout the 1970s and beyond. The Liberals tended to be very strongly abolitionist and other parties were of little account.

CHAPTER FOUR

OFFICIAL BODIES AND PROFESSIONAL ASSOCIATIONS

Whilst the activities of the pressure groups and the political parties were central to the campaign, somewhat less significant but still of considerable weight were the views of the associations representing bodies that were deeply involved in the criminal justice process, especially the police and the prison officers, and the judiciary and the Bar, and to a lesser extent the medical and psychiatric professions. These were often highly vocal in the campaign, with the police and the prison officers as those most closely involved being particularly unequivocal in their support for the retention of hanging – the police because they felt that the removal of the ‘invisible shield’ left them defenceless against the armed robber bent on escape at all costs, and the prison officers who likewise feared that they were vulnerable to the ‘lifer’ determined to escape by whatever means. In both cases, they argued, the removal of the death penalty meant that an armed robber or a potential escaper had nothing to lose by killing to achieve his ends. These fears were strongly articulated, publicly and privately, through their respective mouthpieces:- the Police Federation representing the rank and file of the force, and the Prison Officers Association (POA).

This chapter looks in turn at the legal profession, the police, the prison officers and the medical and psychiatric profession, and

assesses the extent and nature of their influence.

The Legal Profession

Judges were drawn, then as now, almost wholly from the ranks of the Bar. The judiciary is represented at the highest levels in the House of Lords by the 'Law Lords', the Lords of Appeal in Ordinary, who are there *ex officio*, the numbers of which have grown over the years, plus some retired Law Lords who have been given peerages to enable them to remain there. They tend to speak and vote on legal matters only.¹⁹³ They include the Lord Chief Justice, head of the criminal division of the Court of Appeal and the Master of the Rolls, head of the civil division thereof. The lower ranks of the judiciary are represented by the Association of Circuit Judges and other kindred bodies which naturally tend to have the ear of the Home Office.

The judiciary was the most conservative of all the institutions involved in the capital punishment debate. Historically they had time and again frustrated efforts by reform-minded legislators in the House of Commons to restrict the death penalty to the most heinous offences and to take lesser offences such as petty theft outside the ambit of the gallows altogether. Lord Chancellors such as Eldon and Lord Chief Justices such as Ellenborough typified the reactionary cast of mind of

¹⁹³ Drewry, Gavin and Janet Morgan, 'Law Lords as Legislators', *Parliamentary Affairs*, vol 22 (1968-9) pp. 226-239 discuss their history and role extensively. The Law Lords have been there since the Appellate Jurisdiction Act of 1876 to enable them to perform their judicial

the judicial bench in the early nineteenth century. The Bench maintained its deep antipathy to abolition and to judicial reform generally well into the twentieth century.¹⁹⁴ In the immediate post-war era this antipathy was personified by the Lord Chief Justice, Goddard, who declared all-out war on the criminal from the Bench and who was a relentless foe of all efforts at reform of the criminal justice system.¹⁹⁵ Notoriously, he characterized the Attlee government's Criminal Justice Bill of 1947-8 as a 'Gangster's Charter' and railed against the abolition of the birch from his platform in the Upper House and from the Bench. In the 1950s he repeatedly called for the re-introduction of corporal punishment.

But there appears to have been a very marked sea-change from the immediate post-war generation of judges, personified by Goddard, to the generation that emerged in the later 1950s and 1960s, which was in the main reconciled to abolition if not warmly in favour of it.¹⁹⁶ A similar liberalization seems to have overtaken the judiciary as had occurred within the episcopacy at about the same time, though it was perhaps less marked and somewhat harder to account for in terms of

functions as the ultimate court of appeal, as well as to take part in debate.

¹⁹⁴ Gardiner, Gerald and Nigel Curtis-Raleigh, 'The Judicial Attitude to Penal Reform', *Law Quarterly Review* (April 1949) pp. 196-219. The authors heap scorn on the view expressed by Lord Chancellor Jowitt in the Lords debate on the Criminal Justice Bill of 1948 to the effect that the judges had proved themselves to be in the forefront of reform, given that they had opposed every attempt to restrict the death penalty.

¹⁹⁵ Rayner Goddard, Baron Goddard of Aldbourne in the County of Wiltshire (1877-1971). Lord Chief Justice 1946-1958. Called to the Bar 1899, KC 1923, appointed to the Bench 1932, Lord Justice of Appeal 1938, Lord of Appeal in Ordinary 1944, first 'non-political' LCJ (a position usually given to the Attorney-General). Trial judge in the libel action of Harold Laski 1946, and in the Craig and Bentley murder trial, 1952. Independent Conservative candidate in the 1929 general election (finished bottom of the poll). Alleged by his valet to reach orgasm whilst pronouncing the death sentence, see Spencer, Colin, *Homosexuality: A History* (London: Fourth Estate, 1995) p. 364

¹⁹⁶ Hubert Lister Parker, Baron Parker of Waddington (1900-1972), LCJ 1958-1971. A similar 'non-political' appointment but much less controversial than his predecessor, though he jailed journalists in the Vassall case in 1963.

intellectual fashion. Parker, Goddard's successor as Lord Chief Justice, was a rather half-hearted convert to abolitionism and remained a supporter of corporal punishment. It is difficult to account precisely for this change but it probably reflects both the increasingly liberal temper of the epoch and, at least according to Blom-Cooper, the effect of the war (either as a liberalizing agent or more likely as something that gave them an aversion to violence of all kinds).¹⁹⁷ It may have reflected also the slightly broader range of social and educational backgrounds from which they were later drawn, though they still came predominantly from public school and Oxbridge. Later generations of judges, mounting the Bench when abolition was a *fait accompli* and hanging becoming a distant memory, have tended to be deeply averse to any suggestion of its return.

Goddard was certainly the last out-and-out hanger to be Lord Chief Justice.¹⁹⁸ His zeal for hanging carried him away to such an extent that his 1948 speech in the Lords included the dubious statement that the whole of the Queen's Bench was united in its opposition to abolition, which assertion he was forced subsequently to qualify. His successor, Parker, appointed in 1958, was a belated convert to abolitionism and all of his successors were abolitionist to a greater or lesser degree.

Widgery was probably an uncertain abolitionist but not one who would

¹⁹⁷ Louis Blom-Cooper - interview, op cit.

¹⁹⁸ Bresler, Fenton, *Lord Goddard: A Biography of Rayner Goddard, Lord Chief Justice of England* (London: Harrap, 1977). See also Grimshaw, Eric and Glyn Jones, *Lord Goddard: His Career and Cases* (London: Allan Wingate, 1958); and Smith, Arthur, *Lord Goddard: My Years with the Lord Chief Justice* (London: Weidenfeld and Nicolson, 1959)

have wished to revert to hanging.¹⁹⁹ The anti-hanging views of Parker, and his successors, were very influential not only with regard to the judicial benches but to the whole of the Lords, and played a large role in the conversion of the Upper House to abolitionism.²⁰⁰ Even Dilhorne became, after 1965, reconciled to abolition together with judicial discretion in sentencing.²⁰¹ Parker's conversion was due primarily to the Homicide Act which was the most powerful agency for abolition; 'utterly friendless' as Parker put it. On the 1969 vote in the Lords (on the Dilhorne motion advocating the continuance of suspension) the judicial benches were split with three – Dilhorne himself, Reid and Simonds - voting for the amendment and three others - Denning, Master of the Rolls, Morris of Borth y Gest and Wilberforce voting against.²⁰²

The criminal Bar has tended to be more liberal than the Bench, at least as regards hanging. Perhaps this stems partly from a reluctance (as a prosecuting counsel) to be held responsible for an execution where a miscarriage is subsequently proved, and a similar fear on the part of defence counsel that such an outcome might be perceived as a result of incompetence. There does not seem to have been a 'conscience' clause (comparable for example to that which exists in the medical and nursing professions to the carrying out of abortions) applicable to a barrister who objected to prosecuting in a capital case,

¹⁹⁹ All according to Morris and Blom-Cooper, interview, op cit.

²⁰⁰ Again Morris and Blom-Cooper are strongly of this view, interview, ibid

²⁰¹ Formerly Sir Reginald Manningham-Buller, Conservative Attorney-General.

²⁰² *The Times*, 20th December 1969

but it is very unlikely that one who did so object would have been obliged to prosecute under the so-called 'cab rank' principle. There has, apparently, never been a united Bar position on the death penalty, and the Bar Council does not appear ever to have promulgated any doctrine on it. Barristers have always been extremely well-represented in the House of Commons, and in all parties, and have taken a wide range of positions on hanging from full support to outright opposition, again demonstrating that there has never been a clear consensus view from the Bar.

Solicitors tended to follow a similar line in regard to capital punishment, as with policy generally, to their brethren at the Bar. Again a conscience clause does not seem to have operated but would not have been very necessary. The Law Society does not seem ever to have debated the question and, like the Bar Council, has never had a collective view.

In addition to the official bodies representing the judges, barristers and solicitors there are other, more ideologically based, organizations of lawyers. Some were linked to the major political parties including the Society of Labour Lawyers; others were independent such as the Haldane Society of Socialist Lawyers, founded in 1930.²⁰³ The latter included amongst its senior figures in the early years Sir Stafford Cripps (President 1937-49), D N Pritt, Clement Attlee, Sir Frank Soskice, John Platts Mills, George Gardiner and Sydney Silverman, and thus

²⁰³ Blake, Nick and Harry Rajak, *Wigs and Workers: A History of the Haldane Society of Socialist Lawyers 1930-80* (London: Haldane Society, 1980)

contained some of the most prominent abolitionists of the time. It split from the Society of Labour Lawyers in the late 1940s because of its increasingly left-wing stance and the suggestion that it had become too heavily infiltrated by Communists. Gardiner had originally been a member of the Haldane Society and was chairman from 1945-7 but left to join the Society of Labour Lawyers, restricted to accredited Labour Party members, of which he became chairman.

The Haldane Society was strongly abolitionist though its legal/political campaigns tended to focus more on the industrial and social front. In its *Law Reform Now* pamphlet, published in 1947, it advocated, *inter alia*, that the abolition of both capital and corporal punishment should be included in a forthcoming government criminal justice bill and asserted that flogging and capital punishment 'panders to the sadistic impulses in human beings'- 'the state should set a good example.'²⁰⁴ The Society of Labour Lawyers was also strongly abolitionist, and at its annual meeting of 1956 unanimously passed a resolution protesting against the government's inactivity and failure to act on the recommendations of the Gowers Commission.²⁰⁵ The resolution regretted the refusal of the government to state 'Whether or not it concurs in the unanimous recommendations of the Royal Commission that the law of murder relating to constructive malice, provocation, suicide pacts, mental deficiency and provisions of the Capital Punishment Amendment Act 1868, ought to be amended.'

²⁰⁴ Haldane Society, *Law Reform Now: a programme for the next three years* (1947) See Blake and Rajak, *ibid.* p. 28

²⁰⁵ *The Times*, 23rd January 1956

Whilst the bodies representing the lawyers were becoming somewhat more liberal no such transformation was overtaking those in the frontline of the war against crime.

The Police

The police were represented by at least three organizations; the Association of Chief Police Officers (ACPO) for the highest ranks, the Superintendents Association for the middle ranks and the Police Federation for the lower ranks up to chief inspector. In addition there were cognate bodies for the Scottish police forces.

ACPO tended to take a moderately hard line on capital punishment. Being close to the Home Office with which it liaised on administrative matters it was less forthright in public expressions of its views by comparison with the bodies representing the lower ranks. It had, however, been invited to give its views to the Gowers Commission, and, in common with other police bodies, took a pro-hanging line. Thereafter its advice to home secretaries tended to remain shrouded, but can be assumed to be fairly strongly pro-retention. It decided against making any representations to the home secretary in regard to the 1964-5 Abolition Bill, unlike the Federation.

The Superintendents Association represented the middle ranks of the police, the Superintendents and Chief Superintendents. Like ACPO,

but unlike the Federation, it made no representations to the home secretary regarding the 1964-5 Abolition Bill but its outlook was nonetheless as strongly retentionist as that of the lower ranks. In response to a request from the restorationist Sandys campaign for its views it asserted that recent District Meetings had found they were 'almost unanimous' in wanting capital punishment reintroduced for all forms of murder, because, it was stated, 'the ordinary citizen should have as much protection as the police.'²⁰⁶ Only a 'very small percentage' was in favour of the present position (that is to say abolition). Thus the superintendents appeared to be even more pro-hanging than the Federation, although these utterances referred merely to statements of opinion expressed at meetings rather than resolutions, and the true position was probably that there was little or no difference between them and the Federation.

The Police Federation represented the 80,000 rank and file policemen in England and Wales, from the rank of constable up to that of chief inspector. The Federation had always been strongly pro-hanging, reflecting the fact that it saw capital punishment as the only effective deterrent to the murder of policemen in the execution of their duty. Without capital punishment, it argued, there was every incentive for a cornered criminal to shoot his way out of trouble since the penalty for murder would not be significantly greater than that for some lesser offences.

²⁰⁶ Harry Staples, chairman, Superintendents Association to Bernard Braine, MP, 17th October 1966. Duncan Sandys papers, Churchill College, Cambridge University, DSND 12/1.

The Federation had lobbied successive home secretaries for the retention (and subsequently restoration) of capital punishment, publicly and privately. The evidence submitted to the Royal Commission from police bodies had been for retention. The Federation opposed abolition in 1955-6, and shortly before the second reading of the 1964 Silverman Bill, in December 1964, representatives of the Federation had 'a full and frank discussion' with the Home Secretary (Soskice). Its Joint Central Committee also circulated a memo to all MPs, headed 'Capital Punishment and the Police' signed by R J Webb (chairman) and A C Evans (secretary).²⁰⁷ It declared that they: '...firmly request the retention of capital punishment for the murder of a police officer acting in the execution of his duty or any person coming to his assistance' and though there were differences of opinion and some policemen 'hold that capital punishment is against the very foundations upon which our civilisation is based others will hold directly contrary views.' They were 'aware of statistics which indicate that abolition in other countries did not result in more police murders, but this is not a safe comparison for the policeman in Great Britain is unique amongst most forces in carrying out his duties unarmed and alone.' It was 'a matter of pride that they are unarmed and wished for it to remain so.' They believed that capital punishment 'deters the professional criminal though we have no proof. Life imprisonment may not deter because he knows he would eventually be released. The fact is that very few police are murdered and

²⁰⁷ Police Federation Joint Central Committee memo, 'Capital Punishment and the Police', December 1964. Gardiner, Add 56462A. Also Police Federation Newsletter, January 1965, vol V, no 1

few criminals carry firearms.' This reflected another aspect of Federation policy that came increasingly to be articulated thereafter to the effect that if capital punishment were to be abolished then the police would have to be armed as a *quid pro quo*, though they would prefer to remain unarmed but with the protection, as they saw it, of capital punishment as the invisible shield.

At its annual conference in May 1965 the Federation unanimously endorsed a motion deploring: 'the publication of a bill to abolish capital punishment without the substitution of an adequate alternative deterrent in so far as it relates to the murder of police officers while in performance of their duties.'²⁰⁸ It rejected the view of the home secretary, Soskice, who had addressed them, that the stringent provisions contained in the new Firearms Bill would be an adequate deterrent. A spokesman for the Federation said that Parliament was flying in the teeth of public opinion and that the police were losing the battle against violent crime, pointing out that twelve policemen had been killed on duty since the war.²⁰⁹

It was unfortunate from the point of view of the abolitionists and their relations with the police that there were a number of murders of policemen in the period during and immediately after the passage of the Abolition Bill. In particular three were killed by escaping prisoners in Shepherds Bush in August 1966, and it was not difficult to imagine that this was attributed to abolition, or at any rate cited as a stark illustration

²⁰⁸ Notes by Gardiner on amendments by the House of Lords to the abolition bill. Gardiner, Add 56461B

of the dangers of abolition, by the police and others who supported hanging. Arthur Evans of the Federation declared that the police were in a war against crime when they are weak in numbers and 'with one arm tied behind their backs...It is vital to restore capital punishment for the murder of a policeman or to arm them, preferably the former.'²¹⁰ Several home secretaries, especially Roy Jenkins, received rough treatment at the hands of Federation conferences. Jenkins had already incurred the ire of the Metropolitan Police (for whom as Home Secretary he was directly responsible) after his rejection of their call for the reintroduction of capital punishment after the murder of three policemen in Shepherds Bush in 1966. At the annual meeting of the Metropolitan Police Joint Branch Boards in Central Hall, Westminster in 1966 there were plans for a walk-out of which he had been forewarned. In the event he characterized it as a 'rough and disagreeable meeting though exacerbated by many factors.'²¹¹ Other factors included a pay dispute, but there is little doubt that Jenkins' antipathy to the reintroduction of capital punishment was a major cause.

Roy Jenkins was again reminded of the posture of the police (and the prison officers) when they joined forces with the nascent Duncan Sandys campaign for restoration later that year. He agreed to meet a joint deputation of Sandys and his parliamentary supporters and the chairmen and secretaries of the Police Federation, the Police Federation of Scotland and the Prison Officers Association at the House of

²⁰⁹ *The Times*, 21st May 1965

²¹⁰ *The Times*, 13th August 1966

²¹¹ Jenkins, Roy, *A Life at the Centre* (London: Macmillan, 1991), pp. 200-201

Commons in November 1966 at which their concerns were thrashed out.²¹² The Federation was hardly impressed by Jenkins' argument that it was too soon after abolition to make sense of the statistics and that 1966 had been no worse in respect of police murders than 1961, and the attempt to buy them off with the promise of improved pay and conditions was seen as poor recompense. They continued to lobby for abolition and liaised closely with the Sandys campaign.²¹³ Its annual conferences, too, continued to pass resolutions for the reintroduction of the rope for the murder of police.²¹⁴

Prison Officers

Prison officers, and their representative organizations, have, like the police, always been strongly pro capital punishment, especially for the murder of prison officers in the execution of their duty. The Prison Officers Association argued, logically enough, that for a prisoner already serving a life sentence (whether for murder or not) there was no effective deterrent to murdering a prison officer in an attempt to escape since no greater sanction existed than to impose another life sentence. This was becoming especially true given the abolition of hanging on the one hand and, on the other hand, the trend towards imposing very long sentences for lesser offences, and against the background of an

²¹² Sandys papers, op cit, DSND, 12/2.

²¹³ Scotland had its own police bodies equivalent to the above, whose stance was much the same. The Scottish Police Federation had joined with their English confreres at the meeting with Roy Jenkins at the House in November 1966.

epidemic of prison escapes, many of them highly professional and often successful. Of course the second life sentence might, in practice, be much longer than the first and a prisoner who had murdered a prison officer would doubtless find his life behind bars extremely unpleasant, but this could appear a feeble argument against restoration.

The POA had given evidence to this effect before the Royal Commission, and had lobbied consistently against abolition thereafter. As abolition started to become a distinct possibility, or even probability, so their concern increased. The chief organ of the POA was *The Prison Officers Magazine*, which discussed the question frequently. In March 1956 an editorial noted the recent Commons vote on abolition and argued for the retention of hanging, even if only for the worst murderers.²¹⁵ A memo had been sent to the Home Office explaining the special difficulty that 'lifers' presented, and that since there could be no additional penalty they were free, it argued, to kill with impunity. Consequently hanging should, it argued, be retained for those convicted of a second murder.

The following month the problem was extensively dealt with in an article which endorsed the prompt action of the POA Executive in conveying to the Home Secretary the serious disquiet in their ranks over the prospect of abolition.²¹⁶ So far as the merits of hanging were concerned the writer noted that the Home Secretary had said he was

²¹⁴ *The Times*, 24th May 1969

²¹⁵ Editorial 'Capital Punishment', *Prison Officers Magazine*, March 1956, vol 46, no 3

²¹⁶ 'Serious Disquiet' by J Swainston (prize article) *Prison Officers Magazine*, April 1956, vol 46, no 4

satisfied that never in living memory had an innocent man been sent to the gallows, and moreover, to say that capital punishment was not a unique deterrent was 'stuff and nonsense'. Recidivists did not fear a long sentence but did fear the rope, he asserted, and argued that the criminal code was never to carry a gun, but that this would change if abolition came.

The revival of the abolition question in 1964 sparked afresh the disquiet within the ranks. The January 1965 issue of the *POM* contained the text of a letter from Fred Castell, the general secretary, to the editor of *The Sunday Citizen* of 15th December 1964.²¹⁷ Alluding to the column by Hugh Delargy (a Labour MP) which had claimed that there had been only two cases of a prison officer being killed in the last twenty years and that this did not provide sufficient justification to hang all murderers, Castell argued that this missed the point because the POA was not arguing that all murderers should hang but merely explaining the exposed position in which prison officers would find themselves. 'A second conviction for murder would presumably carry a second sentence of life imprisonment – to run concurrently with the first!' This point was reinforced by a letter in the following issue which chided MPs for failing to consult their constituents.²¹⁸

As before, in 1956, there was an exchange of correspondence between the POA and the Home Secretary, except that this time around the Home Secretary was less sympathetic to their views. Castell wrote to

²¹⁷ Castell to *Sunday Citizen*, 15th December 1964, *Prison Officers Magazine*, January 1965, vol 55, no 1

the Home Secretary, Soskice, that: '...members hold a variety of views as individuals and citizens... but will be responsible for the safe custody of those...sentenced to life imprisonment...men for whom it doesn't appear that there can be any further deterrent. What indeed is to be the protection against such inmates who offer violence which may prove to be fatal to the officer?'²¹⁹ Soskice replied that: '...the Bill, if it passes into law, will create no new problem in principle...365 prisoners serve sentences of life imprisonment...additional burden likely to be small... since 1920 three officers have been murdered on duty...none of these was killed by a prisoner serving a life sentence.' He went on to quote the findings of the Royal Commission that the experience of countries where capital punishment has been abolished was that there was no increase in murderous attacks on prison staff by prisoners. Moreover, he proposed to create an 'allocation centre' for all long sentence prisoners with a special wing for murderers identified as presenting extra custodial difficulties which would have a higher staffing ratio, outstanding external security and facilities in respect of work, recreation and accommodation designed for the violent and reckless.²²⁰

The March issue was even more hard-hitting. An article entitled 'A Licence to Murder?' by Castell was essentially the letter sent to Soskice in January, with perhaps some additional points made in response to Soskice's reply.²²¹ Lest they be thought a bunch of reactionaries he was

²¹⁸ Letter from B S Jeram, *Prison Officers Magazine*, February 1965, vol 55, no 2

²¹⁹ Castell to Soskice, 28th January 1965. *Prison Officers Magazine*, April 1965, vol 55, no 4

²²⁰ Soskice to Castell, 22nd February 1965. *Prison Officers Magazine*, April 1965, vol 55, no 4

²²¹ 'A Licence to Murder?' by Fred Castell, *Prison Officers Magazine*, March 1965, vol 55, no 3

keen to stress the progressive outlook of the service, and that the Association's recently published *The Role of the Modern Prison Officer* had made it clear that it was anxious to see and even pioneer new 'aims and methods' in the penal system. However, that did not mean that they would 'stand quietly by and see safeguards in respect of their own safety whittled away.' It may be true that no prison officer had been killed by a convicted murderer (the few such killings of prison officers had been by those convicted of offences other than murder) but the 'vicious type of professional criminal who kills has, in the past, usually suffered the loss of his own life...It would be a strange commentary on the present Bill if by prohibiting what has sometimes been called judicial murder it should provide an avenue whereby the murder of Prison Officers could be undertaken with impunity.'

Matters came to a head when in March officials of the POA including Castell, the national chairman, N Cowling and their adviser, Charles Smith met Soskice, minister of state Alice Bacon and senior officials at the Commons to discuss a wide range of problems, and the POA spoke 'frankly' about the dissatisfaction and frustration of members over pay and conditions, though curiously there was no mention of abolition.²²²

Their annual conference in Belfast in May inevitably featured a resolution on the matter. A Mr Goodair (Aylesbury) moved a resolution asking the Association to do everything in its power to retain the death

²²² General Secretary's column, *Prison Officers Magazine*, April 1965, vol 55, no 4

penalty for the murder of a prison officer by an inmate.²²³ The resolution was carried unanimously and the assistant general secretary, Mr Daniel, said in reply that the Executive fully endorsed it and that it had from the outset lobbied hard to retain hanging under these circumstances by way of approaches to MPs by HQ and from branches, and pledged that they would continue to do so.

This feeling intensified when, right on cue, a prison officer, Derek Lambert, was killed in the line of duty by a Borstal inmate in November 1965 (literally days after the Bill had become law). The POA was not slow to make political capital out of it. The December issue of the *POM* claimed that this provided 'incontrovertible evidence which we would have preferred to do without' of the need for provision along the lines of the resolution unanimously adopted by conference.²²⁴ The Association issued a statement to the press to the effect that coming so soon after the passage of the Bill it must have an effect on the conscience of MPs. The January 1966 issue of the magazine carried a prominent article on the murder of Officer Lambert, including a front page photograph of the funeral.²²⁵ The article pointed out that the murderer, Maxwell, had recently been involved in disturbances and had been sentenced to six strokes of the birch which could not be administered without the Home Secretary's confirmation, and that if Maxwell had committed another murder there was little that could be done. The sense of outrage and frustration was palpable. *Corrigenda*, writing in the March issue boldly

²²³ Report on Annual Conference, *Prison Officers Magazine*, August 1965, vol 55, no 8

²²⁴ Editorial - *Prison Officers Magazine*, December 1965, vol 55, no 12

²²⁵ *Prison Officers Magazine*, January 1966, vol 56, no 1

asserted that the Abolition Bill was construed in criminal circles as 'ALL SIGNALS GO'.²²⁶

From late 1966 onwards the POA became strongly associated with the Duncan Sandys campaign to restore hanging for the murder of police and prison officers, and their campaigns were closely co-ordinated. Castell corresponded frequently with Sandys regarding the campaign. The murder of three police officers at Shepherds Bush in the summer of 1966 was the subject of another editorial that referred to the campaign by some MPs to amend the law and stated that they would have the full support of the Association. It stressed that police and prison officers alike were embroiled in a common war against the violent criminal and carried a letter of condolence from Castell on their behalf to A C Evans of the Police Federation.²²⁷ The failure of the home secretary (by now Roy Jenkins who had replaced Soskice in December 1965) to confirm the corporal punishment of an inmate at Maidstone, who had been convicted of the murder of Officer Lambert, merely added to the sense of anger and frustration that seemed to be boiling up within the service at this time.²²⁸ In November there was a deputation from Sandys, the POA and the Police Federation to see Jenkins about the question.²²⁹ The failure of the Sandys campaign, with the defeat of his motion in the Commons in November, and the obvious unlikelihood of revising the legal position at least until the confirmatory votes were due in 1970

²²⁶ 'All Signals Go' by Corrigenda, *Prison Officers Magazine*, March 1966, vol 56, no 3

²²⁷ Editorial – *Prison Officers Magazine*, September 1966, vol 56, no 9

²²⁸ Flogging, and corporal punishment in general, was soon to be abolished as a prison punishment, having already been abolished as a judicial punishment in 1948

²²⁹ 'A Question of Morals' – *Prison Officers Magazine*, November 1966, vol 56, no 11

caused the issue to die down somewhat, at least within the pages of the *POM*, though it would not have taken much to re-ignite it.

The annual conference of 1968 again carried unanimous resolutions calling for the reinstatement of hanging and corporal punishment for prison offences. The annual conference of 1969 carried another such resolution, again adopted unanimously.²³⁰ The failure to re-introduce hanging in December 1969 led to the question once again going into abeyance to some degree, but the June 1970 issue returned to the attack with an editorial that discussed it in the context of the upcoming general election.²³¹ It noted that the Executive had urged at conference that members, their wives and families should try to secure assurances from Parliamentary candidates that they would support re-introduction for the murder of prison officers. The annual conference of 1970, held a month earlier, had contained the by now ritual motion for re-introduction and expressed doubts as to the efficacy of the protection measures announced by home secretary Callaghan in a recent letter to the Association, particularly in the light of recent events at Parkhurst (where a riot had occurred).²³² Despite this relentless activity by the Executive, lobbying home secretaries and MPs, liaising with pro-hanging movements in Parliament and using the pages of the magazine for propaganda, and the repeated passage of restorationist motions at annual conferences it was completely unsuccessful. Its influence was too small for it to have any real impact.

²³⁰ Annual conference report, *Prison Officers Magazine*, August 1969, vol 59, no 8

²³¹ 'The General Election and the Death Penalty' – *Prison Officers Magazine*, June 1970, vol 60, no 6

The Medical and Psychiatric Professions

Another professional group involved, if only marginally, in the hanging process was the medical and psychiatric. A doctor had to be present at the execution to certify death and to oversee the proceedings. Professional ethics in the form of the Hippocratic Oath precludes a doctor from doing harm and therefore a doctor may only assist in the purely passive sense of certifying death, but it could be argued (and may have been by some) that the mere fact of being present to perform that function constituted assistance, in the sense that if they were not present it would be procedurally impossible to carry out the execution. Did this lead to voices within the profession calling for such a boycott as a means of bringing about abolition? What was the view of the medical profession generally about hanging?

The British Medical Association (BMA), the main representative body of the medical profession, was invited by the Royal Commission, in August 1949, both to submit written evidence and to give live evidence. To this end a 'Capital Punishment Committee' was set up by the then Deputy Secretary, Dr A Macrae, in late 1949 to examine aspects of the debate that were relevant to the profession, particularly the McNaghten rules governing criminal insanity and whether they should

²³² Annual conference report, *Prison Officers Magazine*, August 1970, vol 60, no 8

be extended to embrace lesser degrees of mental incapacity.²³³ There were overtures from the Howard League who may have seen the BMA as potential allies in the abolition campaign, but if so they must have been disappointed.²³⁴ The BMA's evidence was duly submitted in December 1949, and concentrated heavily on the McNaghten rules and suggested their extension to cover something approximating to the Scots law defence of diminished responsibility. BMA representatives, including a barrister, gave oral evidence to the Commission in February 1950, to enlarge on their submission. Whilst desiring to extend the ambit of the existing defence of insanity and considering the possibility of using alternative, more humane, methods of execution such as lethal injection the general tenor of its evidence, both written and verbal, was not overtly hostile to capital punishment *per se* and certainly did not go so far as to recommend any reduction or mitigation of it beyond the aforementioned, much less its abolition.

There does not appear to have much debate within the profession in the years immediately following about the continuance of capital punishment, and the participation of prison doctors, other than in respect of the question of introducing into the law the defence of diminished responsibility, a subject with which they were in correspondence with the Home Office.²³⁵ Much more recently, however, subsequent to the abolition of capital punishment in Britain, the

²³³ BMA policy file on the Royal Commission (1949-), BMA Archive, Box 502, 20/2/11.

²³⁴ Howard League to Dr Macrae, October 1949, offering their library services to the BMA. BMA Archive, *ibid*.

²³⁵ BMA policy file, Box 502, 20/2/11, Home Office to Dr Macrae, 28th September 1956. BMA Archive, *ibid*.

profession has undergone a major evolution in that respect, and has passed a number of resolutions at its Annual Representative Meeting (ARM) in recent years opposing capital punishment.²³⁶

These of course, being of fairly recent origin, pertain only to the medical profession in those countries where capital punishment is still practised. There does not seem to have been any unequivocal resolution prior to those dates, and opinions doubtless differed amongst individual doctors. Certainly there does not seem ever to have been any difficulty in finding a doctor to act at executions, though generally these were prison doctors whose work was based entirely at the prison and who might be presumed to have taken up that position in the knowledge of what the job entailed and who thus might be assumed not to have conscientious or ethical objections to capital punishment.

What of the psychiatric profession? Was there a parallel dilemma with that of the doctors? In some cases a defendant pleading insanity would have had to submit to psychiatric examination. This may even have been so where there was a plea, post-Homicide Act, of diminished responsibility. What was the position of a psychiatrist who was called upon to make an assessment of insanity (or diminished responsibility), knowing that if he deemed the defendant sane he was effectively condemning him to death? Did this create problems from the point of view of professional ethics, and was there a call (or a temptation) to

²³⁶ BMA database of ARM resolutions, BMA Public Information Unit. BMA Archive, *ibid.*

declare all such defendants insane (or suffering from diminished responsibility) to save them from the rope? Or was the defendant to be regarded merely as a subject rather than a patient?

The Council of the Royal Medico-Psychological Association (RMPA) gave evidence to the Royal Commission in 1950, and did not take an abolitionist stance. Indeed it made the point that it had not, and did not think it desirable, to canvass the opinions of psychiatrists individually. The general tenor of its evidence was that it thought the existing system satisfactory. More recently, however, the Royal College of Psychiatrists, the chief representative body, has taken a much more abolitionist stance. It has affirmed that it supports the World Medical Association's 'Declaration on the Participation of Psychiatrists in the Death Penalty' agreed in Athens in 1989 and that it should support the position of psychiatrists working in countries where the death penalty is still in operation. In particular it affirms that a psychiatrist may, in some circumstances: 'refuse to give an expert opinion on criminal responsibility and like matters, if they feel that such an opinion would make it more likely that the person concerned would be found guilty and executed.'²³⁷ As with the medical and legal professions there seems to have been a strong movement towards abolitionism in recent years.

²³⁷ *Psychiatric Bulletin*, 1992 (16), p.457

Conclusion

It is difficult to generalize about the role and significance of these various bodies and associations. The Police Federation was vociferous in its opposition to abolition from the outset and argued its case powerfully. After abolition it liaised closely with the Sandys campaign to re-introduce the rope, as well as making formal representations to the home secretary of the day. The bodies representing the more senior ranks were perhaps slightly less adamant, but tended to take the same view albeit that they expressed their concerns through the official channels open to them rather than to campaign openly. It was likewise for the Prison Officers Association. Yet for all the 'insider' status they enjoyed, the level of public support that was apparent and the close links they forged with retentionist elements, they made no real impact, and were compelled to watch impotently as abolition duly took place. As with public opinion, it weighed remarkably little in the final analysis, given the overwhelming abolitionist consensus in elite circles and the determination to see abolition through. The legal, medical and psychiatric profession were rather more restrained, and were less directly affected. Nonetheless the balance of judicial opinion tended to be retentionist initially, but to give way to a cautious abolitionism especially after the passage of the Bill, whilst the Bar was perhaps rather more abolitionist to start with. Any representations here to government would have tended to be through the official channels, as the judiciary was an insider group *par excellence*, with very close

contact with the organs of government, though Goddard was very outspoken in his condemnation of both abolition and the moratoria sometimes applied. His successor, Parker, was a cautious and pragmatic convert to abolition. The medical and psychiatric professions tended to avoid taking a definite stance in the early years of the controversy, but latterly have moved to a strongly abolitionist position.

CHAPTER FIVE

THE CHURCHES

Given the ostensibly 'ethical' nature of the capital punishment debate the role of the churches was, arguably, central to the success or failure of the campaign. Yet few churches took an unambiguous line on the issue. Most churches were vaguely abolitionist in outlook but were careful to avoid taking too firm a stance, partly perhaps because they feared alienating members if they became too heavily mired in political controversy. Moreover, the debate occurred at a time when, arguably, the churches were losing influence and when the Christian ethic was under attack from many quarters. This chapter examines, chiefly, the role played by the Church of England, the Roman Catholic Church (in England), the Quakers, the nonconformist denominations and the Jewish religion.

The Church of England

The Church of England was central to the debate given that it was the established church and still carried great moral authority, even as late as the mid twentieth century, notwithstanding the trend towards secularization that had marked the previous decades of the century.

Moreover, it commanded a substantial block of votes in the House of Lords. Down the ages it had consistently buttressed and sanctified the institution of hanging, and conferred upon it a scriptural legitimacy without which it could scarcely have survived.²³⁸ Throughout the era of the *Bloody Code* and well into the nineteenth century the hierarchy of the Church had unerringly supported hanging by speaking against and voting down bills to restrict hanging in the Upper House. For example, in 1810 the Archbishop of Canterbury and six other bishops voted down a bill passed in the Commons that would have abolished hanging for stealing property to the value of five shillings from a shop.²³⁹ The Church had consistently preached the righteousness of capital punishment from pulpit and pamphlet.

