

JUSTICE ON TRIAL

The case of Bruce Curtis, a 23-year-old Canadian serving the longest sentence ever meted out by the state of New Jersey for a first offence, has become a *cause celebre* in this country.

BY PAULETTE PEIROL

Since 1983, when Curtis was convicted of aggravated manslaughter for the shooting of a friend's mother, lawyers have demanded a retrial, launched two appeals, filled a *habeas corpus* writ stating that Curtis had been denied due process, and submitted a petition for clemency arguing that his 20-year sentence be reduced.

All of the pleas were rejected, except the clemency petition, which is still pending.

What began as a murder trial has become a fiercely fought legal and bureaucratic conundrum, with such Canadian figures as renowned lawyer Edward Greenspan and Minister of External Affairs Joe Clark becoming involved in the case.

Greenspan has billed Curtis' plight as "the over-sentencing of a panic-stricken child." David Hayes, an award-winning Toronto journalist and author of the recently-released *No Easy Answers: The Trial and Conviction of Bruce Curtis*, agrees that Curtis, whether guilty or innocent, was the victim of a "miscarriage of justice."

"Bruce's fight can now only be fought in the Court of the Last Resort—the public forum," Greenspan concludes.

In June, 1982, after graduating from Kings-Edgehill school in Nova Scotia with his friend Scott Franz, Curtis was offered an invitation to stay with Franz's family in Loch Arbour, New Jersey.

It was the first vacation Curtis ever took without his family. When he arrived in Loch Arbour, Curtis, from the rural town of Middletown, NS, found himself in the midst of domestic warfare between Franz and his step-father, Alfred Podgis.

Podgis, an avid gun collector, kept a total of 12 firearms in the house. And both he and his youngest step-son, Scott, knew how to use them.

On the evening of July 4, Independence Day, Franz and Curtis slept on a downstairs couch with two loaded .30 calibre rifles between them. The next morning, Franz went upstairs to take a shower; he carried his rifle with him. After a short but intense fight with Podgis, Franz shot his step-father in bed. Moments later, downstairs, Curtis shot Franz's mother, Rosemary Podgis. Both parents died almost instantly. Neither boy witnessed the other's killing.

Franz and Curtis then cleaned up the blood stains, packed the bodies and disposed of them in a park ravine in Pennsylvania, and threw the weapons into a sewer grate. They fled from the house in the family's van, taking little with them besides Franz's dog and Podgis' Carte Blanche credit card.

Five days later, Curtis and Franz were arrested at a Holiday Inn in Texas. After more than seven hours of interrogation, Franz claimed to have killed his father in self-defense, after a bitter quarrel in which Podgis had allegedly shot at him. Curtis maintained that his gun fired accidentally as he was trying to flee the scene.

Those are the barest bones of the case; the only facts which remain undisputed. Only Franz and Curtis know what really happened at 401 Euclid Ave. Franz has long since refused to grant interviews, and Curtis never did testify in court on his own behalf. The trials which followed nine months after the boys' incarceration, however, in which Franz, charged for murder, received the same sentence as Curtis, have been widely publicized in both the Canadian and American media.

Defense lawyer Michael Schottland was confident that he could win Curtis' trial, since the prosecution had little more than circumstantial evidence and heresy on which to base a con-

viction. Curtis had no previous criminal record, and came from a stable family background. There was evidence to support that his shooting of Rosemary Podgis was accidental: Curtis was unfamiliar with firearms; the path of the bullet suggested that the shot was haphazard; and the rifle Curtis used was proven faulty enough to discharge accidentally.

A psychiatric report stated that Curtis was "suffering from an Adjustment Disorder at the time of the shooting, brought on by the foreign environment in which he found himself." The report also noted that "the flight after the act indicated a panic reaction."

Schottland and other lawyers claim that the state did not have a case against Curtis without Franz's testimony. And in his original statement, Franz, who pleaded guilty to second degree murder, said that he believed that Curtis' shooting of his mother was accidental.

Only days before the trial, however, Franz changed his statement and pleaded guilty to first degree murder. He furthermore agreed to plea bargain in exchange for a reduced sentence. Franz became the prosecutor's chief witness, although he never saw the actual killing of his mother take place. And suddenly, Franz testified that he did *not* believe that his mother's death was an accident.

Curtis' trial, from March 14-24, 1983, has since caused great consternation in legal circles, and among Curtis' supporters. Consider the following:

- William Lucia, chief of police for Monmouth County, compared Curtis and Franz to Nathan Leopold and Richard Loeb, two homosexual "thrill killers" who were convicted in 1924 for murdering a young boy in Chicago. There was no evidence whatsoever to support Lucia's claim, but still, it echoed throughout the county.

