

poisoning allegations against Franz and Curtis true?

Above all, Hayes addressed the question of whether Bruce Curtis is truly the pious, almost angelic boy described by his family and often by the Canadian media. His answer—that Curtis was a naive, but arrogant intellectual struggling through an adolescent identity crisis—makes Curtis a figure most readers can relate to.

In *No Easy Answers*, Hayes is careful to avoid editorial comment. In person however, he is candid about his opinions and lingering doubts.

With regard to Al Podgis' temperament, for example, Hayes argues that speculation has been based more on the unreliable testimony of Podgis' step-sons Scott and Mark (a convicted criminal who was in jail during the shooting), than on concrete evidence. "I would argue that Al Podgis was tormented by his step-son; Scott Franz was a spoiled brat," Hayes noted, adding that the Franz children were not used to disciplinary action.

"Even if you believe that Bruce knew that Scott was going to shoot his step-father, Scott probably painted the step-father in a bad way, as an incredible brute capable of shooting," said Hayes. In fact, Podgis picked Curtis up from the airport and bought Franz a moped. As well, there is evidence that Podgis was proud of Franz in school and had wanted him to "straighten out."

Jenny Hatfield Lyon, a Toronto lawyer involved in the Curtis case, disagrees with Hayes. "I believe that Podgis was violent, and that testimony from the children and evidence of the wife's broken back and injuries supports this. I have dealt with a lot of family violence, and it isn't often exposed," Hatfield Lyon noted. "That no one (in the family) laid charges isn't surprising."

Was Franz brutalized by his step-father? Was his killing of Podgis, even if premeditated, an act of desperation? It is possible that his invitation to Curtis to visit was not, as the family argues, a set-up, but rather a plea for help and support.

Hayes admits that he was "working at a disadvantage" since he couldn't interview Franz for *No Easy Answers*. He feels, however, that Franz was not so much victimized by Podgis as influenced by his dilinguent brother Mark and his troubled sister Dawn. "Scott was probably torn between the influence of his brother, as a role model, and influence at school," Hayes speculated. "Mixing Franz's instability with Curtis' arrogance is like putting fire to gasoline; Curtis' superiority may have fueled Franz," he added.

Franz has been portrayed in the media as a self-confessed liar. Yet Hayes can't accept the logic that because Franz is a notorious liar, then everything he says is false.

The Curtises, however, feel differently. Lorraine Peever, Bruce's aunt, said, "We are convinced that Scott Franz had some plan by inviting Bruce down. We think that Franz knew what he was doing; he planned to either kill Bruce or use him as a scapegoat. Obviously, he didn't invite him for a good time."

The Curtis family, plus the Canadian media, have charged that the New Jersey investigators were also out to set up Bruce and malign him. "The New Jersey investigators were painted badly by the press, as if they crucified (Curtis) for no reason. But that's not the case at all," Hayes contends, "they crucified him for a lot of reasons."

"If they had never learned of the alleged poisoning or found the diary, I think they would've gone on their gut instincts and believed (the shooting) was accidental. Instead, they found a hell of a lot of circumstantial evidence which painted Curtis very badly. . . . They may have misinterpreted the evidence, as with the diary, but basically, if they hadn't found anything against Curtis, then the case would have worked in his favour."

Although Hayes believes that Curtis suffered an unfair trial, he is not convinced that the jurors were overly influenced by the *voir dire* publication, evidence of the upstairs killing, and Franz's testimony. Hayes' scepticism is derived from lack of evidence to the contrary: "technically, the publication of the *voir dire* hearing was terrible, but there is no evidence that the unsequestered jury was ever influenced by it."

Details of the upstairs shooting had to be included, Hayes notes. "Schottland was a bit too optimistic that few details were needed. Somewhere along the line, that detail (of Franz's shooting) got excessive," Hayes qualified, "but again, we don't know for sure if that poisoned the minds of the jurors or not."

Hayes contends that the 12-member jury was not troubled so much by Franz's testimony, as by Curtis' actions after the killings. Statements by two of the jurors support this.

