

this put them at an impossible disadvantage, and they asked for a mistrial. The Judge ruled against them. He also, most significantly, revoked Peter Demeter's bail.

From then on the Defence fell apart. More new and confusing evidence would be uncovered, and a reasonable juror could conclude that both Peter and Christine had been plotting, but since it was Christine who was dead, Peter's plotting was the more significant.

It was established by independent evidence that Peter had indeed sent Christine to the house on Dawes Road on the night in question. The Duck would die in Hungary, but he first told the Hungarian police that though he had not been in Canada on the night of Christine's murder (a fact supported by a variety of documents, including his passport), he had gone to Dawes Road with Foxy where he had met Christine, and she had given him a roll of plans with some \$1,800 wrapped inside.

The jury found Peter guilty.

The Defence appealed the verdict, offering three pieces of new evidence and arguing twenty-six points of law. The five appellate judges gave serious consideration to one piece of evidence—it clearly established that a minor witness had lied when he said he saw the Duck at an Ontario race-track the day of Christine's murder—and to nine of the points of law. The most important of these was the contention that Justice Grant had erred when he failed to grant a mistrial after the Crown introduced new evidence in the middle of the trial. The appellate judges decided unanimously that he had not erred since "we are unable to say that [the time in which the Defence had to respond] was so short as to deprive the accused of a fair trial."

The tapes were, in the opinion of the appellate judges, the most convincing evidence against Peter. The possibility of his innocence "ceases to be a rational hypothesis when considered in the light of the appellant's statements in his taped conversations with Szilagyi," they ruled.

Since there was no other evidence against Wray, the jury was obliged to acquit. The Canadian Supreme Court, however, reversed the decision. It decided that certain incriminating evidence should be admitted even if the manner in which it was obtained was not beyond criticism. A Canadian judge does not have the right to exclude admissible evidence on the grounds of unfairness to the accused.

The decision and similar rulings underscore a basic difference between courts in Canada and the United States. As George Jonas and Barbara Amiel, the authors of an excellent book on the Demeter murder, *By Persons Unknown*, point out: "While in the United States due process has been elevated to the point where strict observation of the accused's rights seems to have superseded most other considerations of justice, . . . Canadian courts during the same period have tended to put general principles second to the urge of not letting the guilty escape punishment."

In a recent decision the U.S. Supreme Court has somewhat qualified the general perception that any confession made without full warning and legal protection is automatically inadmissible in American courts.

In the case in question Thomas J. Innis of Rhode Island was charged with fatally shooting a taxi driver. The gun was missing, and while transferring the prisoner, one police officer said to another that there were a lot of handicapped children in the area. His companion replied, "It would be too bad if [one of them] would pick up the gun and maybe kill herself."

Innis then led the officers to where he had thrown the gun. He said he did it "because of the kids." He was convicted, but the Rhode Island Supreme Court threw out the conviction, saying Innis had the right to escape interrogation when he was not accompanied by a lawyer. The U.S. Supreme Court disagreed, saying the exchange in the paddy wagon was not an interrogation in terms of the famous 1966 Miranda decision.

Mr. Innis and Mr. Wray

In most United States courts the tapes in the Demeter case would probably not have been admitted, but under Canadian law they properly were. Trial Justice Grant was bound by the Wray Decision.

In March 1968, a man named John Wray shot and killed a service station attendant near Peterborough, Ontario, in the course of a robbery. Some ten weeks later, in the spring of 1968, the provincial police arrested him. After he was questioned for nine hours, Wray confessed and gave police the location of the swamp where he had thrown the murder gun. The gun was recovered. At his trial the Defence contended that Wray's confession was not voluntary. The trial judge agreed and threw it

Capital Punishment

The last executions in Canada, a double hanging, took place in 1962. Before that date, most death sentences were commuted to life imprisonment. The recent legislative history of capital punishment is given below:

- 1956 — The Joint Commission of the Senate and House of Commons on Capital Punishment recommended that capital punishment remain the mandatory penalty for the crime of murder.
- 1961 — Murders were classified as *capital* or *non-capital*. Capital ones included those that were planned and deliberate or committed during the commission of certain