

*Private Members' Business*

The case has been written about recently. I leave this for the House and the minister. *The Toronto Star* said in an editorial on August 11, 1991 entitled "Will justice prevail in Milgaard's case": "Nor can Justice Minister Campbell ignore the disturbing signs that Saskatoon police officers quickly decided that Milgaard committed the crime and then rejected any evidence that didn't fit in with their theory".

In the August 16, 1991 *Saskatoon Star Phoenix* there was an editorial saying that there should be a review of the case. In *The Toronto Star* on August 22, 1991 there was an article headed "Troubling parallels in Marshall-Milgaard cases". It says:

In the Marshall case Nova Scotia police used Pratico's new statement against Marshall to get supporting testimony from 14-year old Maynard Chant, saying that he had seen Marshall commit the murder. Chant's about-face was like that of John and Wilson in the Milgaard case. They originally gave statements removing Milgaard from the scene of the crime, then eventually conformed to Cadrain's version of the truth. Wilson has since sworn a statement to say "I was manipulated into lying against him (Milgaard). I was 17 years old and very frightened because I felt that the police were trying to pin the murder on me".

In each case, in the Marshall case and in the Milgaard case, young witnesses changed their key testimony from that of the trial.

*The Winnipeg Free Press* has been writing about this case as well. I will quote from a commentary in *The Globe and Mail* on Friday, October 11 where Peter McWilliams, a noted lawyer, writes: "It is time to let David Milgaard go". He points to the factual evidence that was not there at the trial which shows that the serial rapist who was afoot was at least as good a suspect, if not a better one, than Milgaard. The defence did not have that evidence and could not introduce it at the time of the trial. Mr. McWilliams also mentions that: "The Crown used the statement of Nicol John to cross-examine Nicol John". She never gave that evidence in trial but the jury knew while she was on drugs she seemed to see something happen in front of the car, a stabbing.

I want to conclude by saying that if you can accept any one of the following, you can find David Milgaard innocent. If you accept Mr. Wilson's testimony then I believe a jury would find David Milgaard innocent. If you accept the independent witnesses' testimony about the fact that there was no blood on Milgaard and the

demeanour of Milgaard, you could in fact find David Milgaard innocent.

The forensic evidence which played an important role in the trials if anything excludes Milgaard. It does not include Milgaard. Indeed this view is now agreed to by the expert who said he would testify differently at the trial if it were held today.

Fourth, you can find David Milgaard innocent if you accept the clear evidence suggesting Larry Fisher, the serial rapist, was a far better suspect than Milgaard and that Milgaard never had access to the evidence to link Fisher to the crime.

There was evidence that the material link to Fisher was found near the crime. There was evidence that Fisher lived near the victim. There was evidence that Fisher acted strangely when confronted by his wife that morning of the rape.

There is similar factual evidence with other confirmed rapes. We could compare the kind of character that Fisher was and compare him to David Milgaard who was a 16-year old hippie kid who had no previous record of violence, as far as I know. You can find David Milgaard innocent if you accept that Albert Cadrain showed evidence of schizophrenia before and after the trial. His evidence that he saw blood on the shirt but not on the sweater of Milgaard is simply not credible.

Finally there is no direct physical evidence that David Milgaard was on the scene of the crime. The evidence putting him there is filled with contradiction. It was a result of young witnesses who progressively changed their story. I am not blaming the police. There was pressure on the police to solve the case.

Clearly they were young, unreliable and vulnerable. This thing builds momentum because the police do not want to go back and say: "Maybe a mistake was made".

What are the options? My background is as a Crown Attorney in British Columbia for the city of Vancouver and as a defence council. I appreciate this evidence and I am deeply worried that this great justice system that I think we have may have done an injustice here. That is why the minister has a number of options.

The first option is to order a new trial. I realize it will not be easy but it is a possibility. Second, she could refer this to the Saskatchewan Court of Appeal for review. The problem is Mr. Milgaard's original defence lawyer is on that court. Third, she could refer it to the Supreme Court of Canada for review or she could grant David