

## (IV) THE SENTENCE



At the conclusion of the speeches the Judge inquired if the defendants had anything to say. George Loveless immediately passed to him a paper on which he had written the following words:—

“My Lord, if we have violated any law, it was not done intentionally; we have injured no man’s reputation, character, person, or property: we were uniting together to preserve ourselves, our wives and our children, from utter degradation and starvation. We challenge any man,

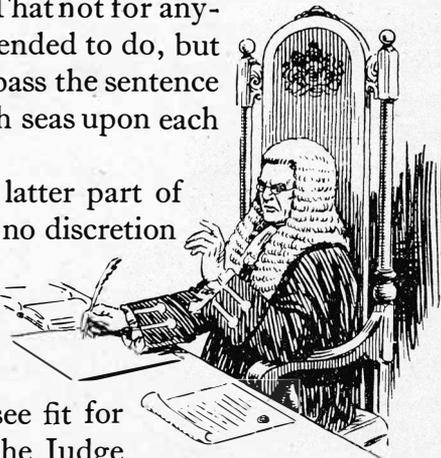
or number of men, to prove that we have acted, or intended to act, different from the above statement.”

The Judge turned to Loveless and asked him whether he wished this to be read in Court. Upon receiving an affirmative reply, he mumbled it over to some of the Jury in such an inaudible manner that Loveless himself could not understand it. The Jury, after a short absence, found all the men guilty. The Judge deferred sentence for two days. On Wednesday, March 19, the six men were again brought to the bar and were sentenced to seven years’ transportation. The Judge made it clear that he was not punishing the men for their own act, but mainly as an example to others. His real motive was to suppress the growth of Trade Unionism.

In passing sentence, he said: “The object of all legal punishment is not altogether with a view of operating on the offenders themselves, it is also for the sake of offering an example and warning, and accordingly, the offence of which you have been convicted, after evidence that was perfectly satisfactory, the crime, to a conviction of which that evidence has led, is of that description that the security of the country and the maintenance of the laws on the upholding of which the welfare of this country depends, make it necessary for me to pass on you the sentence required by those laws.”

Was it any wonder that George Loveless remarked that when they were placed at the bar to receive sentence, the Judge told them: “That not for anything that we had done, or, as he could prove, we intended to do, but for an example to others, he considered it his duty to pass the sentence of seven years’ transportation across his Majesty’s high seas upon each and every one of us.”

It is necessary to comment on one point in the latter part of the Judge’s statement. He said: “I feel that I have no discretion in the matter, but that I am bound to pronounce on you the sentence which the Act of Parliament has imposed, and I therefore adjudge that you and each of you be transported to such places beyond the seas that his Majesty’s Council in their discretion shall see fit for the term of seven years.” It will be observed that the Judge



The verdict and sentence

Strange attitude of judge

imposed the maximum penalty provided by the Act. He stated that he had no discretion. Yet under the Act he had an absolute discretion and could have sentenced the prisoners to as little as two months in prison!

Judge gives the maximum punishment

Such was the travesty of a trial to which the Tolpuddle labourers were subjected. It is as foul a blot upon the record of the British judiciary as could be found anywhere. Sir Stafford Cripps, in a survey of the trial which is printed in a later section of this volume, alludes to Baron Williams as a "violent advocate for the Prosecution."

Monday 17<sup>th</sup> March Courbin<sup>d</sup>

- To be hanged Repi? \* <sup>to. re. Guilty</sup> Frederick Gould
  - To be hanged Repi? \* <sup>to. re. Guilty</sup> Elias Gould
  - To be hanged. Repi? \* <sup>to. re. Guilty</sup> James Drewett
  - \* Trans. 7 yrs. <sup>Confes.</sup> Eliza Squires
  - \* Conv. to. be 12 m. <sup>to. re. Guilty</sup> Maria Stoud
  - \* Transp. 7 years <sup>to. re. Guilty</sup> George Loveless
  - \* Transp. 7 years <sup>to. re. Guilty</sup> James Loveless
  - \* Transp. 7 years <sup>to. re. Guilty</sup> James Brine
  - \* Transp. 7 years <sup>to. re. Guilty</sup> James Hammett
  - \* Transp. 7 years <sup>to. re. Guilty</sup> Thomas Stanfield
  - \* Transp. 7 years <sup>to. re. Guilty</sup> John Stanfield
- } Nearly Wounded John French post Deben  
 } on 1<sup>st</sup> Aug. 1833 with intent to  
 } kill & murder him - (364)  
  
 } Steals on 15. Jan. 1834. at Dorchester  
 } 16 lbs Cotton & 29. 6 1/2 yards Silk & L.  
 } of Thomas Barwick  
  
 } Steals seeing 9 yards of silk parcel  
 } of good!  
  
