

# The End of the Rope



By John Forsyth,  
Legal Journalist

Legal journalist John Forsyth reflects on the 50th anniversary of the abolition of capital punishment.

It seemed a very BBC Radio 4 thing to do last year to commission a programme in the Archive on 4 slot to mark the 50th anniversary of the effective abolition of capital punishment in Scotland, England and Wales.

And I was pleased to do it. *The End of the Rope*, presented by Sir John Tusa, was broadcast on November 11th 2015.

It was an interesting experience to become my own archive source. I was able to include some of the interviews I had done for my 1996 BBC Radio Scotland programme on the trial and events surrounding the sad story of Henry John Burnett. He was the last man to be hanged in Scotland on 15th August 1963. ( You can hear it at [tinyurl.com/hya3eyn](http://tinyurl.com/hya3eyn) )

The last executions in England and Wales were Gwynne Owen Evans and Peter Anthony Allen on August 13th 1964. Accomplices in the same robbery in which the victim died, Evans and Allen were hanged simultaneously but separately at 8am - Evans at Manchester Strangeways and Allen at Liverpool Walton.

I have always been struck by the manifest fallibility of the public memory on important issues and events in even relatively recent social history. Radio has a particular capacity for recalling not only the headline events but their sounds, not only the clipped tones of the big beasts who roamed the political landscape at the time but also the voices of the bit part players whose personal experience can make the listener sit up and, with luck, think again.

*The End of the Rope* gave voice again to 'victims' families, survivors of the 1970s and 80s IRA bombing campaigns as well as the Birmingham 6 and Guildford 4 who were wrongly convicted and

would undoubtedly have been hanged long before their innocence was established.

I'm careful to stress that capital punishment was only *effectively* ended on November 9th 1965. It was the culmination of three decades of relentless campaigning within parliament by the Labour MP for Nelson & Colne, former solicitor, Sydney Silverman, who had seen two previous attempts passed by the House of Commons but thrown out in the Lords.

**The last executions in England and Wales were Gwynne Owen Evans and Peter Anthony Allen on August 13th 1964. Accomplices in the same robbery in which the victim died, Evans and Allen were hanged simultaneously but separately at 8am - Evans at Manchester Strangeways and Allen at Liverpool Walton.**

The deadlock was broken by a deal in 1965 that inserted an innovative 'sunset clause' into Silverman's Murder (Abolition of the Death Penalty) Bill. Capital Punishment would therefore only be only suspended until confirmed by a positive vote of both houses of parliament in 5 years' time.

In the event, with the agreement of the three major party leaders of the time, Jim Callaghan, Edward Heath and Jeremy Thorpe, the vote to finally dispatch capital punishment was brought forward a year to December 1969. The party leaders agreed they did not want capital punishment to become an issue in the looming 1970 general election.

The case for abolition had focused on the manifest miscarriages of justice such as Timothy Evans, wrongly executed for the 1950 murder of his baby daughter at the infamous 10 Rillington Place in London as well as the generalised feeling of unease over the hanging of Ruth Evans and Derek Bentley.

Driving the case for retention during that period of 'suspension' between 1965 and 69 was the public revulsion at the Moors Murders committed by Myra Hyndley and Ian Brady. They carried out their child killings before November 1965 but did not go on trial until after.

**The difference is that the women's movement, gay rights movement and racial equality movements respectively took positive and active ownership of their issues not only within their own constituency but they continuously and continually argued the benefits to society of moving forward rather than harking back.**

Patrick Downey, an uncle of one of the murdered girls, Lesley Anne Downey, stood as a capital punishment candidate against Sydney Silverman in the 1966 general election and, in those two party days, won an extraordinary 13.7% of the vote.

There was public outrage too at the Shepherds Bush murders in August 1966 in which three police officers were shot dead as they approached a van parked near Wormwood Scrubs prison in west London. Harry Roberts and John Duddy fired the weapons. John Witney was their driver. All three were convicted and received the new 'mandatory life sentence'.

Sydney Silverman did not live to see his 30 years campaign finally secure its objective. He died in February 1968.

Of all the handbrake turns in law that took social policy off in a radical new direction during the Labour administrations from 1964 - 70 the abolition of capital punishment stands out as least settled even now in the public mind. There are outposts of opposition to the legalisation of abortion or of homosexuality or the criminalisation of racial discrimination. But the minorities who would advocate actual repeal of those laws are few and isolated like the Japanese soldiers in remote Pacific Islands in the 1940s and 50s who refused to believe the war was over.

Public opinion is not reconciled to the same degree to the removal of the ultimate penalty.

While I was mulling over this phenomenon as I walked from Shepherds Bush underground station to the *The End of the Rope* production office on October 21st last year the front page of the Daily Mirror leapt out at me from a newsstand. The headline was OUTRAGE and the entire front page given over to a photograph of "triple cop killer Harry Roberts" who had just passed his driving test at the age of 79. Roberts was one of the Shepherds

**However, if the question is more specific asking, for example, if hanging should be restored for killers of police officers or children then the majority remains substantial. And for anyone who presumes attitudes are generally more liberal in Scotland the pro-hanging majorities are marginally higher north of the border.**

Bush murderers whose driving test had been delayed by his 48 years in gaol.

It was striking that Mirror editors believed there were newspaper sales in anger at someone who had "escaped" the gallows. Editorially they may not be far wrong.

In *The End of the Rope* Rachel Ormston, co-director of attitudes at the NatCen public opinion organisation, explained that a general question about whether capital punishment should be restored reveals these days a close to 50:50 split. It has been drifting gradually down from a substantial pro-restoration majority over the decades.

However, if the question is more specific asking, for example, if hanging should be restored for killers of police officers or children then the majority remains substantial. And for anyone who presumes attitudes are generally more liberal in Scotland the pro-hanging majorities are marginally higher north of the border.

Why should this be? My personal feeling is that the debates on all the 1960s liberalisations were largely conducted within the political and intellectual elites of the time without much popular engagement. The difference is that the women's movement, gay rights movement and racial equality movements respectively took positive and active ownership of their issues not only within their own constituency but they continuously and continually argued the benefits to society of moving forward rather than harking back. You could see evidence of it in the news, in the arts, on tv and in every town and city and in every age group.

There was no such popular ownership of the benefits of abolition so it has drifted ever since. The nearest equivalent of a 'constituency' has been within the restoration camp. Police or parents or family members can be guaranteed journalist attention for their views but there has been no need for anyone to argue the positive benefits of abolition since it became the status quo in 1969.

It is close to inconceivable that capital punishment could be reintroduced anywhere in the United Kingdom. First, the Human Rights Act 1998 incorporated the European Convention on Human Rights into law across the UK. The specific clause outlawing for ever capital punishment for murder except "in times of war or imminent threat of war" had a comfortable majority when it was debated at Westminster. Four years later in 2002, the Blair government ratified Protocol 13 to the International Covenant on Civil and Political Rights. This totally abolished capital punishment in Britain, including during times of war.

While we yet await the result of a referendum on UK membership of the EU and rumblings continue at Westminster about replacing the ECHR with a British Bill of Rights, it would take the political equivalent of angels dancing on the point of a needle to conjure up the combination of circumstances that would bring back the death penalty.

And yet....