The attitude of the Anglican Church to capital punishment did not change substantially or at all until the emergence of William Temple, a radical intellectual, who took a strongly abolitionist line in the 1920s and onwards. In 1924 socially concerned Christians of all denominations met in Birmingham for a conference on Christian Politics, Economics and Citizenship (COPEC) under Temple's chairmanship, and though the executive was divided on the question of capital punishment the conference voted for abolition by a large majority. As Archbishop of York and then of Canterbury Temple was hugely influential but nonetheless the great majority of the bishops and the Anglican clergy remained opposed to abolition. His premature death in 1944 and the

²³⁸ Potter, Harry, *Hanging in Judgment: Religion and the Death Penalty in England from the Bloody Code to Abolition* (London: SCM Press, 1993) passim

²³⁹ Potter, *ibid*, Introduction vii

elevation of the conservative Geoffrey Fisher to the see of Canterbury (rather than the progressive Bell) set back the cause of abolitionism considerably.²⁴⁰

In the 1948 abolition debate in the Lords there were mixed views expressed by the prelates and few were outright abolitionists, and one bishop - Truro - wanted not merely to retain capital punishment but to extend it to other crimes that resulted in severe injury such as attempted murder and rape.²⁴¹ Most significantly the new Archbishop of Canterbury, Fisher, spoke in rather ambiguous terms which neither supported the abolition clause nor opposed it outright but hoped that it might be amended: 'so that while it is tempered to meet the exigencies of our present situation it may still be a step forward to that goal which every Christian must desire even if Christians may still differ as to the rapidity of the pace with which it can be approached.' In other words he appeared to desire abolition, but not just yet. Fisher's evidence to the Gowers' Commission echoed the retentionist views he had expressed in the Lords debate to the effect that the death penalty had a quasi-religious and sacral quality to it which expressed society's revulsion against the offence of murder and, moreover, this effect was diluted by the large number of reprieves that took place. In his view the death sentence should not be invoked if it were likely that it was going to be

²⁴⁰ Geoffrey Francis Fisher, Baron Fisher of Lambeth, GCV O (1887-1972). Headmaster of Repton 1914, Bishop of Chester 1932, Bishop of London 1939, Archbishop of Canterbury 1945-1961. Regarded as a conservative and negative Primate, although it is hard to go all the way with Potter's assessment that had it not been for the succession of Fisher then capital punishment would have been abolished much sooner than it was and perhaps as early as 1948.

²⁴¹ Potter, op cit, pp.146-152. Dr Joseph Wellington Hunkin, Bishop of Truro 1935-1951

commuted.²⁴² Other Anglican witnesses to the Commission tended to take a retentionist stance. Bell became the main proponent of abolition within the episcopacy as the campaign started to hot up again in 1955, and he attempted to rally support among his fellow bishops, as well as acting as the conduit between the church and the NCACP.²⁴³ He was also in contact with Gowers, who by then had become an abolitionist.²⁴⁴

Outside the ranks of the episcopacy the most prominent Anglican abolitionist was Canon Collins. Christian Action (CA), as noted, was closely associated with the NCACP.²⁴⁵ Collins preached against hanging at St Paul's and received many abusive letters from 'church people who felt that it was an essential safeguard of the British way of life.'²⁴⁶ Capital punishment was an issue about which the Christian Action Council had been thinking for a long time and it felt it 'can no longer remain passive in the face of repeated representations from many of our members and of present public interest.' It noted that several recent cases (especially Evans, Bentley and Ellis) had aroused deep concern and that with an average of twelve executions a year there could be no excuse for

²⁴² Minutes of evidence to the Royal Commission (14), 3rd February 1950. His evidence was interrupted by an outburst from the gallery by Mrs van der Elst who had to be removed. Potter, *ibid*, p.157

²⁴³ He was in frequent contact with the NCACP and other abolitionists concerning the balance of opinion within the episcopacy, e.g. Bell to Gardiner 23rd June 1956 saying that York, Sheffield, Liverpool and Manchester were supporters, as were Birmingham and Chelmsford (not yet in the Lords). Bell papers, vol 218, ff.241. Lambeth Palace Archives.

²⁴⁴ Gowers to Bell, 26th February 1957 in which he says he thinks Fisher has been reading his book and has got himself into a position untenable for a Christian. The Homicide Bill was a bad one, he said, in that it is both completely unreasonable and utterly dishonest – a striking and apparently unsuccessful attempt to 'fool all the people some of the time'. Bell papers, *ibid*, ff.263-4.

²⁴⁵ He proposed to a Christian Action council meeting as early as 1954 that they should undertake a campaign against hanging which should concentrate on changing opinion within the Church where most of the bishops were on the 'wrong side' and where 'the vast majority of church people of all denominations thought that the retention of capital punishment was necessary, and that it was compatible with Christian insights.' Collins, *op cit*. pp. 246-7

'Christian men and women refusing to face this question seriously.' It recognized 'that not all Christians are yet of one mind on this problem' and stated that 'we think on both sides there are those who base their arguments on prejudice rather than factual evidence, on emotion rather than clear thinking, and this, we believe, is particularly true of some who are in favour of retention and, though probably quite unconsciously, are moved by the human desire for vengeance.' Thus in the eyes of CA the conversion of all Christians to abolitionism was merely a matter of time, and the tendency towards irrationality was perhaps rather more on one side than the other.

This ferment within the Church was reflected in the correspondence columns of *The Church Times*, the main organ of the Anglican Church. Diana Collins, wife of Canon Collins, wrote to the paper early in 1956 concerning a letter from a Canon Symon which had attacked the emotional tone of much of the abolitionist thinking within the church.²⁴⁷ Symon replied the following week sneering at her views and citing the Nuremberg trials and asking whether she thought that all that was required was the use of time 'to bring about a real conversion and amendment of life'?²⁴⁸ H B Vaisey cited the views of the late Bishop Seaton of Wakefield, who as a chaplain, had started out as an abolitionist but became a supporter of hanging because so many men recognized the justice and appropriateness of their sentence and in

²⁴⁶ Potter, op cit. p.174; Collins, ibid, pp. 246-7.

²⁴⁷ Letter from Diana Collins, *The Church Times*, 6th January 1956

²⁴⁸ Letter from Rev Dudley Symon, Ham Common, *The Church Times*, 13th January 1956

some cases didn't want to go on living.²⁴⁹ Another correspondent cited Article 37 of the Thirty-Nine Articles which laid down that: 'The laws of the realm may punish Christian men with death for heinous and grievous offences.'²⁵⁰ He found it unedifying that bishops, of all people, were telling highly emotional meetings that capital punishment was morally indefensible when they had sworn soberly in church that it is agreeable to the word of God.

Collins wrote to Bell offering to help him in the forthcoming Lords debate in 1956 on the Abolition Bill if he were to speak for abolition. Members of Convocation lobbied the Bishops in the Lords and a group of clergy started up a petition to Fisher urging him to support abolition himself in the Lords.²⁵¹ By the mid-1950s the episcopacy was rapidly coming round to an abolitionist stance. The bishops of Sheffield, Manchester and Liverpool rallied to Bell, as did Birmingham and Chelmsford who were not yet in the Upper House. Another wholehearted supporter was the new Archbishop of York, Michael Ramsey, but he was reluctant to speak in the forthcoming debate.²⁵² Fisher himself, however, remained essentially a qualified retentionist as he had been eight years before. He wrote a memorandum at this time, possibly in response to the considerable postbag he had on the subject, re-iterating his belief that the state had the right to retain capital punishment for the offence

²⁴⁹ Letter from H B Vaisey, *The Church Times*, 20th January 1956

²⁵⁰ Letter from O L Willmoth, *The Church Times*, 20th January 1956

²⁵¹ Petition from various clergy including Richard Acland (lay reader), Canon Edward Carpenter (Canon of Westminster) and Dudley, Bishop of Colchester, 4th July 1956. Archbishop Fisher papers, Lambeth Palace Library, ff.217

²⁵² Arthur Michael Ramsey, Baron Ramsey of Canterbury (1904-1988). Bishop of Durham 1952-56, Archbishop of York 1956-1961 and 100th Archbishop of Canterbury 1961-1974. A

of murder, and that Christian faith did not forbid capital punishment though neither did it necessarily require it.²⁵³

Abolition was once again defeated in the Lords, but the balance of voting on the episcopal benches had changed dramatically by comparison with that of only eight years earlier. Whereas in 1948 Bell was the only bishop in the abolitionist lobby this time both archbishops were there. Fisher reluctantly voted for it on the basis that he wanted to keep the Bill alive so that it could be amended later on – ‘to re-found the death penalty on its only secure foundation’ - plus eight other bishops, and only one (Chavasse of Rochester) voted against.²⁵⁴ Ramsey made his maiden speech to support the Bill, and though arguing that capital punishment was not necessarily contrary to New Testament teaching he felt that the balance of the argument was now in favour of abolition given that hanging no longer ‘has the moral dignity of representing ...the will of the community to inflict an unspeakable penalty for an unspeakable crime.’²⁵⁵ Fisher was a keen supporter of the Eden government’s Homicide Bill which proposed degrees of murder very much as he had advocated in the past. He felt the proposal was more in tune with the mood of the general public and devoutly hoped that if the Bill passed ‘this long distressing controversy [would be] allowed to

former pupil of his predecessor as Primate, Fisher, when he was at Repton. Chadwick, Owen, *Michael Ramsey: A Life* (Oxford: Clarendon Press, 1990) p. 157

²⁵³ Fisher - note on capital punishment, 8th March 1956. Fisher papers, vol 167 (1956). ff.200-203

²⁵⁴ Christopher Maude Chavasse, OBE, MC (1884-1962) Competed in the 1908 London Olympics in the 400 yards together with his twin brother; served as a chaplain in the First World War and decorated (as was his twin). Bishop of Rochester 1940-60.

²⁵⁵ HL Deb, vol 198, cols 595-6, 9th July 1956. Quoted in Potter, op cit., p.175

pass for a good time into oblivion.'²⁵⁶ Both Bell and Ramsey, however, took the opposite view that there was no moral justification for the distinction between capital and non-capital murder.

Nonetheless complete abolition was not far off and the Church of England was at the forefront, having undergone a startling revolution in its attitudes in the space of less than a decade. As Potter records: 'the accepted norms of centuries were discarded almost overnight.'²⁵⁷ The momentum for change was overwhelming within the Church hierarchy, and this was accentuated by the accession of Ramsey to the see of Canterbury in May 1961 (which Fisher opposed, seeing Ramsey as too radical). The ranks of the bishops were undergoing something of a metamorphosis also, as a new generation of bishops was consecrated replacing a much older generation that had been in place for decades. Of the twenty-nine diocesan bishops in the province of Canterbury twenty-one had been appointed between 1956 and 1962 and of these sixteen were newly consecrated; and of the fourteen bishops in the York Province eight had been appointed in that same period of which six were new bishops. Again to quote Potter: 'the change in atmosphere was extraordinary. No longer were abolitionists the vociferous minority among the episcopate; retentionists, rather, were the moribund dinosaurs.'²⁵⁸

Typical of the new breed were the Bishop of Southwark, Mervyn Stockwood, and his suffragen John Robinson, Bishop of Woolwich,

²⁵⁶ Potter, *ibid.* p.179

²⁵⁷ Potter, *ibid.* p.193

both ardent abolitionists and radicals.²⁵⁹ Stockwood was a keen supporter of the Labour Party and knew that the return of a Labour government was an essential precondition of the abolition of the death penalty. Robinson preached on the topic for his sermon at Great St Mary's on Trinity Sunday, 1961.²⁶⁰ Capital punishment was the 'most stinging of all nettles and the most gingerly way in which as a society we are at present trying to pluck it is a classic example of how not to cope with a nettle.'

The previous week a junior clergyman of his diocese, Reverend F P Coleman, had successfully introduced a motion into the Lower House of Convocation to suspend capital punishment for five years, the first time that the Church had officially declared on the question (according to Robinson).²⁶¹ In November 1961 the Bishop of Exeter, Mortimer, hitherto a retentionist, pressed in the Lords for abolition.²⁶² Letters to the church press (such as *The Church Times* and *The Catholic Herald*) were evenly balanced for and against. The BBC documentary *The Death Penalty* was transmitted in October 1961 including contributions from both Ramsey and Godfrey (Cardinal Archbishop of Westminster) as

²⁵⁸ Potter, *ibid.* pp. 193-4

²⁵⁹ Arthur Mervyn Stockwood (1913-1995) Bishop of Southwark 1959-80. Socialist and Labour councillor. Campaigner on many things including racism. Most famous for his appearance on *Saturday Night and Sunday Morning* in 1979 attacking *The Life of Brian* as blasphemous. John Arthur Thomas Robinson (1919-1983) Bishop of Woolwich. Liberal theologian. Author of *Honest to God* 1963 and scholarly works on the dating of the Gospels. Defended publication of *Lady Chatterley's Lover*. Left the Labour Party for the Liberals over the Commonwealth Immigrants Bill in February 1968.

²⁶⁰ Robinson sermon at Great St Mary's, 28th May 1961. Robinson papers, Lambeth Palace Library, ff 102-103

²⁶¹ This came shortly after Ramsey had recorded his statement for the BBC documentary *The Death Penalty* in which he said that the church had never officially pronounced on the issue. The Chief Information Officer of the Church, Col. Hornby, asked for the BBC to add a rider to that effect. Ramsey papers, Lambeth Palace Library, ff 264. It is indicative of the speed with which events were moving.

spokesmen for their respective confessions, both of which had been recorded some time earlier. Both contributions were somewhat non-committal, whatever their personal views may have been.

Shortly after the passage of the abolitionist motion in the Lower House Stockwood took the issue to the Upper House of Canterbury Convocation in January 1962, proposing an experimental period of abolition, seconded by Exeter.²⁶³ The debate, he said, had raged for 150 years but the end may be in sight. Much had been achieved and all that was left was for government to write the final paragraph. The Homicide Act, he argued, was illogical and led to the worst of both worlds. The main reason for maintaining capital punishment was vengeance and that was not a word that should be found in a Christian vocabulary. It was a *tour de force* of the classic argument for abolition.

Ramsey, as President of Convocation, summed up the debate by associating himself with the string of speeches in favour of the motion, and said that he had voted in favour of abolition in 1956 and would do so again. The Homicide Act in its present form could not last. He wished, however, that there had been something about punishment as well as treatment in clause two of the resolution, for though vengeance was an utterly evil thing retribution was an essential ingredient of punishment and a criminal or sinner begins to amend when his conscience tells him that he has deserved to suffer. His comments led to an amendment to clause two to include the word 'punishment', which

²⁶² HL Deb, vol 235, cols 446-449, 9th November 1961

²⁶³ Proceedings of Convocation, 17th January 1962: Chronicle of Convocation (Canterbury)

in its slightly amended form was passed unanimously.²⁶⁴

A similar motion was debated in York Convocation at the same time, moved by Charles Claxton, Bishop of Blackburn, an old ally of Stockwood's with whom he had co-ordinated his campaign. The Archbishop of York, Donald Coggan, was another firm abolitionist.²⁶⁵ The Lower House of York Convocation passed the motion also, with only sixteen members voting against.²⁶⁶ With both Houses of both Convocations having passed an abolition motion a few months later in May 1962 a joint synod of the Church (Canterbury plus York) met and passed another abolition resolution moved again by Claxton by a large majority, with again only Harland voting against, in the Upper House. It was passed with sixty voting against in the much larger Lower House.²⁶⁷

By 1965 with the Silverman Abolition Bill working its way through Parliament Ramsey was invited by Longford (Leader of the House of Lords), Gardiner (now Lord Chancellor) and Silverman to pilot the bill through the Lords, on the grounds that it stood a much greater chance of success with the authority of the established church behind it.²⁶⁸ Ramsey was reluctant to undertake such an onerous task on the grounds that he was not an experienced Parliamentarian, but allowed himself to be persuaded for what he saw as the greater good, having by

vol 100 (1962), pp.105-124 Lambeth Palace Library.

²⁶⁴ Potter, op cit. pp. 194-5; Proceedings of Convocation, ibid

²⁶⁵ Frederick Donald Coggan, (1909-2000) Baron Coggan of Canterbury and Sissinghurst. Bishop of Bradford 1956-61, Archbishop of York 1961-1974, 101st Archbishop of Canterbury 1974-80

²⁶⁶ Potter, op cit. p.198

²⁶⁷ *Daily Telegraph* report, 16th May 1962, Ramsey papers, op cit, ff 154

²⁶⁸ Potter, op cit, p.199. Silverman to Ramsey, 17th February 1965, Ramsey papers, ibid, ff.172

this time, according to Potter, become a totally convinced abolitionist.²⁶⁹

His private secretary, Beloe, had minuted him about the bill and the role of the bishops in the coming Lords debate, and he was being primed by Gardiner with statistics on murder rates etc.²⁷⁰

However, this did not meet with the approval of the former Conservative Lord Chancellor, Dilhorne, who wrote to Ramsey urging him in very strong, if amicable, terms not to go ahead with this plan on the grounds that it would be 'unwise and inappropriate' for the head of the church to take sides on so controversial an issue which would inevitably, he argued, damage the standing of the church.²⁷¹ He said:

It is a most controversial measure on which feelings run high. While of course it is right that the views of the Archbishops and the Bishops should be made known, it is a very different thing for an Archbishop to take charge of the conduct of the Bill. The Gallup polls show that the majority of the population are against the Bill...and a very great number of church people will think it most inappropriate...I am myself opposed to the Bill but I should feel precisely the same about this if I was in favour of it...I have no doubt that if you do it, it will give rise to very strong criticism both in the House and outside which is bound to impair your position and that of our church...

It is difficult to assess how much of an impact this had on Ramsey's thinking, but there was an undeniable force to Dilhorne's argument that whatever Ramsey's (and other bishops') personal beliefs on capital punishment it was unwise for the established church to

²⁶⁹ Ramsey was at first strongly minded to pilot the Bill but later changed his mind from a mixture of reasons. Chadwick, *op cit*, pp. 160-1

²⁷⁰ Robert Beloe to Ramsey (nd), Ramsey papers, vol 76 (1965), ff.145. Gardiner to Ramsey, 13th January 1965, Ramsey, *ibid.* ff.147

²⁷¹ Dilhorne to Ramsey, 26th February 1965. Ramsey papers, *ibid.* ff.174

involve itself so heavily in so controversial a matter. It would inevitably have split and weakened the church at a time when organized religion was in general decline and may have placed some communicants in an invidious position if their beliefs did not accord with those of the hierarchy.

Dilhorne's was not the only voice urging circumspection. Ramsey's secretary, Beloe, met House of Lords officials (including the clerk of the table dealing with public bills) in March to discuss the Bill and Ramsey's role in its passage.²⁷² They warned him that piloting a bill was very time-consuming; that the Bill was acquiring a partisan flavour as a result of the shenanigans in the Commons; and that he would be up against very adept Parliamentarians during the tricky committee stage who would 'give no quarter'. The fact that it was the Archbishop of Canterbury piloting the bill would probably 'embitter the atmosphere rather than reduce the tension' and they doubted Ramsey's expertise.

Ramsey eventually decided to withdraw from the leading the Bill, probably from a mixture of motives. Most likely he concurred with the Parliamentary advisers that he lacked the time and expertise for the task but he probably also privately recognized the validity of Dilhorne's view that it would be damaging for the Church to become too strongly associated with such an emotive political question; one moreover which had partisan overtones given the tacit support being lent to it by the government. Though he had decided against leading the Bill he

²⁷² Note by Beloe on meeting with David Stephens and Peter Henderson, 12th March 1965. Ramsey papers, *ibid*, ff.181-2

nonetheless resolved to give it strong support by speaking in its favour. Ramsey argued in the Lords debate that capital punishment was wrong because it did not allow the possibility of reclamation and that it devalued human life. He might have been swayed, he said, by convincing proof of its unique deterrent value but this was absent.²⁷³ There was nothing to be said, he went on, for the capital/non-capital distinction introduced by the Homicide Act which had led to intolerable moral dilemmas for successive home secretaries.

The Bill passed easily through the Lords on second reading by 204-104 with Ramsey and nine other bishops voting for it and none against in stark contrast with the voting only seventeen years earlier. According to Potter Ramsey had arranged for Harland (Durham) to be engaged elsewhere on the relevant day.²⁷⁴

In the Lords debate on the confirmatory resolution in December 1969 Ramsey again spoke against hanging, and voted for the resolution along with Coggan and seventeen other bishops. Only Mortimer of Exeter rather surprisingly voted against (or at any rate acted as teller for the Noes) on the slightly paradoxical grounds that he wanted a further delay so as to try to carry public opinion with the church.

Thus within the space of a few years and a single generation of bishops the established church had turned almost 180 degrees in its position on one of the most contentious ethical and political issues of

²⁷³ HL Deb, vol 268, col 607, 20th July 1965

the day; one moreover on which it could and did claim a special interest and expertise. In the debate on the abolition clause in the Lords in 1948 only one bishop could be found to vote for abolition whilst several argued strongly against it, and yet only seventeen years later not a single bishop could be found to vote against abolition in the comparable debate of 1965. The church which had once preached strenuously for the retention of hanging for the most petty offences now wanted it swept away even for the most heinous. And this change was echoed right down the church hierarchy and in the Anglican communion overseas, and in other churches.

How could this be? The view of the church was, after all, supposed to be based on Scripture, and Scripture had not changed for two thousand years (or considerably longer in the case of the Old Testament). Of course a younger, more radical cohort of prelates had come to the fore in the late 1950s at roughly the same time but that is a question-begging answer because the generations had changed hands countless times before over the centuries without it producing any dramatic change of doctrine. Was there something about this generation of bishops that made them significantly more liberal than their predecessors? They had been born, in the main, in the period from about the turn of the century to the First World War and there was no reason to suppose that anything in their upbringing and life histories would have caused them to turn out so differently. And even those such as Ramsey and Bell had only moved gradually to an outright abolitionist

²⁷⁴ Potter, op cit. p.202

position from a slightly qualified one. But though Scripture had not changed their interpretation had and this was not cause but effect, in that many of the bishops had come to an abolitionist stance for political rather than religious reasons - for even they could not be immune from intellectual fashion and social trends. In the nature of things they sought scriptural authority to rationalize their change of heart, which, given the infinitely flexible nature of the Scriptures was not hard to achieve. To quote Potter again:

The trends within society were more secular, and within the church more liberal. Increasingly christology took centre stage in theological enquiry, and all knowledge of God was refracted through Christ. There was a greater stress on the social gospel, a rediscovery of the vital ethic of Jesus' teaching, which although it did not condemn the death penalty as such rendered it impossible in practice for anyone to execute it...These factors coupled with the growing unease at the practice of the death penalty...in that the whole process gave a fake religiosity to what was after all the killing of a human being, all created a change in opinion within the church which ultimately bore fruit in the 1960s...²⁷⁵

The Roman Catholic Church

The position of the Roman Catholic Church in relation to capital punishment was somewhat more complex than that of the Church of England. Its official line on the matter was, in essence, that the State had the right to take life in defence of the community but that equally it had the discretion not to exercise that right. So far as the individual Roman

²⁷⁵ Potter, *ibid.* p.206-7

Catholic was concerned he could personally oppose the death penalty but could not deny the right of the State to possess the sanction. This slightly contorted formulation remained the position for the duration of the controversy, but in practice the position of many leading Catholics became more abolitionist as the debate progressed. The Catholic Bishops in England and Wales (who met twice-yearly) never took the path of the Anglican Convocation and pronounced formally on the issue but then they had no power to do so, whatever their personal inclinations, given that doctrine and policy was handed down from Rome. Again it seems likely that there was a substantial move on their part towards abolitionism though never officially expressed, and certainly never preached.

The preaching of political sermons was frowned upon, especially if the politics was not of the approved brand. The Catholic Church tended to view askance the growing trend within the Anglican Church for clerics to pronounce on political questions such as capital punishment, and especially for them to do so in such a way as to suggest that certain views were the only really Christian option. An editorial in *The Catholic Herald* of 1956, in the course of a diatribe against what it evidently saw as the politicization of the Anglican Church, attacked Canon Collins for preaching his political message as if were binding on all Christians:

Next we have “capital punishment”. This is a matter on which Christians differ for sound reasons, and it is really intolerable presumption on the part of the Precentor of St Paul’s to dictate to the Archbishop or any other leading

churchman his own doubtless sincerely held view as an individual Christian.²⁷⁶

It was not only the editor who was annoyed by this presumption. The letters page a few months later saw a contribution from a reader who felt that 'the air of superiority assumed by some abolitionists throughout the hanging debate in Parliament, in the Press, and even in private conversation gives me the right of talking about "the intellectual pride of certain do-gooders" in this connection.' The writer went on to rubbish the murder rate figures that had been quoted by 'Secular Priest' in the newspaper, purporting to show that abolitionist countries did not have a higher rate than the United Kingdom. He finished up by saying that he did not 'object to prayers being offered for the souls of executed criminals, but I did protest against the idea of keeping churches open all night for their sake. While the wretches certainly deserve our pity, there is no justification whatever for according a demonstrative "special treatment" to them.'²⁷⁷

The main organ of the Catholic Church, *The Tablet*, tended to take a strongly retentionist line. An editorial of February 1956 argued that the government was in too great a hurry to promise legislation in the wake of that month's vote, which as a free vote subject to the chance composition of the House, should not necessarily have been elevated into legislation.²⁷⁸ It loftily declared that: 'There is a world of opinion and feeling common to Labour members of Parliament, in which they live,

²⁷⁶ *The Catholic Herald*, 6th January 1956 - editorial

²⁷⁷ *The Catholic Herald*, 13th April 1956 - letter from George A Floris, London NW1

²⁷⁸ *The Tablet*, 25th February 1956 – 'The Fate of Murderers'.

which is not wholly shared by those who vote for them, and not shared at all by the vast majority of the nation.' Though the abolitionists had made much headway since 1948 they should not think that they had converted the country, and the Lords would be much more representative. The five year experiment was pointless, the piece continued, because statistics proved nothing, and it was characteristic of the 'pseudo-scientific spirit of the age.' It declared grandly: 'Looking broadly at human history...no fact is surely better attested than that all those who have been concerned with the government of men have acted on the belief that the death penalty was the great deterrent to prevent people from doing whatever their rulers were most anxious they should not do – whether it was betraying their country, deserting from arms, or murdering or robbing their fellows.' The effects of a more lenient policy may not, it thought, be apparent for a long time and so a five-year experimental period was insufficient.

A few months later, after the Bill's third reading, *The Tablet* returned to the attack, criticizing the government for abandoning its responsibility, as it saw it, to the judgment of the House, and claiming that the low turnout on the third reading precluded Silverman from claiming a majority.²⁷⁹ The Commons was flouting the expressed views of a majority and of those most closely associated with law and order - the police, the legal profession and the prison officers - and it hoped that the Lords would reject or heavily amend the Bill.

A few years later and *The Tablet* had not resiled from its

opposition to abolition, noting in the wake of the second reading of the new Silverman Bill of 1964-5 that the Lords would be reflecting the general consensus of opinion if it were to again turn it down.²⁸⁰ It subsequently noted the Lords passage of the Bill rather grudgingly, admitting that the Homicide Act was anomalous, but pointing out that it was, in their view, effective because although robberies had escalated, murder in the course of robbery (still capital) had not.²⁸¹

A third organ of Catholic opinion, *The Universe*, was of a similar mind to *The Catholic Herald* and *The Catholic Times* in that it leant, albeit with apparent reluctance, towards retention. Its 'Notes and Comments' column of February 1956 said that though 'Hanging in itself is a horrible business – as is vouched for by the chaplains and prison officials who must be present...There can be no doubt that the death penalty is morally lawful and there is a strong case for its retention as long as the temptation to commit murder is so strong.'²⁸² This was not a matter on which the 'nation can be stampeded by rhetoric but it should proceed gradually and cautiously.' Referring to the recent abolition motion it said that the government should not take a free vote of the Commons as finally settling the question, and that it should take as least as much account of public opinion as of Parliamentary opinion. After the defeat of the Silverman bill in the Lords in July 1956 an article noted that there were few Catholic peers in support of abolition and that of the fifteen Catholic peers who voted on the second reading eleven

²⁷⁹ *The Tablet*, 7th July 1956 "Now for the Lords"

²⁸⁰ *The Tablet*, 19th December 1964

²⁸¹ *The Tablet*, 24th July 1965

were against the Bill.²⁸³

By the 1960s the general tone of the Catholic press, and certainly that of *The Herald*, had softened somewhat. Norman St John-Stevas, the recently elected Conservative MP and a prominent Roman Catholic who had written prolifically on moral questions, had a regular column in the paper from which he sounded off. His position was liberal on capital punishment, and he evidently supported the recently introduced Silverman Abolition Bill which he characterized as 'a notable secular advance.' He noted that the Bill's prospects in the Commons were excellent and that the real test would be in the House of Lords where:

the peers would be unwise to reject a recommendation of the elected House on this question. The House of Lords has a suspensory veto but it should only be used where there is clear evidence that public opinion is strongly against the elected House on a particular issue. Many of the public undoubtedly favour the retention of capital punishment but a substantial number have in recent years changed their minds on the issue. To provoke a clash between the two Houses on capital punishment would therefore not be justified and in the long run would only weaken the position of the hereditary chamber still further.²⁸⁴

Of course his views did not necessarily reflect those of the paper as a whole but on the other hand they were not contradicted by anything in the editorial column, which was conspicuously silent on the matter during the whole period. Again *The Herald* was not the same thing as the Catholic Church but it was generally regarded as the voice of the

²⁸² 'Notes and Comments' 'Death Penalty', *The Universe*, 24th February 1956

²⁸³ *The Universe*, 20th July 1956

²⁸⁴ 'New Views on Hanging' - Norman St John Stevas. *The Catholic Herald*, 11th December

church in England and Wales, and thus it may not be speculating too wildly to surmise that the church hierarchy had tacitly moved to a more abolitionist stance than hitherto. An article on the Lords vote on the Abolition Bill noted the high proportion of Catholic peers who supported the Bill, in marked contrast with the position nine years previously, in that ten voted for the Bill and only three against.²⁸⁵

But *The Universe* (now amalgamated with the *Catholic Times*), by contrast with *The Herald*, still came down against abolition. The 'Talking Point' column of Father Gordon Albion of March 1965 clove to the traditional view that the 'State has the right to call for the death penalty.'²⁸⁶ He opined that he could 'work up no enthusiasm for doing away with capital punishment for murder' (and neither could the general public) which, referring to the 1964 Silverman Bill, would now be 'pushed through by a minority pressure group, one of whom has stated publicly that, we, the public, are incapable of appraising and assessing the reasons for abolition...' The commandment 'Thou shalt do no murder' was no arbitrary discipline, and preventive punishment was imperative, which, moreover, must be such as to deter others. His arguments were challenged by a correspondent who, referring to Albion's invocation of public opinion suggested that he (Albion) could not be serious in suggesting that majority opinion should, by numbers alone, be the right one.²⁸⁷ He doubted whether Albion would be prepared

1964

²⁸⁵ 'Catholics Say "No Hanging" in Lords Vote' by Kevin Aspell, *The Catholic Herald*, 30th July 1965

²⁸⁶ 'Talking Point' by Fr Gordon Albion, *The Universe and Catholic Times*, 5th March 1965

²⁸⁷ 'Case Against Hanging', letter from Robert H S Flynn, Stoke on Trent, *The Universe and*

to put any great moral question to a referendum and abide by the majority decision.

By 1969 and the approach of the vote on the confirmation of abolition the Catholic press was still not of one voice, though by now more favourably disposed towards the abolitionist side than hitherto. *The Catholic Herald* of 19th December 1969, just before the critical vote, had an editorial on the matter headed 'A Matter of Life and Death'. It noted that whatever was decided in the next few days the debate would inevitably continue, and that its attitude to the question was that '...capital punishment is objectionable because it implicitly seems to doubt the power of God and man to help a shipwrecked soul re-shape itself. It should not be invoked unless it is essential for the saving of innocent lives.'²⁸⁸ It felt that the possibility of executing an innocent man was a weighty but not decisive consideration, and that it was ultimately impossible ever to draw the unequivocal conclusion that hanging does or does not deter the would-be killer. They were inclined to believe that where it did deter was in the case of 'the professional criminal setting out on a well-planned job and deciding whether or not to take a gun'. This, it admitted, was also something that eludes statistical proof but 'would seem to be a reasonable assumption.' Moreover, 'the mere fact of the capital penalty being attached to murder must surely act as a sign of the horror society has of it, and thus create within the group consciousness a running additional bias against the taking of life. We

Catholic Times, 26th March 1965

²⁸⁸ *The Catholic Herald*, Friday, 19th December 1969 – editorial 'A Matter of Life and Death'

do not assert these things dogmatically but suggest they should be considered before minds are fully closed.' Thus the death penalty was still, one might infer, justifiable and perhaps necessary.

The Universe was also rather of two minds by this stage. Its edition of the same date carried a lengthy piece on the question containing two views of the issue – 'Hanging – Two Views'.²⁸⁹ 'Some may find it strange, but Catholics are obviously as divided about the issue as the rest of the population' it declared. 'The Church has always in the past upheld the state's right to execute criminals, though there is some difficulty in discovering what precisely is its present attitude to capital punishment.' The following week, after the crucial vote had taken place, there was a headline story 'Relief that the Hangman is now made redundant' by a 'Universe reporter'.²⁹⁰ It boldly declared that 'A majority of Catholics, it is believed, will have been relieved that the hangman has been made redundant in Britain...All arguments in favour of its retention - that hanging is a deterrent, a justifiable act of punishment for murder – were of no avail as first the Commons...and then the Lords...voted for abolition.' This was a surprisingly partisan assertion considering the sedulously even-handed treatment that the debate had received the previous week, and maybe the paper's abolitionist faction had been let off the leash that week in the wake of the Parliamentary victory.

One gains the impression from all of this that the Roman Catholic hierarchy was uncomfortable with the issue for a number of reasons.

²⁸⁹ *The Universe*, Friday, 19th December 1969 – 'Hanging – Two Views'

²⁹⁰ *The Universe*, 26th December 1969. 'Relief that the Hangman is now made redundant'

For one thing Catholic teaching did not point clearly one way or the other, unlike with issues such as abortion and euthanasia, and it was difficult for church leaders therefore to give a clear lead, thereby perhaps conveying a sense of weakness and equivocation. And yet, being ostensibly a moral question it was an issue where it was generally felt they had to speak out. Then again it was an issue where a great number of communicants had strong views, one way or the other and where the hierarchy was acutely conscious that a clarion call from the pulpit, whatever it may have been, would not have secured the total acceptance of all parishioners. The issue was poised uneasily between, on the one hand, those such as abortion, euthanasia, contraception, divorce and many others where the Church could and did take an unyielding stance dictated by Scripture, and on the other hand those more mainstream political questions pertaining to economic policy, etc. where the Church would not necessarily have been expected to speak out.

The Quakers

The Quakers, or the Society of Friends to give them their formal name, was the only Christian denomination to come out unequivocally for abolition. Their history and beliefs predisposed them to a strongly pacifist position on all questions and the issue of capital punishment was no exception. E Roy Calvert, the early pre-war champion of abolition, was a prominent Quaker, as were others in the movement.

Their revised statement of Christian practice of 1925 declared that: 'We believe that a considerate and Christian treatment of the offender is as possible in cases of murder as in the case of other crimes, and we urge Friends to do all in their power to create a public opinion which will demand the abolition of the death penalty.' They were always closely associated with the work of the NCADP and the Howard League.