- Franz was originally to be tried before Curtis. This changed after Franz plea bargained. Greenspan notes "In Canada, it is a well recognized rule of practice and it is wholly irregular to call an accomplice against whom unresolved legal proceedings are outstanding. It is frowned upon, even condemned."

- Details of the upstairs killing, through the use of videotapes, colour photographs, and graphic descriptions of Al Podgis' brain matter filled with maggots, were allowed as evidence, despite Schottland's harsh objections.

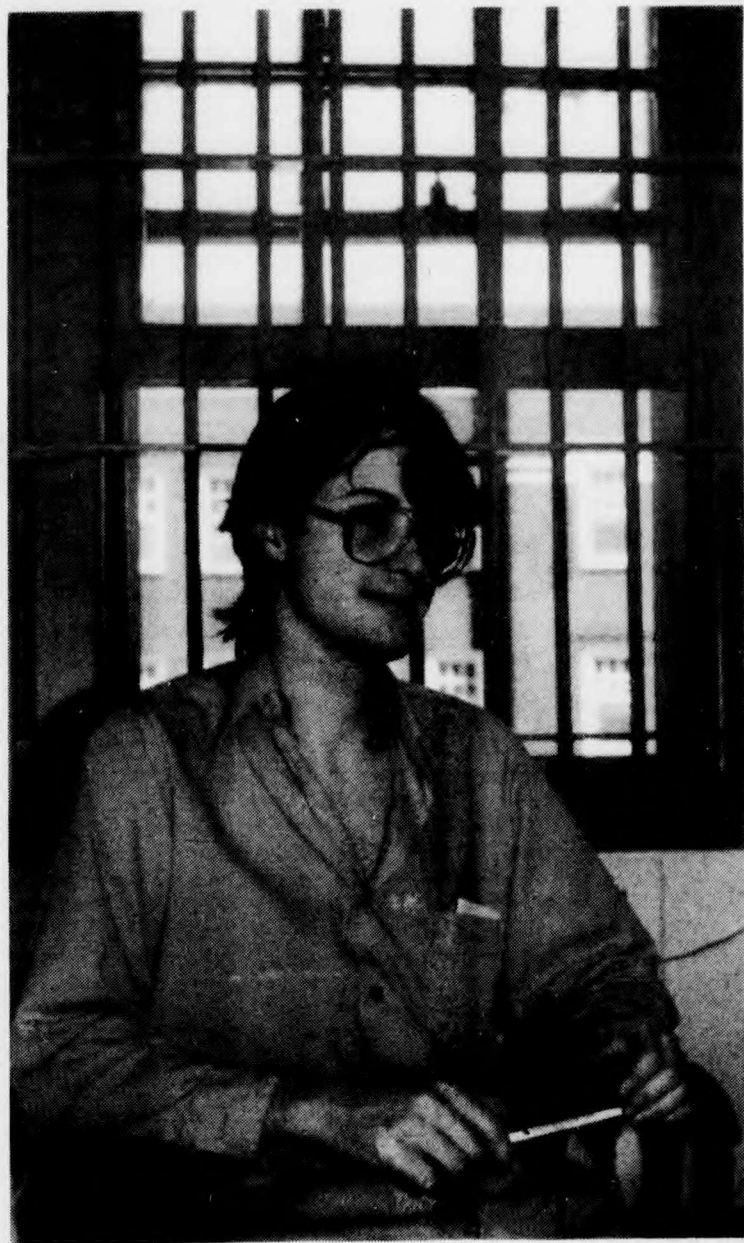
- Although Curtis' diary was ruled as inadmissible evidence by New Jersey Judge John Arnone, it was read aloud and interpreted by Franz in a *voir dire* hearing (a closed hearing without the jury to determine if evidence is admissible), which reporters attended. The next day, scandalous reports of the diary were published, which the unsequestered jury could have seen. In Canada, it is illegal to publish such hearings.

- While attempting to demonstrate the safety of Curtis' rifle in court, ballistics "expert" James Wambold pressed the trigger with the safety catch of the gun on. The rifle went off in court.

- In his charge to the jury, Judge Arnone excluded the option of acquittal based on extreme negligence (accidental manslaughter).

Curtis was given the highest sentence ever meted out by the state of New Jersey for a first offence of aggravated manslaughter. Franz, convicted of first degree murder (a more serious charge), was given the exact same sen-

Bruce Curtis, during an interview with author David Hayes, in the Bordentown Youth Correctional Institution in New Jersey.