 } For diminishing an unclamped toll  
 } to Edward Legg, on 24. Feb. 1834 post  
 } to Girdle.  
  
 } (12. 604)

Adjourned to Tuesday 18<sup>th</sup> at 9. A.M. } Tuesday 18<sup>th</sup> March

FACSIMILE OF ASSIZE REGISTER, DORCHESTER ASSIZES, MARCH, 1834

For those of us who are not lawyers it is, perhaps, difficult to appreciate some of the finer points of legal procedure involved in the Judge's conduct. To an ordinary layman it appears that Baron Williams disregarded one of the fundamental principles of criminal law. The Judge is supposed to hold the balance fairly between the legislature and the person accused. This attitude of the judiciary has been the proud boast of writers on the English constitution for generations.

The conduct of the Judge

Duty of the  
Judge

A statute or law is the will of Parliament, and it naturally follows that a fundamental rule of interpretation is that a statute should be expounded according to the plain and obvious intention of those who made it. One of the greatest legal authorities of all time,



*National Portrait Gallery*  
DANIEL O'CONNELL, M.P.

Lord Chief Justice Coke, laid it down that it was the function of the judge to consider (1) what the law was before the Act was passed, (2) what it was that the law sought to remedy, (3) what remedy Parliament had provided, and (4) the reason for the remedy. It is clear from this that the duty of Judge Williams was to put himself into the position of Parliament and to try to understand what its purpose was in passing the Acts which were used in the trial. What did he actually do?

In those days, Acts of Parliament were in two parts, (1) the preamble or introduction, which stated why the Act had been passed and what was the intention of Parliament; (2) the enacting part, laying down what the law actually was to be. Judge Williams refused to consider the preamble to the Acts. Had he done so it would have been impossible to have secured a conviction. He brushed on one side the objections of defending counsel and applied himself entirely to the enacting part of the Acts. Even supposing he was technically right, he was morally wrong. He wanted to make sure that the men should not escape.

Nor was this the only evidence of the Judge's unfairness. Here is a letter from Mr. B. Ewett, an attorney who was in court during the trial. It is written to Daniel O'Connell, M.P.:—

21 Essex Street, London.

*April 21, 1834.*

SIR,

Having been informed that you have given notice of a Motion in the House of Commons on the subject of the sentence passed on the Dorchester agricultural labourers, I take the liberty of mentioning to you some circumstances connected with their case. I was present during the whole trial except the summing up of the judge.

The case was entirely supported by the evidence of accomplices. This evidence was given in a very loose and indistinct manner, and varied very materially from the depositions of the same

A lawyer's  
view of the  
trial

witnesses taken before the committing Magistrates. On the principal point, the taking of an oath, these witnesses stated that they could not recollect what was said. The Counsel for the prosecution in vain endeavoured to elicit such answers as would have supported the indictment; and such answers as were at last drawn from them, with great difficulty, were suggested to them in the form of leading questions, by the Judge reading from the depositions. After all this, they did not say that an oath, or anything like an oath, was taken; but that there was a book on the table, which looked something like a Bible or Testament; that something was read which sounded like the Scriptures; that something was said about wages, and keeping secrets; and that they were blindfolded, and told to kiss the book.

An eye witness's opinion of the trial

A paper was admitted in evidence, and read, which purported to appertain to a friendly agricultural society. This paper had been found in the workbox of the wife of one of the prisoners, which box opened by a key found in the prisoner's pocket. This paper contained a series of rules and regulations, but no oath, nor anything that I am aware of of an illegal character. But it was not proved, that this paper was ever read at the meeting, or ever produced at the meeting. The witnesses expressly swore, that they did not know the meaning of what was read. And for anything that appeared, this paper might have contained the rules of another society. One of the rules of this paper (I think the last), which becomes important when viewed in conjunction with the defence of the prisoners, was, that this society "will not countenance any violation of the laws."