Peter Columbo, a juror who agreed last week to speak on the case, said, "Scott Franz's tes-

timony didn't play a large part in my decision. . . . I don't think that (Curtis) should have shot the mother, or even had a gun in his hand. He should've been smart enough to leave the household. I feel sorry for the young man, but he should've left. Being a part of it was his fault."

Another juror, Wayne Schmitt, said, "I don't think Franz's testimony was the only cause of the verdict. The defense did not adequately convince us that Curtis was innocent. The biggest single question I have is that if Curtis is so innocent, why did he go out of his way to dump the bodies in a ravine after? He never took the stand in his own defense; he never refuted the prosecutor's charges."

Whatever happened to "innocent until proven guilty?"

It is relatively easy to blame Curtis' conviction on Franz's testimony and the court evidence of Podgis' death. Yet Hayes is convinced that the primary factor which prevented the jury from believing that the shooting was accidental, was the subsequent clean-up after the shooting.

"You can never entirely explain how someone could so deliberately and methodically be involved in the cleanup," Hayes said. "Bruce says he was in total shock, acting almost on automatic pilot, like sleepwalking. You can make a case for that. . . . there is no question in my mind that Curtis and Franz weren't thrown into some state of deep shock, and that Curtis was a mess for months afterwards."

Hayes believes that neither Curtis nor Franz alone could have killed the Podgises. "Curtis wouldn't have done anything; he wasn't a criminal, murderous kid."

In *No Easy Answers*, Hayes describes Curtis and Franz as being "like two chemicals in separate bottles, each inert until combined to form an unstable third element." Peever, however, said that the two men "were, and still are, as different in character as chalk and cheese." She claims that in prison "Curtis is looked upon as some kind of rare bird whose patience seems infinite and whose kindness knows no bounds."

Hayes asserted that Curtis "was a rural, naive kid, was caught up in a real maelstrom of events, and was thrust into traumatic shock, whatever his degree of participation (in the killings)." Yet after meeting Curtis in person and speaking with his teachers and peers, Hayes said "the view that Curtis was aloof and contemptuous of authority was unanimous. . . . for me, that Bruce is such a nice boy, doesn't wash."

Hayes cites for example, the alleged poisoning of a teacher and two students at Kings-Edgehill in June, 1982: "I can say with 99.9 percent assurity that Curtis had to have known about the poisoning. . . . and it's quite possible that he and Franz were doing it together. For whatever reason, (Curtis) may have found the whole thing exciting and attractive."

Two years after the poisonings, in 1984, Curtis was interviewed by an RCMP sergeant about

Suddenly, Franz testified that he did not believe the killing of his mother was an accident...

the incident. "My gut feeling, along with all circumstantial evidence, tells me that in that one case (with the RCMP sergeant), Bruce Curtis was lying," Hayes said. "If he is able to lie about that, even to the face of an RCMP sergeant doing a formal investigation, with all the attendant gravity of the situation, then could he be lying about other things? This is partly what leads me to still harbour enough doubts that I can't fully accept the family's version of the case."

The Curtis family, on the other hand, harbour strong doubts of their own about Hayes. "If I had to condense my opinion of Hayes' book into one word," Peever wrote, "it would be 'dishonest' . . . Hayes has not even begun to understand Bruce." Peever claims that Hayes "seems to have set out to write a controversial book and, in my opinion, has stooped very low to do so."

James Curtis, Bruce's father, agrees with Peever. "We were disappointed with the book since Hayes went for sensational aspects and neglected important issues. He leaves it too open for the reader and doesn't draw enough conclusions. . . . Hayes isn't much of a judge of character," Curtis concluded.

By "judge of character," Curtis primarily meant his son's character. "Hayes has gone out of his way to paint a negative picture of Bruce," Peever said. For example, in his account of the break-in of a science lab at Kings-Edgehill, which may have implicated Franz and Curtis, Peever said that Hayes omitted the fact that Curtis "always" attended Sunday chapel services, and therefore could not possibly have been involved in the crime (which took place on a Sunday). "It's obvious Bruce lives up to Christian principles," his aunt stressed. "Hayes omitted our family's deep religious feelings."