The revival of the abolition movement in the mid-1950s met with an immediate response from the Quakers. Their penal reform committee was heavily committed to abolition along with other measures of penal reform. Gardiner attended one of their meetings in 1955 at which he outlined the objects of the Campaign, and stressed that the campaign would be conducted in 'a reverent and indeed religious spirit' and that 'disruptive and sensational action would be avoided.'²⁹¹ The Committee expressed itself in sympathy with the aims and nature of the Campaign and pledged support in the organization of meetings. Their yearly meeting of 1956 welcomed its report: 'We can record our satisfaction that the work so zealously initiated by our late Friend Roy Calvert...may well be reaching a successful climax in the virtual abolition of the death penalty...and we earnestly pray that the Bill at present before Parliament may soon be passed into law. We, as Quakers, are united in our conviction that Capital punishment is an offence to the Christian conscience...'²⁹²

²⁹¹ Minutes of the Penal Reform Committee of the Society of Friends, 1st September 1955. Gardiner Add 56463B

²⁹² Proceedings of the Yearly Meeting of the Society of Friends, 1956: Reports and Minutes, minute 38, pp. 140-1

A statement prepared for public consumption was even more strident:

The Society of Friends in Great Britain in its annual meeting welcomes the Bill now before the House of Commons for the removal of the death penalty for murder...declare unwavering opposition to capital punishment. The sanctity of human life is one of the fundamentals of a Christian society and can in no circumstances be set aside...The sanctioning by the State of the taking of human life has a debasing effect on the community, and tends to produce the very brutality which it seeks to prevent...We fervently hope that the Bill will be passed by Parliament without limitation.²⁹³

The statement was sent to the Home Secretary and the press, and Friends were encouraged to make it known to their own MPs and local press and to make what use of it they thought fit.

A few years later, at a Meeting for Sufferings (i.e. a meeting of the Executive) a formal statement on capital punishment was issued.²⁹⁴ It declared itself deeply concerned about the continuance of judicial hangings; expressed its 'abhorrence of what is to us a barbarous and debasing act', said that 'no murderer, however depraved, is beyond the possibility of God's redemption', 'hope that a majority of fellow citizens will unite with us in urging the government to free society from its communal guilt' and whilst stressing that their objections sprang from Christian convictions 'nevertheless share the views of those who base their advocacy on ethical and practical considerations.'

²⁹³ Proceedings of the Yearly Meeting, *ibid*, minute 39. Also Gardiner, *ibid*.

²⁹⁴ Meeting for Sufferings, 2nd February 1962. In Proceedings of the Yearly Meeting of the Society of Friends, pp. 20-21.

The Friends Meeting House in Euston Road became a focal point for abolitionists where often vigils were held on the eve of executions, attracting a broad spectrum of supporters of abolition extending beyond adherents of the sect itself.

Other Protestant Churches

Most of the nonconformist churches, including the established Scottish Presbyterian Church, like the Anglicans and the Roman Catholics, were officially uncommitted on the question, though several of its leading churchmen took an abolitionist stance. This section concentrates on the attitude of two of the most prominent English nonconformist sects, the Methodists and the Baptists, which were, arguably, very typical of the non-Anglican Protestant position at this time.

Donald Soper, the most prominent Methodist of the era, was very much to the fore in the abolitionist movement. *The Methodist Recorder*, its chief organ, was mildly abolitionist according to Potter, but the Methodist Church Executive took a stronger line communicating a resolution to every Methodist MP welcoming the Silverman clause in 1948.²⁹⁵ By the mid-1950s the Church was becoming more strongly abolitionist. For example the *Methodist Peace Fellowship* of Victoria College, Manchester, prompted by the forthcoming Parliamentary vote

²⁹⁵ *The Methodist Recorder*, 11th December 1947. Quoted in Potter, op cit, p.146

declared in January 1956 that: 'Our Fellowship is convinced that the death penalty is contrary to the teaching of Jesus Christ and to perpetuate such a law is against the will of God.'²⁹⁶ A month later and the paper printed two views of the question.²⁹⁷ The Reverend Richard Pyke of Bristol argued for abolition: 'We have moved on, and far ahead, of the barbarity and disgrace of public executions; the time has now come for us to take the further step of dealing with murder by such a form and measure of justice as does not involve the deliberate destruction of a life which god gave, and which only He should take away.' But the Reverend Ernest G Kitchen of Lincoln took the contrary view, asking what the alternative was? 'This is a matter upon which emotions can easily be stirred, but in the stirring let us not be unmindful of those who are maimed in mind and body as a result of unprovoked attack...'

The Commons motion of February 1956 was covered in the issue of 23rd February which noted the sober and restrained character of the debate, contrasting it with some of the more colourful statements made in the press and in public debate, and it lamented the fact that some speakers tried to claim that Christians could hold only one view of the matter: 'This method of trying to bulldoze the opposition is characteristic of would-be dictators.'²⁹⁸ It noted that opinion everywhere was sharply divided and that: 'many have reached conclusions after almost agonising consideration' and that it was generally hoped that

²⁹⁶ *The Methodist Recorder*, 19th January 1956, George Wakefield and Barrie G Cooke

²⁹⁷ *The Methodist Recorder*, 16th February 1956 – 'Capital Punishment: Two Opinions'

²⁹⁸ *The Methodist Recorder*, 23rd February 1956 – 'Notes of the Week'

'the abolition of the death penalty will fulfil all the desires, and avoid all the dangers of so momentous a decision.' The paper seemed to be hedging its bets very carefully on the matter at that stage. Clerical opinion in the Methodist Church was evidently very divided.

Nonetheless the Methodist Annual Conference of that year produced a large majority for a resolution approving the Commons decision on abolition, noting that the unique deterrent effect of the death penalty cannot be substantiated and affirming that the aim of penal sanctions should be reform rather than retribution.²⁹⁹ The resolution's proposer, Mr Greet, said that the feeling of the Church was surely behind the reform which had been so largely inspired by the Gospel, whereas the Reverend Walter Edwards of Sheffield argued that the police would suffer most from the effect of abolition, based on his experience as a chaplain of life behind bars. But Dr Soper said that he had been satisfied by the Royal Commission and the Commons that there was no widespread fear on the part of the police if the death penalty were to go. Nonetheless, the defeat of the Bill in the Lords very shortly afterwards was not regretted by the Recorder which described the debate as: 'in the best tradition' and felt that it '...is a good thing that a breathing space has been given in which both members of the House of Parliament and the public can consider all the arguments presented on both sides.'³⁰⁰ It suggested instead a compromise measure retaining the death penalty for 'special and extreme cases' which it felt would

²⁹⁹ *The Methodist Recorder*, 12th July 1956 - Report on Annual Conference.

³⁰⁰ *The Methodist Recorder*, 19th July 1956 – Notes of the Week

command a high level of support. Evidently the Annual Conference and *The Recorder* were not quite singing from the same hymn sheet.

By 1964, however, as with many of the other churches, they were singing a different tune. *The Recorder* welcomed the advent of the Silverman Bill in December, which it felt would probably get a smooth passage owing to government support, on the grounds that the Homicide Act had proved an unsatisfactory compromise, perhaps forgetting its previous support for 'degrees of murder' legislation.³⁰¹ The same column recalled that the Church had supported the previous Silverman Bill of 1955/6, had been 'distressed' when the Bill fell in the Lords and had felt the 'half-way house' measure of 1957 'profoundly unsatisfactory'. Finally, in November, *The Recorder* trumpeted the passage of the Bill, citing it as a '...refreshing illustration of what can still be accomplished by the dogged persistence of a backbencher.'³⁰²

By 1969, on the eve of the renewal debate, *The Recorder* was perhaps slightly less stridently abolitionist in tone than it had been four years before. A leader column danced delicately around the question:

'Here again decision must be made on balance of judgments rather than on absolute conviction of rightness...The alternative is a return to the 1957 Act...The only certain thing is that there is a strong emotional public reaction against abolition. But we believe that the government has chosen the better course and is right to ask for an early decision. To hang or not to hang should not be a General Election issue.'³⁰³

³⁰¹ *The Methodist Recorder*, 10th December 1964 – Notes of the Week

³⁰² *The Methodist Recorder*, 4th November 1965 – Notes of the Week, 'Parliament Ahead of People? No Hanging Bill Approved.'

³⁰³ *The Methodist Recorder*, 18th December 1969 "Vietnam, Nigeria and the Rope"

The 'Notes of the Week' column in that issue noted the fact that the Blom-Cooper and Morris Report on murder showed a higher figure than the corresponding Home Office report, and that there was a steep rise in malicious wounding, but that the level of murders, manslaughter and infanticides had remained remarkably consistent, and concurred with the authors conclusion that three years was too short a period from which to draw any firm conclusions.³⁰⁴

The Baptists, the other most numerous nonconformist church in England and Wales, took a similar path to the Methodists, moving from a fairly retentionist position to a strongly abolitionist one in the period from 1948 to 1969 with 1955/6 being the watershed moment. The controversy within the Baptist Church really caught light in the pages of *The Baptist Times*, its chief organ, in late 1955 just as the campaign was gaining momentum. An article argued forcefully for abolition, prompted by the unopposed introduction into the Commons of the Silverman Bill, the rapid growth of the NCACP campaign and the publication of Gollancz's slim volume on the controversy: 'For those who believe that no civilised country can long continue to be both civilised and retain any method of punishment by death, there was a brief moment of hope last week.'³⁰⁵ This was soon followed by a letter on behalf of *The Committee of the Baptist Pacifist Fellowship* appealing to all the Churches to support the campaign: '...We would claim that the whole

³⁰⁴ *The Methodist Recorder*, 18th December 1969 - Notes of the Week.

³⁰⁵ *The Baptist Times*, 24th November 1955 – Behind the Headlines 'Abolish Capital

Gospel of Jesus condemns the death penalty as an outworn barbarity offensive to God and injurious to the human race.'³⁰⁶ Though it briefly rehearsed the other arguments for abolition the letter anchored its case firmly within the teachings of the Gospel.

There was an uncompromising rejoinder a few weeks later from another correspondent, the Reverend Chown, who asserted that he hoped that the law would be left as it is: 'Has not bitter experience proved that even the advancement of the age from 16 to 18 as regards execution was of doubtful wisdom. I consider that any well-ordered society is within its rights in retaining the death penalty.'³⁰⁷ The Reverend Chown's letter provoked a whole spate of correspondence. The Reverend Trent, wrote in to take issue and express his apparent dismay at the fact that a Christian minister should champion such an '...outmoded and barbaric form of punishment.'³⁰⁸ Moreover, to use Scripture as a weapon '...is surely a sword which he grasps by the blade!'

The intensity of debate, both in the pages of the organ and within the Church generally, led to an article in February 1956 which adumbrated the current position of *The Moral and Social Questions Committee* of the Church, representing as they put it, the 'highest possible measure of agreement among the group.'³⁰⁹

Punishment' by 'Rover'

³⁰⁶ *The Baptist Times*, 1st December 1955 – Letter from L Worsnip (Loughborough), general secretary of the Baptist Pacifist Fellowship

³⁰⁷ *The Baptist Times*, 22nd December 1955 – Letter from Rev J Leslie Chown (Wolverhampton)

³⁰⁸ *The Baptist Times*, 5th January 1956 – Letter from Rev H W Trent (Gt Shelford, Cambs)

³⁰⁹ *The Baptist Times*, 16th February 1956 – 'Capital Punishment'

Murder is a terrible crime...By taking the murderer's life in a solemn and deliberate way society declares its abhorrence of the crime and justice is seen to be done against the offender. The punishment is made to fit the crime. The Christian objection to this may be at various levels, including the condemnation of any punishment which is not at the same time remedial...Christian opinion, however, is divided...We earnestly plead that one of two alternatives be found to the present law. If capital punishment is not to be abolished altogether as in other European states...Either (1) a period of ten years trial should be set, during which no criminal is hanged. The period to be carefully studied with regard to any increase of crimes of violence Or (2) the present system of various degrees of murder should be greatly extended to reduce to a bare minimum those types of murder which cannot be answered in any other way than by hanging.

This statement of policy was signed by J W Beaumont, W H Benewith, C H Cleal, R E Cooper and E H Robertson. This was fairly unequivocal stuff, though there seemed to be some confusion in assuming that there were already in existence degrees of murder, and was presumably a strong indicator of the way that the Baptist Church as a whole was moving on the issue during this critical period of the debate.

By 1964 *The Baptist Times* (perhaps reflecting the views of the Church as a whole) had become unequivocally abolitionist. The advent of the new Silverman Bill met with its whole-hearted approval. Capital punishment was deemed simply morally wrong and 'All the waves of passionate argument calling for extreme retribution or for society to protect itself break on this rock.'³¹⁰ But this fervour for abolition within the Church did not extend to all of its clergy, many of whom still took a

contrary view, and the editorial sparked a renewed epistolary battle within its pages. One stated that he had recently interviewed three people convicted of non-capital murder, none of whom had shown the slightest remorse or concern.³¹¹ 'The taking of human life is regarded in the Bible as so serious that he who with malice aforethought takes a life must forfeit his own as a deterrent to others.' This view was condemned by another letter-writer as 'appalling' and hard to understand in a Christian and contrary to the teaching of our Lord."³¹²

Moving forward four years and the approach of the confirmatory votes inspired a renewal of the debate. Jamie Wallace in his column hoped that the vote at the Tory party conference presaged their intention to restore capital punishment.³¹³ He was repudiated the following week by the Reverend Donald Black, chairman of the Baptist Union Christian Citizenship department, citing the findings of the Royal Commission and asserting that any killing had the effect of cheapening life: 'You cannot kill anywhere without cheapening life everywhere.'³¹⁴ The British Council of Churches voted overwhelmingly in 1969 to reaffirm their support for abolition and the Baptist Union Council was requested by its Christian Citizenship Committee to urge the government to proceed with complete abolition.³¹⁵ The Baptist Union Council duly resolved, by a large majority (only five against), to declare

³¹⁰ *The Baptist Times*, 10th December 1964 - Editorial 'No More Hangings'

³¹¹ *The Baptist Times*, 17th December 1964 – letter from Reverend Herbert Burgess (Battersea)

³¹² *The Baptist Times*, 31st December 1964 – letter from J W Lee Palin (Plymouth)

³¹³ *The Baptist Times*, 16th October 1969 – 'The One Way We Can Say No To Murder' Talking Point by Jamie Wallace

³¹⁴ *The Baptist Times*, 23rd October 1969

its opposition to the death penalty, and to recommend the government: 'to provide now for the continued suspension or abolition of the death penalty', though it stressed that the alternative to hanging must protect the community and reflect society's condemnation of violent crime.³¹⁶

But the debate within the Baptist Church didn't end there by any means. A few weeks later, after the Commons had voted to make abolition permanent, the Reverend David Pawson wrote a lengthy piece in which he asserted that: 'The abolition of capital punishment has been welcomed as evidence that Britain is still moving her barbaric past in a Christian direction. It is at least arguable that the opposite was true and that this decision was only possible because the Bible no longer controls our national thinking.'³¹⁷ Unsurprisingly this met with a rapid rebuttal from correspondents. One pointed out that since the Reverend Pawson had based his argument on Exodus he would presumably attach equal weight to the other laws enunciated in Exodus, such as chapter 21, verses 22-25, 'When men strive together and hurt a woman with child, so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined, according as the woman's husband shall lay upon him. If any harm follows, then you shall give life for life, eye for an eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.'³¹⁸

This trend towards abolitionism was observable across most of

³¹⁵ *The Baptist Times*, 13th November 1969 'Say No to Hanging' Baptists Urged

³¹⁶ *The Baptist Times*, 20th November 1969 – 'Council Says No to Hanging'

³¹⁷ *The Baptist Times*, 15th January 1970 – 'Second Thoughts on the Death Penalty' by David Pawson

³¹⁸ *Baptist Times*, 22nd January 1970 'Further thoughts on the death penalty' W D Ford

the Christian churches according to roughly the same time pattern. For example some of the Welsh Congregational churches had passed a motion calling on Parliament to end hanging in 1948.³¹⁹ In Scotland the established church, the Presbyterian Church of Scotland, had tended not to commit itself on the question until very recently when it, too, has become declaredly abolitionist but it was noticeably silent on the matter in the period in question. It was discussed at the 1956 General Assembly, but then only in the context of the prison reform which might be necessary if very long sentences were to be handed down as the alternative to hanging. Dr Davidson of Glasgow Cathedral said that there was a big cleavage of opinion in the church as in the country at large, but that since the matter had been decided in the Commons (*sic*) there was no need for an announcement of approval or disapproval, though he felt that much of the discussion had been superficial 'and without sufficient reference to the deeper theological implications.'³²⁰ Since then it has never been high enough up the agenda for any clear decision to be made.³²¹

But this remarkable conversion on the part of many of the Dissenting churches to a progressive stance on capital punishment was, unsurprisingly, not shared by all nonconformists. In particular the Free Presbyterian Church of Scotland (the Scottish Free Kirk or 'Wee Wee Frees') was adamantly retentionist, basing its support for capital

(London)

³¹⁹ *The Cardiff Western Mail*, 23rd January 1948. Quoted in Potter, op cit, p.146

³²⁰ *The Times*, 29th May 1956

³²¹ Rob Whiteman, Associate Secretary, Church and Society Council, Church of Scotland, personal communication 26th May 2008. The 2007 General Assembly

punishment on the Old Testament, and resenting the suggestion that capital punishment was unchristian as being based on a misconception of Scripture, confusing the requirement for the individual to love his neighbour with the right of the state administer law and justice. It had condemned the Commons action in passing the Silverman clause in 1948 as 'unscriptural'.³²² Their synod had met in 1962 and had 'noted with disfavour the impression given by various religious bodies such as the Convocation of Canterbury and York and the British Council of Churches that capital punishment is unchristian' and that it resulted from:

confusion between scripture that governs relations between man and man and that to do with the administration of law by the courts...The government should not be persuaded to depart from Holy Writ on this particular matter by those who have no clear understanding of the scriptural principles involved...The Synod therefore appeals to the British government to retain the death penalty for the crime of murder, as the abolition of capital punishment would be an insult to the Majesty of Heaven and the cause of bringing Divine displeasure upon our beloved land.³²³

Such apocalyptic language indicated that for some Christians capital punishment was not merely acceptable or justifiable but mandatory, and that its abandonment by the state was almost a sin which would invoke divine retribution of some unspecified nature. This was of course an extreme position that was taken by very few Christians

³²² Potter, op cit. p.146

³²³ Resolution on capital punishment by the Synod of the Free Presbyterian Church of Scotland, 23rd May 1962. Quoted in the Westminster Standard (pamphlet), in Gardiner, Add 56463B.

who supported capital punishment.³²⁴

The British Council of Churches, an ecumenical body representing a broad range of Christian denominations within the United Kingdom but which did not then include the Roman Catholics, also played an active part in the debate at this time.³²⁵ Its 'Social Responsibility Department' produced a statement on the topic, as a result of a canvas of its constituent bodies.³²⁶ It noted the extraordinarily high suicide rate before arrest of those suspected of having committed murder and the very high proportion of those convicted who were found guilty but insane, and that the Royal Commission had thought the McNaghten Rules too rigid. It concluded that deterrence was a red herring because it was impossible to prove either way and that the real issue was retribution and reform: 'I am personally convinced that capital punishment could and should be abolished. I would suggest that the Social Responsibility Department would do well to concentrate its attention on the question of retribution or reform rather than in wandering through the statistical maze of deterrence.' The general secretary of the SRD wrote to *The Times* shortly afterwards stating that at their recent meeting they had expressed the earnest hope that Parliament will take the opportunity to abolish the death penalty, or at

³²⁴ It remains the position of the Free Presbyterian Church today. Donald Ross, 28th May 2007, personal communication

³²⁵ Now known as 'Churches Together in Britain and Ireland'

³²⁶ 'Statement on Capital Punishment' by Reverend E Rogers of the Social Responsibility Department of the BCC, 2nd February 1956. Canon John Collins papers, Church of England Research Committee, BCC/SRD/7/1/6/6

least to suspend it.³²⁷ The BCC view probably represented the mainstream of Christian thinking on capital punishment at the time. Summarizing the position of the Christian churches it may be said that they generally moved strongly towards abolitionism in the mid- 1950s onwards as the abolition campaign gained momentum, from having generally been, with the definite exception of the Quakers and the possible exception of a few others, largely retentionist prior to that. A major caveat is that of course this generally applied to the position of the church hierarchy and not necessarily to the lower ranks of its clergy, and certainly not to the broad mass of its communicants who may or may not have shared the conversion to abolitionism. In fact the likelihood is, given that one might reasonably assume that church membership was fairly typical, in that regard, of the general population, that most ordinary church members were somewhat less abolitionist than their senior clergy. A further qualification is that, as mentioned some churches clung to the view that capital punishment was divinely ordained as the penalty for murder and that it was wrong for the state to dispense with it *de jure*, even though they might reduce its application to point of abolition *de facto*. This was certainly the view of the Roman Catholic Church, and also of the Free Presbyterian Church of Scotland.

Viewing the churches on a high church/low church dimension it is noticeable that the churches at the extremes of the spectrum, the Catholic and the Calvinist were both retentionist, whilst the majority of

³²⁷ General Secretary of the SRD of the BCC to the Times, 13th February 1956. Collins papers, *ibid*

others in between, especially the *via media* of the Church of England, were or came to be abolitionist. However, one may speculate as to how significant all of this was in terms of influencing the opinions of people on this or any other political question. Few people would have changed their opinion to secure conformity with the position of their church, however religious they might have been, and one might re-emphasize that religious people tend to seek religious justification for their views, rather than the religion dictating the view.

Judaism

The Jewish religion, like most of the Christian churches, had no official stance on the question. However, though neither the Board of Deputies (the secular body representing the Jews) nor any of the Chief Rabbis took an official stance it was very striking that early opinion polls showed a large majority of Jews opposed to capital punishment; the only religious group, and indeed almost the only demographic group of any sort, to show an abolitionist majority (though the polling organizations discounted the statistical significance of the results because of the relatively small number of Jewish interviewees involved). One may speculate as to the reasons, but the Holocaust, all too horribly fresh in their minds, may have created a mood of revulsion against the state using its powers of violence against the individual. On the other hand there is nothing specific in the Old Testament against capital punishment, and much that can be interpreted to sanction it; in

particular Genesis: 'whoso sheddeth man's blood by man shall his blood be shed' chapter ix, verse 6, and the Mosaic law: 'an eye for an eye' but it tended to be Christian fundamentalists rather than Jews who cited these as the authority for their beliefs.

The traditional Judaic view of capital punishment can be gauged from an article in *The Jewish Chronicle* from 1982 by the Chief Rabbi, Sir Immanuel Jakobovits. He recalled that the Talmud said that: 'A Sanhedrin that puts a man to death once in seven years is called a murderous court...' and pointed out that Jewish law had suspended the death penalty early in the first century – the first legislature in history to do so.³²⁸ He noted that, paradoxically, though Jewish law prescribed the death penalty for over thirty offences ranging from murder to kidnapping, adultery and incest, forms of rape, idolatry, etc, the death sentence was hedged in by so many conditions that it could hardly ever be carried out in practice. Circumstantial evidence was inadmissible in capital trials and there had to be at least two independent eye-witnesses (Deuteronomy 17:6; 19:15) and they had to warn the offender before he committed the crime, and he had to acknowledge their warning, and the witnesses had to become the executioners! Thus the death penalty was in practice never carried out, and yet stayed on the statute book as an indicator of the heinousness with which these crimes were viewed by the community. The article made suggested, however, that there were exceptions for those who threatened society as a whole.

³²⁸ '...And Death' Article by Sir Immanuel Jakobovits, Chief Rabbi, on hanging from *The Jewish Chronicle*, 11th June 1982

At about this time Jakobovits issued a statement about the death penalty that largely followed the contours of the aforementioned article.³²⁹ He lamented that crime flourished in a climate which had lost its abhorrence of crime, and noted as before that Jewish law had all but abolished capital punishment, except for cases where the individual threatened society. He felt that: 'The death penalty should exist in principle to ensure that the public horror of crime is greater than the horror of meting out just punishment. But out of respect for the sanctity of life and to prevent any possible miscarriage of justice it should not be carried out, except in cases of deliberate threats to innocent lives and in any attempt to subvert the rule of law and order on which the security of society depends.' This, like many of the utterances of the Christian clergy of the time, seems a masterpiece of obfuscation and ambivalence. *The Jewish Chronicle*, the main organ of the Jews, seems to have been curiously silent on the controversy, with little or no editorial comment and little mention beyond a brief report of the advent of the NCACP campaign, noting that its two leading figures were both Jewish - Silverman and Gollancz.³³⁰ There were occasional reports of the Parliamentary debates, a few book reviews of some of the early works by the abolitionists, and a profile of Silverman on the occasion of his seventieth birthday, which described him as in the tradition of great individualist and rebel MPs such as Wilberforce and Plimsoll.³³¹

³²⁹ "The Death Penalty: A Jewish View" 1982 (?) In Jakobovits papers, ACC/2805/07/21/008, London Metropolitan Archives

³³⁰ *The Jewish Chronicle*, 25th November 1955, 'Incidentally' column

³³¹ *The Jewish Chronicle*, 8th October 1965, 'Silhouette' column. It might be noted that the state of Israel abolished capital punishment in 1954, only six years after its inception, and that

So far as the non Judaeo-Christian religions were concerned their numbers and the extent of their influence were too small at that time for them to have any significant impact upon the debate.

The Churches and Politics

The churches generally were loath to intervene too strongly in matters of political controversy. For one thing they risked alienating much of their membership if they did, and the Church of England, in particular, as the established church would have been in danger of being perceived as abusing its position, and thereby jeopardizing its special status. For another they could have incurred the displeasure of the government of the day, and possibly the official Opposition too. Party political matters were very much off bounds but matters of conscience were rather more the province of the churches, both because of their 'ethical' nature and the fact that they tended to be the preserve of private members bills and therefore not regarded officially as 'party' questions. Nonetheless, as we have seen, there was a strong tendency for opinion on many of these issues to split along party lines to a marked degree, and thus there was still a danger that if a church took too strong a stand it would be seen as too closely aligned with a particular party. Moreover, attitudes among the communicants of these churches varied widely, and any official stance taken by the church

special legislation was needed to enable Eichmann to be hanged in 1961

hierarchy would necessarily have offended or alienated a substantial proportion of its membership. There was also a difficulty in evaluating the level of authority to be ascribed to any such official pronouncement. Were communicants obliged to sign up to that position as a matter of theological necessity, or were they free to differ, in which case could they differ on other more fundamental matters? Thus the churches, particularly the Anglican Church, tended to be very careful in their public utterances and to stress, in the standard formulation, that different views were possible, even when clearly favouring one side of the debate rather than the other.

On capital punishment this dilemma was strongly apparent in the case of Archbishop Ramsey personally, who had become fully converted to the abolitionist cause, but who was very reluctant to nail his colours too firmly to the mast. Despite being heavily prevailed upon to lead the Abolition Bill in the Lords in 1965, he decided ultimately, and probably wisely, to decline that role. The Catholic Church was in a slightly different position, in that it was governed by the Vatican, and the English hierarchy had no power to make authoritative decisions on any matter, whether theological or secular. It tended to adopt the somewhat Delphic position that the State should have the power to inflict the death penalty, but be not obliged to use it, and that communicants may campaign for or against the death penalty but may not argue that the State should be denied the authority to inflict it. The nonconformist churches tended to differ sharply between themselves over both the death penalty and the other conscience issues. The Methodists and

Baptists, for example, the two biggest Dissenting churches in England and Wales, were both fairly abolitionist in tone, but as with both the Anglicans and the Catholics they were reluctant to adopt an official stance or to seek to constrain their members in their expression of opinion on these matters.

On other issues, particularly 'conscience' issues, there were again very considerable differences both between and within the various churches. The Roman Catholic Church was, of course, very strongly opposed to both abortion and divorce law reform, and moderately opposed to homosexual law reform (stressing that homosexuality was a sin even if it should no longer be a criminal offence). The nonconformist churches tended to support most or all of these measures, though some were chary of supporting homosexual reform. On the other hand the Catholics were relatively liberal on the question of sabbatarianism, whereas the nonconformists, given their traditions, tended to be more hard-line.

In all of these things the Church of England was somewhere in the middle but tended to incline to a liberal position, certainly from the 1960s onwards, when, as we have seen the church 'liberalized' itself under Ramsey and others of his cast of mind. On the issue of homosexuality the Church had adopted a moderately liberal position from as early as the 1950s when its 'Moral Welfare Council' issued *The Problem of Homosexuality* in 1954 and together with the Howard League was instrumental in urging the Home Secretary to institute an enquiry into the whole question. On divorce the Church took a progressive

stance with its report *Putting Asunder* in 1965 which advocated the relaxation of the divorce laws to allow divorce where the marriage had broken down irretrievably. On abortion it was again fairly liberal, its Social Responsibility Board promulgating *Abortion: An Ethical Discussion*, in 1966; one of a series on moral questions including suicide, artificial insemination and sterilization, which was basically a statement of middle of the road Anglican opinion.³³² By the middle 1970s, however, the Church had to a certain extent revised its position as regards abortion, and in *Abortion Law Reform* it regretted the large numbers of abortions then being performed, supported the James White Bill of 1974/5 and said that the Steel Bill had gone too far.³³³ It did not, however, resile from its positions on divorce and homosexuality. Attempts by anti-abortion clergy to enlist their parishioners against reform was generally unsuccessful. An ALRA poll taken in 1966 showed 80% of Protestant clergy in favour of reform and that the Methodists and Congregationalists were usually more liberal than the Anglicans. So far as the bishops were concerned they tended not to vote on abortion in the Lords, and when they did they were split with a tendency to support reform but to oppose the more radical clauses. On the other hand on Sunday Observance it was still very conservative.

All of which simply illustrates the difficulties that the churches experienced in the 1960s, when confronted with a rapidly changing social climate and the demands for the radical reform of old laws, and

³³² Hindell and Simms, op cit

³³³ Marsh and Chambers, op cit, p.72

the difficulty they experienced in seeking to reconcile their traditional beliefs with the demand for change that was emanating from so many quarters. Too rigid a stance would leave them in danger of drifting so far away from mainstream opinion as to leave them isolated and irrelevant, whilst too strong a support for progressive causes may have left them looking meretricious and too eager to appease the *avante garde* in their ranks so as to maintain their secular influence. Ultimately it was a difficulty which the churches resolved in different ways, with the Anglicans tending to be in the forefront of reform under the influence of its new generation of reform-minded clerics.

Conclusion

Summarizing the role of the churches in the controversy it is difficult to assess precisely the extent of their influence. Theoretically that influence was very considerable given that, even in the post-war era, the great majority of Englishmen would have considered themselves to be adherents of one church or another, as measured by census and opinion poll data. On the other hand, only a small and declining number of people actually attended church services with any degree of regularity, and few would have been governed in their everyday lives and their political opinions by the views of their church leaders. Religion was, by all accounts, a declining force and had been for most of the twentieth century. Views on capital punishment generally did not seem to be conditioned to any significant degree by the

utterances of the clergy, with polls showing that religious affiliation apparently had little or no bearing on whether one was pro- or anti-hanging. Not that it would have been easy for most people to have followed the urgings of their clergy in this respect because most church leaders were chary of nailing their colours too firmly to the mast for fear of alienating their membership. Moreover, one must distinguish between the hierarchy, the lower clergy and the ordinary member. Generally the lower down the ladder the more conservative the views were, on capital punishment and other issues.

CHAPTER SIX

THE PRINT MEDIA

This and the following chapter examine the way in which the debate over abolition was reflected in the mass media; the influence the mass media may have had on public opinion; the extent to which the media were enlisted in the cause of abolition (or against it), and the success or otherwise of this form of propaganda. This chapter examines the print media (newspapers, magazines, periodicals and books) and the next chapter looks at radio, television, cinema and the theatre.³³⁴

The Press

For the purposes of the following discussion it should be appreciated that 'the press' connotes essentially the editorial view of newspapers, which is habitually explicit in its partisanship, and which tends to some degree to carry its editorial partisanship through to its news columns and general coverage of events.³³⁵ Of course there may be differences of opinion between the editor and columnists, and between different columnists.

³³⁴ For the impact of the mass media generally see Seymour-Ure, Colin, *The Political Impact of the Mass Media* (London: Constable, 1974); and the same author's, *The British Press and Broadcasting since 1945* (Oxford: Basil Blackwell, 1991)

³³⁵ Butler, David and Donald Stokes, *Political Change in Britain: The Evolution of Electoral*

Generally a newspaper's stance on the death penalty was consistent with that of the majority view of the party it habitually supported, with the Labour-supporting or left-leaning papers favouring abolition and the Conservative-supporting and right-leaning papers being retentionist, though the latter tendency was more qualified. This section looks in turn at daily newspapers, Sunday newspapers, London evening newspapers, the provincial press and the political press.

Daily newspapers

In the 1960s there were eight mass circulation national dailies, disregarding the small circulation and specialist *Financial Times* and the *Daily Worker/Morning Star*. Of these eight, two were strongly Labour supporting, *The Daily Mirror* and *The Herald/Sun* (a very different paper in format, content and outlook to that of today), while *The Guardian* abandoned its traditional Liberalism to support Labour. Four were strongly supportive of the Conservatives; *The Daily Express*, *The Daily Mail*, *The Daily Telegraph* and *The Daily Sketch*, whilst *The Times* was more cautiously and qualifiedly Conservative. On the whole their readership shared the partisan preferences of the newspapers. Prior to that, in the 1950s, there had been one other mass circulation daily, *The News Chronicle*, a Liberal paper that met its demise in 1960 and was absorbed into *The Daily Mail*.

On capital punishment *The Daily Mirror* and *The Guardian* came out early and strongly for abolition, whereas *The Daily Telegraph* and *The Daily Mail* were hostile to it. Nonetheless there were some deviations from the expected line. *The Daily Telegraph*, by late 1964, came out for abolition, albeit somewhat reluctantly so, to the delight of the abolitionists (and probably the dismay of much of its Conservative voting and pro-hanging readership). Notwithstanding the right-wing bias of the press the balance of opinion may have been somewhat for abolition, indicating a tendency for some Conservative papers to take a fairly liberal line on the matter, and the Labour-inclined papers to be strongly abolitionist. In this respect the press followed the lines of the party configuration, given that a considerable minority of Conservatives were abolitionist. Thus the press did not altogether reflect the overall state of British public opinion, given that the total readership of the abolitionist papers was probably rather greater than the size of the minority of public opinion that favoured abolition. This fact, however, did not seem to exert any influence on public opinion which was steadfastly pro-hanging, largely irrespective of paper read.

Of all of the national newspapers the most prestigious and influential, then as now, was *The Times*. Its position in the 1950s was moderately but consistently retentionist. Typical was a leader of January 1956 which said that moderate supporters of the gallows would wish to see it rarely used 'but would keep it standing to mark society's extreme horror of the greatest crime, except treason, known to the law in the hope that they may thus foster such an instinctive aversion from the act

that no normal person will ever commit it.'³³⁶

By the 1960s it had modified its views to the point of teetering over the brink into outright abolitionism. It accounted for the renewal of the abolition drive by the 'obvious inadequacies of the Homicide Act', and it conceded, moreover, that any attempt to redefine categories of murder was a waste of time.³³⁷

...it can hardly be maintained that a system which results in an average of four executions a year has any real effectiveness as a deterrent. Neither can that system be justified as a denunciation of what society regards as the most detestable crime, when the authors of the most detestable crimes, do not, in most cases, pay the final penalty. In such circumstances execution has degenerated into a totem and totems have no place in adult societies. Legislative opinion has moved closer towards abolition in the past ten years. It is now time to take the last step.

By 1969, however, it had retreated somewhat from that advanced position, asserting that hanging may have acted as a deterrent for some organized criminals carrying a firearm and committing murder in the course of crime.³³⁸

Whilst *The Times* was the voice of the Establishment, *The Guardian* (*The Manchester Guardian* prior to 1959) was the authentic voice of the liberal intelligentsia, and took a consistently left of centre line on most issues. On hanging it was predictably supportive of abolition from an early stage, and in 1956 urged support of the abolition

³³⁶ Leader - *The Times*, 19th January 1956

³³⁷ Leader - *The Times*, 18th December 1964

³³⁸ Leader - 'Politics of debate' *The Times*, 15th December 1969

amendment, albeit in fairly restrained terms.³³⁹ 'Perhaps a five-year suspension would best represent the views which have been making headway in this country. For the rising tide which threatens to swamp the gallows is not so much one of outrage against its wickedness (though this element is there) as of scepticism about its usefulness.' By the 1960s its abolitionism was more enthusiastic and confident: 'This is a momentous step, though the first step only...we ought to pay far more attention to the reformative possibilities of prisons than we do, and not only on the deterrent effect.'³⁴⁰ By 1969 it had become even more stridently abolitionist, and its opposition to reinstatement was ferocious in its intensity:³⁴¹

Capital punishment is state murder...nor should statistics be used to cloud the issue...They are not the main factor...Until its abolition capital punishment was a unique survival from an earlier and more brutal age...The death penalty admits of no error. It admits of no repentance either...cases of reprieved men who have reformed themselves are not uncommon. As long as this is so...the arguments in favour of hanging have to be overwhelming. But they are not.