Nothing can be more false than the statements which have appeared in the Government newspapers of the condition in life, and education of the prisoners, to the effect, that they were religious teachers or preachers. They were all of the poorest set of agricultural labourers. Their appearance and demeanour at the trial entirely supported their defence, which was, that they did not know that they were doing anything against the laws, that they united to support themselves and their wives and families, and to maintain them when out of work. I think all, but certainly most of them, received good characters as hardworking industrious men. If anything of importance occur to me before you make the Motion in the House of Commons, either respecting any additional facts, or any incorrectness in those which I have mentioned, I will trouble you with another communication. I will now only add my deliberate opinion; one in which I have reason to believe a vast majority of persons of all ranks and classes will, upon a knowledge of the facts, agree, that, supposing the conviction to be legal, the extreme punishment awarded in this case, was a most indiscreet and cruel application of the law.

The sentence staggered those who heard it, but the fortitude of Loveless and his brave comrades in their adversity endowed them with a dignified composure which must have brought shame to the hearts of their oppressors. One man, at least, was wrongly identified. James Hammett was not present at the meeting on December 9, 1833. George Loveless twice affirms this. James Hammett had been mistaken for his brother John. But James Hammett never quailed. He endured his sentence without faltering.

Fortitude of the victims

Some writers have categorically stated that James Hammett was not a member of the Union. This is not correct. He certainly was a member, and in the list of names of the members found in the box at George Loveless' house on February 26, 1834, there is a record of the payment of the entrance fee of one shilling to the Union by James Hammett on November 16, 1833.

Almost as soon as the sentence was passed George Loveless seized pencil and paper and wrote down the following lines:—

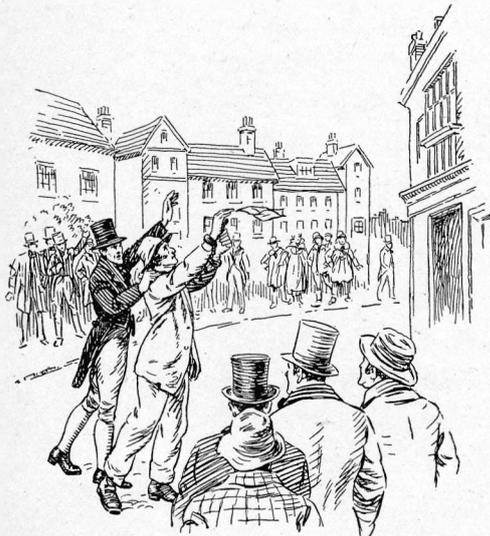
“God is our Guide! From field, from wave,  
From plough, from anvil and from loom,  
We come, our country’s rights to save,  
And speak the tyrant faction’s doom;  
We raise the watchword ‘Liberty’  
We will, we will, we will be free!

God is our Guide! No swords we draw,  
We kindle not war’s battle fires,  
By reason, union, justice, law,  
We claim the birthright of our sires;  
We raise the watchword ‘Liberty’  
We will, we will, we will be free!”

It has been assumed that he was the composer of these verses, but he nowhere claims this, and there is evidence that they had been used at gatherings for some years previously, in the Midlands.

Nevertheless, the words were a revelation of the living faith within him. The conviction that right was on their side fortified them all against whatever new hardships awaited them. They were hurried from the court room, with hands locked together, under a strong guard, back to prison. As they passed down the High Street, George Loveless tossed the paper containing the verses he had written to some spectators who stood idly by. It was seized by the guards and carried back to the Judge, but was eventually restored to Loveless.