Peever also feels that *No Easy Answers* does not live up to its subtitle—"The Trial and Conviction of Bruce Curtis"—since only 70 pages of the book is about the actual trial.

Bruce's sister, Anne Curtis, a Toronto doctor, is slightly more objective about the book. "I don't think that Hayes was deliberately against Bruce, but was probing why the verdict happened," she said. "The weakness of the book is that Hayes does not argue enough about the miscarriage of justice, and did not set out with a clearly defined thesis."

Hatfield Lyon, like Peever, is also upset that Hayes left out Curtis' "deep religious feelings." She claimed that "for Bruce, his religion is his only solace in prison. . . . even if he doesn't believe in God, he believes in life." Hatfield Lyon feels that Hayes "leaned a bit too far backward in his attempt to remain unbiased."

Yet the Curtises and Bruce's Canadian lawyers, Hatfield Lyon and Morris, all concede that *No Easy Answers* is, by and large, a positive contribution to the case.

"The family's big problem is that I didn't draw conclusions," Hayes acknowledges, "but my difficulty was that I couldn't draw conclusions. I couldn't prove that all Curtis says is truthful, and all Franz says are lies. The family is right in that the book didn't draw the conclusion they wanted it to."

On one point, however, Hayes stands firm. "Curtis—innocent or guilty—and his family were hostages in what amounts to 'the game of law,' a game that too often involves amoral factors such as timing, luck, bartering, strategy, and ego. To the extent that these factors played a role in the investigation and trial of Bruce Curtis, their cumulative effect resulted in a miscarriage of justice," Hayes wrote.

Both the legal and diplomatic stakes are rising steadily in the case for Bruce Curtis. "When we hear of justice in the United States, how Ottawa authorities say they can't question Bruce's trial, then I question our liaison with the United States," Hatfield Lyon said.

Many courses of legal action have already been taken on Curtis's behalf:

April, 1983: Defence lawyer Michael Schottland requests a retrial, which is immediately rejected by Monmouth County Judge John Arnone.

September, 1983: Schottland launches an appeal to the New Jersey Appellate Court.

July, 1983: Appeal rejected by the three Appellate Court judges.

September, 1984: New York lawyer Michael Shaw files an appeal to the Supreme Court in New Jersey.

December, 1984: The Supreme Court refuses to hear the appeal.

May, 1985: Shaw submits a petition for a *habeas corpus* writ (used to determine whether a prisoner has been accorded due process under his civil liberties).

July, 1986: New York lawyer Joanne Legano

files a clemency petition, signed by Joe Clark, Minister of External Affairs, to the Governor of New Jersey, Thomas Kean, for a pardon or reduction of Curtis's sentence.

December 24, 1986: *Habeas corpus* petition denied.

Today: Clemency petition is still pending.

The one remaining course of action is to apply for a prisoner transfer, to enable Curtis to serve his sentence in Canada. On November 10, 1986, the state of New Jersey ratified the international Canada-United States Prisoner Transfer Treaty. However, the regulations pertaining to the treaty in New Jersey have yet to be formalized.

Curtis's lawyers regard the delay in forming the treaty regulations and in processing the clemency petition as a cause of great concern and suspicion.

"The clemency petition, considering that it included a letter signed by Joe Clark, should have been picked up by the New Jersey authorities by now," Hatfield Lyon noted. "Many people feel that they (N.J. authorities) are delaying the verdict on purpose," Morris said. "There is an element of vindictiveness involved."

Joanne Legano, Curtis's New York counsel, said she was originally told that it could take up to 18 months to formulate the rules and regulations for the Prisoner Transfer Treaty. Recently, New Jersey authorities said it would instead take one year, at the most, to formulate them.