Whilst *The Guardian* was the quality newspaper of the political left, its counterpart of the right was *The Daily Telegraph*. Its brand of conservatism was strongly paternalist and socially traditional, and unsurprisingly this predisposed it to a stout defence of hanging, at any rate in the earlier days of the controversy in the 1955-7 period, basing its defence solidly on its deterrent effect, the need for some form of

³³⁹ Leader - 'Day of Decision', *The Manchester Guardian*, 16th February 1956

³⁴⁰ Leader - *The Guardian*, 22nd December 1964

retribution and the unpreparedness of the general public for abolition: 'It is re-assuring to find so large a proportion of the public still unconvinced by the emotional and often irrelevant arguments with which they have been assailed.'³⁴²

By the mid-1960s however, it had modified its views, perhaps simply in recognition of the inevitable. In an editorial that surprised many on both sides of the debate it declared that: 'If, as seems certain, the Government promptly fulfils its election pledge by finding time early in the new Parliament for the introduction of a Private Member's Bill abolishing hanging, all but the most fanatical retentionists will breathe a sigh of relief. The argument has gone on ad nauseum. What is certain is that the law as it stands...cannot conceivably be maintained. To restore hanging as the uniform punishment for murder would equally run counter to increasingly strong currents of opinion.'³⁴³

By the end of the decade *The Daily Telegraph* had more or less maintained its quasi-abolitionism, and its coverage of the confirmatory votes in 1969 centred, as did that of much of the Conservative press, on the side issue of the government's alleged chicanery in seeking to suppress the Blom-Cooper/Morris report which, it erroneously claimed, showed a significant increase in the murder rate.³⁴⁴ The only other quality paper then in existence was *The Financial Times*, which was dedicated to economic affairs. In the 1950s, as for most of its history, it

³⁴¹ Leader – 'A Decision of Conscience', *The Guardian*, 9th December 1969

³⁴² Leader – 'Penalty of Death', *The Daily Telegraph*, 6th February 1956

³⁴³ Leader – 'Exit the Gallows', *The Daily Telegraph*, 26th October 1964

³⁴⁴ 'Censorship Protest on Hangings' by John Kemp (social services correspondent). *The Daily Telegraph*, 11th December 1969. This proved to be rather a non-story because the

had little or no coverage of non-financial matters, and even by 1964 the non-economic coverage was minimal. By 1969, however, it had expanded to embrace some reportage of politics and other areas. Politically it was regarded as centrist, notwithstanding its obvious support for and embrace of free market capitalism. Its columnist, 'Justinian', discussed the hanging question and though ambivalent in tone seemed to come down on the abolitionist side.³⁴⁵ A leader just before the crucial vote came down clearly against re-introduction.³⁴⁶

Thus of the four quality broadsheets then on offer all were, by the 1960s, abolitionist to a greater or lesser extent, though the degree of zeal varied according to the paper's general political line, with the right-wing *Telegraph* the least enthusiastic and the centre-left *Guardian* the most. When it came to the mid-market papers, however, the two titles on the market throughout the period were both right-wing and populist, often strongly so, and this tended to be reflected in their stance on hanging. *The Daily Mail* did not stress the issue all that heavily, though a front page murder story of February 1956, just after the successful abolition vote, was headlined *First 'I Can't Hang' Murderer*, illustrating the tendency of the more down-market press to put editorial gloss on news stories and to attempt to exploit popular misconceptions to achieve the desired spin, given that many readers, as it suspected, would not have appreciated that the Parliamentary vote did not, of itself,

report's authors said that it was their decision not to publish it.

³⁴⁵ Justinian 'Crime and Punishment – the hangman's dilemma', *The Financial Times*, 15th December 1969

³⁴⁶ Leader – 'Politics and Conscience', *The Financial Times*, 17th December 1969

have any legislative effect.³⁴⁷ An editorial a few days later approved the government's decision not to legislate on its own account and urged that MPs should 'think twice' before exercising their judgment if it were contrary to that of the people and stating that the House had gone far ahead of public opinion.³⁴⁸

By 1964 its hostility to abolition had mellowed to the point of reluctant acquiescence, if not avid acceptance, though it gave prominence to an NOP poll that showed that 67% of those sampled wanted hanging retained.³⁴⁹ Five years on and its editorial line did not seem to have resiled from that position, though it published an article by Conservative MP Jock Bruce-Gardyne, explaining why he had changed from being abolitionist in 1964 to retentionist now, chiefly because he felt MPs must not flout the will of the people.³⁵⁰

But if *The Daily Mail* was ambivalent on the question its mid-market rival *The Daily Express* had no such doubts. *The Express*, with its unerring instinct for the lost cause, was the most strongly retentionist of all the mass circulation papers. On the eve of the key vote of February 1956 an editorial, headed 'Keep Murder Risky', opined that: 'A long and wearisome agitation reaches its climax today...' and dismissed the recent case in which three men had been released on appeal after being wrongly convicted of the wounding of a policeman as

³⁴⁷ 'First 'I Can't Hang' Murderer', *The Daily Mail*, 20th February 1956

³⁴⁸ Leader – 'To Hang or Not?', *The Daily Mail*, 24th February 1956

³⁴⁹ 'Hanging: Most want to keep it' by Walter Terry, political correspondent, *The Daily Mail*, 21st December 1964

³⁵⁰ Jock Bruce-Gardyne, 'Do MPs take enough notice of the people?', *The Daily Mail*, 16th December 1969

John (Jock) Bruce-Gardyne, Baron Bruce-Gardyne, (1930-1990), Conservative MP for South

an irrelevance.³⁵¹ Unlike *The Daily Telegraph* and *The Daily Mail* which had softened their retentionist stance by the mid-1960s, almost to the point of becoming abolitionist, *The Express* maintained its hardline position. A feature on hanging discussed it from the point of view of the family or friends of the victims in several murder cases, some high profile, some not.³⁵² By 1969 it had to concede that the verdict of Parliament was beyond doubt, but emphasized that future Parliaments were not bound by this one.³⁵³

The News Chronicle was traditionally a Liberal supporting paper, and correspondingly liberal in its social outlook. Predictably therefore it strongly supported abolition. It welcomed the government's desire to reform the law of murder in 1956, which it caricatured as a 'practically medieval system', and approved its proposed recognition of 'diminished provocation' and revision of the law of constructive malice, but argued that: 'what is needed to bring Britain into line with other civilised countries is the suspension of the death penalty.'³⁵⁴ *The Daily Herald* was the only Labour supporting mid-market paper. Its stance, too, was strongly abolitionist. In 1956 it regretted that the government had seen fit to put forward proposals intended to retain the 'barbarism and savagery' of hanging, which did not address the problem that 'innocent people can hang – and some have almost certainly done so.'³⁵⁵ In 1964

Angus and the Mearns 1964-74, Knutsford 1979-83

³⁵¹ Leader – 'Keep Murder Risky', *The Daily Express*, 15th February 1956

³⁵² Magnus Linklater 'Verdict on Hanging. By people who really know', *The Daily Express*, 16th December 1964

³⁵³ Leader – 'Setting a Dangerous Pattern', *The Daily Express*, 19th December 1969

³⁵⁴ Leader – 'Change This Law!', *The News Chronicle*, 10th February 1956

³⁵⁵ Leader – 'What we think' - 'Doubt and the Hangman', *The Daily Herald*, 13th February

The Herald metamorphosed into *The Sun*, still a mid-market, Labour-supporting broadsheet, and in its new guise it maintained its stance against hanging. In 1969, a week or so before the key vote, it carried an article on a reprieved murderer 'Frank X' who had been recently released after having been convicted in 1958.³⁵⁶ On the substance of the issue the paper was unequivocal: 'Hanging People is Wrong' it stated, and this was not a matter of statistics, or popular opinion, or party advantage.³⁵⁷

There were two down-market tabloids in the 1950s, *The Daily Mirror* which was Labour supporting and *The Daily Sketch* which was Conservative and populist. *The Mirror* was abolitionist and declared in January 1956 that: 'The sooner Parliament decides for or against hanging the better.'³⁵⁸ Its legendary columnist, 'Cassandra', was all for abolition, having penned a controversial article denouncing the execution of Ruth Ellis the previous year.³⁵⁹ *The Daily Mirror* continued its opposition to hanging into the 1960s, though giving little coverage to the issue during the 1964 vote, probably regarding it as a foregone conclusion. In 1969 it had, curiously, a feature on Harry Allen, the leading hangman, though perforce idle for several years, who naturally favoured re-introduction.³⁶⁰ *The Daily Mirror's* tabloid competitor, *The Daily Sketch*, took the opposite line from the 1950s, though its tone was

1956

³⁵⁶ 'I was only Twenty...I didn't Want to Hang' - Frank X talks to Elizabeth Prosser, *The Sun*, 10th December 1969

³⁵⁷ 'The Sun Says' - 'Hanging People is Wrong', *The Sun*, 15th December 1969

³⁵⁸ Leader 'Hangman's Holiday', *The Daily Mirror*, 25th January 1956

³⁵⁹ William Neil Connor (1909-1967). Columnist for *The Daily Mirror* from 1935 to 1967. Author of many controversial articles, including one on the 'treachery' of P G Wodehouse.

generally not quite as uncompromising. A February 1956 editorial was fairly neutral but the paper organized its own postal ballot, using a cut-out and return coupon on the front page.³⁶¹ The day after that the result of the ballot was announced which showed that 65% wanted to retain the death penalty as now, 16% wanted to hang only the worst cases and 19% wanted to abolish hanging altogether; a result that was perhaps in line with other polls, though the compromise option found curiously little favour. Despite having had only one day in which to respond before its announcement the poll was apparently very large, though no figures were given.³⁶² A leader a month later came out clearly for retention citing the poll result, as if such legitimation were crucial to its calculations, and ascribing the success of the abolitionists to the efforts of an 'intensive pressure group.'³⁶³

By 1964 *The Sketch*, along with most of the right-wing press, had moved with the tide to the extent of muting its enthusiasm for hanging. Five years later it took the view that hanging should not be brought back, conceding, as many former pro-hangers did not, that there was no significant rise in the number of murders committed by professional criminals against whom the death penalty was chiefly directed, though the available figures were 'too meagre to be conclusive.'³⁶⁴

The only other national newspaper was *The Daily Worker* (later *The Morning Star*), a Communist supporting paper which specialized

³⁶⁰ Harry Allen, the executioner-in-waiting 'Hanging: A Few Harsh Words', *The Daily Mirror*, 10th July 1956, *The Daily Mirror*, 11th December 1969

³⁶¹ 'Would you Hang a Killer', *The Daily Sketch*, 14th February 1956

³⁶² 'Hanging Must Stay: The People's Verdict', *The Daily Sketch*, 16th February 1956

³⁶³ Leader – 'Listen to the People', *The Daily Sketch*, 12th March 1956

heavily in political and industrial news and, like *The Financial Times*, cannot be regarded as an ordinary mass circulation newspaper. Its stance, too, was strongly abolitionist. Llew Gardner, in his regular column, declared in ringing tones that: 'The death penalty must go' and dismissed the government compromise as an obvious attempt to confuse the issue.³⁶⁵ The victory of the Bill on second reading a month later was lauded on the front page.³⁶⁶ The paper maintained its support into the 1960s, being favourable to abolition in 1964. In 1969 its front page declared 'Good Riddance to Britain's Hangman.'³⁶⁷

Sunday newspapers

A similar tendency was evident with the Sunday newspapers, with the more right-wing papers tending to favour retention and the more left-wing favouring abolition, especially in the earlier period of the controversy in the 1950s. This cut right across the market position of the papers. *The Sunday Times*, not originally associated with *The Times*, came out against abolition in 1956, declaring that the death penalty ought to be retained because 'in an imperfect world' it was necessary as the 'last instrument of human justice and social order.'³⁶⁸ By 1964 it had moved, along with most Conservative papers, to a more neutral position. On the eve of the crucial second reading vote it gave space for

³⁶⁴ The Sketch Says: 'Why Hurry on Hanging', *The Daily Sketch*, 16th December 1969

³⁶⁵ Llew Gardner – 'To Hang or Not to Hang', *The Daily Worker*, 16th February 1956

³⁶⁶ *The Daily Worker*, 13th March 1956

³⁶⁷ 'Good riddance to Britain's hangman', *The Daily Worker*, 19th December 1969

proponents of both sides to put their case; Sir John Hobson, former Tory attorney-general, for the retentionists and Reginald Paget, QC, MP for the abolitionists.³⁶⁹ By 1969 it was more or less abolitionist, conceding that there was little statistical evidence for its supposed unique deterrent effect, notwithstanding the efforts of Sandys and the hanging lobby to find some.³⁷⁰

The other chief Sunday broadsheet in the 1950s was the liberal *Observer*, whose proprietor and editor from 1948-75, David Astor, was a strong abolitionist. It came out early and strongly for abolition, giving wide coverage to the movement and providing a regular platform for polemicists such as Koestler, whose *Reflections on Hanging* was serialized in the paper in 1956. In February 1956 it argued for MPs to be guided by conscience because if Parliament had waited for public opinion then few penal reforms would ever have got through.³⁷¹ *The Observer* maintained its liberal outlook and unsurprisingly continued to support abolition into the 1960s, acclaiming the vote of December 1964 as a 'resounding condemnation of an odious practice.'³⁷² In 1969 it argued that Callaghan was right to push ahead with the abolition vote because there was nothing immoral in allowing political considerations to dictate the timing and 'there should be no holding back in such a reform which humanity and plainly recommend.'³⁷³

The quality end of the Sunday market was monopolized by *The*

³⁶⁸ Editorial – 'The Death Penalty', *The Sunday Times*, 12th February 1956

³⁶⁹ Editorial – 'Out of its time', *The Sunday Times*, 13th December 1964

³⁷⁰ Editorial – 'Politics of the Rope', *The Sunday Times*, 14th December 1969

³⁷¹ Comment, *The Observer*, 12th February 1956

³⁷² Editorial - *The Observer*, 27th December 1964

Sunday Times and *The Observer* until the founding of *The Sunday Telegraph* in 1961 as the complement to *The Daily Telegraph*. It took a similarly conservative line, though, like its weekday sister, by 1964 it was not hostile to abolition. In 1969, however, the paper seemed to revert to type. Charles Curran, a Conservative MP who had penned a piece opposing abolition many years before in *The Evening News*, attacked the premature vote and stressed that public opinion was on the opposite side from the 'talking classes'.³⁷⁴

The Sunday Express took the same hardline position against abolition as its weekday equivalent. In 1956 Anthony Fell, Conservative MP, denounced abolition, saying that: 'Once again the sentimentalists are in full cry...' and asking what is the alternative given that genuine life imprisonment would be intolerable?³⁷⁵ The tone had not changed by 1964. Percy Howard argued that in order to win over the judges such as Parker, the then Lord Chief Justice, the abolitionists had become enthusiastic supporters of life sentences.³⁷⁶ In 1969 it gave a platform to Duncan Sandys for him to denounce the government for trying to bounce Parliament, as he saw it, into confirming abolition, because abolition was an 'unwritten article of Socialist policy.'³⁷⁷ Of the newspapers that were still extant in the 1950s but disappeared in the early 1960s under the impact of television and rising costs notable was

³⁷³ Editorial 'Going against the views of the public', *The Observer*, 14th December 1969

³⁷⁴ Charles Curran, 'Who Should Decide on Hanging?', *The Sunday Telegraph*, 14th December 1969

³⁷⁵ Anthony Fell, 'If Hanging Goes – These are the Fearful Choices that We Face', *The Sunday Express*, 29th January 1956

³⁷⁶ Percy Howard, 'Abolish the Death Penalty? The answer must be NO', *The Sunday Express*, 6th December 1964

Reynolds News which supported Labour and the Co-operative movements.³⁷⁸ As a left-wing paper it predictably supported abolition and dismissed the government compromise as a bad idea. Abolition should be abolished not reformed.³⁷⁹

The right-wing, populist *News of the World* was the most prominent of the down-market Sundays, then as now. It took a cautious position in the 1950s, noting that many had changed their minds and that the debate centred on the deterrent value: 'in these days of the gangster with the gun and the cosh.'³⁸⁰ It argued for a period of suspension, after which 'the results would speak for themselves.' By 1964 its position was still unclear, arguing only that in the event of abolition the actual length of a life sentence should be fixed by the judge at trial rather than decided by the home secretary of the day given that judges were the ones in the best position to assess the murderer.³⁸¹

After the slaying of three police officers in the summer of 1966, however, all caution and equivocation was thrown to the winds as the paper launched a virulent campaign to restore hanging for the murder of police and prison officers (at least). The story dominated the front page (as it did with all of the national press) under a headline that announced the start of a 'bring back hanging' campaign.³⁸² This was accompanied by a front page opinion piece which called for 'Tough Action Now'

³⁷⁷ Duncan Sandys 'Before Callaghan Jumps the Gun', *The Sunday Express*, 14th December 1969

³⁷⁸ *Newspaper Press Directory and Advertisers Guide*, (London, Benn Brothers) 1956

³⁷⁹ Editorial 'Why Cling to the Rope?' *Reynolds News and Sunday Citizen*, 12th February 1956

³⁸⁰ Editorial 'Hanging: The Vital Question', *The News of the World*, 12th February 1956

³⁸¹ Editorial 'Let the Judges decide', *The News of the World*, 13th December 1964

³⁸² 'The Fury Grows 'Bring back hanging' Campaign begins', *The News of the World*, 14th

against violent crime, and an inside page article by a former head of Scotland Yard CID, Sir Richard Jackson, who argued that the police shootings were an inevitable consequence of the repeal of the Homicide Act the previous year.³⁸³ Next week the paper carried another front page article asking readers if hanging should return for the murder of police and prison officers, and, in a familiar device, carried a cut-out and return coupon for readers to vote on the question.³⁸⁴ The next edition announced that there had been an 'amazing response' to the ballot, and reprinted the coupon, while an editorial declared that they would keep the campaign going.³⁸⁵ The next week's front page gave the result of the poll, and, to the surprise of no-one, there was an overwhelming majority for restoration with 99.4% in favour.³⁸⁶ *The News of the World* campaign dovetailed neatly with the corresponding movement in Parliament led by Sandys from the Conservative backbenches, which aspired, at least initially, to bring back hanging for the murder of police and prison officers, and which came to a head in November of that year with the failed attempt to get a second reading for a Bill to that effect, and the next edition carried an article by Eldon Griffiths, Conservative MP, about the Sandys Bill.³⁸⁷

Curiously though, despite *The News of the World's* zeal for restoration and its stated intention to keep the campaign going, there

August 1966

³⁸³ Sir Richard Jackson, CBE, 'A Licence to Kill', *The News of the World*, 14th August 1966

³⁸⁴ 'Should we bring back HANGING?', *The News of the World*, 28th August 1966

³⁸⁵ Editorial 'Voice of the nation', *The News of the World*, 4th September 1966

³⁸⁶ *The News of the World*, 11th September 1966. The actual figures were 127,384 for and 680 against, and of the 680 antis 150 voted that way because they wanted restoration for all murders.

was little more coverage of either its own campaign or that of Sandys once the furore over the Shepherds Bush killings had died down. It may well be that for all its ardour it recognized that the campaign was not going to be successful, at any rate not in the short-term, and that there was really nowhere else for the campaign to go. By 1969 its enthusiasm had died away altogether and there seems to have been little or no coverage of that year's vote, except for Auberon Waugh's column which praised Edward Heath for having the courage to vote for abolition.³⁸⁸

Another down-market Sunday newspaper still extant in the 1950s was *The Sunday Pictorial*. Its strapline was the 'Newspaper for the Young in Heart' whatever that was supposed to mean, and it was basically a left-leaning paper. Wilfred Fienburgh, Labour MP, had a regular column, which damned the government compromise in 1956, and praised Chuter Ede for having the courage to admit he had been wrong about hanging.³⁸⁹ *The Pictorial* disappeared in the 1960s and was reborn as *The Sunday Mirror* in 1963. *The Sunday Mirror* was, like its weekday sister paper *The Daily Mirror*, a Labour supporting and left-leaning paper. It supported abolition in 1964 declaring that Britain was 'catching up with civilization' and that 'HANGING IS WRONG' and 'HANGING MUST GO'.³⁹⁰ In 1969 it declared that abolition was a triumph and that society was now more civilized and more humane.³⁹¹

³⁸⁷ Eldon Griffiths, *The News of the World*, 18th September 1966

³⁸⁸ Auberon Waugh, *The News of the World*, 21st December 1969

³⁸⁹ Wilfred Fienburgh, 'Beyond the News', *The Sunday Pictorial*, 12th February 1956. Some of the figures he quoted about the numbers of persons convicted and reprieved were so off beam that it seems likely that he had little knowledge of the question.

³⁹⁰ Editorial – 'The End of Vengeance', *The Sunday Mirror*, 20th December 1964

³⁹¹ Editorial – 'Epitaph for the hangman', *The Sunday Mirror*, 21st December 1969

The People, another down-market Sunday, was the only other paper existing in the 1950s that survived into the 1960s and beyond. Hannan Swaffer used his column to argue that the prospects for abolition were bright and wondered whether the peers would use their veto to obstruct the Commons again and thereby hasten their own end.³⁹² The paper came out very strongly for abolition in its editorials.³⁹³ In 1964 there was little or no coverage of the question, but in 1969 it was still pro-abolition and dismissive of the whole controversy as a dangerous waste of time, while the nation should focus on other matters.³⁹⁴

London evening newspapers

There were in the 1950s three London evening newspapers:- *The Evening News*, *The Evening Standard* and *The Evening Star* (absorbed into *The Evening News* in 1960). Each was associated with one of the daily nationals, and their politics tended to reflect that of the sister paper, though generally they avoided being too avowedly partisan. *The Evening News*, owned by Associated Newspapers Ltd that owned *The Daily Mail* and *The Daily Sketch* and *The Sunday Dispatch*, was predictably right-wing. On hanging it was, in 1956, editorially neutral and fairly even-handed in its coverage, giving space to articles by both

³⁹² Hannan Swaffer, *The People*, 5th February 1956

³⁹³ Editorial – 'Stop it!', *The People*, 12th February 1956

³⁹⁴ 'The Voice of the People' (editorial) 'An Old Man's Row', *The People*, 14th December 1969

Charles Curran against abolition and Sir Ernest Gowers in favour. In the 1960s, by which time the paper had absorbed *The Star*, there was little prominence given in its pages to the abolition controversy.

The Evening Standard was associated with *The Daily Express* and the Beaverbrook group and was also a right-wing paper, though it characterized itself as 'independent' (as did most of the Conservative press). *The Standard* was rather more retentionist than *The Evening News*, as might have been supposed given the attitude of *The Express*, though relatively even-handed. An editorial of February 1956 urged MPs to keep calm and do their best on the evidence, but warned that they should not 'lightly cast away a penalty which the majority of the public and the Government earnestly believe offers the best protection the law can devise against calculated murder.'³⁹⁵ By the 1960s ownership had changed hands and it was no longer associated with *The Express*. This may have altered its political outlook. In 1964 it ventured only a rather neutral piece which urged better prison security in the light of the greatly increased number of lifers and the recent spate of escapes, but had nothing to say on the substance of the question.³⁹⁶ But by 1969 the paper had become strongly abolitionist, saying that legislators should be supported unequivocally in voting away hanging, and only criticizing the government for rushing the vote.³⁹⁷

The third London evening of the 1950s was *The Star*, self-described as independent progressive and associated with the Liberal

³⁹⁵ Editorial – 'The Last Barrier', *The Evening Standard*, 16th February 1956

³⁹⁶ Editorial – 'A Long Stretch', *The Evening Standard*, 22nd December 1964

Daily Chronicle. Like *The Chronicle*, and unlike its two London rivals, it took a strongly abolitionist line. It exulted in the anti-hanging vote of February 1956, declaring it to be a great day for the abolitionists and deriding the idea that there should be an experimental trial period.³⁹⁸ In 1960 the paper was swallowed up by *The Evening News*.

Thus the London evening papers mirrored the tendencies of the national daily and Sunday press in that their stance on hanging was a function of their general political outlook, at any rate in the 1950s, with the one progressive paper, *The Star*, taking a strongly abolitionist line and the others not. By the 1960s the two papers remaining, both moderately right-wing, tended to follow most of the Conservative press in acceding to abolition. This shadowing is scarcely remarkable given the common ownership and close associations existing between them.

Provincial and local newspapers

The provincial press was numerous, but generally did not take a strong line on politics in general or capital punishment in particular, though there were exceptions, and certainly the regional papers tended to be more partisan than strictly local papers. As with the national press the general tendency was for Labour or Liberal supporting papers to favour abolition and for Conservative supporting ones to oppose it, though far from universally so.

³⁹⁷ Editorial – 'No more hanging', *The Evening Standard*, 15th December 1969

The Daily Record, for example, the largest circulation Scotland-wide newspaper, and Labour supporting, took an abolitionist line in 1956: 'The Daily Record believes the gallows should go. We declare that from the experience of abolitionist countries the deterrent value of hanging is at least doubtful.'³⁹⁹ It maintained this line into the 1960s, declaring in December 1964 that the abolition bill marked 'An End to Savagery' but insisting that punishment for murder must be 'hard and long'.⁴⁰⁰ The other major Scots newspaper, *The Scotsman*, a more upmarket paper and Conservative supporting, was largely silent on capital punishment in 1956, though the issue featured prominently in its correspondence columns. By 1964 it had moved from silence to neutrality but by 1969 it gave extensive coverage to the debate and signified its cautious welcome of abolition.⁴⁰¹

The Yorkshire Post, then as now, was one of the largest circulation regional newspapers with national news coverage and national distribution, and like the two Scottish papers mentioned above it was daily. It was a staunchly Conservative paper from its inception and was rather hostile to abolition. In 1956 its editorials consistently supported the government compromise proposals, opposed outright abolition and favoured the retention of hanging for the murder of police officers especially.⁴⁰² It was, if anything, more strongly opposed to

³⁹⁸ Editorial – 'No Undue Delay – We Hope', *The Star*, 17th February 1956

³⁹⁹ 'Verdict on Hanging' - editorial, *The Daily Record* (Scotland), 16th February 1956

⁴⁰⁰ 'An End to Savagery' – editorial, *The Daily Record*, 22nd December 1964

⁴⁰¹ 'Death Penalty' – editorial, *The Scotsman*, 22nd December 1964; 'The Hanging Debate' part 1, 16th December 1969, part 2, 19th December 1969, *The Scotsman*.

⁴⁰² 'The death penalty' – editorial, 16th February 1956; 'Momentous decision' – editorial, 17th February 1956; 'Protect the police' editorial, 13th March 1956, *The Yorkshire Post*

abolition by 1964, arguing that if hanging went the police would have to be armed and that the gallows was an essential deterrent. If abolition were to be enacted it urged that it should be subject to annual review and renewal.⁴⁰³ By 1969 it took the standard Conservative line that the government should not have hastened the decision, but it seemed to have softened its stance on the principle by conceding that there was little hard evidence of hanging's deterrent value but that commonsense suggested that some professional criminals would be less likely to carry firearms.⁴⁰⁴

It is unlikely that the provincial press had any more influence on public opinion than had the national press. Their circulation and area of distribution were generally very restricted, and though there may have been a slight tendency for people to identify with a local paper rather more than with a national because of its local associations it is unlikely that this would have offset their basic lack of political weightiness.

Political and specialist periodicals

Amongst the political periodicals the position was rather different with a very heavy consensus for abolition, even and perhaps especially among the right-wing ones. This may be partly because, catering to a more high-brow readership, it did not feel the need to pander to what it

⁴⁰³ 'If Hanging Goes: Must the Police Be Armed?' by J P Eddy, QC; 19th December 1964; 'Thugs Charter?' – editorial, 22nd December 1964. *The Yorkshire Post*

⁴⁰⁴ 'Unfinished' – editorial, *The Yorkshire Post*, 17th December 1969

saw as populist sentiment, or perhaps simply that the proprietorship and editorship of these organs happened to be in the hands of abolitionist minded people at the relevant time. *The Spectator* and *The Economist* were as strongly abolitionist in tone as were *The New Statesman* and *Tribune*, if not more so.

Certainly the right-wing *Spectator* was in the vanguard of the abolitionist campaign under the proprietorship of the very liberal Conservative, Ian Gilmour, from 1954-67 and the editorship of Gilmour himself (1954-59), Brian Inglis (1959-62), and Iain Macleod (1963-65). As early as 1955 Gilmour was penning leaders condemning hanging as judicial barbarism and pouring scorn on home secretaries for their continued support of it and their failure to grant reprieves when they were clearly indicated. Maxwell-Fyfe's failure to reprieve Bentley was the 'worse decision since the hanging of Mrs Thompson.'⁴⁰⁵ Unsurprisingly, this attitude did not find favour with all of *The Spectator's* subscribers, and one letter attacked the 'wholesale indictment of the last three home secretaries' and described it as a 'scurrilous article' and 'a disgrace to journalism.'⁴⁰⁶

This rather intense campaign by *The Spectator* tended to fall away somewhat after 1957 with the failure of the Silverman Bill, and Gilmour's decision to hand over the editorship to others, though his successors in the chair were also liberal Tories and abolitionists in the form of Brian Inglis and Iain Macleod. By 1964, and the revival of the issue, the paper

⁴⁰⁵ 'Judicial Barbarism' – leading article (Gilmour), *The Spectator*, 11th February 1955

⁴⁰⁶ E H Cobb, Basingstoke to editor, *The Spectator*, 18th February 1955

had, however, more or less maintained its abolitionist stance, though perhaps slightly less virulently so. After Macleod the editorship passed to Tories of, perhaps, a slightly less liberal stamp such as Nigel Lawson and George Gale, though both were nonetheless inclined to abolitionism. A leader penned by Lawson in 1969 argued that the Lords would have been perfectly justified in frustrating the government's attempt to 'bounce' Parliament into making abolition permanent.⁴⁰⁷ Why had such a right-wing journal been so consistently abolitionist? It almost certainly did not reflect the views of the bulk of its Conservative readership, as evidenced by the apoplectic reaction of some of them, and neither was it in tune with most of the Conservative press of the time. It undoubtedly reflected the views of its then proprietor/editor, Ian Gilmour, and of others who wrote for the paper such as Christopher Hollis and John Grigg, both liberal Tories and prominent members of the newly-formed NCACP.

The other chief right-wing periodical, *The Economist*, was, curiously, also strongly abolitionist at this time, though this was perhaps less surprising given that historically it had been socially liberal, and its conservatism was chiefly of an economic *laissez-faire* variety. As with *The Spectator* it was the Ruth Ellis case that fired up its indignation over capital punishment. 'Does anybody suppose that this hanging will have done anything to discourage murderesses of this woman's type and her state of mind?'⁴⁰⁸

⁴⁰⁷ 'Murder is not a party game' – leading article (Nigel Lawson), *The Spectator*, 20th December 1969

⁴⁰⁸ 'The Ellis Case', *The Economist*, 16th July 1955, vol 176, no 5838

On the left *The New Statesman* was predictably abolitionist, though arguably less violently so than its right-wing competitor, *The Spectator*, and it tended to give the question less coverage. One of its contributors was C H Rolph, a prominent member of the NCACP, who was the chief progenitor of articles on the matter in its pages. He argued that the death penalty must be abolished 'boldly and totally – not as a negative step in the amelioration of the law but as the beginning of a new approach to the entire problem of crime in the 20th century.'⁴⁰⁹ *The New Statesman's* left-wing rival *Tribune*, a more down-market and concentratedly political publication, was also abolitionist, though as with *The New Statesman* it did not give great prominence to the issue, possibly because it was conscious that the issue did not necessarily play all that well with some of its working-class and trade union supporters. After the February victory for the abolitionists Mervyn Jones declared in its pages that: 'The vote to end capital punishment is a triumph of civilisation over the dark forces in men's minds and in society.'⁴¹⁰ However, not all its readers were as enamoured of abolition as its writers. One letter-writer questioned why so much energy was devoted to the question which was not a political one. 'How ironical it is to find the ranks closed and the whole body of Labour so unitedly and dutifully sinking their differences in one grand gesture to inaugurate THE MURDERERS CHARTER!'⁴¹¹ A few years later and Silverman was given the freedom of *Tribune's* pages to write a stirring defence of his

⁴⁰⁹ Rolph, C H, 'Abolition and After', *New Statesman and Nation*, 24th March 1956, vol 51, no 1306

⁴¹⁰ Jones, Mervyn, 'Hanging: Watch Out for the Lords', *Tribune*, 24th February 1956

abolition bill on the eve of its second reading.⁴¹² In 1969 it celebrated the victory of abolition in the confirmatory vote.⁴¹³ “Despite the frenzied retentionist campaign the Lords finally ensured that hanging will never come back.”

Of all the mass circulation magazines the one that went most strongly with the issue, at any rate in the critical mid-1950s phase of the campaign, was the weekly *Picture Post*, which announced it as ‘the moral issue of the year’, i.e. 1956, in its final edition of 1955.⁴¹⁴ It pulled no punches in its coverage, declaring melodramatically that: ‘We believe that human life is sacred: that for any man acting for the ordinary men and women of Britain, coldly and grotesquely to end a human life, is a desecration of the law of humanity and the law of God.’ The demise of the Abolition Bill was followed not too long afterwards (in July 1957) by the demise of the magazine itself due to falling circulation. It is not too clear why it took such a strong stand on capital punishment, though it had the reputation of being a fairly left-wing publication, and it was possibly looking for an issue upon which to take a stand and recapture its former reputation as a campaigning organ.

Clearly there was a very heavy consensus for abolition amongst the mass circulation periodicals and magazines, on the right as embodied by *The Spectator* and *The Economist* as much as on the left, as embodied by *The New Statesman*, *Tribune*, and perhaps *Picture Post*

⁴¹¹ Letter to editor, E Lesels (Salford), *Tribune*, 9th March 1956

⁴¹² Silverman, Sydney, *Tribune*, December 1964

⁴¹³ ‘Hanging – an end to barbarity’, *Tribune*, 26th December 1969

⁴¹⁴ ‘The Moral issue of the Year’, *Picture Post*, 31st December 1955

(though the last was more a general interest magazine than a political one). However, these publications had relatively small circulations compared to the national dailies and Sundays, and, in the case of all except *Picture Post*, a rather untypical readership. The dailies were probably less influential than they supposed themselves to be, and it is difficult to think that the weeklies had much impact on the general public or the government of the day.

The most striking thing about the stance taken by a newspaper on the issue was the way that it seemed largely conditioned by the general political position of the paper, with the Conservative supporting and more right-wing papers usually taking a fairly retentionist stance and the Labour supporting and more left-wing papers adopting an abolitionist stance. This of course merely reflected the balance of opinion within the parties themselves nationally and, probably, the feelings of the bulk of the readership of the paper concerned. This was especially true in the 1950s when the Conservative Party 'house journal' *The Daily Telegraph*, the Conservative-leaning *Times* and the right-wing *Daily Express*, *Daily Mail* and *Daily Sketch* all came out for retention and the Labour supporting *Daily Herald* and *Daily Mirror*, and the Liberal *Manchester Guardian* and *News Chronicle* came out decidedly for abolition. This also roughly matched the balance of opinion in the country because the right-wing papers tended to have a wider circulation than their competitors, though *The Mirror* probably outsold *The Sketch* at the bottom end of the market. On the other hand there was no correlation with position in the market, with quality broadsheets, mid-market and

down-market papers all split. This again reflected the political realities where attitudes to hanging showed no effect of social class, but some effect of party preference. There was clearly a symbiotic relationship between the newspapers, the political parties, pressure group activity and informed public opinion, with the different actors feeding off each other and reinforcing their respective viewpoints. Leading abolitionists were often given a platform in the liberal papers to expound their views and advertise their activities, such as Koestler at *The Observer*, and the same was true to a lesser extent on the other side of the debate.