One further trial awaited George Loveless. On Wednesday, April 2, Mr. C. B. Wollaston, the magistrate, called to see him, as he had fallen ill. Wollaston admonished him for having listened to idle fellows who were going about the country and who had deceived the labourers. This was his description of the Trade Union delegates who had given advice as to the formation of the Union. Loveless affirmed that he knew no such persons, but Wollaston replied: “Yes, you do, for you hearkened to them rather than pay attention to the Magistrates’ Caution, for I am certain you saw them, one of them being found on your person when you went to prison.” Loveless retorted that not only had he taken notice of the Caution, but had actually put it in his pocket to read. Loveless asked of what use the Caution was to them, as it *did not appear until February 22,*



The faith  
that endures

and the meeting with regard to which they were convicted took place on December 9, some nine weeks previously. "And yet you say I paid no attention to the Magistrates, but listened to idle fellows going about the country; within three days after the Caution appeared I was in the body of the gaol." "Ah," replied Wollaston, "it is of no use talking to you." "No, sir," rejoined Loveless, "unless you talk more reasonably."

A foolish  
magistrate

How are we to explain the proceedings of this travesty of a trial? It staggers us to-day, no less by the severity of the sentence, than by the bias shown against the prisoners. We must try to think of conditions as they were at the time.

Firstly, there was the general savagery of the law towards those who were guilty of criminal offences. There were over 160 offences in the criminal code for which the death penalty could be imposed a hundred years ago. These offences, in the words of Lord Birkenhead, varied from murder to stealing a "spoon, a handkerchief, any trifling object." There was great hostility towards the Trade Unions, coupled with a genuine fear of revolution. Even to-day, Trade Unionists feel that their movement is looked upon with hostility by the Judges. How much stronger was this hostility a hundred years ago! This was a period of bitter class hatred founded upon fear, terrible oppression and arbitrary judgments.



KING WILLIAM IV

Right from the beginning the six labourers had no chance of being justly tried. The Home Secretary was against them. He was out to destroy their Trade Union. The entire Government were against their Union. This is clearly revealed by the statements in the House of Commons, to which I shall refer later. The Magistrates were against them. So were the Judge and the Grand Jury. The King was against them. William IV wrote to Lord Melbourne a fortnight after the men were tried, lamenting the activities of the Unions and urging that the law should be amended and strengthened against them. Here is his letter:—

Antagonism of  
the King

Windsor Castle,

March 30, 1834.

The King has received Lord Melbourne's letter of yesterday and its enclosures, and has given his serious attention to the communications made by Lord Lyttelton upon the state of the

Trade Unions in Birmingham. The subject had always appeared to His Majesty one of the deepest importance to the peace and prosperity of the country and to the interests of society, and he laments the increase of an evil which may possibly terminate in the decay and the natural death of the existing causes, but which in the meantime, and in its mischievous progress, may expose, in the opinion of the Secretary of State for the Home Department, the country to much contest, inconvenience, and loss; to menace, much alarm, and possibly to actual commotion. Surely if such be the anticipations of the Minister best situated, and therefore best qualified, to form an opinion on the subject; and if it be admitted that no remedy can be applied, that the fire cannot be extinguished, but that it must burn until it burns out, and has damaged and destroyed that which it can reach, there must be something in the law of the country which is inadequate and defective, which requires to be amended in order to secure property, to check menace, and to secure the country from the visitation of actual commotion. The various trades may differ in their situations, their objects, views, motives and modes of action; and therefore may not unite in one body for the purpose of any general and simultaneous movement—and God forbid they should!—but still it is admitted that there is sufficient of purpose and union to produce actual commotion and to inflict serious evil upon the commerce and prosperity of the country. The men concerned avow their intention of appealing to brute force; they defy the law, and they intimidate the parties into compliance with their demands because the law does not afford protection to those who are so assailed. A contractor, for instance, may obtain an extension of time, but the delay and interruption of his arrangements must entail serious loss upon him, and unless supported he must end by yielding.

Upon the whole, the King cannot lose sight of the importance of endeavouring to impose some check to the progress of this evil, and to adopt some preventive measures, instead of trusting to its decay after the edifice shall have been injured; and he is anxious that the question should be brought under the consideration of his Government at the approaching meeting of Cabinet.

Melbourne replied deploring that the Trade Union evil was of very ancient origin. He sympathised with his Monarch in the resentment he felt at the inability of the law to crush the Unions. He assured his Majesty that the Government would handle the subject with the “firmness and determination which was required by its dangerous and formidable character.” The firmness and determination consisted of dragging six humble labourers from the quietude of their peaceful village, and crushing them under the chariot of the Law as a warning and a deterrent to their fellows.

