

THE FIFTH COLUMN

By Martin Hattersley

Murder Less Foul

Homicide - what should the penalty be?

When we think of murder, our mind springs automatically to horrible mass criminals such as Clifford Olson, or Paul Bernardo. For persons such as this, even twenty five years in jail without chance of parole seems hardly enough. So we have the public outcry to abolish any 'faint hope' that any murderer could be given the chance of release ahead of his politically mandated time. The extra half million dollars of cost, and the wasted years of the lifetime both of offender and guards, are as nothing in the pursuit of this noble quest.

A look around the inhabitants of the average federal jail, however, gives a rather different picture of your typical murderer. Natives who drew their knives in a drunken set-to. Lovers, who lost control when jilted by their wives or girl friends. Hit men in the drug trade. Smart-alec teenagers showing the world their toughness, perhaps to get admitted into a gang. Depressed losers in life, seeking revenge on society, re-enacting the abuse they suffered as children. It's quite a list.

But there's another class that's been prominent in recent days. Those who take the law into their own hands, to further what in their eyes is some noble cause. Robert Latimer in Saskatchewan, who puts his young daughter out of her misery with carbon monoxide. Dr. Nancy Morrison in Nova Scotia, alleged to have accelerated the death of a terminally ill patient. Timothy McVeigh fighting the domination of the U.S. government by blowing up a government building in Oklahoma. Jack Kevorkian in the States, wholesale merchant of suicide. And perhaps we should also include that arch-proponent of abortion, Dr. Henry Morgenthaler.

"Hard cases make bad law" - and perhaps the hardest of these cases is that of Robert Latimer, now convicted and bound to be sentenced to ten years in jail for second degree murder. Nancy Morrison has been spared that, since the charge laid by the Crown was only one of manslaughter, where the penalty is not fixed - much to the chagrin of the local police. In each of those cases, however, because the killing was deliberate, the charge could well have been of murder in the first degree.

The difficulty of the situation is that in all these cases, whether it is the killing of the unborn, the disabled, the depressed, the oppressor, or the terminally sick, convenience really does lie with the killer. When we value people on the basis of their value to us, we'll find that there are some people worth far more to us dead than alive. Unwanted babies can be an awful drag. So are disabled children. So are old folks, drawing pensions and eating up health care costs, when they might better be passing their wealth on to the younger generation that wants it and is itching to spend it. Pragmatism would say they were all best out of the way.

What's the answer? Destroy the defective, or the unwanted, and we run the risk of destroying a Beethoven or a Helen Keller. So often, the struggle to overcome a handicap is what brings out greatness in a person as nothing else can. Destroy the depressed, and we lose the chance of a change of heart when the depression is over. Destroy the agents of a hated government, and we can and will end up with the spate of crime and anarchy we see today in Somalia, and even in Russia. Destroy the aged, and we put our own futures in jeopardy.

Yet the categories of murder, and the fixed minimum sentences that are prescribed for them, seem very

unsuited to the kind of problems that we see here. The public, so full of condemnation for the general case, can be very soft hearted in the particular, understanding all and forgiving all.

In all these circumstances, it is perhaps only "on the ground" that a solution can be worked out. Gandhi deliberately defied the law, and paid the full penalty for so doing. That was the thin edge of a wedge that in the end ended British rule in India. It is when a Donald Marshall serves time for a crime he is later proved not to have done, or a Latimer is caught in a mandatory sentence for a crime that may have been motivated by compassion, that our public has a chance to see the other side of its current punitive mood when it comes to the subject of corrections.

It's not easy. No system is perfect.

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