DAVID HAYES

ence as Curtis—20 years, with parole eligibility after 10 years—the minimum sentence for the crime.

The American and Canadian media sensationalized the case in many respects. On both sides of the border, it seems, nationalist pride ran high as each country defended its own accused citizen.

In the United States, Curtis was often portrayed as Franz's mastermind accomplice in what many called a Leopold and Loeb-style killing spree. After the *voir dire* hearing, one front-page headline in New Jersey proclaimed: "Killer's diary: 'I shall reign supreme,'" and another read "Diary tell of accused slayer thinking of killing his parents." Hayes notes, in *No Easy Answers*, that the first account, from Red Bank's *Daily Register*, began, "Accused murderer Bruce Curtis labelled himself 'insane,' mused about killing his parents, and advocated mass murder, according to Scott Franz, Curtis's friend . . ."

Meanwhile north of the border, Curtis' trial has been described as the outrageous conviction of a naive, rural Canadian boy. Franz, on the other hand, came across as a deceitful, conniving trickster. In 1983, *The Vancouver Sun*, for example, ran a headline about the case reading "U.S. Justice: A liar, his pal, and 2 killings." In an article which described Curtis as "a sensitive nature-lover from a close-knit family," *The Toronto Star* topped the story with the headline "Downfall of a shy scholar."

Most recently, in "Journey to Bordentown," a play performed in Toronto three weeks ago, playwright Jack Sheriff (a drama professor in Nova Scotia) introduces the hypothesis that Curtis was deliberately and maliciously set up by Franz.

Regarding the Podgis household, the Canadian media sensationalized the fact that Al Podgis owned 12 guns, and perpetuated allegations that he was a violent man who beat his family and fired guns in the house on a regular basis. It was widely publicized that over 150 police calls had been made to the Podgis household. (After investigation, Hayes discovered that most of these calls were with regard to the Franz children and their barking dog. Not a single complaint was lodged against Al or Rosemary Podgis.)

In both the US and Canada, one was hard-pressed to separate the fact from the fiction in the accounts of the killings. According to Hayes, journalists simply reshaped previous accounts of the case, then supplemented these with statements by the Curtis family and Lorraine Peeper, Bruce's aunt. And that which could not be objectively explained, such as the clean-up of the bodies, was either ignored or brushed over.

In early 1984, Peeper initiated a Bruce Curtis Defence Committee in Paris, Ontario, where she lives. The "Justice for Bruce Curtis"

movement now has supporters from across Canada and the United States who hold demonstrations and fund-raising drives, lobby the Canadian and American governments, and encourage media coverage of the case. There is no doubt that the movement has helped to generate public and political interest in the Curtis case. Yet as Hayes points out in his book, "These efforts have kept the case alive but also served to mythologize it, a process already set in motion by the passage of time."

Even if one were to tally up all of the media reports on the Curtis case, there would still be large gaps in its chronology. "The main problem is that 90 percent of the story wasn't being told. There were huge loopholes in the newspaper stories," Hayes said.

It was these loopholes which prompted Hayes to write *No Easy Answers*. What began as an assignment for *Saturday Night Magazine* in early 1985 ballooned into a 356 page book 17 months later. Hayes recalls telling his *Saturday Night* editor, after doing three weeks of research on the case, "this is much, much bigger than either of us knew about."

Hayes' initial assumptions about the case were culled from the Canadian newspaper clippings which described Curtis as "a shy, nature-loving scholar from rural Nova Scotia who had been hoodwinked by this schoolmate, Scott Franz, a cocky, fast-talking hustler from New Jersey."

Yet after interviewing over 100 people, including all available members of the Curtis, Franz, and Podgis families, police investigators, lawyers, and teachers and classmates from Kings-Edgehill, Hayes found that he could not procure any cut and dried conclusions, except to say that Curtis was a victim of injustice. "It was impossible to write the Curtis story in unequivocal terms," he said, "too many questions remained unanswered."

Not only do questions remain unanswered, but they also become more complex as Hayes debunks some long-standing assumptions about the Curtis case and puts forward more than a few pointed questions of his own.

No Easy Answers is the most thorough and objective account of the Curtis case to date. Some have argued that this is precisely the book's weakness—that Hayes provides too much superfluous detail without any tangible conclusions.

Yet Hayes also points out that "as a journalist, I had to sift through emotional, complex issues, but could only include verified details . . . I have to be scrupulous about facts."

Many "facts" in the Curtis case are indeed questionable. Was Alfred Podgis really a violent, evil step-father? Were the New Jersey investigators corrupt in their methods? Was Franz's testimony perjured, and was it responsible for Curtis' conviction? Were the RCMP