According to Morris, "it shouldn't take them 12 months for them to finalize such regulations." Within the next week, Morris and Hatfield Lyon will be going to Ottawa to inves-

tigate why the treaty is taking so long to finalize.

There is some speculation that prosecutor Paul Chaiet is lobbying to assure that case prosecutors be given the right to veto prisoner transfers. Chaiet denies that he is making such a move, but contends that "prosecutors should have input in the passing of transfers."

Chaiet's views on the Curtis case have not changed. "I still think that Curtis was a murderer," he said. With regard to a possible transfer for Curtis, Chaiet said "whatever the circumstances, the crime and the deaths of the Podgises took place in New Jersey, so Curtis should stay in New Jersey."

"I am vehemently opposed to transferring (Curtis) to Canada," Chaiet said, "but less opposed to transferring him to another state. (His lawyers) must give another reason besides just making it easier for his parents to visit him."

Last month, Curtis was approached by New Jersey authorities and was given a limited time offer (14 days) to transfer to a prison in Maine. "The offer was bizarre," commented Morris, "it smelled to high heaven. Why did it take them over a year to decide that (to transfer Curtis)?"

Morris, who used to work for External Affairs in Ottawa, said the corrections commissioner in New Jersey was friends with the corrections commissioner in Maine. It is possible, Morris added, that the state of Maine may not be party to the Prisoner Transfer Treaty. After consulting with his lawyers, Curtis rejected the Maine offer.

Another curious event occurred at almost the same time as the Maine offer. "Somebody from the prosecutor's office went to Ottawa last month for assurance that Curtis would not be paroled in less than 10 years," Hatfield Lyons said. "Fortunately, Ottawa did not give them that assurance."

A Correctional Services official in Ottawa denied knowledge of any New Jersey official visiting Ottawa with regard to Curtis's parole. Spokesmen from the Solicitor General's office and from Public Affairs also denied any knowledge concerning the allegation. Morris will be investigating the claim next week, in Ottawa.

"The case has become political," Morris said, "especially in New Jersey." For it is in the New Jersey courts that the stakes are highest. If Curtis were to obtain a transfer to Canada, his charge would be altered, since there is no equivalent category for "aggravated manslaughter" in this country; only "murder" and "manslaughter." Morris said that for a manslaughter charge, a 20-year sentence is "virtually unheard of. The usual sentence is two to five years."

If Curtis were to be transferred, his sentence wouldn't change, but his parole eligibility would, since whenever an inmate transfers to Canada, he is then subject to Canadian regulations, said Serge Boudreau, Chief of International Transfers. In Canada, parole eligibility is generally one third of the total sentence or

seven years, whichever comes first.

According to Hayes, there are three political forces involved in the Curtis case: The Office of External Affairs in Canada, the New Jersey Governor's office and Monmouth County, where the crime and trial took place. "For the Governor (Thomas Kean), 'the Bruce Curtis case is likely a hassle they'd rather get rid of,'" Hayes added.

"Rumour has it that the Governor sees himself as a possible Vice Presidential candidate in 1988," Morris said, "so he may not be too excited about upsetting those in New Jersey and causing a groundswell. I have a certain sympathy for Governor Kean and other senators there, since they have pressures from both sides (Monmouth County and Canada)."

"The Governor's office seems to be trying to take an honest look at the situation," Morris conceded. "It's the county and corrections department that are more of a problem." According to Morris, "External Affairs has become more actively involved in the case, and are almost taking their own initiative."

On the day that Curtis was sentenced to 20 years in prison, he wrote " . . . I resolved several things. I resolved that no matter what happened I would not fall apart. That if I got time I would use it to advance my mind and not waste away or feel excessively depressed or do nothing, that when I emerged I would have gained something."

Yesterday, January 21, was Curtis' 23rd birthday. To commemorate the event, the Bruce Curtis Defence Committee will be holding vigils in five cities across Canada, including Toronto. The Toronto vigil will take place this Saturday (January 24), from 2-4 p.m. at the American Consulate on University Avenue.