Did the press have any great influence on the course of the debate and the ultimate victory of the abolition movement? This seems unlikely, notwithstanding the huge amount of newsprint devoted to the topic at different times. As mentioned a newspaper did not seem to possess much capacity to influence its readership on this, or any other question, and it had little traction on Parliament and the government despite Herculean efforts, particularly on the part of the retentionist papers, at seeking to convince these bodies that they articulated the outrage of vast swathes of popular opinion. On hanging Parliament seemed largely indifferent to public opinion.

To what extent, if at all, did the views of a newspaper, whether those of the editor or a columnist, influence the reader? As with political questions generally there is little evidence to support the contention that the press wields any great influence over its readership, and

considerable evidence to suggest that it doesn't.⁴¹⁵ Views on capital punishment were usually too deeply entrenched to be susceptible to conditioning by the press. It may have reinforced views but not changed them. Generally also it is often the press that follows its readership rather than the other way about. As Trenaman and McQuail have observed on the basis of their study of the influence of press and the media campaign generally during the 1959 general election:

Personal political prejudices create a barrier. They are of such a nature that the individual selects what he wants to select. The only appreciable effect of the mass media on political attitudes is to reinforce or to crystallise them, but not to alter them...No medium or source of propaganda, or combination of sources had any ascertainable effect on attitude changes. And attitude changes were certainly large enough to be susceptible of effect...what is established here is not merely an absence of cause and effect, but a definite and consistent barrier between sources of communication and movements of attitude in the political field at a General Election.⁴¹⁶

What applies to a general election campaign surely applies to a more specific political campaign also.

⁴¹⁵ The consensus view is that the press, and the media in general, have very little effect on the political views, and voting patterns, of the public. 'Teeming shoals of votes do not lie ready to be trawled by press magnates', Seymour-Ure (1974), op cit. p. 203. Though there may be a considerable correlation between the views of a newspaper and those of its readership this is just as likely to be the result of the readership's influence on the newspaper as the other way about. Papers seldom persist with a policy view or a campaign it realizes that it does not chime with the bulk of its readership. Anyway studies have demonstrated the widespread ignorance of many readers about their preferred newspaper's political allegiances. See Butler, David and Donald Stokes, op cit, pp.115-119.

⁴¹⁶ Trenaman, Joseph and D McQuail, op cit. Quoted in Finer, S E , op cit, pp. 119-20

Books and Pamphlets

The literature on the question of capital punishment and its abolition was profuse and tended naturally to emanate chiefly from the abolitionists since it was they who were seeking to change the status quo. It tended to fall into two categories; polemical works (often merely pamphlets) inveighing against capital punishment, or works that highlighted and sought to rectify specific miscarriages of justice, real or alleged.

Of the polemical works much of the early literature was promulgated by E Roy Calvert and the NCADP, such as *Capital Punishment in the Twentieth Century* (1927); *Death Penalty Enquiry: Being A Review of the Evidence Before the Select Committee on Capital Punishment 1930* and *Capital Punishment* (1936).⁴¹⁷ In the same vein was G D Turner's *The Alternative to Capital Punishment* (1938); John Paton's *This Hanging Business* (1938) and Theodora Calvert's pamphlet *Capital Punishment: Society Takes Revenge: An examination of the necessity for capital punishment in Britain today* (1946).⁴¹⁸ Also notable was Violet van der Elst's *On the Gallows* (1937) written by an indefatigable opponent of hanging.

⁴¹⁷ Calvert, E Roy, *Capital Punishment in the Twentieth Century* (London: Putnam, 1927); Calvert, E Roy, *Death Penalty Enquiry: Being a Review of the Evidence Before the Select Committee on Capital Punishment* (London: Gollancz, 1930); and *Capital Punishment* (London: NCADP, revised edition, 1936).

⁴¹⁸ G D Turner, *The Alternatives to Capital Punishment, Roy Calvert 5th Memorial Lecture* (London: NCADP, 1938); John Paton, *This Hanging Business* (London: NCADP, 1938). Paton succeeded Calvert as general secretary. Theodora Calvert, *Capital Punishment: Society Takes Revenge: An examination of the necessity for capital punishment in Britain today* (London: NCADP, 1946). Theodora Calvert was Roy's widow.

In the immediate post-war era the most notable piece was Templewood's *The Shadow of the Gallows* (1951), a fairly remarkable one in that it announced the conversion (or re-conversion) of a former Conservative home secretary to the abolitionist cause and therefore had a somewhat greater impact than that of 'career abolitionists' such as the Calverts.⁴¹⁹ He argued that he was instinctively drawn to the abolitionist cause but that he dared not include it in his Criminal Justice Bill of 1938 for fear of endangering the Bill, but that the time was now ripe for a renewed effort 'to re-establish and reinforce the dignity of human life.' The next significant book was that of another convert to the abolitionist cause, Sir Ernest Gowers with *A Life for A Life?: The Problem of Capital Punishment* (1956), and as with Templewood's it probably carried somewhat greater weight than many others.⁴²⁰ He declared in his foreword that before he had taken up the chairmanship of the Commission he had given no great thought to the question and would probably have described himself as in favour of the death penalty and was 'disposed to regard abolitionists as people whose hearts were bigger than their heads. Four years of close study of the subject gradually dispelled that feeling. In the end I became convinced that the abolitionists were right...and that so far from the sentimental approach leading into their camp and the rational one into that of the supporters, it was the other way about.'

From the mid-1950s the NCACP took up the baton and became

⁴¹⁹ Templewood, Viscount (Samuel Hoare), op cit.

⁴²⁰ Gowers, Sir Ernest, op cit.

responsible for the bulk of the polemical literature. Of the oeuvre of the NCACP and its membership first and foremost was Arthur Koestler's *Reflections on Hanging* published in 1956, a classical statement of the abolitionist case.⁴²¹ Koestler had of course been one of the three founders of the movement.⁴²² It is a brilliant piece of invective to which it is difficult to do justice without extensive quotation. Though factual in tone the book is infused with the author's passionate detestation of hanging. As he states in the preface: 'My intention was to write in a cool and detached manner, but it came to naught; indignation and pity kept seeping in...Fair pleading requires that one's facts and figures should be right...it does not exclude having one's heart and spleen in it.'⁴²³ The book reads as a passionate denunciation of capital punishment in all its forms and a scathing indictment of hanging in practice in England down the centuries. This was the masterpiece of the abolitionist canon, though much of it has now dated badly, not only because the abolition of capital punishment has rendered much of its polemic redundant but also because of the transformation in the landscape of the English judicial system in the intervening decades. The impact of Koestler's work was doubtless considerable, though as with the polemics of the press and much of the rest of the media it is likely that most of that impact was on his fellow abolitionists. The work of Templewood and

⁴²¹ Koestler, Arthur, *Reflections on Hanging* (London: Gollancz, 1956)

⁴²² Arthur Koestler, 1905-1983. Hungarian born but British naturalized polymath, political writer, journalist, novelist, philosopher, scientist etc. One-time communist he became passionately anti-communist in response to Stalin's show trials and was one of the foremost opponents of Soviet expansionism in the post-war era. Founder member of the NCACP in 1955. Supporter of Lamarckianism, investigator of the paranormal and instigator of controversial theories of the origins of the Ashkenazi Jews such as himself. Committed suicide as part of a suicide pact with his third wife.

Gowers by contrast was influential, more so probably than that of Koestler, since they, unlike him, had not been dyed-in-the-wool abolitionists from the outset, and their conversions doubtless carried weight in establishment circles.

Two other leading figures in the Campaign also produced books at about this time. Gardiner published *Capital Punishment as a Deterrent and the Alternative* shortly before Koestler (with a revised second edition taking account of developments published in 1961).⁴²⁴ This was a more prosaic rehearsal of the arguments for and against than Koestler's as befitted a lawyer rather than a philosopher. It was couched in self-consciously 'rational' terms and purported to deal objectively with the arguments for hanging followed by his refutation of them.

At about the same time Gollancz published *Capital Punishment: The Heart of the Matter*, a very brief pamphlet and an impassioned and emotional treatise.⁴²⁵ It pulled no punches. 'I am convinced, for my own part, not indeed that no single murder has at any time been prevented by fear of the death penalty... but that on balance the existence of the death penalty is devoid of preventive value, and may even tend in the opposite direction.'

After this initial burst of literary activity by members of the NCACP and the enactment of the Homicide Act a year or two later it became apparent that full abolition would have to wait. The abolition

⁴²³ Koestler, *ibid*, preface

⁴²⁴ Gardiner, Gerald, *Capital Punishment as a Deterrent and the Alternative* (London: Gollancz, 1955) (2nd ed NCACP 1961)

⁴²⁵ Gollancz, Victor, *Capital Punishment: The Heart of the Matter* (London: Gollancz, 1955)

movement lost momentum and their literary efforts likewise started to dry up, though books and pamphlets continued to appear more sporadically. At the end of the 1950s came Roy Jenkins' *The Case for Labour* (1959), one of three Penguin 'Specials' brought out just prior to the general election of that year to argue the case for their respective parties. It included a chapter entitled *Is Britain Civilized?* in which he argued strongly for penal and social reform including abolition and castigated the record of recent Tory home secretaries (whom he felt the most reactionary since the 1920s) in that regard. He deprecated the fact that, though the system was operated with 'moderate humanity' by the current home secretary, Rab Butler, 'the ghastly apparatus of the gallows continues to exist, and is used much more often than was thought likely when the Homicide Act was passing into law.'⁴²⁶

A couple of years later came Koestler and Rolph's *Hanged by the Neck* and *Hanged in Error* by Leslie Hale, MP, both Penguin Specials published in 1961, and favourably reviewed in *The Spectator* of 15th September.⁴²⁷ *Hanged by the Neck* was basically an update of Koestler's *Reflections* with additional material from Rolph including the 'police view' which was scathing about police procedures for electing representatives to the Federation and ascertaining the opinions of serving officers. A Howard League pamphlet was *The Working of the Homicide Act* by Glanville Williams. This was followed by another

⁴²⁶ Jenkins, Roy, *The Case for Labour. Why Should You Vote Labour?*, (Harmondsworth: Penguin, 1959) pp.135-146

⁴²⁷ Koestler, Arthur and C H Rolph, *Hanged by the Neck: An Exposure of Capital Punishment in England* (Harmondsworth: Penguin 1961); Hale, Leslie, *Hanged in Error* (Harmondsworth: Penguin, 1961)

pamphlet *Murder in Microcosm* by Dr Terence Morris and Louis Blom-Cooper (1961) which consisted of a general discussion of murder cases that had led to hangings in the period after the passage of the Homicide Act.⁴²⁸ From the same two authors came *A Calendar of Murder: Criminal Homicide in England since 1957* (1964) being a statistically based account of murder cases since the passage of the Homicide Act. That year saw the publication of Christopher Hollis' *The Homicide Act* (1964), another dispassionate account by a leading abolitionist.⁴²⁹ Few if any works argued the case for retention since this was the status quo and was felt to need no defending, though Fenton Bresler's *Reprieve: A Study of a System* (1965) is a detailed study of one aspect of capital punishment which tended, if anything, to suggest that the present system was satisfactory enough.⁴³⁰

Much later came Albert Pierrepoint's *Executioner Pierrepoint* (1974), a biography in which he declared that he thought hanging 'did no good and was merely a matter of revenge.'⁴³¹ This was a staggering assertion from the man who had executed more murderers than anyone else, though it came very late in the day, eight years after abolition and seventeen years after his slightly premature retirement – ostensibly on financial grounds - and thus could not be said to have influenced the debate in any way. Nonetheless it represented the most remarkable of

⁴²⁸ Terence Morris and Louis Blom-Cooper, *Murder in Microcosm* (London: The Observer 1961); Terence Morris and Louis Blom-Cooper, *A Calendar of Murder: Criminal Homicide in England since 1957* (London: Michael Joseph, 1964)

⁴²⁹ Hollis, M Christopher, *The Homicide Act: The First Thorough Examination of how the Homicide Act has been working in Practice* (London: Gollancz, 1964)

⁴³⁰ Bresler, Fenton, op cit., foreword by Chuter Ede

⁴³¹ Pierrepoint, Albert, op cit.

all the Damascene conversions (following on from those of Templewood and Gowers many years earlier). It is difficult to assess the impact and effectiveness of these many and various publications since they were very much preaching to the converted and had a small circulation.

The literature on wrongful convictions from the 1950s onwards was almost as profuse, reflecting perhaps both the steady accumulation of perceived miscarriages and the growing strength of the abolition movement which drew sustenance from these miscarriages and gave rise to the closer inspection of capital cases. Thus the campaign was both cause and effect of the miscarriage canon. Unlike the general polemical works mentioned above several of these books on specific miscarriages were highly influential and almost certainly, in their combined effect, led to the posthumous exoneration of both Timothy Evans and Derek Bentley.

There were at least four on the Timothy Evans case:- Silverman and Paget's *Hanged - and Innocent?* (1953) was an early collaboration between two leading lights of Parliamentary abolitionism which dealt with three alleged miscarriages, those of Rowland in 1946, Evans in 1950 and Bentley in 1953; Michael Eddowes' *The Man on your Conscience* (1955) followed; and Ludovic Kennedy's book on the subject *Ten Rillington Place* (1961) which was perhaps more influential than its two predecessors because published later and with the benefit of additional evidence exonerating Evans. There was also a *Spectator*

pamphlet by Lord Altrincham (John Grigg) and Ian Gilmour in 1954.⁴³²

Several other lesser books on the case, sometimes in conjunction with other notorious cases, were published. These were ultimately triumphant in that Evans was posthumously pardoned.

The Derek Bentley travesty arguably produced more works than any other miscarriage, partly because it took much longer for it to produce any tangible result. Foremost among these was David Yallop's *To Encourage the Others: Startling New Facts on the Craig/Bentley Murder Case* (1971) - the basis for both a BBC play of that title in 1973 and of the film *Let Him Have It* (1993). Yallop's book probably had as big an impact upon that case as had Kennedy's on the Evans case ten years earlier, leading to questions in the Commons and a debate in the House of Lords. Others books followed, most notably *Scapegoat: The Inside Story of the Trial of Derek Bentley* by John Parris in 1991, a scathing account of the trial, the judicial system, Goddard, Maxwell-Fyfe and much else written by the barrister who had defended Craig. *Let Him Have It, Chris* by M J Trow (1990) was another fairly sensational account which suggested that there was another police officer on the roof who was never asked to give evidence, because his evidence would have blown the prosecution case apart! *Gangland: The Case of Bentley and Craig* by Francis Selwyn (1988) and *Dad, Help Me Please: The Story of Derek Bentley* by Christopher Berry-Dee and Robin Odell (1993) are

⁴³² Silverman, Sydney and Reginald Paget, *Hanged – and Innocent?* (London: Gollancz, 1953); Eddowes, Michael, *The Man on your Conscience: An Investigation of the Evans Murder Trial* (London: Cassell, 1955); Gilmour, Ian and John Grigg, *Timothy Evans: An Appeal to Reason* (Spectator pamphlet, 1956); Kennedy; Ludovic, *Ten Rillington Place* (London: Simon and Schuster, 1961)

other recent contributions to the canon. Much earlier Bentley's father had published *My Son's Execution* by William George Bentley (1957), and later his sister Iris published *Let Him Have Justice* (2001).⁴³³

The Ruth Ellis case was similarly productive of books. Foremost were *Ruth Ellis: A Case of Diminished Responsibility?* (1990) by Laurence Marks and Tony Van Den Bergh; *Ruth Ellis* by Robert Hancock (1963); and *Dance with a Stranger* upon which the film of the same name was based.⁴³⁴

Somewhat later (1961-2) came the Hanratty case which has probably produced more written words than any other, with at least half a dozen books by Louis Blom-Cooper, Jean Justice, Lord Russell of Liverpool, Paul Foot, Bob Woffinden and Leonard Miller. Recently adduced DNA evidence seems to indicate fairly conclusively that Hanratty was guilty and thus he is the odd one out in being a *cause celebre* who was actually guilty.⁴³⁵ The last two executions, those of Allen and Evans, were the subject of *The Last Two to Hang* by Elwyn

⁴³³ Bentley, William G, *My Son's Execution* (London: W H Allen, 1957); Yallop, David, *To Encourage the Others* (London: W H Allen 1971; London, Corgi, 1990); Parris, John, *Scapegoat: The Inside Story of the Trial of Derek Bentley* (London: Duckworth, 1991); Trow, Michael J, *Let Him Have It, Chris* (London: Constable 1990); Bentley, Iris, *Let Him Have Justice* (London: Picador 2001)

⁴³⁴ Hancock, Robert, *Ruth Ellis* (London: Arthur Barker, 1963); Marks, Laurence and Tony van den Bergh, *Ruth Ellis: A Case of Diminished Responsibility?* (Harmondsworth: Penguin, 1990)

⁴³⁵ The full list is:- Blom-Cooper, Louis, *The A6 Murder: Regina v James Hanratty – The Semblance of Truth* (Harmondsworth: Penguin, 1963); Justice, Jean, *Murder vs. Murder: The British Legal System and the A6 Murder Case* (Paris: Olympia, 1964); Lord Russell of Liverpool, *Deadman's Hill – Was Hanratty Guilty?* (London, Secker and Warburg, 1965 and London: Icon, 1966); Justice, Jean, *Le Crime de la Route A6* (Paris: Robert Laffont, 1968); Foot, Paul, *Who Killed Hanratty?* (London: Cape 1971; London: Panther 1973; revised Harmondsworth, Penguin 1988); Woffinden, Bob, *Hanratty: The Final Verdict* (London: Macmillan 1997); and Miller, Leonard, *Shadows of Deadman's Hill: A New Analysis of the A6 Murder* (London: Zoius 2001). See also Simpson, Keith, *Forty Years of Murder* (London, Harrap 1978, London, Grafton 1980) and Woffinden, Bob, *Miscarriages of Justice* (London, Hodder and Stoughton 1987; London, Coronet 1989).

Jones (1966) who had become attorney-general in the Wilson government. There was no question of that case being a miscarriage and it was notable simply for being the last hangings.⁴³⁶ Miscarriages in general have been covered in many books such as Bob Woffinden's *Miscarriages of Justice* (1987) and *Blind Justice: Miscarriages of Justice in Twentieth Century Britain?* by John Eddleston (2000).

Whilst these books on miscarriages were sometimes successful in bringing about the rectification of an injustice, or at least bringing it to popular attention, it is debatable to what extent if at all they contributed to the success of the abolition campaign. Of course the possibility of a miscarriage in a capital case was one of the main planks in the abolitionist platform, and some of the perceived injustices of the 1950s almost certainly had a considerable impact on public opinion on the capital punishment issue. Moreover, though one can theoretically be a campaigner for the innocence of a hanged man and yet be a supporter of hanging, in practice the most vociferous investigators of miscarriages were often keen abolitionists and no doubt saw their work as not merely the rectification of injustice but as ammunition in the abolition campaign.

One might also mention fiction, whether literary or popular, but whilst there were of course numerous crime thrillers about which one might say, as with crime films, that the shadow of the gallows loomed

⁴³⁶ Elwyn Jones, *The Last Two to Hang* (London: Macmillan, 1966)

behind them, there were few that dealt explicitly with the question of capital punishment. One such was *Yield to the Night*, the novel upon which the film of the same name was based. Written by Joan Henry and published by Gollancz in 1954 it is a short but gut-wrenchingly powerful story, written in first person narrative, of a condemned woman (Mary Hilton) convicted of the murder of her ex-lover's new mistress, whom she blames for his suicide.⁴³⁷ It consists largely of an account of her last few weeks in prison awaiting execution, and of the daily routines through which she is put by the authorities, a mixture of tedium and torment, interspersed with flashbacks of her life and the events that led up to the murder, her trial and conviction. Though the events suggest the case of Ruth Ellis in certain aspects the book was written and published a year or so before that case and any resemblances were thus co-incidental (though the film came out after the Ellis case and therefore tended to reinforce the misconception that it had been quasi-biographical).

Conclusion

The impact of the print media, particularly the press, is, like so many of the other institutions examined, difficult to assess, but probably generally less influential than commonly supposed, and certainly less influential than its own *amour propre* would like us to suppose. Its

⁴³⁷ Henry, Joan, *Yield to the Night* (London: Gollancz, 1954)

influence on political questions generally is debatable, and such evidence as exists tends to confirm the impression that the press reinforces existing opinions but does not change them to any significant extent. The press tended to take a rather abolitionist line on the whole, with the more left-leaning and Labour or Liberal supporting newspapers invariably taking an abolitionist stance while the right-wing and Conservative supporting papers were rather more divided between those which favoured a cautious acceptance of abolition, even if only provisionally, and others which were very hostile to it. There is very little evidence that the press had any effect on either public opinion or political opinion, but merely reflected the debate. Even when, as with *The News of the World* in the late summer and autumn of 1966, a paper launched a 'campaign' it was largely ineffectual, and was eventually quietly dropped by the paper, rather than to be forced to admit its own impotence in the face of events.

Books, even the tide of intensely propagandistic and missionary efforts designed to raise public awareness of the issue and to rectify perceived miscarriages, were even less influential than their journalistic brethren, since their readership was very limited and confined largely to those who had an interest in the subject, and therefore probably a fixed view, to start off with. Rather more influential, even if only on the face of it, were the newer media of radio, television, film and theatre.

CHAPTER SEVEN

THE LIVE MEDIA

This chapter looks at the various ‘live’ media: radio, television, film and theatre; and examines the way in which they presented the capital punishment controversy and evaluates the extent and nature of their influence on the debate.

Radio

By the middle to late 1950s television was already overtaking radio as the chief source of news and information for the average household but radio nonetheless maintained a high level of output in the news, current affairs and documentary field (which was of course its speciality) and the question of capital punishment received much more of an airing there than it did on television.⁴³⁸ This section examines the role of radio in the debate.

The report of the Royal Commission in 1953 was the occasion for a whole slew of programmes across its various stations, such as

⁴³⁸ It should be mentioned that during the whole of the relevant period the BBC had a monopoly on lawful radio broadcasting for, though its monopoly on television had been broken in 1955, independent commercial radio did not come into being until the 1970s. Pirate

editions of *Press Conference* with Ernest Gowers on 24th September and *Topic for Tonight* with Ernest Watkins also on 24th September. The following year came *Reflections on the Report of the Royal Commission* by Professor H L A Hart on the Third Programme in September 1954.⁴³⁹ The revitalization of the controversy in 1955 and the advent of the Silverman Abolition Bill led to more programmes, for example an item in November 1955 by H R Cummings on *Home Affairs*. February 1956 was a bumper month for the question because of the Commons debate which produced another rash of programmes such as an edition of *London Commentary* with Michael Davie and *Topic for Tonight* with Paul Leach covering the Commons debate.

This profusion of news and current affairs coverage naturally led to rather more expansive treatment. In late 1955 a full-length documentary on capital punishment was aired, perhaps the first. *Capital Punishment* was an hour-long programme written and presented by Nesta Pain and transmitted on 13th December 1955 on the Home Service. It was based largely on the evidence adduced by the Gowers Commission, which had reported a couple of years before. Laurence Gilliam had memoed to the Head of Features asking for the go-ahead for Pain to do the programme saying: 'to my mind this is a most important matter for public airing. Each fresh execution leads to public and Press debate...'⁴⁴⁰ Pain, having been given the nod, memoed to the Head of

radio existed of course but its output was devoted almost exclusively to pop music.

⁴³⁹ BBC Written Archives, index of radio programmes on 'Punishment'

⁴⁴⁰ Laurence Duval Gilliam, (1907-1964) radio producer. Gilliam to Head of Features, 20th July 1955. BBC Written Archives, File R71/582. Significantly or not this memo was written seven days after the hanging of Ruth Ellis which had reignited the controversy.

Features suggesting that the programme be composed chiefly of verbatim extracts from the evidence given to the Royal Commission with linking narration, concentrating on whether hanging has a unique deterrent value, whether executions have an undesirable effect on the public, whether hanging was the most effective, speedy and humane method, and whether life imprisonment was more or less merciful to the condemned man.⁴⁴¹ A slight nervousness at handling such combustible material was evident in the higher ranks, as the Controller of the Home Service memoed, stressing the need for absolute impartiality.⁴⁴² It seems that alterations to the programme were requested at some stage but what these were and whether they were acceded to is unclear.⁴⁴³

Shortly after this came a talk given by H L A Hart, Professor of Jurisprudence at Oxford University, on the Third Programme (as it then was) transmitted on 6th January 1956 entitled *Capital Punishment - a review of the arguments*.⁴⁴⁴ This was a fairly bland discussion of the issue that tended to shade towards abolition though scrupulously avoiding any hard conclusion. A discussion programme on the Home Service between Gardiner, Hailsham (a Conservative retentionist) and Frank Byers (a Liberal abolitionist) recorded on 2nd February 1956 and planned for broadcast on 9th February was apparently cancelled because of concerns about the fourteen day rule.⁴⁴⁵ This was an agreement between the broadcasters and the political parties which

⁴⁴¹ Pain to Head of Features, 2nd August 1955. BBC Written Archives, *ibid*.

⁴⁴² Controller, Home Service, 3rd August 1955. BBC Written Archives, *ibid*.

⁴⁴³ Nesta Pain, memo 29th September 1955. BBC Written Archives, *ibid*.

⁴⁴⁴ BBC Written Archives, File T32/518/3 *The Death Penalty* (scripts and research).

⁴⁴⁵ *The Times*, 10th February 1956

prohibited the discussion of issues that were due to be debated in Parliament within the next fortnight.⁴⁴⁶

The earlier Nesta Pain project was evidently deemed a success because not long afterwards the Head of Features was again writing to her saying that the DSB (Director of Sound Broadcasting) had agreed that the Light Programme do a sixty minute programme on capital punishment with the suggested title *Life and Death*, which unlike her earlier effort need not confine itself to the Royal Commission.⁴⁴⁷ As before there was a flurry of memos emphasizing the need for balance. The outcome was a dramatized documentary, *Life and Death: The Case For and Against Capital Punishment* broadcast in March 1956.⁴⁴⁸ This was written and produced by Nesta Pain, and seems to have been a very similar, but perhaps more elaborate, production to her earlier Home Service effort. Notwithstanding the licence to go beyond the findings of the Royal Commission the programme was devoted exclusively to that aspect of the debate, focussing on the testimony of some of its distinguished witnesses. In addition there were studio interviews with a couple of experts; Dr Keith Simpson, a prison doctor who had dealt with post-mortems of executed prisoners, and Dr Clive Stafford-Clark, a psychiatrist who discussed some of the more macabre murder cases of recent years. The format had the evidence of the Commission witnesses

⁴⁴⁶ This absurd rule was blown out of the water a few months later when Granada Television (which had the independent television franchise for the north of England) ignored it by devoting extensive coverage to the ongoing Suez crisis, which otherwise could not have been discussed at all. Once breached the BBC and other independent companies followed suit and the rule was abandoned.

⁴⁴⁷ Head of Features to Pain, 26th January 1956. BBC Written Archives, op cit.

⁴⁴⁸ *Life and Death: The Case For and Against Capital Punishment* written and produced by

read out by actors (or so it appears), with a linking narration spoken by an actor, John Slater, seemingly in the persona of 'the common man'. This led into highlights from the testimony of several of the leading witnesses including that of Albert Pierrepoint, then still the chief hangman, with both the witnesses and the chairman's (Gowers') lines spoken by actors. We hear Pierrepoint's view that hanging was 'quick, certain and humane...I think it's the fastest and quickest in the world bar nothing. It's quicker than shooting and cleaner.'

This was almost certainly the most comprehensive treatment of the issue on radio to date. As with her previous effort there were accusations of bias towards retention. One correspondent, a solicitor, wrote to the Director of Talks complaining that most of the 'speakers' were pro-hanging and that the information given about the length of time from 'cell to drop' was misleading.⁴⁴⁹ Pain replied that the programme was factually accurate and that the information had been taken from governors, prison officers, hangmen, chaplains etc. from their evidence to the Royal Commission.⁴⁵⁰ The fact was that since the programme was centred almost wholly on the Royal Commission evidence and the bulk of that evidence was from witnesses (home secretaries, judges, policemen, prison officers, hangmen etc.) who were retentionist by profession, trade or inclination, there was almost bound to be something of a pro-hanging bias if considered strictly in terms of the apportionment of time. But the overall impression was that the show

Nesta Pain. Transmitted on the Light Programme at 9.00pm on Wednesday, 28th March 1956. Transcript, BBC Written Archives, RP, Ref. No. DLO 68A

⁴⁴⁹ Leonard A Bird to Director of Talks, 10th April 1956. BBC Written Archives, *ibid*.

strove hard to be fair and impartial by canvassing all shades of opinion and all arguments for and against.

In addition to all this factual programming a play was transmitted, *Murder Story*, by Ludovic Kennedy sometime in 1956, having been produced for the stage a couple of years earlier. After the defeat of the Silverman Bill in the Lords the debate ebbed away somewhat and there was something of a hiatus in radio coverage of the issue. After that the treatment of the controversy was somewhat sporadic.

Victor Gollancz, talking to Margaret Lane and George Scott, was the subject of *Frankly Speaking* on the Light Programme in January 1959, in which he touched on his antipathy to capital punishment and said that as a boy he had wanted to become Home Secretary so as to bring in an abolition bill, and at Oxford he had written a play on that theme.⁴⁵¹ In May 1959 there was a discussion on the Home Services' *At Home and Abroad* chaired by George Scott with Labour MP Kenneth Younger and Conservative MP Cyril Osborne entitled *Amendments to the Homicide Act* debating the merits of the Act. Victor Gollancz took part in an edition of *Out of the News* on the Home Service in 1960.⁴⁵² Interviewed by George Scott about his part in the abolition movement he was characteristically uncompromising as this extract indicates:

⁴⁵⁰ Pain to Bird, 26th April 1956. BBC Written Archives, *ibid.*

⁴⁵¹ *Frankly Speaking*, Light Programme, 12th January 1959. BBC Sound Archive, DD04567021. The programme may have been repeated on 1st February 1959.

⁴⁵² *Out of the News (Womans' Hour)* BBC Home Service, 8th December 1960. Gollancz, *op*

Scott: 'Mr Gollancz, why do you feel so strongly that capital punishment should be abolished?'

Gollancz: 'Because I simply loathe cruelty, and I think that capital punishment is, without any exception, the greatest cruelty in the world. To kill a man is one thing - its an appalling thing - but to deliberately put an end to a life at three weeks notice; the agony of the waiting is one of the most horrible things I can possibly conceive, and in no possible circumstances do I regard such cruelty as tolerable, just as I regard the torturing of a baby as in all circumstances inadmissible.'

The Earl of Harewood (George Henry Hubert Lascelles), chairman of the Committee of Honour of the NCACP, was interviewed about his life on *Frankly Speaking* in April 1961, and mentioned his antipathy to capital punishment.⁴⁵³ An edition of the Home Service's *What's the Idea?* had a discussion between Bernard Levin, Bernard Williams and Conservative MP Gerald Nabarro on crime and punishment in June 1961.⁴⁵⁴ The format was for Levin and Williams as journalists to grill Nabarro the politician about his hard-line views on capital and corporal punishment, but the argument tended to go round in circles and the debate was not very illuminating. On 13th April 1962 Gardiner gave a talk on capital punishment for the BBC North American service.⁴⁵⁵ There was a BBC Home Service programme on the Hanratty case presented by James Mossman on 2nd August 1963 after the case had been raised in the Commons as a possible miscarriage.⁴⁵⁶ *An End to Hanging* was presented by the abolitionist Donald Soper in September 1963 on the

cit. MS/157/3/BR/8/76; BBC Written Archives index of radio programmes on 'punishment'.

⁴⁵³ *Frankly Speaking*, Light Programme 9th July 1961. British Library Sound Archives (27356). It was repeated on 1st June 1968 in the *It's Saturday* slot. BBC Sound Archives, 31879.

⁴⁵⁴ Crime and Punishment in *What's the Idea?*, BBC Home Service, 16th June 1961. Microfilm transcript, BBC Written Archives.

Light Programme.⁴⁵⁷ A more offbeat offering was *A Question of Inheritance* on the Home Service presented by Paul Stephenson about Barry Trenowell whose father had been hanged.⁴⁵⁸

The advent of the Silverman Abolition Bill and its crucial second reading in December 1964 was the spur to another rash of programmes. A programme on the Home Service on 13th December 1964 went out which some members of the NCACP thought weighted in favour of hanging.⁴⁵⁹ Silverman himself was interviewed both on the Light Programme and on *Today* on 22nd December in the immediate aftermath of his Commons victory.⁴⁶⁰ He said he had not been surprised by the size of the majority. Henry Brooke, the former Home Secretary, who had supported the Bill was interviewed the same day.⁴⁶¹ He explained his conversion to abolitionism by reference to the report he had commissioned, as Home Secretary, on the Homicide Act whose anomalies were hard to remove. Asked about the burden of recommending the death sentence he said that he always gave a reprieve when he possibly could, and only recommended the law take its course if there were no mitigating circumstances at all. He had had only six or so such decisions to make a year, whereas before the

⁴⁵⁵ BBC to Gardiner, 11th April 1962. Gardiner, Add 56459B.

⁴⁵⁶ Transcription of recording, 2nd August 1963. Gardiner, *ibid*.

⁴⁵⁷ This may have been *Hanging Must Go* according to the British Library Sound Archive

⁴⁵⁸ BBC written archives, index of radio programmes on 'punishment'

⁴⁵⁹ Letter to the DG of the BBC. Gardiner, *op cit*.

⁴⁶⁰ Silverman interview, 22nd December 1964, *Today*, BBC Home Service. BBC Sound Archives (29094)

⁴⁶¹ Henry Brooke interview, *Ten O'Clock*, 22nd December 1964. Light Programme. British Library Sound Archives (29094).

Homicide Act there had been twenty or thirty per year.

Instead of Hanging – What? was a discussion with the writer Giles Playfair in the *Womans' Hour* slot in June 1965.⁴⁶² Ex-hangman Harry Allen was interviewed on the Light Programme in April 1968 (former hangmen were prominent in the media at this time!).⁴⁶³ There was a discussion programme with Leslie Smith, Sir Donald Finnemore, Professor Terence Morris and the playwright James O'Connor in March 1969 on Radio 4 (the successor to the Home Service).⁴⁶⁴ The approach of the necessary confirmatory votes in Parliament was the occasion for interviews with Edward Heath (Leader of the Opposition and a mild abolitionist) and Teddy Taylor (pro-hanging Conservative MP) in June 1969 on the Light Programme.⁴⁶⁵ Heath re-affirmed that he was an empirical abolitionist who wanted hanging abolished but would regrettably have it back if proved essential. Lady Wootton, who had piloted the 1964-5 Abolition Bill through the House of Lords, was the interviewee on an edition of an occasional series called the *Bow Dialogues* recorded and transmitted on 25th November 1969. This was a half hour dialogue with Joseph McCulloch, rector of St Mary-le-Bow, (hence the title) over moral questions. The first part of the programme was taken up with the question of capital punishment. Wootton was adamant that there was no evidence of the deterrent effect of hanging, the murder rate being unaffected by abolition both in England and

⁴⁶² BBC Written Archives, index of radio programmes on 'punishment'

⁴⁶³ Interview with Harry Allen, Light Programme, 30th May 1968. British Library Sound Archives catalogue

⁴⁶⁴ BBC Written Archives, index of radio programmes on 'punishment'

⁴⁶⁵ Interview with Rt. Hon Edward Heath, MP. BBC Sound Archive, 32587. Interview with

elsewhere, though she stressed that her stance was very much a moral one because she believed that no-one had the right to take life.

