

*Sir Ludovic Kennedy sadly passed away on the 18<sup>th</sup> October 2009 at the age of 89. Throughout his life one of his enduring campaigns was to unearth the truths of corruption, dishonesty and incompetence behind some of the most notorious wrongful convictions in British legal history.*

*In his memory, we think it appropriate to publish his speech at the conference that launched the Innocence Network UK (INUK) and at which he accepted the invitation to become INUK's Founding Patron.*

*INUK is committed to strive to live up to the values of truth and justice that Sir Ludovic Kennedy embodied.*

### **Sir Ludovic Kennedy, Innocence Projects Colloquium, University of Bristol, 3 September 2004**

For most of my life I've been ploughing rather a lonely furrow, calling attention to various miscarriages of justice as they occurred, at a time when it was thought a rather peculiar thing to want to do.

Now, I started more than fifty years ago, with 10 Rillington Place, the case of poor Timothy Evans, who you may remember was hanged for a murder committed by John Reginald Halliday Christie, his fellow lodger. It's an odd thing this but I'm still in touch with his two sisters and, believe it or not, we're approaching the end of 2004, 2005 and they are still waiting for final compensation for what he suffered. I hope to God they can do it before Christmas.

Then there were a succession of other cases, which I've listed in this book called *36 Murders and 2 Immoral Earnings*. The immoral earnings being poor Stephen Ward, who you may remember was found guilty of living on the immoral earnings of Christine Keeler and Mandy Rice-Davies. Then we went on from there to the Birmingham Six. I think Paddy's [Hill] gone now but I was very grateful to him for reliving the rage and frustration that he suffered during those sixteen wrong years in prison – and it was an appalling case. I've gone on with various other cases, which I've listed in that book. I was going to say ending with the case of Susan May, but nothing in this life ends. Miscarriages of justice go on forever, though that was the last one that I've had anything to do with at all.

I must say how grateful I am to you, Mike Naughton, for bringing me here; not exactly pushing me here but making it possible for me to come and enjoy the company of all of you. To join a gathering such as this, who now – and it is with great pleasure and joy that I say this – have come to believe what for years and years I have believed, it just shows that the movement is underway, growing in strength and importance every day. Long may it do so!

There are no delegates here from France, Spain, Italy or Germany. That's not because they don't have miscarriages of justice, but as the Sinatra song says: 'Too few to mention.' What unites all of us here, whether we're from the United Kingdom, the United States, Canada or Australia, is a system of justice which, in my view, is the root cause of most miscarriages of justice. Canada, I notice – I don't think there is anybody here from Canada - they've for a long time let miscarriages go by without challenging them. I think AIDWYC started finally two or three years ago, when they said they couldn't stand it any longer. There had been so many miscarriages of justice that they felt they must protest. They made a number of suggestions, which I understand the Federal Minister of Justice has accepted. So, that is the position there.

Now, I'm referring of course to the adversarial system of justice and this is what I wrote about it in my last book:

'It is a system in which the accused, in one way the most important person in court in that he or she has more to gain or lose than anyone else, is somehow seen to be the least important, the more so when not called to testify, an object rather than a subject; in which the Prosecution often fail to supply to the Defence, as they are obliged to, evidence that might be helpful to them; in which a spurious sense of drama is created which encourages Counsel to strike postures and attitudes and even indulge in sarcasm; in which Counsel see it as one of their tasks to destroy the credibility of the other side's witnesses, whether on an issue germane to the case or not; in which some questions which could provide a short cut to the truth are not allowed to be asked and others which are asked are not allowed to be answered; in which the evidence of witnesses is shaped by what the Prosecution and the Defence want them to say, or what they think Prosecution and Defence want them to say; in which other witnesses whose evidence might help to shape the Jury's verdict are not called, for fear of saying the wrong thing; in which police evidence, given or suppressed, can and does lead to the conviction of the innocent and in which the skills of Counsel can, and in many cases have, resulted in the freeing of the guilty.'

I'm thinking there of Norman Birkett in the famous Brighton trunk murder case and my friend Nicky Fairburn, who was at one time the best criminal defence lawyer in Scotland, telling me how in three cases, knowing his client was guilty, he managed by his forensic skills in getting them off.