The forthcoming Parliamentary vote in December 1969 was the occasion for another round of programmes. There was a special edition of *Radio 4 Reports* on 11th December which dealt with the subject in great depth.⁴⁶⁶ Presented by Robert Kee, it 'cleared the airwaves' for the issue, possibly regarding the imminent vote as portending a greater degree of finality than actually proved to be the case. This programme included interviews with a wide range of people from politicians, campaigners and professionals to the mothers of murdered children. The balance here was clearly for restoration and that may have been designed to reflect the division of opinion in the country. Amongst the politicians, campaigners and professionals there were the inevitable Duncan Sandys, his associate in the petition movement Charlotte Hurst and a Lieutenant-Colonel Bartlett (who had organised a 'bring back hanging' petition in Brighton). Also interviewed were Reg Gale of the Police Federation and Fred Castell of the Prison Officers Association, both of whom stressed the strong feelings within their organizations that hanging should be brought back for the murder of police officers and prison officers respectively. The balance was redressed somewhat with a Dr Leopold Field, a prison psychiatrist, who opined that hanging did not have the deterrent effect claimed for it, neither with the 'normal' nor the 'abnormal' murderer, though his views would have been as

Teddy Taylor, MP Light Programme, 24th June 1969. British Library Sound Archives.

⁴⁶⁶ Radio 4 Reports, *Capital Punishment – proposed abolition*, (BBC Radio 4). TX 11.12.69 BBC Sound Archives, CD111388 (32735)

tiresomely predictable to the restorationists as would the views of Gale and Castell and their like to the abolitionists. People generally played to their stereotypes.

Several editions of *Ten O'Clock* a few days later, also on Radio 4, featured items on the prospective vote. There was a short debate between Tom Iremonger, Conservative MP and pro-hanging, Willie Hamilton, Labour MP and John Pardoe, Liberal MP, both anti-hanging, on the 16th December.⁴⁶⁷ Pardoe argued that if the vote went against the government (thereby causing the Act to expire automatically in July) then Callaghan, the Home Secretary, would let the Act run until that date and then introduce a new measure. Hamilton pointed out that if so the ridiculed capital/non-capital distinction provided by the Homicide Act would be revived, but Iremonger said that that Act was not as bad as it was painted.

Radio thus dealt extensively with the topic, and indeed intensively when the matter was up for debate. Though radio had by the later 1950s become very much the junior partner to television it still enjoyed a very large audience, especially for news and current affairs coverage. Nonetheless, as with the print media, it is unlikely, for all the welter of programming that took place, that it had much influence on opinion, either at the elite level or that of the general population. Television as a medium had by then overtaken and outgrown its older brother, and had

⁴⁶⁷ *Ten O'Clock: Debate on Hanging*, BBC Radio 4, 16th December 1969. BBC Sound Archives, CDA 32751

a rather greater potential for impact.

Television

Of all of the media television is probably the most influential, combining pervasiveness, accessibility and impact (and had been so from as early as the late 1950s). By the mid-1950s it was rapidly overtaking radio as a source of information and the cinema as a means of entertainment, whilst its reputation for political impartiality lent it a degree of legitimacy denied to the often highly partisan press. By the end of the 1950s most households possessed a television set. Television was of course governed, then as now, by a statutory requirement to display impartiality on all questions of political controversy, an injunction that applied equally to the BBC and ITV (which came into existence in 1955 just as the capital punishment debate was hotting up). That did not, of course, preclude it from discussing the matter so long as it provided for balance. The prominence of the issue was evident in news and current affairs coverage but occasionally in documentaries and drama output. To what extent, if at all, did television influence the debate?

Television coverage may be divided into news, current affairs, documentary and drama. Of these drama was the least prominent though arguably, insofar as it dealt with capital punishment at all, the

most influential, precisely because drama was not in practice subject to any rigorous requirement of impartiality and therefore propagandistic efforts could 'slip by'. In the entire period there seems to have been only one serious contemporary drama concerned wholly or primarily with capital punishment, Ken Loach's *Three Clear Sundays* (1965), and the indications from audience research are that it may have had some influence on public opinion. This is dealt with below. Documentary treatments, too, were thin on the ground given the relative paucity of this form of programming, especially on ITV, though the BBC only transmitted one major documentary devoted to the topic, *The Death Penalty* (1961). This, too, is discussed below. News and current affairs coverage, by contrast, was fairly considerable. Any important trial or execution tended to attract the news cameras particularly if, as happened often in the later years, there were demonstrations or scuffles outside the prison gates on the day of a hanging.⁴⁶⁸ News coverage of Parliamentary debates on capital punishment was also plentiful, especially in the years after abolition when restorationist bills and motions were frequent.⁴⁶⁹ Current affairs programmes tended to deal with the issue somewhat fitfully, with *Panorama* on the BBC and *This Week* on ITV devoting the occasional edition to it, or more often including it as a brief item. Lighter magazine programmes such as the BBC's *Tonight* tended not to touch it, neither, more surprisingly, did Granada's trailblazing flagship current affairs strand *World in Action*.

⁴⁶⁸ By the late 1950s demonstrations were almost invariable and these sometimes erupted into violence as with for example the hangings of Marwood in 1959 and Podola in 1960.

⁴⁶⁹ For examples of such news items see www.bbc.co.uk/catalogue/infax and

From a very early stage of the abolition controversy there were efforts to recruit television to the abolition cause, or at any rate to interest the medium in the topic. The NCACP lost no time in wooing television executives. Gerald Gardiner wrote to Sir Ian Jacobs, the director-general of the BBC, within a few months of the founding of the NCACP trumpeting the success of the Campaign to date and that it was a worthy topic for a programme.⁴⁷⁰ He wrote the same day to Sidney Bernstein, founder of the Granada media empire, urging a documentary on the topic which might be shown in cinemas.⁴⁷¹ The reply from the latter was not encouraging, but the reply on behalf of the former was rather more so. It is likely that a similar approach was made to the other ITV companies, as and when they gained their respective franchises.⁴⁷²

Given its public service remit it is natural that the BBC should have devoted considerable air-time to news, current affairs and documentaries, and certainly more so than its commercial rivals. The BBC had certainly been toying with the idea of capital punishment as promising documentary material from 1955 onwards, as evidenced by

www.itnsource.com

⁴⁷⁰ Gardiner to Jacobs, 4th January 1956. Gardiner, op cit. Add 56455B.

⁴⁷¹ Gardiner to Bernstein, 4th January 1956. Gardiner, ibid.

⁴⁷² Granada initially held the franchise for the whole of the north of England, though later only the north-west with Yorkshire and Tyne Tees entering the market for their respective areas. Associated-Rediffusion and ATV shared the franchise for London and the South-east and ABC won the franchise for the Midlands. New ITV regions rapidly came into being in the late 1950s to the early 1960s with the franchises being widely dispersed among several companies. This remained the position until a big shake-up in 1968. ITV franchisees were naturally very conscious of the need to attract audiences and advertisers and so the output tended to be downmarket of the BBC.

internal memoranda, quite independently of any approach from the NCACP. Indeed radio had already found it a fruitful source of material for its output. In October 1955 producer Gilchrist Calder wrote to the 'HD Television' on the topic of 'Future Programmes' (based upon discussions with Colin Morris) suggesting three hour-long documentaries on the theme of: 'we are supposed to be civilised in Britain, but in 1955 we are still barbaric.'⁴⁷³ He proposed capital punishment as one of the topics, together with the colour bar and prison life:

We would argue for abolition whilst naturally providing all the pros and cons as research would bring out...the angle would be 'You tolerate capital punishment, because you don't know what goes on. Well this is what goes on. Do you still want it?' – the billing and presentation of this subject would have to be done in such a way that it removed the onus of the argument from BBC policy as obviously the BBC cannot state an opinion...But of course to have any guts, the show must have a viewpoint.

Bold stuff, though it seemed to be tying itself into knots over whether the programme would be neutral or otherwise. The reply by the 'Controller, Prog TV' was predictably equivocal, stating that capital punishment was an excellent subject but that the BBC 'just could not start such a project on the basis that 'we would argue for abolition'. We must approach this subject cautiously – are there any existent BBC rulings...' and much in this vein.⁴⁷⁴

⁴⁷³ Calder to 'HD (Tel)' memo on 'Future Programmes' 5th October 1955. BBC Written Archives, File T16/542 TV policy (programme policy – capital punishment 1955-61)

⁴⁷⁴ Cecil McGivern to Calder, 2nd November 1955. BBC Written Archives, *ibid*.

Nonetheless the project managed to get off the ground to the extent of Colin Morris writing to the Home Office to 'discuss issues'.⁴⁷⁵ He received a rather dusty reply to these overtures, however, to the effect that the topic was very controversial; was about to be debated in the Commons; that no Home Office official would be permitted to discuss the question and that any such person would be precluded from providing any assistance in the preparation of the programme.⁴⁷⁶ Just for good measure the Home Office spokesman added that he understood that Morris had arranged a discussion with an official from the Prison Commission and that he had cancelled it as they were subject to the same strictures as the Home Office! It seems that the approach had been squelched at the highest level by Sir Frank Newsam, the permanent secretary, who was a strong retentionist, and whose veto effectively precluded any further discussions between the BBC and the Home Office on the matter.⁴⁷⁷ Morris decided, after consulting with Hugh Klare of the Howard League, that it was useless to continue with the project.⁴⁷⁸

The matter did not rest there, however, and it was felt that they shouldn't be deflected by the Home Office's refusal to co-operate and that it had been a mistake to approach them formally.⁴⁷⁹ Unfortunately the Howard League was powerless to provide access to the condemned

⁴⁷⁵ Colin Morris to D M Edwards (Public Relations) Home Office, 19th December 1955, BBC Written Archives, *ibid*.

⁴⁷⁶ Public Relations Office, Home Office to Morris, 21st December 1955, BBC Written Archives, *ibid*.

⁴⁷⁷ Sir Frank Newsam. Permanent Under-Secretary (i.e. civil service head) for the Home Office, 1948-57.

⁴⁷⁸ Memo from Michael Barry, Head of Drama to Mary Adams, 9th January 1956, BBC Written

cell and was reluctant to violate the privacy of reprieved murderers with whom they were in contact. On the other hand it was known that the film of Joan Henry's *Yield to the Night* was due for release in May or June (1956) and was to be strongly abolitionist in tone, while the 'Gollancz campaign' was gathering momentum. Capital punishment was up for debate in the Commons in February (1956) but there would not be time for a bill until April and hence there should not be difficulties with the fourteen-day rule (which precluded discussion of matters due to be debated in Parliament within the next fortnight). Thus, it was argued, the time was ripe for the topic to be properly aired. But this optimistic outlook was not shared by everybody and some thought that the non co-operation of the Home Office made it impossible to do a dramatized documentary.⁴⁸⁰ The necessary information could be obtained in other ways but there would be no guarantee that it would be accurate and up-to-date, and moreover since one was dependent in the documentary field on organizations coming under the Home Office it would be 'inviting trouble'. As an alternative to the documentary treatment it was suggested they consider an adaptation of Frank Tilsley's novel, *Thicker than Water*, dealing with the effect of capital punishment on a condemned man's family which by contrast would 'not cause trouble with the authorities.'

This led to an approach to Nesta Pain, a writer-presenter who had already done one radio documentary on capital punishment and was

Archives, op cit.

⁴⁷⁹ Mary Adams to 'HD, Tel', 10th January 1956, BBC Written Archives, ibid.

⁴⁸⁰ Arthur Swinson to HD Tel, 28th January 1956, BBC Written Archives, ibid.

about to do another, to write a programme on the subject.⁴⁸¹ She reluctantly refused.⁴⁸² This rebuff seemed to mark the end of capital punishment as a potential television topic for the time being, at least as far as the BBC was concerned, notwithstanding its high political salience, and it was several more years before it resurfaced. A great deal of preparation and planning had petered out into nothing, partly as a result of the lack of co-operation from the Home Office which effectively precluded in-depth treatment of the topic, but it speaks also of the over-cautiousness that characterized the BBC at that time.

Whilst the BBC had backed away and been baulked in its more ambitious projects an ITV company, ATV (weekend franchisee for London and the south-east) transmitted a half hour programme on capital punishment *Death or Redemption* in late 1960.⁴⁸³ Gerald Gardiner was a participant along with several notables such as Sir John Wolfenden (who was to appear in another programme on the topic a year later) but the programme was not very inspiring, being a late-night discussion in which the participants did little but exchange platitudes.⁴⁸⁴ Capital punishment did start to feature as an occasional item on *Panorama*, the BBC's flagship current affairs show from the early 1950s, from 1960 onwards. The first such outing on *Panorama* seems to have been in February 1960 with an item about the execution in the USA of

⁴⁸¹ (Florence) Nesta Kathleen Pain (nee Taylor) 1905-1995. Broadcaster and author.

⁴⁸² Nesta Pain to Mary Adams, 30th January 1956, BBC Written Archives, *ibid*.

⁴⁸³ *Death or Redemption*, ATV, transmitted 18th November 1960.

⁴⁸⁴ Apart from Wolfenden the other participants were Field Marshal Lord Harding, Sir Linton Andrews (chairman and editor of the *Yorkshire Post*), Rev Dr Leslie Weatherhead (minister of

Caryl Chessman which appears to have been used as a handle to examine the American judicial system in general and contained a contribution from Dr Terence Morris, the noted criminologist.⁴⁸⁵ The question of capital punishment in Britain featured as an item in another edition later that year, prompted possibly by the renewal of the NCACP campaign, and was presented by Robert Kee, who began by giving a series of examples to illustrate the anomalies inherent in the Homicide Act. Capital punishment was to become a topic on at least two other editions of Panorama over the next decade, but it became the subject of something rather more ambitious from the BBC the following year with the production of the first (and perhaps only) major television documentary devoted to the question.

The Death Penalty was transmitted by the BBC in October 1961.

Early in 1961 Gardiner, at the suggestion of Wayland Young, had approached the BBC about the making of a documentary on capital punishment and the Corporation seemed amenable to the idea. Whether these promptings led directly to the making of the programme is unclear, but certainly by mid 1961 a well-known BBC producer, Anthony de Lotbiniere, had started to formulate plans for a documentary that would tackle the festering controversy head-on, whilst of course being

the City Temple), Gerald Gardiner and Edward Glover (penologist). Rolph, op cit, 1/4/2s
⁴⁸⁵ BBC Written Archives, Panorama 22nd February 1960. Chessman (1921-60) gained celebrity/notoriety as a death row inmate for twelve years during which time he wrote several books and essays and became the focus of the American anti-capital punishment movement before finally being executed at San Quentin after defying numerous execution deadlines.

mindful of the need for balance and impartiality.⁴⁸⁶ It was clear that this would be a fairly major undertaking, certainly by the standards of the time and the budgetary limitations then in place. Filming was done in Norway, Denmark and the USA so as to give a world-wide perspective and a very broad spectrum of distinguished contributors and interviewees had been lined up including Gardiner as the main proponent of the abolition case and Sir Thomas Moore, MP as the chief spokesman of the retentionists, with Sir John Wolfenden to sum up. Also to be included were the new Archbishop of Canterbury, Michael Ramsey and the Cardinal Archbishop of Westminster, Godfrey, to give the Christian viewpoint; Ludovic Kennedy (on Timothy Evans); Albert Pierrepoint, former chief hangman; the Chief Constable of Birmingham and many others. It was written and narrated by Patrick O'Donovan, a journalist for *The Observer*. The final product ran for sixty minutes and went out at 9.25pm (preceded by a warning that the content was unsuitable for children).⁴⁸⁷

The programme begins starkly with a minatory drum-roll over a logo of a gallows with a question mark hanging from it and the main title. The introductory monologue is played over a backdrop of scenes of everyday life in England; Punch and Judy shows, Madame Tussauds, queues outside the Old Bailey and newspaper kiosks with sensational headlines to illustrate the point that 'we take our violence vicariously',

⁴⁸⁶ BBC Written Archive Centre, files T32/518/1-5, *The Death Penalty* (TX 24.10.61).

⁴⁸⁷ The considerable advance publicity the programme attracted led to approaches from would-be contributors including a bizarre one from a Victor Soanes who had constructed a working model of the gallows which he thought might be useful! Soanes to de Lotbiniere, 15th October 1961. BBC Written Archives T32/518/5

but that 'we retain a violent and ignoble death for our convicted murderers' against a shot of the drawing of a hanged man. The programme ends with a summary of the debate from Sir John Wolfenden which was impeccably balanced.⁴⁸⁸ He concludes that:

Whether or not to hang men in England for murder and treason has become an emotional problem in this country...an enormous number of statistics have been produced to prove that the death penalty serves no useful purpose...nonetheless those statistics are not decisive...the future of the death penalty in this country is a political matter...Objectively it must be said that in Britain the reformers usually get their way in the end...neither public opinion nor politics stand still in a democracy...but in this case the reformers still have a long way to go. They have got to get more public opinion on their side. They have to recruit more support in Parliament...In the end it depends on the voter – me and you.

Overall the show comes across as slightly staid and conventional, and yet, despite its obvious technical limitations, it is remarkable for its time. The show inevitably looks somewhat dated with its contributors delivering their pieces straight to camera in somewhat stilted fashion and the absence of any debate between contributors or hard questioning from an interviewer. But there is a surprising degree of licence involved containing, as it did, interviews with a professional criminal, a reprieved murderer, and a whole posse of Death Row inmates, none of which might have been permitted by the powers that be at a later and supposedly more liberal date. Though the pace is rather

⁴⁸⁸ Sir John Frederick Wolfenden, KB, CBE, Baron Wolfenden of Westcott (1906-1985), educationalist and civil servant, Vice Chancellor of Reading University. Chairman of the Home Office Committee on Homosexuality and Prostitution which reported in 1957.

sluggish it packs a considerable punch and there has probably not been anything quite like it before or since.

The programme went out on 24th October 1961.⁴⁸⁹ It seems to have provoked a reaction from Silverman who wrote to Hugh Carleton-Greene, the Director-General, about the way that MPs had been presented on the programme; specifically that the only MPs had been pro-capital punishment.⁴⁹⁰ This was technically true since Sir Thomas Moore was the only MP to appear, but there were plenty of eminent abolitionists on show and Silverman may have over-estimated the esteem in which politicians were held in the eyes of the general public. He may also have been slightly miffed that, as a longstanding champion of the abolitionist cause, he had not been invited onto the programme himself. Gollancz was certainly happy with the programme telling Gardiner that he thought it was 'superb'.⁴⁹¹

The BBC Survey of Viewing and Listening showed that the programme had an estimated viewership of eight million, which was 16% of the population aged five and over. Most had been favourably impressed with the programme and asked to rate it 31% gave it A+, 43% A, 20% B, 5% C, and 1% C- yielding a high 'reaction index' of 75. It was probably the most significant programme made on capital punishment before or since, but how influential was it? Some objective evidence exists in the form of the standard audience research carried out by the

⁴⁸⁹ de Lotbiniere to Gardiner, 6th October 1961. Gardiner, op cit.

⁴⁹⁰ Silverman to Carleton-Greene October 1961; Carleton-Greene to Silverman 24th October 1961. Gardiner, ibid.

⁴⁹¹ Gollancz to Gardiner, 31st October 1961. Gardiner, ibid.

BBC which seems to suggest that it may have modified the views of those who held strong views on either side without actually *changing* anyone's view.⁴⁹² Moreover, though it increased people's knowledge of the issue there was still widespread ignorance of basic points that had been stressed within the programme. This seems to have been generally true across sex, age, level of interest in crime etc. The BBC research is of considerable interest because it represents probably the only example of research dealing with opinion on capital punishment as affected by a specific event, both before and after that event.

Only a couple of weeks earlier ITV had again ventured into the controversy with an edition of its current affairs strand *This Week* dealing with the issue.⁴⁹³ Capital punishment featured again on *Panorama* in March 1962, marking the fifth anniversary of the passage of the Homicide Act.⁴⁹⁴ This was a relatively short item (about a quarter of an hour) which consisted very largely of a studio discussion chaired by Robin Day between the Bishop of Exeter (Dr Mortimer) and Sydney Silverman (pro-abolition) and Peter Rawlinson, MP, QC and Edgar Lustgarten (anti).⁴⁹⁵ It was a good, if rather brief, airing of the main arguments which would have been unlikely to alter anyone's opinion on the matter. As with previous *Panorama* pieces the format was staid and

⁴⁹² BBC written archives, File R9/10/9 Audience Research: Special Reports: TV chronological 1962, *The Death Penalty*. This was one of several programmes or classes of programme to have been made the subject of the BBC's audience research.

⁴⁹³ *This Week* (Rediffusion), transmitted 6th October 1961. BFI, TV Curator (Phil Wickham). However, the programme recording seems not to have survived.

⁴⁹⁴ BBC Written Archives, T32/1,290/1, *Panorama* TX 62.03, 19th March 1962

⁴⁹⁵ Edgar Marcus Lustgarten (1907-1978) Broadcaster and crime writer. Hosted television

studio-bound and typical of the television of the time. This was to change with the coming of more imaginative treatments of current affairs as the decade progressed. The BBC's next serious venture into the hanging debate came with an edition of *Man Alive* in 1968.

Man Alive was the flagship documentary series of the fledgling BBC2 channel and ran from 1965 until 1982. It dealt with a range of current affairs topics in an innovative way, but was often criticized for dealing too flippantly with serious issues and for striving too hard to adopt a populist approach. Its edition on hanging, *Bring Back the Rope?*, epitomized that approach and seems to have provoked a strong reaction.⁴⁹⁶ The decade of the 1960s had witnessed something of a revolution in programme formatting as with so much else. The 'three men around a desk' approach of *Panorama* had been superseded, or at least supplemented, towards the end of the decade with an audience participation format in which the studio was crammed with participants all of whom were expected to make a contribution. Since the programme was made more than two years after the suspension of hanging the thrust of it was whether hanging should be brought back and the focus was very much on the restoration campaign of Duncan Sandys, and more specifically on the 'Bring Back Hanging' petition that he was organizing to that effect. There was an introductory film report by co-presenter Jeremy James:

series *Scotland Yard* and *Scales of Justice*

⁴⁹⁶ BBC Written Archives, T14/2, 568/1; *Man Alive* TX 68.01.30 *Bring Back the Rope?*

For two and a half years there has been no capital punishment in this country. In 1970 at the end of a five-year 'no-hanging' trial period Parliament is going to review the situation...In 1966 Duncan Sandys tried to reintroduce hanging for the murder of policemen and prison warders but Parliament rejected his bill by 122 votes. Duncan Sandys may deny he started the present move to bring back the rope but he is certainly its leader. The campaign is run from Duncan Sandys office in the Houses of Parliament and has a full-time organiser whose ambition it is to collect a million signatures in its support.

The ensuing studio discussion brought together many interested parties to the debate, but if it was hoped that it would be enlightening and intellectually nourishing it almost certainly fell far short. It appears from the transcript to have been rowdy and incoherent with several guests talking over each other, and that the participants were generally inarticulate and failed to make their points effectively.

This BBC foray into capital punishment was followed a few months later on ITV. *Frost on Friday* was one of the mainstays of the London Weekend Television schedule and had more or less invented the audience participation format used by *Man Alive*.⁴⁹⁷ The presenter David Frost was one of the pioneers of the hard-hitting television interview, now commonplace, and presented a trio of programmes on LWT, of which he was a founding director. *Frost on Friday* was the current affairs strand, complemented by the lighter *Frost on Saturday* and *Frost on Sunday*.⁴⁹⁸ *Frost on Friday* devoted an edition to capital

Tuesday, 30th January 1968

⁴⁹⁷ London Weekend Television (LWT) was the franchisee for ITV in London and the South-east at weekends from 1968-2002, in succession to ATV.

⁴⁹⁸ Sir David Paradine Frost (b.1939), found fame as presenter of the satirical *That Was the*

punishment in October 1968, very early in the programme's history (it began in August 1968 when LWT took up the franchise).⁴⁹⁹ It was directed by Derek Bailey and produced by Geoffrey Hughes. The format of the show, which was transmitted live and ran for about forty minutes, pitched a guest or (as here) a small panel of guests, representing different sides of a debate against an audience which might include those with a direct interest. Frost would alternate between grilling members of the panel and seeking reactions from the audience. The panel consisted on this occasion of Duncan Sandys (no programme on capital punishment at that time was complete without his presence) and David Ensor (Labour MP for Bury) for restoration, and Canon Collins and Humphry Berkeley against.⁵⁰⁰ However, despite what one feels were the aspirations of Frost and the programme-makers to galvanize panel and audience into producing something memorable the show obstinately refused to take flight, and little but platitudes and clichés flowed forth from the participants.

A year later and it was the turn of the BBC again to pick up the

Week That Was on BBC, and later *The Frost Report* before transferring to ITV. Co-founder of LWT. Presenter of the *Frost On...* shows which included famous encounters such as that with Emil Savundra, the first supposed instance of trial by television. 'He rose without trace' according to Kitty Muggeridge.

⁴⁹⁹ *Frost on Friday*, 11th October 1968. Videotape of programme viewed at the BFI National Film and Television Archive.

⁵⁰⁰ Alick Charles Davidson Ensor (1906-1987) Lawyer and Labour MP for Bury and Radcliffe 1964-1970. He seems to have had a brief career as an actor who played, almost exclusively, judges as for example in *The Trials of Oscar Wilde* (1960). One of a very small group of Labour MPs who voted for the Silverman Bill in 1964, but then became an advocate of restoration, despite having been writing and speaking against the death penalty for years. By 1969 he was arguing for the use of some form of electronic stunning prior to despatch as per poultry. Humphry John Berkeley (1926-1994), Conservative MP for Lancaster 1959-1966. Treasurer of the NCACP 1965. Promoted the Homosexual Reform Bill, 1965. Joined Labour

capital punishment baton, once more with *Panorama* as the vehicle, and with the forthcoming confirmatory votes as the prompt. The edition of 15th December 1969 devoted the whole programme to a discussion of the following day's debate in the Commons.⁵⁰¹ The main speakers on the pro-death penalty side were, one might say, the usual suspects and included Duncan Sandys, Peter Rawlinson, David Ensor (thereby balancing the hanging ticket somewhat with the inclusion of a Labour MP to complement the two Conservative MPs), Fred Castell (general secretary of the Prison Officers Association), Inspector Reg Gale (chairman of the Police Federation), Reverend Donald Pateman, K Harvey Proctor (of the Monday Club), Mrs Charlotte Hurst (a supporter of the Sandys petition campaign who had also appeared on the Man Alive programme *Bring Back the Rope?*) and Harry Allen (former hangman, who had also appeared on the Man Alive programme). On the anti-death penalty side there were some equally familiar names with Leo Abse, MP (Labour MP and supporter of a range of progressive causes, especially homosexual law reform) and Professor Rupert Cross (Vinerian Professor of Law, Oxford University) as the main speakers, supported by Louis Blom-Cooper (barrister and by then prominent member of the NCACP), Margaret Drabble (novelist); Dr Alistair Macrae (professor of forensic medicine, Edinburgh University) and Ludovic Kennedy (writer and broadcaster). The format of the programme, innovative for *Panorama* and for television in general (though subsequently much imitated) was that of a parliamentary debate with a

Party in 1970, SDP in 1981, rejoined Labour 1988. Author of the Rochester Sneath letters.

studio set designed like the House of Commons with speakers on either side of the floor arranged into front and back-benches. Though the format may have been innovative the overall effect may have been somewhat stodgy. It is uncertain how effective this treatment was and how entertaining or illuminating the show may have been.⁵⁰²

Though the capital punishment debate was covered in numerous small items on news and current affairs shows over the years, especially when the matter was up for parliamentary debate, as in the periods 1955-7, 1964-5 and 1969, rarely was it dealt with in depth. Full-blooded documentaries on the topic, as per *The Death Penalty* or *Man Alive's Bring Back the Rope?* were few and far between. Though a fascinating subject and politically contentious it may have been regarded by many television executives as just too morbid for extensive treatment.

During this whole period (1955-1969) there seems to have been remarkably little in the way of drama bearing directly on the question, maybe because it was deemed too controversial or too disturbing. The only significant television drama work was *Three Clear Sundays*, a segment of the BBC's ground-breaking drama strand, *The Wednesday Play*, transmitted in April 1965. It was directed by Ken Loach, controversial pioneer of British televisual social realism, produced by

⁵⁰¹ BBC Written Archives, T58/414/1, Panorama TX 69.12.01, 15th December 1969

⁵⁰² It might be noted that the show was subject to the attentions of the Conservative Party's Monitoring Service which scrutinises programmes for bias, real or supposed, and which concluded that the programme was excellent with all issues covered, and that the pro-hanging lobby probably won the day. Norman St John Stevas, it felt, was particularly good for the anti-hangers and Reg Gale of the Police Federation for the pro-hangers. Day was thought

James MacTaggart (the strand's regular producer) and written by Jimmy O'Connor.⁵⁰³ It starred Tony Selby, Rita Webb, Glynn Edwards and George Sewell amongst a very large cast, and the story centred on a young prisoner (Selby) convicted of a minor offence who is inveigled by his cell-mates into attacking a warder who dies of his injuries. The rest of the play centres on the sequence of events leading up to his trial, conviction and execution for murder. At the end it lists a series of hangings that had gone wrong and were bungled in some way. The title referred to the legal formula, then obtaining, for the time that had to elapse between conviction and hanging.

It is a powerful and moving piece, and, like nearly all of Loach's work, unrelentingly polemical. Neither Loach nor O'Connor were reluctant to load the dice, and here the audience is manipulated ruthlessly into sympathizing with the plight of the hapless and unworldly Danny, wrongly convicted, poorly defended and generally ill-served by the system and by life, brought down by a succession of unfortunate occurrences over which he has little control. It was full of cameo performances from quirky characters in scenes that were peripheral to the plot but conveyed the realities of life in prison, and the nature of the relationship between prisoner and 'screw'. It was semi-

to be an excellent chairman. Conservative Party Archives, op cit. CRD 3/19/1 - Monitoring Service Report by Sally Moussa, 20th December 1969

⁵⁰³ Kenneth Loach (1936-). Television and film director noted for social realism, a naturalistic style of film-making and a strongly left-wing stance. Director of several of the Wednesday Play series which first brought him to prominence, especially *Up the Junction* (1965), *Cathy Come Home* (1966) and *The Big Flame* (1969). Moving to film he directed *Poor Cow* (1967), *Kes* (1969) and many others. Winner of numerous awards including the Palme D'Or at Cannes for *The Wind that Shakes the Barley* (2006). James (Jimmy) O'Connor (1918-2001) convicted murderer who was reprieved and became a professional writer. Author of several dramas in the Wednesday Play strand, usually with a crime theme, including the first, *A Tap*

autobiographical, or an 'emotional autobiography' as its writer put it, O'Connor having spent two months in the condemned cell in 1942 for a murder which he had ever after strenuously denied committing, though a pardon was never forthcoming. Though the play seems dated and clichéd in some respects, it was fresh and pioneering for its time, and innovative in its technique.

The BBC's audience research indicates that it may have had a significant impact on public opinion.⁵⁰⁴ It showed the size of the audience to be 20% of the population of the UK, ITV attracting a 9% share at the same time. The audience reaction, based on a questionnaire completed by a sample of 322, which was 15% of the BBC1 viewing panel which saw all or most of the broadcast, showed that 28% gave it an A+; 35% an A; 23% a B, 8% a C and 6% a C-; giving a reaction index of 68 (above the average of 56 for the earlier *Wednesday Plays* which included a score of seventy-two for *A Tap on the Shoulder* in week one).⁵⁰⁵ It is open to question what political effect the play had, for though many viewers said they were affected by the play, one must take this with a measure of scepticism. Unlike the BBC's previous effort, *The Death Penalty*, whose audience research included an assessment of how people's views had changed as a consequence there was nothing comparable to that here. And yet it may have had as strong, if not an even stronger impact. If so it may be telling that a work of drama had more of an impact and more effect on opinion than did a whole series of

on the Shoulder (1965).

⁵⁰⁴ BFI screen-online, www.bfi.org.uk

⁵⁰⁵ Audience research, (week 14, VR/65/185), file TS/659/1, BBC Written Archives.

factual programmes.

Though the debate over hanging rumbled on for many years in Parliament and elsewhere, after 1969 television devoted relatively little attention to it, presumably on the basis that the issue had effectively been settled and that there was little more mileage to be had out of it. Nonetheless several more programmes appeared in the post 1970 era, as well as it being a staple item on news and current affairs programmes at any time that the reintroduction of capital punishment was up for debate in the Commons, which was frequently.

One might compare and contrast the televisual treatment of the capital punishment issue with its treatment of other issues of political controversy in general, and with conscience issues in particular, and ask to what extent if at all it was ever influential? The various conscience issues were of course treated in news, current affairs and documentary programmes from time to time, as well as occasionally being the subject of, or at any rate a plot device in, dramas, thrillers and other non-factual programming. Most notably in this regard, abortion was the subject matter of *Up The Junction* (BBC Wednesday Play, directed by Ken Loach and written by Nell Dunn, 1965), which was subsequently remade for the cinema two years later. As with much of Loach's work it was highly innovative in style, and created considerable controversy upon its transmission (as did several of his plays and as did much of the Wednesday Play strand) but it cannot be conclusively

demonstrated, notwithstanding Loach's avowedly political motivation, that it had any significant influence on the abortion debate then raging. Though the law was reformed in 1967, this was very much the product of Parliamentary and pressure group activity and it would be hard to ascribe its success in any measure to public opinion having been softened up by plays such as this.

Topics such as homosexuality and divorce were often dealt with in television drama though usually simply as a plot device, and rarely did expressly propagandistic efforts emerge. Other issues of more general political controversy were frequently the basis of drama, for example industrial relations and trade unionism (*The Lump*, Jack Gold, 1967; *The Big Flame*, Ken Loach, 1969 - both Wednesday Plays) being key examples; immigration and race relations (*Fable*, Christopher Morahan, 1966, another Wednesday Play offering); nuclear war and deterrence (*The War Game*, Peter Watkins, 1965 – though never transmitted until the 1980s); but far and away the most contentious drama to emerge and the one that clearly did have a big political impact was *Cathy Come Home* (Ken Loach, again, 1966, yet another in the Wednesday Play strand) which dealt with issues of poverty, unemployment, homelessness and family separation. It is fair to say that this was the most controversial television drama (and perhaps the single most controversial television programme) ever produced and transmitted, and almost certainly did produce significant results in the form of the setting up of Shelter, the charity for the homeless, and led to

much greater public awareness of the problem of homelessness.⁵⁰⁶ It is interesting though that this dealt with what might fairly be characterized as a mainstream issue rather a conscience one, and may have prompted greater governmental action rather than private members bills.

Notwithstanding the extensive treatment that the capital punishment controversy received and the high-impact, all-pervasive nature of the television medium there is little evidence of a substantial effect on opinion. The audience reaction research of the BBC in respect of *The Death Penalty* is interesting, but indicates that the programmes' effect was minimal. Comparing and contrasting the welter of factual programming with drama one might note the apparently greater impact on the viewing public of *Three Clear Sundays*, and speculate on whether this was due to the greater impact of drama in general, or a function of the show's heavily exploitative technique. As with the other media discussed opinion was too deeply entrenched and largely impervious to modification for even the medium of television to have much effect.

Film

Few films have dealt exclusively or chiefly with the question of the death penalty, though in a sense the shadow of the gallows loomed over

⁵⁰⁶ Though it has been denied that the inception of Shelter was a function of the play, and that the timing was largely co-incidental. But there is no question that the programme burned through the public consciousness and helped the success of the charity.

all the murder mysteries, courtroom dramas, whodunits, etc. made during the currency of the death penalty. Many British melodramas and thrillers had the spectre of the gallows as a backdrop to the plot and many others films, of course, dealt more generally with themes of crime and prison life.⁵⁰⁷ None of these, however, could be described as tackling in any way the rights and wrongs of capital punishment, and the intentions of the film-makers were plainly dramatic and artistic rather than polemical. Wrongful conviction was often a theme but this was essentially a plot device not a political statement.

The only major films made in Britain in that period that dwelt substantially on the question were *Yield to the Night* (1956), *Time Without Pity* (1957) and *The Quare Fellow* (1962). Both *Yield to the Night* and *The Quare Fellow* dealt largely with the languors and torments of prison life and the prospect of a hanging and both may be seen as anti-capital punishment because the morbid concentration on the imminent prospect of hangings within the prison walls inevitably brought home the barbarity of hanging as an institution. *Time Without Pity* directed by Joseph Losey, was a murder thriller that dealt with the attempt to save a convicted man from the gallows, and may be read as anti-capital punishment only in the limited sense that it concerned the perennial theme of an innocent man facing execution.

Yield to the Night (1956) was directed by J Lee Thompson and

⁵⁰⁷ See Crowther, Bruce, *Captured on Film: The Prison Movie* (London: Batsford, 1989)

written by John Cresswell and Joan Henry from the latter's book. It is a very effective downbeat drama about the forthcoming hanging of a murderess (played powerfully by Diana Dors), set in the prison, but ranging in flashback over the events that led up to the murder. It was widely but wrongly assumed to be based, albeit very loosely, on the Ruth Ellis case of the previous year but the book from which the screenplay was drawn was written and published a year or more before the Ellis case hit the headlines. The film makes no secret of its propagandistic intentions, and opens with a caption stating that the death penalty has currently been suspended pending the decision of the House of Lords on the Abolition Bill recently passed by the Commons and that: 'Whatever the outcome the permanency of this law will depend ultimately on public opinion.' The ensuing drama doesn't pull its punches and may be viewed as an uncompromising and emotional plea designed to shift public opinion in the direction of abolition.

The daily routine of the heroine's prison life is explored in convincing and sombre fashion, whilst we are given a series of flashbacks to the events that had led her to her present pass with her voice-over narrating the flashback scenes. These flashbacks are interspersed by scenes from prison life such as visits from the doctor, the chaplain, the governor, her mother and brother, and her husband from whom she is separated, and the daily, excruciatingly regulated routine. The tension is built slowly and remorselessly as the execution date approaches, and as she learns that there is to be no reprieve. The mixture of tedium and tension in the condemned cell is vividly evoked,

and by the end of the film has been racked to an excruciating pitch of intensity. 'I know every mark and blemish in this cell...the door at the foot of my bed - the door without a handle - I know it better than any room I have ever lived in...the light, the light, why don't they ever put out the light.' She rails against her fate, though unremorseful about her crime. 'If they are going to do it why don't they do it quickly.'

This is one of the more explicitly anti-capital punishment films of the era, and can be seen as a crudely exploitative piece of propaganda, the more so because there is no question about her guilt, or that her crime was premeditated, done in cold blood, and that she is largely unremorseful. But its evocation of the sustained gloom of the condemned cell is masterly.

Time Without Pity (1957) was directed by Joseph Losey and written by Ben Barzman, from the play *Someone Waiting* by Emlyn Williams. It is an overblown and vaguely absurd British thriller about the efforts of an alcoholic writer (Michael Redgrave) to save the life of his son who is due to be hanged in twenty-four hours by uncovering some new evidence that will clear him. The film is ludicrously overacted all round, and the direction is melodramatic to breaking point, whilst the plot is obscure at times to say the least. It was Losey's first film under his own name after having been blacklisted in his native America.

From the point of view of the capital punishment controversy the film's impact is questionable. There are several references in the film to the barbarity or outmodedness of the rope, and the distress of the son at the prospect of his imminent execution is evident (though not entirely

convincing in view of his earlier apparent indifference to his fate). More importantly, a brief scene in which a politician argues his case against capital punishment is presented as little more than a cheap stunt on his part designed for self-publicity, and his professed unconcern about the guilt or innocence of the condemned man leaves him incidental to the plot. A newspaper editor, and former friend of the father's, contemptuously dismisses his appeal to him to do something by querying why he had not seen fit to do anything about any of the other hangings that had taken place. He seems anyway to be quite satisfied about the prospect of executing murderers. The Home Office junior minister who rejects his appeal for a further stay is portrayed sympathetically, he having apparently carefully explored all the evidence before allowing matters to proceed. Notwithstanding the film's occasional references to the hanging controversy it is essentially a thriller rather than a political polemic. It centres on the wrongful conviction theme, and not on the rights and wrongs of hanging.

The Quare Fellow (1962) was written and directed by Arthur Dreifuss from the stage play by Brendan Behan. It is a quirky British/Irish Republic co-production, released in the year of Hanratty's hanging, both gloomy and jocular at the same time, informed by a puckish Irish humour that relieves the gloom. The film follows life in a Dublin prison (Mountjoy) through the eyes of a new, young prison warder, Crimmin (played by Patrick McGoochan). There are two hangings pending in a couple of weeks, 'Silvertops' and 'the Quare Fellow' (Irish slang for a condemned man), both of whom have been convicted of

murder.

There is considerable detail about the grim mechanics of the execution. There is a careful delineation also of the atmosphere of tension pervading the prison in the hours leading up to the awful moment. The film's message stands or falls by the rights and wrongs of the rope. As Dreifuss himself is supposed to have said of the film, comparing it to *I Want to Live!* (an American film of a few years previously) where that film had been about whether society had hanged the wrong person 'this one is about whether society has a right to hang the right person - guilty or not doesn't come into this - we really are making this film on faith, spit and belief. We can't believe that the judicial process it describes can go on ad infinitum.' In fact the screenplay had altered Behan's original play in several respects, opening it out to include the city of Dublin beyond the narrow confines of the prison in which the play had been exclusively set. It also altered the plot by introducing a measure of justification or mitigation for the Quare Fellow's actions, a concession perhaps by the film's makers to the backers insofar as a justification represents a softening of the film's anti-hanging message.

Given that the death penalty was far more prevalent in the USA it is perhaps not surprising that there were rather more American films dealing, expressly or otherwise, with the topic than there were British. Possibly the outstanding film dealing with the question of capital punishment at this time was *Twelve Angry Men*, Sidney Lumet's stunning directorial debut, released in 1957 in the USA, a gripping jury-

room drama, dealing with the struggle of the liberal Henry Fonda to convince his fellow jurors of the innocence of the accused. Wrongful conviction as an argument against the death penalty is more explicitly covered in *Beyond a Reasonable Doubt*, directed in the USA by Fritz Lang and released in 1956. Here the plot ingeniously has the hero faking his own complicity in a murder in order to get himself charged and convicted so as then to produce the exculpatory evidence at the last moment, all designed to undermine confidence in the judicial system. Needless to say, the plan backfires. Other outstanding American films of the period are *I Want to Live!* (Robert Wise, 1958) and *Paths of Glory* (Stanley Kubrick, 1957). The latter is a cinematic masterpiece dealing with a court-martial in the French army during the First World War, but its message is pre-eminently anti-war rather than anti-capital punishment. These American films would have been seen in British cinemas, but their impact may have been muted by the lack of applicability to the British judicial system.

One might compare and contrast this with the part played by film in other reform campaigns of the time, and its use as a medium for the expression of political views in general. Film has not infrequently been utilized as a propaganda weapon but rarely if ever has it had a significant or decisive effect on the success of political campaigns. The most obvious comparison is with cinema's treatment of the other conscience issues paramount in the period from the mid 1950s to the late 1960s.

Abortion, for example, was the subject of, or played a significant role in, several films of the era, most notably *Look Back in Anger* (Tony Richardson, 1958 - based on the play by John Osborne), *Saturday Night and Sunday Morning* (Karel Reisz, 1960 - based on novel by Alan Sillitoe), *The L-Shaped Room* (Bryan Forbes, 1962 - based on the novel by Lynne Reid Banks), *Alfie* (Lewis Gilbert, 1966 – based on the play by Bill Naughton) and *Up The Junction* (Peter Collinson, 1968 from the novel by Nell Dunn, and already and more famously a television play). These, certainly the first three, could be classified as ‘kitchen sink’ dramas, typical of the British New Wave of the late 1950s and early 1960s, whilst the latter two might be characterized as ‘swinging sixties’ films which evolved from the former, typical of the middle to late 1960s. These films were all very much products of their time. Whilst these films often had a big impact artistically and stylistically it would be difficult to say that they were self-consciously polemical or that they significantly accelerated the pace of social change, rather than being merely indicative of the direction in which society was moving. In none of them was the question of abortion really pre-eminent, except perhaps the last.

Homosexual reform, to take another key example of a social issue, was also occasionally the subject matter of films of the period, though homosexuality (and lesbianism) was sometimes a plot device, and political axe-grinding was usually subordinate to the aims of the film-makers to entertain rather than lecture. Key British films here include *Victim* (Basil Dearden, 1961), *A Taste of Honey* (Tony Richardson, 1961 from the novel by Shelagh Delaney), *The Leather Boys*

(Sidney J Furie, 1964) and *The Killing of Sister George* (Robert Aldrich, 1968), in addition to American films such as *Advise and Consent* (Otto Preminger, 1962).

On the other hand the potentially explosive question of coloured immigration and race relations, which emerged onto the political agenda in this era, became the topic of several British films such as *Sapphire* (Basil Dearden, 1959), *Flame in the Streets* (Roy Ward Baker, 1961 with a screenplay by Ted Willis), *A Taste of Honey* (Tony Richardson, 1961), and *The L-Shaped Room* (Bryan Forbes, 1962) though of course it was treated far more extensively in the American cinema of the period. These films, too, explored the question though rarely if ever altered minds or shaped government policy. Other political hot potatoes that were dealt with in the British cinema of the epoch were nuclear weapons: *The Day The Earth Caught Fire* (Val Guest, 1961) and *Dr Strangelove* (Stanley Kubrick, 1964); and industrial relations in the satirical *I'm All Right Jack* (John Boulting, 1959) and *The Angry Silence* (Guy Green, 1960).

Whilst the British cinema did not treat extensively of the hanging question, and then not clearly with any propagandist voice, attempts at which may have been curtailed anyway by the film censor, the theatre was on the whole even less enamoured of the subject.

Theatre

As with the cinema few plays have dealt expressly with the topic, the British stage being not very receptive to strongly political or polemical works, either then or now. Easily the most famous is *The Quare Fellow*, written by the Irish dramatist, poet, novelist and critic Brendan Behan in 1954, and already alluded to in the film section. It was originally performed in 1954 at the Pike Theatre in Dublin (coincidentally the year of the last hanging in the Irish Republic) and was Behan's debut as a dramatist.⁵⁰⁸ In 1956 it was staged by Joan Littlewood's Theatre Workshop at Stratford East, London to considerable acclaim. The play is a tragi-comedy, showing the grim realities of prison life and the events leading up to a pair of hangings due to take place, and is based in part of his own experiences of imprisonment in Mountjoy Prison, Dublin for terrorist-related activities. The style is Brechtian with the use of song and dance and direct addresses to the audience to make its points. Whilst the first half of the play is largely comic the second half is slow, melancholic and tragic. It can be viewed as an attack on the institution of capital punishment, or as a satire on prison life. The film version changes the play very considerably in both plot and atmosphere. In the play one or both of the condemned men have been convicted of a homosexual offence, something probably deemed too controversial for

⁵⁰⁸ Brendan Francis Behan (1923-1964). Irish poet, playwright and novelist. One-time IRA member, imprisoned for republican activities in the period 1939-1946, serving time in Mountjoy. *The Quare Fellow* was his first play to be produced and was based on his own experiences of prison.

the film-makers.

The other significant theatrical treatment of the issue was *Hang Down your Head and Die*. This was a satirical revue somewhat along the lines of *Oh, What A Lovely War!* (then still a Joan Littlewood theatre production and not filmed until several year later) which gave the same dramatic treatment to the gallows that *Oh, What A Lovely War!* gave to the First World War. It was originally produced for the Oxford University's Experimental Theatre Club, an essentially undergraduate body, in February 1964, having been written over the preceding few months, and was staged at the Oxford Playhouse. It was produced by Braham Murray, devised by David Wright, designed by Michael Ackland and written by a collection of people, chiefly undergraduates, including David Wright, Robert Hewison, Michael Palin and Terry Jones, the last two of whom went on to fame as one third of the Monty Python team.⁵⁰⁹ It was very much a collaborative effort with most of the writers amongst its cast of seventeen including both Palin and Jones. It had an eleven day run at the Oxford Playhouse starting on 11th February 1964 to packed houses and rave reviews before achieving enough critical approbation to transfer briefly to Stratford and then to the Comedy Theatre in the West End in March/April 1964 where it ran for six weeks at the Comedy Theatre still under the auspices of Braham Murray.⁵¹⁰ The

⁵⁰⁹ Attested to by various websites such as <http://movies.yahoo.com>; <http://www.pbs.org/hemingway/palin>; <http://www.dailyllama.com/spam/audio>; and www.geocities.com/fang_club/Jones_biog.html

⁵¹⁰ <http://www.royalexchange.co.uk>. Michael Elwyn, an actor in the production said that, unusually for a provincial student production, it was watched and reviewed by Harold Hobson of the Sunday Times, amongst others, who described it as brilliant. Michael Codron, a London impresario, saw it and was so impressed by it that he offered to take it to Stratford and the

bulk of the material consisted of parodic comedy, song and dance routines, interspersed with mimed sketches and set speeches presenting the 'official view' delivered po-faced by an onstage Narrator often against the backdrop of comic routines illustrating his words. There is no doubt that the sympathies of the show's creators were deeply hostile to capital punishment and that their intentions in staging it were essentially polemical.

It is striking that during the period in question, when the controversy over hanging was at its height, only two plays on the English stage dealt specifically with the topic; *The Quare Fellow* roughly at the start of the period (its 1956 London debut occurred the year before the passage of the Homicide Act) and *Hang Down your Head and Die* towards the end of it (a year before the enactment of the Abolition Act). Both were poignant and powerful works that doubtless animated their audiences and provoked public debate, reflecting as they did major contemporary concerns. But it is questionable whether either play had any significant impact upon the balance of public opinion or the course of political events. Theatre audiences were, then as now, minuscule and drawn substantially from a small metropolitan, elite wholly unrepresentative of the general population. The two plays' polemical messages would likely have served only to confirm prejudices not shake them.

West End of London complete with the whole cast, virtually unchanged in content. Michael Elwyn, telephone interview, 28th September 2006

Conclusion

Thus neither cinema nor theatre dealt extensively at the relevant time with the issues of capital punishment, though it may have formed a backdrop to many a crime or prison film. Where the issue had been explicitly raised in film or play it tended to be dealt with 'objectively', and none, save for *Hang Down your Head and Die*, could be said to be unequivocally propagandistic or abolitionist in tone, though others such as *Yield to the Night* come very close. The heavy hand of theatre censorship in the shape of the Lord Chamberlain, soon to disappear, was evident with *Hang down your head and Die*, and may have discouraged other such efforts. Censorship was less tight in the cinema but may still have come down on anything that smacked too much of political controversy. Given the lack of influence of the more mundane media of radio and television it is unlikely that these sporadic and morally complex dramas would have been greatly influential, and like so much else they formed the background noise of the debate and not its substance.

CHAPTER EIGHT

RETENTIONIST PRESSURE GROUPS

Whereas the cause of abolition generated many bodies to propagandize for it, there were very few dedicated specifically to the opposite cause of retention (or restoration). This may have been because, prior to abolition, they represented the status quo and saw no need to mobilize to defend an institution they regarded as self-evidently necessary. Such bodies as did emerge tended to advocate retention (or restoration) as part of a wider agenda dealing with the maintenance of law and order and the preservation of traditional values. They were, more or less by definition, conservative, at least with a small 'c' if not a large. The serious opposition to abolition up to 1965 had come from pre-existing representative and professional bodies, especially the Police Federation and the Prison Officers Association; legal and judicial bodies; the Conservative Party and the House of Lords and the right-wing press. This tended to inhibit the emergence of specifically pro-capital punishment bodies. Only after the death penalty had been abolished, or with the prospect of abolition becoming imminent, did retentionist bodies become more prominent and start to organize themselves. This chapter looks at these bodies and discusses the impact of their campaigns.

The only significant retentionist lobby organization prior to 1965

was the Anti-Violence League. This curiously-named body seems to have been formed sometime in the very early sixties with the declared aim of 'preserving the British way of life'. Its general secretary was Paull Hill and its National Council boasted, *inter alia*, the names of Sir Percy Sillitoe, Sir Thomas Moore and the Countess of Dartmouth.⁵¹¹ It was fairly clear from the tenor of its literature that its agenda embraced a broad spectrum of contemporary right-wing concerns about law and order, industrial unrest and the erosion of traditional values. Moreover, it seems to have been highly vexed by what it saw as the excessive influence of psychiatric theories on government policy and judicial sentencing; a recurrent theme of right-wing critiques of public policy in succeeding decades. The incorporation into the Homicide Act of the diminished responsibility defence was, it seemed convinced, a manifestation of this tendency and something highly subversive of the need for 'tough' sentencing. This, as much as the partial abolition of capital punishment, was central to its platform.

The AVL was by no means the only organization of its type to wax and wane in the relevant period. As mentioned previously the Downey challenge to Sydney Silverman in Nelson and Colne in the 1966 general election seems to have been backed by a pro-capital punishment organization of businessmen in the Manchester area, though here again

⁵¹¹ Its other National Council members were T C L Westbrook, CBE; Lady Colwyn; H Cobden-Turner, JP; Rev W Stanhope-Lovell; J Mulcahy; M Bilmes; W P Potts; A J Scammell; and Paull Hill, the general secretary. Sir Percy Joseph Sillitoe, KBE, CBE (1888-1962), policeman, Chief Constable of Glasgow and later head of MI5 1946-1953. Sir Thomas Cecil Russell Moore (1888-1971), Conservative MP for Ayr Burghs 1925-1950 and Ayr 1950-1964. Indefatigable campaigner on Tory backbenches for law and order and against abolition. Raine Legge (nee McCorquodale), (1929-) wife of the 9th Earl of Dartmouth, daughter of Barbara

there seems to be little evidence of its continued existence beyond that time.

This state of affairs changed somewhat in the immediate post-abolition period. From 1965 there rapidly developed various campaigns to restore capital punishment at the earliest opportunity, or at the very least to ensure that when the matter came up for renewal in 1970 it was decisively reversed. Hitherto, support for hanging had been chiefly institutionalized, but as some of these bastions of the establishment began to falter in their enthusiasm for hanging, so thereafter it tended to emanate from more non-institutional sources, developing a momentum of its own comparable with the NCACP a decade earlier (though less influential). The sectional pressure group gave way to the promotional group. Much of this activity was spontaneous and localized and reflected a concern with the steady rise in violent crime and the use of firearms, which tended to be attributed at least partly to abolition (justifiably so or not). Moreover, particular crimes shocked the nation, especially the horrifying revelations surrounding the Moors murders in late 1965, and the deaths of three police officers in the shoot-out at Shepherds Bush in 1966, the timing of both of which were unfortunate for the abolitionists (though only the latter could rationally have been perceived as connected in any way with the end of hanging).

The most significant of these campaigns was that launched by Duncan Sandys in 1966.⁵¹² This aimed at the reintroduction of hanging,

Cartland, subsequently Countess Spencer. GLC councillor (Con, Richmond-upon-Thames).
⁵¹² Duncan Edwin Sandys, Baron Duncan-Sandys of the City of Westminster, CH, PC (1908-

initially, at least, only for the murder of police and prison officers, and the marshalling of public opinion to that end. He introduced a Bill into the House under the Ten Minute Rule in November 1966 but this was decisively defeated. His speech introducing the Bill argued that: 'we have no right to save our consciences at the expense of other people's lives' and though he admitted that there was no conclusive evidence that the death penalty was a deterrent he felt it was hard to believe that it was not.⁵¹³ The recent shootings of three police officers by escaped convicts and the murder of a prison officer gave added impetus to his campaign, and it was matched by a number of motions at the Conservative Party conference that autumn. Close confederates in the campaign were Conservative MPs Peter Rawlinson, Bill Deedes and John Boyd-Carpenter.

The introduction of his Bill was co-ordinated with a deputation to the Home Secretary, Roy Jenkins, in November led by himself accompanied by Conservative MPs John Boyd-Carpenter, Betty Harvie Anderson, Peter Rawlinson and Sir David Renton and pro-hanging Labour MPs Harold Boardman, J T Price and Frank Tomney. The same day there were two other deputations to Jenkins from the Police Federation and the Prison Officers Association, with whom Sandys had been liaising, and the meeting with Jenkins was attended by members of all three deputations. Also present were Reginald Webb (chairman) and

1987). Son-in-law of Winston Churchill. Founder of the European Movement 1947. Conservative MP for Norwood 1935-45; Streatham 1950-1974. Minister of Defence 1957-59, Minister for Aviation 1959-60, Secretary of State for Commonwealth Relations 1960-64. Sacked by Heath from front bench over Rhodesia 1966. May have been the 'headless man' in the Argyll divorce case.

Arthur Evans (secretary) of the Police Federation, Inspector John Black (chairman) and Daniel Wilson (secretary) of the Scottish Police Federation and Norman Cowling (chairman) and Fred Castell (secretary) of the Prison Officers Association.⁵¹⁴ Sandys argued that the record number of police officers murdered, gaol-breaking on a large scale, the views of the PF, POA and public opinion were all factors that the Home Secretary should take into account in considering whether to re-introduce capital punishment for the murder of police and prison officers. Morale was declining in the police and prison services with a concomitant rise in resignations and retirements and a fall in recruitment.

Sandys admitted that there was no conclusive evidence that capital punishment was a unique deterrent but neither was there evidence of the reverse. There was really no chance of Jenkins, an arch-abolitionist, ever acceding to their entreaties or concurring with their arguments. He attempted to smooth away their concerns by pointing out that it was too soon to make anything meaningful out of the statistics and that, anyway, 1966 had been no worse, qualitatively, than 1961 when capital punishment was still in force. In the case of one of the police murders, that at Gateshead, the perpetrator was only fourteen and too young to hang under the old law, and the other instance, that at Shepherds Bush, was one not three for deterrent purposes. The spate of gaol-breaking was disturbing but hardly relevant. There was, he went

⁵¹³ Notes for speech. Duncan Sandys papers, op cit. DSND 12/1.

⁵¹⁴ Note of meeting between Roy Jenkins and deputation at House of Commons, 14th November 1966, by a Mr Chilcot (Home Office). Sandys papers, ibid.

on, a misconception about life sentences and the worst murderers would not be released after nine or ten years as was previously the norm. Rawlinson and Boyd-Carpenter raised the matter of the increased use of firearms and argued that capital punishment would reduce the likelihood of their being used as a threat but Jenkins argued that that rise pre-dated abolition. Moreover the rise in the murder rate was not nearly as high as the rise in crime generally. There was simply insufficient evidence to say capital punishment should come back and it was not, he felt, in the long-term interests of the police and prison officers themselves for them to be singled out for special treatment under the law. Sandys and company could scarcely have been satisfied with the outcome of the meeting but they could not have expected anything else.

Sandys' correspondence with other MPs showed that he was not sanguine about the prospects of success for his Bill, given the large Labour majority in the House as a result of the March 1966 general election. He also admitted, in some of his correspondence with supporters in the country who wanted hanging brought back for a wider range of murders, that his decision to limit the Bill to the murder of police and prison officers was essentially tactical; i.e. more likely to attract the support of wavering MPs, particularly on the Labour side, than a more general measure of reintroduction. He was careful though not to make this point explicit. In that respect fortune was on his side because the murder of three police officers in August 1966 and the murder of a prison officer later that year highlighted the risks faced by

the police and prison staff. It also meshed with the strong campaigns being mounted at the same time by the Police Federation and the Prison Officers Association. An Early Day Motion of his attracted the signatures of 171 MPs (162 Conservative, seven Labour and two Liberal). Sandys calculated that this was over two-thirds of the Conservative Party if one were to exclude the Shadow Cabinet who did not sign EDMs.⁵¹⁵ Moreover, thirteen on the list had voted for the Silverman Bill on second reading and nine on the third reading, indicating that a fair measure of re-consideration was going on.

The Sandys campaign was also co-ordinated to some extent with that of *The News of the World*, a right-wing Sunday tabloid that could be relied upon to take a rabidly populist stance on most issues. Eldon Griffiths, a fellow Conservative MP, penned a pro-hanging article in the *N.O.W.* in September 1966 which included a statement from the Police Federation about the recent murders of policemen in Shepherds Bush and Gateshead which drew attention to the dangers they faced. The statement from the Joint Central Committee of the Federation firmly and specifically called upon Parliament to re-introduce capital punishment for the wilful murder of police officers and those coming to their assistance.⁵¹⁶

Parallel to these Commons activities Sandys led a grass-roots campaign to re-introduce hanging, chiefly by organizing a monster petition to present to Parliament. This aimed at achieving at least a

⁵¹⁵ Sandys papers, *ibid.* 19th October 1966

⁵¹⁶ Eldon Griffiths, *News Of The World* article, 15th September 1966

million signatures of ordinary men and women and was clearly intended to be such a powerful demonstration of grassroots feeling as to break down the resistance of the House of Commons. The campaign was orchestrated from his Commons office by Louis Fitzgibbon and Charlotte Hurst. It may well have attained its projected figure but its presentation did not have the desired effect. Moreover, their method of collecting signatures came in for some criticism because potentially misleading.⁵¹⁷

From mid-1966 Sandys had been in frequent communication with Louis Fitzgibbon, a private citizen from Hampshire, who was calling for action to restore the rope, the birch and the 'cat' and complaining that 'pseudo-psychiatric nonsense had been allowed to cloud reason and common-sense.'⁵¹⁸ Fitzgibbon had been in touch with his MP, Ian Lloyd (a Conservative abolitionist), and had written to the *Portsmouth Evening News*. Within a few months he was able to write to Sandys announcing the formation of the 'Society for the Restoration of Capital Punishment' of which he was chairman and advertizing its first meeting in the Portsmouth, Langstone constituency, to be followed by other public meetings to which the local MPs had been invited.⁵¹⁹ There was a discussion between Sandys and Fitzgibbon about the future course of the campaign in December 1966 at Sandys' house in Vincent Square.⁵²⁰ It is clear from Fitzgibbon's note of the meeting that Sandys had a realistic appreciation of the difficulties inherent in reversing abolition

⁵¹⁷ See the chapter on television and the *Man Alive* documentary that featured this Campaign.

⁵¹⁸ Fitzgibbon to Sandys, 15th August 1966. Sandys papers, DSND 12/1

⁵¹⁹ Fitzgibbon to Sandys, 4th November 1966. Sandys papers, *ibid*

given the Parliamentary arithmetic, and that he expected that it would take about four years to bring the campaign to a successful conclusion, i.e. roughly as long as the 'experimental' period was due to last and maybe as long as the Labour government would last. He planned to spread the campaign and meetings to all places where the local MP was known to be anti-capital punishment.

Sandys admitted in a reply to him that he favoured the return of capital punishment for all murders but for tactical reasons felt it better to confine himself to the question of policemen and prison officers.⁵²¹ However, by late 1967 it had evolved into a more generalized campaign for the reintroduction of capital punishment for all murders. This was no doubt partly because the original narrow approach had failed but also because its grass-roots sentiments were for a wider attack. The demands from correspondents for restoration often broadened the categories to include the murder of children, which was understandable from an emotive point of view but scarcely logical. Given the failure, at least in the short-term, to achieve the restoration of hanging for the murder of police and prison officers it may have been felt that they might just as well agitate for restoration across the board because that was, in the main, what his supporters really wanted.

Fitzgibbon, on Sandys behalf, was making overtures to various people and in November 1967 met the entertainer, Hughie Green, to

⁵²⁰ Fitzgibbon to Sandys, 10th December 1966. Sandys papers, *ibid*

⁵²¹ Sandys to Fitzgibbon, 2nd November 1966. Sandys papers, *ibid*.

canvass his views and enlist his support.⁵²² Green, according to Fitzgibbon, was passionate about the restoration of capital punishment and promised to help by getting someone on his show who was sympathetic to it.⁵²³ Another line of attack for the campaign was a mailshot to bank managers who were presumably felt ripe for conversion (and a possible source of funds) given their line of work. Likewise security firms were felt to be likely donors and Sandys wrote to Lord Alexander of Tunis in his capacity of 'Governor' of Securicor.⁵²⁴ Another person approached with a view to donating funds to the cause was Lord Sieff.⁵²⁵ A third was Robert McAlpine who was asked for funds in the sum of £10,000.⁵²⁶ Whilst it is unclear what success these entreaties had the Licenced Victuallers Association (the UK pub landlords association) was much more forthcoming in its support. The affiliated Licenced Victuallers Protection Society of London came out firmly in support of the Campaign and urged members (i.e. publicans) to display their posters and petitions for signing.⁵²⁷ The National Consultative Council of the Retail Liquor Trade was also sympathetic.⁵²⁸

The press, especially the popular press, was another avenue.

Sandys wrote an article in *The News of the World* in July 1967, and in November 1967 *The Sun* had a feature by Allan Hall on Duncan Sandys

⁵²² Fitzgibbon to Sandys: report on meeting between himself and Hughie Green, at Chiltern Court, Baker St. 15th November 1967. Sandys papers, 12/2. Hughie Green (1920-1997), actor, presenter and producer. Host of long-running shows *Double Your Money* and *Opportunity Knocks* on ITV (Rediffusion)

⁵²³ It is unclear to which show he was referring.

⁵²⁴ Sandys to Alexander, 11th October 1967. Sandys papers, ibid

⁵²⁵ Sandys to Sieff, 12th September 1967. Sandys papers, ibid

⁵²⁶ Sandys to McAlpine, 8th December 1967. Sandys papers, 12/2

⁵²⁷ LVA to Fitzgibbon, 12th January 1968. Sandys papers, ibid

⁵²⁸ Aide-memoire from Fitzgibbon to Sandys 23rd October 1967. Sandys papers, ibid

and the petition campaign.⁵²⁹ The local press was targeted also and letters would go out to newspapers in localities where murders had been recently committed via the Direct Mail Group. He also gave consideration to upcoming by-elections and Fitzgibbon seems seriously to have considered whether an independent pro-capital punishment candidate should stand at Manchester Gorton, given that Manchester was believed to be a strongly pro-capital punishment area of the country (the precedent of Downey at Nelson and Colne in 1966 was encouraging). Fitzgibbon seems even to have wondered whether he might be such a candidate, though it would have scuppered his ambition of being selected as a Conservative candidate.

Sandys attempted to introduce another bill in 1969, pursuant to Standing Order no 13, that would have amended the 1965 Abolition Act in such a way that it would have expired automatically in July 1970 rather than be subject to renewal, but this too failed to get anywhere in the House.⁵³⁰ In any event his campaign lost impetus after the failure of his legislative efforts and the petition proved to be a damp squib.

No really effective single-issue pro-capital punishment organization ever developed or gained significant traction on the body politic, though several briefly waxed and waned, and no significant electoral challenge to the main parties was ever mounted by a pro-

⁵²⁹ Allan Hall talks to the Duncan Sandys Hanging Ladies, *The Sun*, 13th November 1967. This was a reference to the Manchester petition campaign which seems to have been exclusively female for some reason.

⁵³⁰ That leave be given to bring in a Bill to delete the provisions in the Murder (Abolition of Death Penalty) Act 1965, which enables the suspension of capital punishment to be prolonged beyond the five-year experimental period by Resolutions of both Houses of Parliament. HC Deb, vol 785, cols 1228-1236 (division no 284) 24th June 1969. It was

capital punishment party other than the isolated instance of Downey at Nelson and Colne in 1966. Given the level of public opposition to abolition that grew thereafter and the relative success of Downey's candidacy it is perhaps more than a little surprising that this did not happen. It is likely that there was a widespread, but ultimately mistaken, belief within the retentionist camp that Parliament would reverse its actions through the agency of the existing parties and especially the Conservative Party.

Conclusion

It may be enlightening to compare and contrast the two movements, for abolition and re-introduction respectively, as embodied by their main pressure groups, the NCACP on the abolitionist side and the Sandys movement on the retentionist. The former was extraordinarily successful, attracting the support of large numbers of what might be termed the great and the good, especially in the world of the media, the arts and the liberal intelligentsia generally, as well as considerable numbers of the general public. Its membership expanded dramatically within a few months of its inception and it gained prominent adherents relatively easily. It was powerfully led by some very eminent figures, in some cases already well-known to the public from other campaigns, such as Victor Gollancz, Canon Collins and

defeated by 256-126, a majority for the Noes of 130.

Arthur Koestler. It was well-funded thanks largely to Gollancz, though it did very well in subscriptions and donations. It was well organized, though there was evidently discord between some of the leading figures which, however, did not seem to hamper its progress. It was able to achieve widespread publicity, stage large meetings and rallies, spread its literature far and wide and get the abolition question thrust onto the political agenda. It was infused with a passion for its cause and sometimes exhibited an almost evangelical moral fervour which frequently outshone the more defensive postures of its opponents. And it was remarkably successful, not merely in propagating its cause but in translating that cause into Parliamentary action very rapidly, to the extent that within a couple of years a Conservative government had put onto the statute book a measure that partially vindicated its aims.⁵³¹

It is difficult to think of any parallel in modern times for a contentious measure of social reform, not explicitly backed by a major political party and opposed by formidable institutions such as the police, the judiciary and the right-wing press, to achieve that rate of success. Though its progress stalled somewhat after 1957 it was really just a matter of time before it achieved the completion of its objectives. Thus by November 1965 total abolition had been enacted, just over ten years from the formation of the movement in September 1955. Moreover, despite repeated and intensive efforts to reverse its achievements the death penalty in this country appears to have been ended for perpetuity.

⁵³¹ Collins has said that it was one of the most efficient and effective campaigns of its type ever seen, and that 'we can now look back with wonder at what the Campaign achieved'. Collins, op cit, p 247

The campaign to restore the death penalty led by Sandys a decade later also enjoyed very widespread support, in fact far wider amongst the general populace than its competitor movement. On the other hand it did not attract high-profile adherents to the same extent that the NCACP did, and those who were inclined to offer their endorsement did not enjoy the approval of the *bien pensant* classes. Opinion polls though, and the monster petitions it organized and set such great store by, attest to the popularity of its aims. Events in the public domain, especially the apparent increase in the murder rate, the killing of policemen in the line of duty, the revelation of some especially horrific murders, and the increase in violent crime in general all seemed to work in its favour. Like the NCACP it was well-funded, with some wealthy backers such as the victuallers associations and leading businessmen. It was well organized both within Parliament and outside (though its leadership perhaps did not enjoy quite the same intellectual cachet as that of the NCACP) and many of its supporters exhibited a similar degree of crusading zeal for its cause, sometimes of a biblical inspiration which brooked no argument (though it made no converts). Yet it failed utterly to prevent the confirmation of abolition in 1969, nor did it manage ever to come close to restoring hanging at any time thereafter despite public opinion moving ever more strongly for it. Nor, incidentally, did it halt the liberalization of the criminal justice system in other ways.

Why then, in a democracy, did a movement which had the support

of a large majority of the people fail? The obvious answer is that there was by the 1960s, and thereafter, a large and immovable majority in both the Commons and the Lords for abolition that was impervious to the entreaties of public opinion. In the absence of a plebiscitary system of government there is simply no mechanism for translating popular will into law if it is opposed by a large and intractable majority of legislators. But at a deeper level the movement failed because it could never quite present itself as intellectually sound or morally respectable. It was too easy to caricature as atavistic and reactionary, and too easy for it to be outdone in argument by the superior debating skills of its opponents. This was underlined by the wholesale conversion to abolition, in the early 1960s, of the hierarchy of the Church of England, as of that of most of the other Christian denominations, and of much of the judiciary and the legal profession too. Progressive opinion had by then hardened to the view that not only was capital punishment unjustifiable on both moral and rational grounds but that it was simply out of date. Parliament was strengthened in its determination to resist public opinion by the conviction that it was moving with the tide of history, and there can be no stronger motive than that.

CHAPTER NINE

ABOLITION AND AFTER (1965-1969)

This chapter looks at the immediate post-abolition phase from 1965 to 1969, and focuses particularly on the political manoeuvring to ensure the passage of the confirmatory vote required by the Abolition Act.