So, that is the adversary system. Here is what many distinguished lawyers have said about it, in a list compiled in the Australian newspaper by a lawyer called Evan Whitton, here are just one or two of their comments:

Queensland Court of Appeal, Justice Geoffrey Davies: 'The adversary system operates unfairly in that, both in specific cases and by its general operation, it causes injustice to those that are affected by it.'

Nicholas Cowdery, New South Wales Director of Public Prosecutions: 'The adversary system leads not directly to the ascertainment of truth, despite our pretences to the

contrary. In our system, a lawyer with a client works hard to avoid justice being done or, even worse, the truth being discovered.'

There are another several quotes there; I won't give them all. Geoffrey Robertson, the Australian-born, British QC and author of *The Justice Game* asks: 'Is it a game? Yes. Should it be? No.' And so on, and so forth.

One of the worst things about the adversary system – in fact, I think it's the very worst system – is the fact that the police can lie and lie and lie and the judges go on believing them. Going back to the Birmingham Six, here is what Mr Justice Bridge - who has since been made Lord Bridge of Harwich, though God knows why – said in his summing up:

'If the defendants were telling the truth, I would have to suppose that a team of fifteen officers conspired amongst themselves to use violence on the prisoners and fabricate evidence.' Now listen to this: 'All the officers who gave their evidence on the circumstances in which the statements were taken impressed me as straightforward and honest witnesses.'

Well, that's Lord Bridge of Harwich for you.

Despite the eloquence of Doctor Schehr this morning, I fear that I don't hold very much hope for having a change of heart in America. There is a book, which was published a few years ago in America called *In Spite of Innocence*, by two professors called Bedau and Radelet. They said that between 1900 and 1990 they'd found more than 400 cases where justice had miscarried, more than 20 of which had been capital cases where the accused were convicted and then electrocuted or shot, or whatever happened to them...I can think of only one case in recent American history – and when I say recent history, I mean probably the last fifty to a hundred years – where two names have been cleared of the murder that they committed. That was the famous case of Sacco and Vanzetti, when Governor Dukakis of Massachusetts made it clear that he didn't think they were guilty and shouldn't have been convicted.

Now, I wrote a book about one of the most famous miscarriages in America, which was the trial and execution of Richard Hauptman for kidnapping and murdering the Lindbergh baby. I came across it quite by chance when I was looking at a breakfast program – I was in New York doing something I can't remember for the BBC – and I suddenly saw, I think it was called the Today Program, there was an interviewer called Broccal [*note, this name may be incorrect as taken from a tape recording*]. I'm not sure of his first name, but he was one of the best-known NBC interviewers. He was interviewing a woman, whose husband had allegedly killed and murdered a baby, but it wasn't clear what this was until later on. This was Mrs Haupman, the widow of Richard Haupman, whom I got to know very well.

I knew she was telling the truth - you know you can tell with people after a bit, you can tell whether they are dissimulating or telling the truth - I knew she was telling the truth, wonderful woman! What she lived through was not worse than what Paddy [Hill of the

Birmingham Six case] and company went through but pretty bad; I mean, knowing that her husband was being taken into the execution chamber and executed for a crime about which he knew absolutely nothing at all. Because part of the ransom money had been found hidden in his house, the authorities added up 2 and 2 and made them make 5. Nothing he could say or do was able to prevent it.

It's a chilling story and I'm still waiting – I wrote this book called *The Airman and the Carpenter*, the airman being Lindbergh and the carpenter being Richard Hauptman – still waiting for the governor of New Jersey to clear Hauptman's name but I don't think he ever will. The Americans are incorrigible. When you point out to most of them about a miscarriage of justice, which has not been corrected, the usual reaction I find is: 'Too bad', and they pass on to the next thing. They're not interested on the whole, apart from academic circles. They're not interested in going back over time and trying to put things right. It just doesn't occur to them. They're always thinking of now and the future and: 'Let's get on with things. Too bad that happened, but let's not dwell on it.'

The Americans may not want to change things and I don't think they ever will; they're too wedded to the system they've got. They haven't got the flexibility or the will to see that it could be improved, but, ladies and gentlemen, we can and must and will.