After a prolonged Parliamentary battle a private members bill to give effect to abolition, introduced by Silverman in December 1964 shortly after the election of a Labour government, was successfully steered through both Houses. Its passage was certainly not without incident, and included an attempt by the Conservative Party to wreck the government's timetable by forcing the Abolition Bill back onto the floor of the Commons at committee stage, obliging the government to allow morning sittings rather than to give up its own time to the Bill. The Murder (Abolition of Death Penalty) Act received the Royal Assent in November, 1965. A moratorium on hangings had been in force from October 1964, and the hangings of Allen and Evans in August 1964 were to prove to be the last in English criminal history. It had been a gargantuan struggle and though undoubtedly a triumph for the abolitionist cause the one fly in the ointment from their point of view was that an amendment (moved by Henry Brooke) had been tacked onto

the Bill at the committee stage which required that, by July 1970, the Act had to be confirmed by a vote of both Houses. In default of this, or in the event of it being defeated in either or both Houses the Act would expire and the status quo ante would be revived; i.e. the Homicide Act's division into capital and non-capital murder would be revived, with the former subject again to the death penalty.

Most abolitionists were confident of surmounting that obstacle when the time came, but few could have been under any illusions that there would be a big effort by the supporters of hanging to re-introduce it and that they would not necessarily wait the full five years. Much depended, in the short-term, on the murder rate and the effect that that might have on public opinion, which in turn could influence some of the fainter-hearted or more cautious abolitionists within the Conservative Party, not to mention some of the more unconvinced Labour MPs. Also much depended on the party balance in the Commons. It was impossible to predict at that juncture whether there would still be a small Labour majority in five years time, or a much larger one, or a Conservative majority.

In December 1965 Wilson had re-shuffled his cabinet and Soskice was replaced at the Home Office by Roy Jenkins, who inaugurated a reformist era during his two year tenure of that office.⁵³² Wilson went to the country for a renewed mandate in March 1966 and was duly rewarded with an overall majority of nearly a hundred. Though the issue

⁵³² A widespread fallacy is that Jenkins was Home Secretary at the time of abolition. Despite his fervent support for it he was not in position, neither in 1964-5, nor again in 1969 when the

of capital punishment did not feature prominently in that election (and it would have been unusual if it had given that economic and industrial questions predominated as usual) the most interesting feature from the capital punishment viewpoint was the intercession of an explicitly pro-hanging candidate in Silverman's constituency. Silverman was challenged at Nelson and Colne by Patrick Downey, the uncle of Lesley Anne Downey, one of the victims of the notorious Moors murderers, Myra Hindley and Ian Brady (murders committed very recently and very near to the constituency).⁵³³ The Conservative candidate, Peter Davies, was a lukewarm retentionist who appeared to have made a belated conversion to the hanging cause as a matter of electoral expediency, and it was far from clear whether Downey would take more votes from the Conservative candidate or from Silverman, given that he declared himself to be a Labour supporter on most issues. While some felt Silverman was in danger of losing the seat he himself was confident of retaining it.⁵³⁴ In the event Downey polled over 5,000 votes, the largest vote until then ever achieved by a genuinely independent candidate (who was not a former MP) in a general election since 1945. It was indicative of the strength of public feeling on the matter, at least in Nelson and Colne. Nonetheless, Silverman doubled his majority to four and a half thousand, and the national swing to Labour was replicated. It may well have been that Downey took more votes from the Conservative than from Silverman, and it is difficult to interpret the full significance of

confirmatory votes were held, having by then swapped offices with Jim Callaghan.

⁵³³ Hughes, Emrys, op cit, pp.182-192

⁵³⁴ Hughes, Emrys, ibid. p.183

the result.

After that the question of restoration died down somewhat for a period as both sides waited to take stock of the effects of abolition, though there were intermittent demands from various sources for restoration and Sandys was soon mobilizing the Conservative backbenches in support of restoration, as outlined in the previous chapter. In November 1967 James Callaghan replaced Roy Jenkins at the Home Office in a straight swap, having resigned from the Chancellorship after devaluation. Though a less liberal figure than Jenkins he was a firm supporter of abolition, and had always voted for abolition in the House from 1948 onwards.⁵³⁵

The Affirmative Resolutions

The question of whether abolition was to be made permanent was due to come up in July 1970 under the terms of the Abolition Act, but the government decided to settle the issue in advance, chiefly so as to get it out of the way well before the next general election. There was some anxiety at the official level within the Home Office, which was inevitably concerned with the legal complications that might arise about both the timing of the resolutions and the consequences of their rejection. A Home Office internal memorandum showed official thinking at the

⁵³⁵ Callaghan, (Leonard) James (Lord Callaghan of Cardiff) 1912-2005. Labour MP for Cardiff South East 1945-1983, Chancellor of the Exchequer 1964-67, Home Secretary 1967-1970, Foreign Secretary 1974-76, Prime Minister 1976-1979. Wrote the foreword to Block and

time.⁵³⁶ It was argued that if the statistical trend (regarding the murder rate) were to continue there would be a growing demand for the return of capital punishment, at least for some categories of murder and argued that there was no point seeking ministerial authority for contingency planning since even 'hypothetical reintroduction of the death penalty might well be repugnant to some ministers and could, moreover...give rise to embarrassment.' It wasn't easy to see what the fall-back position would be and the Homicide Act demonstrated the unsatisfactoriness of legislating for categories of murder. It suggested that contingency planning should not be mentioned in submissions to ministers or should be mentioned only in order to be dismissed. In a further memo of January 1969 the previous points are re-iterated.⁵³⁷ It argued that matters should not be left as late as June 1970 and that the government should take the initiative.

Callaghan and Wilson sounded out opinion to see whether it was feasible to bring the affirmative vote forward. Callaghan says he became convinced of the wisdom of disposing of the issue sooner than had been originally envisaged when he learned that the leaders of the other two parties, Edward Heath and Jeremy Thorpe, were both in favour of immediate abolition.⁵³⁸ The cabinet had considered the question over the summer and autumn of 1969 and had decided in November 1969 to

Hostettler, op cit, p.viii - October 1997.

⁵³⁶ TNA, HO 291/1552 *ibid*, Item 4 - Review of Murder (ADP) Act 1965 (nd). Comment on policy - contingency planning for a fall-back position.

⁵³⁷ *Ibid* - memo of 15th January 1969

⁵³⁸ Callaghan (in Block and Hostettler) op cit, p.viii-ix

settle the matter before the Christmas recess.⁵³⁹ It was felt by many in the government to be unhealthy for capital punishment to be made an election issue by candidates of any party, though according to Wilson that was not the primary consideration.⁵⁴⁰

Callaghan and the Scottish Secretary of State (William Ross) had drafted a memorandum in January/February 1969 on the permanent abolition of capital punishment for murder for the consideration of the Parliamentary committee of the cabinet.⁵⁴¹ They invited their colleagues to agree that the government should take the initiative in making abolition permanent and that they should decide on tactics and timing. Section Four of the Abolition Act caused the Act to lapse after five years. They assumed that colleagues needed no convincing to make abolition permanent - the case was essentially a moral one - capital punishment was a 'barbarous penalty which the community has no right to exact however heinous the crime.' Other arguments were subsidiary, they argued, such as the Timothy Evans case and the unsatisfactoriness of the Homicide Act. The case should not stand on statistics – it was unfortunately true that recent murder statistics lent more support to restoration than to abolition. There was clearly a majority in the Commons for abolition. It pointed out that the Sandys motion (to amend the Abolition Act so that it expired automatically in 1970 with or without a renewal vote) was coming up and it was desirable to brief a

⁵³⁹ Wilson, Harold, *The Labour Government: A Personal Record* (Harmondsworth: Penguin, 1974) p.924

⁵⁴⁰ Wilson, Harold, *ibid*, p.924

⁵⁴¹ TNA, HO 291/1551 *Capital Punishment - Abolition of Death Penalty* - Memo by Home Secretary and Scottish Secretary for the Parliamentary Committee of the Cabinet

backbencher to oppose. Parliament was 'ahead of public opinion' and from the political angle abolition needed careful handling. On tactics and timing they felt that it was for government initiative not for a backbencher, but that it should clearly be subject to a free vote. The matter had to be dealt with by July 1970, and there was a strong case for taking the matter early since the murder figures for 1969 wouldn't be available and the interim figures might be inflated. To wait for the corrected figures for 1969 would mean waiting until May/June 1970 which might be awkward given the imminence by then of a general election. If we forgo the 1969 figures, it argued, then the vote could be brought forward. A debate in spring 1970 might lead to demands for the disclosure of the uncorrected (and inflated) figures for 1969, and therefore we should, they argued, aim for a debate in autumn 1969 - which may relieve the restlessness on both sides.

In February 1969 another Home Office memorandum reprised the situation, examining possible difficulties.⁵⁴² It concluded that if the resolutions were tabled in the current session (1968-9) and passed by the Commons but rejected by the Lords (a definite possibility) then the resolution could be presented to the Lords again in the next session (1969-70), the Commons resolution staying valid. If both Houses rejected the resolutions they could be presented again in the following session, though this was 'questionable', and it might be better to introduce fresh legislation. If they were tabled in the 1969-70 session

January/February 1969.

⁵⁴² TNA, HO 291/1551 Murder (Abolition of Death Penalty) Act, February 1969.

initially and rejected in either House the rules of procedure would not permit them to be tabled again in that session and they would be lost. It was debatable whether the rules would then permit the introduction in the same session of legislation in the sense of a rejected resolution.

In May 1969 Callaghan and Ross presented their memorandum to Cabinet dealing comprehensively with the whole vexed question.⁵⁴³ Callaghan argued for abolition in that there was no conclusive evidence that hanging was a unique deterrent, though he felt the case was largely a moral one. If cabinet was of that mind then it should be the government that took the initiative. The available figures had to be taken with caution because changes in the law relating to murder, especially the diminished responsibility defence, meant that comparisons between relevant periods had to be based on estimates of a jury's decision on matters that were not actually put to them. It was possible that abolition increased both the willingness of defendants to confess and the willingness of juries to convict. Moreover, while there had been an upward trend in the number of recorded murders there had been an increase before abolition and this increase was therefore not necessarily attributable to it.⁵⁴⁴ Callaghan argued that though the resolutions did not have to be moved until July 1970 there was no reason why they could not be timetabled earlier, and there was certainly a case for the autumn of 1969. If the two Houses came to a different decision there was no way that they could be asked to reverse that

⁵⁴³ TNA, CC(69) volume 44, 24th Conclusions, minute 7 - 22nd May 1969. Memo C(69)48.

⁵⁴⁴ TNA, *ibid.*

decision in the same session. Rejection by one House at the beginning of the 1969-70 session would leave time for legislation to rectify the position by, for example, continuing the effects of the Act temporarily. But to move the resolutions at the end of the present session (1968-69) would allow the government to ask either House to reverse its decision in the following session. Both ministers urged the government to table the resolutions in autumn 1969.

There was general agreement in cabinet to their taking the initiative, but there was a suggestion that in order to remove the controversy from the next general election there should be an extension of the operation of the Act for a further three years rather than a resolution for permanent abolition. In further discussion it was suggested that the government should not rely too heavily on the argument that the case against hanging was a moral one. It was still in existence for treason and other offences and its appropriateness as a penalty was to some extent dependent on the seriousness of the offence. The Prime Minister summed up by saying that cabinet agreed with the proposals put forward in the memorandum and that the resolutions should be moved in the spillover of the present session. The decision should be kept confidential for the time being.⁵⁴⁵

Cabinet again considered the matter in July 1969. Callaghan told the cabinet that the timing required further consideration.⁵⁴⁶ By September 1969 the question was becoming a matter of urgency.

⁵⁴⁵ TNA, *ibid.* Also TNA, HO/291/1551 Cab Office memo, 23rd May 1969.

⁵⁴⁶ TNA, vol 44, part 2 CC(69) 39th Conclusions - 30th July 1969, minute 1 Parliamentary

Callaghan informed the cabinet of 25th September that the murder statistics for 1968 had now become available and showed a substantial rise in capital murders (i.e. those that were estimated would have been capital murders had the distinction, abolished by virtue of abolition, still been operative), though only a slight rise in murders in general by comparison with 1967.⁵⁴⁷ Cabinet discussion centred on whether to hold the resolutions in the spillover(i.e. the period after Parliament reconvened at the fag end of the present session) which would have had the advantage of getting the issue out of the way as soon as possible. Delay could strengthen the opposition to abolition. The Law Officers had advised that if the resolutions were defeated in either House it would not be possible to introduce a bill on the same subject in the same session. There was widespread support for the idea of publishing the Home Office analysis in October and to move the resolutions early in the following month.

On 23rd October cabinet was informed that the Home Office Statistics Unit had prepared or were about to publish an evaluation of statistical evidence relevant to abolition. As Heath, Leader of the Opposition, had recently proposed (at his party conference) that a committee of three impartial experts, under the chairmanship of a judge, and with a former home secretary and a criminologist, should be appointed to evaluate the evidence there might be an advantage in informing him of the impending publication. On balance it might be

Affairs.

⁵⁴⁷ TNA, CC (69) 45th Conclusions, 25th September 1969, minute 3 - Permanent Abolition of Capital Punishment.

better to publish and await reactions.⁵⁴⁸ A cabinet memo commented that Heath's proposals, though superficially attractive, presented difficulties. It was desirable to devise a tactic to outflank the Opposition and avoid party conflict.⁵⁴⁹

While cabinet agonized over these decisions the Conservative shadow cabinet (technically the Leader's Consultative Committee) was also taken up with them, albeit with much less pressure attached and with much greater freedom of action, though without the benefit of civil service briefings. In November 1969 it considered the Home Office report *Murder 1957-68* in the light of the question of whether the government was going to bring the confirmatory debate forward from July 1970.⁵⁵⁰ Quintin Hogg (shadow Home Secretary) argued for an extension to the experimental period for anything up to eighteen months, and said that at least five years crime figures should be available for consideration before a decision were made, and that anything less than that would be a breach of faith on so serious a matter.

At another Shadow Cabinet meeting two weeks later Rawlinson (shadow Attorney-General) said that he thought the government was about to move on the matter and that he had been approached by Duncan Sandys (then on the backbenches) who wanted to forestall

⁵⁴⁸ TNA, CC(69) 51st Conclusions 23rd October 1969 Minute 1.

⁵⁴⁹ TNA, HO 291/1551 cabinet memo 23rd October 1969.

⁵⁵⁰ Conservative Party papers, op cit. LCC 1/2/18. Minutes (69) 320-339, 327th meeting, 5th November 1969, item 3.

matters by putting down a motion that there should be no decision until the complete 1969 figures were available and had been analyzed by an independent commission.⁵⁵¹ Hogg felt that no decision should be made by this Parliament. He didn't agree with Sandys that the only question was whether to wait for the 1969 figures, because when the five-year trial period was debated (in 1965) it was not foreseen that it would be due for review at the 'fag-end' of a Parliament. Heath decided to write to the Home Secretary to that effect.

Lord Chancellor Gardiner indicated that he would not be happy for the matter to be put off until after Christmas. He felt the nettle ought to be grasped. What is there to argue about he said.⁵⁵² Clearly he was jittery. Callaghan agreed but said he had failed to mention public opinion. In November cabinet again returned to the question, and was informed that it was proposed to table a motion on 8th December and to debate it on 17th December.⁵⁵³ It was important also that the matter be debated in the Lords before the Christmas recess.

There was a meeting between Callaghan and Quintin Hogg, at the latter's behest, on 26th November.⁵⁵⁴ Hogg informed him that there was great opposition within the Conservative Party to any action that would truncate the five-year experiment, and thought that they would vote as a party against any resolution tabled before Christmas. Callaghan was careful not to give any hint to Hogg as to the government's plans but

⁵⁵¹ LCC 1/2/18 *ibid.* Minutes (69), 331st meeting, 19th November 1969.

⁵⁵² TNA, HO 291/1551 letter from Gardiner to Callaghan 19th November 1969.

⁵⁵³ TNA, CC (69) 55th conclusions, 20th November 1969- minute 1 - parliamentary affairs.

⁵⁵⁴ TNA, PREM, 13/2552, memo from Callaghan to PM, 26th November 1969.

Hogg had of course seen the rumours in the press, and he suggested to Callaghan that the government introduce a short bill to extend the five years by another eighteen months so as to clear the forthcoming general election. He proposed a debate on a general motion in which he would say that capital punishment should not be made a party issue and that he would be prepared as home secretary to operate a system of capital punishment without a reprieve board to advise him. Callaghan responded by saying that a temporizing bill would not prevent capital punishment becoming an election issue, and would not be attractive to the Labour Party. It would also place him in an exposed position *vis a vis* Duncan Sandys and his ilk. Callaghan put it to Hogg that he was attempting to walk down the middle of the road and was liable to be knocked over, to which Hogg retorted that if he wasn't allowed to walk in the middle he would walk on the right. Callaghan said he doubted that any compromise would work and that in the last resort it was a matter of conscience. Temporizing measures were only going to lead to greater confusion and to greater awkwardness for candidates in a general election. Hogg said that in the absence of a temporizing measure he would be bound to say that the government was acting wrongly.

At the next cabinet Callaghan reported on the meeting with Hogg.⁵⁵⁵ In the ensuing discussion there was general agreement that they would want to consider the terms of any Opposition motion before taking a final decision about the introduction of the resolutions. A week later cabinet returned once again to the matter in hand and the

Parliamentary tactics envisaged for the debate on the resolutions, which was by now hardening up for the 17th December.⁵⁵⁶ A final decision would have to be taken by the cabinet of 8th December and it was felt, notwithstanding any inconvenience to the Lords, that no indication should be given to the Opposition in either Lords or Commons until after the meeting about the government's intentions in relation to the tabling and timing of the debate.

On 8th December the Home Secretary duly informed cabinet that there were overwhelming arguments for the early introduction of the resolutions.⁵⁵⁷ There was, he argued, no need to wait for further figures to become available, while too much significance should not be attached to the statistics when such small numbers were involved. The figures published in the Home Office Research Study, *Murder 1957-1968*, would not support the argument that the suspension of capital punishment had resulted in a substantial increase in the number of murders. To extend the five year period by eighteen months as Hogg had suggested would not in his view prevent capital punishment from becoming an election issue, and he could see no merit in extending the period for another five years since at the end of this further period the issue was likely to be just as controversial as now. If the resolution were to be defeated in the Lords there might be a case for introducing a short bill extending the operation of the Act for a further period of years, and it would be open to the government so to do. Cabinet agreed in

⁵⁵⁵ TNA, CC (69) 57th Conclusions - 27th November 1969, minute 1 - Parliamentary Affairs.

⁵⁵⁶ TNA, CC (69) 58th Conclusions - 4th December 1969 Item 1 - Parliamentary Affairs.

⁵⁵⁷ TNA, CC (69) 59th Conclusions - 8th December 1969 - Item 2.

discussion that it would be undesirable to postpone a decision on the matter else it would undoubtedly become a subject of controversy at the next general election. It was suggested that no reference should be made in the debate to the possibility that the government might introduce new legislation if the resolutions were defeated. It would be better to confront Parliament with a straight choice between permanent abolition on the one hand or a return to the Homicide Act.

At the shadow cabinet meeting that day Rawlinson reported that Sandys was enquiring about the possibility of amending the government motion.⁵⁵⁸ At their next meeting, after the government's intentions had been made known, they were still considering whether to put down a procedural motion or a substantive one.⁵⁵⁹ Hogg was still very critical of the government for having decided to take matters before the Christmas recess and before the 1969 figures were available. Francis Pym thought that the Chair might not accept a dilatory motion. Henry Brooke, now Lord Brooke, who was in attendance purely for this item on the agenda, said that he had tabled a motion in the Lords with Jellicoe and St Aldwyn on the lines that 'this House declines to come to a decision until the 1969 figures are available.' He didn't think there would be any difficulty in carrying that but unfortunately there was a complication because Dilhorne had wanted to table an amendment to the effect that the Act would not expire until 1973. It was agreed to go with the Brooke amendment in the Lords and to put down a motion of censure

⁵⁵⁸ Conservative Party papers, op cit. LCC 1/2/18 ibid. Minutes (69) 336th meeting, 8th December 1969

⁵⁵⁹ Conservative Party papers, ibid. LCC 1/2/18 ibid. Minutes (69) 337th meeting, 10th

comparable to that in the Commons.

The government duly tabled the resolutions for debate in both Commons and Lords on 15th-16th December and Callaghan made it clear that he would resign if the motions were not passed.⁵⁶⁰ Both parties decided they would allow a free vote on the substantive question, but the Conservatives put down a censure motion deploring the government's decision to make a decision there and then before the figures for 1969 were yet available. On a whipped vote this motion was easily defeated, the vote being on party lines.⁵⁶¹ On 16th December 1969 Callaghan opened the debate on the substantive motion, and outlined the legal position.⁵⁶² He argued that there had not been a significant increase in the numbers of murdered police officers or prison officers, or of sexually motivated murders of children in the relevant period, and that he was unconvinced that hanging was a necessary protection for the forces of law and order. He said he was aware that public opinion was overwhelmingly against abolition but felt that this was a case where, as before, Parliament should take a lead on the issue.

Hogg, leading for the Opposition, opposed the motion, but did not make it entirely clear whether he favoured abolition or not.⁵⁶³ The government won the debate on the substantive motion by 343-185, a majority of 158.⁵⁶⁴ All three party leaders voted to make abolition permanent, as did a total of 278 Labour MPs, fifty-two Conservatives, ten

December 1969

⁵⁶⁰ Block and Hostettler, op cit, p.263

⁵⁶¹ HC Deb, vol 793, col 893 - 15th December 1969

⁵⁶² HC Deb, vol 793, col 1149 - 16th December 1969

⁵⁶³ Block and Hostettler, op cit, p.265

of the thirteen Liberals and three others.⁵⁶⁵ 180 Conservatives, two Labourites, two Liberals and one Independent voted against. It was debated in the Lords the next day, 17th December. An amendment moved by Lord Brooke that would have delayed a decision until 1973, was not put, and the Lord Chancellor's motion was passed, after an outstanding speech by him, by 220-174.⁵⁶⁶ All the bishops and almost all of the judges were on the abolitionist side. The Archbishop of Canterbury, Dr Michael Ramsey, commented after the debate that the abolition of capital punishment once and for all would help to create a more civilized society in which the search for the causes of crime and experiments in penal reform could be continued. As Block and Hostettler comment, 'Perhaps he expected too much.'⁵⁶⁷

Conclusion

It was inevitable that there would be some anxiety in the ranks of the Labour government and the abolitionists generally over the timing and the outcome of the affirmative resolutions necessitated by the terms of the Act. However, the government appreciated that it was expedient to hold the votes at the earliest reasonable opportunity for several reasons; partly to minimize the number of years of murder statistics that would be available given the propensity of the retentionists to make

⁵⁶⁴ HC Deb, vol 793, cols 1293-1298, 16th December 1969

⁵⁶⁵ Block and Hostettler incorrectly give the figures as 51 Conservatives and 'all nine Liberals'.

⁵⁶⁶ Wilson, Harold, op cit, p. 925-6. Block and Hostettler, op cit, p. 267 incorrectly assert that there was no division on the Lords debate.

tendentious and, arguably, misleading use of them; partly to ensure that the matter was dealt with well before the next election when it might prejudice the Labour Party's chances, given that they were the 'party of abolition'; and partly to obviate any possibility that the votes might have to be held *after* an election in which there might be a large Conservative majority in the Commons that could threaten to defeat the resolutions. In the event the government went for the vote when there was still six months to spare, and were predictably hammered by the Conservatives for so doing, but the outcome of the vote was never in doubt in either House given the continuing large abolitionist majorities as in 1965.

Matters were resolved for the time being, though it was evident to all that the retentionists would return to the attack at a later date, given their refusal to accept the outcome, and their attribution of rising crime figures to abolition.

⁵⁶⁷ Block and Hostettler, *ibid*, p.267

CHAPTER TEN

CONCLUSION

This thesis has examined the campaign to abolish the death penalty, and the subsequent campaign to have it restored, and looked in depth at the contribution made by the pressure groups (on both sides), the political parties, the churches and the media in the form of newspapers, magazines, books, radio, television, film and theatre. It has sought to account for the success of the campaign in the teeth of hostile public opinion and the antipathy of much of the establishment, and has set the campaign in the context of other 'conscience' issue campaigns of the time.

What, ultimately, was the reason for the success of the abolition campaign? It is plausible to cite the dynamism, indefatigability and resourcefulness of the abolition campaign in the form, chiefly, of the NCACP. Chapter one examined the origins, activities, tactics and fortunes of the NCACP. Had it not lobbied incessantly for a change in the law in the teeth of public opposition and establishment hostility, then capital punishment would still be with us today, they might contend. But there are many such campaigns from the *Campaign for Real Ale* to the *Flat Earth Society* that are similarly obsessed and yet whose exertions get them precisely nowhere. It was demonstrated that the movement for abolition was powerfully led, well organized, well

funded and supported by a dazzling array of celebrities, yet, at the executive level, it was riven by internal dissension and disputes over the right strategy, particularly as to whether the campaign should be maintained at full throttle even when Parliamentary activity was not in prospect. Several of its leading figures, especially Collins, Gollancz, Koestler and Silverman were abrasive and turbulent personalities who did not always operate easily as a team. The activities of some abolitionists who operated independently were often an embarrassment to the main organization and may have done more harm than good to the campaign, if they had any effect at all, at least in the eyes of the NCACP.

However, the calibre of the lobby groups operating in support of a campaign is ultimately of little importance because for a campaign to bring about a fundamental change in the law as profound as the ending of centuries of judicial custom and practice requires parliamentary soil receptive to the movement. Without a doubt abolition could not have happened when it did but for the fact that there were large Parliamentary majorities, in both Houses, at the relevant times to carry through this profound change, strongly supported by the government of the day. Chapter two investigated the other conscience issue campaigns of the era, namely those for abortion, homosexual and divorce law reform, for the abolition of theatre censorship and the relaxation of the Sunday Observance laws, and compared and contrasted them with that for abolition. Whilst abolition had much less public support than most of the other campaigns it nonetheless achieved success earlier than any of

the others, and though a campaign was inaugurated to reverse it almost immediately and many times thereafter, it was a total failure. It is argued that the intensity of support for abolition among its adherents combined with certain benefits accruing from its association with the Howard League, and other factors, conduced towards its success.

Why had Parliament become favourable? It was not always so, though the Commons, in all probability, had had a majority for abolition continuously from 1945 onwards, and the Lords probably from the early 1960s. In chapter three it was shown that the change in the relative strength of the political parties, and the development of the parties themselves, cohered towards the rise of abolitionism in Parliament. The gradual rise of the Labour Party over the course of the twentieth century gave it an ever larger presence in the Commons. Moreover, the general composition of the party in the Commons became increasingly middle-class and reflected a progressive liberal intellectual agenda that went way beyond merely a desire for the improvement of the conditions of the working class. Penal reform went with decolonization, social reform, educational egalitarianism, welfare enhancement and numerous other policies.

On the other side of the House there was a steady influx, especially after 1945, of the more progressive and socially liberal element in the Conservative Party. This was particularly marked after 1955 and 1959 with the intakes of those years being generally more liberal and progressive than their predecessor generations. In fact, paradoxically, it was the change in the composition of the Conservative

Party that was more indicative of the changing times than that of the Labour Party. In 1948 only a handful of Conservative MPs were prepared to put their heads above the parapet and vote for abolition but by 1964/5 that figure had swelled to between a quarter and a third of the Parliamentary party. Indeed, without the votes of the large abolitionist minority within the Conservative Party abolition would have struggled to get through.

It was likewise with the two Houses of Parliament. It was the more conservative House, the Lords, that exhibited the most marked change in its composition, and that therefore reflected more faithfully the *zeitgeist*. Just as the Labour Party had always been predominantly abolitionist but the Conservatives moved from complete hostility to a degree of sympathy so the Commons had always been fairly favourable to abolition but the Lords only became so in the 1960s. This was in large part a function of a variety of constitutional changes such as those that admitted life peers (as from 1958 with the passage of the Life Peerages Act), enabled hereditary peers to renounce their titles, and saw a steady increase in the Labour representation. It also witnessed the 'progressivization' of the episcopacy, and then the liberalization of the judiciary. These changes were in themselves indicative of a change in the temper of the times and the perceived need for reform and re-invigoration that was evident by the late fifties. Had it not been for this dramatic alteration in the Lords abolition could never have passed through Parliament. Of course successive governments, mainly Conservative, didn't change the make-up of the Lords in order to

facilitate the subsequent passage of controversial progressive legislation but that was clearly one of the effects and one of which those governments could not have been totally unaware.

Whilst public opinion was consistently hostile to abolition, and favourable to restoration, the attitude of the various relevant professional bodies differed markedly. In chapter four it was seen that the organizations representing the police and prison officers were uniformly and stridently for retention on the very practical grounds that they believed that it increased the danger to the lives of their members. The Police Federation, that represented the rank and file, was the association most relentlessly hostile to abolition, and favourable to restoration, together with the Prison Officers Association. These bodies repeatedly passed conference resolutions to that effect and lobbied successive home secretaries and MPs. Yet this had little effect, despite their insider status, whereas the essentially outsider group, the NCACP, was far more influential in policy terms. Bodies representing the judiciary and the legal profession were rather less committal, and those representing the medical and psychiatric professions were on the whole favourable to abolition. If nothing else it demonstrated that insider status conferred no advantage upon these bodies in a policy-making sense.

The attitude of the churches was examined in chapter five. It is clear that a dramatic change occurred in the Church of England during the period in question, which was partly a function of the liberalization of the establishment in general, but which was especially egregious

here because of the rise to the elite of a new generation of bishops of a markedly more liberal bent than their predecessors. The accession to the see of Canterbury of Ramsey was very indicative of this change, which is hard to account for in objective terms. There was a similar, but less marked, tendency towards liberalization in most of the other Christian churches at this time, which produced hierarchies generally favourable towards abolition. This was certainly so in the case of the Methodist and Baptist churches, and most of the other nonconformist churches, though less so in the case of the Roman Catholic Church where the balance of opinion still came down on the side of retention. Here again, though, the change in the views of the church hierarchies may have been indicative of a change in the general temper of the times. The churches no longer wielded the authority, moral or political, that they once had, and though a block of Anglican bishops still sat in the House of Lords, they were too small a minority to be numerically important. It is notable also that the churches may not have liberalized to the same extent in regard to their attitude towards other conscience issues of the era. The nonconformist churches, for example, were sometimes hostile to homosexual law reform, and the Roman Catholic Church was likewise wholly antipathetic to the relaxation of the abortion and divorce laws.

Turning to the media and its treatment of the issue it was shown in chapters six and seven that the issue was quite extensively dealt with across the media, but especially in the print media. There was, naturally, extensive newspaper and magazine coverage of the campaign and the

Parliamentary debates, and no lack of editorializing on the subject. It was demonstrated that the views of the press tended to follow the views of the party that they normally supported, with the Labour and/or Liberal supporting papers favouring abolition, usually very strongly, and the Conservative newspapers tending to be retentionist, or only very qualifiedly abolitionist. Thus, although the press tended to shadow the political parties, they did not altogether reflect the balance, or configuration, of opinion in the country at large where there was usually a large majority for retention, amongst Labour supporters as well as Conservatives. But this, it was argued, was of little account given the lack of influence of the press on the views of the general public. Some newspapers, particularly *The News of the World* launched a strident campaign to restore the rope in the immediate post-abolition period, when it seemed to some that there was a sudden increase in violent crime, but the campaign petered out in the face of the obvious lack of success of the Parliamentary campaign with which it was linked. Thus, even very popular and populist papers did not seem able to affect Parliamentary activity.

There was a plethora of books at that time, chiefly propaganda efforts by leading abolitionists and members of the NCACP, and in addition there were a number of works highlighting alleged injustices and miscarriages, which were often connected with and may have been intended to supplement the abolitionist campaign by fostering in the public mind the notion that many innocent people had been hanged. These were quite influential in bringing to public attention the

miscarriages themselves, and may have led eventually to a rectification of the miscarriage, and almost certainly did so in the cases of Timothy Evans and Derek Bentley. But they were of limited value in assisting the campaign, since they tended to preach to the converted.

Turning to the live media of radio, television, film and theatre, treatment of the issue was less extensive compared to the print media, but more *intensive*, and arguably of greater impact upon the public consciousness, though even here it is unclear to what extent if at all they brought about any real attitude change. Radio and television naturally gave extensive coverage to the campaign in its news and current affairs programmes, from the middle 1950s through to the late 1960s, and the BBC, as we have seen, produced probably just about the only television documentary devoted to the topic, *The Death Penalty*, in 1961. Television probably had greater impact than radio, and by the 1960s was the more pervasive of the two, though radio was still many people's chief source of news. The statutory requirements of impartiality on all matters of political controversy inevitably inhibited the full expression of views on the question, as did the reluctance of the Home Office to co-operate with the BBC on the production of radio programmes in the 1950s. Moreover, the topic may have been deemed a bit awkward to deal with given the need for balance on the one hand and the fact that it was a non-party issue on the other. As with other media it is hard to assess the impact that this coverage had on the public mind, but it is very likely that it was merely to reinforce existing opinion rather than to change it. The BBC habitually analysed viewer feedback and the

indications from the feedback from *The Death Penalty* substantiates the notion that few if any viewers had their attitudes changed.

Film and theatre were different cases again. Unlike radio and television there was little or nothing in the way of news as such but the question was dealt with fictionally from time to time. The topic was sporadically treated in several crime dramas and thrillers of the period, usually in such a way as to suggest the possibility of a wrongful conviction and the hanging of an innocent man (or woman), but this was chiefly a hackneyed plot device rather than a political statement and the intentions of the filmmakers were artistic rather than polemical. Again there is little or no evidence to suggest that this may have significantly affected public opinion. Theatrical portrayals were in addition, hampered by the censorship that still existed (though that also was to go in a few years) and *Hang Down your Head and Die*, the most ambitious stage production featuring hanging, was severely cramped in this way. The overall impression gained from an analysis of the various media depictions of the topic is that the subject was rarely dealt with directly and expressly and that it rarely had any effect on public opinion.

It was abundantly clear, that abolition, unlike most of the other reforms of the era, was never going to gain full public acceptance, especially in the light of the rise in the murder rate and the levels of violent crime that occurred during the 1960s and beyond, and which, validly or otherwise, were attributed to the effects of abolition. There was increasing and incessant clamour for the restoration of the rope (and for other measures of toughening the penal system) from the mid-

1960s onwards – in fact almost from the moment when the Act had reached the statute book. This led to the formation of a variety of restorationist campaigns, mirroring the abolition campaign, as was shown in chapter eight. These bodies were often slightly eccentric and had little backing from the establishment or much success. They were often pre-occupied with a range of right-wing causes, centring on the maintenance of law and order and the preservation of traditional moral values, out of which the desire for restoration often emerged. They, like their abolitionist counterparts, were sometimes linked with Parliamentary campaigns. In particular the chief restoration campaign was closely co-ordinated with Duncan Sandys' attempt to bring in a restoration bill in November 1966, and was fuelled by the fatal shootings of three police officers that August. But whereas the abolition campaigns had been crowned with success, but were probably largely superfluous in the sense that the legislation would have been passed anyway without any extra-Parliamentary activity, the restoration campaigns cut no ice at all in the House of Commons or with the Labour home secretaries, Jenkins and Callaghan, though they enjoyed massive support in the country.

Though the restoration campaign failed the Abolition Act nonetheless had to be renewed by July 1970, as a result of a clause inserted by Brooke at Committee stage, and this caused the controversy to flare anew in 1969, and gave new hope to the pro-hangers that they could defeat the Bill the second time around. Chapter nine examined the background to the renewal controversy, and showed that the

government was anxious to get the matter out of the way well before the next general election was due because they feared that it might become an election issue and might damage them in the eyes of the electorate given that they were, rightly, perceived as 'the abolition party'. The Conservative Opposition was critical of the government for rushing the vote before it was necessary and before the full crime figures were available, though they did not, as a party, oppose the legislation. This was, however, widely regarded as a partisan tactic designed to embarrass the government. In all probability they too, certainly the front bench, were happy for the issue to be settled well before the next election given that they were so heavily split on the question, and would not have wanted these divisions to be apparent to the electorate.

If ever there has been an issue that has divided people and Parliament it was capital punishment, and the fact of the failure to re-introduce capital punishment is better testimony than anything possibly could be that where such a conflict occurs it will be Parliament that will ultimately get its way, especially in the absence of any obvious vehicle for public dissent.

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